



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

**July 12, 2011**

**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  
Teleconference: Phoenix Park Hotel, LLC  
520 North Capitol Street, N.W.  
Federal City Room  
Washington, D.C. 20001**

*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.*

Richard A. Stewart, Mayor

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

Marcelo Co, Council Member  
William H. Batey II, Council Member

**\*REVISED AGENDA  
CITY COUNCIL OF THE CITY OF MORENO VALLEY  
July 12, 2011**

**CALL TO ORDER**

SPECIAL PRESENTATIONS

1. Officer of the Quarter presentation to Officer Kevin Dixon
2. Proclamation Recognizing Soroptimist International of Moreno Valley
3. Spotlight Business

**\*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 AND THE BOARD OF LIBRARY TRUSTEES**

**REGULAR MEETING - 6:30 PM  
JULY 12, 2011**

**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 Diane Gardner

**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

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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 JUNE 28, 2011 (Report of: City Clerk Department)**

**Recommendation:**

Approve as submitted.

### **A.3 CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES (Report of: City Clerk Department)**

**Recommendation:**

Receive and file the Reports on Reimbursable Activities for the period of June 22 - July 5, 2011.

### **A.4 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE INDIAN DETENTION BASIN DRAINAGE IMPROVEMENTS, AND IRONWOOD AVENUE STREET IMPROVEMENTS FROM HEACOCK STREET TO NITA DRIVE PROJECT NO. 09-89791726, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (ALSO LISTED AS AGENDA ITEM C.3) (Report of: Public Works Department)**

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Indian Detention Basin Drainage Improvements and Ironwood Avenue Street Improvements from Heacock Street to Nita Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of

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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 Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

A.5 APPROVE AGREEMENT FOR PROFESSIONAL CONSTRUCTION MANAGEMENT AND CONSTRUCTION INSPECTION CONSULTANT SERVICES WITH TRANSTECH ENGINEERS, INC. FOR STREET IMPROVEMENTS ALONG CACTUS AVENUE BETWEEN LASSELLE STREET AND NASON STREET AND ALONG NASON STREET BETWEEN CACTUS AVENUE AND IRIS AVENUE (Report of: Public Works Department)

**Recommendation:**

1. Approve the Agreement for Professional Construction Management and Construction Inspection Consultant Services with Transtech Engineers, Inc. (Transtech) 413 MacKay Drive, San Bernardino, CA 92408, for Street Improvements along Cactus Avenue between Lasselle Street and Nason Street and along Nason Street between Cactus Avenue and Iris Avenue;
2. Authorize the City Manager to execute a contract with Transtech;
3. Authorize the issuance a Purchase Order to Transtech in the amount of \$999,200 (\$868,870 for the agreement plus the 15% contingency amount of \$130,330) when the Agreement has been signed by all parties; and
4. Authorize the City Engineer to execute any subsequent amendments to the Agreement with Transtech, up to but not to exceed the Purchase Order contingency, subject to the approval of the City Attorney.

A.6 P07-144 – APPROVE TRACT MAP NO. 35760, A SIX-LOT RESIDENTIAL SUBDIVISION OF TRACT MAP NO. 31129. DEVELOPER - WESTERN PACIFIC HOUSING, INC. IRVINE, CA 92606 (Report of: Public Works Department)

**Recommendation:**

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1. Approve Tract Map No. 35760; and
2. Authorize the City Clerk to sign the map and transmit said map to the County Recorder's Office for recordation.

A.7 AUTHORIZATION TO AWARD AGREEMENT FOR CENTRAL TRAFFIC CONTROL SOFTWARE SERVICES IN SUPPORT OF THE TRANSPORTATION MANAGEMENT CENTER (PROJECT NO. 10-13768129) (Report of Public Works Department)

**Recommendation:**

1. Approve the agreement with Kimley-Horn and Associates, Inc., 7878 N. 16th Street, Phoenix, Arizona 85020, to provide a central traffic control software system;
2. Authorize the City Manager to execute said Agreement with Kimley-Horn and Associates, Inc.;
3. Authorize the issuance of a Purchase Order to Kimley-Horn and Associates, Inc., in the amount of \$315,000; and
4. Authorize the Public Works Director to execute any subsequent amendments related to this agreement.

A.8 AUTHORIZE A CHANGE ORDER TO INCREASE THE PURCHASE ORDER WITH GIBBS, GIDEN, LOCHER, TURNER & SENET, LLP FOR LEGAL SERVICES FOR LOS ANGELES ENGINEERING, INC. V. CITY OF MORENO VALLEY RIVERSIDE SUPERIOR COURT CASE RIC 524877 (Report of: Public Works Department)

**Recommendation:**

1. Authorize the City Manager to execute a Change Order to increase Purchase Order No. 36928 to Gibbs, Giden, Locher, Turner & Senet, LLP by the amount of \$100,000 for a total not-to-exceed amount of \$196,000 (Account No. 461.65325.7500);
2. Authorize payment to Gibbs, Giden, Locher, Turner & Senet, LLP in an amount of up to \$196,000 for legal services for Los Angeles Engineering, Inc. v. City of Moreno Valley Riverside Superior Court Case RIC 524877; and
3. Authorize an appropriation of \$100,000 from the unencumbered fund balance of Parkland Facilities DIF (Fund 205) to Account No. 461.65325 to allow for said increase to Purchase Order No. 36928.

A.9 TRACT MAP 32707 - REDUCE FAITHFUL PERFORMANCE BOND AND

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ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING THE PORTION OF LASSELLE STREET ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM - DEVELOPER: REDHAWK COMMUNITIES, INC. A CALIFORNIA CORPORATION, TEMECULA, CA 92590 (Report of: Public Works Department)

**Recommendation:**

1. Adopt Resolution No. 2011-72 authorizing the acceptance of the public improvements within Tract Map 32707 as complete and accepting the portion of Lasselle Street associated with the project into the City's maintained street system; and

Resolution No. 2011-72

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 32707 and Accepting the Portion of Lasselle Street Associated with the Project Into the City's Maintained Street System

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

A.10 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE 2011 CITYWIDE BRIDGE MAINTENANCE PROGRAM, PROJECT NO. 11-22679828, DIRECT THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when determined that all contract requirements and punch-list items are completed for the 2011 Citywide Bridge Maintenance Program, constructed by Beador Construction Company, Inc. (Beador), 26320 Lester Circle, Corona CA 92883;
2. Direct the City Clerk to record the Notice of Completion within ten (10)

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calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Beador Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

A.11 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE AUTO MALL FREEWAY PYLON SIGN PROJECT, PROJECT NO. 08-89791725, DIRECT THE CITY CLERK TO RECORD THE NOTICE OF COMPLETION, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND AUTHORIZE THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR TO RELEASE THE SIGN TO THE MORENO VALLEY DEALERS ADVERTISING ASSOCIATION (ALSO LISTED AS AGENDA ITEM C.4) (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Auto Mall Freeway Pylon Sign Project which was constructed by San Pedro Sign Company, 701 Lakme Avenue, Wilmington, CA 90744;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code;
3. Authorize the Financial & Administrative Services Director to release the retention to San Pedro Sign Company 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. Authorize the Community and Economic Development Director to

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release the Pylon Sign to the Moreno Valley Dealers Advertising Association.

A.12 FIRST AMENDMENT TO AGREEMENT WITH OVERLAND, PACIFIC AND CUTLER, INC. FOR VARIOUS PROJECTS OF THE CAPITAL PROJECTS DIVISION (Report of: Public Works Department)

**Recommendation:**

1. Approve the "First Amendment to Agreement for Professional Consultant Services" with Overland, Pacific and Cutler, Inc. (OPC) to provide Professional Consultant Right of Way Services for various projects of the Capital Projects Division;
2. Authorize the City Manager to execute the "First Amendment to Agreement for Professional Consultant Services" with OPC; and
3. Authorize an increase to the purchase order to OPC, in the amount of \$85,000 when the Project Agreement has been signed by all parties (Account No. 416.78526).

A.13 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE IRONWOOD AVENUE IMPROVEMENTS FROM DAY STREET TO BARCLAY DRIVE PROJECT NO. 10-41570027, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (ALSO LISTED AS AGENDA ITEM C.5) (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Ironwood Avenue improvements from Day Street to Barclay Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code;

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3. Authorize the Financial and Administrative Services Director to release the retention to Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

A.14 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE TRAFFIC SIGNAL IMPROVEMENTS ON SUNNYMEAD RANCH PARKWAY AT VILLAGE ROAD (EAST) INTERSECTION PROJECT NO. 10-41779229, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AND AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the traffic signal improvements on Sunnymead Ranch Parkway at Village Road (east), constructed by SoCal Engineers, Inc., 17595 Harvard, Suite C2160, Irvine, CA 92614;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 SoCal Engineers, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

A.15 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL

CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE DAY STREET ROADWAY IMPROVEMENTS FROM ALESSANDRO BOULEVARD TO COTTONWOOD AVENUE PROJECT NO. 02-89266920, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM (ALSO LISTED AS AGENDA ITEM C.6) (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Day Street Roadway Improvements from Alessandro Boulevard to Cottonwood Avenue, which was constructed by Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92879;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Hillcrest Contracting, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

A.16 RESCIND RESOLUTION NO. 2005-30 AND RE-DESIGNATE AND AUTHORIZE SIGNATURE AUTHORITIES TO EXECUTE APPLICATIONS AND DOCUMENTS FOR PURPOSES OF OBTAINING FINANCIAL ASSISTANCE UNDER SECTION 404 OF PUBLIC LAW 93-288, AS AMENDED BY THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ACT OF 1988. (Report of: Fire Department)

**Recommendation:**

Adopt Resolution No. 2011-73, rescinding Resolution No. 2005-30, and designating and authorizing certain City officials to execute applications and documents for purposes of obtaining financial assistance under Section 404 of Public Law 93-288, as amended by the Robert T. Stafford Disaster Relief

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and Emergency Act of 1988, and/or financial assistance under the California Disaster Assistance Act.

Resolution No. 2011-73

A Resolution Of The City Council Of The City Of Moreno Valley, California, Rescinding Resolution No. 2005-30, And Re-Designate And Authorize Certain City Officials To Execute Applications And Documents For Purposes Of Obtaining Financial Assistance Under Section 404 Of Public Law 93-288, As Amended By The Robert T. Stafford Disaster Relief And Emergency Act Of 1988

A.17 FIRST AMENDMENT TO AGREEMENT FOR ON-CALL PROJECT MANAGEMENT SERVICES WITH VAS ASSOCIATES, INC. (Report of: Public Works Department)

**Recommendation:**

1. Approve the "First Amendment to Agreement for On-Call Project Management Services" with VAS Associates, Inc. (VAS), 571 Ruth Circle, Corona, CA 92879 to provide temporary professional project management services for budgeted Capital Improvement Plan (CIP) projects on an as-needed basis;
2. Authorize the City Manager to execute said "First Amendment to Agreement for On-Call Project Management Services" with VAS; and
3. Authorize a purchase order to VAS in the amount of \$312,000 when "First Amendment to Agreement for On-Call Project Management Services" has been signed by all parties.

A.18 AGREEMENT FOR PROFESSIONAL CONSULTANT ADMINISTRATIVE SERVICES WITH DMC DESIGN GROUP, INC. (Report of: Public Works Department)

**Recommendation:**

1. Approve the "Agreement for Professional Consultant Administrative Services" with DMC Design Group, Inc. (DMC), 170 N. Maple Street, Corona, CA 92880-1703, to provide Professional Consultant Administrative Services for budgeted Capital Improvement Plan (CIP) projects;
2. Authorize the City Manager to execute said "Agreement for Professional Consultant Administrative Services" with DMC; and
3. Authorize a purchase order to DMC in the amount of \$139,000 when said "Agreement for Professional Consultant Administrative Services"

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has been signed by all parties.

A.19 FOURTH AMENDMENT TO AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES WITH SA ASSOCIATES, INC. (Report of: Public Works Department)

**Recommendation:**

1. Approve the "Fourth Amendment to Agreement for Professional Consultant Services" with SA Associates, Inc. (SA), 1130 W. Huntington Drive, Unit 12, Arcadia, CA 91007 to provide Professional Consultant Services budgeted Capital Improvement Plan (CIP) projects;
2. Authorize the City Manager to execute said "Fourth Amendment to Agreement for Professional Consultant Services" with SA; and
3. Authorize a Change Order to increase the Purchase Order to SA in the amount of \$185,000 when "Fourth Amendment to Agreement for Professional Consultant Services" has been signed by all parties.

A.20 RESOLUTION DECLARING THE REAL PROPERTY AS EXCESS AND SETTING A PUBLIC HEARING AUTHORIZING SALE FOR REMAINDER OF PARCEL APN 475-272-054 (PART OF IRONWOOD AVENUE IMPROVEMENTS FROM HEACOCK STREET TO PERRIS BOULEVARD) (Report of: Public Works Department)

**Recommendation:**

Approve and adopt Resolution No. 2011-74 to declare the real property, APN 475-272-054, as excess, set a public hearing to identify any issues with the sale of the remainder parcel, and authorize staff to solicit offers for the purchase of said real property.

Resolution No. 2011-74

A Resolution of the City Council of the City of Moreno Valley, California, Finding and Determining that the Public Interest and Convenience Require the Sale of a Remainder Parcel Excess to Public Use

A.21 APPROVE A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, TO AMEND THE ELECTRIC RATES FOR MORENO VALLEY ELECTRIC UTILITY (Report of: Public Works Department)

**Recommendation:**

Approve Resolution No. 2011-75 amending the Electric Rates for Moreno Valley Utility.

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Resolution No. 2011-75

A Resolution of the City Council of the City of Moreno Valley, California, to Amend the Electric Rates, and Electric Service Rules, Fees, and Charges for Moreno Valley Utility

- A.22 APPROVE THREE-YEAR AGREEMENT WITH CANON BUSINESS SOLUTIONS TO EXTEND THE CURRENT COPIER CONTRACT (Report of: Financial & Administrative Services Department)

**Recommendation:**

Approve the three-year agreement to extend the current contract with Canon Business Solutions in the total base amount of \$261,828, representing a 23.75% price decrease or total savings of \$81,540, as being in the best interest of the City.

- A.23 STAFF ASSIGNMENTS IN SUPPORT OF COUNCIL MEMBER PARTICIPATION WITH REGIONAL AGENCIES (Report of: City Manager's Office)

**Recommendation:**

Approve the proposed staff assignments in support of Council Member participation with regional agencies.

- A.24 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE 2011 PAVEMENT RESURFACING PROJECT NO. 11-12556330, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Pavement Resurfacing Project, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code;

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3. Authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

A.25 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE 2011 LOCAL STREET PAVEMENT RESURFACING – PHASE 1 PROJECT NO. 11-22679728, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Local Street Pavement Resurfacing – Phase 1, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code;
3. Authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

A.26 CORPORATE YARD OFFICE BUILDING PHASE 1 – OFFER OF DEDICATION – PROJECT NO. 05-4166522 LOCATED ON SANTIAGO STREET EAST OF PERRIS BOULEVARD, DEVELOPER: CITY OF

MORENO VALLEY, MORENO VALLEY, CA 92552 (Report of: Public Works Department)

**Recommendation:**

1. Authorize the City Manager to execute the Offer of Dedication on Santiago Drive east of Perris Boulevard; and
2. Direct the City Clerk to forward the Offer of Dedication to the City Engineer to execute the Acceptance Certificate and to transmit the Offer of Dedication with Acceptance Certificate to the County Recorder's office for recordation.

A.27 PA07-0090 – EUCALYPTUS STREET IMPROVEMENTS - AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-LIST ITEMS ARE COMPLETED; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed; and
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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.28 PA07-0090 – EUCALYPTUS WATER IMPROVEMENTS – AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-LIST ITEMS ARE COMPLETED; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

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**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed; and
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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.29 PA07-0090 – EUCALYPTUS RECYCLED WATER – AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-LIST ITEMS ARE COMPLETED; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed; and
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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.30 PA07-0090 – EUCALYPTUS SEWER IMPROVEMENTS – AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-LIST ITEMS ARE COMPLETED; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF

LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed; and
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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.31 PA07-0090 – LINE F STORM DRAIN IMPROVEMENTS – REQUEST TO RATIFY THE PARTIAL REDUCTION TO THE IMPROVEMENT SECURITY AND AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN PROPER CLEARANCES ARE RECEIVED; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553. (Report of: Public Works Department)

**Recommendation:**

1. Ratify the partial reduction to the public improvement security provided by the City Engineer on March 3, 2011 for the Line F Storm Drain Improvements for PA07-0090;
2. Authorize the Public Works Director/City Engineer to accept the work as complete once the proper clearances are provided by Riverside County Flood Control and Water Conservation District; and
3. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/City Engineer, to enter said improvements into the 12 month guarantee and warranty period, 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.

**B. CONSENT CALENDAR-COMMUNITY SERVICES DISTRICT**

B.1 ORDINANCES - READING BY TITLE ONLY

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**Recommendation:** Waive reading of all Ordinances.

- B.2 MINUTES - REGULAR MEETING OF JUNE 28, 2011 (Report of: City Clerk Department)

**Recommendation:**  
Approve as submitted.

**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 JUNE 28, 2011 (Report of: City Clerk Department)

**Recommendation:**  
Approve as submitted.

- C.3 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE INDIAN DETENTION BASIN DRAINAGE IMPROVEMENTS, AND IRONWOOD AVENUE STREET IMPROVEMENTS FROM HEACOCK STREET TO NITA DRIVE PROJECT NO. 09-89791726, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (ALSO LISTED AS AGENDA ITEM A.4) (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Indian Detention Basin Drainage Improvements and Ironwood Avenue Street Improvements from Heacock Street to Nita Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code;

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3. Authorize the Financial and Administrative Services Director to release the retention to Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

C.4 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE AUTO MALL FREEWAY PYLON SIGN PROJECT, PROJECT NO. 08-89791725, DIRECT THE CITY CLERK TO RECORD THE NOTICE OF COMPLETION, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND AUTHORIZE THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR TO RELEASE THE SIGN TO THE MORENO VALLEY DEALERS ADVERTISING ASSOCIATION (ALSO LISTED AS AGENDA ITEM A.11) (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Auto Mall Freeway Pylon Sign Project which was constructed by San Pedro Sign Company, 701 Lakme Avenue, Wilmington, CA 90744;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code;
3. Authorize the Financial & Administrative Services Director to release the retention to San Pedro Sign Company 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. Authorize the Community and Economic Development Director to release the Pylon Sign to the Moreno Valley Dealers Advertising Association.

C.5 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO

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ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE IRONWOOD AVENUE IMPROVEMENTS FROM DAY STREET TO BARCLAY DRIVE PROJECT NO. 10-41570027, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (ALSO LISTED AS AGENDA ITEM A.13) (Report of: Public Works Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Ironwood Avenue improvements from Day Street to Barclay Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

- C.6 AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE DAY STREET ROADWAY IMPROVEMENTS FROM ALESSANDRO BOULEVARD TO COTTONWOOD AVENUE PROJECT NO. 02-89266920, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM (ALSO LISTED AS AGENDA ITEM A.15) (Report of: Public Works

Department)

**Recommendation:**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Day Street Roadway Improvements from Alessandro Boulevard to Cottonwood Avenue, which was constructed by Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92879;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Hillcrest Contracting, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project; and
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

C.7 AUTHORIZE FIRST AMENDMENT TO PROJECT SPECIFIC AGREEMENT AND AUTHORIZE CHANGE ORDER TO THE PURCHASE ORDER FOR VA CONSULTING, INC. FOR THE MORENO VALLEY AUTO MALL IMPROVEMENTS - PROJECT NO. 08-89791725 (Report of: Public Works Department)

**Recommendation:**

1. Authorize the City Manager, acting in his capacity as the Executive Director for the Community Redevelopment Agency of the City of Moreno Valley, to execute the First Amendment to the Project Agreement on behalf of the Community Redevelopment Agency; and
2. Authorize a Change Order to increase Purchase Order No. 37386 for VA Consulting, Inc., in the amount of \$25,000 for additional professional consultant design services, bid design support services, and construction support services (Account No. 897.91725).

**D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES**

D.1 ORDINANCES - READING BY TITLE ONLY

**Recommendation:** Waive reading of all Ordinances.

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D.2 MINUTES - REGULAR MEETING OF JUNE 28, 2011 (Report of: City Clerk Department)

**Recommendation:**

Approve as submitted.

**E. PUBLIC HEARINGS**

Questions or comments from the public on a Public Hearing matter are limited to five minutes per individual and must pertain to the subject under consideration.

Those wishing to speak should complete and submit a GOLDENROD speaker slip to the Bailiff.

- E.1 A DEVELOPMENT AGREEMENT (PA10-0029) FOR ROCKCLIFFE AT STONERIDGE, AN APPROVED PROJECT ENCOMPASSING TENTATIVE TRACT MAP NO. 36340 AND A CONDITIONAL USE PERMIT/PLANNED UNIT DEVELOPMENT CONSISTING OF 275 RESIDENTIAL LOTS, A RECREATIONAL BUILDING, AND PRIVATE OPEN SPACE ON APPROXIMATELY 29 ACRES IN THE R15 (RESIDENTIAL 15) AND OS (OPEN SPACE) LAND USE DISTRICTS. THE PROJECT SITE IS ON THE SOUTHEAST CORNER OF FIR AVENUE AND EUCALYPTUS AVENUE. THE APPLICANT AND OWNER OF THE SITE IS BEAZER HOMES (Continued from March 22, 2011 and May 24, 2011) (Report of: Community & Economic Development Department)

**Recommendation:**

Introduce Ordinance No. 823, for adoption of a development agreement (PA10-0029) for Rockcliffe at Stoneridge, an approved project encompassing Tentative Tract Map No. 36340 and conditional use permit/planned unit development consisting of 275 residential lots, a recreation building and private open space on approximately 29 acres in the R15 (Residential 15) and OS (Open Space) land use districts.

Ordinance No. 823

An Ordinance of the City Council of the City of Moreno Valley, California, Approving a Development Agreement (PA10-0029) for Rockcliffe at Stoneridge, an Approved Project Encompassing Tentative Tract Map No. 36340 and a Conditional Use Permit/Planned Unit Development Consisting of 275 Residential Lots, a Recreational Building and Private Open Space on Approximately 29 acres in the R15 (Residential 15) and OS (Open Space) Land Use Districts

- E.2 PUBLIC HEARING REGARDING THE MAIL BALLOT PROCEEDING FOR FIRST INDUSTRIAL—APNS 316-200-003, 316-200-009, 316-200-010,

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316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, AND 316-200-029 BALLOTING FOR NPDES AND CSD ZONE M (Report of: Public Works Department)

**Recommendation: That the City Council:**

That the City Council, after conducting the individual Public Hearings and accepting public testimony:

- a. Direct the City Clerk to tabulate the National Pollutant Discharge Elimination System (NPDES) ballots for First Industrial;
- 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 Assessors Parcel Numbers (APNs) 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029.

**Recommendation: That the CSD:**

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 First Industrial;
- 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 APNs 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029.

E.3 A PUBLIC HEARING REGARDING AN APPEAL OF THE PLANNING COMMISSION DENIAL OF A ZONE CHANGE (PA08-0098) FROM BUSINESS PARK (BP) TO LIGHT INDUSTRIAL (LI) FOR A 55 ACRE SITE FOR THE WEST RIDGE COMMERCE CENTER PROJECT. THE

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PROJECT ALSO INCLUDES A PLOT PLAN (PA08-0097) FOR A 937,260 SQUARE FOOT WAREHOUSE FACILITY; TENTATIVE PARCEL MAP NO. 36207 (PA09-0022) TO CREATE A SINGLE PARCEL; AND A MUNICIPAL CODE AMENDMENT TO PROVIDE A MINIMUM SEPARATION/BUFFERING OF WAREHOUSE/INDUSTRIAL FACILITIES OVER 50,000 SQUARE FEET FROM ADJACENT RESIDENTIAL DISTRICTS. AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED FOR THE PROJECT. THE PROJECT SITE IS LOCATED ON THE SOUTH SIDE OF STATE ROUTE 60, ON THE NORTH SIDE OF EUCALYPTUS AVENUE AND APPROXIMATELY 650 FEET WEST OF REDLANDS BOULEVARD. THE APPLICANT IS RIDGE RANCHO BELAGO, LLC. (Report of: Community & Economic Development Department)

**Recommendation: That the City Council:**

1. Conduct a public hearing for review of an appeal of the Planning Commission denial of Zone Change application PA08-0098, and take one of the following actions:

If the City Council elects to uphold the Planning Commission's denial of Zone Change application PA08-0098:

ADOPT City Council Resolution No 2011-76 denying Zone Change application PA08-0098, based on the findings in the Resolution;

Resolution No. 2011-76

A Resolution of the City Council of the City of Moreno Valley, California, Denying a Change of Zone (PA08-0098) from BP (Business Park) to LI (Light Industrial) for an Approximate 55 acre site, Located within Assessor's Parcel Numbers 488-330-003 through -006 and -026

2. OR

If the City Council elects to overturn the Planning Commission decision, and approve the project:

ADOPT City Council Resolution No. 2011-77 APPROVING AND CERTIFYING that the Environmental Impact Report (EIR) for the West Ridge Commerce Center Project (Attachment 1) has been completed in compliance with the California Environmental Quality Act;

Resolution No. 2011-77

A Resolution of the City Council of the City of Moreno Valley,

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California, Certifying the Final Environmental Impact Report (P08-133), Adoption of the Findings and Statement of Overriding Considerations, and Approval of the Mitigation Monitoring Program for the West Ridge Commerce Center Project, Generally Located on the South Side of State Route 60, on the North Side of Fir Avenue/Future Eucalyptus Avenue and Approximately 650 Feet West of Redlands Boulevard

3. INTRODUCE Ordinance No. 829 APPROVING Zone Change application PA08-0098 for 55 acres from Business Park (BP) to Light Industrial (LI) as shown on Exhibit A;

Ordinance No. 829

An Ordinance of the City Council of the City of Moreno Valley, California, Approving Zone Change Application PA08-0098 to Change the Zone From Business Park to Light Industrial for a 55 Acre Site (Assessor's Parcel Numbers 488-330-003 Through -006 and -026)

4. INTRODUCE Ordinance No. 830 APPROVING Municipal Code Amendment PA10-0017 to provide for setbacks and buffering of warehouse/industrial buildings from adjacent residential zones, based on the findings in the City Council Ordinance;

Ordinance No. 830

An Ordinance of the City Council of the City of Moreno Valley, California, approving Application PA10-0017 Amending the Municipal Code to Make Changes to Chapter 9.05 Industrial Districts

5. ADOPT City Council Resolution No. 2011-78 APPROVING Plot Plan PA08-0097, based on the findings in the Resolution, and the conditions of approval as attached to the resolution as Exhibit A; and

Resolution No. 2011-78

A Resolution of the City Council of the City of Moreno Valley, California, for Approval of Plot Plan PA08-0097 for Development of a 937,260 Square Foot Warehouse Distribution Facility on 55 Acres Located Within Assessor's Parcel Numbers 488-330-003 Through -006 and -026

6. ADOPT City Council Resolution No. 2011-79 APPROVING Tentative Parcel Map No. 36207 (PA09-0022), based on the findings in the Resolution, and the conditions of approval as attached to the

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resolution as Exhibit A

Resolution No. 2011-79

A Resolution of the City Council of the City of Moreno Valley, California, for Approval of Tentative Parcel Map 36207 (PA09-0022) to Combine the Existing Five Parcels Located Within the Project Site into a Single 55 Acre Parcel

- E.4 A PUBLIC HEARING FOR CONSIDERATION OF THE REVISION OF TITLE 9, CHAPTER 9.08, SECTION 9.08.100, "LIGHTING", SECTION 9.08.190, "STREET LIGHTING", CHAPTER 9.16, ARTICLE IV, "APPLICATIONS FOR HILLSIDE DEVELOPMENT, SECTION 9.16.235 "HILLSIDE DESIGN GUIDELINES" ARTICLE VI, APPLICATIONS FOR LIGHTING, SECTION 9.16.280 "GENERAL REQUIREMENTS, AND CHAPTER 9.15 SECTION 9.15.030, "DEFINITIONS" RELATING TO DARK SKY PROVISIONS FOR GENERAL ON-SITE, STREET AND ATHLETIC FIELD/PARK LIGHTING CITYWIDE. THE APPLICANT IS THE CITY OF MORENO VALLEY (Report of: Community & Economic Development Department)

**Recommendation: That the City Council:**

1. Conduct a public hearing on the proposed lighting standards. Should the City Council choose not to adopt the new standards, no action is required. Should the City Council choose to adopt the new standards, the following actions are required:

RECOGNIZE that the proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061 of the CEQA Guidelines; and

2. INTRODUCE Ordinance No. 831 approving revisions to Title 9, Chapter 9.08, Section 9.08.100, "Lighting", Section 9.08.190, "Street Lighting", Chapter 9.16 Article IV "Applications for Hillside Development", Section 9.16.235 "Hillside Design Guidelines", Article VI, Applications for Lighting, Section 9.16.280 "General Requirements", and Chapter 9.15 Section 9.15.030, "Definitions" relating to dark sky provisions for general on-site, athletic field/park and street lighting citywide.

Ordinance No. 831

An Ordinance of the City Council of the City of Moreno Valley, California Approving PA10-0022 to Amend Title 9 of the Moreno Valley Municipal Code, Chapter 9.08, Section 9.08.100 "Lighting" and Section 9.08.190 "Street Lighting", Chapter 9.16, Article IV

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Applications for Hillside Development Section 9.16.235 "Hillside Design Guidelines", Article VI Applications for Lighting and Section 9.16.280, "General Requirements" and Chapter 9.15, Section 9.15.030 "Definitions" Relating to Modifications of General Site, Street and Athletic Field/Park Lighting with an Emphasis on Dark Sky Standards Citywide

## **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) Mayor Richard A. Stewart report on March Joint Powers Commission (MJPC)

- G.2 APPROVAL OF CONCESSIONAIRE AGREEMENT WITH PACIFICA UNIVERSITY, INC., FOR THE COTTONWOOD GOLF CENTER (Report of: Parks and Community Services)

**Recommendation: That the City Council:**

Acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District, approve a long-term Concessionaire Agreement between the Moreno Valley Community Services District and Pacifica University, Inc., to maintain and operate the City's Cottonwood Golf Center and adjacent banquet facility.

- G.3 "BEST PLACE TO DO BUSINESS" ACTION STEPS (Report of: Community & Economic Development Department)

**Recommendation: That the City Council:**

Approve the Action Steps formulated to help establish a foundation for making Moreno Valley a "Best Place to do Business".

- G.4 APPOINTMENT OF CITY COUNCIL AD HOC SUBCOMMITTEE FOR THE PURPOSE OF REESTABLISHING JULY 4TH EVENTS FOR 2012 (Report of: City Manager's Office)

**Recommendation: That the City Council:**

Appoint an Ad Hoc Subcommittee for the temporary purpose of reestablishing July 4th events for 2012.

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

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## **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: 5

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

Number of Cases: 5

3 SECTION 54956.8 - CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: Fire Station No. 65 Replacement Site  
APN: APN 297-170-077  
Owner: Group V San Bernardino  
City's/Buyer's Negotiator: Chris Vogt  
Under Negotiation: Price and terms of payment

4 SECTION 54957.6 - LABOR NEGOTIATIONS

a) Agency Representative: Henry T. Garcia  
Employee Organization: MVCEA

b) Agency Representative: Henry T. Garcia

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Employee Organization: MVMA

- c) Agency Representative: Henry T. Garcia  
Employee Organization: Moreno Valley Confidential  
Management Employees

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

**ADJOURNMENT**

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**MINUTES  
CITY COUNCIL OF THE CITY OF MORENO VALLEY  
JUNE 28, 2011**

**CALL TO ORDER**

**SPECIAL PRESENTATIONS**

1. Recognition of Morning Optimist Club of Moreno Valley
2. Volunteers of the Year 2010 - Steven Morel, Jarrett Wegelin, Trent Terrell, Jarred Endres, Kyle Dagenhart, and Tim Barnes
3. Spotlight Business

**MINUTES**  
**REGULAR MEETING OF 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**  
**SPECIAL MEETING OF MORENO VALLEY PUBLIC FACILITIES FINANCING**  
**CORPORATION (MVPFFC)**

**JUNE 28, 2011 - 6:30 PM**

**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 6:36 p.m. by Mayor Stewart in the Council Chamber located at 14177 Frederick Street.

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

**INVOCATION - Deacon Richard Heames, St. Patrick's Roman Catholic Church**

**ROLL CALL**

Council:

Richard A. Stewart	Mayor
Jesse L. Molina	Mayor Pro Tem (left at 9:45 p.m.)
William H. Batey II	Council Member
Marcelo Co	Council Member
Robin N. Hastings	Council Member

Staff:

Jane Halstead	City Clerk
Ewa Lopez	Deputy City Clerk
Henry T. Garcia	City Manager
Richard Teichert	Financial and Administrative Services Director
Robert Hansen	City Attorney
Michelle Dawson	Assistant City Manager
John Anderson	Police Chief
Steve Curley	Fire Chief
Barry Foster	Community & Economic Development Director
Chris Vogt	Public Works Director
Sonny Morkus	Human Resources Director
Mike McCarty	Parks & Community Services Director

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

Mayor Stewart opened the agenda items for the Consent Calendars for public comments, which were received from Pete Bleckert.

**A. CONSENT CALENDAR-CITY COUNCIL**

A.1 ORDINANCES - READING BY TITLE ONLY

**Recommendation:** Waive reading of all Ordinances.

A.2 MINUTES - REGULAR MEETING OF JUNE 14, 2011 (Report of: City Clerk Department)

**Recommendation:**

Approve as submitted.

A.3 CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES (Report of: City Clerk Department)

**Recommendation:**

Receive and file the Reports on Reimbursable Activities for the period of June 8-21, 2011.

A.4 WASTE MANAGEMENT OF THE INLAND EMPIRE FY 2011/2012 RATE ADJUSTMENT (Report of: Public Works Department)

**Recommendation:**

Approve the Waste Management of the Inland Empire proposed Fiscal Year (FY) 2011/2012 Rate Adjustment.

A.5 NOTICE OF COMPLETION AND ACCEPTANCE OF THE DRACAEA AVENUE SIDEWALK IMPROVEMENTS BETWEEN MORRISON STREET AND MASCOT LANE PROJECT NO. 10-12567129 (Report of: Public Works Department)

**Recommendation:**

1. Accept the work as complete for the Dracaea Avenue Sidewalk Improvements between Morrison Street and Mascot Lane, constructed by Mamco, Inc., 16840 Van Buren Boulevard, Suite 200, Riverside, CA 92504;
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

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County, as required by Section 3093 of the California Civil Code;

3. Authorize the Financial and Administrative Services Director to release the retention to Mamco, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project; and
4. Accept the improvements into the City's maintained road system.

A.6 APPROVAL OF CHECK REGISTER FOR APRIL, 2011 (Report of: Financial & Administrative Services Department)

**Recommendation:**

Adopt Resolution No. 2011-63, approving the Check Register for the month of April, 2011 in the amount of \$13,104,818.91.

Resolution No. 2011-63

A Resolution of the City Council of the City of Moreno Valley, California, approving the Check Register for the Month of April, 2011

A.7 RESOLUTION TO RATIFY THE APPLICATION FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AND TO ACCEPT THE \$91,557 ALLOCATION TO THE CITY (Report of: Community and Economic Development Department)

**Recommendation:**

Approve Resolution No. 2011-64 to ratify the application by the Code & Neighborhood Services Division for the Edward Byrne Memorial Justice Assistance Grant and to accept the \$91,557 allocated to the City.

Resolution No. 2011-64

A Resolution of the City Council of the City of Moreno Valley, California, Approving the Grant Application Submitted by the Code & Neighborhood Services Division to the Office of Justice Programs for the Edward Byrne Memorial Justice Assistance Grant and Accept the \$91,557 Allocation

A.8 ORDINANCE NO. 827 - AN ORDINANCE AMENDING TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE BY REPEALING AND REENACTING CHAPTER 8.10 STORM WATER/URBAN RUNOFF MANAGEMENT AND DISCHARGE CONTROLS, AND CHAPTER 8.21 GRADING REGULATIONS (RECEIVED FIRST READING AND INTRODUCTION ON JUNE 14, 2011, BY A 5-0 VOTE) (Report of: Public Works Department)

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**Recommendation:**

Adopt Ordinance No. 827 - An Ordinance of the City Council of the City of Moreno Valley, California amending Title 8 of the City of Moreno Valley Municipal Code (MVMC), repealing and reenacting Chapter 8.10 Storm Water/Urban Management and Discharge Controls and Chapter 8.21 Grading Regulations.

Ordinance No. 827

An Ordinance of the City Council of the City of Moreno Valley, California, Amending Title 8 of the City of Moreno Valley Municipal Code by Repealing and Reenacting Chapter 8.10 Storm Water/Urban Runoff Management and Discharge Controls and Chapter 8.21 Grading Regulations

A.9 SECOND AMENDMENT OF INDEPENDENT CONTRACTOR AGREEMENT FOR PLAN CHECK SERVICES - MELAD & ASSOCIATES (Report of: Community & Economic Development Department)

**Recommendation:**

1. Approve the Second Amendment of Independent Contractor Agreement with Melad & Associates for Plan Check Services;
2. Authorize the Mayor to execute the Amendment;
3. Authorize the City Manager to approve the annual purchase orders through the term of the Agreement at the budget amount approved by the City Council during the annual budget process; and
4. Upon approval of the annual purchase order by the City Manager, authorize the Purchasing & Facilities Division Manager to issue the purchase order to Melad & Associates to cover the estimated costs for providing services for the Building & Safety Division for FY2011/2012.

A.10 THIRD AMENDMENT OF INDEPENDENT CONTRACTOR AGREEMENT FOR PLAN CHECK SERVICES - WILLDAN (Report of: Community & Economic Development Department)

**Recommendation:**

1. Approve the Third Amendment of Independent Contractor Agreement with Willdan for Plan Check Services;
2. Authorize the Mayor to execute the Amendment;
3. Authorize the City Manager to approve the annual purchase orders

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through the term of the Agreement at the budget amount approved by the City Council during the annual budget process; and

4. Upon approval of the annual purchase order by the City Manager, authorize the Purchasing & Facilities Division Manager to issue the purchase order to Willdan to cover the estimated costs for providing services for the Building & Safety Division for FY2011/2012.

A.11 APPROVAL OF AN AGREEMENT WITH DATATICKET, INC. FOR PARKING CONTROL PROGRAM SERVICES; AUTHORIZE THE CITY MANAGER TO APPROVE ANNUAL PURCHASE ORDERS THROUGH THE TERM OF THE AGREEMENT; AND AUTHORIZE THE PURCHASING & FACILITIES MANAGER TO ISSUE ANNUAL PURCHASE ORDERS (Report of: Community & Economic Development Department)

**Recommendation:**

1. Approve the Agreement with DataTicket, Inc. for Parking Control Program Services for the City of Moreno Valley;
2. Authorize the City Manager to approve the annual purchase orders through the term of the Agreement at the budget amount approved by the City Council during the annual budget process; and
3. Upon approval of the annual purchase order by the City Manager, authorize the Purchasing & Facilities Division Manager to issue the purchase order to DataTicket, Inc. to cover the estimated costs for ticket processing, ticket printing, and other miscellaneous costs associated with the Parking Control Program for FY 2011/2012 and future years under the Agreement.

A.12 PA07-0090 – EXONERATION OF ROUGH GRADING AGREEMENT AND BOND, BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

Contingent upon completion of the remaining public improvements, authorize the City Engineer to execute the exoneration of the Faithful Performance security associated with the project PA07-0090 rough grading improvements.

A.13 AUTHORIZING THE SUBMITTAL OF APPLICATIONS FOR CYCLE 3 OF

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THE FEDERAL SAFE ROUTES TO SCHOOL GRANT PROGRAM (Report of: Public Works Department)

**Recommendation:**

1. Review and approve project recommendations for Cycle 3 of the federal Safe Routes to School (SRTS) grant program; and
2. Adopt Resolution No. 2011-71 authorizing the submittal of applications for Cycle 3 of the federal Safe Routes to School (SRTS) Grant Program.

Resolution No. 2011-71

A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Submittal of Applications for Cycle 3 of the Federal Safe Routes to School (SRTS) Grant Program

- A.14 PA07-0090 – REDLANDS ROUGH GRADING – REDUCE FAITHFUL PERFORMANCE BOND AND ACCEPT THE REDLANDS DRAINAGE IMPROVEMENTS AS COMPLETE AND INTO THE CITY’S MAINTAINED SYSTEM, BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Contingent upon completion of the remaining public improvements, adopt the proposed Resolution authorizing the acceptance of the Redlands Drainage public improvements within project PA07-0090 as complete and into the City’s maintained system.; and

Resolution No. 2011-67

A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Public Improvements as Complete Within Project Number PA07-0090 and Accepting the Redlands Drainage Improvements Associated with the Project into the City’s Maintained System

2. Authorize the City Engineer, upon approval and acceptance of the improvements, 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.

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- A.15 PA07-0090 – EUCALYPTUS ELECTRICAL IMPROVEMENTS – ELECTRICAL UTILITY INFRASTRUCTURE – REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE ELECTRICAL UTILITY INFRASTRUCTURE AS COMPLETE AND ACCEPTING THE UTILITY ELECTRICAL INFRASTRUCTURE INTO THE CITY’S MAINTAINED SYSTEM; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Adopt the proposed Resolution accepting into the City’s maintained system the Electrical Utility Infrastructure for PA07-0090 - Eucalyptus Electrical Improvements upon acceptance by the City Engineer as complete; and

Resolution No. 2011-68

A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Utility Electrical Infrastructure for the Eucalyptus Electrical Improvements as Complete Within Project PA07-0090, and Accepting the Utility Electrical Infrastructure into the City’s Maintained System

2. Authorize the City Engineer, upon approval and acceptance of the improvements by 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.16 PA07-0090 – THEODORE STREET IMPROVEMENTS - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING THEODORE STREET INTO THE CITY’S MAINTAINED STREET SYSTEM; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THE THEODORE STREET - DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Adopt the proposed Resolution accepting into the City’s maintained street system the Theodore Street public improvements within project PA07-0090 upon acceptance by the City Engineer as complete; and



Resolution No. 2011-69

A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Public Improvements as Complete within Project Number PA07-0090 and Accepting the Portion of Theodore Street Associated with the Project into the City's Maintained Street System

2. Authorize the City Engineer, upon approval and acceptance of the improvements by 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.17 PA07-0090 – SINCLAIR OFF-SITE WATER IMPROVEMENTS – REDUCE FAITHFUL PERFORMANCE BOND AND ACCEPT THE PUBLIC IMPROVEMENTS AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET - DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Contingent upon completion of the remaining public improvements, accept the Sinclair Off-Site Water Improvements as complete but not into the City's maintained street system within project PA07-0090; and
2. Authorize the City Engineer, upon approval and acceptance of the improvements, 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.18 PA07-0090 – REDLANDS SEWER IMPROVEMENTS – REDUCE FAITHFUL PERFORMANCE BOND AND ACCEPT THE PUBLIC IMPROVEMENTS AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET - DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

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1. Contingent upon completion of the remaining public improvements, accept the Redlands Sewer Improvements as complete but not into the City's maintained street system within project PA07-0090; and
2. Authorize the City Engineer, upon approval and acceptance of the improvements, 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.19 PA07-0090 – REDLANDS WATER IMPROVEMENTS – REDUCE FAITHFUL PERFORMANCE BOND AND ACCEPT THE PUBLIC IMPROVEMENTS AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM; BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET - DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Contingent upon completion of the remaining public improvements, accept the Redlands Water Improvements as complete but not into the City's maintained street system within project PA07-0090; and
2. Authorize the City Engineer, upon approval and acceptance of the improvements, 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.20 PA07-0090 (PM 35629) – ACCEPT DEVELOPMENT IMPACT FEE (DIF) IMPROVEMENT CREDIT AGREEMENT #D11-001 FOR PARCEL MAP NO. 35629 PHASE 1 IMPROVEMENTS ASSOCIATED WITH THE HIGHLAND FAIRVIEW LOGISTICS CORPORATE PARK BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET; DEVELOPER: HF LOGISTICS – SKX T1, LLC, MORENO VALLEY, CA 92553 (Report of: Public Works Department)

**Recommendation:**

1. Accept the Development Impact Fee Improvement Credit Agreement #D11-001 (DIF Agreement) for Parcel Map No. 35629 Phase 1 improvements and right-of-way dedications; and
2. Authorize the Mayor to execute the DIF Agreement.

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**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 JUNE 14, 2011 (Report of: City Clerk Department)

**Recommendation:**

Approve as submitted.

**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 JUNE 14, 2011 (Report of: City Clerk Department)

**Recommendation:**

Approve as submitted.

**D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES**

D.1 ORDINANCES - READING BY TITLE ONLY

**Recommendation:** Waive reading of all Ordinances.

D.2 MINUTES - REGULAR MEETING OF JUNE 14, 2011 (Report of: City Clerk Department)

**Recommendation:**

Approve as submitted.

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

**ADJOURNED THE 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 TO THE SPECIAL MEETING OF THE MORENO VALLEY PUBLIC FACILITIES FINANCING CORPORATION (MVPFFC)**

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**SPECIAL MEETING OF THE MORENO VALLEY PUBLIC FACILITIES FINANCING CORPORATION (MVPFFC)**

**CALL TO ORDER**

**CALL TO ORDER** - The Special meeting of the Moreno Valley Public Facilities Financing Corporation was called to order at 6:50 p.m. by President Stewart in the Council Chamber located at 14177 Frederick St.

**ROLL CALL**

Board of Directors:

Richard A. Stewart	President
Jesse L. Molina	Vice-President
William H. Batey II	Board Member
Marcelo Co	Board Member
Robin N. Hastings	Board Member

**PUBLIC COMMENTS ON THE SPECIAL MEETING AGENDA**

President Stewart opened the agenda item for public comments, which were received from Pete Bleckert.

**G. REPORTS**

- G.1 CORPORATE YARD OFFICE BUILDING PHASE 1 – OFFER OF DEDICATION – PROJECT NO. 05-4166522 LOCATED ON SANTIAGO STREET EAST OF PERRIS BOULEVARD; DEVELOPER: CITY OF MORENO VALLEY (Report of: Public Works Department)

**Recommendation:**

1. Authorize the President of the Board of Directors of the Moreno Valley Public Facilities Financing Corporation (MVPFFC) to execute the Offer of Dedication on Santiago Drive east of Perris Boulevard; and
2. Direct the City Clerk to forward the Offer of Dedication to the City Engineer to execute the Acceptance Certificate and to transmit the Offer of Dedication with Acceptance Certificate to the County Recorder's office for recordation.

**Motion to pull the item from the agenda by m/Mayor Pro Tem Jesse L. Molina, s/Council Member William H. Batey II**  
**Approved by a vote of 5-0.**

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**ADJOURNED THE MORENO VALLEY PUBLIC FACILITIES FINANCING CORPORATION (MVPFFC) TO THE 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 AT 6:53 P.M.**

**RECONVENED 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**

- E.1 PUBLIC HEARING TO CONSIDER PUBLIC COMMENTS REGARDING THE MAIL BALLOT PROCEEDINGS FOR SELECTED TRACTS FOR A PROPOSED INCREASE IN THE CSD ZONE D (PARKWAY LANDSCAPE MAINTENANCE) ANNUAL CHARGE (Report of: Public Works Department)

President Stewart opened the public testimony portion of the public hearing. Public testimony was received from Deanna Reeder (opposes).

**Recommendation: That the CSD:**

1. After conducting the public hearing for Tracts 19862, 19912, 20941, 21737, 22371, and 31591:

Direct the Secretary of the CSD Board (City Clerk) to tabulate the returned ballots for the proposed increase in the CSD Zone D annual charges for Tracts 19862, 19912, 20941, 21737, 22371, and 31591;

**Motion to Approve by m/Board Member William H. Batey II, s/Vice President Jesse L. Molina**  
**Approved by a vote of 5-0.**

**Item continued to a later time in the Council meeting to give the City Clerk the opportunity to tabulate the ballots.**

2. Verify and accept the results of the mail ballot proceedings as identified on the Official Tally Sheet;
3. Receive and file with the City Clerk's office the accepted Official Tally Sheet; and
4. If approved, authorize and impose the proposed increase in the CSD Zone D annual charges for Tracts 19862, 19912, 20941, 21737, 22371, and 31591.

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E.2 PUBLIC HEARING TO CONSIDER PUBLIC COMMENTS REGARDING THE MAIL BALLOT PROCEEDINGS FOR A PROPOSED INCREASE IN THE CSD ZONE E (EXTENSIVE LANDSCAPE MAINTENANCE) ANNUAL PARCEL CHARGE FOR SELECTED SUB-ZONES (Report of: Public Works Department)

President Stewart opened the public testimony portion of the public hearing. Public testimony was received from Jeffrey Giba and Deanna Reeder.

**Recommendation: That the CSD:**

1. After conducting the public hearing for Zone E-1 (Towngate), Zone E-2 (Hidden Springs), Zone E-3A (Lasselle Powerline Parkway), and Zone E-4 (Moreno Valley Ranch-East):

Direct the Secretary of the CSD Board (City Clerk) to tabulate the returned ballots for the proposed increase in the CSD Zone E annual charges for Zone E-1, Zone E-2, Zone E-3A, and Zone E-4;

**Motion to Approve by m/Board Member William H. Batey II, s/Vice President Jesse L. Molina**  
**Approved by a vote of 5-0.**

**Item continued to a later time in the Council meeting to give the City Clerk the opportunity to tabulate the ballots.**

2. Verify and accept the results of the mail ballot proceedings as identified on the Official Tally Sheet;
3. Receive and file with the City Clerk's office the accepted Official Tally Sheet; and
4. If approved, authorize and impose the proposed increase in the CSD Zone E annual charges for Zone E-1, Zone E-2, Zone E-3A, and Zone E-4.

E.3 PUBLIC HEARING FOR DELINQUENT RESIDENTIAL SOLID WASTE ACCOUNTS (Report of: Public Works Department)

**Recommendation: That the City Council:**

1. Approve placing the submitted list of delinquent solid waste accounts, available in the City Clerk's office, on the Fiscal Year (FY) 2011/2012 Riverside County property tax roll for collection; and
2. Direct the City Clerk to file with the Riverside County Auditor a certified copy of Resolution 2007-72 and the list of delinquent solid waste accounts as required by Section 5473.4 of the California Health

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and Safety Code and Section 6.02.030 of the City of Moreno Valley Municipal Code.

Mayor Stewart opened the public testimony portion of the public hearing. Public testimony was received from Deanna Reeder.

**Motion to Approve by m/Council Member Robin N. Hastings, s/Council Member Marcelo Co**  
**Approved by a vote of 5-0.**

- E.4 A PUBLIC HEARING FOR AN APPEAL OF A PLANNING COMMISSION DENIAL OF PA09-0027, A CONDITIONAL USE PERMIT REQUEST TO SELL ALCOHOL AND BEER AT A AN EXISTING CONVENIENCE STORE AT 21748 COTTONWOOD AVENUE. THE APPLICANT IS SOON-YI CHOI. (Report of: Community and Economic Development Department)

**Recommendation: That the City Council:**

Adopt Resolution No. 2011-66 approving PA09-0027, a Conditional Use Permit based on the findings in the Resolution.

Resolution No. 2011-66

Resolution of the City Council of the City of Moreno Valley Denying PA09-0027, A Conditional Use Permit to Allow Alcohol Sales (Beer and Wine) at the Existing Convenience Store Located at 21748 Cottonwood Avenue APN # 263-160-037

Mayor Stewart opened the public testimony portion of the public hearing. Public testimony was received from Bob Walker (opposes), Maricela Lopez (opposes), and Justin Kim (representing applicant).

**RECESS**  
**RECONVENED**

**Motion to Approve as amended to allow alcohol sale during the hours between 8:00 a.m. and 8:30 p.m. by m/Council Member William H. Batey II, s/Council Member Marcelo Co**  
**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)

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a. Mayor Richard A. Stewart report on March Joint Powers Commission (MJPC)

Mayor Stewart reported that a nice reception for Mr. Holland, Deputy Secretary of the Air Force for Facilities, was held at Supervisor Marion Ashley's home; Mr. Holland was given a tour of March Joint Powers area and the base; a formal meeting with wing commander and military personnel, Joint Powers members and civil engineers will be held to discuss several issues, including the potential for the developer to actually relocate BX and the commissary to inside the base at the developer's expense and use that area for expansion of medical facilities.

G.2 APPOINTMENTS TO THE CITY COUNCIL ADVISORY BOARDS AND COMMISSIONS (Report of: City Clerk's Department)

**Recommendation: That the City Council:**

1. Review the ballots for appointments to various City Council Boards and Commissions (to be provided by the City Clerk) and mark your choices where appropriate; or
2. Appoint those applicants who received majority vote by the City Council;
3. If vacancies are not filled by a majority vote of the City Council, authorize the City Clerk to re-advertise the positions as vacant and carry over the current applications for reconsideration of appointment at a future date.

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

**Motion to make following appointments for terms expiring June 30, 2014:**

The Arts Commission: Lorna Kendrick, Laretta Phillips and Nina Heirs;  
The Environmental & Historical Preservation Board: Gerald Michael Budlong and Gregory A. Hagans;  
The Library Commission: Beverly A. Crockett, Kristina Dixon and Cathy Merkt;  
The Parks & Recreation Commission: Bill Alvarez and George Brummer;  
The Recreational Trails Board: Margie Breitreuz and Gilbert Brooks;  
The Senior Citizens' Board: Delorise Anderson, Donna Annetta and Thelma Dunn;  
The Traffic Safety Commission: Lawrence Baird, Mary C. Cole and Arthur W. Higgs.

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**Motion to approve by m/Council Member William H. Batey II,  
s/Council Member Marcelo Co  
Approved by a vote of 5-0.**

- G.3 PUBLIC MEETING REGARDING THE MAIL BALLOT PROCEEDING FOR FIRST INDUSTRIAL—APNS 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029 BALLOTING FOR NPDES AND CSD ZONE M (Report of: Public Works Department)

**Recommendation: That the City Council:**

Accept public comments regarding the mail ballot proceeding for First Industrial—Assessor Parcel Numbers (APNs) 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029 for approval of the National Pollutant Discharge Elimination System (NPDES) maximum commercial/industrial regulatory rate.

**Recommendation: That the CSD:**

Accept public comments regarding the mail ballot proceeding for First Industrial—APNs 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029 for inclusion into and approval of the annual charges for CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance).

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

**No action required.**

- G.4 AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO VALLEY AND MV HEMLOCK LP (Report of: Community & Economic Development Department)

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

**Recommendation: That the City Council:**

1. Adopt Resolution No. 2011-70 consenting to the approval by the Community Redevelopment Agency of the City of Moreno Valley of an Affordable Housing Agreement by and between the Agency and MV Hemlock LP, a limited partnership; and

Resolution No. 2011-70

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A Resolution of the City Council of the City of Moreno Valley Consenting to the Approval by the Community Redevelopment Agency of the City of Moreno Valley with MV Hemlock Limited Partnership, a California Limited Partnership and Approving and Authorizing Execution of an Affordable Housing Agreement (Home) Between the City and MV Hemlock Limited Partnership, a California Limited Partnership

**Motion to approve by m/Council Member Robin N. Hastings, s/Council Member Marcelo Co**  
**Approved by a vote of 5-0.**

2. Approve an Affordable Housing Agreement for HOME by and between the City of Moreno Valley and MV Hemlock LP, a limited partnership; and

**Recommendation: That the RDA:**

Adopt Resolution No. RDA 2011-10 approving an Affordable Housing Agreement by and between the Agency and MV Hemlock LP.

Resolution No. RDA 2011-10

A Resolution of the Community Redevelopment Agency of the City of Moreno Valley Approving an Affordable Housing Agreement by and Between the Agency and MV Hemlock Limited Partnership, a California Limited Partnership

**Motion to approve by m/Agency Member Robin N. Hastings, s/Agency Member Marcelo Co**  
**Approved by a vote of 5-0.**

- G.5 CITY MANAGER'S REPORT (Informational Oral Presentation - not for Council action) - none

**H. LEGISLATIVE ACTIONS**

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

H.2 ORDINANCES - 2ND READING AND ADOPTION

- H.2 .1 ORDINANCE NO. 825 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING A FIRST AMENDMENT TO THE AQUABELLA DEVELOPMENT AGREEMENT (P11-029) TO REMOVE PLANNING AREA 2 (RECEIVED FIRST READING AND INTRODUCTION ON JUNE 14, 2011 ON A 4-0-1 VOTE, HASTINGS ABSENT) (Report of:

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Community & Economic Development Department)

**Recommendation: That the City Council:**

Adopt Ordinance No. 825, for adoption of the First Amendment to the Aquabella Development Agreement (P11-029).

Ordinance No. 825

An Ordinance of the City Council of the City of Moreno Valley, California, Approving a First Amendment to the Aquabella Development Agreement (P11-029) to Remove Planning Area 2

Mayor Stewart opened the agenda item for public comments, which were received from Deanna Reeder.

**Motion to approve by m/Council Member William H. Batey II, s/Mayor Pro Tem Jesse L. Molina**

**Approved by a vote of 4-0-1, Council Member Robin N. Hastings abstained.**

- H.2 .2 ORDINANCE NO. 826 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING TITLE 9 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE REGARDING SECTIONS 9.03 RESIDENTIAL DEVELOPMENT, 9.08 GRADING, 9.11 PARKING, PEDESTRIAN AND LOADING, 9.16 DESIGN GUIDELINES AND 9.17, LANDSCAPE REQUIREMENTS AND LANDSCAPE STANDARDS (RECEIVED FIRST READING AND INTRODUCTION ON JUNE 14, 2011 ON A 4-0-1 VOTE, HASTINGS ABSENT) (Report of: Community and Economic Development Department)

**Recommendation: That the City Council:**

Adopt Ordinance No. 826 approving PA10-0035, amending sections 9.03 Residential Development, 9.08 Grading, 9.11 Parking, Pedestrian and Loading, 9.16 Design Guidelines and 9.17 Landscape Requirements of Title 9 of the City of Moreno Valley Municipal Code (Attachment 3) and Landscape Standards (Attachment 4).

Ordinance No. 826

An Ordinance of the City Council of the City of Moreno Valley, California, Amending Title 9 of the City of Moreno Valley Municipal Code Regarding Sections 9.03 Residential Development, 9.08 Grading, 9.11 Parking, Pedestrian and Loading, 9.16 Design Guidelines and 9.17, Landscape Requirements and Landscape Standards

AGENDA  
June 28, 2011

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

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

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

Marie Hyta

1. Spending priorities; building a new fire station on Morrison; Station 58; salary of city administrator

Deanna Reeder

1. Redevelopment fund for the Aquabella project  
2. Conduct during council meetings

Alicia Espinoza

1. DUI check points

Kenny Bell

1. Meetings of Home Owners Associations  
2. Citizens' input/contributions

Librada Murillo

1. in Spanish

Jeffrey Giba

1. Increase of theft from recycle bins; thanked police officers for great job

Sue Gilchrist

1. Residents' contribution/input  
2. Retirement benefits  
3. Rancho Belago signs

Louise Palomarez

1. Red light camera on Day Street  
2. Commended the Council for awarding alcohol business license and for supporting businesses  
3. Rancho Belago signs

AGENDA  
June 28, 2011

Victoria Baca

1. Fourth of July celebration
2. Cultural events in the City
3. Wished everyone a safe and happy 4th of July

Joe Bautista

1. Budget - reorganization in the City Clerk's Office

Pete Bleckert

1. Gate at Hemlock Street

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

Council Member Batey

1. Congratulated Council Member Hastings for being installed as the new Chair of the Western Riverside Council of Governments

Council Member Co

1. Inquires about the incident with the tow truck company and a lost car
2. Attended WRCOG General Assembly reception with Condoleezza Rice as a speaker; was very impressed with the speaker, who talked about real things in life, is very humble and direct when talking to people

Council Member Hastings

1. Thanked Mr. Bell for his kind comments and for attending the Moreno Valley Crime Prevention meeting; thanked Chief Anderson for attending the meeting to address concerns about the crime, and what can be done about it; it was a very productive and well-attended meeting; appreciates the opportunity to meet with residents
2. Will be participating in the July 12 City Council meeting via teleconference; will attend a WRCOG meeting in Washington, DC, for the AB 811 program; more information about the program can be found on WRCOG Web site; anticipates that applications will be available at the end of this month
3. Appreciates the support for the 4th of July program; Thanked City Manager Garcia for the seed money; encouraged residents to volunteer
3. Addressed speaker's comments opposing shooting rangers – stated that this is a valuable program - payment of fees will allow the center to stay open; emphasized that residents' comments are not ignored and they are appreciated

Mayor Stewart

1. Responded to speaker's comment regarding Redevelopment Agency's support for the Burlington Coat Factory; said that the City is assisting new and existing businesses, as businesses generate sales tax revenue; the Economic Development Plan was developed to improve infrastructure and to retain existing

AGENDA  
June 28, 2011

businesses

2. Fourth of July celebration with fireworks is expensive; the City is going to work very hard to have the celebration the next year

3. Regarding concerts - last concert he attended a few weeks ago was a patriotic concert at the Conference and Recreation Center, and it was a standing room only; it is provided for free four times a year; other cultural events are also held in the City

4. The Council received only three applications for three openings on the Arts Commission - encouraged residents to apply, get involved and help out

5. Addressed comments regarding clapping during council meetings - we don't allow outburst of support or opposition, as it is intimidating to speakers

**Adjourned to Closed Session at 9:41 p.m.**

### **CLOSED SESSION**

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

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

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: 5

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

Number of Cases: 5

3 SECTION 54957.6 - LABOR NEGOTIATIONS

a) Agency Representative: Henry T. Garcia  
Employee Organization: MVCEA

b) Agency Representative: Henry T. Garcia  
Employee Organization: MVMA

c) Agency Representative: Henry T. Garcia  
Employee Organization: Moreno Valley Confidential  
Management Employees

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

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June 28, 2011

None

**RECONVENED Regular City Council Meeting at 10:02 p.m.**

E.1 PUBLIC HEARING TO CONSIDER PUBLIC COMMENTS REGARDING THE MAIL BALLOT PROCEEDINGS FOR SELECTED TRACTS FOR A PROPOSED INCREASE IN THE CSD ZONE D (PARKWAY LANDSCAPE MAINTENANCE) ANNUAL CHARGE (Report of: Public Works Department)

The Secretary announced the results as follows:

Tract 19862:	“Yes” - 3;	“No” - 6;	Invalid - 7	-failed
Tract 19912:	“Yes” - 7;	“No” - 24;	Invalid - 0	-failed
Tract 20941:	“Yes” - 10;	“No” - 14;	Invalid - 0	-failed
Tract 21737:	“Yes” - 0;	“No” - 3;	Invalid - 1	-failed
Tract 23371:	“Yes” - 3;	“No” - 7;	Invalid - 0	-failed
Tract 31591:	“Yes” - 1;	“No” - 6;	Invalid - 0	-failed

2. Verify and accept the results of the mail ballot proceedings as identified on the Official Tally Sheet;
3. Receive and file with the City Clerk’s office the accepted Official Tally Sheet; and
4. If approved, authorize and impose the proposed increase in the CSD Zone D annual charges for Tracts 19862, 19912, 20941, 21737, 22371, and 31591.

**Motion to approve by m/Board Member William H. Batey II, s/Board Member Robin N. Hastings**  
**Approved by a vote of 4-0-1, Vice President Pro Tem Molina absent.**

E.2 PUBLIC HEARING TO CONSIDER PUBLIC COMMENTS REGARDING THE MAIL BALLOT PROCEEDINGS FOR A PROPOSED INCREASE IN THE CSD ZONE E (EXTENSIVE LANDSCAPE MAINTENANCE) ANNUAL PARCEL CHARGE FOR SELECTED SUB-ZONES (Report of: Public Works Department)

The Secretary announced the results as follows:

Tract No. E-1:	“Yes” - 440;	“No” - 542;	Invalid – 6;	-failed
Tract No. E-2:	“Yes” - 139;	“No” - 257;	Invalid – 11;	-failed
Tract No. E-3A:	“Yes” - 34;	“No” - 66;	Invalid – 2;	-failed
Tract No. E-4:	“Yes” - 212;	“No” - 393;	Invalid – 14;	-failed

2. Verify and accept the results of the mail ballot proceedings as

AGENDA  
June 28, 2011

identified on the Official Tally Sheet;

3. Receive and file with the City Clerk's office the accepted Official Tally Sheet; and
4. If approved, authorize and impose the proposed increase in the CSD Zone E annual charges for Zone E-1, Zone E-2, Zone E-3A, and Zone E-4.

**Motion to approve by m/Board Member William H. Batey II, s/Board Member Robin N. Hastings**

**Approved by a vote of 4-0-1, Vice President Pro Tem Molina absent.**

**Motion to Adjourn by m/Council Member William H. Batey II, s/Council Member Marcelo Co. Approved by a unanimous vote.**

## **ADJOURNMENT**

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

Submitted by:

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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:

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Richard Stewart, Mayor  
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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AGENDA  
June 28, 2011





## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Jane Halstead, City Clerk

**AGENDA DATE:** July 12, 2011

**TITLE:** CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES

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### RECOMMENDED ACTION

Staff recommends that the City Council receive and file the Reports on Reimbursable Activities for the period of June 22 – July 5, 2011.

<i>Reports on Reimbursable Activities</i> June 22 – July 5, 2011		
Council Member	Date	Meeting
William H. Batey II		None
Marcelo Co		None
Robin N. Hastings	6/22/11	Moreno Valley Chamber of Commerce Wake-Up Moreno Valley
	6/23/11	Leadership Moreno Valley
Jesse L. Molina		None
Richard A. Stewart	6/23/11	Leadership Moreno Valley

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>RAH</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council and Redevelopment Agency Chairperson and Board of Directors

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE INDIAN DETENTION BASIN DRAINAGE IMPROVEMENTS, AND IRONWOOD AVENUE STREET IMPROVEMENTS FROM HEACOCK STREET TO NITA DRIVE PROJECT NO. 09-89791726, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM

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### RECOMMENDED ACTION

Staff recommends that the City Council and the Community Redevelopment Agency:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Indian Detention Basin Drainage Improvements and Ironwood Avenue Street Improvements from Heacock Street to Nita Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project.
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

### **BACKGROUND**

On July 13, 2010, the City Council awarded a construction contract to Riverside Construction Company, Inc. and authorized the issuance of a purchase order in the amount of \$4,124,375.14. The work consisted of the construction of Storm Drain Line H along Ironwood Avenue from the Ironwood Avenue/Heacock Street intersection to the Davis Street/Ironwood Avenue intersection, then southerly in Davis Street to the Indian Detention Basin. The work also included construction of street improvements on the south side of Ironwood Avenue from Heacock Street to Nita Drive, completion of missing portions of Storm Drain Line H-1A from the Davis Street/Ironwood Avenue intersection to the Indian Detention Basin and in Ironwood Avenue between Indian Street and Hubbard Street, and minor clearing for SCE poles on the north side of Ironwood Avenue between Heacock Street and Perris Boulevard. On July 13, 2010, the City Council also approved the Reimbursement Agreement for the Eastern Municipal Water District improvements which appropriated sufficient funds from EMWD for relocation of four conflicting water lines.

The City issued a Notice to Proceed to Riverside Construction to start the work on October 4, 2010. The length of the contract is one hundred seventy (170) working days, which has been adjusted by Contract Change Order due to weather and other approved work. Riverside Construction anticipates completing the project by mid July 2011.

On April 26, 2011, the City Council approved a Cooperative Agreement with Riverside County Flood Control and Water Conservation District (RCFC&WCD) which set forth the City's responsibilities and the District's responsibilities for post-construction maintenance of the facilities.

### **DISCUSSION**

Staff anticipates that all work will be completed by Riverside Construction Company by mid July 2011. Staff is in the process of negotiating Contract Change Orders and anticipates the final contract cost will be approximately \$3,850,000 which is not expected to exceed the approved purchase order amount of \$4,124,375.14. Since the City Council will not meet on July 26, 2011 and August 9, 2011, staff requests the City Council authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion with the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention to the Contractor thirty-five (35) calendar days after

the date of recordation of the Notice of Completion. These actions must be completed in a timely manner upon completion of the Contractor's work in accordance with the applicable laws.

## **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Indian Detention Basin Drainage Improvements and Ironwood Avenue Street Improvements from Heacock Street to Nita Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501, direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code, authorize the Financial and Administrative Services Director to release the retention to Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete. *These alternatives will result in payment to the Contractor and acceptance of the improvements into the City's maintained system.*
  
2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Indian Detention Basin Drainage Improvements and Ironwood Avenue Street Improvements from Heacock Street to Nita Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code, do not authorize the Financial and Administrative Services Director to release the retention to Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and do not authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete. *These alternatives will result in delaying payment to the Contractor, thereby delaying acceptance of the improvements into the City's maintained system, and incurring extra cost to the City.*

## **FISCAL IMPACT**

The Indian Detention Basin Drainage Improvements and Ironwood Avenue Street Improvements were included in the Fiscal Year 2010/2011 budget, and financed by 2007 RDA Tax Allocation Bonds (Account No. 897.91727). The project is also partially

funded with 2005 Lease Revenue Bonds (Account No. 501.82625), Development Impact Fee (DIF) program funds (Account No. 416.78727), and the EMWD water line facilities were reimbursed by EMWD through a revenue set-aside in fund 414 (Account Nos. 414.80423 and 414.80424). The funds utilized for this project were designated for the Indian Basin and Ironwood Avenue capital improvements only. There is no impact to the General Fund.

**AVAILABLE BUDGETED FUNDS:**

Fiscal Year 2010/2011 (Account No. 897.91726).....	\$3,153,000
Fiscal Year 2010/2011 (Account No. 501.82625).....	\$933,000
Fiscal Year 2010/2011 (Account No. 416.78727).....	\$962,000
Fiscal Year 2010/2011 (Account No. 414.80423).....	\$185,000
Fiscal Year 2010/2011 (Account No. 414.80424).....	\$109,000
Total Budgeted Funds.....	<u>\$5,342,000</u>

**FINAL CONSTRUCTION RELATED COSTS:**

Contractor Construction Costs .....	\$3,850,000
Design Support Costs during Construction .....	\$109,000
Construction Geotechnical Services.....	\$95,000
Construction Survey Services .....	\$55,000
Project Administration and City Inspection* .....	\$190,000
Total Project Construction Costs.....	<u>\$4,299,000</u>

\*Public Works staff provided project administration and primary inspection services.

**CITY COUNCIL GOALS**

**PUBLIC SAFETY:**

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**SUMMARY**

Staff anticipates Riverside Construction Company will complete construction of the Indian Detention Basin Drainage Improvements and Ironwood Avenue Street Improvements from Heacock Street to Nita Drive improvements by mid July 2011. Staff requests the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are

completed, authorize the recordation of the Notice of Completion with the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, authorize the release of retention money to the Contractor thirty-five (35) calendar days after the date of recordation of the Notice of Completion, and authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

**ATTACHMENTS**

Attachment "A" – Location Map

Prepared By:  
Margery A. Lazarus, P.E.  
Senior Engineer

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

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

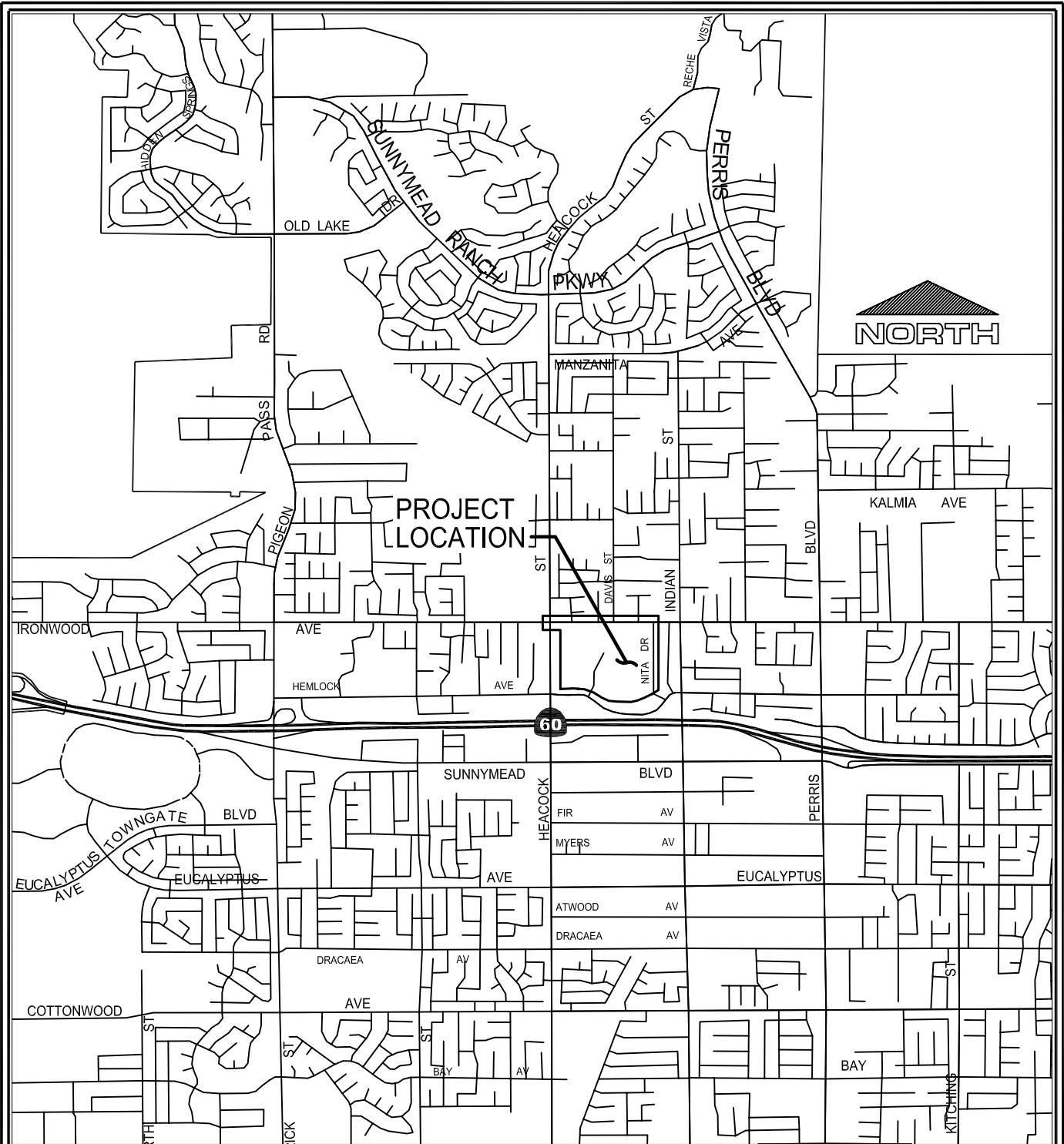
Department Head Approval:  
Barry Foster  
Community and Economic Development  
Director

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

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# LOCATION MAP



Public Works Department  
Capital Projects Division

Scale: None

ATTACHMENT "A"

INDIAN DETENTION BASIN  
DRAINAGE IMPROVEMENTS AND  
IRONWOOD AVE FROM HEACOCK STREET TO NITA DRIVE  
(SOUTH SIDE)  
PROJECT NUMBER 09-89791726

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** APPROVE AGREEMENT FOR PROFESSIONAL CONSTRUCTION MANAGEMENT AND CONSTRUCTION INSPECTION CONSULTANT SERVICES WITH TRANSTECH ENGINEERS, INC. FOR STREET IMPROVEMENTS ALONG CACTUS AVENUE BETWEEN LASSELLE STREET AND NASON STREET AND ALONG NASON STREET BETWEEN CACTUS AVENUE AND IRIS AVENUE

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve the Agreement for Professional Construction Management and Construction Inspection Consultant Services with Transtech Engineers, Inc. (Transtech) 413 MacKay Drive, San Bernardino, CA 92408, for Street Improvements along Cactus Avenue between Lasselle Street and Nason Street and along Nason Street between Cactus Avenue and Iris Avenue.
2. Authorize the City Manager to execute a contract with Transtech in the form attached hereto.
3. Authorize the issuance a Purchase Order to Transtech in the amount of \$999,200 (\$868,870 for the agreement plus the 15% contingency amount of \$130,330) when the Agreement has been signed by all parties.
4. Authorize the City Engineer to execute any subsequent amendments to the Agreement with Transtech, up to but not to exceed the Purchase Order contingency, subject to the approval of the City Attorney.

## **BACKGROUND**

On April 26, 2011, the City Council approved an Economic Development Action Plan that re-sequenced Capital Improvement projects to fast-track the street improvements on Cactus Avenue between Lasselle Street and Nason Street, and the extension of Nason Street southerly to connect Cactus Avenue with Iris Avenue.

On May 24, 2011, City Council authorized the City Engineer / Public Works Director to execute the Program Supplement Agreement with the California Department of Transportation (Caltrans) for the Cactus Avenue Improvements project. This agreement established the policies and procedures for Caltrans reimbursement of \$1 million funding for the State-Local Partnership Program (SLPP) grant program.

On June 14, 2011, City Council approved the FY 11/12 budget pending funding for Cactus Avenue between Lasselle Street and Nason Street, and the extension of Nason Street southerly to connect Cactus Avenue with Iris Avenue.

## **DISCUSSION**

The project consists of street improvements along 1) Cactus Avenue between Lasselle Street and Nason Street and 2) Nason Street between Cactus Avenue and Iris Avenue. The adjacent property owner and developer, Highland Fairview Properties (HFP), has been coordinating the preparation of the design plans for the street improvements as part of the 760 acre Aquabella Specific Plan (formerly Moreno Valley Field Station Specific Plan). Because these street segments are considered very strategic to the City's Economic Development Plan, the City is taking a proactive approach in assisting with the completion of the plans, specifications, and estimate (PS&E). The City will coordinate the bidding and construction of the project once HFP provides the City with full biddable plans. In general, the proposed improvements are intended to include curb, gutter, street pavement reconstruction and widening, street lights, sidewalk, water, sewer, reclaimed water and master planned storm drain improvements, traffic signal work, a bridge along Nason Street over flood control channel Line F and construction of a portion of flood control channel Line F.

On May 25, 2011, staff solicited proposals from professional consultants. Approximately 200 consultants in the Public Works Department database were notified of the availability of the City's request for proposal. Eight (8) proposals were received in response to the City's Request for Proposals. The scope of work for the project includes project management, constructability review of PS&E, construction management, and construction inspection for the project. Subsequently, the project management tasks of the overall project is being proposed to be performed by the City's in-house consultant VAS Associates to ensure higher levels of project controls and improved efficiencies resulting in cost savings. A selection review committee comprised of City staff representatives from the Public Works Department reviewed and rated each prospective firm based on their proposals and presentations. After interviewing the three top-ranked firms, Transtech was selected as the most qualified firm to undertake the project.

The final scope of work focuses on constructability review of PS&E, construction management, and construction inspection. Transtech will provide highly skilled and experienced team of three professionals on a full time basis for the duration of construction phase of the project, ensuring quality construction and timely completion of the project. Prior to finalization of the project Plans, Specifications and Estimates (PS&E) and bidding of the project, Transtech will perform a detailed constructability review of the PS&E including on-site field check to ensure that conflicts that results in costly delays during construction are minimized. During construction, a Construction Manager will coordinate with all project stakeholders, ensure that the project is progressing in accordance with the contract documents leading to timely completion of the project within budget, minimize inconvenience to travelling public, and in his capacity as a Bridge Engineer, will inspect the technical aspects of the bridge construction. An experienced Public Works inspector will ensure that quality construction is carried out in accordance with the project plans and specifications; while an Office Engineer will assist the project team with other necessary tasks including satisfying the SLPP grant's requirements for this fast paced and multi-faceted construction project.

## **ALTERNATIVES**

1. Approve the Agreement for Professional Construction Management and Construction Inspection Consultant Services to Transtech Engineers, Inc. (Transtech) 413 MacKay Drive, San Bernardino, CA 92408, for Street Improvements along Cactus Avenue between Lasselle Street and Nason Street and along Nason Street between Cactus Avenue and Iris Avenue, authorize the City Manager to execute a contract with Transtech in the form attached hereto, authorize the issuance a Purchase Order to Transtech in the amount of \$999,200 (\$868,870 for the agreement plus the 15% contingency amount of \$130,330) when the Agreement has been signed by all parties, and authorize the City Engineer to execute any subsequent amendments to the Agreement with Transtech, up to but not to exceed the Purchase Order contingency, subject to the approval of the City Attorney. *This recommendation will allow for much needed improvements that are integral to the City's Economic Development Plan.*
2. Do not approve the Agreement for Professional Construction Management and Construction Inspection Consultant Services to Transtech Engineers, Inc. (Transtech) 413 MacKay Drive, San Bernardino, CA 92408, for Street Improvements along Cactus Avenue between Lasselle Street and Nason Street and along Nason Street between Cactus Avenue and Iris Avenue, do not authorize the City Manager to execute a contract with Transtech in the form attached hereto, do not authorize the issuance a Purchase Order to Transtech in the amount of \$999,200 (\$868,870 for the agreement plus the 15% contingency amount of \$130,330) when the Agreement has been signed by all parties, and do not authorize the City Engineer to execute any subsequent amendments to the Agreement with Transtech, up to but not to exceed the Purchase Order contingency, subject to the approval of the City Attorney. *This recommendation will delay much needed improvements that are integral to the City's Economic Development Plan.*

**FISCAL IMPACT**

The funding sources for this project are: RDA Tax Increment Fund 892 (\$6M through an Agreement with Riverside County Flood Control and Water Conservation District), borrowed DIF Library and Corporate Yard Fund 412 (\$6.5M), DIF Arterial Streets Fund 416 (\$2.5M) - re-sequenced from Kitching Street Improvements project from Cactus Avenue to Gentian Avenue, General Fund 412 (\$1.3M) - re-sequenced from Heacock Street and Cactus Avenue Channel Improvements, DIF Traffic Signals Fund 417 (\$0.27M), Measure "A" Fund 125 (\$3.1M) - re-sequenced from Reche Vista Drive Realignment project, and anticipated SLPP Grant monies Fund 125 (\$1M). Total available funding is \$20,672,000. Assumptions for this project include that the adjacent property owners will dedicate and be credited for an estimated \$1M towards right of way.

**BUDGETED FUNDS FOR DESIGN AND CONSTRUCTION:**

Fiscal Year 2011/2012 Budget (Account No. 125.New) ..... \$20,672,000

**ESTIMATED PROJECT COSTS:**

Consultant Construction Management and Inspection Costs.....	\$999,000
City's Plan Check and Project Management Administration * .....	\$881,000
Construction Phase Technical Services (Survey, Geo, Design Support, etc.) ..	\$950,000
Construction and Utility Relocation Costs .....	<u>\$17,842,000</u>
<b>Total Estimated Project Costs .....</b>	<b><u>\$20,672,000</u></b>

\* Public Works and in-house consultant staff will provide Plan Check and Project Administration.

**ANTICIPATED PROJECT SCHEDULE:**

Complete PS&E .....	Fall 2011
Public Bid and Award of Construction .....	Three Months Thereafter
Complete Construction.....	Approximately Twelve Months

**CITY COUNCIL GOALS**

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**SUMMARY**

This project implements an initiative of the Economic Development Action Plan. The proposed improvements consists of the ultimate width street improvements along 1) Cactus Avenue between Lasselle Street and Nason Street and 2) Nason Street between Cactus Avenue and Iris Avenue. Staff is requesting that City Council approve the Agreement with Transtech for Professional Construction Management and Inspection Consultant Services so that these improvements can move forward.

**ATTACHMENTS**

Attachment "A" – Location Map  
 Attachment "B" – Agreement for Professional Services

Prepared By:  
 Viren A. Shah, P.E.  
 City's Program Manager

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

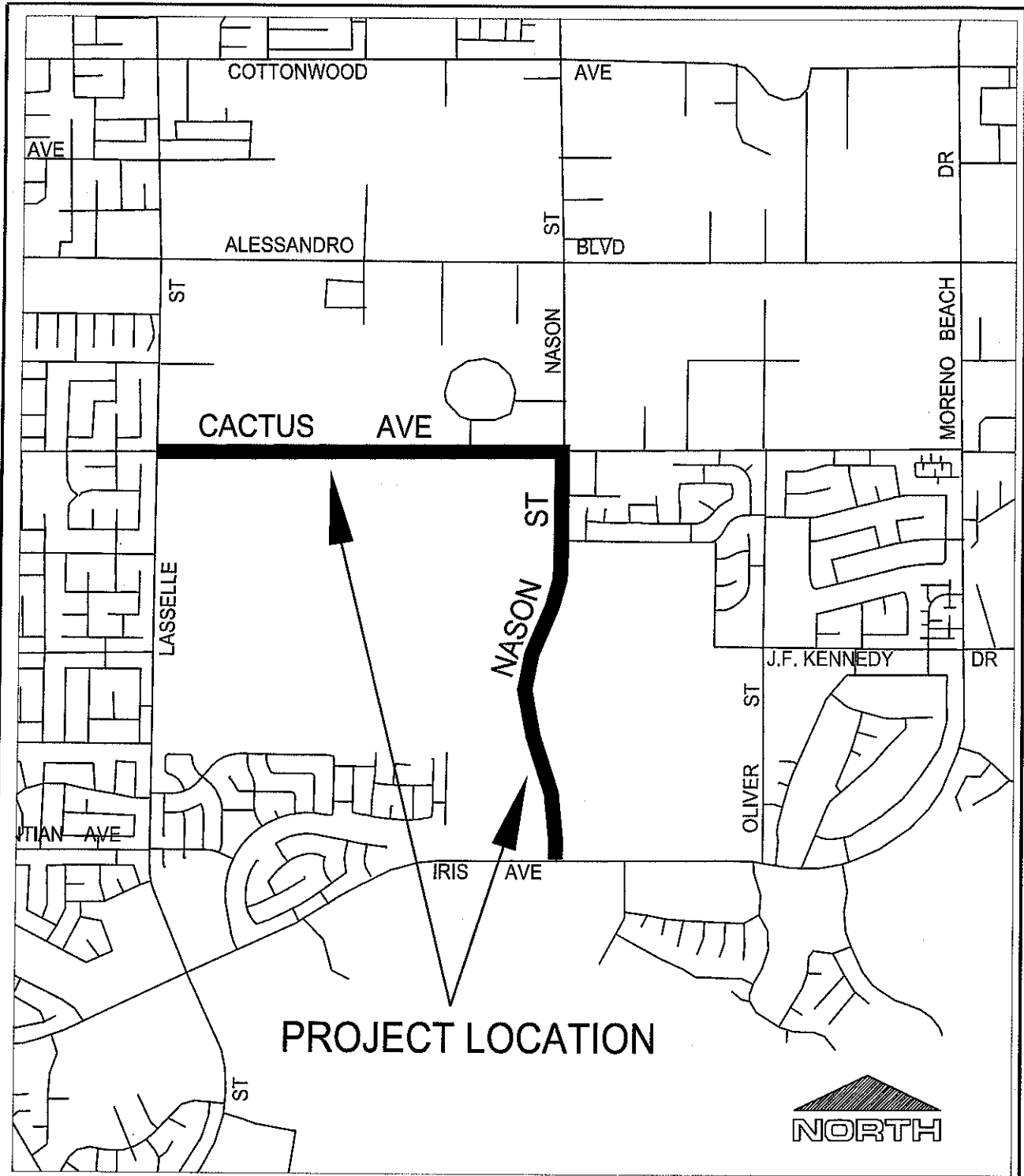
Department Head Approval:  
 Chris A. Vogt, P.E.  
 Public Works Director/City Engineer

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

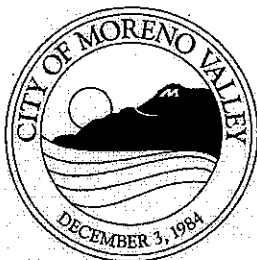
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**PROJECT LOCATION**



**CAPITAL IMPROVEMENTS PROJECT**

Public Works Department  
Capital Projects Division

**STREET IMPROVEMENTS**  
CACTUS AVENUE AND NASON STREET

**LOCATION MAP**

**ATTACHMENT "A"**

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**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

This Agreement is by and between the City of Moreno Valley, California, a municipal corporation, hereinafter described as "City," and Transtech Engineers, Inc., a California corporation, partnership, hereinafter described as "Consultant." This Agreement is made and entered into effective on the date the City signs this Agreement.

**RECITALS**

WHEREAS, the City has determined it is in the public interest to proceed with the work hereinafter described as "Project"; and

WHEREAS, the City has determined the Project involves the performance of professional and technical services of a temporary nature as more specifically described in Exhibit "A" (City's Request for Proposal) and Exhibit "B" (Consultant's Proposal) hereto; and

WHEREAS, the City does not have available employees to perform the services for the Project; and

WHEREAS, the City has requested the Consultant to perform such services for the Project; and

WHEREAS, the Consultant is professionally qualified in California to perform the professional and technical services required for the Project;

THEREFORE, the City and the Consultant, for the consideration hereinafter described, mutually agree as follows:

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

**DESCRIPTION OF PROJECT**

1. The Project is described as professional consultant Construction Management and Construction Inspection services for:

**Street Improvements along Cactus Avenue between Lasselle Street and Nason Street  
and along Nason Street between Cactus Avenue and Iris Avenue**

**SCOPE OF SERVICES**

2. The Consultant's scope of service is described on Exhibit "B" attached hereto and incorporated herein by this reference. In the event of a conflict, the City's Request for Proposal shall take precedence over the Consultant's Proposal.

3. The City's responsibility is described on Exhibit "C" attached hereto and incorporated herein by this reference.

**PAYMENT TERMS**

4. The City agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of \$995,595.00 in accordance with the payment terms provided on Exhibit "D" attached hereto and incorporated herein by this reference.

**TERM OF AGREEMENT**

5. This agreement will terminate on **June 30, 2013** unless the termination date is extended by an amendment to the agreement.

**TIME FOR PERFORMANCE**

6. The Consultant shall commence services upon receipt of written direction to proceed from the City.

7. The Consultant shall perform the work described on Exhibit "A" in accordance with the design schedule as stated in the Notice to Proceed.

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

8. The Consultant and the City agree that the schedule in Paragraph 7 above represents their best estimates with respect to completion dates, and both the Consultant and the City acknowledge that it will not unreasonably withhold approval of the Consultant's requests for extensions of time in which to complete the work required of the Consultant hereunder.

9. The Consultant shall not be responsible for performance delays caused by others or delays beyond the Consultant's reasonable control, and such delays shall extend the time for performance of the work by the Consultant. Delays caused by non-performance or unjustified delay in performance by a subconsultant of the Consultant are not considered to be beyond the Consultant's reasonable control.

10 (a) The Consultant agrees that the personnel, including the principal Project manager, and all subconsultants assigned to the Project by the Consultant, shall be subject to the prior approval of the City.

(b) No change in subconsultants or key personnel shall be made by the Consultant without written prior approval of the City.

**SPECIAL PROVISIONS**

11. It is understood and agreed that the Consultant is, and at all times shall be, an independent contractor and nothing contained herein shall be construed as making the Consultant or any individual whose compensation for services is paid by the Consultant, an agent or employee of the City, or authorizing the Consultant to create or assume any obligation or liability for or on behalf of the City.

12. The Consultant may also retain or subcontract for the services of other necessary consultants with the prior written approval of the City. Payment for such services shall be the responsibility of the Consultant. Any and all subconsultants employed by the Consultant shall be subject to the terms and conditions of this Agreement, except that the City shall have no obligation

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

to pay any subconsultant for services rendered on the Project.

13. The Consultant and the City agree to use reasonable care and diligence to perform their respective services under this Agreement. Unless hereinafter specified, neither party shall be responsible for the services of the other or any subcontractor or sub-consultant employed by the other party.

14. The Consultant shall comply with all applicable federal, state, and local laws in the performance of work under this Agreement.

15. (a) To the maximum extent allowable by law, the Consultant, when functioning in the capacity of a design professional, agrees to indemnify, defend, and save 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 liability, claims, demands, damages, or injuries to any person, including injury to the Consultant's employees and all claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the Consultant, its officers, agents or employees, or its subconsultant(s) or any person acting for the Consultant or under its control or direction; provided, however, that this indemnification and hold harmless shall not include claims arising from the negligence or willful misconduct of the City, RDA and CDS, their officers, agents or employees.

(b) The consultant, when not functioning in the capacity of a design professional, agrees to indemnify, defend, and save the City, the Moreno Valley Community Redevelopment Agency (RDA), and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all liability, claims, demands, damages, or injuries to any person, including injury to the Consultant'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 the Consultant under this Agreement, or are caused or claim to be caused by the negligent acts of

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

the Consultant, its officers, agents or employees, or its subconsultant(s) or any person acting for the Consultant or under its control or direction; provided, however, that this indemnification and hold harmless shall not include claims arising from the sole negligence or willful misconduct of the City, RDA, and CSD, their officers, agents or employees.

(c) The City agrees to indemnify, defend and save the Consultant and their 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 Consultant, its officers, agents or employees.

16. (a) The Consultant shall procure and maintain, at its sole expense, throughout the term of this Agreement and any extension thereof, Professional Errors and Omission Insurance coverage in the form and substance and with carriers acceptable to the City. Such coverage limits shall not be less than \$1,000,000 per claim and aggregate.

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

(b) During the entire term of this Agreement, the Consultant agrees to procure and maintain General Liability Insurance in form and substance and with carriers acceptable to the City at its sole expense to protect against loss from liability imposed by law for damages on account of bodily injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomever, resulting directly or indirectly from any act or activities of the Consultant its sub-consultant or any person acting for the Consultant or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any persons caused directly or indirectly by or from acts or activities of the Consultant or its subconsultants, or any person acting for the Consultant or under its control or direction.

(c) Such General Liability Insurance shall be maintained in full force and effect throughout the terms of the Agreement and any extension thereof in the minimum limits provided below:

	<u>General Liability</u>
Bodily Injury	\$1,000,000 per occurrence
Property Damage	\$ 500,000 per occurrence

A combined single limit policy with aggregate limits in the amount of \$2,000,000 will be considered equivalent to the above minimum limits.

(d) If the operation under this Agreement results in an increased or decreased risk in the opinion of the City Manager, then the Consultant agrees that the minimum limits hereinabove designated shall be changed accordingly upon request by the City Manager.

(e) The Consultant shall procure and maintain, at its sole expense, and throughout the term of this Agreement and any extension thereof, Public Liability and Property



**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

Damage Insurance coverage for owned and non-owned automotive equipment operated on City premises. Such coverage limits shall not be less than \$1,000,000 combined single limit.

(f) The Consultant shall procure and maintain, at its sole expense, 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 Consultant 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 Consultant in the course of carrying out the Agreement.

(g) 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 shall be named as additional insured on all policies of insurance except errors and omissions and worker's compensation.

(h) A Certificate of Insurance and appropriate additional insured endorsement evidencing the above insurance coverage shall be submitted to the City Clerk prior to the execution of this Agreement on behalf of the City.

(i) 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 general liability 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 Moreno

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

Valley Community Redevelopment Agency, and the Moreno Valley Community Services District, its officers, employees and agents, under any third party liability policy."

(j) Insurance companies providing insurance hereunder 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.

(k) The terms of the insurance policy or policies issued to provide the above insurance coverage shall not be amended to reduce the above 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 said insurance is canceled, the Consultant shall, prior to the cancellation date, submit to the City Clerk new evidence of insurance in the amounts established.

17. During the performance of this Agreement, the Consultant will not unlawfully discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, sex, or age. The Consultant will take affirmative action to ensure that applicants are legally employed, and that employees are treated during employment without regard to their race, religion, creed, color, national origin, sex, or age.

18. Consultant and subconsultants shall pay prevailing wage rates when required by the Labor Laws of the State of California.

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

19. (a) The Consultant shall deliver to the Public Works Director/City Engineer of the City or his/her designated representative, immediately upon request in both hard copy and electronic format, all documents, drawings, models, presentation materials, renderings, calculations, specifications, permits and permit-related documents, surveys, materials tests, geotechnical reports, etc., if available, developed to date for the City's project and any other City-provided documents, which shall become the property of the City. The Consultant may retain for its files, at its expense, copies of any and all materials, including drawings, documents, and specifications, produced by the Consultant in performance of this Agreement. It shall be understood that the City shall be the owner of all project-related documents and drawings at all times and during all phases of the project. The City reserves the right to ask for a hard copy and/or an electronic copy of the documents developed to date at any time during the period of this agreement.

(b) The Consultant shall be entitled to copies of all furnished materials for his files and his subconsultants, if any, for professional services related to the City's project.

(c) The City agrees to hold the Consultant free and harmless from any claim arising from any unauthorized use of computations, maps, and other documents prepared or provided by the Consultant under this Agreement, if used by the City on other projects without the permission of the Consultant. Consultant acknowledges that Consultant work product produced under this agreement may be public record under State law.

20. (a) The City may terminate this Agreement without cause on the part of Consultant by giving at least ten (10) days written notice to the Consultant. The written notice shall specify the date of termination. Upon receipt of such notice, the Consultant may continue services on the project through the date of termination, provided that no service(s) shall be commenced or continued after receipt of the notice, which is not intended to protect the interest of

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

the City. The City shall pay the Consultant within thirty (30) days after the date of termination for all non-objected to services performed by the Consultant in accordance herewith through the date of termination.

(b) Upon notice of termination, the Consultant shall deliver to the Public Works Director/City Engineer of the City or his/her designated representative, in both hard copy and electronic format, all documents, drawings, models, presentation materials, renderings, calculations, specifications, permits and permit-related documents, surveys, materials tests, geotechnical reports, etc., if available, developed to date for the City's project and any other City-provided documents, which shall become the property of the City. The Consultant may retain for its files, at its expense, copies of any and all materials, including drawings, documents, and specifications, produced by the Consultant in performance of this Agreement. It shall be understood that the City shall be the owner of all project-related documents and drawings, regardless of the completeness of said documents.

(c) The Consultant shall be entitled to copies of all furnished materials for his files and his subconsultants, if any, for professional services related to the City's project.

(d) The City agrees to hold the Consultant harmless from any claim arising from any unauthorized use of computations, maps, and other documents prepared or provided by the Consultant. Consultant acknowledges that Consultant work product produced under this Agreement may be public record under State law.

(e) Either party may terminate this Agreement for cause. In the event the City terminates this Agreement for cause, the Consultant shall perform no further service(s) under the Agreement unless the notice of termination authorizes such further work.

21. This Agreement is binding upon the City and the Consultant and their successors and assigns. Except as otherwise provided herein, neither the City nor the Consultant shall

## **AGREEMENT FOR DESIGN PROFESSIONAL CONSULTANT SERVICES**

assign, sublet, or transfer its interest in this Agreement or any part thereof without the prior written consent of the other.

22. A City representative shall be designated by the City and a Consultant representative shall be designated by the Consultant. The City representative and the Consultant representative shall be the primary contact person for each party regarding performance of this Agreement. The City representative shall cooperate with the Consultant, and the Consultant's representative shall cooperate with the City in all matters regarding this Agreement and in such a manner as will result in the performance of the services in a timely and expeditious fashion.

23. This Agreement represents the entire and integrated Agreement between the City and the Consultant, and supersedes all prior negotiations, representations or Agreements, either written or oral. This Agreement may be modified or amended only by a subsequent written Agreement signed by both parties.

24. Where the payment terms provide for compensation on a time and materials basis, the Consultant shall maintain adequate records to permit inspection and audit of the Consultant's time and materials charges under this Agreement. The Consultant shall make such records available to the City at the Consultant's office during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records. Except as may be otherwise required by law, such records will be available only to the City. Such records shall be maintained by the Consultant for three (3) years following completion of the services under this Agreement.

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

25. The City and the Consultant 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.

26. The Consultant shall employ no City official or employee 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.

27. Subject to the provisions of Section 19 (a) above, all plans, drawings, specifications, reports, logs, and other documents prepared by the Consultant in its performance under this Agreement shall, upon demand by the City, be delivered to and become the property of the City for the limited use as set out above, provided that the Consultant shall be entitled, at its own expense, to make copies thereof for its own use.

28. The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement, and shall also govern the interpretation of this Agreement. Venue shall be vested in the Superior Court of the State of California, County of Riverside.

**SIGNATURE PAGE FOLLOWS**

**AGREEMENT FOR DESIGN PROFESSIONAL  
CONSULTANT SERVICES**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

Transtech Engineers, Inc.

BY: \_\_\_\_\_  
City Manager

BY: \_\_\_\_\_

\_\_\_\_\_  
Date

TITLE: \_\_\_\_\_  
(President or Vice President)

\_\_\_\_\_  
Date

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(Corporate Secretary)

\_\_\_\_\_  
Date

APPROVED AS TO LEGAL FORM:

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

DATE: \_\_\_\_\_

- Attachments: Exhibit "A" – City's Request for Proposal  
Exhibit "B" – Consultant's Proposal  
Exhibit "C" – City's Responsibility  
Exhibit "D" – Terms of Payment

**REQUEST FOR PROPOSAL  
FOR PROFESSIONAL PROJECT MANAGEMENT, CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES  
FOR STREET IMPROVEMENTS**

- 1) ALONG CACTUS AVENUE BETWEEN LASSELLE STREET AND NASON STREET AND  
2) ALONG NASON STREET BETWEEN CACTUS AVENUE AND IRIS AVENUE  
FOR  
THE CITY OF MORENO VALLEY'S CAPITAL PROJECTS DIVISION**

**I. INVITATION**

You are hereby invited to submit a Proposal for: 1) Project Management Consultant (PMC) Services, Part 1; and 2) Construction Management Consultant (CMC) Services, Part 2, 3) Construction Inspection Consultant (CIC) Services, Part 3, associated with the above referenced project.

Five (5) copies (one of the copies shall be unbound and paper clipped, with no tabs, holes, perforations, or cardboard inserts, suitable for copying with an automatic-feed copy machine and one copy shall be on compact disk (CD) of your Proposal shall be submitted before **5:00 p.m., June 8, 2011** addressed to City of Moreno Valley, Capital Projects Division, 14177 Frederick Street (hand delivery), P.O. Box 88005, Moreno Valley, California 92552-0805 (mail delivery), Attention: Viren Shah, City's Program Manager.

**II. GENERAL PROJECT DESCRIPTION**

The project in general consists of the ultimate width street improvements along 1) Cactus Avenue between Lasselle Street and Nason Street and 2) Nason Street between Cactus Avenue and Iris Avenue. The adjacent property owner and developer, Highland Fairview Properties (HFP), has been coordinating the preparation of the design plans for the ultimate street improvements as part of the 760 acre Aquabella Specific Plan (formerly Moreno Valley Field Station Specific Plan). The Aquabella development is on an indefinite hold due to the current depressed housing market. Because these street segments are considered very strategic to the City's Economic Development Plan approved by City Council in April 2011, the City is taking a proactive approach in assisting with the completion of the plans, specifications and estimate (PS&E). The intent is for the current designers to complete their PS&E in accordance with the "Greenbook" and consistent with the California Public Contract Code. The City will coordinate the bidding and construction of the project. In general, the proposed improvements are intended to be the "full street improvements with all dry and wet utilities included but no landscaping" (see attachments for more details). As the plans and specifications are being finalized and an accurate cost estimate is established, the project may be scaled down due to funding limitations.

**III. PROJECT BUDGET AND SCHEDULE**

The funding for both projects have been tagged at slightly below \$20 Million including \$1 Million in anticipated State Local Partnership Program (SLPP) grant monies for the Cactus Avenue project. Although the City intends to put both projects out to bid as one large project to take advantage of the anticipated "economies of scale", there is a possibility that the project may be bid as two separate projects with some time lag due to project readiness and therefore, the Consultant's proposal should reflect both possible scenarios. The goal is to complete the project construction within two years or less from the award date of this

EXHIBIT "A"



**FOR PROFESSIONAL PROJECT MANAGEMENT,  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES**

Consultant contract.

The Tentative Schedule is as follows:

Anticipated Award of this Consultant Contract: Early July 2011

Biddable PS&E Complete: Early Fall 2011 or sooner

Public Bid and Award of Construction Contract(s): 3 months thereafter

Construction: Approximately 12 months

**IV. SCOPE OF SERVICES**

The Consultant shall perform all project management services necessary for a professionally completed project including but not limited to coordinating with all applicable design consultants, agencies and utilities to compile a final set of PS&E for the public bid process, award of construction contract(s), provide oversight during construction including construction management and/or construction inspection services and close out of the project at the end. The scope of work outlined below must be performed in accordance with City of Moreno Valley's processes and procedures, "Greenbook" and California Public Contract Code requirements.

**DETAILED PROJECT DESCRIPTION:**

The following scope of work is not a complete listing; it is intended to aid the consultant to identify a complete and comprehensive scope of work.

**PART 1: PROJECT MANAGEMENT CONSULTANT (PMC) SERVICES**

The designated Consultant Project Manager, under the general direction of the City Program Manager, shall be responsible for overseeing all aspects of project development and coordination.

Typical Project Management Services shall include, but not be limited to:

1. Prepare and maintain a project schedule identifying the critical path for expeditious project completion.
2. Conduct and attend all applicable meetings with all applicable stakeholders. At the conclusion of each meeting the Consultant shall prepare and distribute meeting minutes, within three (3) working days, to the satisfaction of the City Program Manager.
3. Schedule and conduct Project Development Team (PDT) meetings and other necessary meetings; prepare agendas and minutes; and distribute to all applicable entities (not just attendees) within three (3) working days.
4. Schedule, facilitate, and attend public meetings as necessary.
5. Provide progress reports at a minimum on a monthly basis.
6. Compose all correspondences to keep the project on schedule.
7. Attend and present the project to City Council as required.
8. Check all contract documents to ensure compliance with the Caltrans Local Assistance Procedure Manual (LAPM) and funding requirements, as required for the SLPP grant.

**FOR PROFESSIONAL PROJECT MANAGEMENT,  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES**

9. Prepare all submittals to Caltrans Local Assistance in accordance with the LAPM and other Caltrans requirements, as required for the SLPP grant.
10. Prepare reimbursement requests and invoices to Caltrans for the SLPP grant in accordance with the City - State Program Supplemental Agreement (PSA).
11. Prepare staff reports to City Council for authorization of agreements, amendments, Closed Session action items, etc.
12. Prepare agreements and assist with issuance of Purchase Orders.
13. Coordinate with all applicable agencies/utilities including the preparation of inter-agency agreements.
14. Coordinate with funding agencies and prepare reports, updates, funding reports, and grant applications as necessary for project funding.
15. Prepare project update write-ups for distribution to media and public.
16. Assist with annual Capital Improvement Program (CIP) budget update or funding programming where necessary.
17. Investigate and coordinate all utility conflicts with utility owners. Prepare applicable utility notices and coordinate with utility companies for relocation of interfering utilities.
18. Issue all necessary Notices to Proceed (NTP).
19. Assist with review and process of all invoices (City staff will approve).
20. Compose Requests for Proposals (RFP), Notices Inviting Proposals (NIP), and Scopes of Services to retain other related support services, services of specialty Consultants/Contractors needed during construction, such as Surveying, Geotechnical, Material Testing, Deputy Inspection, etc.; coordinate and schedule these services; and review proposals as necessary.
21. Maintain all project files in accordance with the City boiler format or as otherwise directed by the City Program Manager.
22. Facilitate, coordinate, and oversee the ongoing daily actions required to completely provide the full level of intended services and ensure that the project meets all applicable Federal, State, and local requirements.
23. Oversee and ensure that all measures of the specific project's scope of services are completed in a timely and professional manner with an emphasis on providing the City with a high quality project.
24. Report directly to the City Program Manager and act as a liaison between the City and all project stakeholders in order to accomplish the full project services intended by the City.
25. Oversee and provide review and concurrence of all applicable reports i.e. Geotechnical Report, Traffic Study, Environmental Documents, Final PS&E packages, SWPPP Plan, Appraisal Reports, Legal and Plats, Easements incl. temporary construction easements and all other applicable project documents. The Consultant shall prepare the Notice of Intent (NOI) for the SWPPP Plan through the Regional Water Quality Control Board.

**FOR PROFESSIONAL PROJECT MANAGEMENT,  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES**

26. Ensure that all appropriate communication, correspondence, and reports are completed on an ongoing basis in a timely manner to the satisfaction of the City. The following is a list of some, but not necessarily all, of the documents that the Consultant shall be responsible to provide in the course of the work:
  - a. Various City Council Staff Reports.
  - b. Utility correspondence letters and e-mails.
  - c. Federal, State and local correspondence.
  - d. Federal, State and local documentation required for the project.
  - e. Right-of-way related documents and correspondence.
  - f. Necessary communication and reports to the funding agencies.
27. Arrange and participate in a detailed independent review of the 95% PS&E package, with in-depth field review and biddability, constructability, and claims avoidance emphasis.
  - a. Review of existing geotechnical/geologic maps, reports or other related documents to ensure that the project Plans and Specifications have adequately addressed geotechnical evaluation and recommendations on, including, but not limited to, grading, earthwork, settlement, surface and subsurface drainage, foundation/column/slab design, slope stability, pavement design, trench backfill, retaining wall design, environmental concerns, removal of unsuitable materials, etc
  - b. Verify that the plans and specifications adequately address the drainage and utility challenges of the project site.
  - c. Confirm that the existing field topography conditions are correctly addressed in the final PS&E
  - d. Evaluate the plans and specifications for ADA compliance
  - e. Confirm all necessary rights of way needed for the project have been acquired and provide independent review of property surveys, plats, and legal descriptions to ensure accuracy of the documents.
  - f. Confirm that all permit (incl. environmental mitigations) requirements are adequately addressed. The Consultant shall identify all environmental concerns for the specific improvements and coordinate with the applicable agencies for requirements to be addressed in the plans and specifications for applicable project conformance.
  - g. Confirm that all traffic control requirements are adequately addressed in accordance with the latest update of the MUTCD.
  - h. Confirm that the bid schedules including any additive alternatives adequately captures all scope of work required of the contractors.
  - i. Confirm that the engineer's estimate for the various bid schedule items adequately reflect the ballpark costs for the work item at the time the project is advertised for bid.
  - j. Confirm the PS&E package is complete and ready for public bidding

**FOR PROFESSIONAL PROJECT MANAGEMENT,  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES**

purposes. The latest edition of the Greenbook (Standard Specifications for Public Works Construction and subsequent amendments) shall be used on the project, except for traffic signals, striping, and traffic signs. The technical portion of the Caltrans Standard Specifications shall be used for the traffic signals, striping, and traffic signs

28. Coordinate and ensure that all stakeholders and City Divisions and Departments complete plan check of all appropriate project documents.
29. Review the Aquabella development's Conditions of Approval for conditions applicable to the street improvement designs.
30. Provide plan check summary update at each plan check level and meet with the City Program Manager to review appropriate plan check redlines/comments.
31. Coordinate and ensure that updates necessary as a result of plan check review are communicated and incorporated to ensure a comprehensive set of Final PS&E is prepared ready for bid.
32. Consultant shall coordinate any adjustments to the final design plans and corresponding documents with the applicable design consultant/utility to reduce the scope of work to match available budget in accordance with City-specified priorities.
33. The PMC shall be responsible for administrating the advertising for construction bids and attending the bid opening of the project according to the California Public Contract Code for municipal agencies and shall provide support during bidding and construction. The required Design and Project Management Consultant Services shall include, but not be limited to:
  - a) Prepare and coordinate bid notices to be advertised and posted at various plan rooms, trade publications and on the City's website.
  - b) Prepare bid packages for distribution as necessary.
  - c) Maintain plan holder's list
  - d) Schedule and conduct pre-bid meetings and site visits, if held.
  - e) Provide responses to bidders' questions.
  - f) Prepare and issue addenda if required.
  - g) Coordinate and attend construction bid opening at the City Clerk's Office. Evaluate and check all bids submitted are complete and consistent with established requirements.
  - h) Evaluate and check all bids to establish the lowest responsive and responsible bidder.
  - i) Check references and licenses of bidders.
  - j) Draft City Council Staff Report for award of construction contract and process the contract agreement with the lowest responsible bidder.
  - k) Attend the City Council meeting for award of the contract, available to answer questions, and defend the project.
  - l) Prepare, coordinate, and process Notice of Award, Agreements, and

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Purchase Order.

- m) Review insurance, bonding, and other required documents.
  - n) Answer questions regarding the Technical Provisions, the design drawings or conflicts in the design during bidding process and pre-construction meeting. The Project Manager Consultant shall coordinate with the applicable Design Consultant in preparation of addenda necessary due to omissions or conflicts in the design.
34. Provide all applicable project management oversight of the CMC (in accordance with Part 2 herein), CIC (in accordance with Part 3 herein), construction contractors, utilities, agencies and all construction related activities. This must include coordination of all conflicts in the design that may have been identified during the construction as well. The Consultant does not have authority to make changes or deviations from the Plans and Specifications, except as authorized by the City Program Manager with concurrence from the Design Consultant.
35. Review and process all reports, invoices, agreements, contracts, contract/construction change orders, request for information, claims, notices and other applicable documents during construction to ensure project is running smoothly within budget and on time. Coordinate and follow-up on all claims, notices, non compliance issues, etc. that may have occurred during the construction phase.
36. Coordinate all close-out activities after construction is completed including coordination with all jurisdictional environmental agencies, permitting agencies, utilities, etc.
37. Prepare and submit GASB 34 documentation in the City's format along with the as-built drawings. Prepare status report for project close-out, prepare Staff Report for project acceptance and assist with filing of Notice of Completion.
38. Present the City with a complete project close-out file including performing such other project related duties as may be required by the City.
39. Perform warranty walk within one (1) year of the Notice of Completion and coordinate all follow-up activities needed to ensure successful closure of project issues.

**PART 2: CONSTRUCTION MANAGEMENT CONSULTANT (CMC) SERVICES**

The Construction Management Services shall include general project management activities to project closure as well as full-service construction management during the construction phase of the project.

The Construction Management Services may also include Inspection Services or oversight of the Inspection Services. If more than one inspector is required to oversee the work, it is the responsibility of the Construction Manager to anticipate the need and to provide or recommend the additional services required. The City Program Manager will make the final decision with regard to utilizing the Inspection Services, or to select an Inspector through other accepted means.

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**General Services**

General Construction Management Services duties shall include, but not be limited to:

1. Prepare and maintain construction related specific schedule identifying the critical path for expeditious project completion.
2. Schedule and conduct the pre-construction meeting with all stakeholders, including preparations of agendas and minutes; and distribute to all applicable entities (not just attendees) within three (3) working days.
3. Schedule, facilitate, and attend public meetings as necessary.
4. Attend and present the project to City Council as required.
5. Check all contract documents to ensure compliance with the Caltrans LAPM and funding requirements, as required for the SLPP grant.
6. Prepare all submittals to Caltrans Local Assistance in accordance with the LAPM and other Caltrans requirements, as required for the SLPP grant.
7. Prepare reimbursement requests and invoices for Caltrans and other funding agencies for the SLPP grant.
8. Prepare agreements and assist in processing Purchase Orders.
9. Issue all necessary Notices to Proceed (NTP).
10. Review and process all invoices (City staff will approve).
11. Compose RFP's, NIP's, and Scopes of Services to retain other related design services, services of specialty Consultants/Contractors needed during construction, such as Design Review, Surveying, Special Inspection, Geotechnical, Material Testing, etc.; coordinate and schedule these services; and review proposals as necessary.
12. Maintain all project files in accordance with the City boiler format or as otherwise directed by the City Program Manager.
13. Maintain consistent communication (daily or weekly, depending on project activity/complexity) with the City Program Manager.
14. Facilitate, coordinate, and oversee the ongoing daily actions required to completely provide the full level of intended services and ensure that the project meets all applicable Federal, State, and local requirements.
15. Oversee and ensure that all measures of the specific project's scope of services are completed in a timely and professional manner with an emphasis on providing the City with a high quality project.
16. Report directly to the City Program Manager and act as a liaison between the City and all project stakeholders in order to accomplish the full project services intended by the City.

**Construction Management Services**

Typical Construction Management services shall include, but not be limited to:

1. Provide contract administration for the project and coordinate with other

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construction, as required.

2. Coordinate and participate in pre-construction contract award activities, including conducting pre-construction meeting, and issuance of Notice to Proceed in accordance with the City's procedures.
3. Establish and maintain project controls and provide administrative, management, and related services necessary to coordinate the work of the Contractor and all sub-contractors in order to facilitate timely completion of the project in accordance with contract documents and City objectives.
4. Assist the Contractor in obtaining all building, grading, and other construction permits necessary for the project.
5. Provide, manage, coordinate, and ensure timely completion/approvals in response to all Requests for Information (RFI), shop drawings, product data samples, submittals, Change Notices, Intend to File Change Notices, and Construction Change Orders (CCO), as well as review, negotiations and issuance of the CCO to the Contractor.

Follow the established City procedures in processing CCO. Following is a brief outline of the City's procedures:

- a. Review requests for CCO received from the Contractor to ensure validity and applicability of costs based on the scope of work.
  - b. Recommend necessary or desirable project changes to the City with Design Consultant's concurrence.
  - c. Assist the City with concurrence of the Design Consultant in CCO negotiations.
  - d. Submit recommendations to the City relative to change order requests.
  - e. Prepare the CCO, obtain project designer's concurrence, and obtain Contractor and Design Consultant's signature on the CCO forms for the City's consideration, review, and approval.
  - f. Prepare staff report(s) for City Council approval of CCO, if necessary.
6. Ensure that contractor's daily work effort is documented.
  7. Prepare agenda, conduct weekly construction progress meetings and distribute minutes within three (3) working days.
  8. Ensure adequate inspection coverage for the project, coordinate and oversee project inspector(s).
  9. Schedule Building and Safety inspection of Electrical Service/Cabinets, footings, specialty retaining walls, applicable structural components or as otherwise required.
  10. Coordinate and schedule SCE service for applicable appurtenances.
  11. Coordinate and schedule telephone service with the City's Telecommunications Engineer or directly with Verizon.

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12. Coordinate and schedule needed water service, water meter(s), and re-location of water line etc. with the local water purveyor as necessary for the project.
13. Schedule with the City's Traffic Operations Supervisor to inspect new and modified traffic signals. The Consultant shall be responsible to document all work, including the Traffic Supervisor's inspection in the Consultant's Daily Diary.
14. Provide administrative, management, and related services as required to coordinate work and to complete the project in accordance with the City's objectives for cost, time, and quality. The Consultant shall provide sufficient qualified personnel and management to carry out the requirements of the Project.
15. Schedule and conduct pre-construction and construction progress meetings to discuss such matters as procedures, progress, problems, scheduling, and coordination and other project related items. The Consultant shall coordinate with the utility companies for the relocation of any of their facilities that conflict with the proposed improvements and continue coordination until the utility conflict is resolved. General construction progress meetings may be required on a weekly basis until the project is completed. Primary attendees will include: Utilities, Agencies, the City of Moreno Valley, and the Contractor. Prepare meeting agendas, and minutes for all meetings. The minutes shall be prepared and distributed to all attendees within three (3) working days after the meeting. The minutes shall include, but not be limited to, list of attendees with phone numbers and e-mail, synopsis of discussion items, any pertinent information, action items, and follow-up to the action items.
16. Obtain building permits and special permits for the improvements. The Consultant shall verify that the applicable fees and assessments have been paid, and shall assist in obtaining approvals from authorities having jurisdiction over the permits.
17. Maintain continuous 24-hour telephone accessibility during construction activity for emergency use.
18. Maintain the record copies of the following:
  - a. Plans, specifications, and contract documents with all changes and modifications.
  - b. Permits.
  - c. SWPPP and WQMP
  - d. Addenda(s), change order(s), shop drawings, product data, submittals, and samples.
  - e. Material testing and certification reports in accordance with the City's Quality Assurance Program (found on City's website)
  - f. Progress payments, inventories, and applicable codes.
  - g. Contractor's reports, correspondence, certified payrolls, and accident reports.
  - h. Survey and layout data and certifications, photographs of as-built



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- locations and depths.
- i. List of addresses, telephone and license numbers of General Contractor, all sub-contractors, material suppliers, and utility agencies.
19. Determine whether the work of the Contractor is being performed in accordance with the requirements of the contract documents, and endeavor to guard the City against defects and deficiencies in such work. The Consultant shall make recommendations to the City's Program Manager regarding special inspection or testing of work not in accordance with the provisions of the contract documents whether or not such work is then fabricated, installed or completed. The Consultant shall also inform the City of work that does not conform to the requirements of the contract documents. The Consultant shall review the Contractor's recommendations for corrective action on observed non-conforming work.
20. Consult with the Design Consultant and City Program Manager if any contractor requests interpretations of the meaning and intent of the PS&E, and shall assist in the resolution of questions which may arise.
21. Identify and report potential contractor claims and recommend resolution.
22. Prepare the weekly statement of working days and send to the Contractor on a weekly basis.
23. Conduct interviews with the Contractor's and subcontractor's employees to ensure labor compliance.
24. Compare Certified Payrolls with Inspection Reports, employee interview forms, and the Prevailing Wage Rates, and verify proper payment in compliance with the project Specifications.
25. The Consultant does not have authority to make changes or deviations from the Plans and Specifications, except as authorized by the City Program Manager with concurrence from the Design Consultant.
26. Incorporate approved changes as they occur.
27. Review, comment and recommend processing of invoices for progress and final payments.
28. Endeavor to achieve satisfactory performance from each of the contractors and recommend courses of action to the City Program Manager when requirements of a contract are not being fulfilled and the non-performing party will not take satisfactory corrective action from the CMC.
29. Provide regular monitoring of the approved estimates of Total Construction Cost, showing actual costs for activities in progress, and estimates for uncompleted tasks. The Consultant shall identify variances between actual and budgeted or estimated costs, and inform the City Program Manager whenever Project costs exceed budgets or estimates.

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30. Maintain cost accounting records on authorized work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records.
31. Ensure that safety programs are developed by the Contractor as required by their contract documents, and coordinate the safety programs for the project.
32. The Consultant shall not be responsible for the construction means, methods, techniques, sequences and procedures employed by the Contractor in performance of their contract with the City. The Consultant shall also not be responsible for the failure of the Contractor to carry out their work in accordance with the contract documents. The Consultant shall be responsible, however, for any reports, advice or information provided to the Design Consultant regarding the Project and the work of the Contractor, including any information regarding the compliance of their work with the contract documents.
33. The Consultant shall provide documentation (e.g. memorandum, letter, email, etc.) to the Contractor, City Program Manager, etc., regarding all important issues, decisions, and discussions within three (3) working days or immediately if the situation warrants.
34. The Consultant shall be required to document and submit weekly written progress reports to the PMC and City Program Manager on multiple construction phases of the project, which shall include information on the Contractor and the Contractor's work, as well as the entire Project.
35. Verify the Contractor's check-out of utilities, operational systems and equipment for readiness, and assist in their initial start-up and testing.
36. Determine when the Contractor's work or a designated portion thereof is complete. The Consultant shall prepare a list of incomplete or unsatisfactory items (punch list) and a schedule for their completion. The Consultant shall coordinate the correction and completion of the Work.
37. Evaluate the completion of the work of the Contractor and make recommendations to the City Program Manager when work is ready for final inspection. The Consultant shall assist the City Program Manager in conducting final inspections and shall secure and transmit to the City Program Manager required guarantees, affidavits, releases, and waivers. The Consultant shall also deliver keys, manuals, and record drawings to the City.
38. Perform any necessary management services during the warranty period of the construction contract.
39. Address any business owner's and property owner's concerns and inquiries.
40. Coordinate close-out of the project, obtain necessary operation manuals, warranties, guarantees, and other applicable necessary information. Provide all documentation in a well-organized (binders, folders, CDs, etc.) manner in both electronic and hard copies.

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41. Obtain all releases and warranty bonds from the Contractor and sub-contractors. Provide all documentation in a well organized (binders, folders, CDs, etc.) manner in electronic and hard copies.
42. Deliver a final completed project to the City which is in compliance with the PS&E package, and all applicable codes, standards and requirements.
43. Coordinate all red-line comments prepared by the Contractor and project inspector through the Design Consultant to place as-built information on the Mylars. The as-built drawings must be obtained from the contractor prior to the release of the final retention payment.
44. Prepare status report for project close-out, prepare Staff Report for project acceptance and assist with filing of Notice of Completion.
45. Prepare and submit GASB 34 documentation in the City's format along with the as-built drawings
46. Present the City with a complete project close-out file.
47. Perform such other project related duties as may be required by the City.
48. Perform warranty walk within one (1) year of the Notice of Completion.
49. The extent of the duties, responsibilities, and limitations of authority of Consultant as a representative of the City during the construction shall not be modified or extended without the written consent of the City Program Manager.

**PART 3: CONSTRUCTION INSPECTION CONSULTANT (CIC) SERVICES**

In general, the Consultant Construction Inspector shall have the necessary experience and know-how of construction equipment, materials, methods, and workmanship for the specific work to be performed on the projects. The Consultant Inspector shall be able to understand and interpret Plans and Specifications and shall be familiar with the Greenbook (Standard Specifications for Public Works Construction), Caltrans Standard Specifications, City Standards, and OSHA Construction Safety Orders. The Consultant Inspector shall be able to interact professionally with contractors, engineers, property owners, business owners, and the public at large; coordinate with other City personnel; promote quality customer service; and respond promptly and courteously to requests. The Consultant Inspector shall be able to follow verbal and written instructions, communicate clearly and concisely, both orally and in writing.

Typical Consultant Inspection services shall include, but not be limited to:

1. Review the Plans and Specifications thoroughly prior to the pre-construction meeting.
2. Establish effective communications with the Contractor, other agencies, utilities, and business and property owners.
3. Ensure compliance with the Plans, Specifications, and other requirements,

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such as, but not limited to, the Contract, Traffic Control, Cal/OSHA Standards, CCO, Permits, Standard Plans, checking line, grade, size, elevation, and location of improvements.

4. Monitor extra work.
5. Perform project oversight for the monitoring of traffic control, damage to infrastructure, and replacement of infrastructure to City Standards.
6. Attend the weekly construction meetings.
7. Keep daily dairies (log), fill out Incident (accident) Reports, and take pictures of the project. A daily Inspection Report identifying work done by the Contractor shall be submitted to the PMC, CMC and City Program Manager by the next business day. The Consultant shall also keep a daily log containing a record of weather, the Contractor, work on the site, number of workers, craft or trades, equipment, subcontractors, work accomplished, problems encountered, and other similar relevant data as the PMC, CMC and City Program Manager may require. The Consultant shall make the log available to the City.
8. Document all Contractor delays, reasons for delay, length of time for delay, and Phases of work.
9. Monitor and provide supporting documentation on the personnel and equipment that is involved with any extra work performed by the Contractor.
10. Coordinate and schedule with geotechnical, survey and special inspection firms or City Building and Safety inspectors based on project construction progress and contractors' requests.
11. During the course of inspection and monitoring of the work, if the Consultant Inspector observes an unsafe situation, he shall notify the Contractor of the violation and provide written notification of such infraction to the Contractor. If the Contractor refuses to comply, the Consultant Inspector shall notify the City and Cal OSHA.
12. Measure and tabulate contract quantities.
13. Review the Contractor's invoices and independently verify completed work and all quantities.
14. Prepare a list of items for correction (punch list) and prepare redlined as-built plans.
15. The Consultant Inspector does not have the authority to allow deviations from the Contract Plans and Specifications.
16. Possess a digital camera, and shall provide digital images of the project to the City of Moreno Valley in "jpg" format.
17. Possess a lap top with internet to access emails and electronic files in the

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field.

18. Possess a vehicle and a mobile phone for immediate contact by the City, show proof of a valid California's driver's license, and insurance.
19. Normal working hours are from 7:00 a.m. to 3:30 p.m. with a ½ hour lunch break; however, the Contractor may be allowed to start earlier to minimize disruption to business and intersection work may be performed at night with written authorization from the City.
20. Perform other related duties as required.

**V. CONSULTANT'S PROPOSAL AND COMPENSATION**

The Consultant's Proposal shall be no more than 50 pages. The page limits exclude a cover letter of up to two pages, resumes up to two pages per person, dividers, certificates, and appendices. Resumes, billing rates, project schedule, resource matrix, certificates, and other required forms shall be attached in the appendices. Proposals failing to provide sufficient information and assurances of performance to accurately assess each category of the required services and failing to comply with requirements and conditions of the Request for Proposal will not be given further consideration.

At a minimum, the Proposal shall include the following sections:

- A. **Project Understanding:** This section should clearly convey clear understanding of the nature of the work, identification of major project issues, and proposed solutions thereof, from both the Consultant and the sub-consultants (consultant team).
- B. **Approach and Management Plan:** This section provides the consultant team's proposed approach and management plan for providing services. Include an organization chart showing proposed relationship among consultant team/staff as well as any other parties that may have significant role in the delivery of this project.
- C. **Qualifications and Experience:** Provide qualifications and experience of the team for this project. Emphasize the specific qualifications and experience from projects similar to this project for the key team members including references. Identify and provide in-depth information for the proposed PMC, CMC & CIC's qualifications, track record and relevant experience. A rate schedule *must* be submitted with the Proposal. The rate schedule must list titles, names, roles, and hourly billing rates in rows. A statement that said hourly rate schedule is part of the Consultant's Proposal for use in invoicing for progress payments and for extra work incurred shall also be included. All extra work will require prior approval from the City.
- D. **Staffing Plan:** Discuss staffing plan, the workload, both current and anticipated, for all key team members, and their capacity to perform the requested services according to the proposed schedule. Discuss the firm/team's approach for completing the services required for this project within budget and schedule. The plan should show flexibility and consideration in resource loading due to the inherent variability in the schedule and performance of third parties. A resource allocation matrix *must* be submitted with the Proposal. The resource allocation matrix must list detailed tasks in rows and the appropriate individual (Job Title Only) as well as the

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number of hours that these individuals (including administrative support services) will be working on each task listed, included in adjacent columns.

- E. **Work Plan and Schedule:** Include a description of how each task of the project will be conducted, identification of deliverables for each task and implementation schedule. The work plan should include sufficient detail to demonstrate a clear understanding of the project. Discuss the consultant team's approach for completing the project taking into consideration how extra work is anticipated and incorporated into the contract from the onset. **An itemized cost breakdown for the work described herein must be submitted in a separate sealed envelope as part of the Proposal submittal.**
- F. **Quality Control and Assurance:** Discuss QA/QC proposed for each phase/deliverable for this project, including various independent reviews and 95% plan biddability/constructability/claims avoidance reviews.
- G. **Additional Relevant Information:** Provide additional relevant information that may be helpful in the selection process (not to exceed two pages).

The Consultant's Proposal shall include the following statements:

1. A statement that this Request for Proposal shall be incorporated in its entirety as a part of the Consultant's Proposal.
2. A statement that this Request for Proposal and the Consultant's Proposal will jointly become part of the Agreement for Professional Consultant Services for this project when said Agreement is fully executed by the Consultant and the Mayor or City Manager of Moreno Valley. **The City's standard Agreement will be executed without any proposed changes.**
3. A statement that the Consultant's Services to be provided, and fees therefore, will be in accordance with the City's Request for Proposal except as otherwise specified in the Consultant's Proposal under the heading "ADDITIONS OR EXCEPTIONS TO THE CITY'S REQUEST FOR PROPOSAL."
4. A single and separate section with the heading "ADDITIONS OR EXCEPTIONS TO THE CITY'S REQUEST FOR PROPOSAL" containing a complete and detailed description of all of the exceptions to the provisions and conditions of this Request for Proposal upon which the Consultant's Proposal is contingent and which shall take precedent over this Request for Proposal for Professional Consultant Services.
5. A statement of qualifications applicable to this project including the names, qualifications and proposed duties of the Consultant's Staff to be assigned to this project; a listing of recent similar projects completed including the names, titles, addresses and telephone numbers of the appropriate persons whom the City could contact. If one or more of the Consultant's staff should become unavailable, the Consultant may substitute other staff of at least equal competence only after prior written approval by the City.

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6. A statement of sub-consultant's (include relief personnel) qualifications applicable to this project including the names, qualifications and proposed duties of the sub-consultant's staff to be assigned to this project; a listing of recent similar projects completed including the names, titles, addresses, and telephone numbers of the appropriate persons whom the City could contact.  
  
**A statement that the Consultant acknowledges and understands that the Consultant will not be allowed to change the sub-consultant without written permission from the City.**
7. A statement that all charges for Consultant services is a "Not-to-Exceed Fee" which must include conservatively estimated reimbursable expenses, as submitted with and made a part of said Consultant's Proposal.
8. A statement that the Consultant will document and provide the results of the work to the satisfaction of the City. This may include preparation of field and final reports, or similar evidence of attainment of the Agreement objectives.
9. A statement that the Consultant will immediately document and notify the City of any defects or hazardous conditions observed in the vicinity of the project site prior, during, or after the construction work.
10. A statement that the Consultant's hourly rate schedule is part of the Consultant's Proposal for use in invoicing for progress payments and for extra work incurred that is not part of this Request for Proposal. All extra work will require prior approval from the City.
11. A statement that the Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
12. A statement that all federal laws and regulations shall be adhered to notwithstanding any state or local laws and regulations. In a case of conflict between federal, state or local laws or regulations the strictest shall be adhered to.
13. A statement that the Consultant shall allow all authorized federal, state, county, and City officials access to place of work, books, documents, papers, fiscal, payroll, materials, and other relevant contract records pertinent to this special project. All relevant records shall be retained for at least three years.
14. A statement that the Consultant shall comply with the Davis-Bacon Fair Labor Standards Act (40 USC 276-a through a-7), and the implementation regulations issued pursuant thereto (29 CFR Section 1, 5), any amendments thereof and the California Labor Code. Pursuant to the said regulations, entitled "Federal Labor Standards Provisions," Federal Prevailing Wage Decision" and State of California prevailing wage rates, respectively.
15. A statement that the Consultant shall comply with the Copeland Anti-Kickback Act (18 USC 874) and the Implementation Regulation (29 CFR 3) issued pursuant thereto, and any amendments thereof.

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16. A statement that the Consultant offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC Sec. 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Consultant, without further acknowledgment by the parties.

**VI. GENERAL COMPLIANCE WITH LAWS AND WAGE RATES**

The Consultant shall be required to comply with all federal, state, and local laws and ordinances applicable to the work. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775.

The Consultant is required to submit certified payrolls weekly. This applies to all applicable field personnel working on the project. In accordance with Section 1771.5 (b) (5) of the California Labor Code, the City will withhold payments when the payroll records are delinquent or inadequate.

**VII. FEDERAL EMPLOYEE BENEFIT**

No member of, or delegate to, the Congress of the United States, and no Resident Commissioner shall be admitted to any share or part of the Agreement to the said project or to any benefit to arise from the same.

The Consultant shall complete and include the "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and "Disclosure of Lobbying Activities" forms (attached) with the Proposal.

**VIII. PAYMENT TO CONSULTANT**

- A. This work is to be performed for a "Not-to-Exceed Fee."
- B. The Consultant shall provide a "Project Fee Schedule" indicating the fee for individual tasks with a "Not-to-Exceed Fee" which shall be the sum of all tasks by Part, phase, and milestone.
- C. Tasks shall include, but not be limited to, all Professional Consultant Services (including administrative support services) necessary to complete the work covered by this Proposal.
- D. The City will pay the Consultant for work completed based on milestones completed and accepted by the City. These Milestones are:
1. Work associated with Project Constructability Review only is completed.
  2. PS&E completed and advertised.
  3. Project Bidding and City Council award of contract.



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4. PMC Services on a monthly basis once construction starts.
5. CMC Services on a monthly basis.
6. CIC Services on a monthly basis.
7. Any other additional authorized work on a task successfully completed and accepted basis.

The City shall make sole and final determination if a milestone as described above is complete and acceptable for payment. Unless otherwise specifically mentioned, there will be no monthly payments until the milestone is reached at which point all applicable charges will be reviewed for applicability prior to payment. Consultant billing/invoices will commensurate with the pace of the construction work activities. The final 10% of the Consultant contract amount will be held back until all phases of the project is successfully closeout. The Consultant will not receive additional compensation for non-compliance or punch list items that were not identified in a timely manner in order to be addressed by the construction contractor(s).

- E. All invoices will specifically identify job title, person-hours, and costs incurred by each task. Lump sump payments will not be accepted as all charges must be documented and justified.
- F. Reimbursement costs such as mileage, computer usage, vehicle rates, printing, telephone, photographs, postage and delivery, are to be included in the "Not-to-Exceed Fee." However, all overhead and reimbursement costs must be included in the personnel hourly rate for all services rendered upon commencement of the construction phase.
- G. All tasks including labor and reimbursable costs such as printing, postage, and delivery shall have supporting documentation presented at the time payment is requested.
- H. The City will pay the Consultant for all acceptable services rendered in accordance with the "Agreement for Professional Consultant Services."
- I. When the Consultant is performing, or is requested to perform, work beyond the scope of service in the "Agreement for Professional Consultant Services," an "Amendment to the Agreement" will be executed between the City and Consultant.
- J. The Consultant shall receive no compensation for any re-work necessary as result of the Consultant's errors or oversight.

**IX. INSURANCE**

- A. The Consultant shall provide Errors and Omissions Professional Insurance. Such coverage limits shall not be less than \$1,000,000 per claim and aggregate.
- B. The Consultant shall have Public Liability and Property Damage Insurance in the amounts as follows:

GENERAL LIABILITY

Bodily Injury	\$1,000,000	per occurrence
Property Damage	\$ 500,000	per occurrence

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CONSTRUCTION INSPECTION CONSULTANT SERVICES**

A combined single limit policy with aggregate limits in the amount of \$2,000,000 will be considered equivalent to the above minimum limits.

- C. The Consultant shall have Public Liability and Property Damage Insurance coverage for owned and non-owned automotive equipment in the amount of not less than \$1,000,000.
- D. The Consultant shall have Workers' Compensation Insurance in the amounts as will fully comply with the laws of the State of California.
- E. A 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, its officers, employees and agents are included as additional insured under this general liability 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 Redevelopment Agency of the City of Moreno Valley, and the Moreno Valley Community Services District, its officers and employees and agents, under any third party liability policy."

- F. Insurance companies providing insurance hereunder 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.
- G. The terms of the insurance policy or policies issued to provide the above insurance coverage shall not be amended to reduce the above required insurance limits and coverage's 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 Agency, 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 said insurance is canceled, the Consultant shall, prior to the cancellation date, submit to the City Clerk new evidence of insurance in the amount established.
- H. It is the consultant's responsibility to ensure that all subconsultants comply with the following: Each subconsultant that encroaches within the City's right-of-way and affects (i.e., damages or impacts) City infrastructure must comply with the liability insurance requirements of the City's Land Development Division. Examples of such subconsultant work include soil sample borings, utility potholing, etc.

The "Application for Encroachment Permit" form (four pages), including "Application for Encroachment Permit Liability Insurance Requirements," is available in the Land Development Division and must be completed and submitted in full to the City. It is the Consultant's responsibility to ensure that all subconsultants submit the appropriate encroachment permit and insurance documentation at the same time

**FOR PROFESSIONAL PROJECT MANAGEMENT,  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES**

that the Consultant's insurance documentation is submitted.

**X. INDEMNIFICATION**

- A. To the maximum extent allowable by law, the Consultant, when functioning in the capacity of a design professional, agrees to indemnify, defend, and save 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 liability, claims, demands, damages, or injuries to any person, including injury to the Consultant's employees and all claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the Consultant, its officers, agents or employees, or its subconsultant(s) or any person acting for the Consultant or under its control or direction; provided, however, that this indemnification and hold harmless shall not include claims arising from the negligence or willful misconduct of the City, RDA and CDS, their officers, agents or employees.
- B. The consultant, when not functioning in the capacity of a design professional, agrees to indemnify, defend, and save the City, the Moreno Valley Community Redevelopment Agency (RDA), and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all liability, claims, demands, damages, or injuries to any person, including injury to the Consultant'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 the Consultant under this Agreement, or are caused or claim to be caused by the negligent acts of the Consultant, its officers, agents or employees, or its subconsultant(s) or any person acting for the Consultant or under its control or direction; provided, however, that this indemnification and hold harmless shall not include claims arising from the sole negligence or willful misconduct of the City, RDA, and CSD, their officers, agents or employees.
- C. The City agrees to indemnify, defend and save the Consultant and their 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 Consultant, its officers, agents or employees.

**XI. TERMINATION FOR CONVENIENCE OF THE CITY**

The City reserves the right to terminate the "Agreement for Professional Consultant Services" for the "convenience of the City" at any time by giving ten (10) days written notice to the Consultant of such termination and specifying the effective date thereof. All finished or unfinished drawings, maps, documents, field notes and other materials produced and procured by the Consultant under the said aforementioned Agreement is, at the option of the City, City property and shall be delivered to the City by the Consultant within ten (10) working days from the date of such termination. The City will reimburse the Consultant for all acceptable work performed as set forth in the executed Agreement.

**FOR PROFESSIONAL PROJECT MANAGEMENT,  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES**

**XII. INDEPENDENT CONTRACTOR**

The Consultant's relationship to the City in the performance of the Consultant's services for this project is that of an independent Contractor. The personnel performing the said Services shall at all times be under the Consultant's exclusive direction and control and shall be employees of the Consultant and not employees of the City. The Consultant shall pay all wages, salaries and other amounts due his employees in connection with the performance of said work shall be responsible for all employee reports and obligations, including but not necessarily restricted to, social security, income tax withholding, unemployment compensation, and Workers' Compensation.

**XIII. CONTRACT**

The Contract includes the Agreement for Professional Consultant Services, City's Request for Proposal, Consultant's Proposal, and Exhibits. **No changes to the City's standard Agreement will be entertained since there will be no time for negotiations between attorneys to establish a revised acceptable agreement.** All Consultants are required to have a City of Moreno Valley Business License in order to conduct business in the City.

The Political Reform Act and the City's Conflict of Interest Code require that consultants be considered as potential filers of Statements of Economic Interest. Consultants, as defined by Section 18701, may be required to file an Economic Interest Statement (Form 700) within 30 days of signing a Consultant Agreement with the City, on an annual basis thereafter if the contract is still in place, and within 30 days of completion of the contract.

**XIV. GENERAL CONDITIONS**

- A. Pre-contractual expenses are defined as expenses incurred by the Consultant in: (1) preparing the Proposal; (2) submitting the Proposal to the City; (3) presentation during selection interview; (4) negotiating with the City any matter related to this Proposal; (5) any other expenses incurred by the Consultant prior to an executed Agreement.

The City shall not, in any event, be liable for any pre-contractual expenses incurred by the Consultant.

- B. The City reserves the right to withdraw this RFP at any time without prior notice. Further, the City makes no representations that any Agreement will be awarded to any Consultant responding to this RFP. The City expressly reserves the right to postpone reviewing the Proposal for its own convenience and to reject any and all Proposals responding to this RFP without indicating any reasons for such rejection(s).

- C. The City reserves the right to reject any or all Proposals submitted. Any Contract awarded for these Consultant engagements will be made to the Consultant who, in the opinion of the City, is best qualified.

**XV. SELECTION CRITERIA**

**FOR PROFESSIONAL PROJECT MANAGEMENT,  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES**

The Proposals will be rated/ranked according to the following criteria:

1. The Firm's General Experience and Qualification Information (20 points) – Information about the company (and all sub-Consultants) including professional licenses held; ability to furnish required insurance and meet stipulations of the City's "boiler plate" agreement; details about comparable projects completed by the firm, as well as local experience; and its ability to provide the required services in an efficient and expeditious manner.
2. Experience of Key Personnel (40 points) – Background on key personnel (including all sub-consultants) qualifications, abilities, familiarity with state and federal procedures, local experience on comparable projects and length of service with the firm, reference information preferably with General Law City agencies, and proven track record and depth of understanding/knowledge of the proposed PMC, CMC & CIC.
3. Project Approach/Understanding (40 points) – Understanding of project, discussion of major issues identified on the project and how the Consultant team plans to address them; the management approach and organization necessary to complete the specific project; and outline quality control measures to ensure delivery of a quality product on time, within budget that provides a cost efficient, timely and predictable execution of the project construction.
4. Expedited Schedule and Cost Controls (20 point bonus) – Elaborate based on experience with similar projects as to how the two projects can be completed based on an expedited schedule (please identify the shortened delivery timeline). Elaborate how the Consultant team can confidently deliver the project on time and within budget with specific focus that the Consultant can deliver this project within their executed contract agreement amount avoiding time consuming administrative efforts in processing contract amendments.

Due to the accelerated nature in retaining a Consultant for this project sometime in early to mid July 2011, interviews may not be conducted in selecting the preferred firm. However, if an interview is deemed needed to make the final selection, the Consultant must be prepared to gather the proposed team likely within 24 hours of notification. Only the key individuals assigned to have a significant role in the project will be allowed to make the presentation at the interview

Exhibits incorporated by reference:

1. City Standard Consultant Agreement (no changes to this agreement will be allowed)
2. Nason-Cactus CIP Exhibits dated April 10, 2011 - Compilation of Plans based on current status of completion
3. Improvement Plans Status Summary dated May 4, 2011
4. Addendum to Moreno Valley Field Station EIR and Supplemental EIR

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Submitted to:

**CITY OF MORENO VALLEY**

Capital Projects Division

14177 Frederick Street

Moreno Valley, CA 92552-0805

Attention: Viren Shah

City's Program Manager



## TECHNICAL PROPOSAL

PROFESSIONAL PROJECT MANAGEMENT  
CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION  
CONSULTANT SERVICES  
FOR STREET IMPROVEMENTS

- 1) ALONG CACTUS AVENUE BETWEEN LASSELLE STREET AND NASON STREET
- 2) ALONG NASON STREET BETWEEN CACTUS AVENUE AND IRIS AVENUE

Submitted by:

**TRANSTECH/MAPCO**

*Contact Person for this proposal:*

David Mlynarski, Project Principal

E-mail: david.mlynarski@transtech.org

T: 909-384-7464; F: 909-384-7475

413 MacKay Drive, San Bernardino, CA 92408



EXHIBIT "B"

**Item No. A.5**

copy shall be unbound and paper clipped, with 110 holes, perforations, or cardboard inserts, suitable for copying with one copy shall be on CD. (As required, Fee Proposal is submitted in a separate envelope)



June 20, 2011

**CITY OF MORENO VALLEY**

Capital Projects Division  
14177 Frederick Street  
Moreno Valley, CA 92552-0805  
Attention: Viren Shah, City's Program Manager

**Subject: PROPOSAL FOR CONSULTING SERVICES FOR STREET IMPROVEMENTS**

- 1) ALONG CACTUS AVENUE BETWEEN LASSELLE STREET AND NASON STREET**
- 2) ALONG NASON STREET BETWEEN CACTUS AVENUE AND IRIS AVENUE**

Dear Mr. Shah:

Thank you for the opportunity to present our qualifications to the City and for the subsequent meetings and discussions to develop a cost efficient approach for the subject project.

It is very obvious that the city desires to establish professional relationships with consultants and carry out projects in an efficient and practical fashion. We also see the value to the overall community and business environment that will result with the inducement of these public improvements.

We understand this project will require an efficient coordination with various public and private parties, including City of Moreno Valley, developer, design engineers (RBF, Psomas, Butsko, Arcon), Riverside County Flood Control District, EMWD and Utility Companies. Furthermore, it is also important to coordinate with the Riverside County Hospital (Trauma Center) and the County EMS to maintain emergency vehicle access to the hospital along Cactus Avenue during construction.

Our goal is to provide our services in an efficient manner and minimize inconveniences and deliver the project to the City and public in a cost effective manner.

Our original fee submitted with the proposal was \$1,114,000. Based on the meetings with and clarifications provided by the City, we made necessary adjustment in our scope, and our fee was reduced to \$914,600. We then provided an additional 5% reduction in our fees as a good will, which resulted in a final adjusted fee of \$868,870.

Also, we made appropriate adjustments in the staffing allocation as follows:

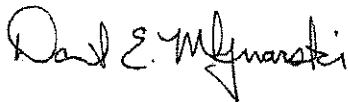
- We will assign Kurt Pegg as the Project CM, RE and Bridge Structural Rep, and Mike Schnepf as the Project Inspector. We understand the City desires a commitment that these staff members will be assigned to this project. As we indicated in our proposal, and subsequent communications, our firm is fully committed to assign these staff members to this project. Also, you had indicated that in the event any of these staff members leave our employment for reasons beyond our control, the City would have the right to approve any replacement, and if the City is not satisfied with the proposed replacement, the City would have the right to terminate the contract.
- The level of effort is based on 12 month duration for construction and project closure after start of Construction and under a single construction contract (prime contractor) for both Cactus and Nason Street Projects.
- We allocated additional support that may be need during construction to support Kurt Pegg and Mike Schnepf.
- We deleted general project management services, as this task will be performed by City CIP staff as you indicated.
- The City will hire construction surveying, materials testing and specialty inspection firms under separate contracts.
- The City will have separate contracts with the design firms for the preparation of final PS&E Bid Package, as well as engineering support during construction.

The attached Resource Allocation Table provides detailed breakdown by task and staff as you requested.

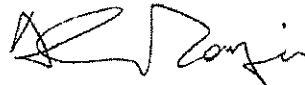
Our staff and project team are very excited about the potential of delivering our best effort in support of this project.

Thank you again for your thoughtful consideration.

Sincerely,



David Mlynarski, Principal  
[david.mlynarski@transtech.org](mailto:david.mlynarski@transtech.org)  
C: 909-841-0071; T: 909 384 7464, Ext. 106  
[www.transtech.org](http://www.transtech.org)



Ali Cayir, PE, Principal  
[ali.cayir@transtech.org](mailto:ali.cayir@transtech.org)  
C: 714-883-8677; T: 909 595-8599, Ext. 121  
[www.transtech.org](http://www.transtech.org)

F:\WORKPROCESS\PROPOSALS\2011\P-11.065 MORENO VALLEY CACTUS & NASON STREETS IMP. PROJ.DUE 060811 5 PM\PROPOSAL\UPDATED FEE, 6-23-11\RESOURCE ALLOCATION BY TASK, STAFF, HRS, P-11.065 MORENO VALLEY CACTUS & NASON STREETS IMP. PROJ.DOC



Resource Allocation: Construction Management, Construction Inspection Services - Cactus Ave and Nason St





**RESOURCE ALLOCATION**

Task	Staff	Rate	Hrs	Fee
Constructability and PS&E Review, including field walk by Project RE, Inspector, and coordination with design team	<i>Sr Level Staff</i>	\$145	160	\$23,200
	<i>Inspector Level Staff</i>	\$95	160	\$15,200
	<i>Admin Support</i> (minimal, City will assign in-house Project Management Staff)	\$65	70	\$4,550
	<i>Principal Time for Support</i> (minimal, City will assign in-house Project Management Staff, and retain PS&E Design Consultants for Eng Support during construction)	\$145	70	\$10,150
	<b>Subtotal</b>		<b>460</b>	<b>\$53,100</b>
Allocation to address unknown issues prior to finalization of PS&E	<i>Sr Level Staff</i>	\$145	140	\$20,300
	<i>Inspector Level Staff</i>	\$95	60	\$5,700
	<i>Admin Support</i> (minimal, City will assign in-house Project Management Staff)	\$65	60	\$3,900
	<i>Principal Time for Support</i> (minimal, City will assign in-house Project Management Staff, and retain PS&E Design Consultants for Eng Support during construction)	\$145	60	\$8,700
	<b>Subtotal</b>		<b>320</b>	<b>\$38,600</b>
Bidding Phase Services to support City Proj Manager, PS&E Engineers for review of questions, field check, etc.	<i>Sr. Level Staff</i>	\$145	40	\$5,800
	<i>Admin Support</i> (minimal, City will assign in-house Project Management Staff)	\$65	10	\$650
	<i>Principal In Charge Time for Support</i> (minimal, City will assign in-house Project Management Staff, and retain PS&E Design Consultants for Eng Support during construction)	\$145	10	\$1,450
	<b>Subtotal</b>		<b>60</b>	<b>\$7,900</b>
Construction Phase (12 month duration assumed)	<i>Project CM, RE, and Bridge Structural Rep: Kurt Pegg, PE</i>	\$145	2,200	\$319,000
	<i>IF NEEDED, EXTENDED HRS BUDGET ALLOCATION: Project CM, RE, and Bridge Structural Rep</i>	\$145	200	\$29,000
	<i>Project Public Works Inspector: Mike Schnepf</i>	\$95	2,200	\$209,000
	<i>IF NEEDED, EXTENDED HRS BUDGET ALLOCATION: Project Public Works Inspector</i>	\$95	200	\$19,000
	<i>Office Eng, Insp Support, State Funding Compliance Staff: Selim Bouhamidi</i>	\$65	2,200	\$143,000
	<i>Principal Time for Support</i> (minimal, City will assign in-house Project Management Staff, and retain PS&E Design Consultants for Eng Support during construction)	\$145	400	\$58,000
	<b>Subtotal</b>		<b>7,400</b>	<b>\$777,000</b>
Budget for Additional Inspections	<i>Budget for Additional Inspections during heavy work periods</i>	\$95	400	\$38,000
	<b>Subtotal</b>		<b>400</b>	<b>\$38,000</b>
<b>TOTALS</b>			<b>8,640</b>	<b>\$914,600</b>
Additional Reduction In Fee as a good will			5%	\$45,730
<b>TOTAL REDUCED FEE</b>				<b>\$868,870</b>
Original Fee submitted with the Proposal				\$1,114,000
Final Submitted Fee after Meeting with City staff to fine tune scope, including adjustment in Project Management effort as the City will assign an in-house PM and plus an additional 5% reduction in the fee				\$868,870
Total reduction in dollars between Originally submitted Fee and Final adjusted Fee				\$245,130
Total reduction in % between Originally submitted Fee and Final adjusted Fee				22.00%





June 20, 2011

**CITY OF MORENO VALLEY**  
Capital Projects Division  
14177 Frederick Street  
Moreno Valley, CA 92552-0805  
Attention: Viren Shah, City's Program Manager

**Subject: TRANSTECH/MAPCO**  
**PROPOSAL FOR CONSULTING SERVICES FOR STREET IMPROVEMENTS**  
**1) ALONG CACTUS AVENUE BETWEEN LASSELLE STREET AND NASON STREET**  
**2) ALONG NASON STREET BETWEEN CACTUS AVENUE AND IRIS AVENUE**

Dear Mr. Shah:

This letter serves as a follow up to our conversation regarding company legal name.

As indicated, our operating brand name in Inland Empire is Transtech/Mapco. The legal name of the corporation from which the Insurance will be provided is Transtech Engineers, Inc.

Sincerely,

A handwritten signature in black ink that reads "David E. Mlynarski".

David Mlynarski, Principal  
[david.mlynarski@transtech.org](mailto:david.mlynarski@transtech.org)  
C: 909-841-0071; T: 909 384 7464, Ext. 106  
[www.transtech.org](http://www.transtech.org)

A handwritten signature in black ink that reads "Ali Cayir".

Ali Cayir, PE, Principal  
[ali.cayir@transtech.org](mailto:ali.cayir@transtech.org)  
C: 714-883-8677; T: 909 595-8599, Ext. 121  
[www.transtech.org](http://www.transtech.org)



June 8, 2011

**CITY OF MORENO VALLEY**

Capital Projects Division

14177 Frederick Street

Moreno Valley, CA 92552-0805

Attention: Viren Shah, City's Program Manager

**Subject: TECHNICAL PROPOSAL  
PROFESSIONAL PROJECT MANAGEMENT, CONSTRUCTION MANAGEMENT AND  
CONSTRUCTION INSPECTION CONSULTANT SERVICES FOR STREET IMPROVEMENTS  
1) ALONG CACTUS AVENUE BETWEEN LASSELLE STREET AND NASON STREET  
2) ALONG NASON STREET BETWEEN CACTUS AVENUE AND IRIS AVENUE**

Dear Mr. Shah:

Transtech/Mapco is pleased to submit this proposal for the subject project.

We are a multi-disciplinary engineering consulting firm which provides professional and technical services in engineering, planning and construction to governmental agencies, educational institutions and private sector. We serve as turn-key program manager/contractor on large and complex engineering projects by providing full service capability. We have managed and successfully delivered a number of similar assignments.

Our key project team members have extensive experience working for Public Agencies in capacities, such as Contract Building Official, Plans Examiner, Inspector, City Engineer, Planner, Construction Manager and Inspector. As contract City Engineer and Building Official for a number of Agencies, we manage all aspects project as Agency representatives, and provide turn-key services.

Our staff members are licensed as professional engineers, surveyors, plan checkers, building officials and inspectors. We are also licensed as General Contractor A (General Engineering) and B (General Building), and have the ability to function like a General Contractor and coordinate all aspects of construction of similar projects.

Our Firm is recognized as one of the foremost expert firms in the State and Federal funding programs and procedures. We have managed numerous projects under HUD/CDBG, FTA, DOT, FHWA Federal requirements. On most of the projects, our services were provided from design, through construction, including enforcement and monitoring of Davis-Bacon Act Wages, Labor Compliance, DBE/WBE.

Also, one of our unique expertise is in the area of public funds administration as demonstrated in our successfully track record in working with cities and local government agencies to secure funding for various local projects and programs. Since 2005, Transtech has secured approximately \$100,000,000 in public funding for its clients.

We also provide our expertise in the construction field to law firms for construction claims. Some of our key staff members served as expert witnesses for construction claims and defects, and teach Engineering, Land Development, Planning, Construction and Project Management class at the Cal State.

San Bernardino University, International studies.

June 8, 2011

CITY OF MORENO VALLEY

Attention: Viren Shah, City's Program Manager

Subject: TECHNICAL PROPOSAL

Cover Letter, Page 2 of 2

Often, on large and complex projects, small local subcontractors and vendors do not participate in the bidding. We work with local Chamber of Commerce and organizations and conduct outreach to promote participation of local businesses in the bidding process as subcontractors and vendors, so that some project funds can be kept in local economy, resulting in the creation of more local jobs.

We understand the importance of providing services that can respond to the project needs based on work load and demand by adjusting level of staffing as necessary, and provide the services in an efficient and cost effective manner without sacrificing the quality and responsiveness.

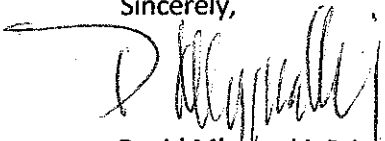
We have extensive experience in managing similar complex and multi faceted/phased projects. We will develop an expedited schedule to deliver these projects in an efficient and expeditious manner, and within the executed contract agreement amount avoiding time consuming administrative efforts in processing contract amendments.

Our team has extensive experience in all aspects of similar projects, from design concept, design and regulatory agency approvals through construction. We have gained a solid reputation in the industry for delivering cost-efficient projects that are on schedule, within budget, and to the full satisfaction of the client. We have assembled an outstanding group of individuals we believe will provide the Agency with the precise services requested; combining strong technical skills, excellent communication, sensitivity to community values and efficient use of resources.

We have staff and resources readily available for the project.

Thank you for the opportunity to submit this proposal. If you have any questions or need additional information, please contact the undersigned.

Sincerely,



David Mlynarski, Principal

[david.mlynarski@transtech.org](mailto:david.mlynarski@transtech.org); T: 909 384 7464, Ext. 106 F: 909 384 7475; [www.transtech.org](http://www.transtech.org)

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**APPENDIX**

<b>SECTION A: Project Understanding</b>	<b>A.1 – A.1</b>
<b>SECTION B: Approach and Management Plan</b>	<b>B.1 – B.2</b>
<b>SECTION C: Qualifications and Experience</b>	<b>C.1 – C.5</b>
<b>SECTION D: Staffing Plan</b>	<b>D.1 – D.1</b>
<b>SECTION E: Work Plan and Schedule</b>	<b>E.1 – E.17</b>
<b>SECTION F: Quality Control and Assurance</b>	<b>F.1 – F.1</b>
<b>SECTION G: Additional Relevant Information</b>	<b>G.1 – G.1</b>

**APPENDIX**

City's RFP, Section V. CONSULTANT'S PROPOSAL AND COMPENSATION, states that resumes, billing rates, project schedule, resource matrix, certificates, and other required forms shall be attached in the Appendix Section of the proposal. Based on this requirement, the following applicable information is included in the Appendix:

- Resumes**
- Billing Rates**
- Resource Matrix**
- Other Required Forms (Required Statements per the RFP)**

**Appendix 1 – Appendix 19**

- Appendix 1 – Appendix 14**
- Appendix 15 – Appendix 15**
- Appendix 16 – Appendix 16**
- Appendix 17 – Appendix 19**

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## **SECTION A: Project Understanding**

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The project in general consists of the ultimate width street improvements along:

1. Cactus Avenue between Lasselle Street and Nason Street, and
2. Nason Street between Cactus Avenue and Iris Avenue

The adjacent property owner and developer, Highland Fairview Properties (HFP), has been coordinating the preparation of the design plans for the ultimate street improvements as part of the 760 acre Aquabella Specific Plan (formerly Moreno Valley Field Station Specific Plan). The Aquabella development is on an indefinite hold due to the current depressed housing market.

Because these street segments are considered very strategic to the City's Economic Development Plan approved by City Council in April 2011, the City is taking a proactive approach in assisting with the completion of the plans, specifications and estimate (PS&E). The intent is for the current designers to complete their PS&E in accordance with the "Greenbook" and consistent with the California Public Contract Code. The City will coordinate the bidding and construction of the project.

In general, the proposed improvements are intended to be the "full street improvements with all dry and wet utilities included but no landscaping". As the plans and specifications are being finalized and an accurate cost estimate is established, the project may be scaled down due to funding limitations.

The funding for both projects have been estimated at slightly below \$20 Million, including \$1 Million in anticipated State Local Partnership Program (SLPP) grant monies for the Cactus Avenue project. Although the City intends to put both projects out to bid as one large project to take advantage of the anticipated "economies of scale", there is a possibility that the project may be bid as two separate projects with some time lag due to project readiness and therefore, the Consultant's proposal should reflect both possible scenarios. The goal is to complete the project construction within two years or less from the award date of this Consultant contract.

The Tentative Schedule is as follows:

- Anticipated Award of this Consultant Contract: Early July 2011
- Biddable PS&E Complete: Early Fall 2011 or sooner
- Public Bid and Award of Construction Contract(s): 3 months thereafter
- Construction: Approximately 12 months

The general scope of work to be provided by the selected Consultant includes all project management services necessary for a professionally completed project, including, but not limited to coordinating with all applicable design consultants, agencies and utilities to compile a final set of PS&E for the public bid process, award of construction contract(s), provide oversight during construction including construction management and/or construction inspection services and close out of the project at the end.

The scope of work will be performed in accordance with City of Moreno Valley's processes and procedures, "Greenbook" and California Public Contract Code requirements.

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**SECTION B: Approach and Management Plan**

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**B.1. APPROACH AND MANAGEMENT PLAN**

Our goal is to deliver the project to the City in an efficient and cost effective manner.

Our approach is to be responsible and accountable for all aspects of the project. This will involve the appropriate level of communication with city staff required to address issues that may impact the project's delivery in a manner that will address any scope, schedule, or budget related issues in a prompt and efficient manner before they result in any major impacts to the project's delivery. Clear and well maintained channels of communication between Transtech and City staff will be critical in the efficient management of this project so that Transtech staff is provided with sufficient information and direction in a manner that does not overburden City staff.

Transtech has established guidelines and policies, including written manuals on quality control, project management, and design procedures for its staff. These guidelines ensure a consistent approach to the execution of assignments undertaken by our organization. They provide Project Managers specific instructions on critical items to check/recheck and allow them to efficiently finalize projects.

Quality Control and Assurance is an important process in our project management approach. This process provides for the objective and thorough review of completed work products at multiple levels. We provide an extensive check of the plans before each milestone submittal. This check is provided by senior engineers with experience in the applicable field. We have an extensive in-house Quality Control and Assurance program to prevent design errors and construction change orders.

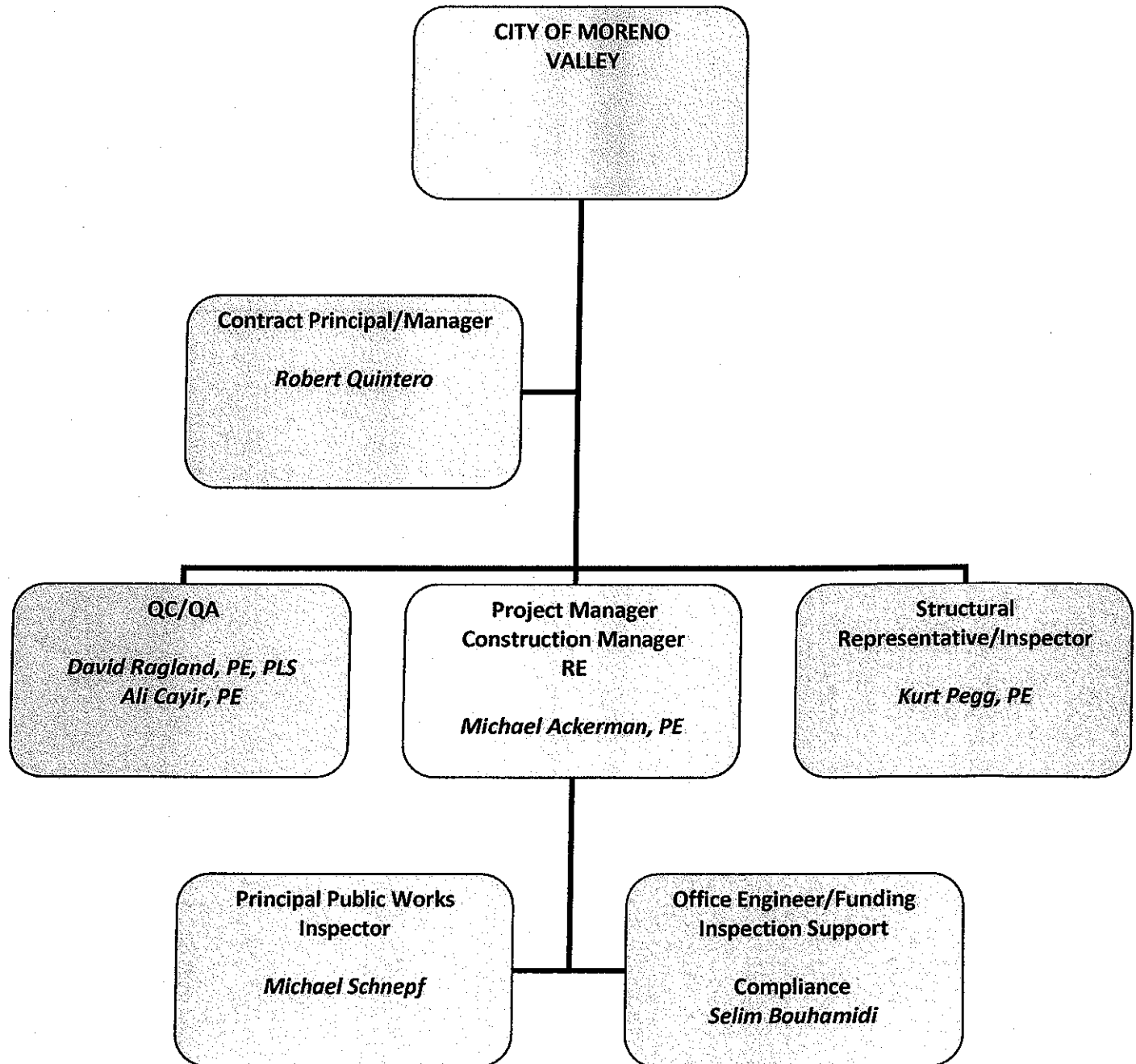
Schedule control and management is a critical element. Our project manager conducts weekly in-house meetings with staff to review work progress, discuss any potential issues, and adjust staff resources as necessary to keep the project on schedule.

One of the most common schedule delays occurs during the review and approval process with the public and regulatory agencies. Our approach is to initiate communications with agency staffs early in the project development. Meeting with agency staff during design development and in order to gain a clear understanding of their specific requirements and standards, is key to avoiding any major revisions or conflicts in later project phases that may result in costly scope revisions. This early communication also establishes an understanding of the project schedule, when the plans will be submitted, so that the local approval agencies can plan ahead to review and approve the project plans in a timely manner.

Key project team members will attend regularly scheduled project status meetings with City staff throughout the project's duration. All project-related directions, and commitments made by city staff will be incorporated into the project's record of communication and the status of each issue.

In summary, our approach is to provide proactive management to control every aspect of a project in detail to identify potential issues and problems in advance and take corrective actions before they become problems. This requires extensive hands-on knowledge, experience and management skills of the people involved in managing and inspecting the project. Our team members have extensive experience and proven track record in managing such complex projects and bringing them to a completion on time and within budget. Our staff members have a strong educational background and are licensed and certified as engineers and inspectors.

**B.2. PROJECT ORGANIZATION CHART**



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**SECTION C: Qualifications and Experience**

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**C.1. SIMILAR SERVICE EXPERIENCE**

Following is a partial listing of similar projects where our firm provided similar services requested for this project:

- **Via Duct Boulevard Alignment and Reconstruction, Metrolink San Bernardino Parking Facility Project:** Served as Construction Manager/Resident Engineer. Federally funded project. Cost: \$10m
- **Valley Boulevard Widening Project:** Served as Construction Manager/Resident Engineer. Federally funded project. Cost \$5m.
- **State Route 710 Interim Improvements and Fremont Ave. Widening/Realignment:** Prepared PS&E as well as provided construction management and inspection services for 3 federally funded projects in Alhambra. Improvements included street, water, sewer, storm drain, landscape, street lighting, traffic signal, and signing and striping plans. The project involved coordination with Caltrans and encroachment permit processing/approval, as portions of the project was in Caltrans jurisdiction. These projects were all federally funded, requiring processing for E-76 through Caltrans Local Assistance. The total cost for 3 projects was \$20m.
- **Mission Boulevard Widening:** Prepared PS&E as well as provided construction management and inspection services for Mission Boulevard widening and reconstruction. Improvements included street, water, sewer, storm drain, landscape, street lighting, traffic signal, and signing and striping plans. Transtech also provided construction management and inspection services for the project. The project involved coordination with Caltrans, and was federally funded and required processing for E-76 through Caltrans Local Assistance. Cost \$3m.
- **City of Torrance Crenshaw and Skypark Reconstruction Projects:** Prepared PS&E as well as provided construction management and inspection services for Federally Funded reconstruction/rehabilitation of Crenshaw Boulevard and Skypark Avenue (2 separate projects). Cost: \$3m.
- **Design and construction management of 3500 feet of 20 to 36 inch ductile iron water transmission main in the City of San Bernardino:** For the development of University Park. Design of over 10,000 feet of 8 thru 12 inch DIP water main for water distribution.
- **CSUSB (Cal State SB University) San Bernardino Campus Access Road:** Prepared PS&E as well as provided construction administration for the project. Improvements included approximately 1 mile street, water, landscape, grading, drainage, street lighting and various other improvements. Cost \$6M.
- **Mission Bl and Rte 71 Grade Separation Project (currently under construction):** Serving as the Construction Manager for this regional project. The Mission Boulevard/State Route 71 Interchange project involves removing the existing at-grade Mission Boulevard/State Route 71 intersection and constructing an interchange by grade separating Mission Boulevard over State Route 71. Scope includes full construction and program management services as well as public relations, maintaining a construction website, and coordination with all parties. Cost \$40,000,000.
- **Alhambra Civic Library Project:** The project involved construction of a 45,000 SF 2 story library with 2 levels of underground parking garage. The project also included off-site improvements, such as streets, curb, gutter, utilities, fiber optic communication. Transtech provided construction management services. Project Cost \$30m.
- **Riverside County Transportation Commission, Corona Main Street Metrolink Parking Structure and Pedestrian Bridge:** Served as Construction Manager. The project involved construction of a 6 level, approximately 1,000 space parking structure, and a pedestrian bridge over rail road tracks, and various offsite improvements, such as pavement, curb, gutter, drainage, sewer, electrical.

Project cost \$24,000,000.

- **Alhambra Renaissance Plaza Parking Structure and Entertainment Center:** Served as Turn-key Program Manager from initial design thru construction of the Project. The project involved construction of a 5 level, approximately 600 space parking structure, as well as a 10 plex movie theater, and 3 restaurants and retail stores. Total project value was \$40m.

**Experience in Federally Funded Projects and with Caltrans Local Assistance Procedures Manual:**

A majority of the projects were federally funded. Transtech administered all projects through Caltrans' Local Assistance in compliance with the Local Assistance Procedures Manual (LAPM). Authorization to Proceed (E76) was successfully obtained for each project as well. Our scope in these projects involved public relations, including providing information flyer, setting up a web-site for public access to provide up to date information, community meetings, and responding to questions and complaints and making sure impacts to public is minimized. Communication and coordination with public is an important element on this project as well.

**Experience in Working with Caltrans/Encroachment Permit Department:**

Several of these projects also involved close coordination with Caltrans and encroachment permit processing/approval, as portions of some of the projects were in Caltrans jurisdiction.

**C.2. PROJECT STAFF**

The following table provides summary information for project staff:

Key Person	Project Role	Yrs of Exp	Yrs w Firm
Robert Quintero	Contract Principal/Manager	20	5
Michael Ackerman, PE	Project Manager, Construction Manager, RE	15	4
Kurt Pegg, PE	Structural Representative/Inspector	20	2
David Ragland, PE, PLS Ali Cayir, PE	QC/QA	30	12
Michael Schnepf	Principal Public Works Inspector	30	9
Selim Bouhamidi	Office Engineer/Funding Compliance and Inspection Support	5	3

As required by the City's RFP, Section V. CONSULTANT'S PROPOSAL AND COMPENSATION, **Resumes**, Billing Rates, Resource Matrix, and Other Required Forms (Required Statements per The RFP) are attached in the appendix section of the proposal.

**C.3. REFERENCES**

City of Rialto  
 Ahmad Ansari, Director of Public Works/City Engineer  
 909-772-1518

City of Alhambra  
 James Funk, Development Services Director  
 626-570-5041

City of Pomona  
 Daryl R. Grigsby, Director of Public Works  
 909-620-2261

CSUSB, Cal State University  
 Hamid Azhand, Director of Capital Planning and Design  
 909-537-5000

**C.4. COMPANY QUALIFICATIONS**

Established in 1989, the firm provides consulting engineering services to several municipalities throughout Southern California. The municipal services provided by our firm include Building and Safety, Plan Check, Inspection, Code Enforcement, City Engineering, City Traffic Engineering, CIP Design, Project and Construction Management, Program Management, Utility Company Coordination and Management, CDBG, HUD and Federally/State Funded Project Management, Services.

• *Service Capabilities:*

Municipal Consulting Services	City Engineer; City Traffic Engineer; Capital Improvement Projects; Development Review; Plan Check/Counter Services
Building and Safety Program and Construction Management	Inspection; Plan Check; City Building Official; Code Enforcement Contract Administration; Construction Inspection; Labor Compliance; Design-built Engineering and Construction
Civil Engineering	Freeways and Interchanges, Local Streets and Roads Design; Sewerage, Water and Storm Drain Design; Pavement Management System; Grading Studies, Design and Earthwork Analysis
Traffic and Transportation Planning and Engineering	Traffic Signal and Control Systems; Parking Facilities Study and Design; Street Lighting; Speed Zone Surveys; Traffic Control; Intelligent Vehicle Highway Systems; Signing and Striping; Traffic Management Plans; Bicycle and Pedestrian Facilities; Neighborhood Traffic Control

<p>Water Resources Engineering</p>	<p>Hydrologic Studies, Hydraulic Design Best Management Practices Storm Water Pollution Prevention (SWPPP) Low Impact Development Design Sediment, Erosion Control &amp; Detention Facilities Urban Water Quality Retrofit Hydrologic Rainfall/ Runoff Watershed Simulations Hydro modification Studies, Water Quality Management Plans (WQMP) Storm Drainage Infrastructure Design Floodplain Analysis, Mapping Preparation of FEMA Requests for Letters of Map Revisions</p>
<p>Surveying and Mapping</p>	<p>ALTA, Topographic, Boundary Surveys; Construction Surveying/Staking; Aerial Mapping; GIS; Right-of-way Engineering</p>
<p>Planning</p>	<p>Master Plan Circulation Studies; Transportation Planning and Modeling; Capacity Evaluations; Impact Assessments; Site Planning; Specific Plans</p>
<p>Land Development</p>	<p>Subdivision/Master-Planned Communities; Commercial and Industrial Development</p>
<p>Governmental Permit Processing</p>	<p>Support services to coordinate and process permits through governmental agencies</p>

- Experience in Working with Local Cities:** Our key staff members have served public agencies in various capacities including City Engineer, City Traffic Engineer, Building Official, Project Manager, Planner, and Inspector. We are accustomed to working with governmental agencies in every facet of planning, building, and public works, and our staff has an unparalleled understanding of public agency issues, procedures, and policies.
- Turn-Key Service Capability:** The Firm serves as turn-key program and construction manager on large and complex engineering projects by providing a full service capability of comprehensive services to its clients from initial planning and design, systems engineering and technical assistance, permitting, program and construction management, and operations and maintenance services. The Firm has participated on numerous multi-disciplinary teams dealing with the planning and development of civil and traffic engineering, urban and rural development, and public works projects, including Public Works and Infrastructure Improvements; Institutional Buildings; Commercial and Retail Buildings; Transportation and Parking Facilities; Sports and Recreational Facilities; Residential Development.
- Experience in Federal and State Funding Programs and Requirements:** The Firm is recognized as one of the foremost expert firms in the State and Federal funding programs and procedures. We have managed numerous projects under HUD/CDBG, FTA, DOT, FHWA Federal requirements. On most of these projects, our services were provided from design, through construction, including enforcement and monitoring of Davis-Bacon Act Wages, Labor Compliance. The Firm's Grant Writing and Funds Management services enable our municipal and agency clients of any size to find potential funding sources, and to prepare competitive applications. Additionally, after funds are awarded to a client, The Firm can ensure compliance with state and federal funding requirements. In the past few years, The Firm has facilitated over \$100 million in funds for our clients' public works projects and transportation improvements.
- Experience in Construction Claims:** The Firm staff also provides their expertise in the construction

field to law firms and universities. Some of our key staff members serve as expert witnesses for construction claims and defects, and teach Engineering, Land Development, Planning, Construction and Project Management class at the Cal State San Bernardino University, International studies.

- *Quality Control/Quality Assurance (QC/QA):* The Firm has a proven track record in providing high quality engineering services which result in minimal problems during implementation of projects. Our extensive experience coupled with our in-house QA/QC program prevents design errors and change orders. Our approach is to provide proactive management to control every aspect of a project in detail to identify potential issues and problems in advance and take corrective actions before they become problems. This requires extensive hands-on knowledge, experience and management skills of the people involved in managing and inspecting the project. Our team members have extensive experience and proven track record in managing such complex projects and bringing them to a completion on time and budget
- *Federally Audit and Approved Accounting System:* Our firm is involved in major projects with various governmental agencies, including Federal Government. Our accounting system is audited and approved by federal Government and found in compliance with Generally Accepted Accounting Principles (GAAP), all applicable provisions of federal, state, and local laws, statues, ordinances, rules, regulations, and procedural requirements including Federal Acquisition Regulations (FAR).



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**SECTION D: Staffing Plan**

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Due to the inherent variability in the schedule and performance of third parties, our staffing approach is flexible. While we have assigned and are prepared full staffing as necessary to the project, our staff will work as necessary and flexible manner. We will adjust staffing levels as the project progresses and as needed, but, we will be responsive and add additional staffing when there is a need to ensure the project is managed in the most cost effective and efficient manner.

Our team members have the capacity to perform the requested services according to the proposed schedule, and complete the services required for this project within budget and schedule.

Our approach is to be responsible and accountable for all aspects of the project. This will involve the appropriate level of communication with City Staff required to address issues that may impact the project's delivery in a manner that will address any scope, schedule, or budget related issues in a prompt and efficient manner before they result in any major impacts to the project's delivery. Clear and well maintained channels of communication between Transtech and City Staff will be critical in the efficient management of this project so that Transtech staff is provided with sufficient information and direction in a manner that does not overburden City staff.

#### **BILLING RATES AND RESOURCE MATRIX**

As required by the City's RFP, Section V. CONSULTANT'S PROPOSAL AND COMPENSATION, Resumes, Billing Rates, Resource Matrix, and Other Required Forms (Required Statements per The RFP) are attached in the appendix section of the proposal.

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**SECTION E: Work Plan and Schedule**

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### E.1. PROJECT MANAGEMENT AND DELIVERY APPROACH

Our approach is to be responsible and accountable for all aspects of the project in order to deliver the project on-time and on-budget. This will involve the appropriate level of communication with city staff required to address issues that may impact the project's delivery in a manner that will address any scope, schedule, or budget related issues in a prompt and efficient manner before the result in any major impacts to the project's delivery. Clear and well maintained channels of communication between Transtech and City staff will be critical in the efficient management of this project so that Transtech staff is provided with sufficient information and direction in a manner that does not overburden City staff.

We have a structured approach to execute projects in an efficient manner that makes Transtech capable of providing the client with the highest quality product. Transtech has established guidelines and policies, including written manuals on quality control, project management, and design procedures for its staff. These guidelines ensure a consistent approach to the execution of assignments undertaken by our organization. They provide Project Managers specific instructions on critical items to check/recheck and allow them to efficiently finalize projects. The following paragraphs describe our approach to deliver projects in an efficient and cost effective manner:

- **Project Management:** Our approach is to provide proactive management to control every aspect of a project in detail to identify potential issues and problems in advance and take corrective actions before they become major problems. This requires extensive hands-on knowledge, and management skills of the people involved in the project's management and inspection. Our team members have extensive experience and proven track record in managing such complex projects and bringing them to a completion on-time and on-budget. Our staff members have educational background and are licensed and certified as engineers and inspectors. They have been represented both public agencies and private developers/contractor on similar projects. They are seasoned industry veterans, and will manage this project in the most efficient manner. Key project team members will attend regularly-scheduled project status meetings with the City and other involved agencies throughout the project's duration. We will keep a detailed record of communication that will include directions given by City staff and actions taken by our team. These systems are structured such that recall of critical information is readily available. We will provide project status reports which updates, at a minimum, the status on the project's scope, schedule, budget, and pending issues requiring attention.
- **Quality Control and Assurance Program:** Quality Control and Assurance is an important process in our project management approach. This process provides for the objective and thorough review of completed work products at multiple levels. We provide an extensive check of the plans before each milestone submittal. This check is provided by senior engineers with experience in the applicable field. We have an extensive in-house Quality Control and Assurance Program to prevent design errors and construction change orders.
- **Design Review:** Our multi-disciplinary team of design professionals with extensive professional experience in similar projects. Our preferred approach is to engage in review documentation, response/reconciliation meeting cycle for each design phase. Each cycle's receipt of design documentation is the basis of design, plans, specifications and calculations. The documents are reviewed by each discipline along with the construction manager to validate design team approach to the project program requirements and identify code element, buildability items for consideration, adjustment and/or incorporated by the Design Team. Review comments are documented with our

web based review program and made available to the entire team through the web browser access and electronic files. After a short review period for the Design Team, a coordination/information meeting is held to discuss comments and ensure that the Design Team and other parties fully understand the intent and essence of the comments. Our teams early "catches" of these and similar design compliance issues have presented significant late phase document modification on numerous projects we have reviewed.

- **Constructability Reviews:** Our constructability reviews follow a similar process to design support review with a different focus. We prefer to do both reviews concurrently for efficiency, with early phase focus on design support issues moving to predominantly constructability, buildability and coordination in later phases. Our comprehensive database offers management tools that will allow all team members to review drawings simultaneously and track design progress and comment resolution.
- **Value Engineering:** We approach value engineering as a continuous and evolving function throughout the entire preliminary and design phases. Value engineering is treated as an integral part of developing design criteria and ultimate incorporation into the project plans, specifications and estimates. Integrating value engineering throughout the project significantly reduces the chance of a major design alternative being identified by a "value engineering team" after the project is designed, which would cause a tremendous redesign effort and considerable time delays.
- **Cost Estimating:** We use a variety of methods to generate accurate cost estimates. These include "Check Bids" developed from both internal and external private sources. Our estimators all have construction field backgrounds and pull in that additional perspective to cost estimating from project concept/feasibility through change orders to address your specific needs. A methodology of communication, technical resources, and analytical thinking shaped by experience is used to reflect projects in terms of costs. Our estimating database, based on our experience at construction, is continually reviewed and updated for current labor rates, equipment rates, and material pricing. We also utilize the construction schedule to determine cost escalation over the course of construction. Typically escalation is included to the mid-point of the construction schedule. We will work closely with our procurement team in order to track the trends in volatile materials such as steel and concrete. We also monitor local construction labor markets and unions to forecast trends in labor rates. These costs are tracked throughout the estimating process to insure there are no last minute surprises.
- **Third Party Coordination Public and Regulatory Agencies:** One of the most common schedule delays occurs during the review and approval process with the public and regulatory agencies. Our approach is to initiate communications with agency staffs early in the project development. Meeting with agency staff during design development and in order to gain a clear understanding of their specific requirements and standards, is key to avoiding any major revisions or conflicts in later project phases that may result in costly scope revisions. This early communication also establishes an understanding of the project schedule, when the plans will be submitted, so that the local approval agencies can plan ahead to review and approve the project plans in a timely manner.
- **Methodology for communication to inform City on work progress:** Key project team members will attend regularly scheduled project status meetings with City staff throughout the project's duration. All project-related directions, and commitments made by city staff will be incorporated into the project's record of communication and the status of each issue.

- **Approach to Cost Control and Change Orders**

Two feasible methods exist for practical control of publicly funded construction costs. One is *proactive* and the other is *reactive*.

- *Proactive* cost control is achieved by putting sufficient effort into the plan and specification preparation to minimize potential change orders.
- *Reactive* cost control occurs during the review of change order requests submitted by the contractor. A variety of techniques are employed when reviewing submitted change order requests.

We evaluate monthly costs/expenditures based on an actual field review and documentation. The documentation is used as both criteria for evaluating the accuracy of costs/expenditures, and as input for review of the cost-loaded monthly progress schedule. An accurate schedule of values and baseline schedule are fundamental to this analysis. Base contract work, as well as changes to the work, is also progressed and quantified. Any differences between the original estimates and actual costs/expenditures are identified. We evaluate project costs and develop feasible mitigation measures to minimize additional costs. We work as a team to solve problems or make modifications in the field to address unforeseen conditions or owner generated changes in a cost effective manner.

- **Approach to Scheduling and Timely Completion of Project and Schedule Recovery**

Understanding how the component pieces of a Project and the necessary sequencing are critical to the successful completion of the Project. We use various project management software depending on the nature of the Project to ensure proper schedule development, document control, including RFI's, submittals and plan review. The regular maintenance and updating of the schedule quickly identifies areas that can be accelerated, and those items that may need additional attention and oversight. We ensure that the contractor's construction baseline schedule has properly identified the project scope, critical path, project milestones, target dates, phases, and sequences of work, activity durations, activity float and relationships between activities. Interrelationships with various projects phases, and interfaces with Owner activities are verified to ensure proper coordination with the existing operations. We ensure that the baseline schedule considers access coordination; staging and lay-down areas and seamless transition and interfaces between the new and existing facilities, and any operation to be maintained on-site. When significant activities show that they are slipping from the baseline, we work with the contractor to develop "recovery plans" and verify that the plans are achievable and are implemented to have the desired effect. We incorporate progress information recorded on the Inspector's Reports to verify actual progress in the monthly schedule. These reports clearly identify and document if any delays occurred and what caused the delays. This approach enables all involved parties to anticipate potential delays early in order to proactively manage the schedule.

- **Methodology for Generating Bidder Interest**

The bids are advertised in various trade publications, such as McGraw-Hill Construction Dodge-Green Sheets, Contractors Info Network, Bid America, Reed Construction Data. We also contact qualified contractors and inform them of the upcoming project. By the time the construction documents area ready for bid advertisement we have a data base of contractors who have known about this project in advance. This increases bidder interest and participation significantly.

- **Promote participation in the bidding by local subcontractors and vendors**

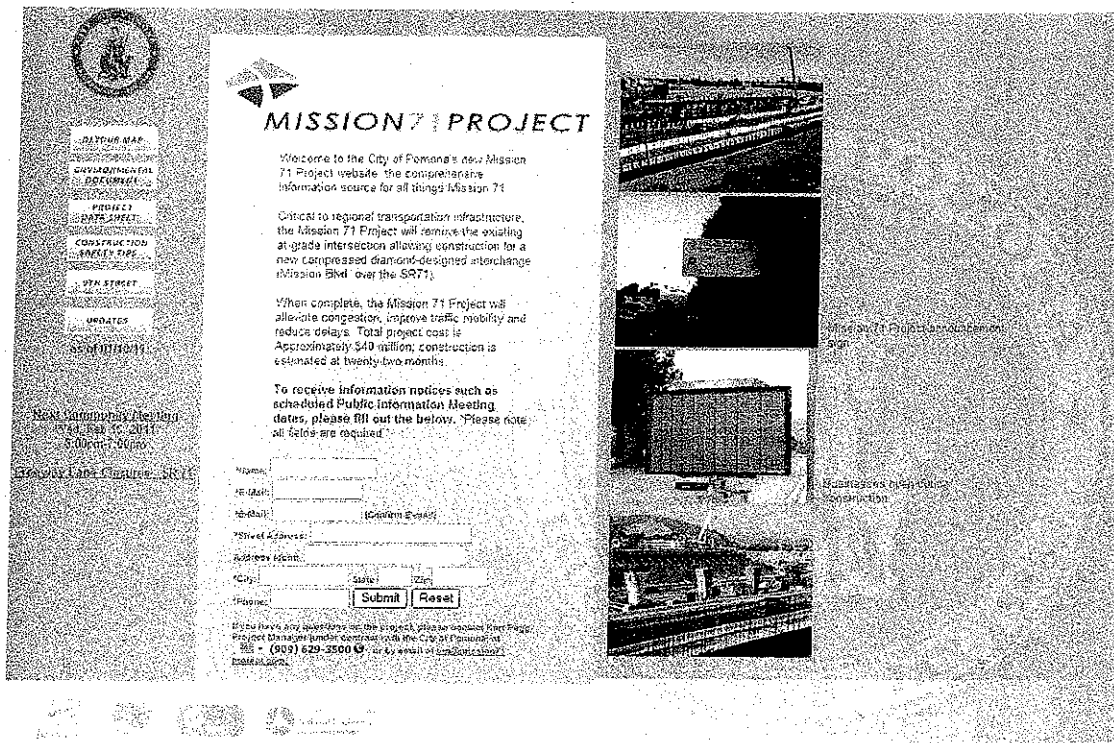
Often, on large and complex projects, small local subcontractors and vendors do not participate in the bidding. We work with local Chamber of Commerce and organizations and conduct outreach to promote participation of local businesses in the bidding process as subcontractors and vendors, so that some project funds can be kept in local economy, resulting in the creation of more local jobs.

- **Contractor prequalifying**

If desired by the City, we can conduct a contractor pre-qualifying process. Public Contract Code section 20101 authorizes local public agencies to prequalify contractors before allowing them to bid for public works projects. The key points are:

- A public agency may require contractors to submit standardized questionnaires which seek information necessary to determine whether the contractors have met prequalifying standards. Uniform subjective rating systems must be used to determine the minimum requirements permitted for qualification to bid.
- Agency must have procedures in place which allow contractors to appeal decisions that they are not qualified to bid, which will result in review and conclusion prior to the submission of bids.

- **Construction web-site:** If the City desires, we can establish a construction web-site and web-cams for real time monitoring of construction progress on internet. The following is a sample of our current website for the State Route 71 and Mission Interchange construction project. [www.mission71project.com](http://www.mission71project.com).



- **Quality Control and Assurance**

Quality Control and Assurance will be consistently and thoroughly applied throughout project's duration. Assigned Quality Control and Assurance staff will be technically qualified to conduct the appropriate level of oversight, and demonstrate a concerted and sustained commitment to provide a high quality product. Concise written records will be maintained by the Consultant on all activities.

A detailed description for Quality Control and Assurance is provided in Section F of the proposal.

## E.2. SCOPE OF WORK

### E.2.1. Project Management Consultant (PMC) Services

The designated Consultant Project Manager, under the general direction of the City Program Manager, shall be responsible for overseeing all aspects of project development and coordination.

Typical Project Management Services shall include, but not be limited to:

1. Prepare and maintain a project schedule identifying the critical path for expeditious project completion.
2. Conduct and attend all applicable meetings with all applicable stakeholders. At the conclusion of each meeting the Consultant shall prepare and distribute meeting minutes, within three (3) working days, to the satisfaction of the City Program Manager.
3. Schedule and conduct Project Development Team (PDT) meetings and other necessary meetings; prepare agendas and minutes; and distribute to all applicable entities (not just attendees) within three (3) working days.
4. Schedule, facilitate, and attend public meetings as necessary.
5. Provide progress reports at a minimum on a monthly basis.
6. Compose all correspondences to keep the project on schedule.
7. Attend and present the project to City Council as required.
8. Check all contract documents to ensure compliance with the Caltrans Local Assistance Procedure Manual (LAPM) and funding requirements, as required for the SLPP grant.
9. Prepare all submittals to Caltrans Local Assistance in accordance with the LAPM and other Caltrans requirements, as required for the SLPP grant.
10. Prepare reimbursement requests and invoices to Caltrans for the SLPP grant in accordance with the City - State Program Supplemental Agreement (PSA).
11. Prepare staff reports to City Council for authorization of agreements, amendments, Closed Session action items, etc.
12. Prepare agreements and assist with issuance of Purchase Orders.
13. Coordinate with all applicable agencies/utilities including the preparation of inter-agency agreements.
14. Coordinate with funding agencies and prepare reports, updates, funding reports, and grant applications as necessary for project funding.



15. Prepare project update write-ups for distribution to media and public.
16. Assist with annual Capital Improvement Program (CIP) budget update or funding programming where necessary.
17. Investigate and coordinate all utility conflicts with utility owners. Prepare applicable utility notices and coordinate with utility companies for relocation of interfering utilities.
18. Issue all necessary Notices to Proceed (NTP).
19. Assist with review and process of all invoices (City staff will approve).
20. Compose Requests for Proposals (RFP), Notices Inviting Proposals (NIP), and Scopes of Services to retain other related support services, services of specialty Consultants/Contractors needed during construction, such as Surveying, Geotechnical, Material Testing, Deputy Inspection, etc.; coordinate and schedule these services; and review proposals as necessary.
21. Maintain all project files in accordance with the City boiler format or as otherwise directed by the City Program Manager.
22. Facilitate, coordinate, and oversee the ongoing daily actions required to completely provide the full level of intended services and ensure that the project meets all applicable Federal, State, and local requirements.
23. Oversee and ensure that all measures of the specific project's scope of services are completed in a timely and professional manner with an emphasis on providing the City with a high quality project.
24. Report directly to the City Program Manager and act as a liaison between the City and all project stakeholders in order to accomplish the full project services intended by the City.
25. Oversee and provide review and concurrence of all applicable reports i.e. Geotechnical Report, Traffic Study, Environmental Documents, Final PS&E packages, SWPPP Plan, Appraisal Reports, Legal and Plats, Easements incl. temporary construction easements and all other applicable project documents. The Consultant shall prepare the Notice of Intent (NOI) for the SWPPP Plan through the Regional Water Quality Control Board.
26. Ensure that all appropriate communication, correspondence, and reports are completed on an ongoing basis in a timely manner to the satisfaction of the City. The following is a list of some, but not necessarily all, of the documents that the Consultant shall be responsible to provide in the course of the work:
  - Various City Council Staff Reports.
  - Utility correspondence letters and e-mails.
  - Federal, State and local correspondence.
  - Federal, State and local documentation required for the project.
  - Right-of-way related documents and correspondence.
  - Necessary communication and reports to the funding agencies.

27. Arrange and participate in a detailed independent review of the 95% PS&E package, with in-depth field review and bidability, constructability, and claims avoidance emphasis.
- a. Review of existing geotechnical/geologic maps, reports or other related documents to ensure that the project Plans and Specifications have adequately addressed geotechnical evaluation and recommendations on, including, but not limited to, grading, earthwork, settlement, surface and subsurface drainage, foundation/column/slab design, slope stability, pavement design, trench backfill, retaining wall design, environmental concerns, removal of unsuitable materials, etc
  - b. Verify that the plans and specifications adequately address the drainage and utility challenges of the project site.
  - c. Confirm that the existing field topography conditions are correctly addressed in the final PS&E
  - d. Evaluate the plans and specifications for ADA compliance
  - e. Confirm all necessary rights of way needed for the project have been acquired and provide independent review of property surveys, plats, and legal descriptions to ensure accuracy of the documents.
  - f. Confirm that all permit (incl. environmental mitigations) requirements are adequately addressed. The Consultant shall identify all environmental concerns for the specific improvements and coordinate with the applicable agencies for requirements to be addressed in the plans and specifications for applicable project conformance.
  - g. Confirm that all traffic control requirements are adequately addressed in accordance with the latest update of the MUTCD.
  - h. Confirm that the bid schedules including any additive alternatives adequately captures all scope of work required of the contractors.
  - i. Confirm that the engineer's estimate for the various bid schedule items adequately reflect the ballpark costs for the work item at the time the project is advertised for bid.
  - j. Confirm the PS&E package is complete and ready for public bidding purposes. The latest edition of the Greenbook (Standard Specifications for Public Works Construction and subsequent amendments) shall be used on the project, except for traffic signals, striping, and traffic signs. The technical portion of the Caltrans Standard Specifications shall be used for the traffic signals, striping, and traffic signs
28. Coordinate and ensure that all stakeholders and City Divisions and Departments complete plan check of all appropriate project documents.
29. Review the Aquabella development's Conditions of Approval for conditions applicable to the street improvement designs.
30. Provide plan check summary update at each plan check level and meet with the City Program

Manager to review appropriate plan check redlines/comments.

31. Coordinate and ensure that updates necessary as a result of plan check review are communicated and incorporated to ensure a comprehensive set of Final PS&E is prepared ready for bid.
32. Consultant shall coordinate any adjustments to the final design plans and corresponding documents with the applicable design consultant/utility to reduce the scope of work to match available budget in accordance with City-specified priorities.
33. The PMC shall be responsible for administrating the advertising for construction bids and attending the bid opening of the project according to the California Public Contract Code for municipal agencies and shall provide support during bidding and construction. The required Design and Project Management Consultant Services shall include, but not be limited to:
  - a. Prepare and coordinate bid notices to be advertised and posted at various plan rooms, trade publications and on the City's website.
  - b. Prepare bid packages for distribution as necessary.
  - c. Maintain plan holder's list
  - d. Schedule and conduct pre-bid meetings and site visits, if held.
  - e. Provide responses to bidders' questions.
  - f. Prepare and issue addenda if required.
  - g. Coordinate and attend construction bid opening at the City Clerk's Office. Evaluate and check all bids submitted are complete and consistent with established requirements.
  - h. Evaluate and check all bids to establish the lowest responsive and responsible bidder.
  - i. Check references and licenses of bidders.
  - j. Draft City Council Staff Report for award of construction contract and process the contract agreement with the lowest responsible bidder.
  - k. Attend the City Council meeting for award of the contract, available to answer questions, and defend the project.
  - l. Prepare, coordinate, and process Notice of Award, Agreements, and Purchase Order.
  - m. Review insurance, bonding, and other required documents.
  - n. Answer questions regarding the Technical Provisions, the design drawings or conflicts in the design during bidding process and pre-construction meeting. The Project Manager Consultant shall coordinate with the applicable Design Consultant in preparation of addenda necessary due to omissions or conflicts in the design.

34. Provide all applicable project management oversight of the CMC (in accordance with Part 2 herein), CIC (in accordance with Part 3 herein), construction contractors, utilities, agencies and all construction related activities. This must include coordination of all conflicts in the design that may have been identified during the construction as well. The Consultant does not have authority to make changes or deviations from the Plans and Specifications, except as authorized by the City Program Manager with concurrence from the Design Consultant.
35. Review and process all reports, invoices, agreements, contracts, contract/construction change orders, request for information, claims, notices and other applicable documents during construction to ensure project is running smoothly within budget and on time. Coordinate and follow-up on all claims, notices, non compliance issues, etc. that may have occurred during the construction phase.
36. Coordinate all close-out activities after construction is completed including coordination with all jurisdictional environmental agencies, permitting agencies, utilities, etc.
37. Prepare and submit GASB 34 documentation in the City's format along with the as-built drawings. Prepare status report for project close-out, prepare Staff Report for project acceptance and assist with filing of Notice of Completion.
38. Present the City with a complete project close-out file including performing such other project related duties as may be required by the City.
39. Perform warranty walk within one (1) year of the Notice of Completion and coordinate all follow-up activities needed to ensure successful closure of project issues.

#### **E.2.2. Construction Management Consultant (CMC) Services**

The Construction Management Services shall include general project management activities to project closure as well as full-service construction management during the construction phase of the project. The Construction Management Services may also include Inspection Services or oversight of the Inspection Services. If more than one inspector is required to oversee the work, it is the responsibility of the Construction Manager to anticipate the need and to provide or recommend the additional services required. The City Program Manager will make the final decision with regard to utilizing the Inspection Services, or to select an Inspector through other accepted means.

##### **E.2.2.1. General Services**

General Construction Management Services duties shall include, but not be limited to:

1. Prepare and maintain construction related specific schedule identifying the critical path for expeditious project completion.
2. Schedule and conduct the pre-construction meeting with all stakeholders, including preparations of agendas and minutes; and distribute to all applicable entities (not just attendees) within three (3) working days.

3. Schedule, facilitate, and attend public meetings as necessary.
4. Attend and present the project to City Council as required.
5. Check all contract documents to ensure compliance with the Caltrans LAPM and funding requirements, as required for the SLPP grant.
6. Prepare all submittals to Caltrans Local Assistance in accordance with the LAPM and other Caltrans requirements, as required for the SLPP grant.
7. Prepare reimbursement requests and invoices for Caltrans and other funding agencies for the SLPP grant.
8. Prepare agreements and assist in processing Purchase Orders.
9. Issue all necessary Notices to Proceed (NTP).
10. Review and process all invoices (City staff will approve).
11. Compose RFP's, NIP's, and Scopes of Services to retain other related design services, services of specialty Consultants/Contractors needed during construction, such as Design Review, Surveying, Special Inspection, Geotechnical, Material Testing, etc.; coordinate and schedule these services; and review proposals as necessary.
12. Maintain all project files in accordance with the City boiler format or as otherwise directed by the City Program Manager. At a minimum, Project files will be organized to include the information indicated below:
  - Project Personnel
  - Correspondence
  - Weekly record of working days
  - Materials Data
  - Engineer's Daily Reports
  - Contract Item Pay Quantity Documents
  - Contract Change Orders
  - Extra Work Reports
  - Progress Pay Estimates and Status of Funds
  - Labor Compliance and EEO records
  - Contractor's Payrolls
  - Final Report
  - Materials Certificate
  - DBE Records
13. Maintain consistent communication (daily or weekly, depending on project activity/complexity) with the City Program Manager.
14. Facilitate, coordinate, and oversee the ongoing daily actions required to completely provide the full level of intended services and ensure that the project meets all applicable Federal, State, and local

requirements.

15. Oversee and ensure that all measures of the specific project's scope of services are completed in a timely and professional manner with an emphasis on providing the City with a high quality project.
16. Report directly to the City Program Manager and act as a liaison between the City and all project stakeholders in order to accomplish the full project services intended by the City.

#### **E.2.2.2 Construction Management Services**

Typical Construction Management services shall include, but not be limited to:

1. Provide contract administration for the project and coordinate with other construction, as required.
2. Coordinate and participate in pre-construction contract award activities, including conducting pre-construction meeting, and issuance of Notice to Proceed in accordance with the City's procedures.
3. Establish and maintain project controls and provide administrative, management, and related services necessary to coordinate the work of the Contractor and all sub-contractors in order to facilitate timely completion of the project in accordance with contract documents and City objectives.
4. Assist the Contractor in obtaining all building, grading, and other construction permits necessary for the project.
5. Provide, manage, coordinate, and ensure timely completion/approvals in response to all Requests for Information (RFI), shop drawings, product data samples, submittals, Change Notices, Intend to File Change Notices, and Construction Change Orders (CCO), as well as review, negotiations and issuance of the CCO to the Contractor.

Follow the established City procedures in processing CCO. Following is a brief outline of the City's procedures:

- a. Review requests for CCO received from the Contractor to ensure validity and applicability of costs based on the scope of work.
- b. Recommend necessary or desirable project changes to the City with Design Consultant's concurrence.
- c. Assist the City with concurrence of the Design Consultant in CCO negotiations.
- d. Submit recommendations to the City relative to change order requests.
- e. Prepare the CCO, obtain project designer's concurrence, and obtain Contractor and Design Consultant's signature on the CCO forms for the City's consideration, review, and approval.
- f. Prepare staff report(s) for City Council approval of CCO, if necessary.

6. Ensure that contractor's daily work effort is documented.
7. Prepare agenda, conduct weekly construction progress meetings and distribute minutes within three (3) working days.
8. Ensure adequate inspection coverage for the project, coordinate and oversee project inspector(s).
9. Schedule Building and Safety inspection of Electrical Service/Cabinets, footings, specialty retaining walls, applicable structural components or as otherwise required.
10. Coordinate and schedule SCE service for applicable appurtenances.
11. Coordinate and schedule telephone service with the City's Telecommunications Engineer or directly with Verizon.
12. Coordinate and schedule needed water service, water meter(s), and re-location of water line etc. with the local water purveyor as necessary for the project.
13. Schedule with the City's Traffic Operations Supervisor to inspect new and modified traffic signals. The Consultant shall be responsible to document all work, including the Traffic Supervisor's inspection in the Consultant's Daily Diary.
14. Provide administrative, management, and related services as required to coordinate work and to complete the project in accordance with the City's objectives for cost, time, and quality. The Consultant shall provide sufficient qualified personnel and management to carry out the requirements of the Project.
15. Schedule and conduct pre-construction and construction progress meetings to discuss such matters as procedures, progress, problems, scheduling, and coordination and other project related items. The Consultant shall coordinate with the utility companies for the relocation of any of their facilities that conflict with the proposed improvements and continue coordination until the utility conflict is resolved. General construction progress meetings may be required on a weekly basis until the project is completed. Primary attendees will include: Utilities, Agencies, the City of Moreno Valley, and the Contractor. Prepare meeting agendas, and minutes for all meetings. The minutes shall be prepared and distributed to all attendees within three (3) working days after the meeting. The minutes shall include, but not be limited to, list of attendees with phone numbers and e-mail, synopsis of discussion items, any pertinent information, action items, and follow-up to the action items.
16. Obtain building permits and special permits for the improvements. The Consultant shall verify that the applicable fees and assessments have been paid, and shall assist in obtaining approvals from authorities having jurisdiction over the permits.
17. Maintain continuous 24-hour telephone accessibility during construction activity for emergency use.
18. Maintain the record copies of the following:
  - a. Plans, specifications, and contract documents with all changes and modifications.

- b. Permits.
  - c. SWPPP and WQMP
  - d. Addenda(s), change order(s), shop drawings, product data, submittals, and samples.
  - e. Material testing and certification reports in accordance with the City's Quality Assurance Program (found on City's website)
  - f. Progress payments, inventories, and applicable codes.
  - g. Contractor's reports, correspondence, certified payrolls, and accident reports.
  - h. Survey and layout data and certifications, photographs of as-built locations and depths.
  - i. List of addresses, telephone and license numbers of General Contractor, all sub-contractors, material suppliers, and utility agencies.
19. Determine whether the work of the Contractor is being performed in accordance with the requirements of the contract documents, and endeavor to guard the City against defects and deficiencies in such work. The Consultant shall make recommendations to the City's Program Manager regarding special inspection or testing of work not in accordance with the provisions of the contract documents whether or not such work is then fabricated, installed or completed. The Consultant shall also inform the City of work that does not conform to the requirements of the contract documents. The Consultant shall review the Contractor's recommendations for corrective action on observed non-conforming work.
20. Consult with the Design Consultant and City Program Manager if any contractor requests interpretations of the meaning and intent of the PS&E, and shall assist in the resolution of questions which may arise.
21. Identify and report potential contractor claims and recommend resolution.
22. Prepare the weekly statement of working days and send to the Contractor on a weekly basis.
23. Conduct interviews with the Contractor's and subcontractor's employees to ensure labor compliance.
24. Compare Certified Payrolls with Inspection Reports, employee interview forms, and the Prevailing Wage Rates, and verify proper payment in compliance with the project Specifications.
25. The Consultant does not have authority to make changes or deviations from the Plans and Specifications, except as authorized by the City Program Manager with concurrence from the Design Consultant.
26. Incorporate approved changes as they occur.



27. Review, comment and recommend processing of invoices for progress and final payments.
28. Endeavor to achieve satisfactory performance from each of the contractors and recommend courses of action to the City Program Manager when requirements of a contract are not being fulfilled and the non-performing party will not take satisfactory corrective action from the CMC.
29. Provide regular monitoring of the approved estimates of Total Construction Cost, showing actual costs for activities in progress, and estimates for uncompleted tasks. The Consultant shall identify variances between actual and budgeted or estimated costs, and inform the City Program Manager whenever Project costs exceed budgets or estimates.
30. Maintain cost accounting records on authorized work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records.
31. Ensure that safety programs are developed by the Contractor as required by their contract documents, and coordinate the safety programs for the project.
32. The Consultant shall not be responsible for the construction means, methods, techniques, sequences and procedures employed by the Contractor in performance of their contract with the City. The Consultant shall also not be responsible for the failure of the Contractor to carry out their work in accordance with the contract documents. The Consultant shall be responsible, however, for any reports, advice or information provided to the Design Consultant regarding the Project and the work of the Contractor, including any information regarding the compliance of their work with the contract documents.
33. The Consultant shall provide documentation (e.g. memorandum, letter, email, etc.) to the Contractor, City Program Manager, etc., regarding all important issues, decisions, and discussions within three (3) working days or immediately if the situation warrants.
34. The Consultant shall be required to document and submit weekly written progress reports to the PMC and City Program Manager on multiple construction phases of the project, which shall include information on the Contractor and the Contractor's work, as well as the entire Project.
35. Verify the Contractor's check-out of utilities, operational systems and equipment for readiness, and assist in their initial start-up and testing.
36. Determine when the Contractor's work or a designated portion thereof is complete. The Consultant shall prepare a list of incomplete or unsatisfactory items (punch list) and a schedule for their completion. The Consultant shall coordinate the correction and completion of the Work.
37. Evaluate the completion of the work of the Contractor and make recommendations to the City Program Manager when work is ready for final inspection. The Consultant shall assist the City Program Manager in conducting final inspections and shall secure and transmit to the City Program Manager required guarantees, affidavits, releases, and waivers. The Consultant shall also deliver keys, manuals, and record drawings to the City.
38. Perform any necessary management services during the warranty period of the construction

contract.

39. Address any business owner's and property owner's concerns and inquiries.
40. Coordinate close-out of the project, obtain necessary operation manuals, warranties, guarantees, and other applicable necessary information. Provide all documentation in a well-organized (binders, folders, CDs, etc.) manner in both electronic and hard copies.
41. Obtain all releases and warranty bonds from the Contractor and sub-contractors. Provide all documentation in a well organized (binders, folders, CDs, etc.) manner in electronic and hard copies.
42. Deliver a final completed project to the City which is in compliance with the PS&E package, and all applicable codes, standards and requirements.
43. Coordinate all red-line comments prepared by the Contractor and project inspector through the Design Consultant to place as-built information on the Mylars. The as-built drawings must be obtained from the contractor prior to the release of the final retention payment.
44. Prepare status report for project close-out, prepare Staff Report for project acceptance and assist with filing of Notice of Completion.
45. Prepare and submit GASB 34 documentation in the City's format along with the as-built drawings
46. Present the City with a complete project close-out file.
47. Perform such other project related duties as may be required by the City.
48. Perform warranty walk within one (1) year of the Notice of Completion.
49. The extent of the duties, responsibilities, and limitations of authority of Consultant as a representative of the City during the construction shall not be modified or extended without the written consent of the City Program Manager.

### **E.2.3. Construction Inspection Consultant (CIC) Services**

In general, the Consultant Construction Inspector shall have the necessary experience and know-how of construction equipment, materials, methods, and workmanship for the specific work to be performed on the projects. The Consultant Inspector shall be able to understand and interpret Plans and Specifications and shall be familiar with the Greenbook (Standard Specifications for Public Works Construction), Caltrans Standard Specifications, City Standards, and OSHA Construction Safety Orders. The Consultant Inspector shall be able to interact professionally with contractors, engineers, property owners, business owners, and the public at large; coordinate with other City personnel; promote quality customer service; and respond promptly and courteously to requests. The Consultant Inspector shall be able to follow verbal and written instructions, communicate clearly and concisely, both orally and in writing.

Typical Consultant Inspection services shall include, but not be limited to:

1. Review the Plans and Specifications thoroughly prior to the pre-construction meeting.
2. Establish effective communications with the Contractor, other agencies, utilities, and business and property owners.
3. Ensure compliance with the Plans, Specifications, and other requirements, such as, but not limited to, the Contract, Traffic Control, Cal/OSHA Standards, CCO, Permits, Standard Plans, checking line, grade, size, elevation, and location of improvements.
4. Monitor extra work.
5. Perform project oversight for the monitoring of traffic control, damage to infrastructure, and replacement of infrastructure to City Standards.
6. Attend the weekly construction meetings.
7. Keep daily dairies (log), fill out Incident (accident) Reports, and take pictures of the project. A daily Inspection Report identifying work done by the Contractor shall be submitted to the PMC, CMC and City Program Manager by the next business day. The Consultant shall also keep a daily log containing a record of weather, the Contractor, work on the site, number of workers, craft or trades, equipment, subcontractors, work accomplished, problems encountered, and other similar relevant data as the PMC, CMC and City Program Manager may require. The Consultant shall make the log available to the City.
8. Document all Contractor delays, reasons for delay, length of time for delay, and Phases of work.
9. Monitor and provide supporting documentation on the personnel and equipment that is involved with any extra work performed by the Contractor.
10. Coordinate and schedule with geotechnical, survey and special inspection firms or City Building and Safety inspectors based on project construction progress and contractors' requests.
11. During the course of inspection and monitoring of the work, if the Consultant Inspector observes an unsafe situation, he shall notify the Contractor of the violation and provide written notification of such infraction to the Contractor. If the Contractor refuses to comply, the Consultant Inspector shall notify the City and Cal OSHA.
12. Measure and tabulate contract quantities.
13. Review the Contractor's invoices and independently verify completed work and all quantities.
14. Prepare a list of items for correction (punch list) and prepare redlined as-built plans.
15. The Consultant Inspector does not have the authority to allow deviations from the Contract Plans and Specifications.
16. Possess a digital camera, and shall provide digital images of the project to the City of Moreno Valley in "jpg" format.

17. Possess a lap top with internet to access emails and electronic files in the field.
18. Possess a vehicle and a mobile phone for immediate contact by the City, show proof of a valid California's driver's license, and insurance.
19. Normal working hours are from 7:00 a.m. to 3:30 p.m. with a ½ hour lunch break; however, the Contractor may be allowed to start earlier to minimize disruption to business and intersection work may be performed at night with written authorization from the City.
20. Perform other related duties as required.

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## **SECTION F: Quality Control and Assurance**

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Quality Control and Assurance (QC/QA) will be consistently and thoroughly applied throughout project's duration. Assigned QC/QA staff will be technically qualified to conduct the appropriate level of oversight, and demonstrate a concerted and sustained commitment to provide a high quality product. Concise written records will be maintained by the Consultant on all activities. Firms considering proposal submittals are requested to have an in-house technical level of expertise to professionally address all aspects of the project.

Project Design meetings will be held twice a month. The Consultant will be responsible for preparing meeting agendas, minutes, and presentation materials. A Critical Path Method (CPM) network, based on activities to support all project milestones and subtasks will be prepared. The information will be in the form of a bar chart and show a deliverables schedule and other relevant data needed for the control of work, for City review of the work status and accomplishments occurring each month. Monthly updates will be furnished to the City's Project Manager.

The main objective of the Quality Control process for design projects is to provide a mechanism by which all construction plans can be subject to a systematic and consistent review. This process' outcome is the production of design plans and construction documents that accurately reflect the City's scope, schedule, and budget expectations for the project.

A secondary goal of the Quality Control process is to provide for a thorough documentation of the project's design process. A properly documented project file is a by-product of the quality control process. This will enable the City to substantiate its position from properly documented project files if any legal, political, or procedural issues arise regarding the project.

The Quality Control process includes comprehensive project planning, providing clear decisions and directions, constant supervision, immediate review of completed activities for accuracy and completeness, and documenting all decisions, assumptions and recommendations. Quality Control does not solely consist of a review after a product is completed. It is an approach and a realization that a product's ultimate quality is based on the quality of its production process.

As part of the initial project development, we will submit to the City for review and approval, a Project Specific Quality Control Plan, which will detail the proposed methods or processes of providing quality control for all work products. This plan will be kept current with the work requirements. The plan will include, but is not limited to, the following areas:

- Organization.
- Quality Control Reviews.
- Proposed method of documentation of comments, coordination responses and quality assurance records.

Submittals will be checked prior to presentation to the City for review. The review will include the following activities:

- Compliance with project requirements.
- Technical accuracy and adequacy.
- Compatibility with other associated project documents.
- Compliance with previous review comments.

**In summary, our QC/QA is a systematic and documented review of each submittal phase/level, which will achieve a complete biddability/constructability/claims avoidance review and necessary revisions incorporated in the bid package at the 95% level completion.**

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**SECTION G: Additional Relevant Information**

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**TRANSTECH'S UNIQUE EXPERTISE AND SUCCESS IN FUNDING AND GRANTS**

One of our unique expertise is in the area of public funds administration as demonstrated in our successfully track record in working with cities and local government agencies to secure funding for various local projects and programs. Since 2005, Transtech has secured approximately \$100,000,000 in public funding for its clients.

Our practice and approach in this area involves maintaining an extensive knowledge and understanding of current regional, state, and federal funding programs and procedures, and monitoring the development of future program or funding opportunities.

We use this knowledge base to work with our clients to improve their ability to secure and administer project financing, and to implement the resulting projects in a timely and cost-effective manner. The approach differs significantly from a more traditional approach where consultant assistance is used merely to prepare competitive grant applications in hope of securing funding for a specific project. We feel that an agency's ability to secure funding for a project depends on several factors including the project's level of completeness (having a well defined and defensible budget, scope, and schedule), the level of consistency between the proposed project and local policies and a funding program's guidelines and requirements, the quality of the information contained in a grant application, and an agency's ability to implement the project in a timely manner. This approach, as a result, focuses on improving the ability of our clients to successfully compete for funding through a competitive process rather than simply providing assistance to complete the required funding requests.



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## APPENDIX

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As required by the City's RFP, Section V. CONSULTANT'S PROPOSAL AND COMPENSATION, Resumes, Billing Rates, Resource Matrix, and Other Required Forms (Required Statements per The RFP) are attached in the appendix section of the proposal.

**ROBERT QUINTERO**  
**Contract Principal/Manager**

**EDUCATION**

Master of Business  
 Administration Degree,  
 University of Redlands.

Bachelor of Science Degree in  
 Urban and Regional Planning,  
 California State Polytechnic  
 University (Cal Poly), Pomona.

Edison International Executive  
 Leadership Program

**REGISTRATION**

California Licensed General  
 Contractor, B

**SUMMARY**

Mr. Quintero has approximately 20 years of experience in urban planning, management of municipal public works projects and operations, CIP (Capital Improvement Program), city administration, public and governmental affairs. He served as Principal Project Manager for the design, construction and management of a variety of Public Works and Infrastructure projects.

Prior to joining Transtech, Mr. Quintero worked for the City of Commerce and Southern California Edison (SCE), one of the largest energy utility firms in the world.

His experience at the City Commerce included working in various positions, including as Planner, Assistant to the City Administrator, Assistant Director of Public Services/Public Works, and finally as the City's Acting Director of Public Services/Public Works, and managed a department budget and infrastructure worth approximately \$500 million.

At SCE, Mr. Quintero served as the company's Regional Manager for the Port of Long Beach and the cities of Avalon, Signal Hill, and Long Beach the fifth largest city in California and home to one of the largest commercial ports in the world.

As Vice President at Transtech, Mr. Quintero is responsible for corporate operations, business development, client relations, public and governmental affairs, project development and management oversight. With his ardent analytical and strategic management skills, Mr. Quintero provides strong leadership and exemplary public relations etiquette. Mr. Quintero develops and collaborates with primary contacts to protect and to enhance Transtech's position in specific proceedings; he ensures coordination with corporate policy and objectives on a broad range; he protects and transacts all phases of the company and customer business, and governmental affairs activities at the corporate level; and he facilitates and maintains close, long-term working relationships with governmental agencies.

**PRIOR EXPERIENCE****City Of Commerce**

Mr. Quintero started his professional career with the City of Commerce. While with the City, Mr. Quintero acquired an extensive management portfolio of economically, environmentally and technologically sound projects under the titles of Assistant Planner, Associate Planner, Assistant

Director of Public Services/ Public Works, Assistant to the City Administrator and finally as the City's Acting Director of Public Services/ Public Works. Robert was also responsible for representing the City of Commerce at the State Capitol in Sacramento as an advocate on legislative matters concerning land use, transportation, gaming and public works, are just a few of the myriad ways in which Mr. Quintero's leadership benefited the City of Commerce. In addition, Mr. Quintero was the Liaison and Political Ambassador to the City of Commerce/Aguascalientes Mexico Sister City Association.

#### **Southern California Edison (SCE)**

After several years with the City of Commerce, in 2002, Mr. Quintero joined Southern California Edison (SCE), as Region Manager of Public Affairs. At SCE, Mr. Quintero served as the company's representative to the Port of Long Beach and the cities of Avalon, Signal Hill and Long Beach, the fifth largest city in California and home to one of the largest commercial ports in the world. He managed the development of the company's position on federal, out-of-state and local legislative matters. He represented SCE before legislators, and industry organizations with regard to legislative and public affairs policy. He assists with the advocacy of the Company's position to provide advance notice of potentially significant legislative actions that may impact the company and took the necessary actions to protect the company's interests. He also organizes and coordinated with internal staff and resources, as well as took the lead in designing and implementing strategies to resolve issues affecting the company and its customers. As a SCE Region Manager, Mr. Quintero set standards of excellence with which the SCE name is proudly synonymous through his active support of and participation in programs that improve the lives of citizens in the community that SCE services. At SCE, Mr. Quintero successfully completed Leadership @ EIX Program. The Leadership @ EIX Program features a structural career development process for high performing employees who exhibit the corporate leadership competencies and may, with development, advance to a manager and senior leadership position.

#### **Associations and Community Service**

Founding Vice-President and currently serves as Senior Vice President to Embracing Latina Leadership Alliances (ELLAS) and is Vice President of the California Corporate Hispanic Council Leadership Institute (CCHCLI). His memberships include the American Planning Association (APA), the American Public Works Association (APWA) and the American Water Works Association (AWWA).

**MICHAEL ACKERMAN, PE**  
**Project Manager, Construction Manager, RE**

**EDUCATION**

- Bachelor of Science in Engineering, the University of Iowa

**REGISTRATION**

- Registered Civil Engineer

**CERTIFICATIONS**

- Resident Engineer Academy, Caltrans
- Water Pollution Control Compliance on Construction Sites for Resident Engineers, Caltrans
- Asphalt Pavement Fundamentals: Design, Construction, and Rehabilitation
- Construction Program Management Workshop, FHWA
- Field Office Procedures Course, Caltrans
- California Work Zone Inspection – High Speed, Caltrans
- Asphalt Concrete Inspection and Rehabilitation Strategies, Caltrans

**HIGHLIGHTS**

- Experience includes working for Caltrans.

**SUMMARY**

Mr. Ackerman has approximately 15 years of experience and participated on numerous multi-disciplinary teams dealing with the design and construction of civil and transportation engineering, urban and rural development, and public works projects. His prior experience includes working for the City of San Bernardino and Caltrans, District 8 in San Bernardino.

Recently, Mr. Ackerman has served as Deputy RE and Deputy Construction Manager for the State Route 71 and Mission Boulevard Grade Separation Project. The State Route 71/Mission Boulevard Interchange project involves removing the existing at-grade Mission Boulevard/State Route 71 intersection and constructing an interchange by grade separating Mission Boulevard over State Route 71. Scope includes full construction and program management services as well as public relations, maintaining a construction website, and coordination with all parties. Cost \$40m.

**PROFESSIONAL EXPERIENCE**

**City of San Bernardino:** At the City of San Bernardino, Mr. Ackerman held the position of Associate Engineer under the City Engineer of the Division of Public Works in the Department of Development Services. There he was involved in a number of projects, including Development Review and Plan Check, design and review of Street Improvement Plans, Rough and Precise Grading Plans, Sewer Plans, Storm Drain Plans, Street Lighting Plans, Storm Water Pollution Prevention Plans, Water Quality Management Plans, Geotechnical Reports, and Hydrology/Hydraulic Studies, land development, industrial, commercial, residential, and transportation development projects including Tract and Parcel Maps. He also directed and performed plan check of improvement plans submitted by developers to the City. Also, he represented the City of San Bernardino at the South Tehachapi Management Team meetings, coordinated with San Bernardino County Flood Control and FEMA for the certification of City levees and updating of the Flood Insurance Rate Maps (FIRM), and oversaw permitting and tracking of Land Development Projects through the Division of Public Works/Engineering. In addition to this, Mr. Ackerman has worked intimately with Planning and Building and Safety Divisions on Land Development Projects.

**Caltrans District 8:** Mr. Ackerman was a civil transportation engineer for Caltrans District 8 where he was involved in the design and construction of various projects.

- **Design Division:** Designed plans, specifications, and estimates for the

rehabilitation of Route 10 freeway from the Riverside/San Bernardino County line to Beaumont.

- **Traffic Operations Division:** Performed studies and analyses to interpret and mitigate above average accident volume areas on highways and freeways. Also, he performed stop sign and traffic signal warrant studies.
- **Construction Division:** In the Construction Division, Mr. Ackerman was Resident Engineer for various projects including Watson Wash Bridge Replacement Right (Rte 40), Replacement of Drains and Earthwork (Rte 40), and Fenner Overhead Bridge Replacement (Replacement of two bridges over BNSF Railroad, Rte 40).

Mr. Ackerman served as Project Engineer and/or Construction Manager/Resident Engineer on a number of roadway projects. Recent similar projects include:

- City of San Bernardino, Via Duct Boulevard/2<sup>nd</sup> Street Realignment Project: Prepared PS&E and served as Construction Manager/Resident Engineer. Cost \$1.5M.
- City of Alhambra, Polar Boulevard Rehabilitation Project: Federally funded project as part of Stimulus Program. Served as Construction Manager/Resident Engineer. Cost \$1.2M.
- City of Baldwin Park, Francisquito Avenue Overlay Project; Ramona Boulevard Overlay Project: Federally funded projects as part of Stimulus Program. Prepared PS&E. Cost \$3.5M.
- City of Commerce, Garfield Avenue Telegraph Road to Malt Avenue Street Improvements; Eastern Avenue Pavement Overlay Stevens Thru City Boundary; Garfield Avenue and Slauson Avenue Intersection Improvements; Washington/Ayers Intersection: Federally funded projects as part of Stimulus Program. Prepared PS&E. Cost \$3M.
- CSUSB (Cal State SB University) San Bernardino Main Access Road: Prepared PS&E and provided construction administration for the project. Project involved design of a new roadway for a length of approximately 1.5 miles, and include street, medians, landscape, lighting, traffic signals, water, sewer, storm drain and various other utilities.
- City of Alhambra, Alhambra Road Rehabilitation and SRTS Project: Served as Construction Manager/Resident Engineer. Cost \$1.2M.

**KURT PEGG, PE**  
**Structural Representative/Inspector**

**EDUCATION**

- B.S. Civil Engineering,  
University of Calgary, Alberta,  
Canada

**REGISTRATION**

- Registered Civil Engineer

**SUMMARY**

Mr. Pegg has over 20 years of construction engineering experience related to highways, roadways and interchanges. He has served as a Senior Project Manager, Senior Estimator, Resident Engineer and Structural Representative. Mr. Pegg has been responsible for some of the largest freeway projects in Southern California, supervision of technical and field staff, change order negotiation and preparation, contract administration, critical path schedule development and review, storm water pollution prevention plan preparation and compliance, claims preparation and mitigation, cost estimating, reviewing and designing structure-related shop drawings, and assuring compliance with plans and specifications.

**PROFESSIONAL EXPERIENCE**

- **State Route 71 and Mission Boulevard Grade Separation Project:** Served as the Resident Engineer for this regional project. The State Route 71/Mission Boulevard Interchange project involves removing the existing at-grade Mission Boulevard/State Route 71 intersection and constructing an interchange by grade separating Mission Boulevard over State Route 71. Scope includes full construction and program management services as well as public relations, maintaining a construction website, and coordination with all parties. Cost \$40m.
- **215/60 Riverside Interchange, Riverside, CA (\$317 Million):** Senior Project Manager for the construction of 4 miles of high occupancy vehicle (HOV) lanes and widening of freeways on I-215, SR60 and SR91; Approximately 80 new sound walls and retaining walls throughout the project; major structural improvements at 8 local interchanges; 2 sweeping 'flyover' connector ramps between the I-215/SR60 and the SR91; Improvements to local drainage systems; new truck bypass connector leading from the eastbound SR 60 to the southbound I-215; new bridges at Linden, Iowa and Blaine Avenues providing better access to the University of Riverside. Funding for the project came from a combination of federal, state and local sources.
- **5/805 Interchange and Freeway Widening, San Diego, CA (\$176 Million):** Project Manager for the construction of a separate freeway by-pass system from the junction of Interstate 5 and 805 to the Del Mar Heights Road Interchange. The Project also included the construction of a diamond type Interchange at Carmel Mountain Road, and adding of Auxiliary lanes to the existing main lanes. The projects goals were to reduce traffic through the corridor, improve safety through the addition of the by-pass system, and improve access to SR-56 and local roadway systems. Project innovations included building bridge foundations to better withstand earthquakes, eliminate merging and weaving traffic by separating SR-56 and local interchange

traffic from I-5 main lanes. Caltrans partnered with Contractors to ensure the project enabled cost effective construction methods and efficient staging in the interest of time saving to contractors and minimizing travel impact to motorists.

- **SR91/SR57 Interchange Widening, Anaheim, CA (\$75 Million):** Project Manager for the construction of the widening of SR91 and SR57 freeways to construct a HOV connector almost a mile in length. The projects goal was to eliminate the weaving of traffic through the interchange caused by the transition from one freeway to the other of the HOV lanes. In order to accomplish this both freeways had to be widened and this required new bridges to be constructed at State College Boulevard, Placentia Avenue Overcrossing, Sunkist Avenue Overcrossing, Mira Loma Overcrossing, and La Jolla Overcrossing. New retaining walls and soundwalls were necessary to support the widening of the freeways along with new drainage improvements. The Contractor was awarded the gold medal in partnering from Caltrans for working through difficult construction issues and to expedite project bringing it in on time and under budget.
- **SR 55 Widening, Orange, CA (\$40 Million):** Project Manager for the construction of approximately two and a half miles of freeway widening on SR 55. This project required the construction of two new bridges, retaining walls and soundwalls. Improvements were made to the interchange at Lincoln Ave and SR 55 to support the widening and the end result was an increase in traffic flow and a decrease in congestion on the SR 55 freeway.
- **Ave "H" Overcrossing, Lancaster, CA (\$10 Million):** Project Manager for the construction of Avenue "H" Overcrossing. This project was part of the ever increasing development of the outer LA area. The project required street and drainage improvements to support the new bridge over SR 14 freeway.
- **I-10 Freeway at Palm Drive/Gene Autry Trail Interchange Project, Palm Springs, CA (\$16 Million):** Resident Engineer / Structure Representative for the construction of a new cast in place post tensioned box girder bridge over the I-10 Freeway. A precast "I" girder widening over the BNSF railway tracks and the roadway widening of Palm Dr.

**MICHAEL J. SCHNEPF**  
Principal Public Works Inspector

**EDUCATION**

- SDSU, CA 1977
- SDSU Extension: Construction Technology

**Awards:**

- Best Project, American Concrete Institute for The Falls at Rancho Bernardo

**SUMMARY**

Mr. Schnepf has approximately 30 years of experience in general engineering/public works and building construction projects. In these capacities, he has been responsible for more than \$500 million worth of private and public works construction projects in Type A and Type B construction. He has inspected numerous federally funded projects in compliance with Local Assistance Procedures Manual, as well as projects under Caltrans' jurisdiction.

**PROFESSIONAL EXPERIENCE**

- **General Public Works Inspection:** Worked at various Cities under Transtech contracts as Senior Public Works Inspector. Projects inspected include, all aspects of new infrastructure construction and reconstruction, parks, ball fields, landscape aquatic facilities, fire stations, piers, skate parks, airports, coastal and recreational facilities, playgrounds, water and sewerage systems (including distribution mains (to 120 inch), mainlines, service laterals, lift & pump stations, domestic and reclaimed water systems, fire lines, backflows, pressure reducing stations, valve cut ins, line stops, line freezing, gravity and force mains and grease interceptors.
  - **Valley Boulevard Rehabilitation Project (Federally Funded), Alhambra:** Served as the Principal Inspector and Construction Manager for this federally funded, approx. \$2,000,000 project, which involved reconstruction, pavement overlay, medians, landscape, curb and gutter, sidewalk, traffic signals and other misc. improvements. Project was inspected and managed in compliance with Caltrans Local Assistance Procedures Manual. Project also involved coordination with Caltrans for work at the 710 Freeway ramps under Caltrans Encroachment Permit. Project was completed in various phases, including night time construction for several phases, to minimize inconvenience to public on this heavily travelled major Arterial.
  - **New Avenue, from North to South City Limit Rehabilitation Project (Federally Funded), Alhambra:** Served as the Principal Inspector and Construction Manager for this federally funded, approx. \$1,300,000 project, which involved reconstruction, pavement overlay, medians, landscape, curb and gutter, sidewalk, traffic signals and other misc. improvements. Project was inspected and managed in compliance with Caltrans Local Assistance Procedures Manual. Project also involved coordination with Caltrans for work at the I-10 Freeway ramps under Caltrans Encroachment Permit. Project was completed in 7 phases, including night time construction for several phases, to minimize inconvenience to public on this heavily travelled major Arterial.
  - **Avenida Pico Widening, San Clemente:** Widening of Avenida Pico from I-5 to Avenida Del Cerro including improvements to San Clemente High School. Widened arterial roadway within very limit time frame on a 24 hour a day schedule. High School kept open as were all businesses. Was



accepted by State Architect to perform all onsite inspection of improvements on school property.

- **Smart Corridor, Washington Avenue Culver City:** Coordinated and inspected the integrated Smart Corridor consisting of 51 fully reconstructed and signalized intersections with interconnect and monitoring in Culver City. Interfaced with Caltrans along the I-405 corridor.
- **Skypark Signalization and Widening, Torrance:** Provided construction management and inspection for widening and signalization of Skypark Drive and Madison Street. Interfaced with Edison for relocation of high voltage primary lines and street lighting, FAA personnel at Zamperini Field Airport and Administrative Staff at Torrance Memorial Medical Center. Twenty four hour access to all businesses and facilities were maintained.
- **City of San Clemente, multiple locations:** Provided inspection, design review and plan check for new and retrofits at over 40 intersections during a span of eleven years. Interconnect and camera detection systems. Interfaced with Caltrans along the I-5 corridor.
- **Grading:** Provided grading inspection from initial clearing & grubbing through rough grade and precise grading on projects ranging from 4,000 sq. ft. lots to 3200 acre master planned subdivisions. In many cases provided or assisted in engineering plan check processes. Provided all aspects of inspection for caissons, tie-backs, geotextiles, sub-drains, de-watering wells, wicking systems, benching, buttressing, minor & mass grading operations. Worked closely with Paleontologists and Archaeologists during grading operations. Sites have included the most fossil-rich find in Orange County. Retaining walls have included gravity/friction segmental walls, cmu, cast-in-place concrete and shotcrete applications.
- **Traffic Signals:** Project construction management and inspection of traffic signals and interconnect systems in conjunction with widening and total reconstruction of one of the most heavily utilized intersections in Los Angeles County, 190<sup>th</sup> & Crenshaw in the City of Torrance. Inspection, design review and plan check for new and retrofits at over 140 intersections during a span of eleven years. Interfaced with Caltrans along the I-5, I-10 and I-405 corridors.
- **Reservoir:** Reconstruction of Reservoir 5A and 8, San Clemente: Assisted in drafting specifications for the restoration, reconstruction of two reservoirs in San Clemente. Provided construction inspection services for all stages of construction and monitored deputy coating inspection team.
- **Storm drain systems:** Channel drains, local depressions, catch basins, main lines, head walls, box culverts, lined channels, desilters, detention basins, clarifiers, energy dissipaters, environmental containment, hydrocarbon filtration, in field testing.
- **Other Utilities:** All overhead and underground electrical, water, sewers, communications, gas, and fuel lines including storage facilities.

**DAVID RAGLAND, PE, LS  
QC/QA**

**EDUCATION**

- Humboldt State University,  
CA, Bachelor of Science

**REGISTRATION**

- Registered Civil Engineer
- Licensed Land Surveyor

**SUMMARY**

Mr. Ragland is a civil engineer and land surveyor with approximately 30 years of diverse experience in a wide variety of projects in civil engineering. He has managed numerous multi-disciplinary teams dealing with the planning, engineering, entitlement, environmental permitting, development and construction of urban and rural development, and public works projects. His experience also includes special emphasis on complex grading and hillside developments (has worked on the civil engineering and development of more than 40,000 acres of hillside properties), preparation of due diligence and project feasibility analysis, through conceptual planning and design to entitlement and construction. Estimated valuation of projects that Mr. Ragland has been involved is approximately \$1,000,000,000.

**PROFESSIONAL EXPERIENCE**

**General Civil Engineering Projects:**

- **CSUSB (Cal State SB University) San Bernardino Main Access Road:** Prepared PS&E and provided construction administration for the project. Project involved design of a new roadway for a length of approximately 1.5 miles, and include street, medians, landscape, lighting, traffic signals, water, sewer, storm drain and various other utilities.
- **Campus Parkway Roadway:** Design of a new roadway for a length of approximately 2 miles, and included street, medians, landscape, lighting, traffic signals, water, sewer, storm drain and various other utilities.
- **Cannon Roadway and Sewer:** Design of approximately 2 miles of roadway and 36 inch sewer pipe and pump station. This project required careful consideration to pipe buckling due to the extreme soils conditions of the Agua Hedionda Lagoon. Special bedding techniques were used along with special coupling of the pipes to allow for potential deflection as the bridge abutment and road fill settled.
- **Lopez Canyon Roadway and Sewer:** Design and construction of over 5 miles of roadway sewer ranging up to 36 inches in diameter.
- **Sorrento Valley Boulevard:** Design and construction of 4 miles of roadway.
- **University Development:** Development of a 135 acre site in association with the City of San Bernardino, Watson Development and Cal-State SB for the development of 200 residential, mixed use, live-work, retail, office and educational and training facilities and offices for Cal State SB University.
- **San Elijo Hills Development:** Development of 2000 acre master

planned community including golf course and hotel. Project included preparation of Specific Plan, TM, Final Map, construction plans for all necessary infrastructure, environmental permits and Communities Facilities District.

- **Parkway Business Centre:** Design and construction of the 460 Acre industrial park including South Poway Parkway for ADI Properties, Inc. Also served as Assessment Engineer for Communities Facilities District.

#### Drainage And Sewer Projects:

- **City of Commerce:** Master Sewer Study Telegraph Corridor revitalization project. Documentation of existing system. Design capacity analysis based upon land use designations. Produced master plan study report for the project along with cost estimates.
- **University Park Storm Drain Design:** Design of storm drain system with pipes ranging in size from 18 to 60 inches and trapezoidal channel design for 4500 cfs.
- **University of Riverside:** West Campus Infrastructure, including sewer, storm drain, water, design.
- **San Elijo Ranch Drainage, Sewer and Water Master Plan, San Marcos:** 2,000 acre / 3400 unit master planned community. The project included literally miles of storm drain, sewer and water lines, sedimentation areas, pump stations, booster stations, water reservoirs and force mains. Cannon Road Trunk Sewer and Pump Station - Design of 8-12 inch gravity sewer, 6 and 8 inch force main, pump station and wet well. City of Carlsbad
- **Penasquitos Canyon Trunk Sewer:** PS&E for two miles 36-inch gravity sewer including design study reports. City of San Diego
- **Otay River hydrology study and dam breach analysis:** 22,000 acre Otay Ranch project in Chula Vista. Flows up to 33,000 cfs were studied for the Otay River.

#### Water Projects:

- **City of San Diego:** Green Valley Water line design and construction. 5000 feet, 30" Reinforced concrete water line and pressure reducing station and details for connection to a 60-inch San Diego County Water Authority Pipeline. Structural arch and encasement designs for road crossings over various SDCWA pipelines up to 108 inches in diameter. Design and construction of Mercy Road pressure booster.
- **City of San Bernardino:** Design and construction management of 3500 feet of 20 to 36 inch ductile iron water transmission main in the City of San Bernardino for the development of University Park. Design of over 10,000 feet of 8 thru 12 inch DIP water main for water distribution. Structural arch design for road crossing over the Dept of Water Resources 109-inch Santa Ana pipeline.
- **City of Riverside:** Water distribution analysis and computer modeling for University of California Riverside West Campus expansion infrastructure project.

**ALI CAYIR, PE**  
**QC/QA**

**EDUCATION**

- BS Engineering
- MBA, Project/Construction Management, UC Irvine

**REGISTRATION**

- Registered Civil Engineer
- Licensed Gen Contractor A
- Licensed Gen Contractor B

**HIGHLIGHTS**

- Served as Contract City/Traffic Engineer for Cities.
- Federally Funded Project Experience: Extensive experience in the state and federal programs and procedures, and in the management of federally and/or state funded projects in compliance with the Local Assistance Procedures Manual.
- Diversified experience in both design and construction.

**SUMMARY**

Mr. Cayir has approximately 30 years of experience in engineering and construction. He served as contract City Engineer/City Traffic Engineer for a number of municipalities in Southern California. He has a broad knowledge of municipal government operations, including preparation and presentation of staff reports/resolutions to city councils, committees and interaction with public, various city departments, city council and other governmental agencies. He has participated on numerous multi-disciplinary teams dealing with the planning and development of civil and traffic engineering, urban and rural development, and public works projects.

**PROFESSIONAL EXPERIENCE**

***Civil Engineering Experience***

- Project Principal for I-710 Freeway Interim Improvements and Fremont Widening and Reconstruction: Transtech provided Turn-key Services, including Program Management, Construction Management, Design, Surveying, Right-of-Way Engineering, and Environmental. The project included major roadway improvements, removal/demolition of various buildings for additional right-of-way and reconstruction of buildings behind new right-of-way, traffic signals, infrastructure, utilities, pavement, drainage, water, sewer, landscape, street lighting, traffic signal, pavement improvements. Project was funded by Federal Funds, and was managed and inspected in compliance with Caltrans Local Assistance Procedures Manual. (Cost \$20m).
- Project Principal for University Park Development/San Bernardino: The project included 2 miles of new roadway, sewer, water, utility and extensive hill side grading for a master planned residential and commercial development on 130 acre site across from the San Bernardino State University. (Cost \$20m).
- Project Principal for \$20 m Carlsbad to San Diego Rail Trail Project Report, which is funded by State and Federal funds and required complete project and environmental report, including Right-of-Way, Relocation, SHPO, NEPA, SEQA, Noise, Parking, Economic, Hazardous Materials technical studies, and processed through Caltrans and FHWA.
- Alameda Corridor Agency East (ACE) Rail Grade Crossing Improvement Project encompassing 6 agencies and 14 locations in Los Angeles County. Work involved roadway realignment and reconstruction, signalization, traffic control, and construction phasing as well as related improvements such as storm drain, water, sewer landscaping, underground utilities, etc. Construction cost \$5,000,000.

***Construction Management Experience***

- Project Principal for City of San Bernardino, Santa Fe Historic Train Depot

- Renovation. Transtech is currently providing construction management services, including inspection, surveying, resident engineer, federal compliance, labor compliance. Construction Cost \$13m
- Project Principal for City of Alhambra, Valley Boulevard Widening. Preparation of funding application, securing \$5 million Federal, State and County funding, and design, and is currently providing construction management services, including inspection, surveying, resident engineer, federal compliance, labor compliance. Construction Cost \$5m
- Project Principal for City of Commerce, Rosewood Community Center. Transtech was retained by the City to take over the management of this multimillion dollar facility which was 2 years behind schedule. Within 5 months, Transtech brought the construction to substantial completion level allowing the City start the move-in process, and 2 months after, the facility was opened to public use. Currently, Transtech is assisting the City in claims analysis and change order resolution. Construction Cost: \$15m.
- Project Principal for City of Alhambra Chapel, First St and Garfield Parking Structures: Transtech served as turn-key project manager, including management of design, construction, building plan check and inspection, federal funds, labor compliance for 3 parking structure projects. Chapel: 4 story, 300 space structure; First Street: 4 story, 276 space structure; Garfield: 5 story, 800 space structure. (Cost \$15m)

#### ***Traffic Engineering Experience***

- Design and management of a variety of traffic and transportation engineering projects, including traffic signals (more than 1000 locations), traffic signal interconnect system, street lighting, traffic control, signing and striping design; signal timing and coordination studies; traffic signal management studies; traffic safety projects (OTS) including traffic control device inventories and speed surveys; traffic impact and parking studies for more than 100 projects; and feasibility studies for traffic control measures, freeway access, bikeways and street improvements. Mr. Cayir has also served as consultant Traffic Engineer for various agencies in Southern California.
- Project Manager/Engineer for the preparation of ramp metering, count station, traffic signal, highway lighting, sign lighting, construction signing, pavement delineation, communication, and other traffic related plans for several state highways and freeway improvement projects involving Caltrans Districts 7, 8 and 12.
- Project Manager for the preparation of traffic signal modifications for various arterials in Los Angeles County including Garvey Avenue, El Segundo Boulevard, Crenshaw Boulevard, Slauson Avenue, Rosecrans Avenue, Arrow Highway and Huntington Drive/Alosta Avenue/Foothill Boulevard.

**SELIM BOUHAMIDI****Office Engineer/Funding Compliance and Inspection Support****EDUCATION**

- MA, Urban Planning, University of California, Los Angeles.
- BA, Anthropology, University of California, Los Angeles

**HIGHLIGHTS**

- Extensive experience in federal funds and grants and working with Caltrans Local Assistance and local agencies.
- Well versed in Caltrans and Local Assistance construction filing and document system.
- As the primary coordinator of Transtech's federal-aid internal procedural tracking system, Mr. Bouhamidi has been and is responsible for the direction and coordination of several federally funded projects having worked with numerous local agencies including the cities of Inglewood, Baldwin Park, Pomona, Lawndale, and Long Beach.
- Also worked with the City of Riverside Urban Planning Department.

**SUMMARY**

Mr. Bouhamidi has approximately 5 years of experience, and provides office support to Project Managers and Resident Engineers. He is well versed in Caltrans and Local Assistance construction filing and document system. He also works closely with various Funding Agencies, including Caltrans Local Assistance, and local agencies to successfully secure federal-aid for various construction projects. Mr. Bouhamidi has also worked with the City of Riverside Urban Planning Department. He was responsible for updating the city's property database recording architectural descriptions, and recent demolitions.

**PROFESSIONAL EXPERIENCE**

- Valley Boulevard Rehabilitation Project (Federally Funded), Alhambra: Served as Office Engineer, provided Federal and Labor Compliance services and served as assistant inspector to support the principal inspector for this federally funded, approx. \$2,000,000 project, which involved reconstruction, pavement overlay, medians, landscape, curb and gutter, sidewalk, traffic signals and other misc. improvements. Project was inspected and managed in compliance with Caltrans Local Assistance Procedures Manual. Project also involved coordination with Caltrans for work at the 710 Freeway ramps under Caltrans Encroachment Permit. Project was completed in various phases, including nigh time construction for several phases, to minimize inconvenience to public on this heavily travelled major Arterial.
- New Avenue, from North to South City Limit Rehabilitation Project (Federally Funded), Alhambra: Served as Office Engineer, provided Federal and Labor Compliance services and served as assistant inspector to support the principal inspector for this federally funded, approx. \$1,300,000 project, which involved reconstruction, pavement overlay, medians, landscape, curb and gutter, sidewalk, traffic signals and other misc. improvements. Project was inspected and managed in compliance with Caltrans Local Assistance Procedures Manual. Project also involved coordination with Caltrans for work at the I-10 Freeway ramps under Caltrans Encroachment Permit. Project was completed in 7 phases, including nigh time construction for several phases, to minimize inconvenience to public on this heavily travelled major Arterial.
- City of Alhambra, Josylin Community Center Renovation Project funded by Federal Energy Efficiency and Conservation Block Grant: Served as office support engineer and provided labor compliance services.

- City of Alhambra, Valley Boulevard Reconstruction, Federally Funded Project: Served as office support engineer and provided labor compliance services.
- City of Pomona, Rte 71/Mission: Provided funding support, assisted in E76 processing of various phases, and assisted in labor compliance.
- Office Engineer Federal- and State-Aid Internal Procedural Tracking System: Development of an internal electronic procedural tracking system to fast-track, coordinate, and organize federally-aided projects. This multi-layered, holistic system is process-oriented and developed over a timeline—a steady departure from the topically based and more general approach of the Caltrans Local Assistance Procedures Manual. The system provides swift results by ensuring that a project stays fully on track and is carried out in a timely and efficient manner, while providing personnel with all key reference points, timelines, and resources to complete and track the various ongoing projects. Responsible for tracking all aspects of a federal- or state-funded project beginning with the initial submittal of the funding packet application and signatures. Every step in the transmittal process is reviewed, tracked, and updated. The tracking system also includes follow-ups on federal application forms, which are subject to change after submittal and must be updated so as not to hold up authorization of funding. Working closely with Caltrans Local Assistance procedures, responsible for managing, tracking, and monitoring various transportation projects from a diverse number of cities.

The following are Billing Rates for project staff:

Key Person	Project Role	Billing Rate
Robert Quintero	Contract Principal/Manager	\$145
Kurt Pegg, PE	PM/CM, Resident Engineer, Structural Representative	\$145
Michael Ackerman, PE	Deputy PM, CM, RE	\$145
David Ragland, PE, PLS Ali Cayir, PE	QC/QA	\$145
Michael Schnepf	Principal Public Works Inspector	\$95
Selim Bouhamidi	Office Engineer/Funding Compliance	\$65

As required in the RFP, we are providing the following billing statement:

The above hourly rate schedule is part of the Consultant's Proposal for use in invoicing for progress payments and for extra work incurred shall also be included. All extra work will require prior approval from the City.



The following is the Resource Matrix showing hrs per task for each project staff:

Resource Matrix		Project Management (PMC) Services				Construction Management Consultant (CMC) Services		Construction Inspection Consultant (CIC) Services		Totals	
Staff	Position	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	
Robert Quintero	Contract Principal/Manager	250		250			0		500		
Michael Ackerman, PE	Project Manager, Construction Manager, RE	1,000		1,500			500		3,000		
Kurt Pegg, PE	Structural Representative and Inspector	100		300			800		1,200		
David Ragland, PE, PLS Ali Cayir, PE	QC/QA	500		100			0		600		
Michael Schnepf	Principal Public Works Inspector	200		250			2,000		2,450		
Selim Bouhamidi	Office Engineer, Funding Compliance and Inspection Support	100		1,000			750		1,850		
<b>Totals</b>		<b>2,150</b>		<b>3,400</b>			<b>4,050</b>		<b>9,600</b>		



**The following are the required Statements to be included in the proposal per the City's RFP:**

1. A statement that this Request for Proposal shall be incorporated in its entirety as a part of the Consultant's Proposal.  
*We agree with the above statement.*
  2. A statement that this Request for Proposal and the Consultant's Proposal will jointly become part of the Agreement for Professional Consultant Services for this project when said Agreement is fully executed by the Consultant and the Mayor or City Manager of Moreno Valley. The City's standard Agreement will be executed without any proposed changes.  
*We agree with the above statement.*
  3. A statement that the Consultant's Services to be provided, and fees therefore, will be in accordance with the City's Request for Proposal except as otherwise specified in the Consultant's Proposal under the heading "ADDITIONS OR EXCEPTIONS TO THE CITY'S REQUEST FOR PROPOSAL."  
*We agree with the above statement, and do not have any "ADDITIONS OR EXCEPTIONS TO THE CITY'S REQUEST FOR PROPOSAL."*
  4. A single and separate section with the heading "ADDITIONS OR EXCEPTIONS TO THE CITY'S REQUEST FOR PROPOSAL" containing a complete and detailed description of all of the exceptions to the provisions and conditions of this Request for Proposal upon which the Consultant's Proposal is contingent and which shall take precedent over this Request for Proposal for Professional Consultant Services.  
*We do not have any "ADDITIONS OR EXCEPTIONS TO THE CITY'S REQUEST FOR PROPOSAL."*
  5. A statement of qualifications applicable to this project including the names, qualifications and proposed duties of the Consultant's Staff to be assigned to this project; a listing of recent similar projects completed including the names, titles, addresses and telephone numbers of the appropriate persons whom the City could contact.  
*The above requested information is provided in "SECTION C: Qualifications and Experience" of our proposal.*
- If one or more of the Consultant's staff should become unavailable, the Consultant may substitute other staff of at least equal competence only after prior written approval by the City.  
*We agree with the above statement.*
6. A statement of sub-consultant's (include relief personnel) qualifications applicable to this project including the names, qualifications and proposed duties of the sub-consultant's staff to be assigned to this project; a listing of recent similar projects completed including the names, titles, addresses, and telephone numbers of the appropriate persons whom the City could contact.  
*The above requested information is provided in "SECTION C: Qualifications and Experience" of our proposal.*

**A statement that the Consultant acknowledges and understands that the Consultant will not be allowed to change the sub-consultant without written permission from the City.**  
*We agree with the above statement.*

7. A statement that all charges for Consultant services is a "Not-to-Exceed Fee" which must include conservatively estimated reimbursable expenses, as submitted with and made a part of said Consultant's Proposal.  
*We agree with the above statement.*
8. A statement that the Consultant will document and provide the results of the work to the satisfaction of the City. This may include preparation of field and final reports, or similar evidence of attainment of the Agreement objectives.  
*We agree with the above statement.*
9. A statement that the Consultant will immediately document and notify the City of any defects or hazardous conditions observed in the vicinity of the project site prior, during, or after the construction work.  
*We agree with the above statement.*
10. A statement that the Consultant's hourly rate schedule is part of the Consultant's Proposal for use in invoicing for progress payments and for extra work incurred that is not part of this Request for Proposal. All extra work will require prior approval from the City.  
*We agree with the above statement.*
11. A statement that the Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.  
*We agree with the above statement.*
12. A statement that all federal laws and regulations shall be adhered to notwithstanding any state or local laws and regulations. In a case of conflict between federal, state or local laws or regulations the strictest shall be adhered to.  
*We agree with the above statement.*
13. A statement that the Consultant shall allow all authorized federal, state, county, and City officials access to place of work, books, documents, papers, fiscal, payroll, materials, and other relevant contract records pertinent to this special project. All relevant records shall be retained for at least three years.  
*We agree with the above statement.*
14. A statement that the Consultant shall comply with the Davis-Bacon Fair Labor Standards Act (40 USC 276-a through a-7), and the implementation regulations issued pursuant thereto (29 CFR Section 1, 5), any amendments thereof and the California Labor Code. Pursuant to the said regulations, entitled "Federal Labor Standards Provisions," Federal Prevailing Wage Decision" and State of California prevailing wage rates, respectively.  
*We agree with the above statement.*
15. A statement that the Consultant shall comply with the Copeland Anti-Kickback Act (18 USC 874) and the Implementation Regulation (29 CFR 3) issued pursuant thereto, and any amendments thereof.  
*We agree with the above statement.*
16. A statement that the Consultant offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC Sec. 15) or under

the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Consultant, without further acknowledgment by the parties.

*We agree with the above statement.*

## EXHIBIT C

### CITY - SERVICES TO BE PROVIDED TO CONSULTANT

1. Furnish the Consultant all in-house data which is pertinent to services to be performed by the Consultant and which is within the custody or control of the City, including, but not limited to, copies of record and off-record maps and other record and off-record property data, right-of-way maps and other right-of-way data, pending or proposed subject property land division and development application data, all newly developed and pertinent design and project specification data, and such other pertinent data which may become available to the City.
2. Provide timely review, processing, and reasonably expeditious approval of all submittals by the Consultant.
3. Provide timely City staff liaison with the Consultant when requested and when reasonably needed.

EXHIBIT "C"

## EXHIBIT D

### TERMS OF PAYMENT

1. The Consultant's compensation shall not exceed \$868,870.00.
2. The Consultant will submit an invoice to the City based on milestones completed and accepted by the City, which documentation evidencing milestones completed to date (refer to milestones identified in Section VIII, Payment to Consultant in Exhibit "A" – City's Request for Proposal). At no time will the City pay for more services than have been satisfactorily completed, and the City Engineer's (or his/her representative's) determination of the amount due for any progress payment shall be final.
3. The Consultant's invoice shall include all subconsultant invoices for the same period as the Consultant's invoice.
4. The City shall pay the Consultant for all invoiced, authorized professional services within thirty (30) days of completing the referenced milestones as determined by the City.

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Revised 10/13/09

EXHIBIT "D"



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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** P07-144 – APPROVE TRACT MAP NO. 35760, A SIX-LOT RESIDENTIAL SUBDIVISION OF TRACT MAP NO. 31129

NORTHWEST CORNER OF CACTUS AVENUE AND LANDON ROAD

**DEVELOPER:** WESTERN PACIFIC HOUSING, INC.  
16755 VON KARMAN, SUITE 200  
IRVINE, CA 92606

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve Tract Map No. 35760.
2. Authorize the City Clerk to sign the map and transmit said map to the County Recorder's Office for recordation.

### ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

### BACKGROUND

On September 30, 2008, the Community Development Department of the City of Moreno Valley approved Tentative Tract Map No. 35760 as a revision to Tract Map No. 31129. The tentative tract map is a proposal to subdivide a 1.83-acre portion of previously approved Tract Map No. 31129 into six residential lots. The tentative tract map will allow for the subdivision of six lots, the elimination of a detention basin (Lot L of

Tract Map No. 31129), and the adjustment to existing lot lines previously approved on Tract Map No. 31129.

### **DISCUSSION**

Tract Map No. 35760 is in conformance with the tentative tract map. The developer has requested that the tract map be approved for recordation. Most public street improvements were completed under Tract Map No. 31129. The remaining trail improvements adjacent to Lot 6 of Tract Map No. 35760 on Cactus Avenue and those along the west map boundary of Tract Map No. 35760 and Tract Map No. 31129 will be completed prior to occupancy of Tract Map No. 35760. The trail improvements include but are not limited to three-rail PVC fence, gates, bollards, decomposed granite, concrete curb, and related grading and drainage.

### **ALTERNATIVES**

1. Approve Tract Map No. 35760 and authorize the City Clerk to sign the map and transmit said map to the County Recorder's Office for recordation. *This alternative would allow the developer to proceed with the recordation of the six-lot subdivision.*
2. Do not approve Tract Map No. 35760 nor authorize the City Clerk to sign the map and transmit said map to the County Recorder's Office for recordation. *This alternative would not allow the developer to proceed with their proposed residential subdivision development.*

### **FISCAL IMPACT**

No fiscal impact is anticipated.

### **CITY COUNCIL GOALS**

#### **PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

### **NOTIFICATION**

Publication of agenda.

### **EXHIBITS**

Exhibit "A" - Vicinity Map



Prepared By  
Clement Jimenez, P.E..  
Senior Engineer

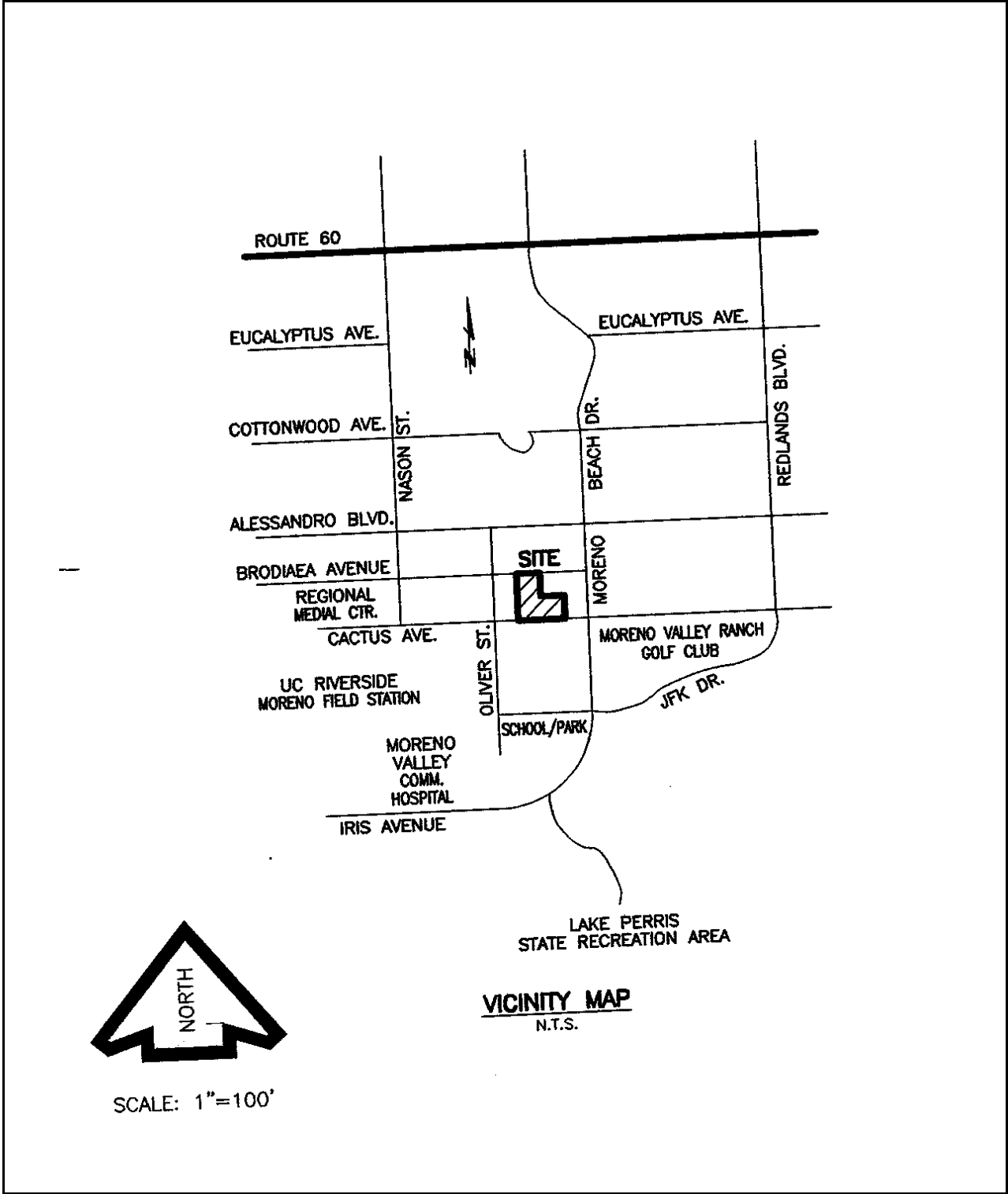
Department Head Approval  
Chris A. Vogt, P.E.  
Public Works Director/City Engineer

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:

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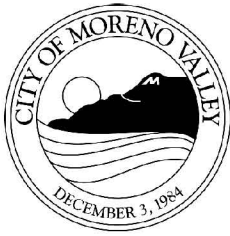


**CITY OF MORENO VALLEY**  
**PUBLIC WORKS - LAND DEVELOPMENT**  
 Exhibit "A"

**P07-144**  
**LOCATION MAP**

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RAH</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZATION TO AWARD AGREEMENT FOR CENTRAL TRAFFIC CONTROL SOFTWARE SERVICES IN SUPPORT OF THE TRANSPORTATION MANAGEMENT CENTER (PROJECT NO. 10-13768129)

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### **RECOMMENDED ACTION**

Staff recommends that the City Council:

1. Approve the agreement with Kimley-Horn and Associates, Inc., 7878 N. 16<sup>th</sup> Street, Phoenix, Arizona 85020, to provide a central traffic control software system.
2. Authorize the City Manager to execute said Agreement with Kimley-Horn and Associates, Inc., in the form attached hereto.
3. Authorize the issuance of a Purchase Order to Kimley-Horn and Associates, Inc., in the amount of \$315,000.
4. Authorize the Public Works Director to execute any subsequent amendments related to this agreement.

### **BACKGROUND**

Local traffic congestion has become increasingly prevalent as the City continues to grow. Congestion hot spots are well-known and include most intersections adjacent to freeway interchanges and several arterial corridors. The current recession has slightly improved conditions, but as the economy improves, and travel increases once again, traffic flow optimization will increase in importance to the community. In the long term, Moreno Valley's population will almost double, substantially increasing the traffic loading on our roadways. To address current and future traffic demand, staff has proposed

implementation of Intelligent Transportation Systems (ITS) technology to systematically manage and optimize traffic flow.

In 2009, the City completed an ITS Master Plan which provided recommendations for a systems-based approach to updating the City's traffic control infrastructure. The Transportation Management Center (TMC) is an integral component of the ITS Master Plan.

The City's current traffic signal control system was procured in 1991. The platform, which consists of field controllers and a computer in City Hall, is obsolete. The controllers are no longer available for purchase, and the central software (which is MS-DOS-based) cannot be run on newer operating systems. Therefore, City staff has planned for a replacement system consisting of a TMC and new central traffic control software, new traffic signal controllers to be deployed in the field over time, and a citywide communication network.

## **DISCUSSION**

A TMC provides the ability to centrally monitor roadway conditions and adjust traffic signal timing to optimize vehicle flow. Monitoring is accomplished through the use of closed-circuit television cameras, and data from traffic detectors used to display real-time vehicle speeds. Control is accomplished via fiber optic communication facilities which will be steadily deployed over time.

The TMC would be linked to the City of Riverside and Caltrans District 8 TMC's via high-bandwidth data connections, allowing Moreno Valley the capability of viewing video from those agency's CCTV cameras, as well as coordinating response in the event of incidents. Other nearby agencies with fully operational TMC's include Temecula, Corona, and Fontana. In other parts of Southern California, virtually all agencies with populations over 50,000 maintain active TMC's.

With existing staff levels, Public Works is capable of operating and maintaining the TMC as an extension of their current duties, so no additional employees would be required. The TMC would produce net labor savings by reducing the need to deploy field personnel to diagnose and correct traffic signal equipment problems. The TMC would enable faster response for maintenance issues through the use of standard features such as automated paging/emailing of alerts and remote access capability.

The TMC would have secondary benefits, in that an ITS deployment better positions Moreno Valley for grant funds since it represents a higher level of commitment to improving mobility. The TMC would be located in the current Fishbowl Conference Room adjacent to the entrance lobby of City Hall.

In January 2011, City staff released a Request for Qualifications for central traffic control software, which was mailed to nine firms known to provide such software, and was also advertised on the City's Web site. Eight submittals were received, indicating a high level of interest. A panel of four persons, including one representative from the

City's Technology Services Division and an expert in traffic control system deployment from outside the City, reviewed and scored the submittals. Based on the scoring of the responses, four firms were invited to interviews, which consisted of a live software system demonstration and presentation. The same panel scored the interviewees. All four panelists ranked Kimley-Horn and Associates highest. The panel felt that the system will be state of the art for years to come and thus represents an excellent investment. Kimley-Horn has deployed this software system for numerous Southern California agencies, including Beverly Hills, Culver City, Los Angeles County, Claremont, San Dimas, and the City of Commerce.

## **ALTERNATIVES**

1. Approve the agreement with Kimley-Horn and Associates, Inc., 7878 N. 16<sup>th</sup> Street, Phoenix, Arizona 85020, to provide a central traffic control software system; authorize the City Manager to execute said Agreement with Kimley-Horn and Associates, Inc., in the form attached hereto; authorize the issuance of a Purchase Order to Kimley-Horn and Associates, Inc., in the amount of \$315,000; and authorize the Public Works Director to execute any subsequent amendments related to this agreement. *This is the recommended alternative.*
  
2. Do not approve the agreement with Kimley-Horn and Associates, Inc., 7878 N. 16<sup>th</sup> Street, Phoenix, Arizona 85020, to provide a central traffic control software system; do not authorize the City Manager to execute said Agreement with Kimley-Horn and Associates, Inc., in the form attached hereto; do not authorize the issuance of a Purchase Order to Kimley-Horn and Associates, Inc., in the amount of \$315,000; and do not authorize the Public Works Director to execute any subsequent amendments related to this agreement. *Staff does not recommend this alternative.*

## **FISCAL IMPACT**

The Transportation Management Center Project (TMC) is included in the Fiscal Year 2011/2012 Capital Improvement Program budget and will be financed by the Traffic Signals Development Impact Fee fund (Fund 202) and the Air Quality Management Fund (Fund 137). These funds can only be used for traffic signal and air quality improvement purposes. There is no impact to the General Fund. FY 2011/2012 budget amounts are estimated, since final financial data for FY2010/2011 are not yet available.

## **AVAILABLE FUNDS**

FY 2011/2012 Development Impact Fees—		
Account No. 417.79528 .....	\$	220,000
FY 2011/2012 Air Quality Management—		
Account No. 137.68129 .....	\$	215,000
<b>Available Funds.....</b>	<b>\$</b>	<b>435,000</b>

**ESTIMATED COSTS**

Central Traffic Control System Software Contract.....	\$	315,000
Modifications to Fishbowl Conference Room .....	\$	40,000
Video display units, furniture and Incidentals .....	\$	60,000
Staff time .....	\$	20,000
<b>Total: .....</b>	<b>\$</b>	<b>435,000</b>

**ANTICIPATED PROJECT SCHEDULE**

Prepare plans for space reallocation by:	October 2011
Complete software integration by:	March 2012
Complete space reallocation by:	March 2012

**ATTACHMENT**

Attachment "A" – Agreement for Professional Consultant Services

Prepared By:  
John Kerenyi, P.E.  
Senior 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:



**AGREEMENT FOR PROFESSIONAL  
CONSULTANT SERVICES  
PROJECT NO. 10-13768129**

This Agreement is by and between the City of Moreno Valley, California, a municipal corporation, hereinafter described as "City," and Kimley-Horn and Associates, Inc., a North Carolina Corporation, hereinafter described as "Consultant." This Agreement is made and entered into effective on the date the City signs this Agreement.

**RECITALS**

WHEREAS, the City has determined it is in the public interest to proceed with the work hereinafter described as "Project"; and

WHEREAS, the City has determined the Project involves the performance of professional and technical services of a temporary nature as more specifically described in Exhibit "B" (Consultant's Scope of Work) hereto; and

WHEREAS, the City does not have available employees to perform the services for the Project; and

WHEREAS, the City has requested the Consultant to perform such services for the Project; and

WHEREAS, the Consultant is professionally qualified in California to perform the professional and technical services required for the Project;

THEREFORE, the City and the Consultant, for the consideration hereinafter described, mutually agree as follows:

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT SERVICES  
PROJECT NO. 10-13768129**

**DESCRIPTION OF PROJECT**

1. The Project is described as the City of Moreno Valley Transportation Management Center (Project No. 10-13768129).

**SCOPE OF SERVICES**

2. The Consultant's scope of service is described on Exhibit "A" attached hereto and incorporated herein by this reference.

3. The City's responsibility is described on Exhibit "B" attached hereto and incorporated herein by this reference.

**PAYMENT TERMS**

4. The City agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of \$315,000.00 in accordance with the payment terms provided on Exhibit "C" attached hereto and incorporated herein by this reference.

**TIME FOR PERFORMANCE**

5. The Consultant shall commence services upon receipt of written direction to proceed from the City.

6. The Consultant shall perform the work described on Exhibit "A" in accordance with the schedule set forth in Exhibit "D" attached hereto and incorporated by this reference.

7. The Consultant and the City agree that the schedule in Paragraph 6 above represents their best estimates with respect to completion dates, and both the Consultant and the City acknowledge that it will not unreasonably withhold approval of the Consultant's requests for extensions of time in which to complete the work required of the Consultant hereunder.

8. The Consultant shall not be responsible for performance delays caused by others or delays beyond the Consultant's reasonable control, and such delays shall extend the time for performance of the work by the Consultant. Delays caused by non-performance or unjustified

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT SERVICES  
PROJECT NO. 10-13768129**

delay in performance by a subconsultant of the Consultant are not considered to be beyond the Consultant's reasonable control.

9. (a) The Consultant agrees that the personnel, including the principal Project manager, and all subconsultants assigned to the Project by the Consultant, shall be subject to the prior approval of the City.

(b) No change in subconsultants or key personnel shall be made by the Consultant without written prior approval of the City.

**SPECIAL PROVISIONS**

10. It is understood and agreed that the Consultant is, and at all times shall be, an independent contractor and nothing contained herein shall be construed as making the Consultant or any individual whose compensation for services is paid by the Consultant, an agent or employee of the City, or authorizing the Consultant to create or assume any obligation or liability for or on behalf of the City.

11. The Consultant may also retain or subcontract for the services of other necessary consultants with the prior written approval of the City. Payment for such services shall be the responsibility of the Consultant. Any and all subconsultants employed by the Consultant shall be subject to the terms and conditions of this Agreement, except that the City shall have no obligation to pay any subconsultant for services rendered on the Project.

12. The Consultant and the City agree to use reasonable care and diligence to perform their respective services under this Agreement. Unless hereinafter specified, neither party shall be responsible for the services of the other or any subcontractor or sub-consultant employed by the other party.

13. The Consultant shall comply with applicable federal, state, and local laws in the performance of work under this Agreement.

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT SERVICES  
PROJECT NO. 10-13768129**

14. (a) The Consultant agrees to indemnify, defend, and save the City, the Moreno Valley Community Redevelopment Agency (RDA), and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all liability, claims, demands, damages, or injuries to any person, including injury to the Consultant'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 the Consultant under this Agreement, or are caused or claim to be caused by the negligent acts of the Consultant, its officers, agents or employees, or its subconsultant(s) or any person acting for the Consultant or under its control or direction; provided, however, that this indemnification and hold harmless shall not include claims arising from the sole negligence or willful misconduct of the City, RDA, and CSD, their officers, agents or employees.

(b) The City agrees to indemnify, defend and save the Consultant and their 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 Consultant, its officers, agents, or employees.

15. (a) The Consultant shall procure and maintain, at its sole expense, throughout the term of this Agreement and any extension thereof, Professional Errors and Omission Insurance coverage in the form and substance and with carriers acceptable to the City. Such coverage limits shall not be less than \$1,000,000 per claim and aggregate.

(b) During the entire term of this Agreement, the Consultant agrees to procure

**AGREEMENT FOR PROFESSIONAL  
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PROJECT NO. 10-13768129**

and maintain General Liability Insurance in form and substance and with carriers acceptable to the City at its sole expense to protect against loss from liability imposed by law for damages on account of bodily injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomever, resulting directly or indirectly from any act or activities of the Consultant its sub-consultant or any person acting for the Consultant or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any persons caused directly or indirectly by or from acts or activities of the Consultant or its subconsultants, or any person acting for the Consultant or under its control or direction.

(c) Such General Liability Insurance shall be maintained in full force and effect throughout the terms of the Agreement and any extension thereof in the minimum limits provided below:

	<u>General Liability</u>
Bodily Injury	\$1,000,000 per occurrence
Property Damage	\$ 500,000 per occurrence

A combined single limit policy with aggregate limits in the amount of \$2,000,000 will be considered equivalent to the above minimum limits.

(d) If the operation under this Agreement results in an increased or decreased risk in the opinion of the City Manager, then the Consultant agrees that the minimum limits hereinabove designated shall be changed accordingly upon request by the City Manager.

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

**AGREEMENT FOR PROFESSIONAL  
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PROJECT NO. 10-13768129**

(f) The Consultant shall procure and maintain, at its sole expense, 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 Consultant 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 Consultant in the course of carrying out the Agreement.

(g) 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 shall be named as additional insured on all policies of insurance except errors and omissions and worker's compensation.

(h) A Certificate of Insurance and appropriate additional insured endorsement evidencing the above insurance coverage shall be submitted to the City Clerk prior to the execution of this Agreement on behalf of the City.

(i) 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 general liability 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 Moreno Valley Community Redevelopment Agency, and the Moreno Valley Community Services District, its officers, employees and agents, under any

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third party liability policy."

(j) Insurance companies providing insurance hereunder 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.

(k) The terms of the insurance policy or policies issued to provide the above insurance coverage shall not be amended to reduce the above 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 said insurance is canceled, the Consultant shall, prior to the cancellation date, submit to the City Clerk new evidence of insurance in the amounts established.

16. During the performance of this Agreement, the Consultant will not unlawfully discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, sex, or age. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, creed, color, national origin, sex, or age.

17. Consultant and subconsultants shall pay prevailing wage rates when required by the Labor Laws of the State of California.

18. (a) The Consultant shall deliver to the Public Works Director/City Engineer of the City or his designated representative, fully completed and detailed project-related documents which shall become the property of the City. The Consultant may retain, for its files, copies of any and all material, including drawings, documents, and specifications, produced by the Consultant in performance of this Agreement.

**AGREEMENT FOR PROFESSIONAL  
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PROJECT NO. 10-13768129**

(b) The Consultant shall be entitled to copies of all furnished materials for his files and his subconsultants, if any.

(c) The City agrees to hold the Consultant free and harmless from any claim arising from any unauthorized use of computations, maps, and other documents prepared or provided by the Consultant under this Agreement, if used by the City on other work without the permission of the Consultant. Consultant acknowledges that Consultant work product produced under this agreement may be public record under State law.

19. (a) The City may terminate this Agreement without fault on the part of Consultant by giving at least ten (10) days written notice to the Consultant. The written notice shall specify the date of termination. Upon receipt of such notice, the Consultant may continue services on the project through the date of termination, provided that no 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 Consultant within thirty (30) days after the date of termination for all non-objected to services performed by the Consultant in accordance herewith through the date of termination. Such termination may be effective immediately.

(b) Either party may terminate this Agreement for cause. In the event the City terminates this Agreement for cause, the Consultant shall perform no further service(s) under the Agreement unless the notice of termination authorizes such further work.

20. This Agreement is binding upon the City and the Consultant and their successors and assigns. Except as otherwise provided herein, neither the City nor the Consultant shall assign, sublet, or transfer its interest in this Agreement or any part thereof without the prior written consent of the other.

21. A City representative shall be designated by the City and a Consultant representative shall be designated by the Consultant. The City representative and the Consultant



**AGREEMENT FOR PROFESSIONAL  
CONSULTANT SERVICES  
PROJECT NO. 10-13768129**

representative shall be the primary contact person for each party regarding performance of this Agreement. The City representative shall cooperate with the Consultant, and the Consultant's representative shall cooperate with the City in all matters regarding this Agreement and in such a manner as will result in the performance of the services in a timely and expeditious fashion.

22. This Agreement represents the entire and integrated Agreement between the City and the Consultant, and supersedes all prior negotiations, representations or Agreements, either written or oral. This Agreement may be modified or amended only by a subsequent written Agreement signed by both parties.

23. Where the payment terms provide for compensation on a time and materials basis, the Consultant shall maintain adequate records to permit inspection and audit of the Consultant's time and materials charges under this Agreement. The Consultant shall make such records available to the City at the Consultant's office during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records. Except as may be otherwise required by law, such records will be available only to the City. Such records shall be maintained by the Consultant for three (3) years following completion of the services under this Agreement.

24. The City and the Consultant 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.

25. The Consultant shall employ no City official or employee 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.

26. All Plans, drawings, Specifications, reports, logs, and other documents prepared by the Consultant in its performance under this Agreement shall, upon completion of the project, be

**AGREEMENT FOR PROFESSIONAL  
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PROJECT NO. 10-13768129**

delivered to and be the property of the City, provided that the Consultant shall be entitled, at its own expense, to make copies thereof for its own use.

27. The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement, and shall also govern the interpretation of this Agreement. Venue shall be vested in the Superior Court of the State of California, County of Riverside.

**SIGNATURE PAGE FOLLOWS**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

Contractor/Consultant Name

BY: \_\_\_\_\_  
City Manager

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(President or Vice President)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(Corporate Secretary)

\_\_\_\_\_  
Date

**INTERNAL USE ONLY**

ATTEST:

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

APPROVED AS TO LEGAL FORM:

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

\_\_\_\_\_  
Date

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
Department Head

\_\_\_\_\_  
Date

## **EXHIBIT B**

### **CITY - SERVICES TO BE PROVIDED TO CONSULTANT**

1. Furnish the Consultant all in-house data which is pertinent to services to be performed by the Consultant and which is within the custody or control of the City, including, but not limited to, copies of record and off-record maps and other record and off-record property data, right-of-way maps and other right-of-way data, pending or proposed subject property land division and development application data, all newly developed and pertinent design and project specification data, and such other pertinent data which may become available to the City.
2. Provide timely review, processing, and reasonably expeditious approval of all submittals by the Consultant.
3. Provide timely City staff liaison with the Consultant when requested and when reasonably needed.

## **EXHIBIT B**

## EXHIBIT C

### TERMS OF PAYMENT

1. The Consultant's compensation shall not exceed \$315,000.00.
2. The Consultant will submit an invoice to the City once a month for progress payments along with documentation evidencing services completed to date. The progress payment is based on actual time and materials expended in furnishing authorized professional services during the preceding calendar month. At no time will the City pay for more services than have been satisfactorily completed and the City Engineer's determination of the amount due for any progress payment shall be final.
3. The City shall pay the Consultant for all invoiced, authorized professional services within thirty (30) days of receipt of the invoice for same.
4. Any fees for authorized professional services furnished by the Consultant which have not been paid or contested by the City within thirty (30) days of the City's receipt of the invoice for such services will be subject to a late charge of one percent (1%) of the unpaid amount for each month for which payment has not been received by the Consultant.

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## EXHIBIT C

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**MORENO VALLEY ATMS**

# **Statement of Work**

Prepared by:

**Kimley-Horn and Associates, Inc.**

For Review by:

**City of Moreno Valley**

**Version 4.2**

**June 28, 2011**

**Exhibit A**



## PROJECT SCOPE

The following scope of services is for deployment and integration of KITS to meet the mandatory elements listed in KHA's response to the City's RFQ submitted on February 3, 2011.

## SCOPE OF SERVICES

### **Task 1: Project Management**

KHA's Project Manager shall act as the principal contact for the City and other involved agencies. KHA's Project Manager will be responsible for the completion of activities associated with the performance of this project. Additional responsibilities include management of project planning activities and tracking of resources associated with each aspect of the project. The Project Management task will be invoiced monthly based on percent complete. Target percentages should be outlined to ensure all parties understand the value of each task executed. KHA's Project Manager shall oversee and participate in the activities of the project.

#### ***Prepare Project Status Reports***

KHA shall prepare and submit written monthly project status reports. The reports shall include the following information including a schedule outlining target dates for completion of items:

- Period covered by the report.
- Overview of the reporting period.
- Tasks, subtasks, deliverables, goods, services and other work scheduled for the reporting period which were completed.
- Action Items
- Updated Deliverables chart and completion schedule, if necessary.

KHA shall also prepare claims, invoices, billings, and other financial information for review and approval by the City, as required by this agreement.

### **Task 2: Preliminary Engineering**

KHA will meet with City staff to discuss the existing condition of the City's internal network and field network along with future migration plans and schedule. KHA will provide input on communication equipment that the City is considering.

KHA shall collaborate with the City to determine the CCTV and signal controller hardware/firmware specifications for the pilot corridor. It is expected that the City will deploy a signal controller firmware protocol and CCTV encoder that has already been deployed with KITS. KHA will review and demonstrate existing KITS functionality currently deployed for specific firmware/hardware options. A document will be created that summarizes all of City's preliminary engineering decisions.

*(continues)*



Deliverables:

- 2.1 Communication Review
- 2.2 Firmware Specification and Existing Functionality Review
- 2.3 Signal Controller Hardware and Firmware Recommendations
- 2.4 CCTV Specification

**Task 3: Procurement**

Based on the information gathered during meetings with the City’s Engineering and IT staff, KHA shall deliver complete equipment list (“Bill of Materials”) for full system deployment and submit to the City for review. KHA will review options and provide input on reusing existing City server hardware and software licenses to fulfill the needs of the project. Upon KHA’s approval of the equipment list and all system configurations, the City will procure system components, including supporting third party software, system hardware, network equipment, and peripherals. The equipment will remain at the City. The City will assist with the configuration of remote access into the network to enable authorized KHA staff to remotely diagnose the system. Using funds outside of this agreement, the City will purchase 3<sup>rd</sup> party software that is required for the deployment of the Integrated System. Anticipated software includes:

- SQL Server 2008
- ESRI ArcGIS
- MS Visio Standard
- Notepage PageGate

The workstations will be deployed on Windows XP or 7 and the servers on Windows Server 2008. The Integrated System will utilize SQL Server 2008 as its central database. The specific versions of the tools will be determined in conjunction with City IT preference.

Deliverables:

- 3.1 Identification of 3rd party software and hardware

**Task 4: System Integration**

Integration of KITS shall be performed in stages. The following sequence of events details the staged implementation of the KITS system.

1. KHA and the City will conduct multiple meetings to finalize the pilot corridor equipment.
2. The City will procure designated equipment.
3. Based on the City’s preference for controller firmware and CCTV equipment, KHA will create a version of KITS that integrates existing modules to support the specified equipment and desired functionality. The source code, reports, registry, and database to support the functionality of the City’s modules will be placed under configuration management and version control processes. No new software development is anticipated under this task.

4. A lab configuration will be created and maintained in KHA's facility to simulate the deployment environment.
5. An installation procedure will be generated by KHA. This will be a functional self-contained installation and automate many of the procedures used to install the KITS user interface. This automated installation will include most of the required 3<sup>rd</sup> party tools and may reference other supporting 3<sup>rd</sup> party documentation.
6. KHA will come to Moreno Valley to assist City personnel with the installation and configuration of the equipment and required 3<sup>rd</sup> party software.
7. A backup server will be identified by City staff and configured by KHA for backup and disaster recovery purposes.
8. City personnel, with assistance from KHA, will be responsible for converting and entering signal timing and configuration data into the system database. Preliminary testing will utilize controllers installed in the TMC and/or maintenance facility.
9. KHA will assist City personnel with the installation of 5 compatible BI Tran 233 intersections by assisting with the intersection graphics and configuration of these field signals within the Integrated System and by monitoring the operation of the System at the control center. This assistance will include preliminary training on the graphic configuration within the System.
10. KHA will demonstrate continuous successful communication with the traffic signal controllers and pan-tilt-zoom cameras.
11. KHA will configure compatible mobile devices with the KHA Mobile Performance Metric Collection application. This will allow up to 10 users to generate, high-resolution arterial performance metric data. Authorized users will be able to view and generate reports through a web browser. The arterial performance data will be stored on a server maintained by KHA.

Deliverables:

- 4.1 Software Configuration
- 4.2 KITS Installation Program and Procedures
- 4.3 Software Installation at City TMC
- 4.4 System Configuration and Integration for 5 Intersections
- 4.5 CCTV Integration
- 4.6 Mobile Performance Metrics Integration

**Task 5: Documentation**

KHA will provide KITS documentation for the City in the following form:

- System User's Manual – provides an overview description of the system, its components, how they are used or accessed by the operators as well as how to use the GUI's for all aspects of the system.
- Quick Start Guide – describes initial configuration and setup of the system. This brief document references the User's Guide, but presents the information in a simple format. The document focuses on data entry, map customization, and initial configuration.

Electronic copies of the final documentation will be provided.

Training topics include:

- On-line help
- Installing software updates
- Intersection phase configuration
- Data integrity
- Naming conventions
- System components
- Effective Monitoring

Deliverables:

5.1 Electronic copies of the System User's Manual and Quick Start Guide for KITS

5.2 Initial Operator Training

**Task 6: Remote access configuration**

KHA will facilitate meetings with City transportation and IT department to review cost-efficient solutions to allow authorized staff to view relevant signal system information remotely. KHA will assist with the implementation of a remote desktop solution to view and exchange relevant information.

Deliverables:

6.1 Documentation and Configuration Settings for Remote Access

**Task 7: Final Training**

The final training will be a comprehensive, hands-on review of all previous training sessions. In addition, the City may request additional topics that were not previously covered. The following topics will be discussed:

- Operation and Management of the Integrated System
- Overview of the KITS System
- Operations and System Maintenance
- Security
- Configuration and Customization
- Advanced Functionality

A training schedule will be delivered 2 weeks prior to the comprehensive training sessions that will detail the date and time for each topic. The City can provide input that will help determine the amount of time that is spent on each topic.

(continues)

Deliverables:

7.1 Electronic Copies of Training Documentation (syllabus, manuals, visual presentation materials)

7.2 Hands-on Two Day Workshop

**Task 8: Warranty, Support, and Maintenance**

The Consultant shall provide a warranty, support, and maintenance for the supplied software for a period of two years. Any ATMS software bugs found during this period will be corrected at no additional cost to the City. New functionality, additions, and enhancements made to the software, that do not constitute a separately packaged and marketed version or module of the system, developed by the Consultant during this period shall be offered to the City at no additional license fee. Upon approval by the City, these enhancements shall be installed and integrated based on current hourly rates.

The Consultant shall provide maintenance services, which will include phone and e-mail support during City's working hours. The Consultant shall perform periodic check-ups and tune-ups several times a year to validate System performance.

Deliverables:

8.1 Two Year Warranty, Support, and Maintenance

**Project Deliverables**

KHA shall use the standard City software set forth below when preparing deliverables. KHA shall provide deliverables in the appropriate file format (by downloads and/or via e-mail) as follows:

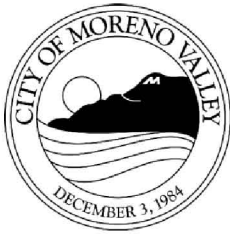
- Microsoft Word or Adobe PDF – Word Processing
- Microsoft Excel – Spreadsheet
- Microsoft PowerPoint – Presentation Materials

The City shall provide comments in electronic format using the same software as outline above.

**Optional Operational Support**

Other services may be provided in support of the system, its operations or the communication infrastructure for the City as additional services. Authorization by City is required prior to beginning any of these tasks. Services that are not included in this contract, but that may be provided as additional services may include but are not limited to:

- Integration services for additional intersections
- Database population
- Additional intersection graphic configuration
- Communication troubleshooting and integration
- Corridor retiming
- Before and after studies that quantify improvement from deploying the System



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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE A CHANGE ORDER TO INCREASE THE PURCHASE ORDER WITH GIBBS, GIDEN, LOCHER, TURNER & SENET, LLP FOR LEGAL SERVICES FOR *LOS ANGELES ENGINEERING, INC. V. CITY OF MORENO VALLEY RIVERSIDE SUPERIOR COURT CASE RIC 524877*

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Authorize the City Manager to execute a Change Order to increase Purchase Order No. 36928 to Gibbs, Giden, Locher, Turner & Senet, LLP by the amount of \$100,000 for a total not-to-exceed amount of \$196,000 (Account No. 461.65325.7500).
2. Authorize payment to Gibbs, Giden, Locher, Turner & Senet, LLP in an amount of up to \$196,000 for legal services for *Los Angeles Engineering, Inc. v. City of Moreno Valley Riverside Superior Court Case RIC 524877*.
3. Authorize an appropriation of \$100,000 from the unencumbered fund balance of Parkland Facilities DIF (Fund 205) to Account No. 461.65325 to allow for said increase to Purchase Order No. 36928.

### BACKGROUND

In 2007, the Community Services District awarded a contract to Los Angeles Engineering to renovate the Moreno Valley Community Park soccer fields. Five

Contract Change Orders were issued for various changes in the scope of the work and as a result of weather delays. Los Angeles Engineering completed the project later than the allowed and refused to process the last three Change Orders. Los Angeles Engineering filed a claim and then a lawsuit in 2009 alleging extra work and extended overhead cost. Gibbs, Giden, Locher, Turner & Senet (GGLTS) were retained to defend the lawsuit and bring the cross-complaint against Los Angeles Engineering.

**DISCUSSION**

Gibbs, Giden, Locher, Turner & Senet were retained as outside counsel for this case. In January 2009, the City issued a Purchase Order using unencumbered project funds for general legal services for the Moreno Valley Community Park Soccer Field Rehabilitation. Due to the ongoing nature of the litigation, the current Purchase Order is not sufficient to continue the defense of the case and the pursuit of the cross-complaint. Increasing the Purchase Order would allow the City to retain GGLTS to reach a conclusion in the lawsuit. Three sources of funding were used for the project: a State of California grant, Park Improvement Development Impact Fees, and Quimby In-Lieu Fees. In order to use Park Improvement Development Impact Fees for a project, the City must establish a nexus between the development projects paying the fees and the facilities being financed with the fees and the service level to be provided by the facility. Because the soccer fields were expanded by more than 50%, it was reasonable to fund half of the project with Park Improvement Development Impact Fees. The lawsuit is a direct result of the rehabilitation and expansion of the soccer fields. The use of Park Improvement Development Impact Fees for the City to continue to defend the lawsuit and pursue the cross-complaint is established as the result of the project’s construction activities. Therefore, the use of Park Improvement Development Impact Fees for legal services against a claim resulting from the Soccer Field Renovations’ construction activities is reasonable.

**ALTERNATIVES**

1. This alternative will allow Gibbs, Giden, Locher, Turner & Senet LLP, to be retained as legal counsel to continue the litigation.
2. This alternative will not allow Gibbs, Giden, Locher, Turner & Senet LLP, to be retained as legal counsel and may affect the outcome of potential litigation.

**FISCAL IMPACT**

Staff requests that an appropriation from Park Improvement Development Impact Fees (Fund 205) in the amount of \$100,000 be authorized to allow for the purchase order increase and subsequent payments to GGLTS. There is no impact to the General Fund.

**AVAILABLE FUNDS:**

Fiscal Year 2011/2012 Budget (Account No. 461.65325) .....	<u>\$100,000</u>
<b>Total Available Funds .....</b>	<b><u>\$100,000</u></b>

**CITY COUNCIL GOALS**

**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**

Due to the ongoing litigation with Los Angeles Engineering, Inc. over the Moreno Valley Community Park Soccer Field Rehabilitation Project, Staff recommends an appropriation of \$100,000 from Parkland Development Impact Fees (Fund 205) to allow for an increase to the Purchase Order to Gibbs, Giden, Locher, Turner and Senet, LLP. This increase will allow for the continuing payment of legal fees and costs due to the litigation with Los Angeles Engineering.

**ATTACHMENTS**

None

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

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

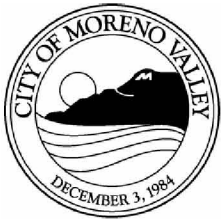
Concurred By:  
Prem Kumar, P.E.  
Deputy Public Works Director/Assistant City Engineer

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

W:\CapProj\CapProj\PROJECTS\Guy - 06-46165325 - Community Park Soccer Field Renovations\CC Reports\GGLTS Change Order 6-28-2011\Authorization to Increase Purchase Order to GGLTS 6-28-11 (3).doc

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Rest</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** TRACT MAP 32707 – REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING THE PORTION OF LASSELLE STREET ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM

DEVELOPER – REDHAWK COMMUNITIES, INC. A CALIFORNIA CORPORATION  
ONE BETTERWORLD CIRCLE, SUITE 300  
TEMECULA, CA 92590

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Adopt Resolution No. 2011-79 authorizing the acceptance of the public improvements within Tract Map 32707 as complete and accepting the portion of Lasselle Street associated with the project into the City's maintained street system.
2. Authorize the City Engineer to execute the 90% reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens on file with the City Clerk, and exonerate the final 10% of the Faithful Performance Bond in one year when all clearances are received.

### ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

## **BACKGROUND**

Tract Map 32707 is a 137-lot single family residential development to be constructed in the City of Perris just south of Moreno Valley's City limits, with a portion of Lasselle Street being improved within the City of Moreno Valley. The project was conditionally approved requiring construction of certain public improvements. The public improvements included asphalt paving, curb, gutter, sidewalk, landscaping, and sewer work. 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 \$95,000 issued by Developers Surety and Indemnity 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 32707 as complete and accepting the portion of Lasselle Street 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 32707 as complete and accepting the portion of Lasselle Street 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

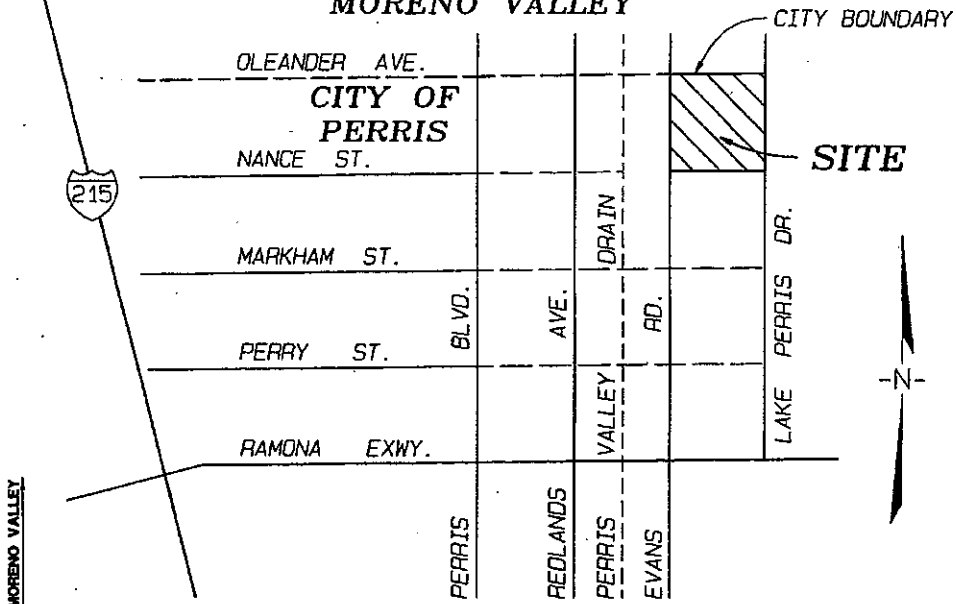
Department Head Approval  
Chris A. Vogt, P.E.  
Public Works Director/City Engineer

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

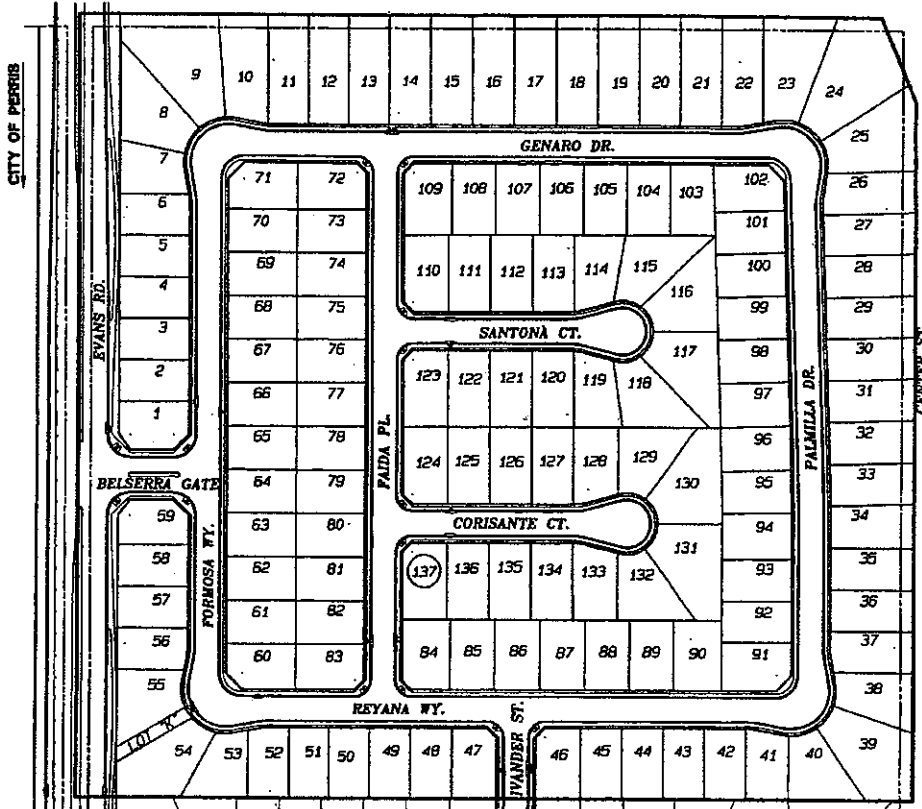
Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

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CITY OF MORENO VALLEY



VICINITY MAP



CITY OF MORENO VALLEY  
PUBLIC WORKS - LAND DEVELOPMENT

TRACT 32707  
VICINITY MAP

EXHIBIT "A"

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RESOLUTION NO. 2011-72

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 32707 AND ACCEPTING THE PORTION OF LASSELLE STREET ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM

WHEREAS, the City Engineer has determined that the public improvements constructed by Redhawk Communities. on the portion of Lasselle Street 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 32707 and accept the portion of Lasselle Street 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, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS: that the public improvements within Tract Map 32707 are complete, and the portion of Lasselle Street associated with the project are accepted into the City's maintained street system.

APPROVED AND ADOPTED this 12<sup>th</sup> day of July, 2011.

\_\_\_\_\_  
Mayor of the City of Moreno Valley

EXHIBIT "B"

ATTEST:

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

APPROVED AS TO FORM:

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



**RESOLUTION JURAT**

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

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

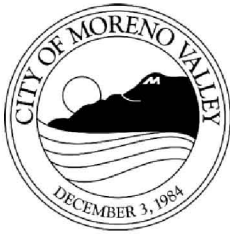
ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Rest</i>
CITY MANAGER	<i>ms</i>

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## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE 2011 CITYWIDE BRIDGE MAINTENANCE PROGRAM, PROJECT NO. 11-22679828, DIRECT THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM

---

### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when determined that all contract requirements and punch-list items are completed for the 2011 Citywide Bridge Maintenance Program, constructed by Beador Construction Company, Inc. (Beador), 26320 Lester Circle, Corona CA 92883.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Beador Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project.

4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

### **BACKGROUND**

On March 8, 2011, the City Council awarded a construction contract to Beador Construction Company, Inc. (Beador) and authorized the issuance of a purchase order in the amount of \$243,960 for the 2011 Citywide Bridge Maintenance Program.

### **DISCUSSION**

The 2011 Bridge Maintenance Program involved the application of Methacrylate Deck Treatment to three (3) bridges including Cactus Avenue Bridge, west side of Kitching Street (Bridge No. 56C0407), Bay Avenue Bridge, 0.25 mile east of Kitching Street, (Bridge No. 56C0401), Oliver Street Bridge, 500 feet north of John F. Kennedy Drive (Bridge No. 56C0559). Work on the remaining five (5) bridges included cold mill and pave back the existing asphalt concrete over the bridge deck and the bridge approaches at the following bridges: Cottonwood Avenue Bridge, 0.2 mile east of Heacock Street (Bridge No. 56C0214), Dracaea Avenue Bridge, 0.14 mile west of Indian Street (Bridge No. 56C0274), Cactus Avenue Bridge, 0.5 mile west of John F. Kennedy Drive (Bridge No. 56C0420), Cactus Avenue Bridge, 0.2 mile west of John F. Kennedy Drive (Bridge No. 56C0421), and Perris Boulevard Bridge Approaches, 1.0 mile south of Iris Avenue (Bridge No. 56C0464).

At the time of preparation of this Staff Report, the project is anticipated to be complete by June 30, 2011. Subsequently, staff will process all necessary paperwork and negotiate any remaining change orders to finalize the project quickly. The final contract cost will not exceed the approved purchase order amount of \$243,960. Since the City Council will not meet on next two meetings after the July 12 meeting, staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when determined that all contract requirements and punch-list items are completed, authorize the recordation of the Notice of Completion at the County Recorder, and authorize the release of retention money to Beador thirty five (35) calendar days after the date of recordation of the Notice of Completion, and accept the improvements into the maintained road system. These actions must be completed in a timely manner upon completion of the contractor's work in accordance with the applicable laws.

### **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when determined that all contract requirements and punch-list items are completed for the 2011 Citywide Bridge Maintenance Program, constructed by Beador Construction Company, Inc. (Beador), 26320 Lester Circle, Corona CA 92883, direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside

County, as required by Section 3093 of the California Civil Code, authorize the Financial and Administrative Services Director to release the retention to Beador Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project, and authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete. *This alternative will result in payment to the contractor and acceptance of the improvements into the City's maintained road system.*

2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when determined that all contract requirements and punch-list items are completed for the 2011 Citywide Bridge Maintenance Program, constructed by Beador Construction Company, Inc. (Beador), 26320 Lester Circle, Corona CA 92883, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code, do not authorize the Financial and Administrative Services Director to release the retention to Beador Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project, and do not authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete. *This alternative will result in delaying payment to the contractor, delaying acceptance of the improvements into the City's maintained road system, and incurring extra cost to the City.*

**FISCAL IMPACT**

This project is included in Fiscal Year 2010-2011 Capital Improvement Project Budget and is funded with Proposition 1B (Fund 226) monies. The funding for this project is restricted for transportation projects and cannot be utilized for other activities. There is no impact to the General Fund.

**AVAILABLE FUNDS:**

Fiscal Year 2010/2011 Budget (Account No. 226.79828) .....	\$420,000
<b>Total Available Funds .....</b>	<b>\$420,000</b>

**ESTIMATED PROJECT COSTS:**

Contractor Construction Costs* .....	\$244,000
Project Administration, Design, and Inspection .....	\$45,000
Miscellaneous Costs .....	\$2,000
<b>Total Estimated Project Costs .....</b>	<b>\$291,000</b>

\*Staff anticipates that Contractor Construction Costs will not exceed purchase order amount.

**CITY COUNCIL GOALS**

**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**

Beador is anticipated to complete the 2011 Citywide Bridge Maintenance Program project by June 30, 2011. The City Council is requested to authorize the Public Works Director / City Engineer to accept the work as complete when all contract requirements and punch-list items are completed, direct the City Clerk to record the Notice of Completion, authorize the release of retention to Beador, and accept the improvements into the City’s maintained road system.

**ATTACHMENTS**

Attachment “A” – Vicinity Map

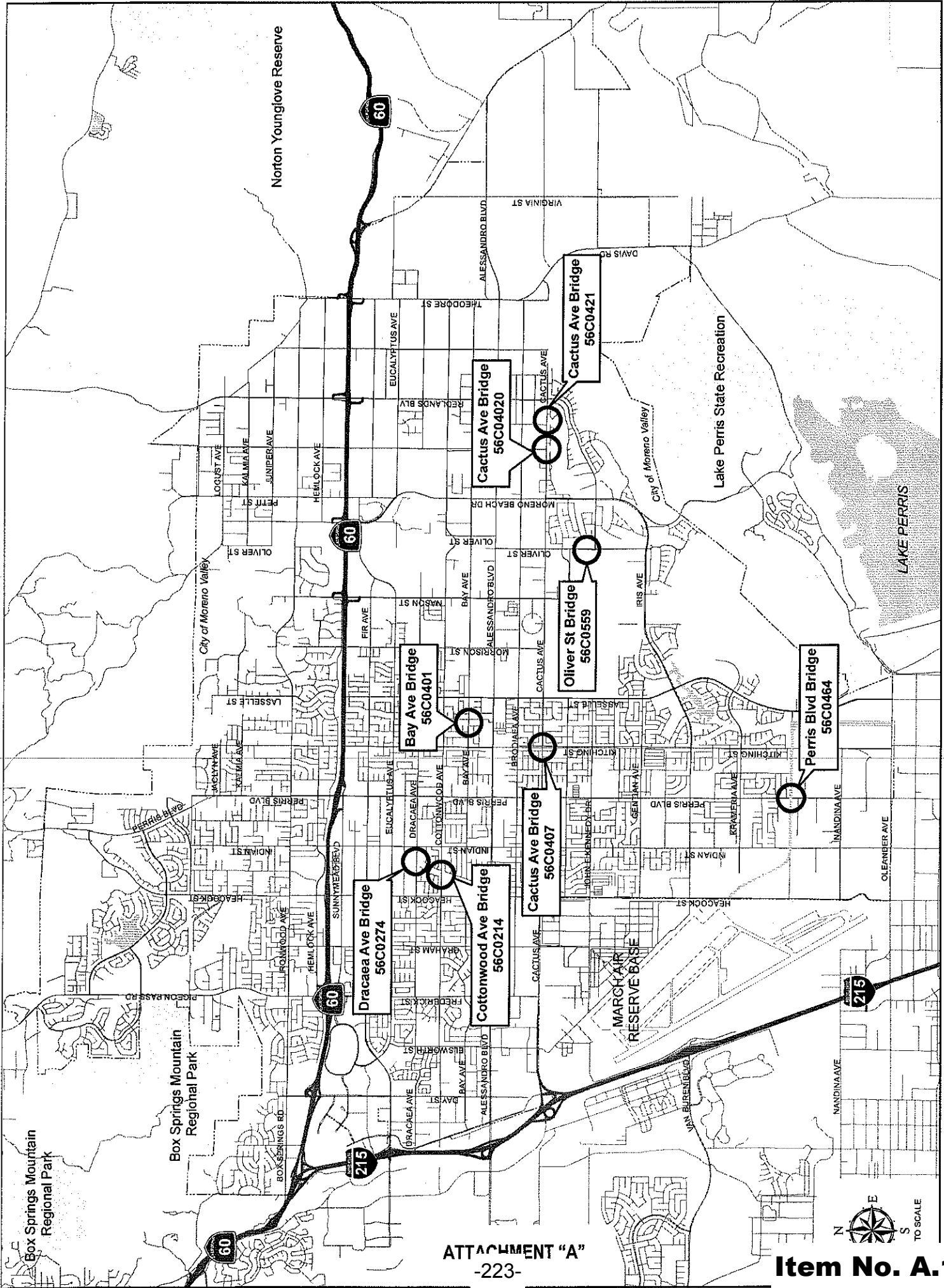
Prepared By:  
Viren A. Shah, P.E.  
Consultant Project Manager

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

Department Head Approval:  
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:

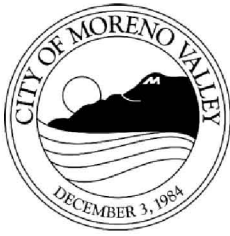
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VICINITY MAP: 2011 CITYWIDE BRIDGE MAINTENANCE PROGRAM - MORENO VALLEY

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RA</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council and Redevelopment Agency Chairperson and Board of Directors

**FROM:** Barry Foster, Community and Economic Development Director  
Chris A. Vogt, P.E., Public Works Director/City Engineer

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE AUTO MALL FREEWAY PYLON SIGN PROJECT, PROJECT NO. 08-89791725, DIRECT THE CITY CLERK TO RECORD THE NOTICE OF COMPLETION, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND AUTHORIZE THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR TO RELEASE THE SIGN TO THE MORENO VALLEY DEALERS ADVERTISING ASSOCIATION

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### RECOMMENDED ACTION

Staff recommends that the City Council and Community Redevelopment Agency:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Auto Mall Freeway Pylon Sign Project which was constructed by San Pedro Sign Company, 701 Lakme Avenue, Wilmington, CA 90744.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code.
3. Authorize the Financial & Administrative Services Director to release the retention to San Pedro Sign Company thirty five (35) calendar days after the date

of recordation of the Notice of Completion if no claims are filed against the project.

4. Authorize the Community and Economic Development Director to release the Pylon Sign to the Moreno Valley Dealers Advertising Association.

### **BACKGROUND**

On June 22, 2010, the City Council awarded a contract in the amount of \$706,716 to San Pedro Sign Company (SPESCO) and authorized the issuance of a purchase order in the amount of \$812,724 for the construction of the Moreno Valley Auto Mall Freeway Pylon Sign.

### **DISCUSSION**

The City and the Redevelopment Agency have been working with the Auto Mall dealers to explore various ways to increase business advantageous by creating attractive visual displays of dealer products and other aesthetic elements. The goal is to help provide increased awareness and interaction between prospective customers and business owners. The pylon sign is an integral element of the plan. The sign is located on the south side of the SR60 freeway, east of Moreno Beach Drive. This project replaced the existing aged and worn freeway sign with a new up-to-date high-tech two (2) sided sign that includes a larger video display. The sign is in conformance with the "Specific Plan No. 5 Sign," and is 31 feet wide and stand approximately 85 feet in height, as seen from the freeway.

At the time of preparation of this Staff Report, the construction of the pylon sign is anticipated to be completed at end of June 2010. Subsequently, Staff will process all necessary paperwork and negotiate any remaining change orders to finalize the project quickly. The final contract cost is estimated at approximately \$725,000 which does not exceed the approved purchase order amount of \$812,724. Since the City Council will not meet on next two meetings after the July 12 meeting, staff is requesting the City Council and the Redevelopment Agency to authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed, authorize the recordation of the Notice of Completion at the County Recorder, authorize the release to retention money to SPESCO thirty five (35) calendar days after the date of recordation of the Notice of Completion, and authorize the Community and Economic Development Director to release the pylon sign to the Moreno Valley Dealers Advertising Association. These actions must be completed in a timely manner upon completion of the Contractor's work in accordance with the applicable laws.

### **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Auto Mall Freeway Pylon Sign Project which was constructed by San Pedro Sign Company, 701 Lakme Avenue, Wilmington, CA 90744, direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public

Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, authorize the Financial & Administrative Services Director to release the retention to San Pedro Sign Company thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and authorize the Community and Economic Development Director to release the Pylon Sign to the Moreno Valley Dealers Advertising Association. *This alternative will allow for timely payment to the Contractor and the release of the Pylon Sign to the Moreno Valley Auto Mall Dealers Association.*

2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Auto Mall Freeway Pylon Sign Project which was constructed by San Pedro Sign Company, 701 Lakme Avenue, Wilmington, CA 90744, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, do not authorize the Financial & Administrative Services Director to release the retention to San Pedro Sign Company thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and do not authorize the Community and Economic Development Director to release the Pylon Sign to the Moreno Valley Dealers Advertising Association. *This alternative will result in delaying payment to the Contractor, delaying acceptance of the improvements, and delaying the release of the Pylon Sign to the Moreno Valley Auto Mall Dealers Association.*

**FISCAL IMPACT**

The Moreno Valley Auto Mall Improvements construction phase of this project is included in Fiscal Year 2010/2011 Budget and is funded by Fund 897 (RDA 2007 Tax Allocation Bonds). **These funds have been allocated for the Moreno Valley Auto Mall Improvements project and cannot be utilized for operational activities.** There is no impact on the General Fund.

**AVAILABLE FUNDS:**

**Fiscal Year 2010/2011 Budget (Account No. 897.91725)..... \$1,512,000**

**CONSTRUCTION RELATED COSTS:**

Contractor Construction Costs .....	\$725,000
Project Administration, Design Support, and Inspection Costs* .....	\$ 46,000
Construction Support Services and Miscellaneous Costs .....	<u>\$ 15,000</u>
<b>Total Construction Related Costs.....</b>	<b>\$786,000</b>

**CITY COUNCIL GOALS**

**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**

SPESCO has completed the Moreno Valley Auto Mall Freeway Pylon Sign project. The City Council and the Community Redevelopment Agency is requested to authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed, direct the City Clerk to record the Notice of Completion, authorize the Financial & Administrative Services Director to release the retention to San Pedro Sign Company thirty five (35) calendar days after the date of recordation of the Notice of Completion, and authorize the Community and Economic Development Director to release the Pylon Sign to the Moreno Valley Dealers Advertising Association.

**ATTACHMENTS**

Attachment "A" – Vicinity Map

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

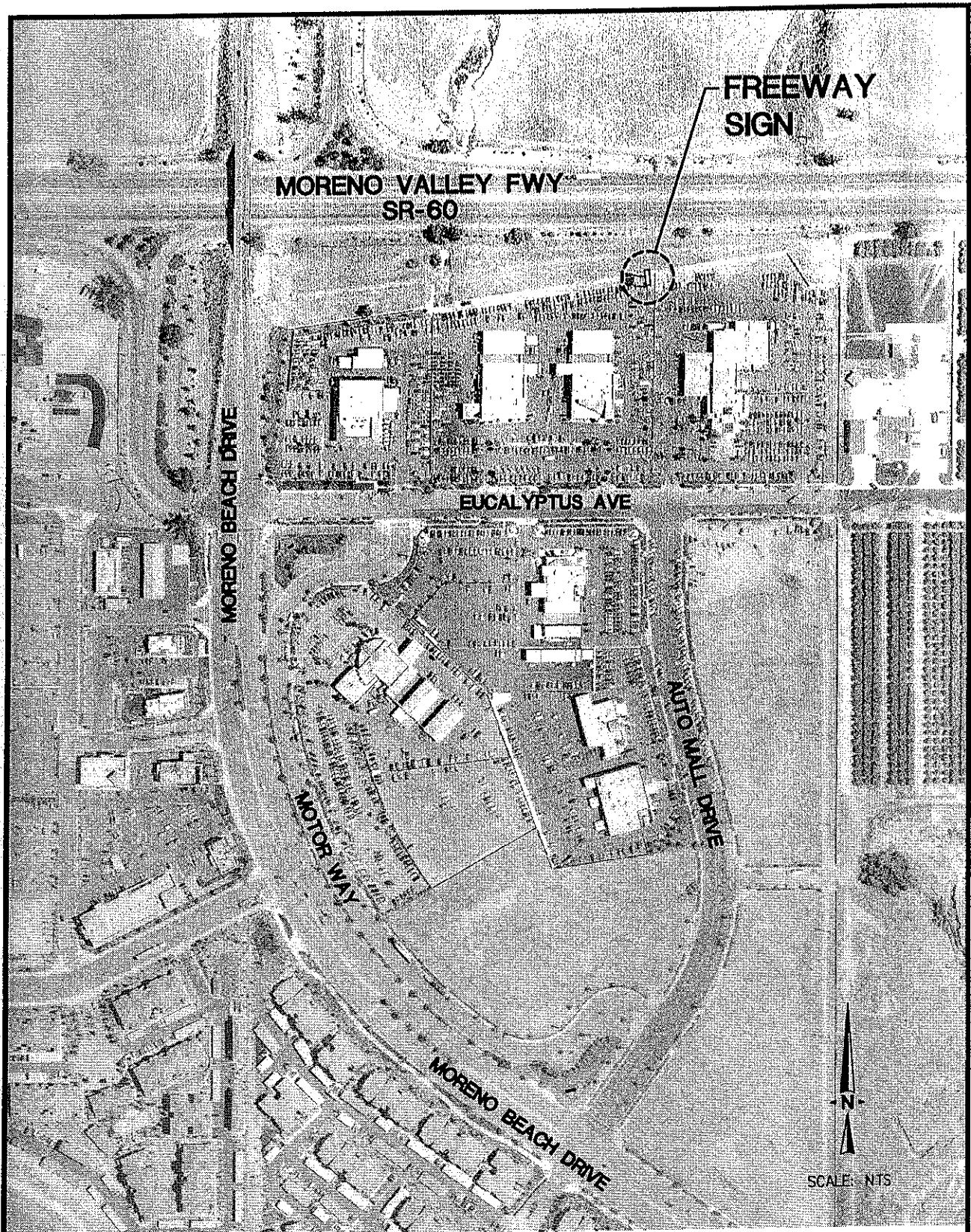
Department Head Approval:  
Chris A. Vogt  
Public Works Director / City Engineer

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

Concurred By:  
Barry Foster  
Community and Economic Development  
Director

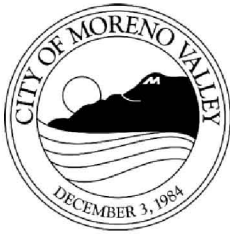
Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

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VICINITY MAP

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>But</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** FIRST AMENDMENT TO AGREEMENT WITH OVERLAND, PACIFIC AND CUTLER, INC. FOR VARIOUS PROJECTS OF THE CAPITAL PROJECTS DIVISION

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve the "First Amendment to Agreement for Professional Consultant Services" with Overland, Pacific and Cutler, Inc. (OPC) to provide Professional Consultant Right of Way Services for various projects of the Capital Projects Division.
2. Authorize the City Manager to execute the "First Amendment to Agreement for Professional Consultant Services" with OPC, in the form attached hereto.
3. Authorize an increase to the purchase order to OPC, in the amount of \$85,000 when the Project Agreement has been signed by all parties (Account No. 416.78526).

### BACKGROUND

On July 13, 2010, City Council approved a Project Agreement in the amount of \$99,000 with OPC for a one year period.

### DISCUSSION

Due to the vacant City staff "Senior Real Property Agent" position, as well as an increase in project related right of way activities, additional resources are necessary. As a temporary solution to assist in expediting the completion of projects, the Capital Projects Division seeks to extend their Project Agreement with OPC.

OPC staff has an excellent track record of providing right of way services for budgeted capital improvement projects including, but not limited to, Kitching Street Improvements, Day Street Improvements, and Lasselle Street Widening Improvements. In the upcoming fiscal year, OPC staff will continue to work on right of way for projects such as the Perris Boulevard from PVSD Lateral "B" to Cactus Avenue Improvements, Perris Boulevard from Ironwood Avenue to Manzanita Avenue, acquisition of property for the future Industrial Fire Station and Fire Station No. 65, and other budgeted capital projects as assigned.

Staff recommends issuing an increase to the purchase order and executing the "First Amendment to Agreement for Professional Consultant Services" with OPC for a continuation of their services. The purchase order increase for \$85,000 allows for additional right of way services by the in-house consultant staff on an as-needed basis with a revised contract expiration date of December 31, 2012.

### **ALTERNATIVES**

1. Approve the "First Amendment to Agreement for Professional Consultant Services" with Overland, Pacific and Cutler, Inc. (OPC) to provide Professional Consultant Right of Way Services for various projects of the Capital Projects Division, authorize the City Manager to execute the "First Amendment to Agreement for Professional Consultant Services" with OPC, in the form attached hereto, and authorize an increase to the purchase order to OPC, in the amount of \$85,000 when the Project Agreement has been signed by all parties (Account No. 416.78526). *This alternative will provide resources to assist staff to complete budgeted City capital improvement projects.*
2. Do not approve the "First Amendment to Agreement for Professional Consultant Services" with Overland, Pacific and Cutler, Inc. (OPC) to provide Professional Consultant Right of Way Services for various projects of the Capital Projects Division, do not authorize the City Manager to execute the "First Amendment to Agreement for Professional Consultant Services" with OPC, in the form attached hereto, and do not authorize an increase to the purchase order to OPC, in the amount of \$85,000 when the Project Agreement has been signed by all parties (Account No. 416.78526). *This alternative will delay the design and construction of budgeted capital improvement projects.*

### **FISCAL IMPACT**

The "Project Agreement for Professional Consultant Services" with OPC will be fully expended in September 2011. This First Amendment increases the purchase order by \$85,000 to extend the as-needed temporary professional staffing services to December 31, 2012. Adequate funding is provided through the various budgeted capital improvement projects assigned to the temporary staff. The agreement provides the City



the ability to terminate the agreement by giving at least ten days written notice to the consultant.

As costs are incurred against this purchase order, the expenditures will be transferred to the capital projects for which services were performed. The anticipated associated costs for the purchase order increase will be funded through DIF Arterial Streets (Fund 416), TUMF Capital Projects (Fund 415), Fire Station Funds (Fund 434), and Measure “A” (Fund 125):

Perris Boulevard from PVSD Lateral “B” to Cactus Avenue (416.78526).....	\$30,000
Perris Boulevard from Ironwood Avenue to Manzanita Avenue (415.78726).....	\$29,000
Industrial Fire Station (434.67930) .....	\$11,000
Fire Station No. 65 (434.72526) .....	\$11,000
Highland Fire Station (434.67830) .....	\$4,000
<b>Total.....</b>	<b>\$85,000</b>

**These funds are restricted to Capital Improvement Projects and cannot be utilized for operational activities.** There is no impact on the General Fund.

**CITY COUNCIL GOALS**

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**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 and neighborhood restoration.

**SUMMARY**

Due to the need for in-house right of way services on a variety of projects, the “First Amendment to Agreement for Professional Consultant Services” with OPC is necessary to continue the temporary professional staffing services for the Capital Projects Division. Staff recommends that the City Council authorize the execution of the Amendment and increase to the purchase order to OPC in the amount of \$85,000.

**ATTACHMENTS**

Attachment “A” – First Amendment to Project Agreement for On-Call Professional Consultant Services

Prepared By:  
Lorenz R. Gonzales  
Senior Engineer, P.E.

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

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

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

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**FIRST AMENDMENT TO PROJECT AGREEMENT  
FOR ON-CALL PROFESSIONAL CONSULTANT SERVICES  
VARIOUS PROJECTS OF THE CAPITAL PROJECTS DIVISION**

This First Amendment to Project Agreement is by and between the CITY of MORENO VALLEY, a municipal corporation, hereinafter referred to as "City," and Overland, Pacific and Cutler, Inc., a California corporation, hereinafter referred to as "Consultant." This First Amendment to Project Agreement is made and entered into effective on the date the City signs this Amendment.

RECITALS:

Whereas, the City and Consultant entered into an Agreement entitled "PROJECT AGREEMENT for ON-CALL PROFESSIONAL CONSULTANT SERVICES," hereinafter referred to as "Agreement," dated July 22, 2010.

Whereas, the Consultant is providing Consultant Real Property and Right of Way Services for Various Projects of the Capital Projects Division (and other Divisions as needed).

Whereas, it is desirable to amend the Project Agreement to expand the scope of the work to be performed by the Consultant as is more particularly described in Section 1 of this First Amendment.

Whereas, the Consultant has submitted a Proposal dated June 13, 2011, for expansion of the scope of work to be performed. A copy of said Proposal is attached as Exhibit "A" and is incorporated herein by this reference.

SECTION 1 AMENDMENT TO ORIGINAL PROJECT AGREEMENT:

- 1.1 The Project Agreement termination date is extended to December 31, 2012.

**FIRST AMENDMENT TO PROJECT AGREEMENT FOR ON-CALL  
PROFESSIONAL CONSULTANT SERVICES**

1.2 Exhibit "B" to the Project Agreement is hereby amended by adding to the scope of work section described in Exhibit "A", entitled "Consultant Proposal."

1.3 Exhibit "D" to the Project Agreement is hereby further amended by adding to the cost proposal section thereof Exhibit "B", entitled "Cost Summary."

1.4 The City agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of \$85,000, as set forth in the above-referenced Cost Summary, in consideration of the Consultant's performance of the work set forth in Exhibit "B".

1.5 The total "Not to Exceed" fee for this contract is \$184,000 (\$99,000 for the Original Agreement, plus \$85,000 for the First Amendment to Agreement).

**SECTION 2**

2.1 Except as otherwise specifically provided in this Amendment, all other terms and conditions of the Project Agreement shall remain in full force and effect.

**SIGNATURE PAGE TO FOLLOW**

**FIRST AMENDMENT TO PROJECT AGREEMENT FOR ON-CALL PROFESSIONAL CONSULTANT SERVICES**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Amendment to Project Agreement.

City of Moreno Valley

Overland, Pacific and Cutler, Inc.

BY: \_\_\_\_\_  
City Manager

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(President or Vice President)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(Corporate Secretary)

Attachments: Exhibit "A" – Consultant Proposal  
Exhibit "B" – Cost Summary

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Revised Dec 2010

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2280 Market Street, Suite 340, Riverside, CA 92501  
phone: (951)683-2353, fax: (951)683-3901

June 13, 2011

Ms. Kimberly Jester  
City of Moreno Valley  
14177 Frederick Street  
P.O. Box 88005  
Moreno Valley, CA 92552-0805

**RE: Continuation of In-House Right of Way Consulting Services 2011**

Dear Ms. Jester:

In response to your request, Overland, Pacific & Cutler, Inc. (OPC) is pleased to present the City of Moreno Valley with this brief fee proposal for the continuation of in-house staffing services under our existing Professional On-Call Services Agreement.

OPC is proposing to continue with the existing arrangements and will assign Mr. Michael Green to the City for another one (1) year term beginning January 1, 2012 and expiring December 31, 2012. Mr. Green will be working at a rate of \$105 per hour, Tuesdays and Thursdays, from 8:00 AM to 5:00 PM. At 16 hours per week for the year, we estimate the total annual cost to be \$87,360, plus any reimbursable expenses pursuant to the Professional On-Call Services Agreement. Should the actual hours increase or decrease over the coming year, the estimated cost will adjust accordingly.

Should you have any questions or would like to discuss further, please do not hesitate to call me at (951) 683-2353.

Sincerely,

*Overland, Pacific & Cutler, Inc.*

A handwritten signature in black ink, appearing to read "Joey Mendoza", is written over the company name.

Joey Mendoza, SR/WA  
Principal/Vice-President

EXHIBIT "A"

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## COST SUMMARY

1. The Consultant's compensation shall not exceed \$184,000 (\$99,000 for the Original Agreement, plus \$85,000 for the First Amendment to Agreement).
2. The consultant will submit an invoice to the City once a month for work completed and accepted by the City. At no time will the City pay for more services than have been satisfactorily completed, and the City Engineer's (or his/her representative's) determination of the amount due for any progress payment shall be final.
3. The Consultant's invoice shall include all subconsultant invoices for the same period as the Consultant's invoice.
4. The City shall pay the Consultant for all invoiced, authorized professional services within thirty (30) days of completing the referenced milestones as determined by the City.

EXHIBIT "B"

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Rest</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council and Redevelopment Agency Chairperson and Board of Directors

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE IRONWOOD AVENUE IMPROVEMENTS FROM DAY STREET TO BARCLAY DRIVE PROJECT NO. 10-41570027, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM

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### RECOMMENDED ACTION

Staff recommends that the City Council and the Community Redevelopment Agency:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Ironwood Avenue improvements from Day Street to Barclay Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project.

4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

### **BACKGROUND**

On October 12, 2010, the City Council awarded the construction contract and issued a purchase order in the amount of \$1,768,222.35 to Riverside Construction Company, Inc., for the Ironwood Avenue improvements from Day Street to Barclay Drive. The project construction work began on December 6, 2010.

### **DISCUSSION**

Staff anticipates that all work will be completed by Riverside Construction Company, Inc. by July 2011. Staff is in the process of negotiating Contract Change Orders and anticipates the final contract cost will be approximately \$1,675,000 which is not expected to exceed the approved purchase order amount of \$1,768,222.35. Since the City Council will not meet on July 26, 2011 and August 9, 2011, staff requests the City Council authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion with the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention to the Contractor thirty-five (35) calendar days after the date of recordation of the Notice of Completion. These actions must be completed in a timely manner upon completion of the Contractor's work in accordance with the applicable laws.

The project generally consisted of widening the south side of Ironwood Avenue from Day Street to Barclay Drive with the addition of one (1) lane plus a right turn lane, which included concrete curb, gutter, and sidewalk covering approximately 1,600 linear feet. Improvements included approximately 1,402 feet of new waterline in Ironwood Avenue beginning at Day Street and connecting to an existing waterline east of Athens Drive, a masonry block retaining wall along the southerly right of way line between Day Street and Athens Drive, storm drain improvements in Ironwood Avenue at the intersection of Athens Drive, a traffic signal modification at Day Street and Ironwood Avenue, a new traffic signal at Athens Drive and Ironwood Avenue, street lighting, and interconnect improvements. The modifications facilitate a smooth transition through the intersections for east and west bound traffic on Ironwood Avenue and Box Springs Road, and improve the flow for northbound traffic turning east off of Day Street onto Ironwood Avenue. Ironwood Avenue becomes Box Springs Road just west of Day Street.

### **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Ironwood Avenue improvements from Day Street to Barclay Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501, direct the City Clerk to record the Notice of Completion

within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code, authorize the Financial and Administrative Services Director to release the retention to Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete. *This alternative will result in timely payment to the Contractor and acceptance of the improvements into the City's maintained system.*

2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the Ironwood Avenue improvements from Day Street to Barclay Drive, constructed by Riverside Construction Company, Inc., 4225 Garner Road, Riverside, CA 92501, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code, do not authorize the Financial and Administrative Services Director to release the retention to Riverside Construction Company, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and do not authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete. *This alternative will result in delaying payment to the Contractor, delaying acceptance of the improvements into the City's maintained system, and incurring extra cost to the City.*

**FISCAL IMPACT**

The Ironwood Avenue improvements from Day Street to Barclay Drive were included in the Fiscal Year 2010/2011 budget, and financed by 2007 RDA Tax Allocation Bonds (Account No. 897.91727). In accordance with the terms of the Reimbursement Agreement, EMWD deposited \$100,273 to pay for its portion of the waterline being upsized and relocated within Ironwood Avenue through fund 414 (Account No. 414.80422); this amount may be adjusted based on final construction costs for this portion of the work. The funds utilized for this project are designated for capital improvements for the Ironwood Avenue improvements project and cannot be used for operational activities. There is no impact to the General Fund.

**AVAILABLE BUDGETED FUNDS:**

Fiscal Year 2010/2011 (Account No. 897.91727).....	\$2,585,000
Fiscal Year 2010/2011 (Account No. 414.80422).....	\$150,000
Total Budgeted Funds .....	<b>\$2,735,000</b>

**FINAL CONSTRUCTION RELATED COSTS:**

<b>Contractor Construction Costs .....</b>	<b>\$1,675,000</b>
--	--------------------

Design Support Costs during Construction .....	\$60,000
Construction Geotechnical Services.....	\$30,000
Construction Survey Services .....	\$30,000
Project Administration and City Inspection* .....	\$80,000
SCE Costs (Utility, Streetlights, and Permits).....	\$32,000
<b>Total Project Construction Costs .....</b>	<b>\$1,907,000</b>

\*Public Works staff provided project administration and primary inspection services. Additional consultant inspection support was provided for supplemental inspection.

**CITY COUNCIL GOALS**

**PUBLIC SAFETY:**

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**ATTACHMENTS**

Attachment “A” – Location Map

Prepared By:  
John Kerenyi  
Senior Engineer, P.E.

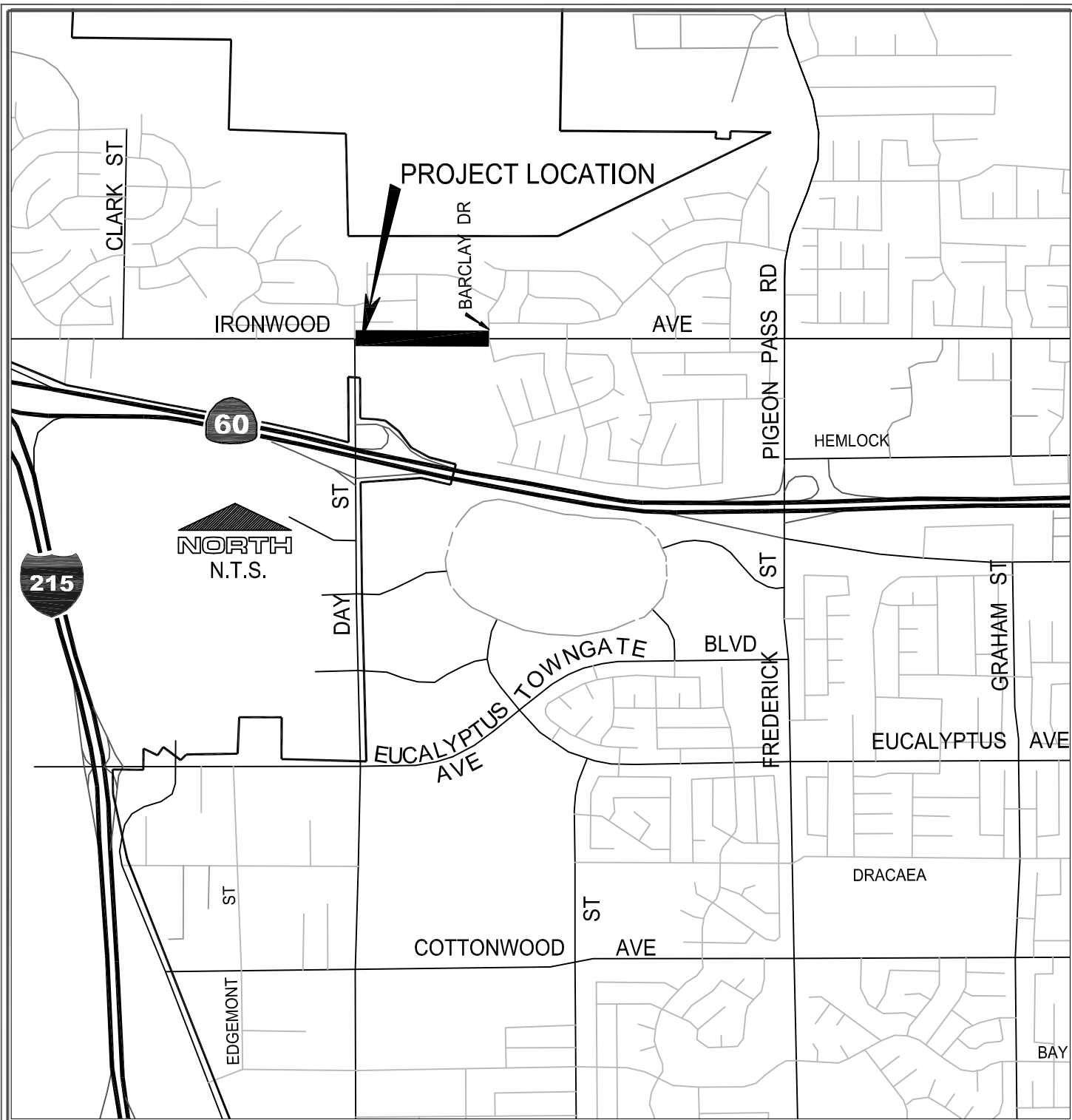
Department Head Approval:  
Chris A. Vogt, P.E.  
Public Works Director/City Engineer

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

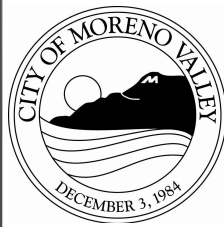
Department Head Approval:  
Barry Foster  
Community and Economic Development  
Director

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

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# LOCATION MAP



LOCATION MAP  
Public Works Department  
Capital Projects Division

Attachment "A"

**Ironwood Avenue Improvements,  
From Day Street to Barclay Drive  
Project No. 10-41570027**

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE TRAFFIC SIGNAL IMPROVEMENTS ON SUNNYMEAD RANCH PARKWAY AT VILLAGE ROAD (EAST) INTERSECTION PROJECT NO. 10-41779229, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AND AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM

---

### **RECOMMENDED ACTION**

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the traffic signal improvements on Sunnymead Ranch Parkway at Village Road (east), constructed by SoCal Engineers, Inc., 17595 Harvard, Suite C2160, Irvine, CA 92614.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 SoCal Engineers, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project.

4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete.

### **BACKGROUND**

On October 26, 2010, the City Council awarded the construction contract and issued a purchase order in the amount of \$207,299 to SoCal Engineers, Inc., for the traffic signal improvements on Sunnymead Ranch Parkway at Village Road (east). The project construction work began on January 24, 2011.

### **DISCUSSION**

Staff anticipates that all work will be completed by SoCal Engineers, Inc. in July 2011. Staff is in the process of negotiating Contract Change Orders and anticipates the final construction cost will be approximately \$205,000 which is not expected to exceed the approved purchase order amount of \$207,299. Since the City Council will not meet on July 26, 2011 and August 9, 2011, staff requests the City Council authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion after the Public Works Director/City Engineer accepts the improvements as complete with the County Recorder, and authorize the release of retention to the Contractor thirty-five (35) calendar days after the date of recordation of the Notice of Completion. These actions must be completed in a timely manner upon completion of the Contractor's work in accordance with the applicable laws.

The project generally involved the installation of a new traffic signal at the intersection of Sunnymead Ranch Parkway and Village Road (east). The work also included the removal and construction of new asphalt concrete pavement, curb and gutter, sidewalk, access ramps, interconnect conduit, and a residential driveway approach, as well as restriping of the intersection, and the installation of signage.

### **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the traffic signal improvements on Sunnymead Ranch Parkway at Village Road (east), constructed by SoCal Engineers, Inc., 17595 Harvard, Suite C2160, Irvine, CA 92614, direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code, authorize the Financial and Administrative Services Director to release the retention to SoCal Engineers, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and authorize the Public Works Director/City Engineer to accept the

improvements into the City’s maintained system upon acceptance of the improvements as complete. *This alternative will result in timely payment to the Contractor and acceptance of the improvements into the City’s maintained system.*

2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for construction of the traffic signal improvements on Sunnymead Ranch Parkway at Village Road (east), constructed by SoCal Engineers, Inc., 17595 Harvard, Suite C2160, Irvine, CA 92614, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the office of the County Recorder of Riverside County as required by Section 3093 of the California Civil code, do not authorize the Financial and Administrative Services Director to release the retention to SoCal Engineers, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and do not authorize the Public Works Director/City Engineer to accept the improvements into the City’s maintained system upon acceptance of the improvements as complete. *This alternative will result in delaying payment to the Contractor, delaying acceptance of the improvements into the City’s maintained road system, and incurring extra cost to the City.*

**FISCAL IMPACT**

The traffic signal improvements on Sunnymead Ranch Parkway at Village Road (east) were included in the Fiscal Year 2010/2011 budget, and financed by DIF Traffic Signal Capital Projects (Fund 417). The funding for this project is restricted to traffic signal capital improvements and cannot be used for operational activities. There is no impact to the General Fund.

**AVAILABLE BUDGETED FUNDS:**

Fiscal Year 2010/2011 (Account No. 417.79229)..... \$249,000

**FINAL CONSTRUCTION RELATED COSTS:**

Contractor Construction Cost.....	\$205,000
Construction Surveying Cost.....	\$2,000
Construction Geotechnical Cost.....	\$2,000
City Furnished Equipment.....	\$19,000
Project Administration and Inspection Services .....	\$21,000
<b>Total Project Construction Costs .....</b>	<b>\$249,000</b>

**CITY COUNCIL GOALS**

**PUBLIC SAFETY:**

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**ATTACHMENTS**

Attachment “A” – Location Map

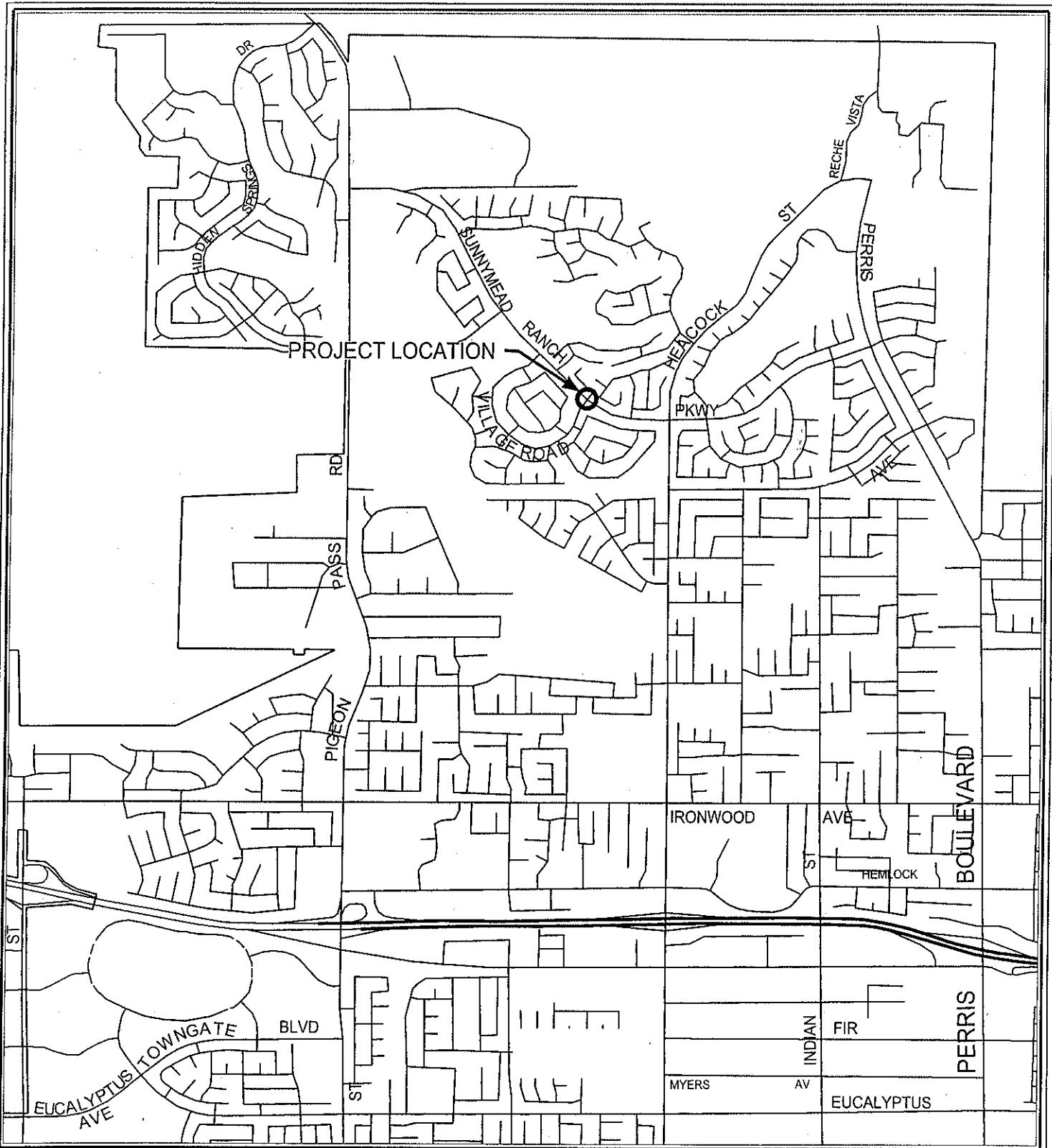
Prepared By:  
John Kerenyi  
Senior Engineer, P.E.

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

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

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

W:\CapProj\CapProj\PROJECTS\John K - 10-41779229- - Sunnymead Ranch Pkwy-Village Rd TS\CC Reports\071211 Notice of Completion for TS Sunnymead Ranch Village.doc



## ATTACHMENT "A" - LOCATION MAP

Public Works Department  
Capital Projects Division

Scale: None

THOMAS GUIDE - PAGE 687, SECTION D6

PROJECT NO. 10-41779229  
TRAFFIC SIGNAL AT SUNNYMEAD  
RANCH PKWY AND VILLAGE RD (EAST)

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

## Report to City Council

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**TO:** Mayor and City Council and Redevelopment Agency Chairperson and Board of Directors

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE DAY STREET ROADWAY IMPROVEMENTS FROM ALESSANDRO BOULEVARD TO COTTONWOOD AVENUE PROJECT NO. 02-89266920, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM

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### RECOMMENDED ACTION

Staff recommends that the City Council and Community Redevelopment Agency:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Day Street Roadway Improvements from Alessandro Boulevard to Cottonwood Avenue, which was constructed by Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92879.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete 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 Hillcrest Contracting, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project.

4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

## **BACKGROUND**

On May 25, 2010, the City Council awarded a construction contract and authorized the issuance of a Purchase Order in the amount of \$1,912,608.76 to Hillcrest Contracting, Inc. The work consisted of the construction of street, signing, striping, waterline, utility relocation, and other related road improvements on Day Street between Alessandro Boulevard and Cottonwood Avenue. The City issued a Notice to Proceed to Hillcrest Contracting, Inc. to start work on July 13, 2010.

On February 22, 2011, City Council and the Community Redevelopment Agency were informed that a design error was discovered pertaining to the design and construction of a portion of the street curb and gutter tied to a cross gutter to facilitate surface drainage, located on a short segment of the northerly end of Day Street, just south of Cottonwood Avenue. City Council also authorized an increase of the Purchase Order to a total amount of \$2,104,608.76.

Staff is diligently working to resolve the drainage issue independently of this construction contract as part of a second phase of improvements for Day Street. This second phase, Storm Drain Improvements on Day Street South of Cottonwood Avenue, is included in the Fiscal Year 2011–12 CIP, which City Council adopted on June 14, 2011.

## **DISCUSSION**

Hillcrest Contracting, Inc. completed all construction work per the plans and specifications in April 2011. In accordance with the contract documents, however, the date of acceptance of the work for this project by the City Council is contingent upon the satisfactory conclusion of the 90 day maintenance period, which is scheduled for the end of July 2011.

Staff is in the process of negotiating the final Contract Change Order and anticipates the final contract cost will be approximately \$1,953,000.00 which does not exceed the approved purchase order amount of \$2,104,608.76. Since the City Council will not meet on the next two meetings after the July 12 meeting, staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed and accept the improvements into the City's maintained road system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion at the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention money to Hillcrest Contracting, Inc. thirty five (35) calendar days after the date of recordation of the Notice



of Completion. These actions must be completed in a timely manner upon completion of the contractor's work in accordance with the applicable laws.

### **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Day Street Roadway Improvements from Alessandro Boulevard to Cottonwood Avenue, which was constructed by Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92879, direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, authorize the Financial and Administrative Services Director to release the retention to Hillcrest Contracting, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete. *This alternative will allow payment to the Contractor and acceptance of the improvements into the City's maintained road system.*
  
2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the Day Street Roadway Improvements from Alessandro Boulevard to Cottonwood Avenue, which was constructed by Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92879, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, do not authorize the Financial & Administrative Services Director to release the retention to Hillcrest Contracting, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and do not authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete. *This alternative will result in delaying payment to the Contractor, delaying acceptance of the improvements into the City's maintained road system and incurring extra costs to the City.*

### **FISCAL IMPACT**

The construction phase of this project is included in Fiscal Year 2010-2011 Budget and is financed by RDA 2007 Tax Allocation Bonds (TABS) funds (Fund 897). **These funds have been allocated for the Day Street from Alessandro Boulevard to Cottonwood Avenue Improvements project and cannot be utilized for operational activities.** There is no impact on the General Fund.

FISCAL YEAR 2010-2011 BUDGETED FUNDS (ACCOUNT NO. 897.91724):

RDA 2007 Tax Allocation Bonds (TABS) ..... \$2,413,377

FINAL CONSTRUCTION RELATED COSTS:

Design Support Services during Construction..... \$15,000  
 Anticipated Contractor Construction Costs..... \$1,953,000  
 Construction Geotechnical Services..... \$15,000  
 Construction Survey Services ..... \$45,000  
 Construction Inspection Services ..... \$12,000  
 Project Administration and City Inspection ..... \$90,000  
 Total Project Construction Costs ..... \$2,130,000

**CITY COUNCIL GOALS**

PUBLIC SAFETY:

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

PUBLIC FACILITIES AND CAPITAL PROJECTS:

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

POSITIVE ENVIRONMENT:

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

**SUMMARY**

Hillcrest Contracting, Inc. completed construction of the Day Street Roadway Improvements from Alessandro Boulevard to Cottonwood Avenue at the end of April 2011 and, anticipating the successful completion of the 90 day maintenance period, the project will be complete at the end of July 2011. Staff is requesting that City Council authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed and accept the improvements into the City’s maintained road system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion at the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention money to Hillcrest Contracting, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion.

**ATTACHMENTS**

Attachment “A” – Location Map

Prepared By:  
Lorenz R. Gonzales, P.E.  
Senior Engineer

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

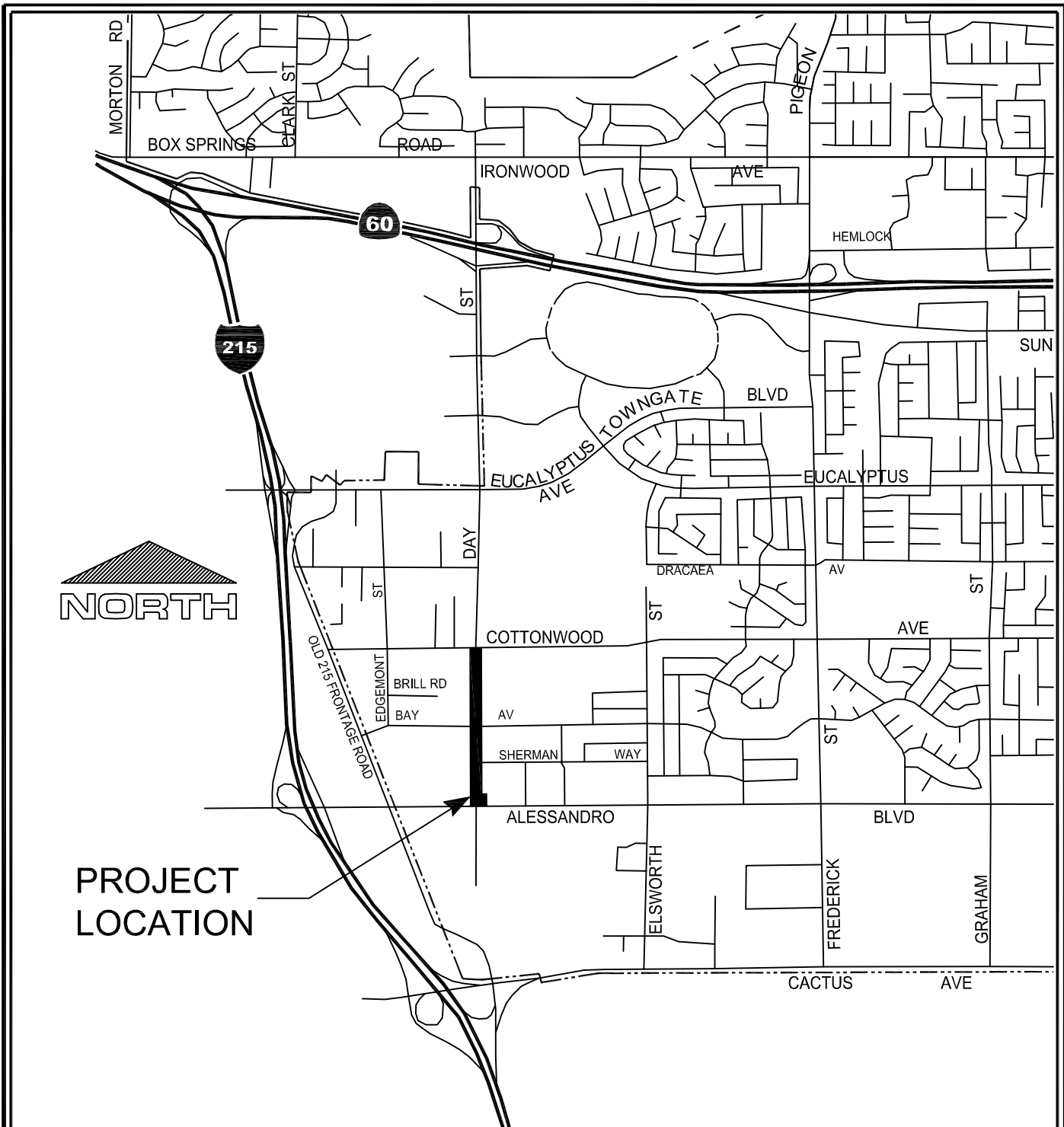
Concurred By:  
Prem Kumar, P.E.  
Deputy Public Works Director/Assistant City Engineer

Department Head Approval:  
Barry Foster  
Community & Economic Development Director

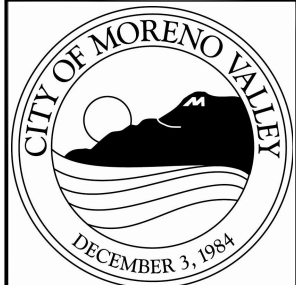
Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

W:\CapProj\CapProj\PROJECTS\Larry - 02-89266920 - Day St\CC Reports\NOC Staff Report (CC 07-12-11)\Staff Report - NOC Day Street (CC 07-12-11) Revised 062711.doc

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PROJECT  
LOCATION



# LOCATION MAP

Public Works Department  
Capital Projects Division

Scale: None

ATTACHMENT "A"

STREET IMPROVEMENTS FOR DAY STREET  
FROM ALESSANDRO BOULEVARD TO COTTONWOOD AVENUE  
PROJECT NUMBER 02-89266920

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Rest</i>
CITY MANAGER	<i>ms</i>

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## Report to City Council

---

**TO:** Mayor and City Council

**FROM:** Steve Curley, Fire Chief

**AGENDA DATE:** July 12, 2011

**TITLE:** RESCIND RESOLUTION NO. 2005-30 AND RE-DESIGNATE AND AUTHORIZE SIGNATURE AUTHORITIES TO EXECUTE APPLICATIONS AND DOCUMENTS FOR PURPOSES OF OBTAINING FINANCIAL ASSISTANCE UNDER SECTION 404 OF PUBLIC LAW 93-288, AS AMENDED BY THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ACT OF 1988.

---

### **RECOMMENDED ACTION**

Staff recommends that the City Council adopt Resolution No. 2011-73, rescinding Resolution No. 2005-30, and designating and authorizing certain City officials to execute applications and documents for purposes of obtaining financial assistance under Section 404 of Public Law 93-288, as amended by the Robert T. Stafford Disaster Relief and Emergency Act of 1988, and/or financial assistance under the California Disaster Assistance Act.

### **ADVISORY BOARD/COMMISSION RECOMMENDATION**

N/A

### **BACKGROUND**

On April 12, 2005, Moreno Valley City Council adopted Resolution No. 2005-30, authorizing the City Manager, Assistant City Manager and the Public Works Director/City Engineer to execute documents on behalf of the City of Moreno Valley for the purpose of obtaining federal and state financial assistance.

California Emergency Management Agency has required that Moreno Valley City Council adopt a new resolution in place of Resolution No. 2005-30, designating and authorizing City officials to execute applications and documents.

### **DISCUSSION**

To apply for and receive disaster relief and other financial funding offered under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and/or under the California Disaster Assistance Act, the City of Moreno Valley must designate City officials who are authorized to execute applications and documents on behalf of the City. Resolution No. 2011-xx rescinds Resolution 2005-30 and authorizes the City Manager, Assistant City Manager, Fire Chief or Public Works Director/City Engineer to execute documents on behalf of the City.

### **ALTERNATIVES**

1. Adopt the proposed amended Resolution re-designating and authorizing signature authorities to execute applications and documents for purposes of obtaining financial assistance under Section 404 of Public Law 93-288, as amended by the Robert T. Stafford Disaster Relief and Emergency Act of 1988, and/or financial assistance under the California Disaster Assistance Act. **Staff recommends this alternative.**
2. Do not adopt the proposed Resolution. This alternative would prevent the City from receiving disaster relief and other financial funding.
3. Provide staff with further direction.

### **FISCAL IMPACT**

Without a new Resolution, the City would not be eligible to receive disaster relief and other financial funding.

### **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.

### **NOTIFICATION**

Publication of the Council Agenda.

### **ATTACHMENTS/EXHIBITS**

Exhibit "A" - Proposed Resolution



Prepared By:  
 Name LeAnn M. Coletta, CEM  
 Title Office of Emergency Management Program Manager

Department Head Approval:  
 Name Steve Curley  
 Title Fire Chief

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

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RESOLUTION NO. 2011-73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, RESCINDING RESOLUTION NO. 2005-30, AND RE-DESIGNATE AND AUTHORIZE CERTAIN CITY OFFICIALS TO EXECUTE APPLICATIONS AND DOCUMENTS FOR PURPOSES OF OBTAINING FINANCIAL ASSISTANCE UNDER SECTION 404 OF PUBLIC LAW 93-288, AS AMENDED BY THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ACT OF 1988.

WHEREAS, Section 404 of Public Law 93-288, as amended by the Robert T. Stafford Disaster Relief and Emergency Act of 1988, requires a signature resolution designating and authorizing certain city officials to execute applications and documents necessary to obtain financial assistance; and

WHEREAS, the City Council of the City of Moreno Valley heretofore adopted Resolution No. 2005-30, designating and authorizing certain city officials to execute said applications and documents; and

WHEREAS, the California Emergency Management Agency has required that the Moreno Valley City Council update Resolution No. 2005-30 in order to be eligible for financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or financial assistance under the California Disaster Assistance Act.

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

1. That the City Manager, Assistant City Manager, Fire Chief or Public Works Director/City Engineer, is hereby authorized to execute for and on behalf of the City of Moreno Valley, a local government established under the laws of the State of California, applications and other related documents for filing in the California Emergency Management Agency for purpose of obtaining financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or financial assistance under the California Disaster Assistance Act.
2. That the City Council of the City of Moreno Valley, a local government established under the laws of the State of California, hereby authorizes its agent(s) to provide to the California Emergency Management Agency for all matters pertaining to such state disaster assistance the assurances and agreements required.

APPROVED AND ADOPTED this 12th day of July, 2011.

\_\_\_\_\_  
Mayor of the City of Moreno Valley

ATTEST:

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

APPROVED AS TO FORM:

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

**RESOLUTION JURAT**

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

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

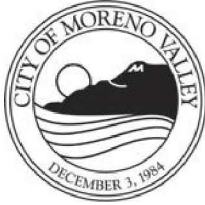
ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** FIRST AMENDMENT TO AGREEMENT FOR ON-CALL PROJECT MANAGEMENT SERVICES WITH VAS ASSOCIATES, INC.

---

### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve the "First Amendment to Agreement for On-Call Project Management Services" with VAS Associates, Inc. (VAS), 571 Ruth Circle, Corona, CA 92879 to provide temporary professional project management services for budgeted Capital Improvement Plan (CIP) projects on an as-needed basis.
2. Authorize the City Manager to execute said "First Amendment to Agreement for On-Call Project Management Services" with VAS, in the form attached hereto.
3. Authorize a purchase order to VAS in the amount of \$312,000 when "First Amendment to Agreement for On-Call Project Management Services" has been signed by all parties.

### BACKGROUND

On September 14, 2010, City Council approved an "Agreement for On-Call FY 10/11 Project Management Services" with VAS Associates, Inc. for \$285,000 for various projects of the Capital Projects Division.

On June 14, 2011, the City Council approved an \$85.773 million CIP Budget. Adequate personnel resources are required to ensure that these projects are successfully managed and completed in a timely manner and within budget.

## **DISCUSSION**

VAS will serve as the Project Manager for the Cactus Avenue between Lasselle Street and Nason Street and Nason Street between Cactus Avenue and Iris Avenue Improvement Projects. These fast-tracked projects are part of the April 26, 2011 City Council approved Economic Development Action Plan. Furthermore, VAS will continue to work in the capacity of Consultant Project Manager for the Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue, which is anticipated to begin construction in the fall of 2011.

VAS currently provides Consultant Project Management services to the City for several design and construction projects under an existing professional consultant service contract. This action is necessary due to on-going heavy workload and shortage of qualified, experienced, and knowledgeable Project Managers to complete budgeted capital improvement projects funded by various revenue sources as depicted in the FY 11/12 CIP budget.

VAS staff possesses a unique combination of skills as well as 30-plus years of industry experience. Their in-depth knowledge of the Public Contract Code, Green Book Specifications, and public works contracting practices, coupled with a vast network of contacts and experience with various Riverside County regional agencies has contributed to the successful execution of many complex public works projects. Two of the projects completed for the City by VAS staff received the Project of the Year Award from the American Public Works Association, Southern California Chapter.

VAS has a long-standing and proven track record of managing high-profile construction projects that are completed on time and within budget. Within the recent past, VAS has successfully completed the Kitching Street Improvements from Cactus Avenue to Alessandro Boulevard, which improved 2,800 linear feet of roadway segment to its General Plan width of four (4) travel lanes; the Lasselle Street Widening project, the widening of a one-mile stretch of roadway to its ultimate General Plan width of four (4) travel lanes; and the 2011 Citywide Bridge Maintenance Program, a project that repaired eight (8) bridges within the City. Previously, VAS constructed Pigeon Pass Road Widening, which completed improvements for missing segments of a two-mile section of roadway. VAS successfully completed several traffic signal construction projects such as the traffic signals at Cottonwood Avenue and Pattilynn Drive, Lasselle Street and Bay Avenue, and Lasselle Street and Cottonwood Avenue.

## **ALTERNATIVES**

1. Approve the "First Amendment to Agreement for On-Call Project Management Services" with VAS Associates, Inc. (VAS), 571 Ruth Circle, Corona, CA 92879 to provide temporary professional project management services for budgeted Capital Improvement Plan (CIP) projects on an as-needed basis, authorize the City Manager to execute said "First Amendment to Agreement for On-Call Project Management Services" with VAS, in the form attached hereto, and authorize a purchase order to VAS in the amount of \$312,000 when "First Amendment to Agreement for On-Call Project Management Services" has been signed by all



parties. *This alternative will provide resources to assist staff to complete budgeted City capital improvement projects.*

2. Do not approve the “First Amendment to Agreement for On-Call Project Management Services” with VAS Associates, Inc. (VAS), 571 Ruth Circle, Corona, CA 92879 to provide temporary professional project management services for budgeted Capital Improvement Plan (CIP) projects on an as-needed basis, do not authorize the City Manager to execute said “First Amendment to Agreement for On-Call Project Management Services” with VAS, in the form attached hereto, and do not authorize a purchase order to VAS in the amount of \$312,000 when “First Amendment to Agreement for On-Call Project Management Services” has been signed by all parties. *This alternative will delay the design and construction of budgeted City capital improvement projects.*

**FISCAL IMPACT**

The current Agreement for Professional Consultant Services with VAS will be fully expended in by late 2011/early 2012. This new amendment to agreement in the amount of \$312,000 is for on-going services throughout the anticipated duration of the Cactus Avenue between Lasselle Street and Nason Street and Nason Street between Cactus Avenue and Iris Avenue Improvement Projects. The new agreement termination date is June 30, 2013. Adequate funding is provided through the various budgeted capital improvement projects assigned to the consultant. The agreement provides the City with the ability to terminate the agreement by giving at least ten days written notice to the consultant.

Sufficient funds are available in the Cactus Avenue and Nason Avenue budgets (Account No. [125.New](#)) to encumber the purchase order. As costs for projects other than Cactus and Nason Street projects are incurred, the expenditures will be transferred to the capital projects for which services were performed. The remaining associated costs for the Amendment to Agreement for Professional Consultant Services will be funded through TUMF Capital Projects (Fund 415).

Consultant Service Funding Allocation in FY 11/12

Cactus Avenue and Nason Avenue (Account No. <a href="#">125.New</a> ) .....	\$196,000
Perris Boulevard Widening (Account No. 415.70225) .....	\$116,000
<b>Total.....</b>	<b>\$312,000</b>

Funding for this project is restricted to capital improvements and cannot be utilized for operational activities. There is no impact on the General Fund.

**CITY COUNCIL GOALS**

PUBLIC SAFETY:

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**SUMMARY**

Due to the need for additional temporary project management consultant services for the Cactus Avenue between Lasselle Street and Nason Street and Nason Street between Cactus Avenue and Iris Avenue Improvements Projects, the First Amendment to Agreement for Professional Consultant Services with VAS is necessary to extend temporary professional staffing services to the Capital Projects Division. Staff recommends issuance of a purchase order to VAS in the amount of \$312,000.00.

**ATTACHMENT**

Attachment "A" – First Amendment to Project Agreement for On-Call Project Management Services for Various Projects of the Capital Projects Division

Prepared By:  
 Kimberly Jester  
 Consultant Contract Administrative Assistant

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

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

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

c: File

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**FIRST AMENDMENT TO PROJECT AGREEMENT  
FOR ON-CALL PROJECT MANAGEMENT SERVICES FOR  
VARIOUS PROJECTS OF THE CAPITAL PROJECTS DIVISION**

This First Amendment to Project Agreement is by and between the CITY of MORENO VALLEY, a municipal corporation, hereinafter referred to as "City," and VAS Associates, Inc., a California corporation, hereinafter referred to as "Consultant." This First Amendment to Project Agreement is made and entered into effective on the date the City signs this Amendment.

RECITALS:

Whereas, the City and Consultant entered into an Agreement entitled "PROJECT AGREEMENT FOR ON-CALL FY 10/11 PROJECT MANAGEMENT SERVICES FOR VARIOUS PROJECTS OF THE CAPITAL PROJECTS DIVISION," hereinafter referred to as "Agreement," dated September 21, 2010.

Whereas, the Consultant is providing consultant Project Management services for budgeted Capital Improvement Plan (CIP) projects of the Capital Projects Division.

Whereas, it is desirable to amend the Project Agreement to expand the scope of the work to be performed by the Consultant as is more particularly described in Section 1 of this First Amendment.

Whereas, the Consultant has submitted a Proposal dated June 14, 2011, for expansion of the scope of work to be performed. A copy of said Proposal is attached as "Exhibit A -- First Amendment" and is incorporated herein by this reference.

SECTION 1 AMENDMENT TO ORIGINAL PROJECT AGREEMENT:

1.1 The Project Agreement termination date is extended from March 31, 2012 to June 30, 2013.

**AMENDMENT TO PROJECT AGREEMENT FOR ON-CALL  
PROJECT MANAGEMENT SERVICES FOR  
VARIOUS PROJECTS OF THE CAPITAL PROJECTS DIVISION**

1.2 Exhibit "B" to the Project Agreement is hereby amended by adding to the scope of work section described in Exhibit "A" -- First Amendment, entitled "Consultant Proposal."

1.3 Exhibit "D" to the Project Agreement is hereby further amended by adding to the cost proposal section thereof Exhibit "B" -- First Amendment, entitled "Cost Summary."

1.4 The City agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of \$312,000, as set forth in the above-referenced Cost Summary, in consideration of the Consultant's performance of the work set forth in Exhibit "A" - First Amendment.

1.5 The total "Not to Exceed" fee for this contract is \$597,000 (\$285,000 for the original Agreement plus \$312,000 for the First Amendment to Project Agreement).

**SECTION 2**

2.1 Except as otherwise specifically provided in this Amendment, all other terms and conditions of the Project Agreement shall remain in full force and effect.

**SIGNATURE PAGE TO FOLLOW**

**AMENDMENT TO PROJECT AGREEMENT FOR ON-CALL  
PROJECT MANAGEMENT SERVICES FOR  
VARIOUS PROJECTS OF THE CAPITAL PROJECTS DIVISION**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Amendment to Project Agreement.

City of Moreno Valley

VAS Associates, Inc.

BY: \_\_\_\_\_  
City Manager

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(President or Vice President)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(Corporate Secretary)

APPROVED AS TO LEGAL FORM:

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

DATE: \_\_\_\_\_

Attachment: Exhibit "A" – Consultant Proposal  
Exhibit "B" – Cost Summary

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Revised Dec 2010

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VAS Associates, Inc.  
571 Ruth Circle  
Corona, CA 92879-8088  
(951) 314 2288  
Viren50@hotmail.com

June 14, 2011

Prem Kumar, PE  
Deputy Public Works Director/Assistant City Engineer  
City of Moreno Valley  
Capital Projects Division  
14177 Frederick Street  
Moreno Valley, CA 92552

SUBJECT: Annual On-Call Professional Consultant Services-Project Management for  
Capital Improvements. Expansion of Services.

Dear Mr. Kumar:

VAS Associates, Inc. (VAS) is pleased to submit this proposal that expands services based on our recent discussions that identified needs of Capital Projects Division of Public Works Department based on recently adopted new set of priorities for the division in accordance with the following:

- A) It is our understanding that previous assignment to VAS as identified in VAS letter dated August 2, 2010 to the City has now been expanded/ revised to include the following projects:
- Design, Right of Way, Utilities Relocations and Construction phases for Perris Boulevard Widening from Ironwood to Manzanita Project.
  - Completion of PS&E, Utilities Coordination and Construction phases for Cactus Avenue widening from Lasselle Street to Nason Street project.
  - Completion of PS&E, Utilities Coordination and Construction phases for Nason Street improvements from Iris Avenue to Cactus Avenue project.
  - Close out of 2011 Citywide Bridge Maintenance Program project.
  - Completion of PS&E and Major Utilities Relocations for Kitching Street Improvements-Phase II from Gentian to Cactus project.
  - Completion of PS&E including Utilities Relocation design for Reche Vista Drive Realignment project.
- B) Our staff hourly billing rate will be \$120/Hour. Standard Work Week will be based on a 40 Hours/Week.

Letter to Prem Kumar

June 14, 2011

Page 2

- C) VAS services are requested at least until June 30, 2013 to ensure completion of the above-mentioned project assignments.
- D) All other terms of the "Agreement for Annual On-Call Professional Consultant Services – Project Management for Capital Improvements" between the City of Moreno Valley and VAS will remain in force.

We look forward to continue to provide quality project management services to the City of Moreno Valley. If you have any questions, please do not hesitate to contact me at 951.314.2288.

Sincerely,



Viren Shah, PE  
Principal

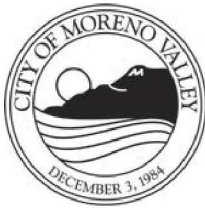


## COST SUMMARY

1. The Consultant's compensation shall not exceed \$597,000 (\$285,000 for the original Agreement, plus \$312,000 for the First Amendment to Agreement).
2. The consultant will submit an invoice to the City once a month for work completed and accepted by the City. At no time will the City pay for more services than have been satisfactorily completed, and the City Engineer's (or his/her representative's) determination of the amount due for any progress payment shall be final.
3. The Consultant's invoice shall include all subconsultant invoices for the same period as the Consultant's invoice.
4. The City shall pay the Consultant for all invoiced, authorized professional services within thirty (30) days of receipt of invoice.

EXHIBIT "B"

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AGREEMENT FOR PROFESSIONAL CONSULTANT ADMINISTRATIVE SERVICES WITH DMC DESIGN GROUP, INC.

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve the "Agreement for Professional Consultant Administrative Services" with DMC Design Group, Inc. (DMC), 170 N. Maple Street, Corona, CA 92880-1703, to provide Professional Consultant Administrative Services for budgeted Capital Improvement Plan (CIP) projects.
2. Authorize the City Manager to execute said "Agreement for Professional Consultant Administrative Services" with DMC, in the form attached hereto.
3. Authorize a purchase order to DMC in the amount of \$139,000 when said "Agreement for Professional Consultant Administrative Services" has been signed by all parties.

### BACKGROUND

On June 14, 2011, the City Council approved an \$85.773 million CIP Budget. Adequate personnel resources are required to ensure that these projects are successfully managed and completed in a timely manner and within budget.

### DISCUSSION

On April 26, 2011, City Council approved the Economic Development Action Plan that re-sequenced a number of Capital Improvements Projects, allowing for the funding of Cactus Avenue between Lasselle Street and Nason Street and Nason Street between Cactus Avenue and Iris Avenue Improvements Projects identified to cost up to \$23 million. On June 14, 2011, City Council approved the FY 11/12 CIP budget including funding for the two referenced projects. These fast-tracked projects will require

dedicated, knowledgeable, and efficient support with experience in assisting with these types of projects.

The Capital Projects Division currently receives Consultant Administrative Specialist services for several design and construction projects under an existing professional consultant service contract with RLZ Engineering, Inc. which is anticipated to be fully expended shortly. The key individual with RLZ Engineering, Inc. will be moving over to DMC Design Group, Inc. (DMC) and proposes to provide similar services through a new agreement with DMC.

Consultant staff will directly assist the Project Manager for the Cactus Avenue and Nason Street projects with coordinating weekly meetings, permit and license processing, utility coordination, tracking consultant, vendor, and contractor progress, ensuring contract requirements are met, processing agreements and amendments, writing purchase requisitions and change orders, processing invoices for payment, labor and DBE compliance, as well as construction legal requirements.

Consultant staff has a unique background and skill set that is essential to the Division. Key experience includes proficient review of certified payroll and vast knowledge of Department of Industrial Relations requirements, long-standing and proven history of processing contractor payments within 30 days including dealing with Stop Notices and release of retention in line with City financial and accounting procedures, understanding of the public bidding procedures and contract administration per the Public Contract Code, as well as processing Stop Notices and fulfilling Public Records requests in coordination with the City Clerk's Office. The Consultant staff has five years experience in Capital Projects and an additional five years experience in the construction engineering field for the private sector.

Consultant staff has a long-standing and proven track record of providing administrative support to on-time and on-budget projects such as the Lasselle Street Widening, Kitching Street Phase I Improvements, and the last two cycles of the Annual Bridge Maintenance Program. In addition to the services provided for the Cactus Avenue and Nason Street projects, the consultant staff will assist with the contract administration, accounting, invoice processing, as well as the development of the Five-Year CIP Budget for other approved projects on an as-needed basis.

The consultant staff will work on a full-time, 36-hour per week schedule. The Agreement termination date is June 30, 2013. DMC has acknowledged the current economic downturn that the City faces, and has reduced the hourly rate by approximately 2%.

## **ALTERNATIVES**

1. Approve the "Agreement for Professional Consultant Administrative Services" with DMC Design Group, Inc. (DMC), 170 N. Maple Street, Corona, CA 92880-1703, to provide Professional Consultant Administrative Services for budgeted

Capital Improvement Plan (CIP) projects, authorize the City Manager to execute said “Agreement for Professional Consultant Administrative Services” with DMC, in the form attached hereto, and authorize a purchase order to DMC in the amount of \$139,000 when said “Agreement for Professional Consultant Administrative Services” has been signed by all parties. *This alternative will provide resources to assist staff to complete budgeted City capital improvement projects.*

2. Do not approve the “Agreement for Professional Consultant Administrative Services” with DMC Design Group, Inc. (DMC), 170 N. Maple Street, Corona, CA 92880-1703, to provide Professional Consultant Administrative Services for budgeted Capital Improvement Plan (CIP) projects, do not authorize the City Manager to execute said “Agreement for Professional Consultant Administrative Services” with DMC, in the form attached hereto, and do not authorize a purchase order to DMC in the amount of \$139,000 when said “Agreement for Professional Consultant Administrative Services” has been signed by all parties. *This alternative will delay the design and construction of budgeted City capital improvement projects.*

**FISCAL IMPACT**

This proposed “Agreement for Professional Consultant Administrative Services” with DMC in the amount of \$139,000 is for on-going services throughout the anticipated duration of the Cactus Avenue and Nason Street projects. The agreement termination date is June 30, 2013. The agreement provides the City with the ability to terminate the agreement by giving at least ten days written notice to the consultant.

Sufficient funds are available in the Cactus Avenue and Nason Street budgets (Account No. 125.New) to encumber the purchase order. As costs for projects other than Cactus Avenue and Nason Street projects are incurred, the expenditures will be transferred to the capital projects for which services were performed. The remaining associated costs for the Agreement for Professional Consultant Services will be funded through Measure A Funds (Fund 125), TUMF Capital Projects (Fund 415), and DIF Arterial Streets (416).

Consultant Service Funding Allocation in FY 11/12

Cactus Avenue and Nason Avenue (Account No. 125.New) .....	\$80,000
Perris Boulevard Widening (Account No. 415.70225) .....	\$40,000
Moreno Beach Widening (Account No. 416.83428) .....	\$7,000
Heacock Street Bridge Rehabilitation (Account No. 125.66825) .....	<u>\$12,000</u>
<b>Total.....</b>	<b>\$139,000</b>

Funding for this project is restricted to capital improvements and cannot be utilized for operational activities. There is no impact on the General Fund.

**CITY COUNCIL GOALS**

**PUBLIC SAFETY:**

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**SUMMARY**

Due to the need for experienced consultant administrative services for the Cactus Avenue between Lasselle Street and Nason Street and Nason Street between Cactus Avenue and Iris Avenue Improvements Projects, staff recommends authorizing the Agreement for Professional Consultant Administrative Services with DMC Design Group, Inc. Staff also recommends issuance of a purchase order to DMC in the amount of \$139,000.00.

**ATTACHMENT**

Attachment “A” – Agreement for Professional Consultant Administrative Services

Prepared By:  
Viren A. 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:

c: File  
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**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

This Agreement is by and between the City of Moreno Valley, California, a municipal corporation, hereinafter described as "City," and DMC Design Group, Inc., a California corporation, hereinafter described as "Consultant." This Agreement is made and entered into effective on the date the City signs this Agreement.

**RECITALS**

WHEREAS, the City has determined it is in the public interest to proceed with the work hereinafter described as "Project"; and

WHEREAS, the City has determined the Project involves the performance of professional and technical services of a temporary nature as more specifically described in Exhibit "A" (City's Scope of Work) and Exhibit "B" (Consultant's Proposal) hereto; and

WHEREAS, the City does not have available employees to perform the services for the Project; and

WHEREAS, the City has requested the Consultant to perform such services for the Project; and

WHEREAS, the Consultant is professionally qualified in California to perform the professional and technical services required for the Project;

THEREFORE, the City and the Consultant, for the consideration hereinafter described, mutually agree as follows:

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

**DESCRIPTION OF PROJECT**

1. The project involves temporary administrative services for the Capital Projects Division associated with applicable capital improvements. The work will include administrative and accounting support services and other project-related duties as assigned.

**SCOPE OF SERVICES**

2. The Consultant's scope of service is described on Exhibit "B" attached hereto and incorporated herein by this reference. In the event of a conflict, the City's Scope of Services shall take precedence over the Consultant's Proposal.

3. The City's responsibility is described on Exhibit "C" attached hereto and incorporated herein by this reference.

**PAYMENT TERMS**

4. The City agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of **\$139,000** in accordance with the payment terms provided on Exhibit "D" attached hereto and incorporated herein by this reference.

**TERM OF AGREEMENT**

5. This agreement will terminate on June 30, 2013 unless the termination date is extended by an amendment to the agreement.

**TIME FOR PERFORMANCE**

6. The Consultant shall commence services upon receipt of written direction to proceed from the City.

7. The Consultant shall perform the work described on Exhibit "A" in accordance with the schedule set forth herein.

8. The Consultant and the City agree that the schedule in Paragraph 7 above represents their best estimates with respect to completion dates, and both the Consultant and the City



**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

acknowledge that it will not unreasonably withhold approval of the Consultant's requests for extensions of time in which to complete the work required of the Consultant hereunder.

9. The Consultant shall not be responsible for performance delays caused by others or delays beyond the Consultant's reasonable control, and such delays shall extend the time for performance of the work by the Consultant. Delays caused by non-performance or unjustified delay in performance by a subconsultant of the Consultant are not considered to be beyond the Consultant's reasonable control.

10. (a) The Consultant agrees that the personnel, including the principal Project manager, and all subconsultants assigned to the Project by the Consultant, shall be subject to the prior approval of the City.

(b) No change in subconsultants or key personnel shall be made by the Consultant without written prior approval of the City.

**SPECIAL PROVISIONS**

11. It is understood and agreed that the Consultant is, and at all times shall be, an independent contractor and nothing contained herein shall be construed as making the Consultant or any individual whose compensation for services is paid by the Consultant, an agent or employee of the City, or authorizing the Consultant to create or assume any obligation or liability for or on behalf of the City.

12. The Consultant may also retain or subcontract for the services of other necessary consultants with the prior written approval of the City. Payment for such services shall be the responsibility of the Consultant. Any and all subconsultants employed by the Consultant shall be subject to the terms and conditions of this Agreement, except that the City shall have no obligation to pay any subconsultant for services rendered on the Project.

13. The Consultant and the City agree to use reasonable care and diligence to perform

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

their respective services under this Agreement. Unless hereinafter specified, neither party shall be responsible for the services of the other or any subcontractor or sub-consultant employed by the other party.

14. The Consultant shall comply with applicable federal, state, and local laws in the performance of work under this Agreement.

15. (a) The Consultant agrees to indemnify, defend, and save the City, the Moreno Valley Community Redevelopment Agency (RDA), and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all liability, claims, demands, damages, or injuries to any person, including injury to the Consultant'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 the Consultant under this Agreement, or are caused or claim to be caused by the negligent acts of the Consultant, its officers, agents or employees, or its subconsultant(s) or any person acting for the Consultant or under its control or direction; provided, however, that this indemnification and hold harmless shall not include claims arising from the sole negligence or willful misconduct of the City, RDA, and CSD, their officers, agents or employees.

(b) The City agrees to indemnify, defend and save the Consultant and their 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 Consultant, its officers, agents, or employees.

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

16. (a) The Consultant shall procure and maintain, at its sole expense, throughout the term of this Agreement and any extension thereof, Professional Errors and Omission Insurance coverage in the form and substance and with carriers acceptable to the City. Such coverage limits shall not be less than \$1,000,000 per claim and aggregate.

(b) During the entire term of this Agreement, the Consultant agrees to procure and maintain General Liability Insurance in form and substance and with carriers acceptable to the City at its sole expense to protect against loss from liability imposed by law for damages on account of bodily injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomever, resulting directly or indirectly from any act or activities of the Consultant, its sub-consultant or any person acting for the Consultant or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any persons caused directly or indirectly by or from acts or activities of the Consultant or its subconsultants, or any person acting for the Consultant or under its control or direction.

(c) Such General Liability Insurance shall be maintained in full force and effect throughout the terms of the Agreement and any extension thereof in the minimum limits provided below:

GENERAL LIABILITY

Bodily Injury	\$1,000,000 per occurrence
Property Damage	\$ 500,000 per occurrence

A combined single limit policy with aggregate limits in the amount of \$2,000,000 will be considered equivalent to the above minimum limits.

(d) If the operation under this Agreement results in an increased or decreased risk in the opinion of the City Manager, then the Consultant agrees that the minimum limits

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

hereinabove designated shall be changed accordingly upon request by the City Manager.

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

(f) The Consultant shall procure and maintain, at its sole expense, 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 Consultant 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 Consultant in the course of carrying out the Agreement.

(g) 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 shall be named as additional insured on all policies of insurance except errors and omissions and worker's compensation.

(h) A Certificate of Insurance and appropriate additional insured endorsement evidencing the above insurance coverage shall be submitted to the City Clerk prior to the execution of this Agreement on behalf of the City.

(i) 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

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

agents are included as additional insured under this general liability 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."

(j) Insurance companies providing insurance hereunder 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.

(k) The terms of the insurance policy or policies issued to provide the above insurance coverage shall not be amended to reduce the above 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 said insurance is canceled, the Consultant shall, prior to the cancellation date, submit to the City Clerk new evidence of insurance in the amounts established.

17. During the performance of this Agreement, the Consultant will not unlawfully discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, sex, or age. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, creed, color, national origin, sex, or age.

18. Consultant and subconsultants shall pay prevailing wage rates when required by the Labor Laws of the State of California.

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

19. (a) The Consultant shall deliver to the Public Works Director/City Engineer of the City or his designated representative, fully completed and detailed project-related documents which shall become the property of the City. The Consultant may retain, for its files, copies of any and all material, including drawings, documents, and specifications, produced by the Consultant in performance of this Agreement.

(b) The Consultant shall be entitled to copies of all furnished materials for his files and his subconsultants, if any.

(c) The City agrees to hold the Consultant free and harmless from any claim arising from any unauthorized use of computations, maps, and other documents prepared or provided by the Consultant under this Agreement, if used by the City on other work without the permission of the Consultant. Consultant acknowledges that Consultant work product produced under this agreement may be public record under State law.

20. (a) The City may terminate this Agreement without fault on the part of Consultant by giving at least ten (10) days written notice to the Consultant. The written notice shall specify the date of termination. Upon receipt of such notice, the Consultant may continue services on the project through the date of termination, provided that no 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 Consultant within thirty (30) days after the date of termination for all non-objected to services performed by the Consultant in accordance herewith through the date of termination. Such termination may be effective immediately.

(b) Either party may terminate this Agreement for cause. In the event the City terminates this Agreement for cause, the Consultant shall perform no further service(s) under the Agreement unless the notice of termination authorizes such further work.

21. This Agreement is binding upon the City and the Consultant and their successors

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

and assigns. Except as otherwise provided herein, neither the City nor the Consultant shall assign, sublet, or transfer its interest in this Agreement or any part thereof without the prior written consent of the other.

22. A City representative shall be designated by the City and a Consultant representative shall be designated by the Consultant. The City representative and the Consultant representative shall be the primary contact person for each party regarding performance of this Agreement. The City representative shall cooperate with the Consultant, and the Consultant's representative shall cooperate with the City in all matters regarding this Agreement and in such a manner as will result in the performance of the services in a timely and expeditious fashion.

23. This Agreement represents the entire and integrated Agreement between the City and the Consultant, and supersedes all prior negotiations, representations or Agreements, either written or oral. This Agreement may be modified or amended only by a subsequent written Agreement signed by both parties.

24. Where the payment terms provide for compensation on a time and materials basis, the Consultant shall maintain adequate records to permit inspection and audit of the Consultant's time and materials charges under this Agreement. The Consultant shall make such records available to the City at the Consultant's office during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records. Except as may be otherwise required by law, such records will be available only to the City. Such records shall be maintained by the Consultant for three (3) years following completion of the services under this Agreement.

25. The City and the Consultant 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.

**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

26. The Consultant shall employ no City official or employee 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.

27. All Plans, drawings, Specifications, reports, logs, and other documents prepared by the Consultant in its performance under this Agreement shall, upon completion of the project, be delivered to and be the property of the City, provided that the Consultant shall be entitled, at its own expense, to make copies thereof for its own use.

28. The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement, and shall also govern the interpretation of this Agreement.

**SIGNATURE PAGE FOLLOWS**



**AGREEMENT FOR PROFESSIONAL  
CONSULTANT ADMINISTRATIVE SERVICES**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

DMC Design Group, Inc.

BY: \_\_\_\_\_  
City Manager

BY: \_\_\_\_\_

\_\_\_\_\_  
Date

TITLE: \_\_\_\_\_  
(President or Vice President)

\_\_\_\_\_  
Date

APPROVED AS TO LEGAL FORM: _____ City Attorney _____ Date
RECOMMENDED FOR APPROVAL: _____ Department Head _____ Date

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(Corporate Secretary)

\_\_\_\_\_  
Date

- Attachments: Exhibit "A" – Scope of Work  
Exhibit "B" – Consultant's Proposal  
Exhibit "C" – City's Responsibility  
Exhibit "D" – Terms of Payment

CITY - SERVICES TO BE PROVIDED  
TO CONSULTANT

1. Furnish the Consultant all in-house data which is pertinent to services to be performed by the Consultant and which is within the custody or control of the City, including, but not limited to, copies of record and off-record maps and other record and off-record property data, right-of-way maps and other right-of-way data, pending or proposed subject property land division and development application data, all newly developed and pertinent design and project specification data, and such other pertinent data which may become available to the City.
2. Provide timely review, processing, and reasonably expeditious approval of all submittals by the Consultant.
3. Provide timely City staff liaison with the Consultant when requested and when reasonably needed.

**EXHIBIT "C"**

## TERMS OF PAYMENT

1. The Consultant's compensation shall not exceed **\$139,000**.
2. The Consultant will submit an invoice to the City once a month for progress payments along with documentation evidencing services completed to date. The progress payment is based on actual time or tasks performed and materials expended in furnishing authorized professional services during the preceding calendar month. Monthly invoices will specifically identify job title, person-hours and costs incurred by each task. At no time will the City pay for more services than have been satisfactorily completed and the City Engineer's determination of the amount due for any progress payment shall be final.
3. The City shall pay the Consultant for all invoiced, authorized professional services within thirty (30) days of completing the referenced milestones as determined by the City.
4. Any payment request determined not to be a proper payment request suitable for payment may be returned as soon as seven calendar days, after receipt, specifying the reasons that the payment request is not a proper payment request.

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## SCOPE OF WORK

### Contract Administration Specialist

The Contract Administration Specialist is responsible for working with appropriate technical staff in overseeing, coordinating, administering, and managing public works projects. The Contract Administration Specialist shall provide necessary services to assist technical staff on capital improvement projects in various phases of design and construction. Typically, these projects involve street, storm drain, traffic signal, and public facility improvements.

Duties consist of compiling, administering, and monitoring public works contracts and projects; administering project budgets; coordinating and mailing RFP's, addendums and documents for bidding; performing vendor solicitations; organizing pre-bid conferences; evaluating bids, performing reference checks and preparing recommendations for contract award; organizing and participating in meetings including preparation and distribution of minutes; coordinating and scheduling required inspections, surveys and geotechnical tests; monitoring and updating project schedules; obtaining necessary permits; tracking project progress ensuring compliance with project standards and specifications including California Construction law in labor compliance and DBE requirements; processing, transmitting and tracking plan checks, RFI's, submittal reviews, progress payments, change orders, punch lists, warranty issues and contractor claims; coordinating project website development; researching and preparing final reports to support billings to County, State & Federal agencies to support a variety of funding obligations; maintaining detailed project files and preparing project status reports; reviewing and processing consultant, contractor, and vendor invoices for payment; processing journal entries; and reviewing project expenditures. The Specialist will also assist in development of procedures, policies, record keeping and duties as required related to overall administration of Capital Improvement Projects.

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June 15, 2011

Prem Kumar, PE  
City of Moreno Valley  
Public Works Department  
Capital Projects Division  
14177 Frederick Street  
Moreno Valley, CA 92552

SUBJECT: Temporary Staffing for Professional Administrative Consultant Services

Dear Mr. Kumar:

DMC Design Group, Inc. is pleased to submit this proposal for Temporary Staffing for Professional Consultant Services for the City of Moreno Valley.

Kimberly Jester is currently providing Consultant Contract Administrative Specialist services through an agreement with RLZ Engineering, Inc. Ms. Jester has provided these services through RLZ as well as a City employee since October 2006. As of September 1, 2011, Ms. Jester proposes to begin performing through DMC Design Group, Inc. (DMC).

**Scope of Services and Fees:**

Ms. Jester will provide consultant administrative specialist services, on a full-time (36 hours per week) basis at a rate of \$61.00 per hour (inclusive of all miscellaneous reimbursable expenses, such as mileage, mobile phone calls, etc.) or at Not to Exceed Fee of \$139,000 for approximate fifteen months of service. Authorized work beyond normal 36 hours workweek will also be billed at \$61.00 per hour.

Fees will be invoiced monthly based on actual time expended. Payment will be based on actual time expended in furnishing authorized professional services during the preceding calendar month and will include an hourly cost breakdown of assigned project numbers.

If you have any questions regarding this proposal, please contact me at 951.549.8100.

Sincerely,

Donna A. Cospers

Enclosure: Kimberly Jester Resume

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Kimberly J. Jester  
25572 Mountain Glen Circle  
Sun City, CA 92585  
kj\_jester@hotmail.com ☐ 858.775.9318

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**EXPERIENCE**

**2008 - Present**                      **City of Moreno Valley ☐ *Contract Administration Specialist, RLZ Engineering, Inc.***  
**2006 ☐ 2008**                              **City of Moreno Valley ☐ *Management Assistant, City Staff***

- Prepare project-specific expenditure analyses; including routine review of reports to ensure available budget versus expenditures balance.
- Develop and utilize spreadsheets, databases and other computer applications to assist with assigned studies, projects and reports.
- Perform analytical and administrative assignments in connection with preparation and management of division budgets and grant-funded programs.
- Perform administrative, management, program and other analysis assignments in accordance with established procedures and practices.
- Write contracts for services and goods for approval by Department Head through City Manager approvals.
- Prepare and process purchase requisitions and change orders for services and goods for approval by Department Head through City Manager approvals.
- Process contractor and service invoices for payment; including detailed review and analysis of invoice to ensure that charges are correct and consistent with work done.
- Review certified payroll reports for construction projects.
- Write staff reports for presentation to City Council.
- Review, edit and proofread other staff members' reports for presentation to City Council.
- Prepare exhibits and attachments for staff reports, with high attention to the accuracy of detailed data from multiple sources.
- Conduct research, analyze data and draft policy and procedure documents to address identified needs and issues

**2003 - 2006**                              **Masson & Associates, Inc. ☐ *Operations Manager***  
**Civil Engineering and Land Surveying Firm**

- Create, write, edit and enforce standard operating procedures managing daily operations and the activities of administrative personnel including standard operating procedures for all business correspondence.
- Engage in promoting good will for the company by writing or selecting favorable publicity material and releasing it through various communications media.
- Research market conditions in local, regional, or national areas to determine potential sales of services.
- Provide training and assistance on a daily basis to ensure proper procedures are followed.
- Proofread and edit all business correspondence, checking for grammatical, punctuation, style and formatting errors.
- Provide quality assurance reviews of all marketing materials.
- Ensure all technical documents such as Due Diligence Reports are free of any typographical, grammatical, and punctuation errors.
- Write, edit, place and track job advertisements.
- Write, edit and format Corporate Statement of Qualifications and routinely revise based on target client.
- Responsible for maintaining updated database of all departmental job descriptions for existing positions and creating new ones for new position.
- Assist in the analysis of data from survey sources to determine salary competitiveness.
- Maintain electronic and manual employee benefits records for employees.
- Maintain employee manual and update as needed to ensure compliance.
- Suggest advertising placement.
- Organize special events.

Exhibit ☐B-2☐

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Kimberly J. Jester  
25572 Mountain Glen Circle  
Sun City, CA 92585  
kj\_jester@hotmail.com ☐ 858.775.9318

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1998-2003

**Mentus, *Office Manager*  
Biotechnology Marketing Firm**

- Proofread and edited all written material.
- Provided administrative support to five partners.
- Assisted with the dissemination of press releases four times monthly.
- Assisted media buyer with preliminary calls to publications for mechanical specifications, ad rates and editorial calendars.
- Assisted in creation of media plans.
- Assisted in client and product naming on a project basis.
- Coordinated travel for five employees, including CEO and Vice President of Creative, on a monthly basis.
- Organized special events for employees, clients and vendors, including, but not limited to annual holiday party for more than 60 guests.
- Created FileMaker Pro databases for prospecting new clients, travel coordination, and directory sales.
- Organized direct mailings to over 1,000 contacts.
- Facilitated, in conjunction with CFO, accounts payable and receivable, deposits, and the collection of past due accounts.
- Conducted ongoing Internet research for competitors of 30-plus current clients as well as researched industry trends.
- Coordinated weekly direct mailings to prospective clients for marketing team.
- Conducted orientation and training of newly hired employees.
- Updated Media Map and Online Media Atlas databases (web based data management program).

**Education**

*San Diego State University, San Diego, CA*

- Certification in Event and Meeting Planning
- Certification in Strategic Marketing in Action

*University of San Diego, San Diego, CA*

*Sarah Lawrence College, Bronxville, NY*

**Professional Training Seminars**

- Effective Proofreading and Business Writing, SkillPath Seminars
- Winning Proposals and Presentations, PSMJ
- Notary Public, State of California through 2010
- Strategies for Public Sector Contracting, Metropolitan Water District/San Diego County Water Authority
- Navigating the Maze of Leaves of Absence, Strategic HR
- Improving Employee Performance through Coaching, Strategic HR
- How to Manage the Front Desk, Skill Path Seminars

**Computer Skills**

Microsoft Office (including Project 2003, Publisher, Word, Excel, Outlook, PowerPoint), Adobe Acrobat, Internet, JD Edwards OneWorld

CITY - SERVICES TO BE PROVIDED

TO CONSULTANT

1. Furnish the Consultant all in-house data which is pertinent to services to be performed by the Consultant and which is within the custody or control of the City, including, but not limited to, copies of record and off-record maps and other record and off-record property data, right-of-way maps and other right-of-way data, pending or proposed subject property land division and development application data, all newly developed and pertinent design and project specification data, and such other pertinent data which may become available to the City.
2. Provide timely review, processing, and reasonably expeditious approval of all submittals by the Consultant.
3. Provide timely City staff liaison with the Consultant when requested and when reasonably needed.

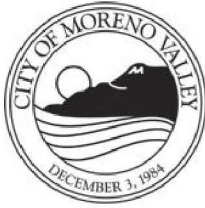
**EXHIBIT "C"**

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## TERMS OF PAYMENT

1. The Consultant's compensation shall not exceed **\$139,000**.
2. The Consultant will submit an invoice to the City once a month for progress payments along with documentation evidencing services completed to date. The progress payment is based on actual time or tasks performed and materials expended in furnishing authorized professional services during the preceding calendar month. Monthly invoices will specifically identify job title, person-hours and costs incurred by each task. At no time will the City pay for more services than have been satisfactorily completed and the City Engineer's determination of the amount due for any progress payment shall be final.
3. The City shall pay the Consultant for all invoiced, authorized professional services within thirty (30) days of completing the referenced milestones as determined by the City.
4. Any payment request determined not to be a proper payment request suitable for payment may be returned as soon as seven calendar days, after receipt, specifying the reasons that the payment request is not a proper payment request.

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** FOURTH AMENDMENT TO AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES WITH SA ASSOCIATES, INC.

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve the "Fourth Amendment to Agreement for Professional Consultant Services" with SA Associates, Inc. (SA), 1130 W. Huntington Drive, Unit 12, Arcadia, CA 91007 to provide Professional Consultant Services budgeted Capital Improvement Plan (CIP) projects.
2. Authorize the City Manager to execute said "Fourth Amendment to Agreement for Professional Consultant Services" with SA, in the form attached hereto.
3. Authorize a Change Order to increase the Purchase Order to SA in the amount of \$185,000 when "Fourth Amendment to Agreement for Professional Consultant Services" has been signed by all parties.

### BACKGROUND

On July 8, 2008, the City Council approved the "Agreement for Professional Consultant Services" with SA in the amount of \$350,000 for temporary professional consultant services for the Capital Projects Division. On February 10, 2009, City Council approved the "First Amendment to Agreement for Professional Consultant Services" with SA for an additional \$350,000. On November 11, 2009, the City executed the "Second Amendment to Agreement for Professional Consultant Services" with SA for a time extension only. On November 18, 2010, the City executed the "Third Amendment to Agreement for Professional Consultant Services" with SA for an additional time extension, extending the termination date of the contract to December 31, 2011.

On June 14, 2011, the City Council approved an \$85.773 million CIP Budget. Adequate personnel resources are required to ensure that these projects are successfully managed and completed in a timely manner and within budget.

## **DISCUSSION**

On April 26, 2011, City Council approved the Economic Development Action Plan that re-sequenced a number of Capital Improvements Projects, allowing for the funding of Cactus Avenue between Lasselle Street and Nason Street and Nason Street between Cactus Avenue and Iris Avenue Improvements Projects identified to cost up to \$23 million. On June 14, 2011, City Council approved the FY 11/12 CIP budget including funding for the two referenced projects. These fast-tracked projects will require dedicated, knowledgeable, and efficient technical engineering support with experience in assisting with these types of projects.

SA Associates staff, in the capacity of in-house technical consultant, will directly assist the Project Manager for the Cactus Avenue and Nason Street projects with mapping including plot preparation and reproduction, preparation of project schedules, utility coordination, and other technical engineering related tasks as necessary for the successful completion of the projects. Such technical services will be rendered for other funded CIP projects on an as-needed basis.

Consultant staff has a unique background and skill set that is essential to the Division. Key experience includes extensive designing and drafting utilizing Auto Cad 3D Civil software, preparation of legal descriptions, plats, and boundary closures in coordination with right of way agents, and preparation of engineering cost estimates for multiple uses including the Development Impact Fee (DIF) Nexus Study Report. In addition, consultant staff has been integral in the securing of \$1.3 million in grant monies including \$900,000 for the Highway Safety Improvement Program (HSIP), \$170,000 for the Bicycle Transportation Account (BTA), and \$254,000 for the Safe Routes to School Program (SR2S).

The consultant staff has a long-standing and proven track record of providing exceptional support to projects such as the School Walkway Infill, Public Safety Building Tenant Improvements and Expansion, Emergency Operations Center construction, and Iris Street Improvements. The consultant staff also provides technical services for the 5-year Capital Improvements Plan (CIP) and will continue to assist with the design of Street Improvement Program (SIP) and Citywide Annual Pavement Resurfacing Program Plans.

The consultant will work on a full-time, 36-hour per week schedule. The Agreement termination date is extended to June 30, 2013.

## **ALTERNATIVES**

1. Approve the "Fourth Amendment to Agreement for Professional Consultant Services" with SA Associates, Inc. (SA), 1130 W. Huntington Drive, Unit 12, Arcadia, CA 91007 to provide Professional Consultant Services budgeted Capital Improvement Plan (CIP) projects, authorize the City Manager to execute said "Fourth Amendment to Agreement for Professional Consultant Services" with SA, in the form attached hereto, and authorize a Change Order to increase the



Purchase Order to SA in the amount of \$185,000 when “Fourth Amendment to Agreement for Professional Consultant Services” has been signed by all parties. *This alternative will provide resources to assist staff to complete budgeted City capital improvement projects.*

2. Do not approve the “Fourth Amendment to Agreement for Professional Consultant Services” with SA Associates, Inc. (SA), 1130 W. Huntington Drive, Unit 12, Arcadia, CA 91007 to provide Professional Consultant Services budgeted Capital Improvement Plan (CIP) projects, do not authorize the City Manager to execute said “Fourth Amendment to Agreement for Professional Consultant Services” with SA, in the form attached hereto, and do not authorize a Change Order to increase the Purchase Order to SA in the amount of \$185,000 when “Fourth Amendment to Agreement for Professional Consultant Services” has been signed by all parties. *This alternative will delay the design and construction of budgeted capital improvement projects.*

**FISCAL IMPACT**

The current Amendment to the Agreement for Professional Consultant Services will be expended by September 2011. This proposed “Fourth Amendment to Agreement for Professional Consultant Services” with SA in the amount of \$185,000 is for on-going services throughout the anticipated duration of the Cactus Avenue and Nason Street projects. The new agreement termination date is June 30, 2013. The agreement provides the City with the ability to terminate the agreement by giving at least ten days written notice to the consultant.

Sufficient funds are available in the Cactus Avenue and Nason Street budgets (Account No. 125.New) to encumber the purchase order. As costs for projects other than Cactus Avenue and Nason Street projects are incurred, the expenditures will be transferred to the capital projects for which services were performed. The remaining associated costs for the Agreement for Professional Consultant Services will be funded through Measure A Funds (Fund 125), TUMF Capital Projects (Fund 415), and DIF Arterial Streets (416).

Consultant Service Funding Allocation in FY 11/12

Cactus Avenue and Nason Avenue (Account No. 125.New) .....	\$75,000
Perris Boulevard Widening (Account No. 415.70225) .....	\$32,000
Perris Boulevard Widening (Account No. 415.70125) .....	\$32,000
SR 60 Nason and Moreno Beach Improvements (Account No. 415.70024) .....	\$24,000
Moreno Beach Widening (Account No. 416.83428) .....	\$10,000
Heacock Street Bridge Rehabilitation (Account No. 125.66825) .....	\$12,000
<b>Total.....</b>	<b>\$185,000</b>

Funding for this project is restricted to capital improvements and cannot be utilized for operational activities. There is no impact on the General Fund.

**CITY COUNCIL GOALS**

**PUBLIC SAFETY:**

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**SUMMARY**

Due to the need for experienced consultant services for the Cactus Avenue between Lasselle Street and Nason Street and Nason Street between Cactus Avenue and Iris Avenue Improvements Projects, staff recommends authorizing the Fourth Amendment to Agreement for Professional Consultant Services with SA Associates, Inc. Staff also recommends issuance of a purchase order to SA in the amount of \$185,000.00.

**ATTACHMENT**

Attachment "A" - First Amendment to Agreement for Professional Consultant Services

Prepared By: Department Head Approval:  
Viren A. Shah, P.E.  
Consultant Project Manager

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

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

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

c: File

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**FOURTH AMENDMENT TO AGREEMENT  
FOR PROFESSIONAL CONSULTANT SERVICES**

This Fourth Amendment to Agreement is by and between the CITY of MORENO VALLEY, a municipal corporation, hereinafter referred to as "City," and **SA Associates, Inc.**, a California corporation hereinafter referred to as "Consultant." This Fourth Amendment to Agreement is made and entered into effective on the date the City signs this Amendment.

RECITALS:

Whereas, the City and Consultant entered into an Agreement entitled "AGREEMENT for PROFESSIONAL CONSULTANT SERVICES," hereinafter referred to as "Agreement," dated July 29, 2008.

Whereas, the Consultant is providing professional consultant services for various projects of the Capital Projects Division.

Whereas, the Agreement was amended on February 10, 2009 to extend the professional consultant services in the First Amendment to Agreement for Professional Consultant Services.

Whereas, the Agreement was amended on November 11, 2009 to extend the termination date for professional consultant services in the Second Amendment to Agreement for Professional Consultant Services.

Whereas, the Agreement was amended on November 18, 2010 to extend the termination date for professional consultant services in the Third Amendment to Agreement for Professional Consultant Services.

Whereas, it is desirable to amend the Agreement to expand the scope of the work to be performed by the Consultant as is more particularly described in Section 1 of this Fourth Amendment.

**AMENDMENT TO AGREEMENT FOR  
PROFESSIONAL CONSULTANT SERVICES**

Whereas, it is desirable to amend the Agreement termination date as is more particularly described in Section 1 of this Fourth Amendment.

SECTION 1 AMENDMENT TO ORIGINAL AGREEMENT:

1.1 The Agreement termination date is extended from December 31, 2011 to June 30, 2013 by this Amendment.

1.2 Exhibit "A" to the July 29, 2008 Agreement is hereby amended by adding to the "Scope of Work" section described in Exhibit "A" to this Fourth Amendment, entitled "Amended Scope of Work".

1.3 The City agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of \$185,000.00, as set forth in the above-referenced "Amended Scope of Work", in consideration of the Consultant's performance of the work set forth in Exhibit "A" to this Fourth Amendment.

1.4 The total "Not to Exceed" fee for this contract is \$885,000.00 (\$350,000.00 for the original Agreement plus \$350,000.00 for the First Amendment to Agreement, plus \$0.00 for the Second and Third Amendments to Agreement, plus \$185,000.00 for the Fourth Amendment to Agreement).

SECTION 2

2.1 Except as otherwise specifically provided in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

**SIGNATURE PAGE TO FOLLOW**

**AMENDMENT TO AGREEMENT FOR  
PROFESSIONAL CONSULTANT SERVICES**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

SA Associates, Inc.

BY: \_\_\_\_\_  
City Manager

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(President or Vice President)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

<u>INTERNAL USE ONLY</u>
APPROVED AS TO LEGAL FORM:
_____ City Attorney
_____ Date
RECOMMENDED FOR APPROVAL:
_____ Department Head
_____ Date

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(Corporate Secretary)

\_\_\_\_\_  
Date

Attachments: Exhibit "A" – Amended Scope of Work

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Revised Feb 2009

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## **Amended Scope of Work**

### Summary Scope of Work for Professional Consultant Services

SA Associates, Inc. staff will work as directed by the City Engineer in accordance with Page 1 of Exhibit "A" (inclusive of all miscellaneous reimbursable expenses, such as mileage, phone calls, etc.). The City may assign a variety of projects and tasks to the assigned SA Associates, Inc. staff members. The City Engineer has the right to review any proposed personnel replacement or additions and associated rate changes.

In addition to the scope of work defined in Exhibit "A" of the July 29, 2008 Agreement for Professional Consultant Services, the scope of work is amended as follows:

#### **Tasks**

- 1) Work on a variety of tasks and projects as assigned by the City Engineer.
- 2) The total "Not-to-Exceed" fee for the aforementioned services is \$885,000 (\$350,000 for original Agreement in July 2008, plus \$350,000 for First Amendment to Agreement in February 2009, plus \$0.00 for the Second and Third Amendments to Agreement in November 2009 and November 2010 respectively, plus \$185,000 for the Fourth Amendment to Agreement).
- 3) The current assignment involves Deepak Solanki, Technical Consultant, at \$75 per hour on an as-needed basis.

EXHIBIT "A"

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RA</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** RESOLUTION DECLARING THE REAL PROPERTY AS EXCESS AND SETTING A PUBLIC HEARING AUTHORIZING SALE FOR REMAINDER OF PARCEL - APN 475-272-054 (PART OF IRONWOOD AVENUE IMPROVEMENTS FROM HEACOCK STREET TO PERRIS BOULEVARD)

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### **RECOMMENDED ACTION**

Staff recommends that the City Council:

Approve and adopt Resolution No. 2011-74 to declare the real property, APN 475-272-054, as excess, set a public hearing to identify any issues with the sale of the remainder parcel, and authorize staff to solicit offers for the purchase of said real property.

### **BACKGROUND**

On May 25, 2010 the City Council approved acquisition of the entire property APN 475-272-054, located at 11987 Davis Street in Moreno Valley in order to attain the required right of way for the Ironwood Avenue street improvements project from Heacock Street to Perris Boulevard and the Southern California Edison power pole relocation. The City acquired title to the property on July 29, 2010. The house on the property was demolished in May 2011 to make way for the proposed improvements. The property was acquired utilizing TUMF funds due to the direct transportation corridor related improvements that are required.

### **DISCUSSION**

The improvements fronting this property along Ironwood Avenue and Davis Street will include a new curb ramp, sidewalks, and the relocation of power poles fronting Ironwood Avenue. The ultimate public right of way will be 44 feet from the centerline

along Ironwood Avenue and 33 feet from the centerline along Davis Street at the northwest corner.

The original lot size was 7,759 square feet, and purchased at \$124,500. The ultimate improvements at the northwest corner of Ironwood Avenue and Davis Street, abutting to this property will occupy 2,534 square feet. The remaining vacant land, with an area of 5,225 square feet, is excess, not needed for public purposes, and considered a substandard residential lot in the current zone R5. The potential use and development of this remaining land is very limited but a single family home may be constructed subject to review and approval of a variance by the Planning Division. If the City retains ownership and the land remains vacant, it will require periodic on-going maintenance and weed abatement services most likely funded with General Fund monies as the surplus property is not needed for transportation related purposes. Therefore, City Council is being asked to set a public hearing date for August 23, 2011 at 6:30 p.m. at City Hall to allow for the potential selling of the property as surplus land in accordance with Government Code section 54222. If there are no issues identified at the public hearing, the property would be offered for sale to qualified public agencies within a 60-day time frame. If there is no interest from a qualified public agency, the City could but would not be obligated, to put the property up for sale to the public at the expiration of the 60-day period.

The hearing is required by California Government Code, Section 37422. If City Council approves setting the hearing date, the Resolution will be published in the Press Enterprise, and the Resolution will be posted at the real property.

### **ALTERNATIVES**

1. Adopt the Proposed Resolution to declare the real property, APN 475-272-054, as excess, set a public hearing to identify any issues with the sale of the remainder parcel, and authorize staff to solicit offers for the purchase of said real property. *This alternative would allow the City to have a hearing to potentially sell the excess land.*
2. Do not adopt the Proposed Resolution to declare the real property, APN 475-272-054, as excess, set a public hearing to identify any issues with the sale of the remainder parcel, and authorize staff to solicit offers for the purchase of said real property. *This alternative will result in delaying or stopping the potential sale of excess land.*

### **FISCAL IMPACT**

There is no material fiscal impact to the adoption of the Proposed Resolution.

### **SUMMARY**

The City acquired the entire property APN 475-272-054, located at 11987 Davis Street in Moreno Valley in order to attain the required right of way for the

Ironwood Avenue street improvements project from Heacock Street to Perris Boulevard and the Southern California Edison power pole relocation. Once the improvements are constructed, the remaining property area of 5,225 square feet can be disposed of as surplus property. If the City retains ownership of this property, it would require periodic on-going maintenance and weed abatement services. Therefore, City Council is being asked to set a public hearing date to allow for the potential selling of the property as surplus land in accordance with Government Code section 54222.

**ATTACHMENTS**

Attachment “A” – Location Map  
 Attachment “B” – Proposed Resolution

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

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

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

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

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# LOCATION MAP

Scale: None

ATTACHMENT "A"

11987 DAVIS STREET

APN 475-272-054

-325- ACCESS PROPERTY- 0.12 ACR **Item No. A.20**

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RESOLUTION NO. 2011-74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND CONVENIENCE REQUIRE THE SALE OF A REMAINDER PARCEL EXCESS TO PUBLIC USE.

WHEREAS, the City Council of the City of Moreno Valley desires to sell the remainder parcel APN 475-272-054, total area of 5,225 square feet, as described in Exhibit "A", that is attached hereto; and

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY FIND, DETERMINE, RESOLVE, DECLARE AND ORDER as follows:

1. The time and place for hearing protests to the sale of said real property shall be held on August 23, 2011, at 6:30 p.m. at City Hall, located at 14177 Frederick Street, Moreno Valley, California.
2. The City Council finds that the public interest and convenience require the sale of the subject real property for the following reasons:
  - a) The real property is excess to that needed for public purposes; and
  - b) There is an on-going cost to maintain and weed abate if ownership is retained by the City; and
  - c) It is advantageous to return the property to private ownership for use and maintenance.
3. The City Clerk shall publish a copy of this Resolution in the Press Enterprise, a daily newspaper and shall cause a copy of said Resolution to be posted at the real property.

Resolution No. 2011-74  
Date Adopted: July 12, 2011

Attachment "B"

4. At the hearing, any interested person may protest to the proposed sale. Any protests must be overruled by a 4/5ths vote of the Council members.

APPROVED AND ADOPTED this 12th day of July 2011.

---

Mayor of the City of Moreno Valley

ATTEST:

---

City Clerk

APPROVED AS TO FORM:

---

City Attorney

Resolution No. 2011-74  
Date Adopted: July 12, 2011



**RESOLUTION JURAT**

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE ) ss.

CITY OF MORENO VALLEY )

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

Resolution No. 2011-74  
Date Adopted: July 12, 2011

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**LEGAL DESCRIPTION**

In the City of Moreno Valley, that remainder parcel of land being a portion of lot 63 as shown on the map of Moreno Acres, filed in Book 11 of Maps, Page 53, records of the County of Riverside, State of California, more particularly described as follows:

**BEGINNING** at the southwestly corner of the east half of the east half of said lot 63; thence North  $00^{\circ}07'15''$  East, a distance 14 feet to a point 44 feet northly of the centerline of Ironwood Avenue, said point being the **TRUE POINT OF BEGINNING**;

Thence North  $00^{\circ}07'15''$  East, 41.50 feet along the east property line; thence N  $89^{\circ}50'30''$  East, 132.48 feet along the north property line to a point on a line parallel with and distant 33.00 feet westerly of Davis Street centerline; thence South  $00^{\circ}06'30''$  West, 18.66 feet along said line; thence Southwestly, a distance of 33.13 feet to a point on a line parallel with and distant 44.00 feet northerly of Ironwood Avenue centerline; thence South  $89^{\circ}50'30''$  West, a distance of 108.60 feet, more or less, along said last mentioned parallel line to the **TRUE POINT OF BEGINNING**.

The land described herein contains approximately 5,225 square feet (0.12 acres).

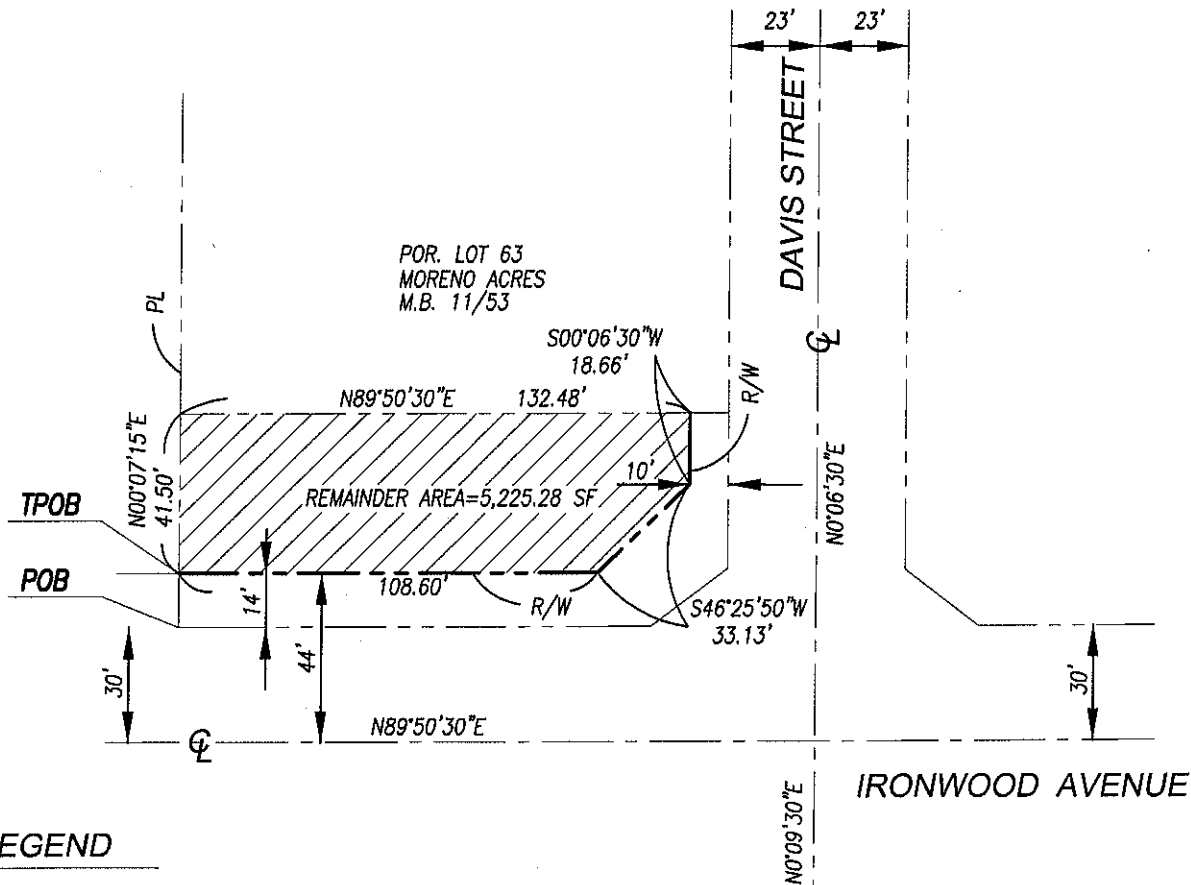
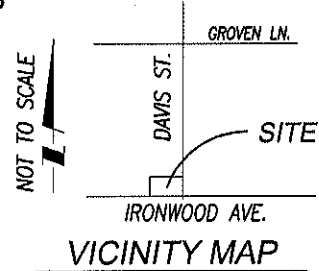
See Sheet 2 of 2 for a plat depicting the above described property.

APN: 475-272-054

**EXHIBIT "A"**

CITY OF MORENO VALLEY,  
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
 POR. LOT 63 ON MAP OF MORENO ACRES  
 BOOK 11 PAGE 53

EXHIBIT "A"  
 SHEET 2 OF 2



LEGEND

1. POB POINT OF BEGINNING
2. TPOB TRUE POINT OF BEGINNING
3. CENTERLINE \_\_\_\_\_
4. EXISTING ROW \_\_\_\_\_
5. NEW ROW \_\_\_\_\_
5. PROPERTY LINE \_\_\_\_\_

REMAINDER AREA = 5,225.28 SF

CITY OF MORENO VALLEY

PREPARED FOR:

PLAT MAP FOR  
 11987 DAVIS STREET  
 APN 475-272-054



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Rest</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** APPROVE A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, TO AMEND THE ELECTRIC RATES FOR MORENO VALLEY UTILITY

---

### **RECOMMENDED ACTION**

Staff recommends that the City Council:

1. Approve Resolution No. 2011-75 amending the Electric Rates for Moreno Valley Utility

### **BACKGROUND**

On July 8, 2003, the City Council approved Resolution No. 2003-58 adopting the Electric Service Rules, Fees and Charges for the City of Moreno Valley's Electric Utility, or Moreno Valley Utility (MVU). Electric Rule 12 entitled "Rates and Optional Rates" of that document states that the rates to be charged by and paid to the City's utility for electric service will be the rates legally in effect and on file with the Electric Utility Division, Department of Public Works. At its meeting on December 9, 2003, the City Council approved Ordinances 650 and 651 providing for the establishment and adjustment of electric rates by resolution.

### **DISCUSSION**

Consistent with Ordinances 650 and 651, the resolution considered in this action amends MVU's Electric Rates. A complete copy of the proposed *Electric Rates* document is available for review in the Public Works Department, Electric Utility Division office. To ensure the City's rates are just and reasonable and to ensure that the City's rates are set at a level sufficient to cover the utility's costs, it will be necessary for the City Council to approve an adjustment of the rates that MVU charges customers for

service from time to time. Due to the structure of MVU's rates, the customer's usage will ultimately determine the impact of this proposed rate adjustment on their monthly bill.

For example, the proposed rate adjustment considered in this council action will affect a residential customer who uses 600 kWh in a month differently than a customer who uses 1000 kWh in a month. The proposed rate changes considered in the council action will result in an increase of MVU's rate schedules for both the summer season and winter season. Pursuant to MVU's rates, the summer season begins at 12:00 am on the first Sunday in June and continues until 12:00 am on the first Sunday in October. The winter season begins at 12:00 am on the first Sunday in October, and continues until 12:00 am on the first Sunday in June of the following year. In other words, there are four months in the summer season, and eight months in the winter season.

If the City Council approves the proposed rate adjustments, the impact to each class of customers is described in the tables below:

<b>Average Residential Schedule A</b>	<b>SUMMER</b>		<b>WINTER</b>	
600 kWh usage	-\$1.68	-2.03%	-\$3.52	-3.39%
1,000 kWh usage	-\$6.56	-3.64%	-\$9.02	-4.12%

<b>Average Small Commercial Schedule B</b>	<b>SUMMER</b>		<b>WINTER</b>	
2,978 kWh usage	-\$43.64	-7.86%	-\$24.11	-5.74%

<b>Average Large Commercial Schedule C</b>	<b>SUMMER</b>		<b>WINTER</b>	
24,531 kWh usage, Demand of 100 kW	-\$407.22	-7.61%	-\$133.35	-4.11%

<b>Average Large Commercial, TOU Schedule TOU-LGS</b>	<b>SUMMER</b>		<b>WINTER</b>	
386,896 kWh usage, Demand of 865 kW	-\$5,369.69	-7.70%		
392,333 kWh usage, Demand of 666 kW			-\$2,087.99	-5.48%

<b>Average Traffic Controller Schedule TC-1</b>	<b>SUMMER</b>		<b>WINTER</b>	
364 kWh usage	-\$2.83	-4.77%	-\$2.83	-4.77%

<b>Average Streetlight</b>	<b>SUMMER</b>		<b>WINTER</b>	
Schedule SL-1 9,500 Lumen (973 lights)	-\$147.57	-1.15%	-\$147.57	-1.15%
Schedule SL-1 22,000 Lumen (317 lights)	-\$160.97	-2.89%	-\$160.97	-2.89%
Schedule SL-2 27,500 Lumen (139 lights)	-\$103.49	-5.88%	-\$103.49	-5.88%
Schedule SL-3 (per lamp)	\$2.18	0.51%	\$2.18	0.51%

If approved by the City Council, these changes will become effective at 12:00 a.m. on July 13, 2011.

Pursuant to Section 5 of the Professional Services Agreement by and between the City of Moreno Valley and ENCO Utility Services Moreno Valley, LLC, the City is obligated to adjust its rates from time to time so that the City's electric rates remain roughly equivalent to the otherwise applicable investor owned utility rate schedules. This council action will true-up MVU's rates to comply with this obligation, and comply with State law. If adopted, the net impact upon MVU customers will be a reduction in rates.

### **ALTERNATIVES**

1. Approve proposed resolution amending the Electric Rates for Moreno Valley Utility as on file in the Electric Utility Division, Public Works Department. *The amendment of the Electric Rates will allow the City's utility to recover its costs for service, and to offer competitive rates.*
2. Do not approve proposed resolution amending the Electric Rates for Moreno Valley Utility as on file in the Electric Utility Division, Public Works Department. *This would restrict the City's utility in its ability to recover utility costs, and also its ability to offer competitive rates.*

### **FISCAL IMPACT**

As rates are adjusted, revenues will reflect the adjustments. Utility revenues are projected to decrease if the proposed changes are adopted by the City Council.

**CITY COUNCIL GOALS**

**REVENUE DIVERSIFICATION AND PRESERVATION:**

*The municipal electric utility will generate revenues to provide funding for City programs and services over time. These revenues will help achieve important financial goals of the City.*

**POSITIVE ENVIRONMENT:**

*The proposed rate adjustments ensures timely changes to the rates of the City's utility, and helps to create a positive environment for economic development within the community. The City of Moreno Valley will offer competitive rates and will help the City create new, well paying jobs.*

**NOTIFICATION**

Posting of the Agenda.

**Attachments**

Attachment 1 – Proposed Resolution



Prepared By: Jeannette Olko  
Electric Utility Division Manager

Department Head Approval: 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:\Electric Utility\Administration - Finance\Staff Reports\2011 SR's\SR - Rate and Rules Adjustments 12 July 2011.doc

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RESOLUTION NO. 2011-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, TO AMEND THE ELECTRIC RATES, AND ELECTRIC SERVICE RULES, FEES, AND CHARGES FOR MORENO VALLEY UTILITY

WHEREAS, the City of Moreno Valley (the "City"), a municipal corporation, is authorized pursuant to Article XI, Section 9(a) of the California Constitution to establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communication; and

WHEREAS, on June 26, 2001, the City Council of the City of Moreno Valley approved Resolution No. 2001-33 and, as amended by Resolution 2002-46, authorized the formation of a municipally owned utility for the purpose of providing electrical power, storm water, telephone telecommunications, cable TV, water, natural gas, and sanitary sewer; and

WHEREAS, on July 8, 2003, the City Council approved Resolution No. 2003-58 adopting the Electric Service Rules, Fees and Charges document for Moreno Valley Utility which states, in part, that the rates to be charged by and paid to the City for electric service will be the rates legally in effect and on file with the City Council; and

WHEREAS, there are sections of the Electric Service Rules, Fees and Charges document that contain rules which define the terms and conditions under which electric service will be provided to the customer; and

WHEREAS, there are rules, fees, charges, and rates associated with providing the services identified in the document. These rules, fees, charges, and rates are deemed necessary and equitable for services rendered and are required to fund in whole or in part, all of the services required to facilitate the delivery of electric distribution pursuant to the rules; and

WHEREAS, Urgency Ordinance No. 651 was adopted by the City Council on December 9, 2003, allowing for the adoption of rates by resolution.

Resolution No. 2011-75  
Date Adopted: July 12, 2011

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

1. The City Council hereby adopts the amended Moreno Valley Utility Electric Rates and Electric Service Rules, Fees, and Charges as on file in the Public Works Department.

APPROVED AND ADOPTED this 12th day of July 2011.

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Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

Resolution No. 2011-75  
Date Adopted: July 12, 2011

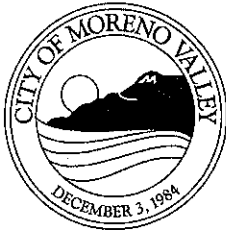
RESOLUTION JURAT

[Clerk's office will prepare]

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

Resolution No. 2011-75  
Date Adopted: July 12, 2011

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

## Report to City Council

---

**TO:** Mayor and City Council

**FROM:** Richard Teichert, Financial and Administrative Services Director

**AGENDA DATE:** July 12, 2011

**TITLE:** Approve Three-Year Agreement with Canon Business Solutions to Extend the Current Copier Contract

---

### RECOMMENDED ACTION

Staff recommends that the City Council approve the three-year agreement to extend the current contract with Canon Business Solutions in the total base amount of \$261,828, representing a 23.75% price decrease or total savings of \$81,540, as being in the best interest of the City.

### SUMMARY

In June of 2006 the City awarded the copier agreement to the Canon Copier Company from the Request for Proposal No. 05/06-08. Canon has worked closely with the city to provide the latest technology for copying, printing and scanning from their machines. Canon support staff is very responsive and work well with city staff on handling any problems or concerns. The current and proposed extension agreement includes both a cost-per-copy and annual maintenance agreement.

### BACKGROUND

The Purchasing & Facilities Division has the responsibility to provide copy machines and their necessary maintenance for City offices. The copier fleet consists of 26 machines throughout city facilities. The City utilizes the cost-per-copy method that allows for a not-to-exceed amount of copies per quarter. Payment for all copier operational costs is handled through division operating budgets via the internal service fund charge-back system. When applicable, overage copy counts are added to the base amount on a quarterly basis.

Digital state-of-the-art technology in modern copy machines provide electronic networking which will allow staff to send print to a copier from the desktop when desired. Additionally, scanning to server capabilities is built into the copiers. The agreement provides fixed base pricing for the duration of a three-year period based on a year-by-year annual approved encumbrance in the City budget. The agreement provides that the City may upgrade, add or delete functions, services or products to the program as needs change throughout the contract period.

### **DISCUSSION**

During the city's effort of asking for vendor participation in a 10% pricing reduction, the Canon company offered a 23.75% (\$9,538 per month vs. \$7,273 per month) overall decrease in exchange for our three-year extension agreement. This represents a monthly savings of \$2,265 and translates to \$27,810 annually or a total of \$81,540 over the 3 year contract extension period. Additionally, Canon will exchange a total of six existing older machines for brand new copiers, at no cost to the city, due to excessive meter counts.

### **ALTERNATIVES**

1. Staff recommends that the City Council award the three-year extension agreement to Canon Business Solutions in the total amount of \$261,828 as being in the best interest of the City.
2. Elect to not award the three-year extension agreement copier agreement to Canon and provide further direction to staff.

### **FISCAL IMPACT**

Approval of Alternative No. 1 will obligate the City to a base annual expenditure in Account Number 00754.75440.6281 of:

- \$174,552 (\$87,276 for each of years one and two). These funds are provided for in the City Manager's recommended FY 2011/2012 and FY 2012/2013 budgets.
- \$87,276 where budgets are subsequently approved in FY 2013/2014.

Approving this contract extension represents monthly savings of \$2,265 from the existing base contract cost. This translates to \$27,810 annually or a total of \$81,540 over the 3 year contract extension period. This contract directly affects the Internal Service Fund – Facilities.



**STAFF RECOMMENDATION**

Staff recommends that the City Council approve the three-year agreement to extend the current contract with Canon Business Solutions in the total base amount of \$261,828, representing a 23.75% price decrease or total savings of \$81,540, as being in the best interest of the City.

**ATTACHMENTS/EXHIBITS**

Prepared By:  
 Name Rix Skonberg  
 Title Purchasing & Facilities Division Manager

Department Head Approval:  
 Name Richard Teichert  
 Title Financial & Administrative Director

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

**AMENDMENT TO FACILITIES MANAGEMENT AND SERVICE AGREEMENT**

This AMENDMENT No. 4 ("Amendment") is effective as of July 1, 2011 ("Effective Date") and supplements/modifies the Facilities Management and Service Agreement dated June 19, 2006, as amended (collectively, the "Agreement") between Canon Business Solutions Inc. ("CBS") and the City of Moreno Valley ("Customer") as follows:

1. All defined terms shall have the meanings set forth in the Agreement unless expressly defined herein.
2. Paragraph 2 of the Preamble of the Agreement is stricken in its entirety and superseded by the following: Customer has during the term of the Agreement acquired by lease from a third party (or previously owned) the Items of equipment referenced in Addendum A to the Agreement ("Customer Owned Equipment").
3. As of the effective date, CBS agrees to provide to the Customer equipment ("Equipment") and FM Services for the Equipment and Customer Owned Equipment under the terms and conditions of the Agreement and as supplemented by this Amendment for an additional term of thirty-six (36) months concluding on July 5, 2014. The base quarterly charge shall be increased from \$6,667.48 to \$21,819.00, plus applicable taxes.
4. CBS will continue to provide the FM Services to the Customer Owned Equipment listed on Exhibit A currently on Customer site(s).
5. CBS will add the following Equipment in connection with the ongoing provision of FM Services under the Agreement :

Location	Model
CDD-Graphics Rm 104	IR 6065
Finance Rm 246	IR 6065
Doc Imaging Rm 207	IR 6065
Recreation Center 1st Floor	IR 6065
Police Dept	IR 6065
Employment Resource Center	IR 6065

The configuration for each main unit will be as follows:

Item Description	Item Code
IMAGERUNNER ADVANCE 6065 V2 BASE MODEL	3892B011
STAPLE FINISHER-E1	3894B001
PCL PRINTER KIT-AJ1 ELAN	3905B005
PS PRINTER KIT-AJ1 ELAN	3906B006
ESP NEXT GEN PCS POWER FILTER (120V/15A) XG-PCS-15D	1972V064
ESP NEXT GEN PCS POWER FILTER (120V/20A) XG-PCS-20D	1972V073

6. Customer hereby authorizes CBS to pick up the equipment listed below. Customer acknowledges that this equipment will be shipped to Canon Financial Services, Inc. and CBS' sole obligation is to use commercially reasonable efforts to pick-up and remove the return equipment and to arrange, on your behalf and at CBS' expense and risk (but only to the extent of obvious damage in transit), for the shipment of the equipment to Canon Financial Services, Inc.

Location	Remove Model	S/N
CDD-Graphics Rm 104	IR6570	SLP12175
Finance Rm 246	IR6570	SLP12176
Doc Imaging Rm 207	IR6570	SLP12333
Recreation Center 1st Floor	IR6570	SLP12434
Police Dept	IR6570	SLP12929
Employment Resource Center	IR5000	NRL03962

7. Customer agrees to the following per Impression charges :
- \$0.00716 per black and white impression in excess of 750,000 impressions per quarter; and
  - \$0.0484 per color impression in excess of 14,000 impressions per month.
- An 11 X 17 image shall count as two images
8. Customer agrees that CBS will issue a check in the amount of \$37,225 ("Buy-Out Reimbursement") which will be paid directly to Canon Financial Services by CBS. The Buy-Out Reimbursement will be paid for the sole purpose of reimbursement of early termination charges or fees and associated expenses payable for early termination of the lease of Customer Owned Equipment noted in Section 6 above and in Exhibit A. Customer acknowledges and agrees that CBS' financial obligation with respect to the Buy-Out Reimbursement is limited to Thirty Seven Thousand Two Hundred Twenty Five (\$37,225), and that Customer is responsible for any other obligations, including any charges which are not covered by the Buy-Out Reimbursement. In the event, Customer cancels the Agreement prior to the end of the then current term, Customer agrees to pay CBS the pro-rata amount of the Buy-Out Reimbursement based on the number of months remaining in the then current term.
9. The following supplemental terms and conditions are hereby added to the Agreement:
- i. CBS shall have full and free access to the Equipment and Customer Owned Equipment to provide service thereon and to perform meter readings. In addition, Customer authorizes CBS to use networked features of the Equipment and Customer Owned Equipment including imageWARE Remote to receive software updates, activate features/new licenses and/or transmit use and service data accumulated by the Equipment and Customer Owned Equipment over Customer's network by means of an HTTPS protocol and to store, analyze and use such data for purposes related to servicing the Equipment and product improvement. If CBS does not receive Customer's timely meter readings, Customer agrees to provide meter readings in accordance with the applicable billing cycle for each unit of Equipment and Customer Owned Equipment as specified in this Agreement.
  - ii. Customer agrees neither to make any alteration in the Equipment nor to remove it from the location where installed by CBS without prior written approval of CBS. Customer shall bear all risk of loss or damage to Equipment while on Customer's premises. Customer further agrees to return the Equipment at the end of the Term in the same condition as when received except for reasonable wear and tear.
  - iii. Title to the Equipment shall remain at all times with CBS, and the Customer agrees that the CBS plaque affixed to the Equipment will not be removed. Customer agrees to keep the Equipment free from all liens, security interests and encumbrances. CBS is hereby authorized to file a financing statement to evidence its ownership in the Equipment in the possession of the Customer.

- iv. CBS warrants that it is the owner of the Equipment and that it has the right to perform the Services. Except for the foregoing warranty, CBS' OBLIGATIONS UNDER THIS AGREEMENT ARE IN LIEU OF ALL WARRANTIES, AND CBS EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE USE OR PERFORMANCE OF THE EQUIPMENT OR THE SERVICES.
  - v. Provision of toner includes replenishment of consumables for Equipment and Customer Owned Equipment only. Customer shall be deemed to have materially defaulted under the terms of this Agreement if any supplies provided hereunder are used for other than Equipment and Customer Owned Equipment supplied by CBS or for Customer Owned Equipment under the FM Services of the Agreement. In the event that usage of any such consumable supplies provided hereunder exceeds manufacturer specifications for conventional office imaging coverage by more than 10%, CBS may invoice Customer for such excess usage.
  - vi. If Customer fails to pay any invoice within thirty days of the invoice date, Customer shall pay a monthly late charge equal to the lesser of one and one-half percent (1.5%) of the overdue amount, or the maximum amount allowed by law.
  - vii. Customer acknowledges that the hard drive on the Equipment and Customer Owned Equipment may retain images, content or other data during normal operation of the Equipment ("Data") and that exposure or access to the Data by CBS, if any, is purely incidental to the services performed by CBS. Neither CBS nor any of their affiliates has an obligation to erase or overwrite Data upon your return of the Equipment to CBS or any leasing company. Customer is solely responsible for: (i) compliance with applicable law and legal requirements pertaining to data privacy, security, retention and protection; and (ii) all decisions related to erasing or overwriting Data. Without limiting the foregoing, you should, prior to return or other disposition of the Equipment, utilize the Hard Disk Drive (HDD) (or comparable) formatting function (which may be referred to as "Initialized All Data/Settings" function) found on the Equipment to perform a one pass overwrite of Data or, if Customer has higher security requirements, Customer may purchase from CBS at current rates an available option for the Equipment and Customer Owned Equipment, which may include (a) an HDD Data Encryption Kit option which disguises information before it is written to the hard drive using encryption algorithms, (b) a HDD Data Erase Kit that can perform up to a 3-pass overwrite of Data or (c) a replacement hard drive (in which case Customer should properly destroy the replaced hard drive).
10. The following will be of no force or effect if the Customer is not a State or a Political Subdivision of a state within the meaning of Section 103(C) of the Internal Revenue Code of 1986, as amended.
- i. The Customer warrants that it has funds available to pay the payments ("Payments") payable pursuant to Agreement between Customer and CBS until the end of its current appropriation period and warrants that it presently intends to make Payments in each appropriation period from now until the end of the Agreement. The officer of the Customer responsible for preparation of Customer's annual budget shall request from its legislative body or funding authority funds to be paid to CBS under the Agreement. If notwithstanding the making in good faith of such request in accordance with appropriate procedures and with the exercise of reasonable care and diligence, such legislative body or funding authority does not appropriate funds to be paid to the CBS for the Equipment, Customer may, upon prior written notice to CBS, effective upon the exhaustion of the funding authorized for the then current appropriation period, return the Equipment to CBS, in accordance with the Agreement, and thereupon, Customer shall be released of its obligations to make Payments to CBS due thereafter, provided: (1) the Equipment is returned to CBS as provided for in the Agreement, (2) the above described notice states the failure of the legislative body or funding authority to appropriate the necessary funds as the reason for cancellation; and (3) such notice is accompanied by payment of all amounts then due to the Lessor. In the event Customer returns the Equipment pursuant to the terms herein, CBS shall retain all sums paid by Customer. Customer's Payment obligations in any fiscal year shall constitute a current expense of Customer for such fiscal year, and shall not constitute indebtedness or a multiple fiscal year obligation of Customer under Customer's state constitution, state law or home rule charter. Nothing in this Agreement shall constitute a pledge by Customer of any taxes or other monies, other than as appropriated for a specific fiscal year for this Agreement and the Equipment.

- ii. The undersigned represents and warrants to CBS that all action required to authorize the execution and delivery of this Amendment on behalf of the above referenced Customer by the following signatory has been duly taken and remains in full force and effect.
- 11. For any and all amendments to the Agreement with regard to the provision of Equipment to Customer, whether entered into before, during or after the effective date of this amendment and where the expiration date of such amendment falls after the expiration date of the Agreement, the expiration date of the amendment shall control, unless the amendment expressly states that it is coterminous with the Agreement.
- 12. Customer agrees that CBS may accept an electronic image of this Amendment as an original, and that electronic copies of your signature will be treated as an original for all purposes.
- 13. Except as supplemented/modified hereby, all terms of the Agreement remain in full force and effect and are ratified and confirmed in all respects.

IN WITNESS WHEREOF, each of the undersigned have caused this AMENDMENT to be executed by their duly authorized officials effective the Effective Date, intending to be legally bound hereby.

CANON BUSINESS SOLUTIONS, INC.

City of Moreno Valley

By: *Timothy Robinson*  
 Name: Timothy Robinson  
 Title: VP Operations  
 Date: 7/5/11

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_



CITY ATTORNEY  
 Approved as to Form

By: *[Signature]* Date: 6/29/11

Amendment 4 - Exhibit A

Room	Building	Model	Serial
Behind Front Counter	City Hall 1st Floor	IR3570	SKV55637
CDD-I.T side of foyer, Rm 132	City Hall 1st Floor	IR5570	SLQ22472
CDD - Graphics Rm 104		IRC2620	SHP10670
Small rm near Cap Prjcts Rm 253	City Hall 2nd Floor	IR3570	SKV55633
Finance Audit Rm 203	City Hall 2nd Floor	IR3570	SKV65067
City Clerk, outside door		IR2270	SLH27585
Storage next to Dco Img Rm 208		IR5570	SLQ22668
Front Office	City Yard 1st Floor	IR3570	SKV55636
1st Floor	Animal Services	IR3570	SKV55484
1st Floor	Senior Center	IR3570	SKV55491
1st Floor	Public Library	IR2270	SLH27639
	Recreation Center 1st Floor	IR3570	SKV55487
1st Floor Ste 1-3	TS Annex	IR2270	SLH27642
1st Floor Ste 4	Facilities	IR2270	SLH27597
1st Floor Ste 9	Enterprise Services	IR3570	SKV55645
Whse Office	City Yard 1st Floor	IR2020	KRR05658
Volunteer Services - off chamber lobby	City Hall 1st Floor	IR2020	KRR05665
S.T.A.R.S	Employment Resource Center	IR3570	SKV55471
Volunteer Services - off chamber lobby	Emergency Operations	IR3035	MUP07387
Police Dept	PD Accounting	IR3035	MUP11450

Approved Bus Ops



## Canon Financial Services, Inc.

### CONVERSION ADDENDUM

RE: Agreement Number See Attachment (Existing Agreement) and  
Application Number \_\_\_\_\_ (New Agreement)

This Conversion Addendum ("Addendum") is entered into by and between Canon Financial Services, Inc. ("CFS") and City of Moreno Valley ("Customer") and is effective as of the date set forth below (the "Effective Date").

#### RECITALS

- A. CFS and Customer are parties to that certain agreement (whether designated a Lease, Rental Agreement, Master Agreement Schedule, or otherwise) with the agreement number indicated above ("Existing Agreement") for the lease or rental of certain equipment ("Existing Equipment").
- B. The initial term of the Existing Agreement has expired or will soon be expiring, and the Existing Agreement is currently or will soon be in a renewal term.
- C. Canon Business Solutions, Inc. ("CBS") and Customer are also parties to that certain Facilities Management Agreement with the application number indicated above ("New Agreement"; and together with the Existing Agreement, the "Agreements") for the lease or rental of certain other equipment and the provision of certain services ("New Equipment").
- D. As of the Effective Date, the New Equipment has not been delivered to Customer, and therefore the lease or rental of the New Equipment and the provision of services under the New Agreement has not commenced.
- E. CFS and Customer desire to amend the Existing Agreement and the New Agreement to allow for the equipment lease portion of the Payments (as defined in the Existing Agreement) coming due during the renewal term of the Existing Agreement (collectively, the "Renewal Payments") that are due and paid during the Credit Period (defined below) to be applied to the New Agreement once the New Equipment has been delivered to and accepted by Customer, all pursuant to the terms and conditions of this Addendum.

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound, CFS and Customer agree as follows:

1. During the period beginning on the Effective Date and ending on the date the New Equipment has been delivered to and accepted by Customer under the New Agreement (such period, the "Credit Period"), the Existing Agreement shall remain in effect pursuant to the applicable renewal provisions thereof. Customer shall continue to make its renewal term Payments to CFS under the Existing Agreement during the Credit Period.
2. When the New Equipment is delivered to Customer, Customer shall inspect and accept the New Equipment pursuant to the terms of the New Agreement. At such time, the Existing Agreement shall terminate, Customer shall return or purchase the Existing Equipment pursuant to the terms of the Existing Agreement, and the New Agreement shall commence.
3. Upon termination of the Existing Agreement and commencement of the New Agreement, CFS shall pay over to CBS the equipment lease portion of all Renewal Payments due under the Existing Agreement during the Credit Period and paid to CFS during the Credit Period (collectively, the "Credit Period Payments") to be applied by CBS to the payments that come due under the New Agreement. The Credit Period Payments shall not include (a) any amounts other than the equipment lease portion of the Payments under the Existing Agreement or (b) past due payments that were due prior to the Credit Period but received by CFS within the Credit Period. For example, and not by way of limitation, property taxes, late charges, insurance, overages, maintenance, and other such amounts shall not be deemed Credit Period Payments hereunder. For the avoidance of doubt, only the equipment lease portion of amounts that are both (i) due under the Existing Agreement during the Credit Period and (ii) received by CFS during the Credit Period will be credited to the New Agreement. In addition, if the Existing

Agreement is being upgraded into multiple transactions, only one of which is the New Agreement, only the portion of the payments made under the Existing Agreement with respect to Existing Equipment that is being upgraded to New Equipment under the New Agreement will be credited to the New Agreement. The eligible amount and Existing Equipment are listed below the signature blocks below.

4. Once all of the Credit Period Payments received by CFS have been applied to payments that have come due under the New Agreement, Customer will receive invoices from CBS for amounts due under the New Agreement for the remainder of the term (and any renewal term) of the New Agreement. Customer acknowledges that the first invoice Customer receives from CBS may be for less than a normal full monthly payment under the New Agreement, depending on the total amount of Credit Period Payments being applied; in such a case, the subsequent invoice would be for the normal full monthly payment under the New Agreement.

5. If Customer rejects the New Equipment for any reason, or otherwise cancels the New Agreement prior to its commencement, CFS shall be entitled to retain the Credit Period Payments as consideration for the use of the Existing Equipment during the Credit Period.

It is expressly agreed by the parties that this Addendum is supplemental to the Agreements and that the provisions thereof, unless specifically modified herein, shall remain in full force and effect and shall apply to this Addendum as though they were expressly set forth herein.

In the event of any conflict or inconsistency between the provisions of this Addendum and any provisions of the Agreements, the provisions of this Addendum shall in all respect govern and control.

Customer agrees that CFS may accept a facsimile copy of this Addendum as an original, and that such facsimile copy will be treated as an original for all purposes. THIS ADDENDUM SHALL BE EFFECTIVE WHEN IT HAS BEEN SIGNED BY CUSTOMER AND DEALER AND ACCEPTED BY CFS.

<p><b>CFS:</b></p> <p><b>CANON FINANCIAL SERVICES, INC.</b></p> <p>By: _____          Title: _____          Date: _____</p> <hr/> <p>Acknowledged and Agreed by CBS:</p> <p><b>CANON BUSINESS SOLUTIONS, INC.</b></p> <p>By: _____          Printed Name: _____          Title: _____</p>	<p><b>Customer:</b></p> <p>_____</p> <p>(Customer Legal Name)</p> <p>By: _____          Printed Name: _____          Title: _____</p> <hr/> <p>By: _____          Printed Name: _____          Title: _____</p>
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**CITY ATTORNEY**  
Approved as to Form

**TO BE COMPLETED BY DEALER:**  
(check one)

- All Existing Agreement renewal payments to be credited to New Agreement. (100% Qualifying Equipment)
- Partial Existing Agreement renewal payments to be credited to New Agreement:
  - Payment amount under Existing Agreement: \$ \_\_\_\_\_ per billing period + applicable use taxes
  - Amount eligible as Credit Period Payments: \$ \_\_\_\_\_ per billing period + applicable use taxes  
(Contact CFS to verify portion of payment eligible for credit.)

  
 BY: \_\_\_\_\_  
 Date: 6/29/11

List of eligible Existing Equipment:

See City of Moreno Valley/ Canon Amendment #4





**Canon Financial Services, Inc.**

**CONVERSION ADDENDUM**

RE: Agreement Number See Attachment (Existing Agreement) and  
Application Number \_\_\_\_\_ (New Agreement)

This Conversion Addendum ("Addendum") is entered into by and between Canon Financial Services, Inc. ("CFS") and City of Moreno Valley ("Customer") and is effective as of the date set forth below (the "Effective Date").

**RECITALS**

A. CFS and Customer are parties to that certain agreement (whether designated a Lease, Rental Agreement, Master Agreement Schedule, or otherwise) with the agreement number indicated above ("Existing Agreement") for the lease or rental of certain equipment ("Existing Equipment").

B. The initial term of the Existing Agreement has expired or will soon be expiring, and the Existing Agreement is currently or will soon be in a renewal term.

C. Canon Business Solutions, Inc. ("CBS") and Customer are also parties to that certain Facilities Management Agreement with the application number indicated above ("New Agreement"; and together with the Existing Agreement, the "Agreements") for the lease or rental of certain other equipment and the provision of certain services ("New Equipment").

D. As of the Effective Date, the New Equipment has not been delivered to Customer, and therefore the lease or rental of the New Equipment and the provision of services under the New Agreement has not commenced.

E. CFS and Customer desire to amend the Existing Agreement and the New Agreement to allow for the equipment lease portion of the Payments (as defined in the Existing Agreement) coming due during the renewal term of the Existing Agreement (collectively, the "Renewal Payments") that are due and paid during the Credit Period (defined below) to be applied to the New Agreement once the New Equipment has been delivered to and accepted by Customer, all pursuant to the terms and conditions of this Addendum.

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound, CFS and Customer agree as follows:

1. During the period beginning on the Effective Date and ending on the date the New Equipment has been delivered to and accepted by Customer under the New Agreement (such period, the "Credit Period"), the Existing Agreement shall remain in effect pursuant to the applicable renewal provisions thereof. Customer shall continue to make its renewal term Payments to CFS under the Existing Agreement during the Credit Period.

2. When the New Equipment is delivered to Customer, Customer shall inspect and accept the New Equipment pursuant to the terms of the New Agreement. At such time, the Existing Agreement shall terminate, Customer shall return or purchase the Existing Equipment pursuant to the terms of the Existing Agreement, and the New Agreement shall commence.

3. Upon termination of the Existing Agreement and commencement of the New Agreement, CFS shall pay over to CBS the equipment lease portion of all Renewal Payments due under the Existing Agreement during the Credit Period and paid to CFS during the Credit Period (collectively, the "Credit Period Payments") to be applied by CBS to the payments that come due under the New Agreement. The Credit Period Payments shall not include (a) any amounts other than the equipment lease portion of the Payments under the Existing Agreement or (b) past due payments that were due prior to the Credit Period but received by CFS within the Credit Period. For example, and not by way of limitation, property taxes, late charges, insurance, overages, maintenance, and other such amounts shall not be deemed Credit Period Payments hereunder. For the avoidance of doubt, only the equipment lease portion of amounts that are both (i) due under the Existing Agreement during the Credit Period and (ii) received by CFS during the Credit Period will be credited to the New Agreement. In addition, if the Existing

Agreement is being upgraded into multiple transactions, only one of which is the New Agreement, only the portion of the payments made under the Existing Agreement with respect to Existing Equipment that is being upgraded to New Equipment under the New Agreement will be credited to the New Agreement. The eligible amount and Existing Equipment are listed below the signature blocks below.

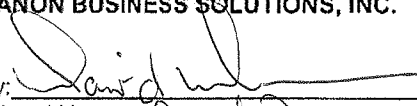
4. Once all of the Credit Period Payments received by CFS have been applied to payments that have come due under the New Agreement, Customer will receive invoices from CBS for amounts due under the New Agreement for the remainder of the term (and any renewal term) of the New Agreement. Customer acknowledges that the first invoice Customer receives from CBS may be for less than a normal full monthly payment under the New Agreement, depending on the total amount of Credit Period Payments being applied; in such a case, the subsequent invoice would be for the normal full monthly payment under the New Agreement.

5. If Customer rejects the New Equipment for any reason, or otherwise cancels the New Agreement prior to its commencement, CFS shall be entitled to retain the Credit Period Payments as consideration for the use of the Existing Equipment during the Credit Period.

It is expressly agreed by the parties that this Addendum is supplemental to the Agreements and that the provisions thereof, unless specifically modified herein, shall remain in full force and effect and shall apply to this Addendum as though they were expressly set forth herein.

In the event of any conflict or inconsistency between the provisions of this Addendum and any provisions of the Agreements, the provisions of this Addendum shall in all respect govern and control.


Customer agrees that CFS may accept a facsimile copy of this Addendum as an original, and that such facsimile copy will be treated as an original for all purposes. THIS ADDENDUM SHALL BE EFFECTIVE WHEN IT HAS BEEN SIGNED BY CUSTOMER AND DEALER AND ACCEPTED BY CFS.

<p><b>CFS:</b></p> <p><b>CANON FINANCIAL SERVICES, INC.</b></p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p> <hr/> <p>Acknowledged and Agreed by CBS:</p> <p><b>CANON BUSINESS SOLUTIONS, INC.</b></p> <p>By: </p> <p>Printed Name: <u>David Dunn</u></p> <p>Title: <u>Director Business Operations</u></p>	<p><b>Customer:</b></p> <p>_____</p> <p>(Customer Legal Name)</p> <p>By: _____</p> <p>Printed Name: _____</p> <p>Title: _____</p> <hr/> <p>By: _____</p> <p>Printed Name: _____</p> <p>Title: _____</p>
---	---

CITY ATTORNEY  
Approved as to Form

**TO BE COMPLETED BY DEALER:**  
(check one)

- All Existing Agreement renewal payments to be credited to New Agreement. (100% Qualifying Equipment)
- Partial Existing Agreement renewal payments to be credited to New Agreement:
  - Payment amount under Existing Agreement: \$ \_\_\_\_\_ per billing period + applicable use taxes
  - Amount eligible as Credit Period Payments: \$ \_\_\_\_\_ per billing period + applicable use taxes  
(Contact CFS to verify portion of payment eligible for credit.)

By:  \_\_\_\_\_ Date: 6/29/11

List of eligible Existing Equipment:

See City of Moreno Valley/ Canon Amendment #4



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

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## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** STAFF ASSIGNMENTS IN SUPPORT OF COUNCIL MEMBER PARTICIPATION WITH REGIONAL AGENCIES

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### **RECOMMENDED ACTION**

Staff recommends that the City Council approve the proposed staff assignments in support of Council Member participation with regional agencies.

### **BACKGROUND**

At their May 18, 2011 Goal Setting Workshop, the City Council identified the organization's Strengths, Weaknesses, Opportunities, and Threats (SWOT). While the City's existing transportation corridors were identified as a strength, the lack of adequate infrastructure and planning was acknowledged as a weakness. The City's regional presence was identified as an opportunity. The Council used the results of their SWOT Analysis to develop five prioritized goals, one of which was to "Maximize Transportation and Infrastructure Opportunities."

### **DISCUSSION**

The third prioritized goal developed by the City Council in their May 18 Goal Setting Workshop was to "Maximize Transportation and Infrastructure Opportunities." Actions identified to help achieve this goal included increasing the City's regional presence. A specific task assigned to City staff was to increase staff assistance to the Council as well as increase participation with regional agencies by assigning staff liaisons to each committee. The proposed staff assignments are included in the "2011 City Council Regional Committees & Staff Assignments" attachment.

## **ALTERNATIVES**

- 1) Approve the proposed staff assignments in support of Council Member participation with regional agencies. *Staff recommends this alternative as the proposed staff assignments will assist the City Council in achieving their prioritized goal to maximize transportation and infrastructure opportunities by increasing the City's regional presence.*
- 2) Not approve the proposed staff assignments in support of Council Member participation with regional agencies. *Staff does not recommend this alternative as the proposed action is a task related to the Council-adopted goal to maximize transportation and infrastructure opportunities.*

## **FISCAL IMPACT**

The proposed staff assignments in support of Council Member participation with regional agencies will have no fiscal impact to the 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.

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

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.

## **ATTACHMENTS**

Attachment: "2011 City Council Regional Committees & Staff Assignments"

Prepared By:  
Michelle Dawson  
Assistant City Manager

Concurred By:  
Barry Foster  
Community and Economic Director

Concurred By:  
Chris Vogt  
Public Works Director/City Engineer

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

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## 2011 CITY COUNCIL REGIONAL COMMITTEES & STAFF ASSIGNMENTS

**REGIONAL AGENCY:**

March Joint Powers Commission (JPC)	STEWART/BATEY	CO
<b>Staff: Community and Economic Development Director</b>		
School Districts/City Joint Task Force	STEWART/MOLINA	CO
<b>Staff: City Manager/Asst City Manager</b>		
Riverside County Habitat Conservation Agency (RCHCA)	BATEY	MOLINA
<b>Staff: Planning Official</b>		
Riverside County Transportation Commission (RCTC)	CO	STEWART
<b>Staff: City Manager/Asst City Manager</b>		
Riverside Transit Agency (RTA)	MOLINA	CO
<b>Staff: Public Works Director/Traffic Engineer</b>		
Western Riverside Council of Governments (WRCOG)	HASTINGS	CO
<b>Staff: City Manager</b>		
Western Riverside County Regional Conservation Authority (RCA)	BATEY	MOLINA
<b>Staff: Planning Official</b>		

**WRCOG COMMITTEES:**

Executive Committee	Robin Hastings, Chair
Administration & Finance	Robin Hastings, Chair
Technical Advisory Committee	Henry Garcia, Chair
Planning Directors TAC	John Terell
Public Works Committee	Chris Vogt, Chair
Solid Waste Technical Committee	Robert Lemon
Western Riverside County Clean Air Coalition	Robert Lemon
Air Quality Task Force	Eric Lewis, Jeff Bradshaw

**RCTC COMMITTEES:**

Western Riverside County Programs and Projects Committee	Marcelo Co
San Jacinto Branch Line Ad Hoc Committee	Marcelo Co
Technical Advisory Committee	Chris Vogt

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE 2011 PAVEMENT RESURFACING PROJECT NO. 11-12556330, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Pavement Resurfacing Project, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code.
3. Authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project.
4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

## **BACKGROUND**

On March 8, 2011, the City Council awarded a construction contract and authorized the issuance of a Purchase Order in the amount of \$1,729,200 to Hardy & Harper, Inc. The City issued a Notice to Proceed to Hardy & Harper, Inc. to start work on April 12, 2011.

As part of the Fiscal Year 2010/2011 CIP Budget, the City Council approved the use of the remaining Proposition 42 and Proposition 1B monies for pavement rehabilitation of the six arterial and collector streets identified in this report.

## **DISCUSSION**

The project included the resurfacing of six (6) streets: Kitching Street from Fir Avenue to Cottonwood Avenue, Fir Avenue from Perris Boulevard to Lasselle Street, Perris Boulevard from Webster Avenue to Sunnymead Boulevard, Cactus Avenue from Commerce Center Drive to Elsworth Street, Indian Street from Ironwood Avenue to Sunnymead Boulevard, and Manzanita Avenue from Heacock Street to Perris Boulevard. Hardy & Harper's contracted work included removing existing asphalt concrete pavement, resurfacing with cold-in-place recycling (CIPR), pavement overlaying with rubberized asphalt concrete, reconstructing a number of access ramps along the listed streets to ADA requirements, re-establishment of traffic signal detector loops, utility covers, manholes, and re-striping. The resurfacing extends the life of the streets and provides a smoother riding surface.

The Contractor has completed all the paving work and anticipates completing the construction by mid July 2011. Staff anticipates the final contract cost will be approximately \$1,631,000 which does not exceed the approved purchase order amount of \$1,729,000. Since the City Council will not meet on July 26, 2011 and August 9, 2011, staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed and accept the improvements into the City's maintained road system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion at the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention money to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion. These actions must be completed in a timely manner upon completion of the Contractor's work in accordance with the applicable laws.

## **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Pavement Resurfacing Project, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705, direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works

Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete. *This alternative will allow payment to the Contractor and acceptance of the improvements into the City's maintained road system.*

2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Pavement Resurfacing Project, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, do not authorize the Financial & Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and do not authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete. *This alternative will result in delaying payment to the Contractor, delaying acceptance of the improvements into the City's maintained road system, and incurring extra costs to the City.*

### **FISCAL IMPACT**

The construction phase of this project was included on the Fiscal Year 2010/2011 Capital Improvements Project Budget and financed by Measure A (Fund 125), Proposition 42 (Fund 225), and Proposition 1B (Fund 226). The funding for this project is restricted to street rehabilitation or improvements. There is no impact to the General Fund.

#### **AVAILABLE FUNDS:**

Annual Pavement Resurfacing Program (Acct. No. 125.56330) .....	\$1,037,100
Annual Pavement Resurfacing Program (Acct. No. 225.68722) .....	\$1,550,000
Annual Pavement Resurfacing Program (Acct. No. 226.79728) .....	<u>\$3,793,300</u>
Total 2010/2011 Budgeted Funds .....	\$6,380,400
Completed 2010 Pavement Resurfacing Project Costs.....	(\$1,244,000)
2011 Local Street Pavement Resurfacing Phase 1 (being constructed concurrently) .....	<u>(\$2,684,000)</u>
Remaining Funds Available.....	\$2,452,400

**PROJECT RELATED COSTS:**

Design .....	\$110,000
Anticipated Contractor Construction Costs.....	\$1,631,000
Anticipated Construction Geotechnical Services.....	\$22,000
Anticipated Construction Survey Services.....	\$20,000
Anticipated Project Administration and City Inspection .....	\$90,000
Anticipated Total Project Costs .....	\$1,873,000

**CITY COUNCIL GOALS**

**PUBLIC SAFETY:**

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**SUMMARY**

Hardy & Harper anticipates completing the construction of the 2011 Pavement Resurfacing Project in mid July 2011. Staff is requesting that City Council authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed and accept the improvements into the City’s maintained road system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion at the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention money to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion. The resurfacing extends the life of the streets and provides a smoother riding surface.

**ATTACHMENTS**

Attachment “A” – Location Map

Prepared By:  
 Quang Nguyen  
 Senior Engineer, P.E.

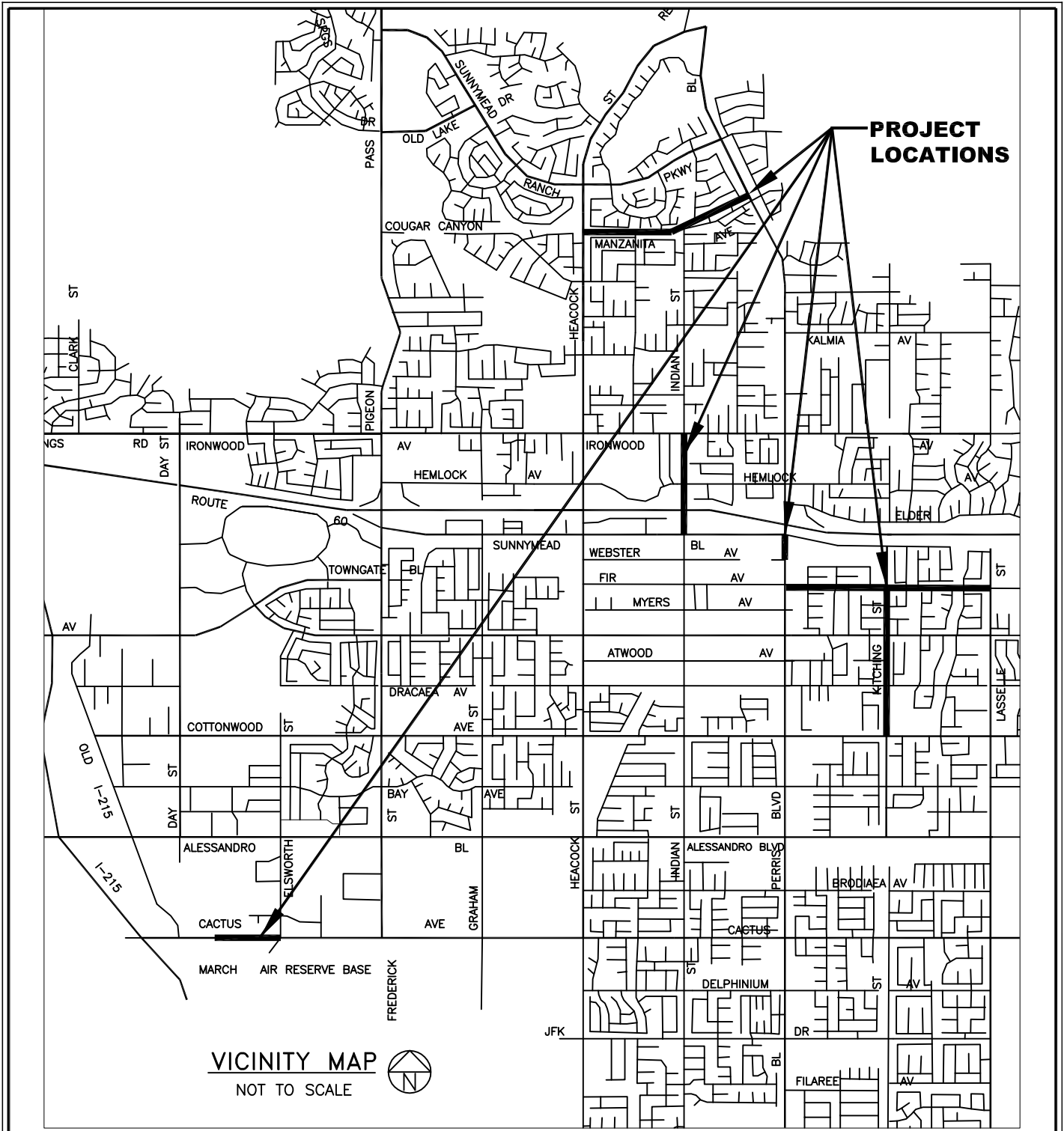
Department Head Approval:  
 Chris A. Vogt, P.E.  
 Public Works Director/City Engineer

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

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

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<h1>LOCATION MAP</h1>	
LOCATION MAP Public Works Department Capital Projects Division	<b>PROJECT NO. 11-12556330</b> <b>2011 PAVEMENT RESURFACING PROJECT</b>
Scale: None <b>ATTACHMENT "A"</b>	

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE 2011 LOCAL STREET PAVEMENT RESURFACING – PHASE 1 PROJECT NO. 11-22679728, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM

---

### **RECOMMENDED ACTION**

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Local Street Pavement Resurfacing – Phase 1, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code.
3. Authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project.

4. Authorize the Public Works Director/City Engineer to accept the improvements into the City's maintained road system upon acceptance of the improvements as complete.

### **BACKGROUND**

On March 8, 2011, the City Council awarded a construction contract and authorized the issuance of a Purchase Order in the amount of \$2,410,400 to Hardy & Harper, Inc. The project includes the resurfacing a total of twenty six local streets which are included in the Fiscal Year 2010-2011 CIP Budget. The City issued a Notice to Proceed to Hardy & Harper, Inc. to start work on April 12, 2011.

As part of the Fiscal Year 2010/2011 CIP Budget, the City Council approved the use of the remaining Proposition 42 and Proposition 1B monies for pavement rehabilitation of these streets.

### **DISCUSSION**

Hardy & Harper's contracted work includes removing existing asphalt concrete pavement, pavement resurfacing with cold central plant recycling (CCPR), pavement overlaying with rubberized asphalt concrete, reconstructing number of access ramps along the listed streets to ADA requirements, adjusting utility manholes and covers, and re-establishing traffic striping. The Contractor has completed all the paving work and anticipates completing rest of the work by mid July 2011. Staff anticipates the final contract cost will be approximately \$2,391,000 which does not exceed the approved purchase order amount of \$2,410,400. The resurfacing extends the life of the streets and provides a smoother riding surface.

Three additional streets (Vellanto Way, Mantee Place and Ormista Drive) were added to the original twenty six streets, bringing a total of twenty nine streets being resurfaced (approximately 131,000 square yards of pavement area.) These three streets (also included in the Fiscal Year 2010-2011 CIP Budget for resurfacing) are in the neighborhood of Searson Drive which is one of the original twenty six streets. These streets are added to be constructed at the same time as Searson Drive in an effort to avoid repeat construction disturbance to the neighborhood as these streets were previously approved by City Council for Phase 2 Local Street Pavement Resurfacing Project.

Since the City Council will not meet on the next two meetings after the July 12 meeting, staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed and accept the improvements into the City's maintained road system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion at the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention money to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the

Notice of Completion. These actions must be completed in a timely manner upon completion of the Contractor’s work in accordance with the applicable laws.

**ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Local Street Pavement Resurfacing Project – Phase 1, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705, direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and authorize the Public Works Director/City Engineer to accept the improvements into the City’s maintained road system upon acceptance of the improvements as complete. *This alternative will allow payment to the Contractor and acceptance of the improvements into the City’s maintained road system.*
  
2. Do not authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed for the 2011 Local Street Pavement Resurfacing Project – Phase 1, which was constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days after the Public Works Director/City Engineer accepts the improvements as complete at the Office of the County Recorder of Riverside County as required by Section 3093 of the California Civil Code, do not authorize the Financial & Administrative Services Director to release the retention to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion if no claims are filed against the project, and do not authorize the Public Works Director/City Engineer to accept the improvements into the City’s maintained road system upon acceptance of the improvements as complete. *This alternative will result in delaying payment to the Contractor, delaying acceptance of the improvements into the City’s maintained road system and incurring extra costs to the City.*

**FISCAL IMPACT**

The construction phase of this project is included on the Fiscal Year 2010/2011 Capital Improvements Project Budget and financed by Measure A (Fund 125), Proposition 42 (Fund 225), and Proposition 1B (Fund 226). The funding for this project is restricted to street rehabilitation or improvements. There is no impact to the General Fund.

**AVAILABLE FUNDS:**

Annual Pavement Resurfacing Program (Acct. No. 125.56330) .....	\$1,037,100
Annual Pavement Resurfacing Program (Acct. No. 225.68722) .....	\$1,550,000

Annual Pavement Resurfacing Program (Acct. No. 226.79728) .....	<u>\$3,793,300</u>
Total 2010/2011 Budgeted Funds .....	\$6,380,400
Completed 2010 Pavement Resurfacing Project Costs.....	(\$1,244,000)
2011 Pavement Resurfacing Project Anticipated Costs (being constructed concurrently) .....	<u>(\$1,873,000)</u>
Remaining Funds Available.....	\$3,263,400

**PROJECT RELATED COSTS:**

Design .....	\$93,000
Anticipated Contractor Construction Costs.....	\$2,391,000
Anticipated Construction Geotechnical Services.....	\$73,000
Anticipated Construction Survey Services.....	\$37,000
Anticipated Project Administration and City Inspection .....	<u>\$90,000</u>
Anticipated Total Project Costs .....	\$2,684,000

**CITY COUNCIL GOALS**

**PUBLIC SAFETY:**

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

**PUBLIC FACILITIES AND CAPITAL PROJECTS:**

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

**POSITIVE ENVIRONMENT:**

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

**SUMMARY**

Hardy & Harper, Inc. anticipates completing the construction of the 2011 Local Street Pavement Resurfacing Project in mid July 2011. Staff is requesting that City Council authorize the Public Works Director/City Engineer to accept the work as complete when all contract requirements and punch-list items are completed and accept the improvements into the City’s maintained road system upon acceptance of the improvements as complete, authorize the recordation of the Notice of Completion at the County Recorder after the Public Works Director/City Engineer accepts the improvements as complete, and authorize the release of retention money to Hardy & Harper, Inc. thirty five (35) calendar days after the date of recordation of the Notice of Completion.

**ATTACHMENTS**

Attachment “A” – Location Map

Prepared By:  
 Quang Nguyen, P.E.  
 Senior Engineer

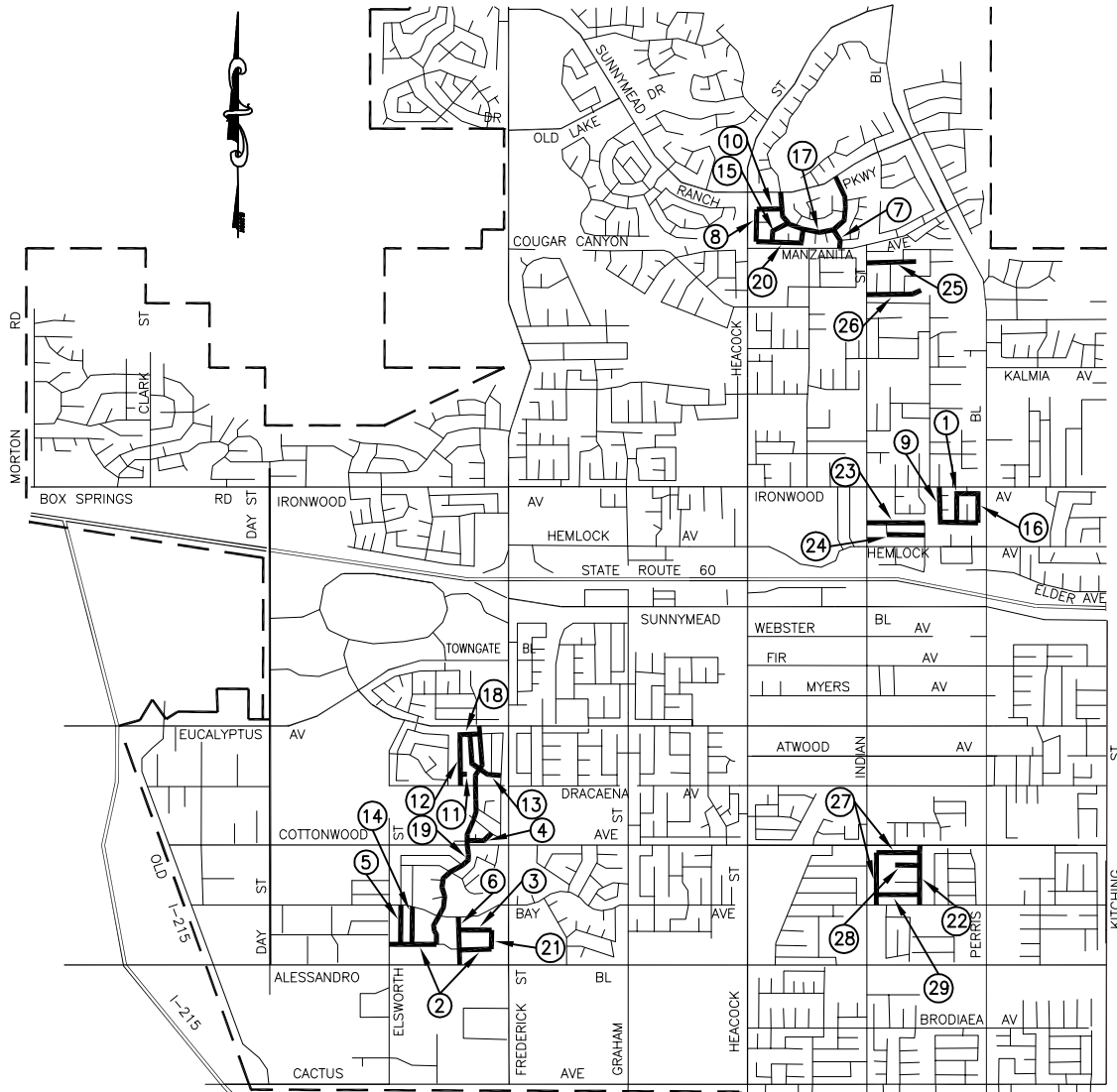
Department Head Approval:  
 Chris A. Vogt, P.E.  
 Public Works Director/City Engineer

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

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

W:\CapProj\CapProj\PROJECTS\Quang - 11-22679728 - Local Street Pavement Resurfacing - Phase 1\CC Reports\NOC 7-12-11\Staff Report - NOC- CC 07-12-11.doc

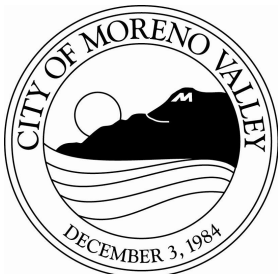
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- | <u>STREET</u>   | <u>LIMITS</u>                   |
|-----------------|---------------------------------|
| ① AARON DR:     | GASSEN PL TO HARCLARE DR        |
| ② ADRIENNE AVE: | ELSWORTH ST TO PRIDE LN         |
| ③ ALLIES PL:    | COURAGE ST TO PRIDE LN          |
| ④ BAYWOOD DR:   | PAN AM BLVD TO AQUEDUCT WY      |
| ⑤ BOEING ST:    | BAY AVE TO ADRIENNE AVE         |
| ⑥ COURAGE ST:   | BAY AVE TO ALESSANDRO BLVD      |
| ⑦ DUCKBILL RD:  | OLD COUNTRY RD TO MANZANITA AVE |
| ⑧ FENTON RD:    | IRONBARK RD TO PLEASANT RUN RD  |
| ⑨ HARCLARE DR:  | ODESSA DR TO IRONWOOD AVE       |
| ⑩ IRONBARK RD:  | FENTON RD TO OLD COUNTRY RD     |
| ⑪ KIOWA CT:     | KIOWA DR TO EAST END            |
| ⑫ KIOWA DR:     | PAHUTE DR TO DRACAENA AVE       |
| ⑬ LAKOTA DR:    | PAHUTE DR TO OAK DELL ST        |
| ⑭ MCDONNELL ST: | BAY AVE TO ADRIENNE AVE         |

- | <u>STREET</u>      | <u>LIMITS</u>                          |
|--------------------|--|
| ⑮ NOBLEWOOD RD:    | OLD COUNTRY RD TO PLEASANT RUN RD      |
| ⑯ ODESSA DR:       | GASSEN PL TO HARCLARE DR               |
| ⑰ OLD COUNTRY RD:  | SUNNYMEAD RANCH TO SUNNYMEAD RANCH PKY |
| ⑱ PAHUTE DR:       | PAN AM BLVD TO KIOWA DR                |
| ⑲ PAN AM BLVD:     | EUCALYPTUS AVE TO ADRIENNE AVE         |
| ⑳ PLEASANT RUN RD: | FENTON RD TO OLD COUNTRY RD            |
| ㉑ PRIDE LN:        | ALLIES CT TO ADRIENNE AVE              |
| ㉒ SEARSON DR:      | COTTONWOOD AVE TO BAY AVE              |
| ㉓ SINALOA ST:      | INDIAN ST TO LEAHY DR                  |
| ㉔ SINGER ST:       | HANOVER AVE TO LEAHY DR                |
| ㉕ SUMMERFIELD DR:  | INDIAN ST TO EAST END                  |
| ㉖ SUNNY RIDGE DR:  | INDIAN ST TO EAST END                  |
| ㉗ VELLANTO WAY:    | BAY AVE TO SEARSON DR                  |
| ㉘ MANTEE PL:       | WEST END TO SEARSON DR                 |
| ㉙ ORMISTA DR:      | VELLANTO WY TO SEARSON DR              |

- | <u>STREET</u>      | <u>LIMITS</u>                          |
|--------------------|--|
| ⑮ NOBLEWOOD RD:    | OLD COUNTRY RD TO PLEASANT RUN RD      |
| ⑯ ODESSA DR:       | GASSEN PL TO HARCLARE DR               |
| ⑰ OLD COUNTRY RD:  | SUNNYMEAD RANCH TO SUNNYMEAD RANCH PKY |
| ⑱ PAHUTE DR:       | PAN AM BLVD TO KIOWA DR                |
| ⑲ PAN AM BLVD:     | EUCALYPTUS AVE TO ADRIENNE AVE         |
| ⑳ PLEASANT RUN RD: | FENTON RD TO OLD COUNTRY RD            |
| ㉑ PRIDE LN:        | ALLIES CT TO ADRIENNE AVE              |
| ㉒ SEARSON DR:      | COTTONWOOD AVE TO BAY AVE              |
| ㉓ SINALOA ST:      | INDIAN ST TO LEAHY DR                  |
| ㉔ SINGER ST:       | HANOVER AVE TO LEAHY DR                |
| ㉕ SUMMERFIELD DR:  | INDIAN ST TO EAST END                  |
| ㉖ SUNNY RIDGE DR:  | INDIAN ST TO EAST END                  |
| ㉗ VELLANTO WAY:    | BAY AVE TO SEARSON DR                  |
| ㉘ MANTEE PL:       | WEST END TO SEARSON DR                 |
| ㉙ ORMISTA DR:      | VELLANTO WY TO SEARSON DR              |



## 2011 LOCAL STREET PAVEMENT RESURFACING - PHASE 1

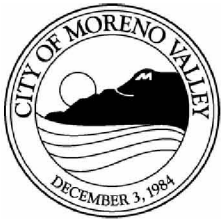
Public Works Department  
Capital Projects Division

### LOCATION MAP

VARIOUS LOCATIONS  
PROJECT NO. 11-22679728

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** CORPORATE YARD OFFICE BUILDING PHASE 1 – OFFER OF DEDICATION – PROJECT NO. 05-4166522 LOCATED ON SANTIAGO STREET EAST OF PERRIS BOULEVARD

**DEVELOPER –** CITY OF MORENO VALLEY, CALIFORNIA  
14177 FREDERICK STREET  
MORENO VALLEY, CA 92552

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### **RECOMMENDED ACTION**

Staff recommends that the City Council:

1. Authorize the City Manager to execute the Offer of Dedication on Santiago Drive east of Perris Boulevard.
2. Direct the City Clerk to forward the Offer of Dedication to the City Engineer to execute the Acceptance Certificate and to transmit the Offer of Dedication with Acceptance Certificate to the County Recorder's office for recordation.

### **ADVISORY BOARD/COMMISSION RECOMMENDATION**

Not applicable.

## **BACKGROUND**

On January 12, 2010, the City Council approved the Agreement for Design Professional Consultant Services to Provide Architectural and Engineering Services (A&E) for the Corporate Yard Phase 1 Office Building and Sewer Line. The Agreement requires that the consultant obtain approval (Planning Application PA10-0013) from the various City departments as part of the design phase of the project. On March 8, 2011, the project received final Conditions of Approval that require the owner (City of Moreno Valley, a municipal corporation) to record an Offer of Dedication for additional right-of-way. The additional right-of-way will be at the two proposed driveway approaches, located on the north side of Santiago Drive east of Perris Boulevard, in accordance with the City Standard for a commercial driveway approach.

## **DISCUSSION**

The owner, the City of Moreno Valley, is required to dedicate four (4) feet of right-of-way around the driveway approaches, at the proposed project entrances on Santiago Drive, to accommodate a public sidewalk for pedestrian circulation in accordance with City Standards. The Offer of Dedication is necessary to construct public improvements along the driveway entrances to match the existing street improvements immediately to the east and west of the project. Once the Offer of Dedication is executed by the City Manager, the document will be forwarded to the City Engineer to execute the Acceptance Certificates as authorized by Resolution 94-5.

## **ALTERNATIVES**

1. Authorize the City Manager to execute the Offer of Dedication on Santiago Drive east of Perris Boulevard and to direct the City Clerk to forward the Offer of Dedication to the City Engineer to execute the Acceptance Certificate and to transmit the Offer of Dedication with Acceptance Certificate to the County Recorder's office for recordation. *This alternative would allow for the necessary public improvements for pedestrian circulation at the proposed driveway locations.*
2. Do not authorize the City Manager to execute the Offer of Dedication on Santiago Drive east of Perris Boulevard and do not direct the City Clerk to forward the Offer of Dedication to the City Engineer to execute the Acceptance Certificate and to transmit the Offer of Dedication with Acceptance Certificate to the County Recorder's office for recordation. *This alternative would not allow for the necessary public improvements for pedestrian circulation at the proposed driveway locations.*

## **FISCAL IMPACT**

No fiscal impact is anticipated.

**CITY COUNCIL GOALS**

Public Facilities and Capital Projects – Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

**NOTIFICATION**

Publication of the agenda

**ATTACHMENTS**

Attachment A – Vicinity Map

Attachment B – Offer of Dedication

Prepared By  
 Vince Giron  
 Associate Engineer

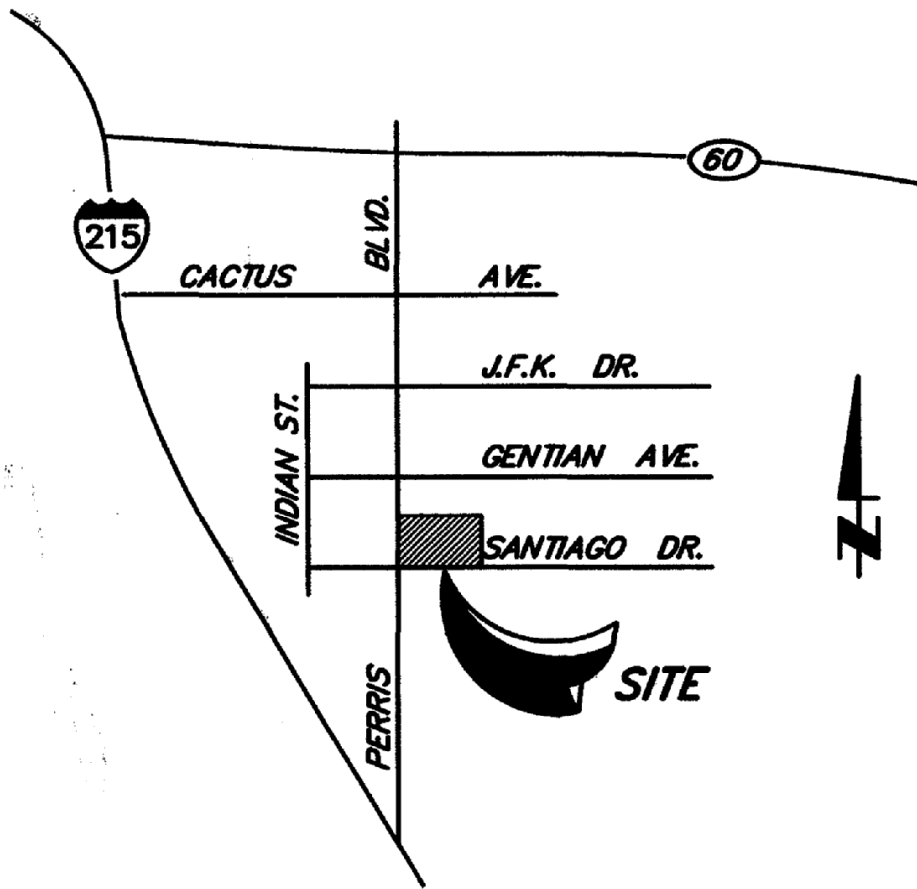
Department Head Approval  
 Chris A. Vogt, P.E.  
 Public Works Director/City Engineer

Concurred By  
 Clement Jimenez, P.E.  
 Senior 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\2011\6-28-11 - PA10-0013 Offer of Dedication Report.doc



**VICINITY MAP**  
 NOT TO SCALE

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

**PA10-0013**  
**VICINITY MAP**

W:\LandDev\MANAGEMENT ASSISTANT\Staff Reports\2011\6-28-11 - PA10-0013 Offer of Dedication Attachment A.doc

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

Exempt from Recording Fee per  
Govt. Code Sec. 6103  
City of Moreno Valley  
By:  
A.P.N. 486-170-021 & 022

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

## ***OFFER OF DEDICATION***

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

### **CITY OF MORENO VALLEY, A MUNICIPAL CORPORATION**

GRANTOR(S) hereby irrevocably offer(s) to DEDICATE to the CITY OF MORENO VALLEY, a municipal corporation, for themselves, successors or assigns a perpetual easement and right of way, subject to the completion of improvements, for public highway purposes, including public utility and public service facilities over, under, upon, across, and within the real property in the City of Moreno Valley, County of Riverside, State of California, described as follows:

All as described in the attached legal description and illustrated on the plats attached hereto and marked Exhibits "A" and "B", respectively.

City of Moreno Valley, a Municipal Corporation

By: \_\_\_\_\_  
HENRY GARCIA, City Manager

Date \_\_\_\_\_

ATTESTS:

JANE HALSTEAD,  
Clerk to the City of Moreno Valley

By: \_\_\_\_\_  
City Clerk

(SEAL)

Date \_\_\_\_\_

# ACCEPTANCE CERTIFICATE

This is to certify that the interest in real property conveyed by the deed or grant dated **July 12, 2011** from the **City of Moreno Valley Moreno, a municipal corporation**, to the City of Moreno Valley, a municipal corporation, in the form attached hereto, is hereby accepted, subject to completion of improvements, and the street improvements being accepted into and becoming a part of the City maintained street system, by the undersigned City Engineer on behalf of the City of Moreno Valley, pursuant to authority conferred by Resolution No. 94-5 of the City Council of Moreno Valley, adopted on January 25, 1994, and the grantee consented to recordation thereof.

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

By: \_\_\_\_\_  
Chris A. Vogt, P.E.  
Public Works Director/City Engineer  
City of Moreno Valley

STATE OF CALIFORNIA )  
County of \_\_\_\_\_)ss.

On \_\_\_\_\_ before me, \_\_\_\_\_, a Notary Public in and for said State, 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 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 \_\_\_\_\_  
Signature of Notary Public

Place Notary Seal Above



**EXHIBIT "A"**  
**OFFER OF DEDICATION**  
**LEGAL DESCRIPTION**

**PARCEL A**

THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 15686, ON FILE IN BOOK 93 OF PARCEL MAPS, PAGES 31 AND 32 THEREOF, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE INTERSECTION OF THE CENTERLINE OF SANTIAGO DRIVE AND THE CENTERLINE OF NAN AVENUE AS SHOWN BY MAP OF TRACT NO. 15433-2, ON FILE IN BOOK 151 OF MAPS, PAGES 67 THROUGH 70, INCLUSIVE, RECORDS OF SAID RIVERSIDE COUNTY, STATE OF CALIFORNIA;

THENCE NORTH 00°06'15" EAST ALONG A LINE BEING AT RIGHT ANGLES TO SAID CENTERLINE OF SANTIAGO DRIVE, A DISTANCE OF 30.00 FEET, TO THE NORTHERLY RIGHT OF WAY LINE OF SAID SANTIAGO DRIVE, BEING THE **POINT OF BEGINNING**;

THENCE NORTH 89°53'45" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 25.50 FEET;

THENCE NORTH 45°06'15" EAST, A DISTANCE OF 5.66 FEET, TO A LINE PARALLEL WITH AND DISTANT 4.00' NORTHERLY, MEASURED AT RIGHT ANGLES, OF SAID NORTHERLY RIGHT OF WAY LINE;

THENCE SOUTH 89°53'45" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 42.95 FEET;

THENCE SOUTH 45°02'14" EAST, A DISTANCE OF 5.67 FEET, TO SAID NORTHERLY RIGHT OF WAY LINE;

THENCE NORTH 89°53'45" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 25.47 FEET, TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 208 SQUARE FEET, MORE OR LESS.

**PARCEL B**

THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 15686, ON FILE IN BOOK 93 OF PARCEL MAPS, PAGES 31 AND 32 THEREOF, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:

**EXHIBIT "A"**  
**OFFER OF DEDICATION**  
**LEGAL DESCRIPTION**

**COMMENCING** AT THE INTERSECTION OF THE CENTERLINE OF SANTIAGO DRIVE AND THE CENTERLINE OF COBRA DRIVE AS SHOWN BY MAP OF TRACT NO. 15433, ON FILE IN BOOK 151 OF MAPS, PAGES 71 THROUGH 75, INCLUSIVE, RECORDS OF SAID RIVERSIDE COUNTY, STATE OF CALIFORNIA;

THENCE NORTH 00°06'15" EAST ALONG A LINE BEING AT RIGHT ANGLES TO SAID CENTERLINE OF SANTIAGO DRIVE, A DISTANCE OF 30.00 FEET, TO THE NORTHERLY RIGHT OF WAY LINE OF SAID SANTIAGO DRIVE, BEING THE **POINT OF BEGINNING**;

THENCE NORTH 89°53'45" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 30.50 FEET;

THENCE NORTH 45°06'15" EAST, A DISTANCE OF 5.66 FEET, TO A LINE PARALLEL WITH AND DISTANT 4.00' NORTHERLY, MEASURED AT RIGHT ANGLES, OF SAID NORTHERLY RIGHT OF WAY LINE;

THENCE SOUTH 89°53'45" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 47.95 FEET;

THENCE SOUTH 45°02'14" EAST, A DISTANCE OF 5.67 FEET, TO SAID NORTHERLY RIGHT OF WAY LINE;

THENCE NORTH 89°53'45" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 25.47 FEET, TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 208 SQUARE FEET, MORE OR LESS.

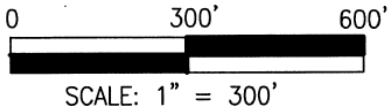
ALL AS SHOWN ON EXHIBIT "B" ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

**PREPARED UNDER THE DIRECTION OF:**

*Marissa Crowther* 5-3-11

MARISSA CROWTHER, PLS 6152  
SB&O, INC.  
41689 ENTERPRISE CIRCLE NORTH, SUITE 126  
TEMECULA, CA. 92590

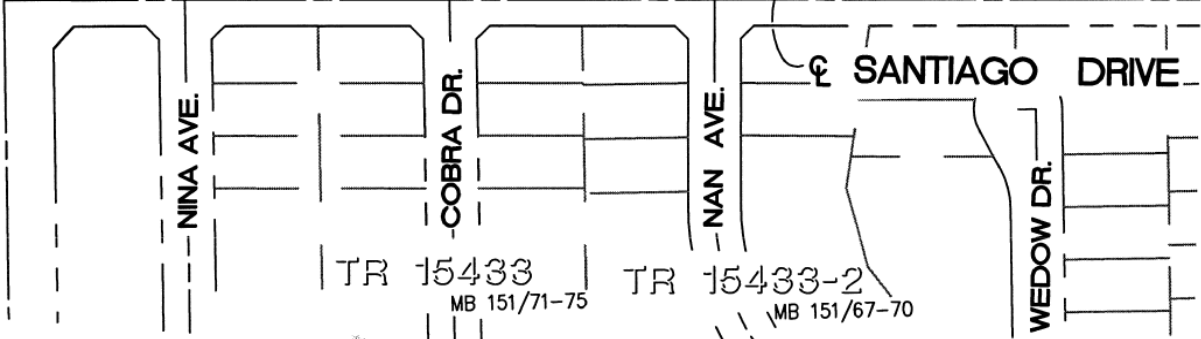
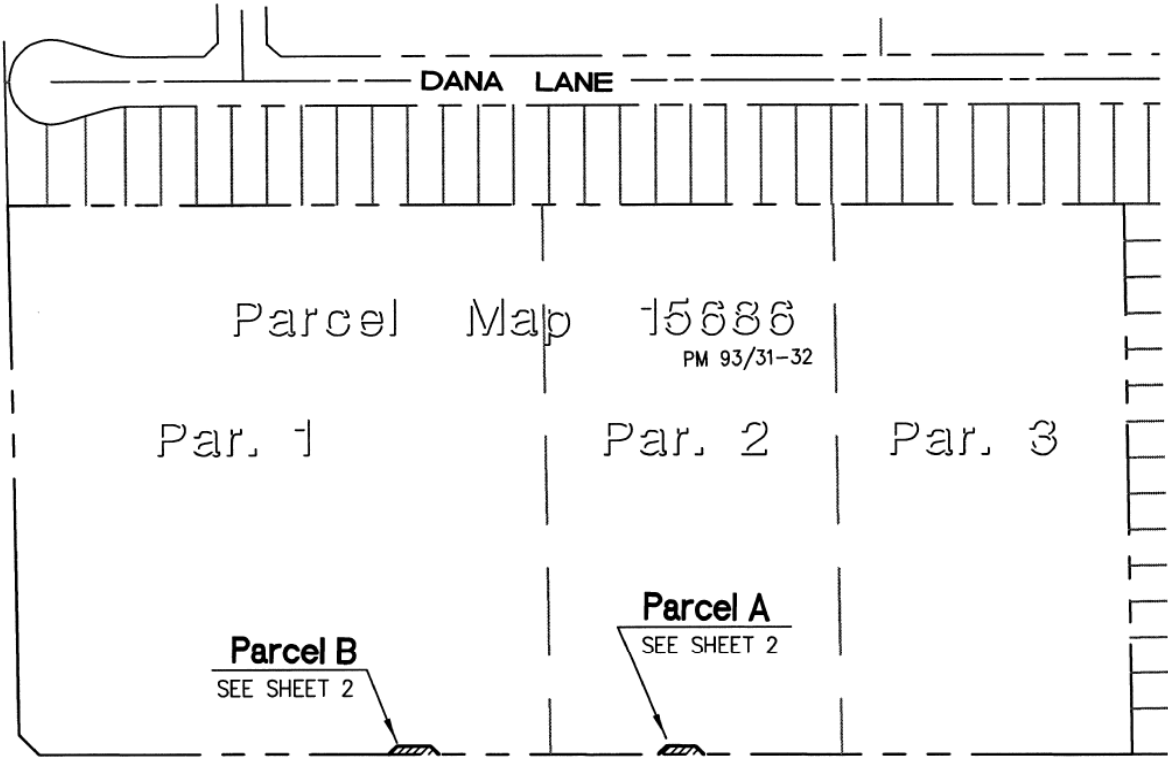




**LEGEND**

- RIGHT OF WAY OR PROPERTY LINE
- CENTERLINE
- AREA TO BE DEDICATED

PERRIS BLVD.



PREPARED UNDER THE DIRECTION OF:  
 S.B. & O., INC.  
 41689 ENTERPRISE CIRCLE NORTH  
 TEMECULA, CA 92590

*Marissa Crowther*  
 MARISSA CROWTHER, PLS 6152 (EXP 3-31-12)

5-3-11  
 DATE

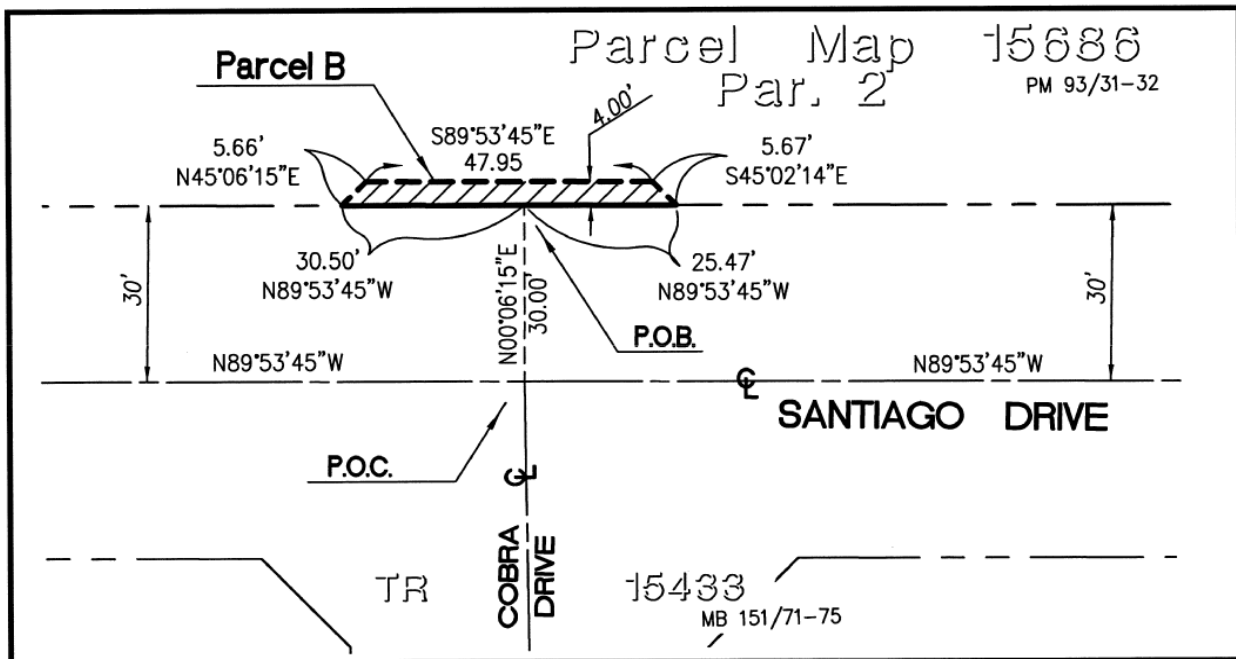
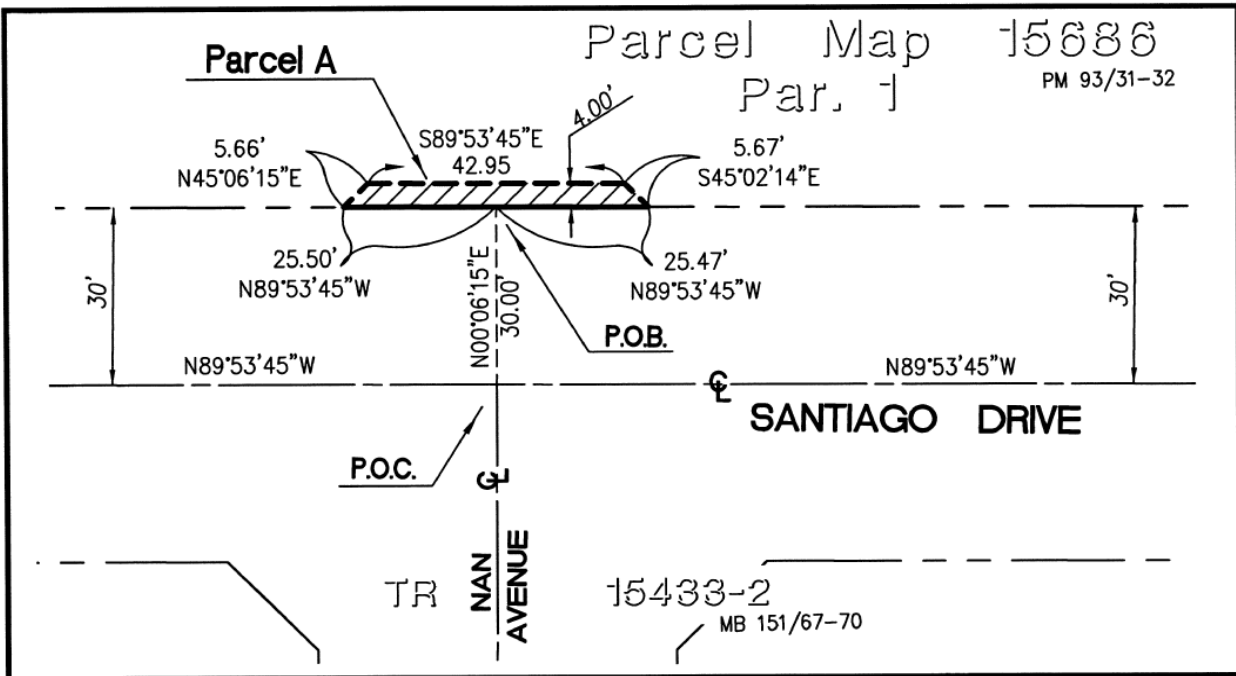
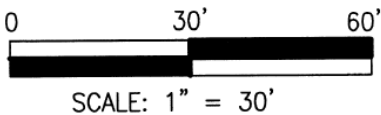
CITY OF MORENO VALLEY  
 CORPORATE YARD DRIVEWAY EASEMENTS

APRIL 2011

SB&O, INC. JN 68251

EXHIBIT "B"

SHEET 1 OF 2



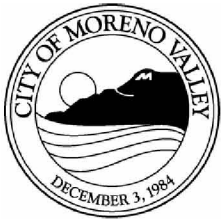
**NOTES:**

1. BEARINGS ARE BASED ON PARCEL MAP 15686.
2. P.O.C. INDICATES POINT OF COMMENCEMENT.
3. P.O.B. INDICATES POINT OF BEGINNING.

**LEGEND**

- RIGHT OF WAY OR PROPERTY LINE
- CENTERLINE
- AREA TO BE DEDICATED

**EXHIBIT "B"**  
SHEET 2 OF 2



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>f</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

---

**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** PA07-0090 – EUCALYPTUS STREET IMPROVEMENTS -  
AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER  
TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE  
CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED  
THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-  
LIST ITEMS ARE COMPLETED

BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE,  
AND REDLANDS BOULEVARD AND THEODORE STREET

**DEVELOPER:** HF LOGISTICS – SKX T1, LLC  
14425 CORPORATE WAY  
MORENO VALLEY, CA 92553

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed;
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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**

On February 10, 2009, the City Council of the City of Moreno Valley approved Master Plot Plan No. PA07-0090 and Tentative Parcel Map 35629 and accepted phase-specific Conditions of Approval. The tentative parcel map is a proposal to subdivide the 158-acre site into four parcels, one for establishment of a logistics warehouse development and three for future development. The master plot plan provides for establishment of a business park development consisting of four buildings, internal circulation, parking and various site amenities. The Conditions of Approval for Tract Map 35629 require that the developer provide surety for the required public improvements.

On August 24, 2010 the City Council of the City of Moreno Valley approved the Public Improvement Agreement and security for the Eucalyptus Street improvements. The Conditions of Approval for this project required that the developer provide surety for street improvements. The security amount for the Eucalyptus Street improvements is Two Million Seven Hundred Seventy-Eight Thousand dollars (\$2,778,000.00). The limits of the Eucalyptus Street improvements are within Eucalyptus Street between Redlands Boulevard and Theodore Street.

The public improvements included, but are not limited to, the following: 6-inch thick asphalt concrete over 12-inch thick aggregate base, 8-inch curb and gutter, 6-inch AC curb commercial driveway approaches, sidewalk, street lights, street medians, median drains and landscaping, local depressions, pipe, gates, interconnect conduit, pull boxies, and signing/stripping. The improvements received on-going inspection during the construction process. Upon completion of 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.

On May 3, 2011, the Eucalyptus Street improvements received a 60% reduction. The amount reduced was One Million Six Hundred Sixty-Six Thousand Eight Hundred Dollars (\$1,666,800.00).

**DISCUSSION**

Upon completion of the Security Reduction Punch List, City staff will perform a final inspection of the improvements and verify that they are in accordance with the approved

plans and the standards of the City of Moreno Valley. City staff will also ensure that the improvements are in accordance with the Streets and Highway Code.

Staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all remaining public improvements and punch-list items are completed. It will then be appropriate to accept the improvements and provide a reduction to total 90% of the original bond amount to the Faithful Performance Bond issued by Safeco Insurance Company of America. As there has been one partial reduction provided earlier, the amount remaining to reach the 90% reduction is Eight Hundred Thirty-Three Thousand Four Hundred dollars (\$833,400.00).

The Faithful Performance Bond will be reduced upon approval and acceptance of the improvements by the City Engineer. Ninety days after the Public Works Director/City Engineer approves the improvements, the Material & Labor Bond will be exonerated provided that there are no stop notices or liens on file with the City Clerk.

The remaining 10% of the original bond amount will be held for the one-year guarantee and warranty period. The guarantee and warranty period will commence on the date the Public Works Director/City Engineer accepts the improvements. At the end of the guarantee and warranty period, the bond will be released by the Public Works Director/City Engineer subject to completion of any defective work that may have appeared during this period.

## **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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. *Once the required improvements have been completed according to City of Moreno Valley Standards, it will then be appropriate to provide a reduction to the security.*
2. Do not authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Do not authorize the Public Works Director/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. *Once the required improvements have been completed according to City of Moreno Valley Standards, it will then be appropriate to provide a reduction to the security.*

**FISCAL IMPACT**

Not applicable

**CITY COUNCIL GOALS**

Not applicable

**NOTIFICATION**

Publication of agenda

**EXHIBITS**

Exhibit "A" – Vicinity Map

Exhibit "B" – Security Reduction Punch List



Prepared By  
Liz Plazola  
Sr. Administrative Assistant

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\2011\7-12-11- PA07-0090 - Eucalyptus St 90% Bond Reduction.doc

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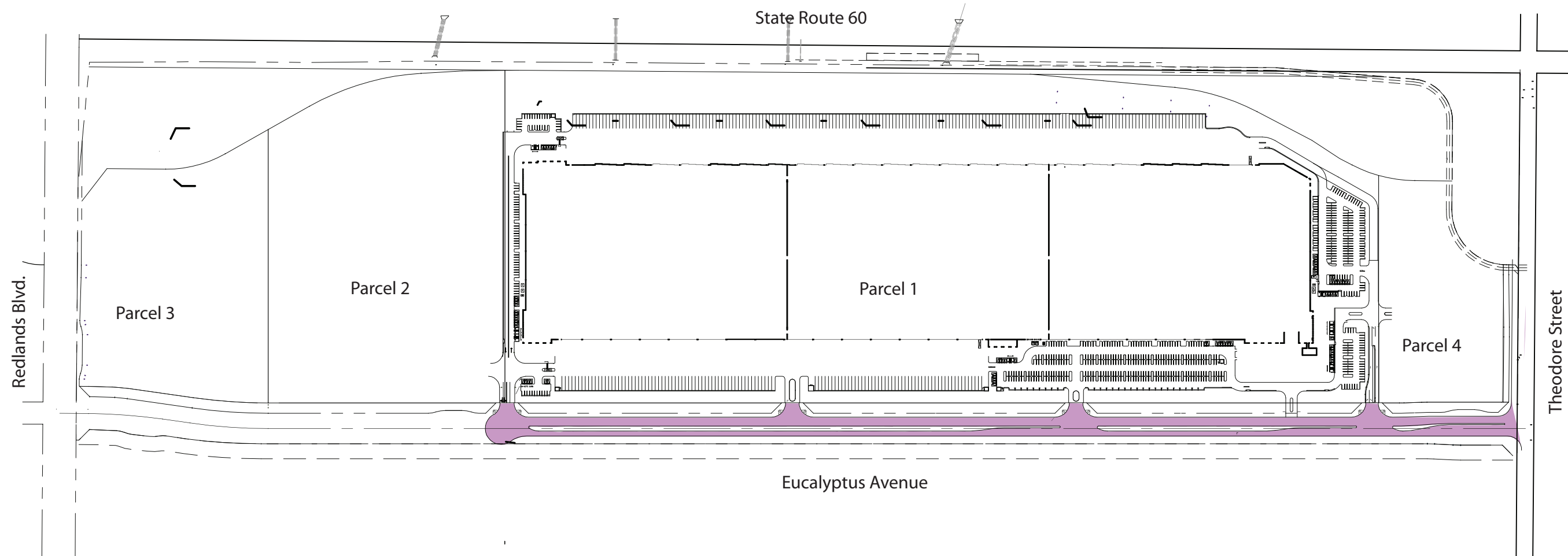


Exhibit "A"

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Public Works Department  
 Land Development Division  
 14177 Fredrick Street  
 P.O. Box 88005  
 Moreno Valley, CA 92552-0805  
 TEL (951) 413-3120 FAX (951) 413-3158

**SECURITY REDUCTION PUNCH LIST**

**Project No. : PA07-0090 (PM 35629) – Eucalyptus Street Improvements**

**Project Location: Eucalyptus between Redlands and Theodore**

**Inspection Performed by: Alex Ramirez**

**Date: 06-28-11**

**REPRESENTATION**

<b>Developer:</b>	<b>Highland Fairview</b>
<b>Contact Person/Superintendent:</b>	<b>Scott Schwarz</b>
<b>Phone Number:</b>	<b>(951) 906-8369</b>

**TYPE OF INSPECTION**

90% Punch List [  ]

10% Final Punch List [  ]

<b>No.</b>	<b>ITEM/DESCRIPTION</b>	<b>COMPLETED</b>
1	Notify Land Development for inspection request.	
2	A/C Cap Pave	
3	Install Signs/Striping as shown on sheets 11 -12, Eucalyptus St. Imp. Plans	
4	Complete Median Island Pavers Irrigation, Landscape	
5	Complete Irrigation, Landscape N/S Eucalyptus, Install pedestals	
6	Install City-Wide Communication Conduits, Construction Note #16, Eucalyptus S/I plan city std. 421 (Furnish & Install 6 pair No. 19 Interconnect Cable in one conduit (Black Conduit)	
7	Install Monumentation city std.# 601a, b, c, d & e.	
8	Complete swale @ S/S Eucalyptus shoulder.	
9	Submit As-builts	
10	Clearance from Planning Divisions	

Exhibit "B"

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** PA07-0090 – EUCALYPTUS WATER IMPROVEMENTS – AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-LIST ITEMS ARE COMPLETED

BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE,  
AND REDLANDS BOULEVARD AND THEODORE STREET

**DEVELOPER:** HF LOGISTICS – SKX T1, LLC  
14425 CORPORATE WAY  
MORENO VALLEY, CA 92553

---

### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed;
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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**

On February 10, 2009, the City Council of the City of Moreno Valley approved Master Plot Plan No. PA07-0090 and Tentative Parcel Map 35629 and accepted phase-specific Conditions of Approval. The tentative parcel map is a proposal to subdivide the 158-acre site into four parcels, one for establishment of a logistics warehouse development and three for future development. The master plot plan provides for establishment of a business park development consisting of four buildings, internal circulation, parking and various site amenities. The Conditions of Approval for Tract Map 35629 require that the developer provide surety for the required public improvements.

On August 24, 2010 the City Council of the City of Moreno Valley approved the Public Improvement Agreement and security for the Eucalyptus Water improvements. The Conditions of Approval for this project required that the developer provide surety for the improvements. The security amount for the Eucalyptus Water improvements is One Million Fifty Thousand dollars (\$1,050,000.00). The limits of the Eucalyptus Water improvements are within Eucalyptus Avenue between Redlands Boulevard and Theodore Street.

The public improvements included, but is not limited to, the following: approximately 5,100 feet of 18-inch water main line, approximately 400 feet of 12-inch water laterals, twelve (12) fire hydrant assemblies, three (3) 4-inch service connections, three (3) 2-inch service connections, approximately 5,100 feet of telemetry (communication) cable, various fittings, restraint joints, adaptors, blow-offs, vac/air release assemblies, valves, and backflow prevention devices. The improvements received on-going inspection during the construction process. Upon completion of improvements, Public Works/Land Development performed an inspection and a Security Reduction Punch List was generated.

On December 15, 2010, the Eucalyptus Water improvements received an 80% reduction. The amount reduced was Eight Hundred Forty Thousand dollars (\$840,000.00).

**DISCUSSION**

Upon completion of the Security Reduction Punch List, City staff will perform a final inspection of the improvements and verify that they are in accordance with the approved plans and the standards of the City of Moreno Valley. City staff will also ensure that the improvements are in accordance with Eastern Municipal Water District (EMWD) standards and plans.



Staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all remaining public improvements and punch-list items are completed. It will then be appropriate to accept those improvements and provide a reduction to total 90% of the original bond amount to the Faithful Performance Bond issued by Safeco Insurance Company of America. Once accepted by the City and EMWD, the Eucalyptus Water improvements will be maintained by EMWD. As there has been one partial reduction provided earlier, the amount remaining to reach the 90% reduction is One Thousand Five Hundred dollars (\$105,000.00).

The Faithful Performance Bond will be reduced upon approval and acceptance of the improvements by the City Engineer. Ninety days after the Public Works Director/City Engineer approves the improvements, the Material & Labor Bond will be exonerated provided that there are no stop notices or liens on file with the City Clerk.

The remaining 10% of the original bond amount will be held for the one-year guarantee and warranty period. The guarantee and warranty period will commence on the date the Public Works Director/City Engineer accepts the improvements. At the end of the guarantee and warranty period, the bond will be released by the Public Works Director/City Engineer subject to completion of any defective work that may have appeared during this period.

### **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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. *Once required improvements have been completed according to City of Moreno Valley and EMWD Standards, it will then be appropriate to provide a reduction to the security.*
2. Do not authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Do not authorize the Public Works Director/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. *Once required improvements have been completed*

*according to City of Moreno Valley and EMWD Standards, it will then be appropriate to provide a reduction to the security.*

**FISCAL IMPACT**

Not applicable

**CITY COUNCIL GOALS**

Not applicable

**NOTIFICATION**

Publication of agenda

**EXHIBITS**

Exhibit "A" - Vicinity Map

Exhibit "B" - Security Reduction Punch List

Prepared By  
Liz Plazola  
Sr. Administrative Assistant

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:

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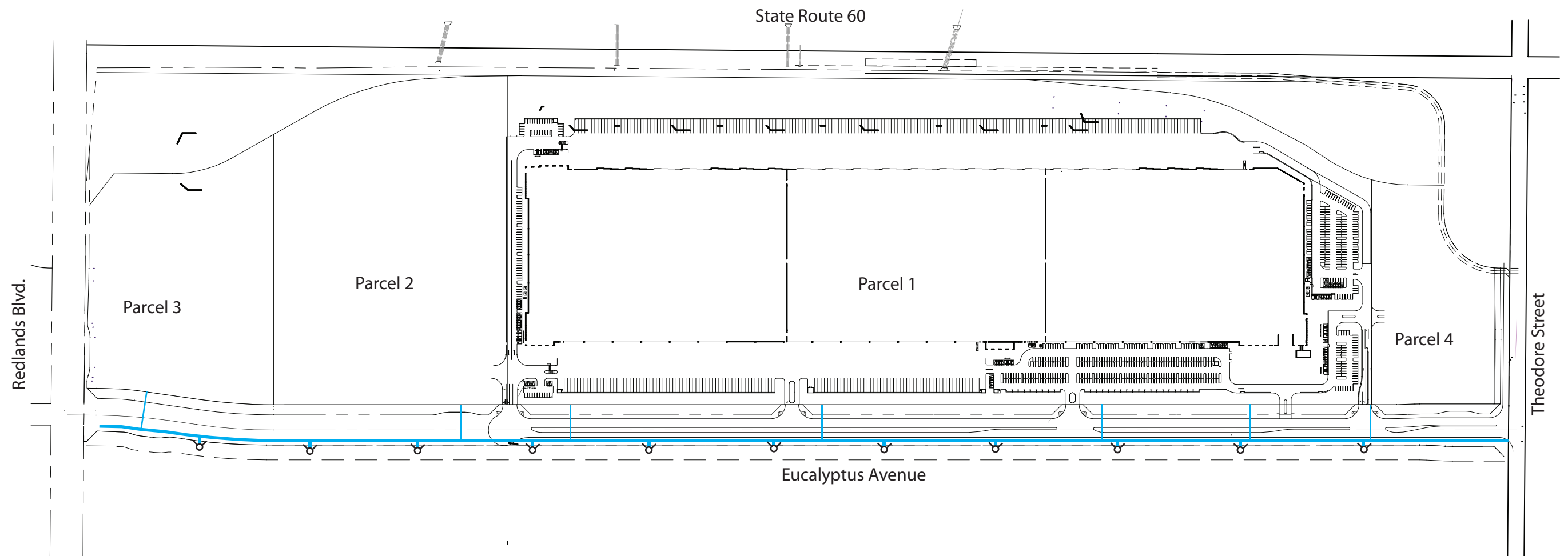


Exhibit "A"

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Public Works Department  
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 Moreno Valley, CA 92552-0805  
 TEL (951) 413-3120 FAX (951) 413-3158

**SECURITY REDUCTION PUNCH LIST**

**Project No. : PA07-0090 (PM 35629) – Eucalyptus Water**

**Project Location: Eucalyptus between Redlands and Theodore**

**Inspection Performed by: Alex Ramirez**

**Date: 06-15-11**

**REPRESENTATION**

<b>Developer:</b>	<b>Highland Fairview</b>
<b>Contact Person/Superintendent:</b>	<b>Scott Schwarz</b>
<b>Phone Number:</b>	<b>(951) 906-8369</b>

**TYPE OF INSPECTION**

90% Punch List [  ]

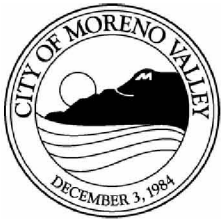
10% Final Punch List [  ]

<b>No.</b>	<b>ITEM/DESCRIPTION</b>	<b>COMPLETED</b>
1	Submit EMWD Clearance Letter	
2	Submit As-builts	
3	Submit clearance letter for RCFC	
4	Clearance from Transportation Division	

Exhibit "B"

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

## Report to City Council

---

**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** PA07-0090 – EUCALYPTUS RECYCLED WATER – AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-LIST ITEMS ARE COMPLETED

BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE,  
AND REDLANDS BOULEVARD AND THEODORE STREET

**DEVELOPER:** HF LOGISTICS – SKX T1, LLC  
14425 CORPORATE WAY  
MORENO VALLEY, CA 92553

---

### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed;
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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**

On February 10, 2009, the City Council of the City of Moreno Valley approved Master Plot Plan No. PA07-0090 and Tentative Parcel Map 35629 and accepted phase-specific Conditions of Approval. The tentative parcel map is a proposal to subdivide the 158-acre site into four parcels, one for establishment of a logistics warehouse development and three for future development. The master plot plan provides for establishment of a business park development consisting of four buildings, internal circulation, parking and various site amenities. The Conditions of Approval for Tract Map 35629 require that the developer provide surety for the required public improvements.

On August 24, 2010 the City Council of the City of Moreno Valley approved the Public Improvement Agreement and security for the Eucalyptus Recycled Water improvements. The Conditions of Approval for this project required that the developer provide surety for the improvements. The security amount for the Eucalyptus Recycled Water improvements is Four Hundred Thirty-Four Thousand dollars (\$434,000.00). The limits of the Eucalyptus Recycled Water improvements are within Eucalyptus Avenue between Redlands Boulevard and Theodore Street.

The public improvements included, but are not limited to, the following: approximately 5,100 feet of twelve (12) inch purple water main line, six (6) 2-inch service connections, one (1) 4-inch service connection, various fittings, restraint joints, adaptors, blow-offs, vac/air release assemblies, and backflow prevention devices. The improvements received on-going inspection during the construction process. Upon completion of improvements, Public Works/Land Development performed an inspection and a Security Reduction Punch List was generated.

On December 15, 2010, the Eucalyptus Recycled Water improvements received an 80% reduction. The amount reduced was Three Hundred Forty-Seven Thousand Two Hundred dollars (\$347,200.00).

**DISCUSSION**

Upon completion of the Security Reduction Punch List, City staff will perform a final inspection of the improvements and verify that they are in accordance with the approved plans and the standards of the City of Moreno Valley. City staff will also ensure that the improvements are in accordance with Eastern Municipal Water District (EMWD) standards and plans.

Staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all remaining public improvements and punch-list items are completed. It will then be appropriate to accept those improvements and provide a reduction to total 90% of the original bond amount to the Faithful Performance Bond issued by Safeco Insurance Company of America. Once accepted by the City and EMWD, the Eucalyptus Recycled Water improvements will be maintained by EMWD. As there has been one partial reduction provided earlier, the amount remaining to reach the 90% reduction is Forty-Three Thousand Four Hundred dollars (\$43,400.00).

The Faithful Performance Bond will be reduced upon approval and acceptance of the improvements by the City Engineer. Ninety days after the Public Works Director/City Engineer approves the improvements, the Material & Labor Bond will be exonerated provided that there are no stop notices or liens on file with the City Clerk.

The remaining 10% of the original bond amount will be held for the one-year guarantee and warranty period. The guarantee and warranty period will commence on the date the Public Works Director/City Engineer accepts the improvements. At the end of the guarantee and warranty period, the bond will be released by the Public Works Director/City Engineer subject to completion of any defective work that may have appeared during this period.

## **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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. *Once required improvements have been completed according to City of Moreno Valley and EMWD Standards, it will then be appropriate to provide a reduction to the security.*
2. Do not authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Do not authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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. *Once required*

*improvements have been completed according to City of Moreno Valley and EMWD Standards, it will then be appropriate to provide a reduction to the security.*

**FISCAL IMPACT**

Not applicable

**CITY COUNCIL GOALS**

Not applicable

**NOTIFICATION**

Publication of agenda

**EXHIBITS**

Exhibit "A" - Vicinity Map

Exhibit "B" - Security Reduction Punch List

Prepared By  
Liz Plazola  
Sr. Administrative Assistant

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:

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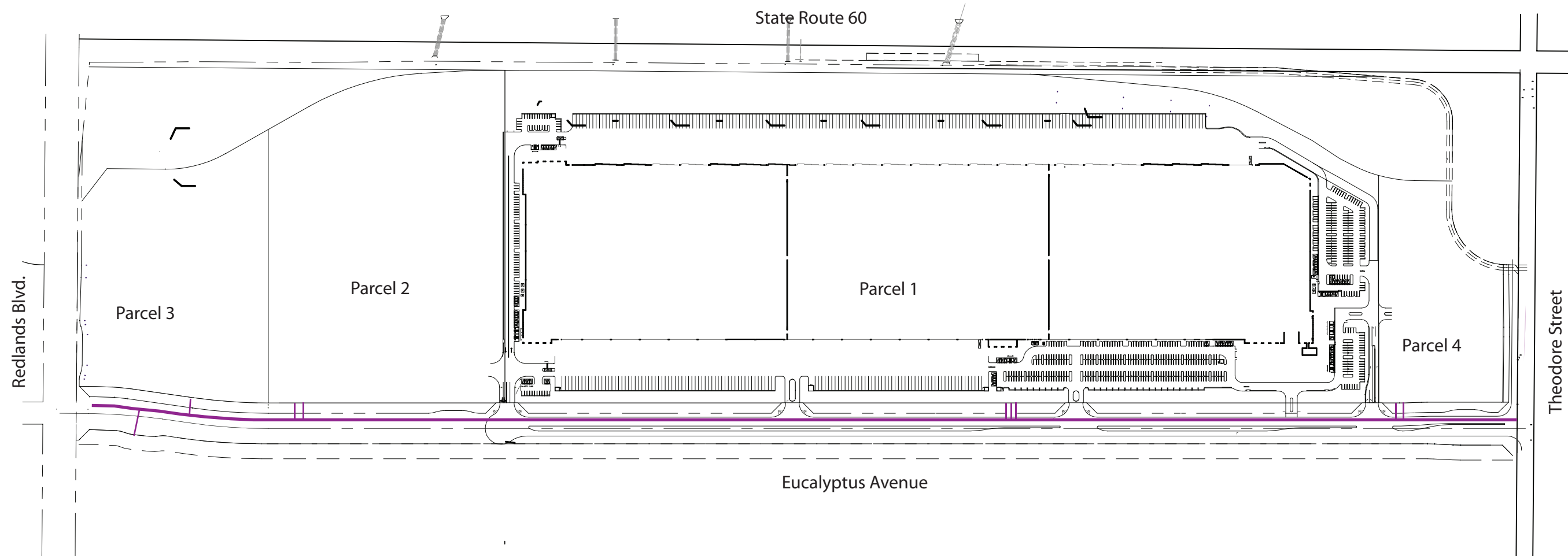


Exhibit "A"

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Public Works Department  
 Land Development Division  
 14177 Fredrick Street  
 P.O. Box 88005  
 Moreno Valley, CA 92552-0805  
 TEL (951) 413-3120 FAX (951) 413-3158

**SECURITY REDUCTION PUNCH LIST**

**Project No. : PA07-0090 (PM 35629) – Eucalyptus Recycled Water**

**Project Location: Eucalyptus between Redlands and Theodore**

**Inspection Performed by: Alex Ramirez**

**Date: 06-28-11**

**REPRESENTATION**

<b>Developer:</b>	<b>Highland Fairview</b>
<b>Contact Person/Superintendent:</b>	<b>Scott Schwarz</b>
<b>Phone Number:</b>	<b>(951) 906-8369</b>

**TYPE OF INSPECTION**

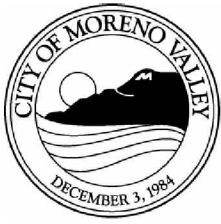
90% Punch List [ X ]

10% Final Punch List [ ]

<b>No.</b>	<b>ITEM/DESCRIPTION</b>	<b>COMPLETED</b>
1	Submit EMWD clearance letter	
2	Submit As-builts	
3	Submit clearance letter for RCFC	
4	Clearance from Transportation Division	

Exhibit "B"

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

## Report to City Council

---

**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** PA07-0090 – EUCALYPTUS SEWER IMPROVEMENTS – AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE BUT NOT INTO THE CITY'S MAINTAINED STREET SYSTEM WHEN DETERMINED THAT ALL REMAINING PUBLIC IMPROVEMENTS AND PUNCH-LIST ITEMS ARE COMPLETED

BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE,  
AND REDLANDS BOULEVARD AND THEODORE STREET

**DEVELOPER:** HF LOGISTICS – SKX T1, LLC  
14425 CORPORATE WAY  
MORENO VALLEY, CA 92553

---

### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed;
2. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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**

On February 10, 2009, the City Council of the City of Moreno Valley approved Master Plot Plan No. PA07-0090 and Tentative Parcel Map 35629 and accepted phase-specific Conditions of Approval. The tentative parcel map is a proposal to subdivide the 158-acre site into four parcels, one for establishment of a logistics warehouse development and three for future development. The master plot plan provides for establishment of a business park development consisting of four buildings, internal circulation, parking and various site amenities. The Conditions of Approval for Tract Map 35629 require that the developer provide surety for the required public improvements.

On August 24, 2010 the City Council of the City of Moreno Valley approved the Public Improvement Agreement and security for the Eucalyptus Sewer improvements. The Conditions of Approval for this project required that the developer provide surety for the improvements. The security amount for the Eucalyptus Sewer improvements is Four Hundred Sixty-Seven Thousand dollars (\$467,000.00). The limits of the Eucalyptus Sewer improvements are within Eucalyptus Avenue between Redlands Boulevard and Theodore Street.

The public improvements included, but are not limited to, the following: approximately 1,500 feet of fifteen (15) inch sewer main line, approximately 2,400 feet of twelve (12) inch sewer main line, approximately 650 feet of eight (8) inch sewer main, approximately 150 feet of six (6) inch sewer laterals, and installation of 14 manholes and 2 cleanouts along the sewer line. The improvements received on-going inspection during the construction process. Upon completion of improvements, Public Works/Land Development performed an inspection and a Security Reduction Punch List was generated.

On December 15, 2010, the Eucalyptus Sewer improvements received an 80% reduction. The amount reduced was Three Hundred Seventy-Three Thousand Six Hundred dollars (\$373,600.00).

**DISCUSSION**

Upon completion of the Security Reduction Punch List, City staff will perform a final inspection of the improvements and verify that they are in accordance with the approved plans and the standards of the City of Moreno Valley. City staff will also ensure that the improvements are in accordance with Eastern Municipal Water District (EMWD) standards and plans.

Staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the work as complete when all remaining public improvements and punch-list items are completed. It will then be appropriate to provide a reduction to total 90% of the original bond amount to the Faithful Performance Bond issued by Safeco Insurance Company of America. Once accepted by the City and EMWD, the Eucalyptus Sewer improvements will be maintained by EMWD. As there has been one partial reduction provided earlier, the amount remaining to reach the 90% reduction is Forty-Six Thousand Seven Hundred dollars (\$46,700.00).

The Faithful Performance Bond will be reduced upon approval and acceptance of the improvements by the Public Works Director/City Engineer. Ninety days after the Public Works Director/City Engineer approves the improvements, the Material & Labor Bond will be exonerated provided that there are no stop notices or liens on file with the City Clerk.

The remaining 10% of the original bond amount will be held for the one-year guarantee and warranty period. The guarantee and warranty period will commence on the date the Public Works Director/City Engineer accepts the improvements. At the end of the guarantee and warranty period, the bond will be released by the Public Works Director/City Engineer subject to completion of any defective work that may have appeared during this period.

### **ALTERNATIVES**

1. Authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/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. *Once required improvements have been completed according to City of Moreno Valley and EMWD Standards, it will then be appropriate to provide a reduction to the security.*
2. Do not authorize the Public Works Director/City Engineer to accept the work as complete but not into the City's maintained street system once the remaining public improvements are completed and punch-list items have been addressed. Do not authorize the Public Works Director/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. *Once required improvements have been completed*

*according to City of Moreno Valley and EMWD Standards, it will then be appropriate to provide a reduction to the security.*

**FISCAL IMPACT**

Not applicable

**CITY COUNCIL GOALS**

Not applicable

**NOTIFICATION**

Publication of agenda

**EXHIBITS**

Exhibit "A" - Vicinity Map

Exhibit "B" - Security Reduction Punch List

Prepared By  
Liz Plazola  
Sr. Administrative Assistant

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:
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Denied:	Continued until:
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W:\LandDev\MANAGEMENT ASSISTANT\Staff Reports\2011\7-12-11 - PA07-0090 - Eucalyptus Sewer 90% Bond Reduction.doc

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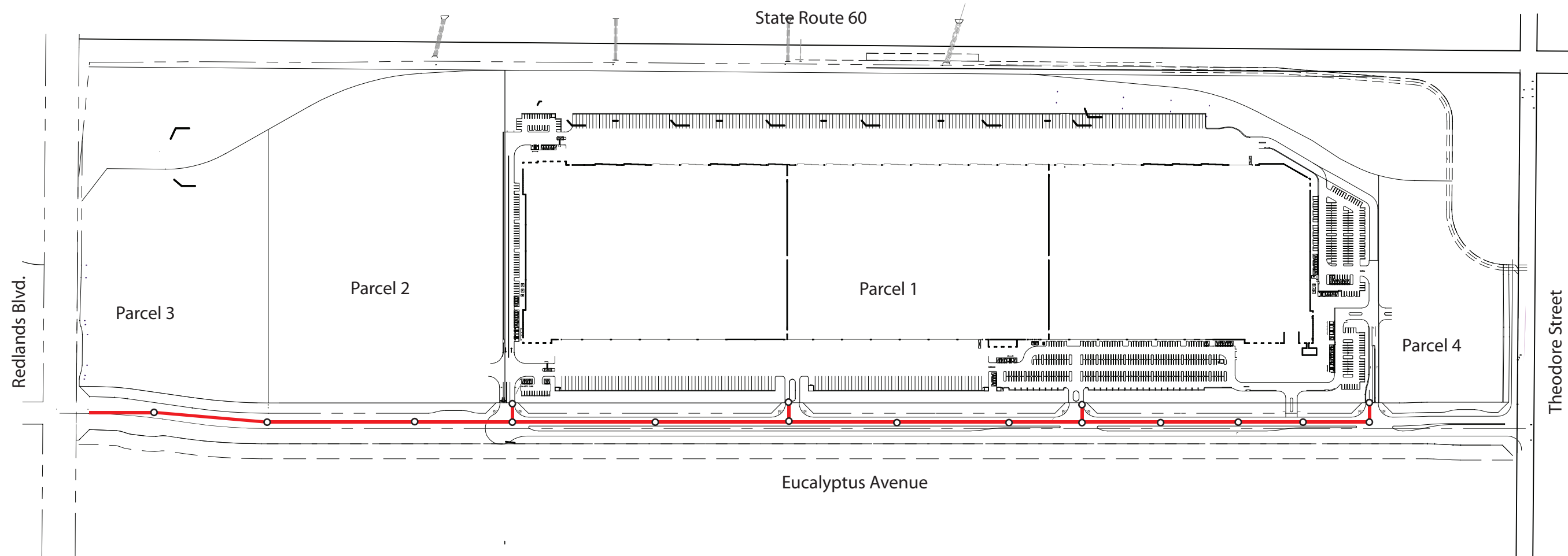


Exhibit "A"

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 TEL (951) 413-3120 FAX (951) 413-3158

**SECURITY REDUCTION PUNCH LIST**

**Project No. : PA07-0090 (PM 35629) – Eucalyptus Sewer**

**Project Location: Eucalyptus between Redlands and Theodore**

**Inspection Performed by: Alex Ramirez**

**Date: 06-28-11**

**REPRESENTATION**

<b>Developer:</b>	<b>Highland Fairview</b>
<b>Contact Person/Superintendent:</b>	<b>Scott Schwarz</b>
<b>Phone Number:</b>	<b>(951) 906-8369</b>

**TYPE OF INSPECTION**

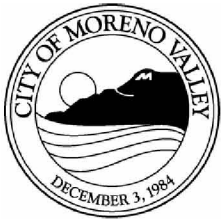
90% Punch List [  ]

10% Final Punch List [  ]

<b>No.</b>	<b>ITEM/DESCRIPTION</b>	<b>COMPLETED</b>
1	Submit EMWD clearance letter	
2	Submit As-builts	
3	Submit clearance letter for RCFC	
4	Clearance from Transportation Division	

Exhibit "B"

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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** PA07-0090 – LINE F STORM DRAIN IMPROVEMENTS – REQUEST TO RATIFY THE PARTIAL REDUCTION TO THE IMPROVEMENT SECURITY AND AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN PROPER CLEARANCES ARE RECEIVED

BETWEEN STATE ROUTE 60 AND EUCALYPTUS AVENUE, AND REDLANDS BOULEVARD AND THEODORE STREET

**DEVELOPER:** HF LOGISTICS – SKX T1, LLC  
14425 CORPORATE WAY  
MORENO VALLEY, CA 92553

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### RECOMMENDED ACTION

Staff recommends that the City Council:

1. Ratify the partial reduction to the public improvement security provided by the City Engineer on March 3, 2011 for the Line F Storm Drain Improvements for PA07-0090;
2. Authorize the Public Works Director/City Engineer to accept the work as complete once the proper clearances are provided by Riverside County Flood Control and Water Conservation District; and
3. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/City Engineer, to enter said improvements into the 12 month guarantee and warranty period, 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**

On February 10, 2009, the City Council of the City of Moreno Valley approved Master Plot Plan No. PA07-0090 and Tentative Parcel Map 35629 and accepted phase-specific Conditions of Approval. The tentative parcel map is a proposal to subdivide the 158-acre site into four parcels, one for establishment of a logistics warehouse development and three for future development. The master plot plan provides for establishment of a business park development consisting of four buildings, internal circulation, parking and various site amenities. The Conditions of Approval for Tract Map 35629 require that the developer provide surety for the required public improvements.

On June 8, 2010, the City Council of the City of Moreno Valley approved the Public Improvement Agreement and security for the Line F Storm Drain improvements. The Conditions of Approval for this project required that the developer provide surety for the improvements. The security amount for the Line F Storm Drain improvements is Six Million Eight Hundred Thirteen Thousand Five Hundred Ninety-Five dollars (\$6,813,595.00).

On July 13, 2010, the City Council of the City of Moreno Valley approved the substitution agreement and replacement bonds for the Line F Storm Drain improvements.

The limits of the Line F Storm Drain improvements are within Route 60 to the north, Redlands Boulevard to the west, Eucalyptus Avenue to the south and Theodore Street to the east. The public improvements included, but is not limited to, the following: 2,600 feet of 24-inch RCP, 200 feet of 30-inch Reinforced Concrete Pipe (RCP), 1,900 feet of 36 -inch RCP, 1,500 feet of 42 -inch RCP, 650 feet of 48-inch RCP, 1050 feet of 10-ft by 8-ft Reinforced Concrete Box (RCB), 1,600 feet of 12-ft by 8-ft RCB, pipe inlets/outlets, wing walls, head walls, catch basins, local depressions, manholes, junction structures, transition structures, concrete bulkheads, trash racks, rip rap, fencing and gates. The improvements received on-going inspection during the construction process. Upon completion of improvements, Public Works/Land Development performed an inspection and a Punch List was generated.

On March 3, 2011, the Line F Storm Drain improvements received a 90% reduction. The amount reduced was Six Million One Hundred Thirty-Two Thousand Two Hundred Thirty-Six dollars (\$6,132,236.00).

## **DISCUSSION**

Contingent upon receiving the acceptance letter from Riverside County Flood Control and Water Conservation District (District), City Staff will perform a final inspection to ensure that the improvements are in accordance with the approved plans and the standards of the City of Moreno Valley and District.

Staff is requesting the City Council to authorize the Public Works Director/City Engineer to accept the Line F Storm Drain improvements as complete once the proper clearances are provided by the District. A portion of said improvements will be maintained by the District.

In accordance with the Cooperative Agreement approved by the City Council on August 24, 2010 and the storm drain plans approved by the City Engineer on June 14, 2010, the public storm drain improvements being accepted into the City Maintained system are as follows: a portion of Line D, Line G, Laterals F-2-A, F-8-A through F-8-K, F-8-M, F-8-N, F-8-P, F-9, F-9-A through F-9-D, and related appurtenances such as catch basins, inlets, outlets, headwalls, wingwalls, and rip-rap.

Ninety days after the City Engineer approves the improvements, the Material & Labor Bond will be exonerated provided that there are no stop notices or liens on file with the City Clerk.

The remaining 10% of the original bond amount will be held for the one-year guarantee and warranty period. The guarantee and warranty period will commence on the date the City Engineer accepts the improvements. 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. Ratify the partial reduction to the public improvement security provided by the Public Works Director/City Engineer on March 3, 2011 for the Line F Storm Drain Improvements for PA07-0090. Authorize the Public Works Director/City Engineer to accept the work as complete once the proper clearances are provided by Riverside County Flood Control and Water Conservation District. Authorize the Public Works Director/City Engineer, upon approval and acceptance of the improvements by the Public Works Director/City Engineer, to enter said improvements into the 12 month guarantee and warranty period, 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 and District Standards*

*and it is appropriate to accept the improvements once proper clearances are received.*

2. Do not ratify the partial reduction to the public improvement security provided by the Public Works Director/City Engineer on March 3, 2011 for the Line F Storm Drain Improvements for PA07-0090. Do not authorize the Public Works Director/City Engineer to accept the work as complete once the proper clearances are provided by Riverside County Flood Control and Water Conservation District. Do not authorize the City Engineer, upon approval and acceptance of the improvements by the City Engineer, to enter said improvements into the 12 month warranty period, 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 final approvals are received. *The required improvements have been completed according to City of Moreno Valley and District Standards and it is appropriate to accept the improvements once proper clearances are received.*

**FISCAL IMPACT**

Not applicable

**CITY COUNCIL GOALS**

Not applicable

**NOTIFICATION**

Publication of agenda

**EXHIBITS**

Exhibit "A" - Vicinity Map



Prepared By  
Liz Plazola  
Sr. Administrative Assistant

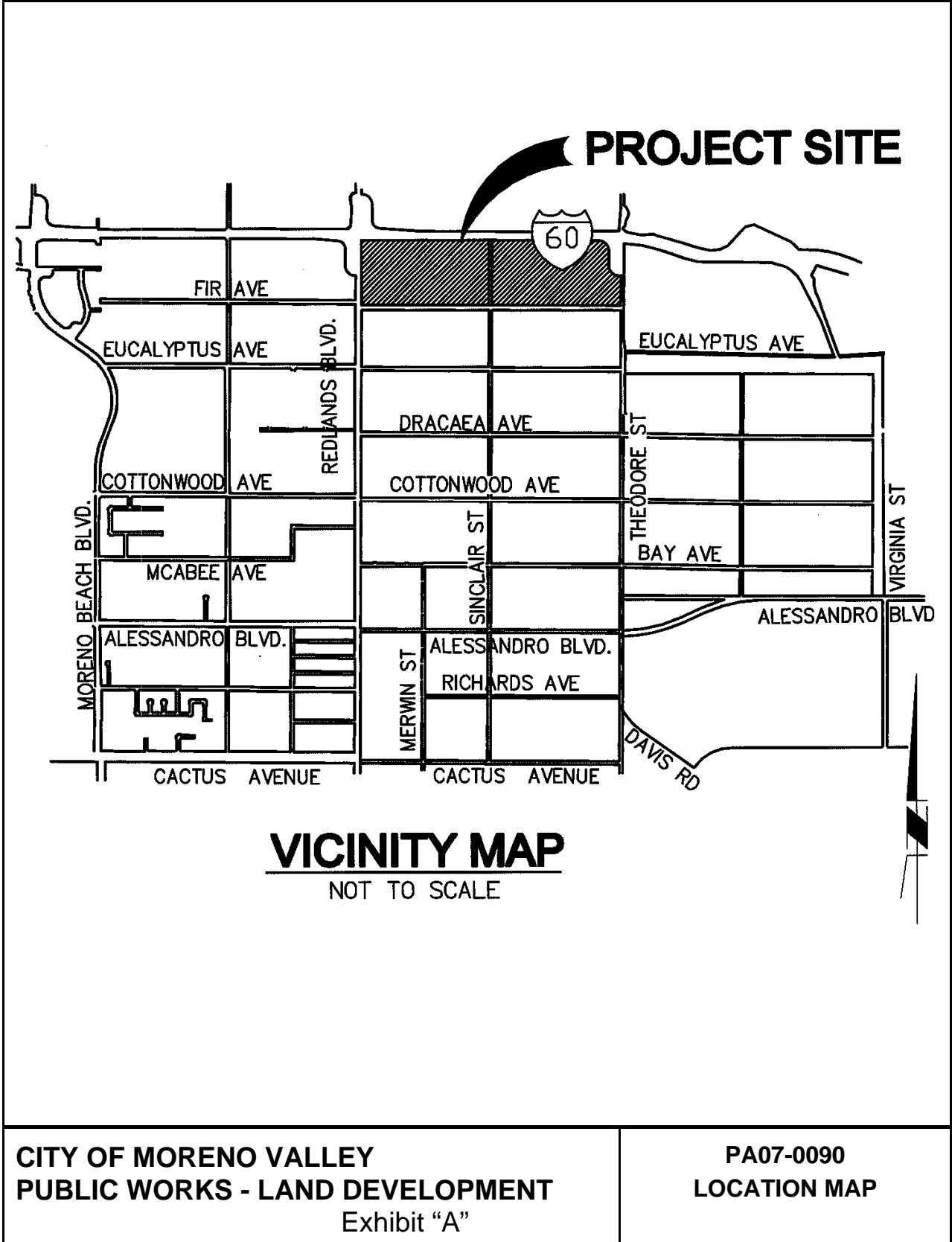
Department Head Approval  
Chris A. Vogt, P.E.  
Public Works Director/City Engineer

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:

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**MINUTES - REGULAR MEETING OF JUNE 28, 2011 (Report  
of: City Clerk's Department)**

**Recommendation: Approve as submitted.**

**SEE AGENDA ITEM A.2**

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**MINUTES - REGULAR MEETING OF JUNE 28, 2011 (Report  
of: City Clerk's Department)**

**Recommendation: Approve as submitted.**

**SEE AGENDA ITEM A.2**

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## SEE AGENDA ITEM A.4

- C3. AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE INDIAN DETENTION BASIN DRAINAGE IMPROVEMENTS, AND IRONWOOD AVENUE STREET IMPROVEMENTS FROM HEACOCK STREET TO NITA DRIVE PROJECT NO. 09-89791726, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (**ALSO LISTED AS AGENDA ITEM A.4**) (Report of: Public Works Department)
-

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## SEE AGENDA ITEM A.11

- C4. AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE AUTO MALL FREEWAY PYLON SIGN PROJECT, PROJECT NO. 08-89791725, DIRECT THE CITY CLERK TO RECORD THE NOTICE OF COMPLETION, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND AUTHORIZE THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR TO RELEASE THE SIGN TO THE MORENO VALLEY DEALERS ADVERTISING ASSOCIATION (**ALSO LISTED AS AGENDA ITEM A.11**) (Report of: Public Works Department)
-

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## SEE AGENDA ITEM A.13

- C5. AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE IRONWOOD AVENUE IMPROVEMENTS FROM DAY STREET TO BARCLAY DRIVE PROJECT NO. 10-41570027, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED SYSTEM (**ALSO LISTED AS AGENDA ITEM A.13**) (Report of: Public Works Department)
-

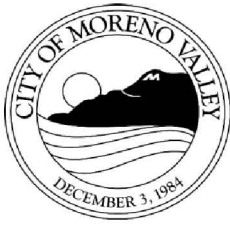
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## SEE AGENDA ITEM A.15

- C6. AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO ACCEPT THE WORK AS COMPLETE WHEN DETERMINED THAT ALL CONTRACT REQUIREMENTS AND PUNCH-LIST ITEMS ARE COMPLETED FOR THE DAY STREET ROADWAY IMPROVEMENTS FROM ALESSANDRO BOULEVARD TO COTTONWOOD AVENUE PROJECT NO. 02-89266920, AUTHORIZE THE CITY CLERK TO GIVE NOTICE OF SAME, AUTHORIZE THE FINANCIAL AND ADMINISTRATIVE SERVICES DIRECTOR TO RELEASE THE CONTRACT RETENTION TO THE CONTRACTOR, AND ACCEPT THE IMPROVEMENTS INTO THE CITY MAINTAINED ROADWAY SYSTEM (**ALSO LISTED AS AGENDA ITEM A.15**) (Report of: Public Works Department)
-

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

## Report to City Council

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**TO:** Redevelopment Agency Chairperson and Board of Directors

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

**AGENDA DATE:** July 12, 2011

**TITLE:** AUTHORIZE FIRST AMENDMENT TO PROJECT SPECIFIC AGREEMENT AND AUTHORIZE CHANGE ORDER TO THE PURCHASE ORDER FOR VA CONSULTING, INC. FOR THE MORENO VALLEY AUTO MALL IMPROVEMENTS PROJECT NO. 08-89791725

---

### RECOMMENDED ACTION

Staff recommends that the Community Redevelopment Agency (RDA):

1. Authorize the City Manager, acting in his capacity as the Executive Director for the Community Redevelopment Agency of the City of Moreno Valley, to execute the First Amendment to the Project Agreement in the form attached hereto on behalf of the Community Redevelopment Agency.
2. Authorize a Change Order to increase Purchase Order No. 37386 for VA Consulting, Inc., in the amount of \$25,000 for additional professional consultant design services, bid design support services, and construction support services (Account No. 897.91725).

### BACKGROUND

On April 28, 2009, City Council authorized VA Consulting, Inc. (VA Consulting) to proceed with the final Auto Mall design plans and specifications. On July 13, 2010, City Council authorized the City Manager to execute a Project Specific Agreement and assign said Project Specific Agreement to the Community Redevelopment Agency. At this same meeting, the Community Redevelopment Agency approved an increase to Purchase Order No. 37386 for \$50,000.

## **DISCUSSION**

The Moreno Valley Auto Mall is currently comprised of five (5) auto dealerships and six (6) vacant parcels. The Redevelopment Agency have been working with the Auto Mall dealers to explore various ways to increase public awareness by creating attractive visual displays of dealer products and other aesthetic elements. The goal is to help provide increased awareness and interaction between prospective customers and business owners. The increase in Auto Mall business has the potential to increase additional opportunities for employment and enhance other long term related business benefits for the local community.

The Auto Mall project consists of two phases – the re-construction of the pylon sign and the street improvements. The pylon sign installation was completed on June 20, 2011.

Street improvement enhancements and revitalization are integral elements of the final Automall plans. Recent changes in the Auto Mall ownership and lot line adjustments of the parcels fronting Motor Way necessitate design revisions to the project's street improvement plans. VA Consulting has been retained to provide professional consultant design services under their Project Specific Agreement that expires May 1, 2012. Staff is recommending the First Amendment to the Project Agreement in order to increase the Project Specific Agreement amount by \$25,000. The additional monies provide for 1) Finalization of the street improvement plans and specifications to reflect the construction scope of work based on available construction funds after the completion of the pylon sign, 2) bid support services during the advertising of the project for construction, and 3) design support services during the construction of the street improvements.

## **ALTERNATIVES**

1. Authorize the City Manager, acting in his capacity as the Executive Director for the Community Redevelopment Agency of the City of Moreno Valley, to execute the First Amendment to the Project Agreement in the form attached hereto on behalf of the Community Redevelopment Agency and authorize a Change Order to increase Purchase Order No. 37386 for VA Consulting, Inc., in the amount of \$25,000 for additional professional consultant design services, bid design support services, and construction support services (Account No. 897.91725). *This alternative will allow for much needed improvements.*
2. Do not authorize the City Manager, acting in his capacity as the Executive Director for the Community Redevelopment Agency of the City of Moreno Valley, to execute the First Amendment to the Project Agreement in the form attached hereto on behalf of the Community Redevelopment Agency and do not authorize a Change Order to increase Purchase Order No. 37386 for VA Consulting, Inc., in the amount of \$25,000 for additional professional consultant design services bid design support services, and construction support services (Account No.

897.91725). *This alternative will delay the completion of much needed improvements.*

**FISCAL IMPACT**

The Moreno Valley Auto Mall Street Improvements is included in Fiscal Year 2011/2012 Budget and is funded by Fund 897 (RDA 2007 Tax Allocation Bonds). These funds have been allocated for the Moreno Valley Auto Mall Improvements project and cannot be utilized for operational activities. There is no impact on the General Fund.

Fiscal Year 2010/2011 Budget (Account No. 897.91725) .....	\$1,512,000
Pylon Sign Construction Related Costs.....	<u>\$786,000</u>
Construction Related Savings .....	\$726,000

**AVAILABLE FUNDS:**

Fiscal Year 2011/2012 Budget (Account No. 897.91725) .....	\$726,000
Estimated Additional Design Related Services .....	<u>\$25,000</u>
Remaining Available Balance for Construction of Street Improvements .....	\$701,000

**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.

**POSITIVE ENVIRONMENT:**

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

**COMMUNITY IMAGE, NEIGHBORHOOD PRIDE AND CLEANLINESS:**

Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts and neighborhood restoration.

**SUMMARY**

The street improvement plans are an integral element of the final conceptual plan to rejuvenate Auto Mall. Staff is recommending that the Community Redevelopment Agency authorize the First Amendment to the Project Specific Agreement and furthermore authorize an increase to Purchase Order No. 37386 with VA Consulting in the amount of \$25,000 for additional design services, bid design support services, and construction support services.

**ATTACHMENTS**

Attachment "A" – First Amendment to Project Specific Agreement

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

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

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

Concurred By:  
 Barry Foster  
 Community and 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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**FIRST AMENDMENT TO PROJECT SPECIFIC AGREEMENT  
FOR ON-CALL PROFESSIONAL CONSULTANT SERVICES  
MORENO VALLEY AUTO MALL STREET IMPROVEMENTS  
PROJECT NO. 08-89791725**

This First Amendment to Project Specific Agreement is by and between the Community Redevelopment Agency of the City of Moreno Valley, a municipal corporation, hereinafter referred to as "RDA," and VA Consulting, Inc., a California corporation, hereinafter referred to as "Consultant." This First Amendment to Project Specific Agreement is made and entered into effective on the date the RDA signs this First Amendment.

RECITALS:

Whereas, the City of Moreno Valley and Consultant entered into an Agreement entitled "PROJECT SPECIFIC AGREEMENT FOR ON-CALL PROFESSIONAL CONSULTANT SERVICES," hereinafter referred to as "Project Agreement," dated November 1, 2010.

Whereas, the City assigned its interest in said Agreement to RDA on November 1, 2010.

Whereas, the Consultant is providing consultant engineering services for the Moreno Valley Auto Mall Street Improvement project.

Whereas, it is desirable to amend the Project Specific Agreement to expand the scope of services as is more particularly described in Section 1 of this First Amendment.

SECTION 1 AMENDMENT TO ORIGINAL PROJECT AGREEMENT:

1.1 The On-Call Agreement termination date of May 1, 2012 is not extended by this Amendment to the Project Agreement.

1.2 Exhibit "D" to the Project Agreement is hereby further amended by adding to the cost proposal section thereof Exhibit "A" -- First Amendment, entitled "Terms of Payment".

1.4 The RDA agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of \$25,000.00 as set forth in the above-referenced Terms of Payment, in

**AMENDMENT TO PROJECT AGREEMENT FOR ON-CALL  
PROFESSIONAL CONSULTANT SERVICES  
PROJECT NO. 08-89791725**

consideration of the Consultant's performance of the work set forth in Exhibit "A" - First Amendment.

1.5 The total "Not to Exceed" fee for this Agreement is \$64,960.00 (\$39,960.00 for the original Agreement plus \$25,000.00 for the First Amendment to Project Specific Agreement).

**SECTION 2**

2.1 Except as otherwise specifically provided in this Amendment, all other terms and conditions of the Project Agreement shall remain in full force and effect.

**SIGNATURE PAGE TO FOLLOW**

**AMENDMENT TO PROJECT AGREEMENT FOR ON-CALL  
PROFESSIONAL CONSULTANT SERVICES  
PROJECT NO. 08-89791725**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this First Amendment to Project Agreement.

Community Redevelopment Agency

VA Consulting, Inc.

BY: \_\_\_\_\_  
Executive Director

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(President or Vice President)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
(Corporate Secretary)

RECOMMENDED FOR APPROVAL:

BY: \_\_\_\_\_  
Chris A. Vogt, P.E.  
Public Works Director/City Engineer

DATE: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
General Counsel of the Community Redevelopment  
Agency of the City of Moreno Valley

DATE: \_\_\_\_\_

Attachment: Exhibit "A" – First Amendment (Terms of Payment)  
Exhibit "B" – First Amendment (Assignment of Project Agreement)  
Exhibit "C" – First Amendment (Project Agreement)

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## **TERMS OF PAYMENT**

1. This First Amendment to Agreement shall have a Not-to-Exceed Fee of \$25,000 for the First Amendment to the Project Specific Agreement.
2. Tasks shall include, but not be limited to, all Professional Consultant Services necessary to complete the work for the Street Improvements covered by this Proposal including:
  - a. Finalize Plans and Specifications to reflect Construction Scope of Work Based on Available Construction Funds.
  - b. Bid Support Services During Construction Bid Advertisement
  - c. Design Support Services During Construction
3. Work can only commence after this First Amendment to the Agreement has been executed and the City issues a notice to proceed.
4. Monthly invoices will specifically identify job title, person-hours, and costs incurred by each task.
5. Sub-categorization of tasks is permitted to better define the task for payment.
6. Reimbursement costs such as mileage, printing, telephone, photographs, postage and delivery, are to be included in the "Not-to-Exceed Fixed Fee."
7. All tasks including labor and reimbursable costs such as mileage, printing, telephone, photographs, postage, and delivery shall have supporting documentation presented at the time payment is requested.
8. The City will pay the Consultant for all acceptable services rendered in accordance with the "Project Specific Agreement" and this First Amendment.
9. When the Consultant is performing, or is requested to perform, work beyond the scope of service in the "Project Specific Agreement," or this First Amendment an "Amendment to the Agreement" will be executed between the City and Consultant.
10. Payment will be based on hourly rate for work completed associated with each applicable task as identified in the scope of work.

## **EXHIBIT "A"**

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**MINUTES - REGULAR MEETING OF JUNE 28, 2011 (Report  
of: City Clerk's Department)**

**Recommendation: Approve as submitted.**

**SEE AGENDA ITEM A.2**

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June 15, 2011

John Terell, Planning Director  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, CA 92552

Subject: Tract 36340 – Rockcliffe City Council Continuance

Dear Mr. Terell:

Beazer Homes would like to request a continuance from the July 12<sup>th</sup> City Council meeting regarding our proposed Development Agreement for Tract 36340. Beazer is looking to revisit some of the items within this agreement with the City of Moreno Valley. Beazer would like to be scheduled on the October 11<sup>th</sup> City Council meeting

Thank you for your time and efforts regarding this project. We look forward to working with the City of Moreno Valley. Should you have any questions, please do not hesitate to contact me at (714) 720-6304.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Bergeron".

Bryan Bergeron  
Development Manager  
Beazer Homes Southern California Division

Orange County Office  
1800 E. Imperial Highway, Suite 200  
Brea, CA 92821

O: 714-672-7000  
F: 714-285-2925

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APPROVALS	
BUDGET OFFICER	
CITY ATTORNEY	
CITY MANAGER	

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## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Barry Foster, Community & Economic Development Director

**AGENDA DATE:** July 12, 2011 (Continued from May 24, 2011)

**TITLE:** A DEVELOPMENT AGREEMENT (PA10-0029) FOR ROCKCLIFFE AT STONERIDGE, AN APPROVED PROJECT ENCOMPASSING TENTATIVE TRACT MAP NO. 36340 AND A CONDITIONAL USE PERMIT/PLANNED UNIT DEVELOPMENT CONSISTING OF 275 RESIDENTIAL LOTS, A RECREATIONAL BUILDING AND PRIVATE OPEN SPACE ON APPROXIMATELY 29 ACRES IN THE R15 (RESIDENTIAL 15) AND OS (OPEN SPACE) LAND USE DISTRICTS. THE PROJECT SITE IS LOCATED ON THE SOUTHEAST CORNER OF FIR AVENUE AND EUCALYPTUS AVENUE. THE APPLICANT AND OWNER OF THE SITE IS BEAZER HOMES.

---

### **RECOMMENDED ACTION**

Staff recommends that the City Council introduce Ordinance No. 2011- \_\_\_\_, for adoption of a development agreement (PA10-0029) for Rockcliffe at Stoneridge, an approved project encompassing Tentative Tract Map No. 36340 and conditional use permit/ planned unit development consisting of 275 residential lots, a recreation building and private open space on approximately 29 acres in the R15 (Residential 15) and OS (Open Space) land use districts.

### **ADVISORY BOARD/COMMISSION RECOMMENDATION**

On February 24, 2011, the Planning Commission reviewed and recommended approval to the City Council of a Development Agreement for a proposed small lot single-family residential project. At that meeting, the Planning Commission also approved PA10-0038 for Tentative Tract Map No. 36340 and PA10-0039 for a conditional use permit and planned unit development to subdivide a 29 acre site into 275 residential lots, a recreation building and multiple private open space lots.

## **BACKGROUND**

The project applicant, Beazer Homes, is requesting using a separate Development Agreement in conjunction with a recently approved subdivision of land and planned unit development consisting of a small lot single-family tract with recreational amenities. Some of the amenities included with the tract include a recreation building, pool, tot lots, turf play areas, picnic and BBQ area and numerous private open space lots.

The recently approved residential project will provide a walkable community and provide pedestrian access to existing regional shopping centers (Stoneridge Town Center and Moreno Beach Plaza) to the north and east of the subject site, while promoting limited automobile trips and a reduction of vehicle miles traveled. The proposed project will also provide innovative residential opportunities of owning a home on a small lot for the first time home buyer and/or senior/empty nester.

As part of the small lot single-family residential project proposal reviewed and approved by the Planning Commission, a development agreement (PA10-0029) has been included to provide a temporary reduction of Development Impact fees (DIF). In the first two years after the commencement of the term of the agreement, the DIF shall be reduced by 50% from the current fees. In the third year after the effective date, the DIF shall be reduced by 40% from the current fees, while in the fourth year the DIF shall be reduced by 30% from the current fees. In return, the applicant proposes to construct all remaining project improvements, provide extensive recreation and open space amenities, and energy efficiency enhancements, all detailed in the Discussion section below.

## **DISCUSSION**

With the proposed Development Agreement, the Developer has proposed a temporary reduction in Development Impact Fees (DIF) as necessary for the financial feasibility of proceeding with the project. The applicant has previously provided substantial public improvements in the vicinity of the project including improvements necessary to facilitate the development of the adjacent Stoneridge Towne Centre, which addressed the both direct and indirect impacts on public improvements from the proposed project. Development of the project at this time of economic uncertainty will support the continued vitality and growth of the shopping center as well as the adjacent Moreno Beach Plaza shopping center.

In return, the Developer agrees in part to build all required improvements in accordance with project approvals, including, but not limited to recreational facilities such as a recreation building, pool, play areas, seating areas, trails, greenbelts a high quality entry statement, perimeter walls and landscape, all remaining public street improvements, and all regional trail system improvements. In addition, the developer proposes to provide energy efficient features with the development which may include, but not be



limited to LED or similar energy efficient lighting in common areas, including exterior lighting on the front of housing units; solar water heating for the recreation building and pool. The project provides individual energy efficiency for all housing units, which will be at least ten (10%) beyond the requirement of the current Uniform Building code requirements.

The proposed Development Agreement will not change any aspects of the amended project approved under PA10-0038 (Tentative Tract Map No. 36340) and PA10-0039 (Conditional Use Permit/Planned Unit Development) on February 24, 2011 by the Planning Commission. The agreement is also within the scope of the addendum to the Negative Declaration approved for the original amended project and tentative map.

### **ALTERNATIVES**

1. Approve the proposed Development Agreement for Rockcliffe at Stoneridge Ranch as submitted and attached.
2. Approve the proposed amendments to the proposed Development Agreement, with modifications to address City Council concerns.
3. Refer the proposed Development Agreement back to the Planning Commission for further review and revision.
4. Deny the proposed Development Agreement.

### **FISCAL IMPACT**

As included in the Development Agreement, the applicant is requesting temporary reductions of development impact Fees (DIF), which will include a 50% reduction in DIF for the first two years after the commencement of the term of the agreement, a 40% reduction in fees for the third year and a 30% reduction in fees for the fourth year. There are no fiscal impacts from this project associated with the General Fund. The use of the Development Agreement is intended to jump-start the construction of the project. Having more housing develop in this area will ultimately produce more residents and enhance shopping opportunities and potential sales tax revenue in nearby shopping centers.

### **CITY COUNCIL GOALS**

Not applicable.

### **NOTIFICATION**

Notice of the project was provided to property owners within 300 feet of the project and to the general public through local newspaper publishing and on-site postings.

### **ATTACHMENTS/EXHIBITS**

1. Public Hearing Notice

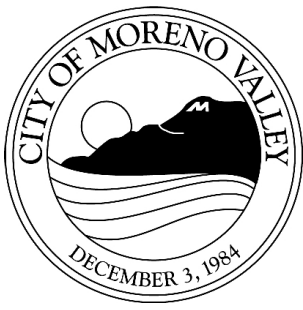
2. Development Agreement Ordinance, including Exhibit A, Rockcliffe at Stoneridge Ranch Development Agreement as attached
3. Zoning Map
4. Aerial Map
5. Planning Commission Report, excluding exhibits
6. Planning Commission Minutes of September 24, 2009
7. Reduced copy of illustrative landscape plan for Tentative Tract Map No. 36340

Prepared By:  
 Mark Gross, AICP  
 Senior Planner

Department Head Approval:  
 Barry Foster  
 Community & Economic  
 Development Department

Concurred By:  
 John 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:** PA10-0029 (Development Agreement)

**APPLICANT:** Beazer Homes

**OWNER:** Beazer Homes

**REPRESENTATIVE:** MDS Consulting

**LOCATION:** The project is located on the southeast corner of Fir Avenue and Eucalyptus Avenue.

**PROPOSAL:** A Development Agreement (PA10-0029) for Rockcliffe at Stoneridge, an approved project encompassing Tentative Tract Map No. 36340 (PA10-0038) and a Conditional Use Permit/ Planned Unit Development (PA10-0039) consisting of 275 single-family residential lots, a recreation building and private open space on approximately 29 acres in the R15 (Residential 15) and OS (Open Space) land use district.

**ENVIRONMENTAL DETERMINATION:** This development agreement will not have a significant effect on the environment, while the item is within the scope of the approved addendum to the original project Negative Declaration per Section 15164 of the California Environmental Quality Act (CEQA) as adopted under PA10-0038 and PA10-0039.

**REDEVELOPMENT AREA:** Yes

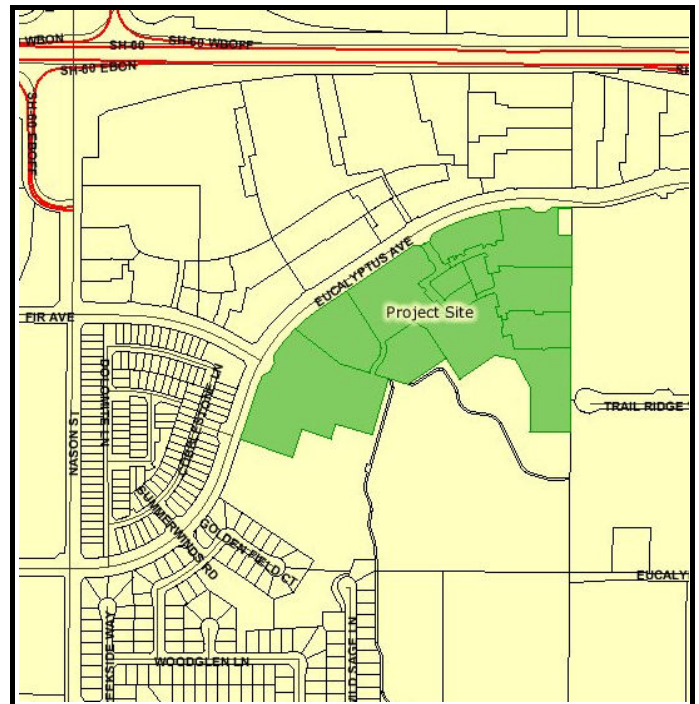
**STAFF RECOMMENDATION:** Approval

Any person interested in any listed proposal can contact the Community and Economic 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**    **N** ↑ **CITY COUNCIL HEARING**

City Council Chambers, City Hall  
14177 Frederick Street  
Moreno Valley, Calif. 92553

**DATE & TIME:** March 22, 2011 at 6:30 P.M.  
**CONTACT PLANNER:** Mark Gross  
**PHONE:** (951) 413-3215

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ORDINANCE NO. 823

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT (PA10-0029) FOR ROCKCLIFFE AT STONERIDGE, AN APPROVED PROJECT ENCOMPASSING TENTATIVE TRACT MAP NO. 36340 AND A CONDITIONAL USE PERMIT/PLANNED UNIT DEVELOPMENT CONSISTING OF 275 RESIDENTIAL LOTS, A RECREATIONAL BUILDING AND PRIVATE OPEN SPACE ON APPROXIMATELY 29 ACRES IN THE R15 (RESIDENTIAL 15) AND OS (OPEN SPACE) LAND USE DISTRICTS

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

SECTION 1: RECITALS

1.1 Pursuant to the provisions of law, public hearings were held before the City of Moreno Valley Planning Commission and the City Council.

1.2 The matter was fully discussed and the public and other agencies presented testimony and documentation.

1.3 The development agreement is attached hereto and incorporated herein as Exhibit A.

SECTION 2: FINDINGS

2.1 Based upon substantial evidence presented to this City Council during the above-referenced meeting on March 22, 2011, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:

1. **The proposed development agreement is consistent with the goals, objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan.**

**FACT:** Tract Map No. 36340 purposes to subdivide an approximate 29 acre parcel into 275 total single-family residential lots for development purposes. The applicant has proposed a development agreement to temporarily reduce development fees. The development agreement will allow for the development of detached single-family residential units consistent with permitted uses in the Residential 15 land use district. In the General Plan and all land uses included in the zoning ordinance.

ATTACHMENT 2

Ordinance No. \_\_\_\_\_  
Date Adopted: \_\_\_\_\_

2. **The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.**

**FACT:** The applicant has proposed a tentative tract map, for the primary purposes of subdividing an approximate 29 acre site into 275 single-family residential lots consisting of individual common recreation lots and a recreation building. The General Plan land use designation for the site is R15 (Residential - 15) and OS (Open Space), while the project site does not lie within a designated specific plan area. The proposed single-family residential land use is a permitted use in the R15 land use district. The proposed development agreement is compatible with all uses included in the R15 land use district.

3. **The proposed development agreement will not be detrimental to the public health, safety or general welfare.**

**FACT:** As conditioned, the proposed land division for 275 single-family residential lots and PUD on an approximate 29 net-acre parcel is in conformance with the General Plan and zoning district and would not cause serious public health problems or be materially injurious to properties or improvements in the general vicinity. The proposed development agreement will also not affect or be detrimental to health, safety or general welfare of the subject site or surrounding properties. The development agreement is considered within the scope of the previously approved addendum to the tentative tract map and planned unit development/conditional use permit and would not cause serious health problems or significant environmental impacts to the site or surrounding sites.

4. **The proposed development agreement is in conformity with public convenience, general welfare and good land use practice.**

**FACT:** The project is consistent in density with current and future developments within the general vicinity. This would include surrounding residential land uses to the south and west and commercial/retail directly to the east and across Eucalyptus Avenue to the north. The proposed project and development agreement will allow a small lot single-family development in an area that will have direct pedestrian access to two regional shopping centers and would in turn reduce overall vehicle miles traveled for a multiple family residential project and create good land use practice. As part

Ordinance No. \_\_\_\_\_  
Date Adopted: \_\_\_\_\_

of the proposed development agreement, the Developer agrees to build all required improvements in accordance with project approvals, including, but not limited to recreational facilities such as a recreation building, pool, play areas, seating areas, trails, and greenbelts. The Developer will also construct a high quality entry statement reasonably acceptable to City, perimeter walls and landscaping, all remaining public street improvements, including the ultimate design traffic signal at Fir and Eucalyptus Avenues, and all regional trail system improvements. In addition, the developer will incorporate energy efficient features into the development which may include LED or similar energy efficient lighting in common areas, including exterior lighting on the front of housing units; solar water heating for the recreation building and pool; as well as providing energy efficiency for all housing units that are demonstrated to be at least ten (10%) beyond the requirement of the current building code requirements.

5. **The proposed development agreement will not adversely affect the orderly development or the preservation of property values for the subject property or any other property.**

**FACT:** The proposal to protect the provisions and land uses of the General Plan, allow for the development of permitted uses established in the Municipal Code for the subject site and its subsequent entitlements, and provide provisions for implementation of the entitlements will further support the project's implementation which is compatible with the land uses in the general vicinity. The project is consistent in density with current and future developments within the general vicinity and is also consistent with the residential project approved in 2006 and the revised project approved on February 24, 2011 for the site. This would include surrounding residential land uses to the south and west and commercial/retail directly to the east and across Eucalyptus Avenue to the north.

### SECTION 3: ADOPTION

Based on the foregoing recitals and findings, the City Council of the City of Moreno Valley does hereby adopt and approve the development agreement attached hereto as Exhibit A, and does hereby authorize the mayor to sign the development agreement on behalf of the City.

### SECTION 4: EFFECT OF ENACTMENT:

Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

Ordinance No. \_\_\_\_\_  
Date Adopted: \_\_\_\_\_

SECTION 5: NOTICE OF ADOPTION:

Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 6: EFFECTIVE DATE:

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

APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney

Ordinance No. \_\_\_\_\_  
Date Adopted:



**ORDINANCE JURAT**

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE ) ss.

CITY OF MORENO VALLEY )

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. \_\_\_\_\_ had its first reading on \_\_\_\_\_, \_\_\_\_\_ and had its second reading on \_\_\_\_\_, \_\_\_\_\_, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

Ordinance No. \_\_\_\_\_  
Date Adopted: \_\_\_\_\_

**Item No. E.1**

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RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

City of Moreno Valley  
Attn: City Manager  
P.O. Box 88005  
Moreno Valley, California 92552-0805

(SPACE ABOVE FOR RECORDER'S USE ONLY)

**BEAZER STONERIDGE DEVELOPMENT AGREEMENT**

**DEVELOPMENT AGREEMENT BY AND BETWEEN  
THE CITY OF MORENO VALLEY  
AND  
BEAZER HOMES,  
RELATIVE TO THE DEVELOPMENT KNOWN AS  
ROCKCLIFFE TRACT 36340**

**February 24, 2011**

EXHIBIT A

1

Ordinance No.  
Date Adopted:

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011 (the “Effective Date”), by and between the CITY OF MORENO VALLEY, a municipal corporation organized and existing under the laws of the State of California (the “City”), and BEAZER HOMES HOLDINGS CORP., a Delaware corporation (the “Developer”), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code. City and Developer may be referred to herein individually as a “Party” and collectively as the “Parties.”

### RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864 et seq. of the California Government Code, which authorizes the City to enter into a development agreement with any person or entity having a legal or equitable interest in real property, providing for the development of such property and establishing certain reciprocal rights and obligations related to such development.

B. To implement the above-described state laws, the City adopted Section 9.02.110 of the Moreno Valley Municipal Code, establishing procedures and requirements for considering and approving development agreements.

C. The Developer has a legal and equitable interest in certain real property situated in the City, and therefore satisfies the statutory requirements to enter into this Agreement. This real property comprises the entirety of Tract 36340 (the “Property”), more particularly described in Exhibit “A” attached hereto.

D. The Developer is a sophisticated and experienced real estate developer with substantial experience in the development of high quality residential neighborhoods.

E. The City Council, on July 11, 2006, adopted Resolution No. 2006-84 approving the Moreno Valley General Plan (the “General Plan”).

F. The City Planning Commission, on April 14, 2005, approved Tentative Tract Map 36340 (“the Map”) and Plot Plan PA04-0176 for the aforementioned entitlements for the Property.

G. The Map and Plot Plan as heretofore approved, comprises the “Project Approvals,” and is incorporated herein by this reference. The Developer desires to develop the Property in accordance with the Project Approvals and this Agreement. Such development of the Property, as contemplated by the Project Approvals and subject to any refinements agreed upon by the Parties, is referred to herein as the

“Project.”

H. The implementation of this Agreement will provide the City with significant public benefits in the form of facilities, programs and revenues as set forth in Section 5 of this Agreement. Consequently, entering into this Agreement is acknowledged to be to the mutual benefit of the Parties.

I. The City Council, on \_\_\_\_\_, 2011, made all findings and determinations relating to this Agreement which are required by Municipal Code Section 9.02.110, and approved this Agreement by its adoption of Ordinance No. \_\_\_\_, on \_\_\_\_\_, 2011. In doing so, the City Council determined that this Agreement is consistent with the General Plan.

J. The City Council finds that execution of this Agreement and the performance of and compliance with the terms and conditions set forth herein by the Parties: (i) is in the best interests of the City; (ii) will promote the public convenience, general welfare and good land use practices in the City; (iii) will provide benefits to the City; (iv) will provide a high-quality residential community; (v) will encourage the development of the Project by providing a reasonable level of incentive to the Developer; and (vi) will provide for orderly growth and development in a manner consistent with the General Plan and other plans and regulations of the City.

NOW, THEREFORE, in consideration of the above Recitals, all of which are expressly incorporated into this Agreement, and the mutual promises and obligations of the Parties set forth herein, the Parties agree as follows:

## **AGREEMENT**

### **SECTION 1: DEFINITIONS**

The following terms when used in this Agreement shall be defined as follows:

1.1 “Agreement” means this Development Agreement.

1.2 “Assignee Developer” means a developer to whom any of the rights, duties or obligations of this Agreement have been assigned in conformity with all assignment provisions contained herein.

1.3 “City” means the City of Moreno Valley, a municipal corporation organized and existing pursuant to the laws of the State of California.

1.4 “City Council” means the City Council of the City of Moreno Valley.

1.5 “Covenants, Conditions and Restrictions” or “CC&Rs” shall mean the restrictions governing the use of real property. CC&Rs include, but are not limited to written rules, limitations and restrictions on use of real property mutually agreed to by all owners of real property in a common interest development as provided for in California Civil Code Section 1351 *et seq.* CC&Rs are enforceable by the homeowners association or by individual owners who can bring lawsuits against violators and are recorded, permanent and “run with the land” so future owners are bound to the same rules. A copy of the CC&Rs shall be recorded with the Riverside County Recorder and be provided to any prospective purchaser.

1.6 “Current Fees” means the September 23<sup>rd</sup>, 2009 Residential Impact Fees City-wide effective as of the date of this Agreement, as shown on the schedule attached as Exhibit “B” to this Agreement and made a part herein by this reference.

1.7 “Developer” means BEAZER HOMES HOLDINGS CORP., any City approved Assignee or successor in interest to BEAZER HOMES HOLDINGS CORP., and/or any City approved Assignee or successor in interest to the obligations of the Developer set forth in Section -- of this Agreement.

1.8 “Development” means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of residential dwelling units, buildings and structures; and the installation of landscaping. “Development” does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.9 “Development Approvals” means all entitlements for use subject to approval by City in connection with development of the Property including, but not limited to:

- 1.9.1 Tentative and final subdivision maps;
- 1.9.2 Conditional use permits, variances, plot plans

1.9 “Development Impact Fees” or “DIF” means all City adopted fees and monetary Exactions that are designed to pay for new or expanded public facilities needed to serve, or to mitigate the adverse effects of, a given development project and that are imposed by the City by ordinance or resolution of general application or as a condition of approval of discretionary or ministerial permits for, or in connection with, the implementation of that development project. The term “Development Impact Fees” (the “DIF”) does not include processing fees and charges as described in this Agreement, or regional fees collected by the City and transmitted to other agencies, including but not limited to the Western Riverside Transportation Uniform Mitigation Fee (TUMF) and Riverside County Multiple Species Habitat Conservation Plan Fee (MSHCP).

1.10 “Effective Date” means the effective date of the ordinance approving this Agreement.

1.11 “Exaction” means any requirement of City in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of money in order to provide public benefit or lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests. The term “Exaction” shall not include City administrative, permit processing or other City-wide imposed fees to cover the estimated or actual costs to City of processing applications for Development Approvals, Subsequent Development Approvals, or costs associated with preparation or implementation of this Development Agreement or for monitoring compliance with any Development Approvals which may be granted or issued pursuant to this Agreement.

1.12 “Existing Project Approvals” means all Project Approvals approved or issued prior to the Effective Date and all other Approvals which are a matter of public record on the Effective Date.

1.13 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date and all other Development Regulations which are a matter of public record on the Effective Date.

1.14 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. By way of example and not limitation, “Land Use Regulations” does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

1.14.1 The conduct of businesses, professions, and occupations;

1.14.2 Taxes, fees (including, without limitation, Processing Fees and Development Impact Fees) and assessments;

1.14.3 The control and abatement of nuisances;

1.14.4 The granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;

1.14.5 The exercise of the power of eminent domain.

1.15 "Mortgagee" means a beneficiary or any other security-device lender under a mortgage, deed of trust, sale-and-lease-back, pledges of ownership interests in the Developer, collateral assignments, or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the Property, the Developer, or both, and as well as such entities' successors and assigns.

1.16 "Processing Fees" means City Council adopted fees and charges for processing applications for City actions or approvals.

1.17 "Project" means the development of the Property contemplated by the Tract Map and planned development as defined herein which may be further defined, enhanced or modified pursuant to the provisions of this Agreement. This Agreement pertains to Tract 36340, proposed to be developed as a single family planned development with common amenities to be maintained by a Homeowner's Association. The Project contemplates a maximum of two hundred seventy five (275) dwelling units.

1.18 "Project Approvals" means the Tract Map, Planned Development and all Subsequent Development Approvals including without limitation their respective conditions of approval.

1.19 "Property" means the real property described on Exhibit "A" to this Agreement and made a part herein by this reference.

1.20 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Effective Date in connection with development of the Property.

1.21 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

## **SECTION 2: GENERAL PROVISIONS**

2.1 Duration of Project Approvals. Project Approvals for the Project shall not have any time added to their duration or validity by this Agreement than what is already provided for in the applicable law governing such project approval or permit.

2.2 Term of Agreement.

2.2.1 Term. The Term of this Agreement shall commence twelve (12) months from the Effective Date of the ordinance approving this Agreement or the date of the issuance of the first building permit, whichever occurs first, and shall extend for a period of four (4) years thereafter, unless this Agreement is earlier terminated, modified or extended in accordance with the provisions of this Agreement.



## 2.2.2 Termination Upon Completion.

2.2.2.1 If not already terminated by reason of any other provision hereof, this Agreement shall automatically terminate upon: (i) total build-out of the Project pursuant to the Project Approvals and any amendments thereto; (ii) the issuance of all occupancy permits for structures requiring such permits, or final building inspections for improvements on the Property; and (iii) acceptance by the City of all dedications of public rights-of-way and public improvements (to the extent the City elects to accept dedication of public rights-of-way and public improvements).

2.2.2.2 This Agreement shall automatically terminate as to any individual dwelling unit upon close of escrow for a sale to an end user of that dwelling unit and issuance of a certificate of occupancy or final City inspection for that unit.

## 2.3 Binding Effect of Agreement.

2.3.1 Covenant. This Agreement shall bind, and inure to the benefit of, the respective Parties and their successors in interest, including their heirs, representatives, assigns, partners and investors. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land as to the Property. However, there shall be no third party beneficiaries of this Agreement, except that this Agreement shall be enforceable by the City on behalf of any of its subsidiary or affiliated public agencies or special districts, including without limitation, its Community Redevelopment Agency, Community Services Districts, or Community Facilities Districts.

2.3.2 No Property Interest. Nothing herein shall be construed as a dedication or transfer of any right or interest in, or as creating a lien with respect to, title to the Property.

## **SECTION 3: PROJECT DEVELOPMENT REQUIREMENTS**

3.1 Property Ownership. The Developer represents and covenants that it is the owner of the fee simple title to the Property.

3.2 Development. The Developer shall develop the Project in accordance with the Project Approvals and this Agreement. During the term of this Agreement, the permitted uses within the Project, the density and intensity of use, maximum height and size of buildings, other zoning standards, the requirements for reservation or dedication of land for public purposes, the mitigation requirements and all other terms and

conditions of development of the Project shall be those set forth in the Project Approvals.

3.3 Rules and Regulations. Pursuant to Government Code Section 65866, and except as otherwise provided in this Agreement, the regulations, rules and official policies of the City governing (i) permitted uses within the Project, (ii) density and intensity of use, (iii) design, improvement and construction standards and specifications, and (iv) all other terms and conditions of development of the Project shall be those regulations, rules and official policies which are in effect on the effective date of the ordinance approving this Agreement, except as set forth under the Reservations of Authority below, (the "Applicable Regulations").

3.4 Building Permits. The Developer shall have the right to obtain building permits consistent with the Project Approvals, Land Use Regulations and Subsequent Land Use Regulations as set forth in this Agreement for the entire life of this Agreement and any extensions thereof.

3.5 Timing of Development. The parties acknowledge that the Developer cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of the Developer, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that the Developer shall have the right to develop the Property in such order and at such rate and at such time as the Developer deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Project Approvals.

#### **SECTION 4: RESERVATION OF AUTHORITY**

4.1 Subsequent Land Use Regulations and Processing Requirements. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property:

4.1.1 City Council amended or adopted Processing Fees and charges applicable to all developments imposed by City to cover the estimated actual costs to City of processing applications for development approvals or for monitoring compliance with any development approvals granted or issued.

4.1.2 City Council amended or adopted DIF, except as otherwise provided for in this Agreement.

4.1.3 Fees adopted by the City Council to implement regional mitigation programs (e.g. Transportation Uniform Mitigation Fee (TUMF), Western Riverside County Multiple Species Habitat Conservation Plan, etc.).

4.1.4 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

4.1.5 Regulations governing construction standards and specifications including, without limitation, the Uniform Building, Plumbing, Mechanical, Electrical, and Fire Codes as adopted, or amended and adopted, by the City.

4.1.6 Regulations which may be in conflict with the Project Approvals but which are reasonably necessary to protect the public health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide the Developer with the rights and assurances provided under this Agreement.

4.1.7 Regulations imposed by State or Federal Law.

4.2 Moratoria. Regulations imposed by the City, whether adopted by City Council action, initiative or otherwise, imposing a development moratorium or limiting the rate or timing of development of the Property shall be deemed to conflict with this Agreement and shall therefore not be applicable to the Development of the Property. Development moratoria imposed by other government agencies or otherwise outside the City's reasonable control, or due to the lack of availability of water or other necessary facilities or services shall not create liability or default under this Agreement.

4.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date, prevent or preclude compliance with one or more of the provisions of this Agreement or render the City subject to liability, fine, penalty, charge, cost or restrictions on its authority or powers in order to comply with this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

## **SECTION 5: OBLIGATIONS OF AND CONTRIBUTIONS BY DEVELOPER**

5.1 Acknowledgement. The Developer acknowledges that it receives a substantial benefit by entering into this Agreement. The approval and execution of this Agreement by the City will provide the Developer with substantial vested rights and assurances that it would otherwise not receive as part of the development process,

including without limitation, protection from City-imposed moratoria, and protection from changes in the Land Use Regulations and the Project Approvals that the City could otherwise have imposed in the exercise of its legitimate regulatory powers as a government agency. Under State law related to Development Agreements, by providing the protections of a development agreement, the City is entitled to receive from the Developer consideration in the form of benefits to the public that otherwise would or could not be imposed as conditions of approval for the Project. Therefore, as consideration for this Agreement, in addition to the other terms and conditions of this Agreement, the Developer shall provide to City the public benefits set forth herein.

5.1 Construction of Improvements. The Developer agrees to build all required improvements in accordance with the Project Approvals. The parties acknowledge that these improvements exceed the overall mitigation obligations of the Project for traffic, and agree that the accelerated timing of such improvements are a benefit to the public and a material inducement to the City to enter into this Agreement.

5.2 Operation and Maintenance of Common Areas by the Developer.

5.2.1 The Developer acknowledges that the maintenance and operation of the common area facilities are a matter of public interest to the City in that improper or inadequate maintenance and operation will cause an impact on surrounding public facilities and surrounding home and property owners. The Developer shall operate and maintain all common area facilities during the course of construction of the Project and until such time as a Homeowner's Association (HOA) for the Project shall be formed and the operation and maintenance obligations for such facilities are legally conveyed to and accepted by the HOA (hereinafter referred to as the "Transfer Date").

5.2.2 The Developer shall not be relieved of its obligations for the operation and maintenance of the Project's common area facilities until an HOA has been formed and the operation and maintenance responsibilities for the applicable common area facilities have been legally conveyed to and accepted by the HOA. Upon the Transfer Date, the HOA shall have the obligations described below.

5.3 Recreational Facilities and Trail System.

5.3.1 The Developer is developing the Project as a planned development. The Developer represents it will build will provide other recreational facilities and amenities throughout the Project, including, but not limited to, a recreation building, pool, play areas, seating areas, trails, and greenbelts. The standards for these other recreational facilities and amenities, including timing, size, number, types and quality of amenities and facilities, etc. shall be fully set forth in the planned development approval and shall be subject to the City's discretionary approval and shall be fully conditioned and implemented through the approvals.

5.3.2 The Project's Homeowners Association (HOA) documentation and CC&Rs shall make adequate provision for reasonable maintenance of the facilities.

5.4 Entry Statement. The Developer agrees to construct and provide legal and equitable assurance in the form of agreements, bonds, letters of credit, or other legally enforceable instruments for the construction and perpetual maintenance of a high quality entry statement reasonably acceptable to City. Such entry statement shall be located at the Project's main entry at Eucalyptus and Fir Avenues. The planned development shall require and provide standards and design for the entry statement. Construction of the entry statement shall commence prior to the issuance of any building permits, except for those related to model homes and the first 15 production units, and be completed prior to the issuance of occupancy permits for any production units homes in the Project. Further, the HOA documentation and CC&Rs for the Project shall provide for and financially assure perpetual maintenance of the entry statement.

5.5 Perimeter Walls and Landscaping. The Developer agrees to construct perimeter walls and landscaping consistent with the Project Approvals and provide legal and equitable assurance in the form of HOA documentation, CC&Rs, or other legally enforceable instruments reasonably acceptable to City for the construction and perpetual maintenance of such perimeter walls and landscaping prior to the issuance of occupancy permits for any production units in the Project in an approved phase adjacent or including such perimeter walls and landscaping, or earlier if required by any entitlement for the Property approved prior to the Effective Date.

5.6 Public Street Improvements. The Developer agrees to complete all remaining public street improvements for the Project, including the ultimate design traffic signal at Fir and Eucalyptus Avenues, prior to the issuance of occupancy permits for any production units in the Project, or earlier if required by any entitlement for the Property approved prior to the Effective Date.

5.7 Regional Trail System. The Developer agrees to complete all regional trail system improvements required of the Project to connect the Stoneridge trailhead to the adjacent Alliance development prior to the issuance of occupancy permits for any production units in the Project, or earlier if required by any entitlement for the Property approved prior to the Effective Date.

5.8 Energy Efficient Features. The Developer shall incorporate energy efficient features into the development in accordance with the Project Approvals, which may include the following: 1) LED or similar energy efficient lighting in common areas, including exterior lighting on the front of housing units; 2) solar water heating for the Project recreation building and pool; and 3) energy efficiency for all housing units that is demonstrated to be at least ten (10%) beyond the requirement of the building code requirements.

5.9 Nexus/Reasonable Relationship Challenges. The Developer consents to and waives any rights it may have as of the Effective Date of this Agreement to challenge the legal validity of the conditions, requirements, exactions, policies or programs required by the Existing Land Use Regulations, the Project Approvals (if already issued and finalized prior to the Effective Date), the DIF, or the Processing Fees including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax. Nothing in this Agreement shall be construed as a waiver of the Developer's right to challenge the Project Approvals (to the extent the same have not been issued and finalized prior to the Effective Date), future conditions, requirements, exactions, policies, or programs required by Subsequent Land Use Regulations, Subsequent Development Approvals, Project Approvals, or subsequently adopted DIF or Processing Fees that are different than those in effect as of the Effective Date of this Agreement. The Developer consents to and waives any rights it may now or in the future have to challenge the legal validity of this Agreement or any of its provisions on any grounds whatsoever.

5.10 Cooperation By The Developer. The Developer will, in a timely manner, provide City with all documents, applications, plans, and other information necessary for the City to carry out its obligations under this Agreement, and cause the Developer's planners, engineers, and all other consultants to submit in a timely manner all required materials and documents therefore.

5.11 Other Governmental Permits. The Developer shall apply in a timely manner for such other permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Property as may be required for the development of, or provision of services to, the Project.

5.12 Material Breach. Failure on the part of the Developer to comply with any provision of this Section shall constitute a material breach of this Agreement. However, this provision is intended to reflect a specific intent with regard to provisions that might otherwise be later interpreted not to be material and to clarify that they are material inducements to the City entering into this Development Agreement. It shall not be construed to limit what otherwise would be deemed a material breach of this agreement.

## **SECTION 6: OBLIGATIONS OF CITY**

6.1 Processing. Upon satisfactory completion by the Developer of all required preliminary actions and payments of appropriate processing fees, City shall commence and diligently proceed to complete all required steps necessary for the implementation of this Agreement and the development of the Project by the Developer in accordance with the City's ordinances, policies, procedures, protocol, and applicable state and federal law, including, but not limited to, the following:

6.1.1 The holding of all required public hearings; and

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Ordinance No.  
Date Adopted:

6.1.2 The processing of all Development Approvals and related matters as necessary for the completion of the development of the Project. In this regard, the Developer will, in a timely manner, provide City with all documents, applications, plans, and other information necessary for City to carry out its obligations under this Agreement and as required by existing ordinances, policies, procedures, protocol, and applicable state and federal law and shall cause the Developer's planners, engineers, and all other consultants to submit in a timely manner all required materials and documents as therefore required.

## **SECTION 7: FEES, FEE CREDITS AND REIMBURSEMENT**

7.1 General Principles. The Parties recognize that fees which may be imposed by the City upon the Project fall within two categories: (i) fees for processing applications for City actions or approvals ("Processing Fees"); and (ii) fees or other monetary Exactions which are established or contemplated under City ordinances or resolutions in effect as of the Effective Date of this Agreement and which are intended to defray the costs of public facilities or other amenities related to development projects, including but not limited to parks, streets, libraries, traffic controls and other public facilities ("DIF").

7.2 Processing Fees. The Developer or Assignee Developer shall pay Processing Fees for the Project based upon the fees generally applicable to all development in the City at the time of the application for any City action or approval.

7.3 Development Impact Fees (DIF). Except as specifically set forth in this Agreement, the Developer or Assignee Developer shall pay DIF for the Project based upon the fees applicable in accordance with the City's then current ordinances, resolutions and policies in effect at the time such fees are due, including the application of fee credits and reimbursements, in the same manner as applied to projects in the City not subject to a development agreement. It is understood that the sole benefit conferred by this Agreement regarding DIF are reductions in otherwise payable fees as set forth in this Agreement, and that under no circumstances will any payments of monies be due from the City to any party on account of any DIF credit hereunder.

7.3.1 DIF Reduction. In the first two years after the commencement of the Term of the Agreement, the DIF shall be reduced by 50% from the Current Fees. In the third year after the Effective Date, the DIF shall be reduced by 40% from the Current Fees, and in the fourth year the DIF shall be reduced by 30% from the Current Fees. Any other credits for which the Developer is eligible under current City policy shall remain in-effect, and reductions to these credits due to the mitigation of DIF fees shall be applied per the applicable percentages mentioned above.

7.3.2 Prior to the issuance of the first residential building permit for any phase of the Project, the Developer shall:

7.3.3 Execute and deliver public improvement agreements in form and content reasonably acceptable to the City and the Developer for construction of all such improvements for that phase; and

7.3.4 Furnish bonds, letters of credit and/or other legally enforceable security in form, content, amounts, and with sureties reasonably acceptable to the City and the Developer securing all labor, materials, and the Developer's performance of all obligations for construction of such improvements for that phase; and

7.3.5 All such public improvement agreements and security shall remain in full force and effect until the completion and acceptance of offer of dedication of such improvements to the City.

7.3.6 All such improvements are actually constructed, completed, and accepted for dedication to the City in accordance with the applicable public improvement agreements, the Project Approvals, and this Agreement.

## **SECTION 8: ASSIGNMENT**

8.1 Acknowledgement. The Developer has demonstrated, and the City finds, that the Developer possesses the experience, reputation, and financial resources to develop and maintain the Property in the manner contemplated by this Agreement. It is because of such qualifications, which assure the development of the Property to a high quality standard that the City is entering into this Agreement. Accordingly, restrictions on the right of the Developer to assign the rights and privileges contained in this Agreement are necessary in order to assure the achievement of the objectives of the City and this Agreement.

8.2 No Assignment Without City Consent. Except as otherwise specifically provided for in this Section, the Developer shall not assign any rights, obligations or duties under this Agreement without prior written consent from the City. Such consent shall not be unreasonably withheld by the City and shall be made in accordance with the provisions of this Section.

8.3 Restriction on Assignment. No assignment of any right, duty or obligation under this Agreement shall be made unless it is in conjunction with a sale, hypothecation or other transfer of a legal or equitable interest in the Property, or a portion thereof, including, but not limited to, any foreclosure of a mortgage or deed of trust or of a deed in lieu of foreclosure. However, except as specifically permitted in this Section, any assignment of this Agreement, or any portion of the rights, duties or obligations thereof, by the Developer, voluntary or involuntary, without both the prior written consent of the City and an unconditional assumption of the rights, duties and obligations under this Agreement by the Assignee in form and content reasonably acceptable to the City Attorney, shall constitute a material breach of this Agreement and the Developer shall remain legally liable to the City for all such rights, duties and



obligations. For purposes of this Section, contracting by the Developer or City Approved Assignee Developer for the construction of all or part of the Developer's obligations under Section 5 shall not constitute an assignment and the Developer or City approved Assignee Developer shall remain responsible, and legally liable to the City under this Agreement, for the satisfactory and timely completion of said obligations.

8.4 Restriction on Assignment Not an Unreasonable Restraint on Alienation. The Developer agrees that the restriction on its right to assign any of its rights, obligations or duties under this Agreement is not repugnant or unreasonable in that such a restriction is a material inducement to the City to enter into this Agreement because the restriction guarantees for the City that the Developer will provide those public benefits identified in Section 5 of this Agreement and reserves for the City the power to prevent the assignment of any of the rights, obligations or duties under this Agreement.

8.5 City Council Approval. Upon written request of the Developer for approval of an assignment, the matter shall be referred to the City Council. The City Council, or City Manager or designee on their behalf, may request further documentation from the Developer, and the Developer shall provide such documentation, as the City Council reasonably deems necessary to make its decision. The City agrees, to the extent permissible by law, to maintain the confidentiality of any such documentation if requested by the Developer. The City Council shall have sixty (60) calendar days from the date of receipt of such request to approve or deny the requested assignment. Failure of the City Council to act within that sixty (60) calendar-day period shall automatically be deemed an approval of the request; provided however, that if there remains any obligation of the Developer under Section 5 of this Agreement and/or the Project Approvals that was required to be completed under the terms of this Agreement or the Project Approvals as of the date of the request, but has not been completed as of the date of the request, the request shall be deemed denied.

8.6 Conditions and Standards. The conditions and standards upon which consent to assign will be given are as follows:

8.6.1 Such Assignee possesses the experience, reputation and financial resources to cause the Property to be developed and maintained in the manner consistent with the Project Approvals and this Agreement;

8.6.2 Such Assignee enters into a written assumption agreement, in form and content reasonably acceptable to the City Attorney, expressly assuming and agreeing to be bound by the provisions of this Agreement; and

8.6.3 Such assignment will not impair the ability of City to achieve the objectives of the Project Approvals and this Agreement.

8.7 City Manager Approved Assignee Developers. Notwithstanding any other

provision of this Agreement, the City Manager shall have the authority to, and shall approve an assignment of all or part of the Developer's rights, benefits, covenants or obligations under this Agreement to an Assignee Developer, or its parent(s) if the proposed Assignee Developer is a subsidiary, upon the following terms:

8.7.1 The proposed Assignee Developer has developed to completion at least three (3) similarly sized planned residential communities within the immediately preceding ten (10) year period, at least one (1) of which is located within the Southwestern United States; and

8.7.2 The proposed Assignee Developer has a current group net worth of at least \$200,000,000 (two hundred million dollars); and

8.7.3 The proposed Assignee Developer has not committed a breach of any development agreement to which the proposed Assignee Developer is a party for any project resulting in termination of such development agreement; and

8.7.4 The proposed Assignee Developer is not currently declared by a legislative body to be in default of any active development agreement to which the proposed Assignee Developer is a party; and

8.7.5 The proposed Assignee Developer provides the City Manager with adequate documentation to make the findings in this Section at the time of the request for assignment; and

8.7.6 The City Manager shall thereafter have thirty (30) calendar days to make a determination on the request for assignment. If the City Manager fails to make a determination within said thirty (30) calendar days, then the assignment shall be deemed approved.

8.8 Financing Exemption. Mortgages, deeds of trust, sales and lease-backs, pledges of ownership interests in the Developer, collateral assignments, or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the Property are permitted without the consent of the City. The words "mortgage" and "deed of trust," as used herein, include all other modes of financing real estate acquisition, construction and land development commonly used by reputable land developers.

8.9 Notice of Assignment. Upon receiving approval of an assignment, the Developer shall provide City with written notice of such assignment and as part of such notice the Assignee must execute and deliver to City a written assumption agreement in form and content reasonably acceptable to the City Attorney in which the name and address of the Assignee is set forth and the Assignee expressly and unconditionally assumes all obligations of the assigned provisions of this Agreement.

8.10 Unapproved Assignments. If City reasonably makes the determination not to consent to the assignment of the rights, obligations and duties contained in this Agreement, and the Developer assigns this Agreement to a third party, in whole or in part, the Developer shall remain legally liable and responsible for all of the duties and obligations of this Agreement not previously assigned with City approval, in addition to all other rights and remedies the City may have on account of such breach.

8.11 Approved Assignments. If City consents to the assignment, the Developer shall remain liable and responsible for all of the rights, obligations and duties of this Agreement until City receives from the Assignee an executed written assumption agreement in form and content reasonably acceptable to the City Attorney. Upon receipt of an acceptable executed assumption agreement from the Assignee, the Developer shall be relieved of its rights, obligations and duties under this Agreement to the extent that such rights, obligations and duties have been specifically transferred to and accepted by the Assignee. As to those rights, obligations and duties not specifically accepted in writing by the Assignee, the Developer shall remain legally liable therefore to the City.

8.12 Notice of Sale of Property. The Developer shall give written notice to the City, within ten (10) calendar-days after close of escrow, of any sale or transfer of any portion of the Property that is not a Sale to an End User (as defined in Section 8.13), by specifying the name or names of the Purchaser, the Purchaser's mailing address, the amount and location of the land sold or transferred, and the name and address of a single person or entity to whom any notice relating to this Agreement shall be given.

8.13 Termination of Agreement with respect to Individual Lots or Parcels Sold. The provisions of this Section shall not apply to a sale, or lease for a period longer than one year, of individual parcels or lots which have been individually sold or leased to an ultimate end user in accordance with a recorded final tract map (including the sale to a member of the home-buying public or a transfer of title of any portion of the Property to the Project's Homeowners Association (collectively, "Sale to an End User"). Notwithstanding any other provision of this Agreement, this Agreement shall terminate with respect to any lot or parcel that is subject to a Sale to a End User without the execution or recordation of any further document upon satisfaction of the following conditions:

8.13.1 The lot or parcel has been finally subdivided and individually (not in "bulk") sold or leased for a period longer than one year to an ultimate end user; and

8.13.2 A certificate of occupancy or approval of final building inspection by the Building and Safety Division has been issued for a structure on the lot or parcel.

8.14 Material Breach. Failure on the part of the Developer to comply with any provision of this Section shall constitute a material breach of this Agreement. However, this provision is intended to reflect a specific intent with regard to provisions that might

otherwise be later interpreted not to be material and to clarify that they are material inducements to the City entering into this Development Agreement. It shall not be construed to limit what otherwise would be deemed a material breach of this agreement.

## **SECTION 9: DELAYS IN PERFORMANCE**

9.1 Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, the Developer and City shall be excused for performance of their obligations hereunder during any period of delay actually caused by natural disaster, acts of war, civil unrest, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, or restrictions imposed or mandated by governmental entities. Likewise, any delay caused by court action or proceeding brought by any third party to challenge this Agreement, or any other permit or approval required from City or any other governmental entity for development or construction of all or any portion of the Project, whether or not the Developer is a party to or real party in interest in such action or proceeding, shall constitute a Permitted Delay under this Section.

9.2 Effect of Permitted Delays. If written notice of such delay is given to either Party within thirty (30) days of the commencement of such delay, an extension of time for performance of affected obligations for such cause shall be granted in writing for the period of the enforced delay. However, any such delay shall not be deemed to extend the Term of this Agreement or any extension thereof beyond the expiration date of this Agreement.

## **SECTION 10: DEFAULT**

10.1 Enforcement. Unless amended or canceled as herein provided, this Agreement is enforceable by any Party to it notwithstanding a change in the applicable General or Specific Plan or amendments thereto, zoning, subdivision, building regulations or other Land Use Regulations adopted by the City which otherwise would alter or amend the rules, regulations, or policies governing permitted uses of the Property, density, design, improvement, and construction standards and specifications applicable to the Project Approvals.

10.2 Event of Default. Subject to any extensions of time by mutual consent in writing, and subject to the provisions of the Section regarding Permitted Delays, the failure or unreasonable delay by either Party to perform any material term or provision of this Agreement for a period of thirty (30) calendar days after the dispatch of a written notice of default from the other Party shall constitute a default under this Agreement. If the nature of the alleged default is such that it cannot reasonably be cured within such thirty (30) calendar day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period.

10.3 Material Breach Existing at Time of Assignment or Transfer. Any material breach of the provisions of this Agreement by the Developer existing at the time of a proposed assignment shall be grounds for the City to not to approve such assignment. All obligations under this Agreement shall remain the obligations of the Developer unless and until such assignment is approved by the City according to the provisions of this Agreement, and the Assignee expressly accepts such obligation in form and content reasonably acceptable to the City Attorney.

10.4 Notice of Default. The Party claiming default shall provide written notice to the other Party specifying the Event of Default and the steps the other Party must take to cure the default in accordance with the terms and conditions of this Agreement.

10.5 Cure Period. During the time periods herein specified for cure of an Event of Default, the Party charged therewith shall not be considered to be in default for purposes of termination of this Agreement, institution of legal proceedings with respect thereto, or issuance of any building permit with respect to the Project.

10.6 General Default Remedies. After notice and expiration of the thirty (30) calendar day period without cure, the non-defaulting Party shall have such rights and remedies against the defaulting Party as it may have at law or in equity, including, but not limited to, the right to terminate this Agreement pursuant to Government Code Section 65868 or seek mandamus, specific performance, injunctive or declaratory relief.

10.7 Specific Default Remedies. In the Event of Default by the Developer, in addition to the General Default Remedies, City shall be entitled to retain fees, grants, dedications or improvements to public property which it may have received prior to the Developer's default without recourse.

10.8 Remedies Cumulative. Any rights or remedies available to non-defaulting Party under this Agreement and any other rights or remedies that such Party may have at law or in equity upon a default by the other Party under this Agreement shall be distinct, separate and cumulative rights and remedies available to such non-defaulting Party and none of such rights or remedies, whether or not exercised by the non-defaulting Party, shall be deemed to exclude any other rights or remedies available to the non-defaulting Party. The non-defaulting Party may, in its discretion, exercise any and all of its rights and remedies, at once or in succession, at such time or times as the non-defaulting Party considers appropriate.

10.9 Legal Action. Either Party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy a default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, or enforce by specific performance the obligations and rights of the Parties hereto.

10.10 No Monetary Damages Relief Against City. The parties acknowledge that City would not have entered into this Agreement had it been exposed to monetary damage claims from the Developer for any breach thereof. As such, the parties agree that in no event shall the Developer be entitled to recover monetary damages against City for breach of this Agreement but shall only be entitled to specific performance as determined by the court, and any fees and cost pursuant to Section 10.14 below.

10.11 Developer Default. The City shall have no obligation to issue any grading, building or other development permit nor accept any permit application for any activity on the Property after the Developer is determined by City to be in default of the provisions and conditions of this Agreement, and until such default thereafter is cured by the Developer or is waived by City. Provided that the delegation or transfer of obligations under this Agreement has been approved by the City, the default of the Developer or an approved Assignee of such obligations shall not be a default by the other parties having separate obligations under this Agreement. In such event, the City shall not be entitled to terminate or modify this Agreement with respect to the non-defaulting Party or the portions of the Property owned by the non-defaulting Party. Nothing in this provision shall limit the City's ability to enforce any condition of approval or other obligation of any of the Project Approvals, public improvement agreements, or bonds for the Project or any part thereof, including withholding of permits for any part of the Project for which any such obligations remain unfulfilled regardless of the party holding the obligation.

10.12 Waiver. All waivers must be in writing, signed by the waiving party, to be effective or binding upon the waiving Party, and no waiver shall be implied from any omission by a Party to take any action with respect to such Event of Default. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party shall not constitute waiver of such Party's right to demand strict compliance by such other Party in the future.

10.13 Scope of Waiver. No express written waiver of any Event of Default shall affect any other Event of Default, or cover any other period of time than that specified in such express waiver.

10.14 Attorney's Fees. Should legal action be brought by either Party for breach of this Agreement or to enforce any provision herein, the prevailing party shall be entitled to reasonable attorneys fees (including attorneys' fees for in-house City Attorney services), court costs and such other costs as may be fixed by the court. Reasonable attorneys' fees of the City Attorney's Office or other in-house counsel shall be based on comparable fees of private attorneys practicing in Riverside County.

## **SECTION 11: TERMINATION**

11.1 Effect of Termination. Upon termination of this Agreement, the rights, duties and obligations of the Parties hereunder shall, subject to the following provision, cease as of the date of such termination.

11.2 Termination by City. If City terminates this Agreement because of the Developer's default, then City shall retain any and all benefits, including money or land received by City hereunder.

## **SECTION 12: RELATIONSHIP OF PARTIES**

12.1 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project Site is a separately undertaken private development.

12.2 Independent Contractors. The parties agree that the Project is a private development and that neither party is acting as the agent of the other in any respect hereunder.

12.3 No Joint Venture or Partnership. The City and the Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and the Developer joint ventures or partners.

12.4 No Third Party Beneficiaries. The only Parties to this Agreement are the Developer and the City. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever except for City approved Assignee Developers of all or a portion of this Agreement. However, this Agreement shall be enforceable by the City on behalf of any of its affiliated agencies, including, without limitation, its Community Redevelopment Agency, Community Services District and Community Facilities Districts.

12.5 Ambiguities or Uncertainties. The parties hereto have mutually negotiated the terms and conditions of this Agreement and this has resulted in a product of the joint drafting efforts of both Parties. Neither Party is solely or independently responsible for the preparation or form of this Agreement. Therefore, any ambiguities or uncertainties are not to be construed against or in favor of either Party.

## **SECTION 13: AMENDMENT OF AGREEMENT**

13.1 Amendment or Cancellation of Agreement. This Agreement may be amended or modified in whole or in part only by written consent of all Parties in the manner provided for in Government Code Section 65868.

13.2 Clarification. The Parties acknowledge that refinement and further development of the Project may require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Project Approvals. In the event the Developer finds that a change in the Existing Project Approvals is necessary or appropriate, the Developer shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Project Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

13.2.1 Alter the permitted uses of the Property as a whole; or

13.2.2 Increase the density or intensity of use of Property as a whole; or

13.2.3 Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or

13.2.4 Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

13.3 Implementation Agreement. The foregoing notwithstanding, the Parties acknowledge that implementation of this Agreement will require close cooperation between them, and that, in the course of such implementation, it may be necessary to supplement this Agreement to address details of the Parties' performance and to otherwise effectuate the purposes of this Agreement and the intent of the Parties with respect thereto. If and when, from time to time, the Parties find it necessary or appropriate to clarify the application or implementation of this Agreement without amending any of its material terms, the Parties may do so by means of an implementing agreement which, after execution, shall be attached hereto as an addendum and become a part hereof. Any such implementing agreement may be executed by the City Manager on behalf of the City.

#### **SECTION 14: PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT**

14.1 Annual Review. This Agreement shall be subject to annual review, pursuant to California Government Code Section 65865.1. Within thirty (30) days following each anniversary of the date of recording of this Agreement, the Developer shall submit to the Planning Official of the City written documentation demonstrating



good-faith compliance with the terms of this Agreement (“Annual Report”). Inaction by the City on any such annual review shall not constitute a waiver on the part of the City to take any action or enforce any rights under this Agreement and shall not be a defense to the Developer for failing to perform any of its obligations under this Agreement.

14.2 Contents of Report. The Annual Report and any supporting documents shall describe (i) any permits or other Project Approvals which have been issued or for which application has been made and (ii) any development or construction activity which has commenced or has been completed since the Effective Date hereof or since the preceding annual review. The City shall review all the information contained in such report in determining the Developer’s good faith compliance with this Agreement.

14.3 Procedure. The following procedure shall be followed in conducting an Annual Review:

14.3.1 During either an annual review or a special review, the Developer shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the Developer.

14.3.2 During either an annual review or special review, City shall not be prohibited from raising repeated non-compliance with the Project Approvals or this Agreement as evidence of a pattern of non-compliance.

14.3.3 Upon completion of an annual review, the City Manager shall submit a report to the City Council setting forth the evidence concerning good faith compliance by the Developer with the terms of this Agreement and his or her recommended finding on that issue.

14.3.4 If the City Council finds on the basis of substantial evidence that the Developer has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

14.3.5 If the City Council makes a preliminary finding that the Developer has not complied in good faith with the terms and conditions of this Agreement, the City Council may terminate this Agreement as provided in this Section and Section 11. Notice of default as provided under Section 11 of this Agreement shall be given to the Developer prior to or concurrent with proceedings under this Section and/or Section 11. Should the City fail to issue a notice pursuant to Section 11 of this Agreement within sixty (60) days of the filing of an annual report by the Developer, the Developer may demand in writing a response from City. Should City fail to respond to the Developer’s written demand within fifteen (15) days of such demand, the Developer shall be deemed to be in good faith compliance with the terms of this Agreement.

14.4 Proceedings Upon Termination. If, upon a finding under this Section, City determines to proceed with termination of this Agreement, City shall give written notice to the Developer of its intention so to do. The notice shall be given at least ten (10) calendar days prior to the scheduled hearing and shall contain:

14.4.1 The time and place of the hearing; and

14.4.2 A statement as to whether or not City proposes to terminate the Agreement; and

14.4.3 Such other information as is reasonably necessary to inform the Developer of the nature of the proceeding.

14.5 Hearing on Termination. At the time and place set for the hearing on termination, the Developer shall be given an opportunity to be heard. The Developer shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. If the City Council finds, based upon substantial evidence, that the Developer has not complied in good faith with the terms or conditions of this Agreement, the City Council may terminate this Agreement to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to applicable provisions of the California Code of Civil Procedure.

14.6 Estoppel. If City determines that the Developer is in compliance with the terms and provisions of this Agreement in its annual review of a timely filed Annual Report, City shall not be entitled to revisit any such year as grounds for default under this Agreement. As to any year that the Developer does not timely file an Annual Report, City may request at any time, and the Developer shall provide such Annual Report within thirty (30) calendar days of such request. However, as to any year that the Developer fails to file a timely Annual Report, City shall not be estopped from asserting any events of non-compliance for any such year as grounds for default under this Agreement.

14.7 Waiver. The City does not waive any claim of defect in performance by the Developer if, at the time of an annual review, the City does not propose immediately to exercise its remedies hereunder.

## **SECTION 15: NOTICE**

15.1 Form of Notice. All notices between the City and either the Developer or any Assignee, given pursuant to the provisions of this Agreement, shall be in writing and shall be given by personal delivery or certified mail. Notice by personal delivery shall be deemed effective upon the delivery of such notice to the Party for whom it is intended at the address set forth below (or, in the case of an Assignee, at the address specified by such Assignee in a written notice to the City). Notice by mail shall be deemed effective

two (2) business days after depositing such notice, addressed as set forth below, properly sealed, postage prepaid, certified, return receipt requested, with the United States Postal Service, regardless of when the notice is actually received. The addresses to be used for purposes of Notice shall be:

To City: City of Moreno Valley  
Attn: City Manager & Community Development Director  
14177 Frederick Street  
P.O. Box 88005  
Moreno Valley, CA 92552  
Facsimile: (951) 413-3210 and (951) 413-3469

With a copy to: City Attorney  
City of Moreno Valley  
14177 Frederick Street  
P.O. Box 88005  
Moreno Valley, CA 92552  
Facsimile: (951) 413-3034

To Developer: Beazer Homes Holdings Corp.  
1800 E. Imperial Highway, Suite 200  
Brea, CA 92821  
Facsimile: (866) 823-7480  
Attn: Bryan Bergeron

15.2 Change of Address. Any Party (and any Assignee) may change the address to which notices are to be sent (and/or the person to whose attention notices are to be directed) at any time by giving written notice of such change in the manner provided above.

## **SECTION 16: INDEMNITY**

16.1 Indemnity. The Developer shall indemnify, defend and hold City, its officers, agents, affiliated agencies and employees and independent contractors (the "City Parties") free and harmless from any claims or liability based or asserted upon any act or omission of the Developer, its officers, agents, employees, subcontractors and independent contractors for property damage, bodily injury, or death (the Developer's employees included) or any other damage of any kind or nature, relating to or in any way connected with or arising from the activities of Developer in building the Development as contemplated in this Agreement. The Developer shall defend, at its expense, including payment of reasonable attorneys' fees, the City Parties in any legal action based upon such alleged acts or omissions, except to the extent such claims are the result of the gross negligence or willful misconduct by any of the City Parties. City may, in its discretion, participate in the defense of any such legal action, and may

choose its own legal counsel, the costs of which shall be subject to this indemnification by the Developer.

16.2 Defense of Agreement & Project Approvals. The Developer shall defend, indemnify and hold the City, its officers, agents, affiliated agencies and employees harmless from any claims or liability based upon or arising from the approval, adoption and/or implementation of this Agreement, the Project Approvals, and/or any other approval, permit or other action undertaken by the City in approving or carrying out any part of the Project, including without limitation, actions based on the California Environmental Quality Act or other state statute or any provision of the California or United States Constitution.

16.3 Environmental Indemnity. The Developer shall defend, indemnify and hold the City Parties free and harmless from any claims or liability based upon or arising from the presence of any Hazardous Substance on any of the Property located in the Project, except to the extent such claims or liability are the result of acts or omissions by the City Parties. As used herein, “Hazardous Substance” shall mean any “hazardous substances,” “toxic substance,” “hazardous waste,” or “hazardous material” as defined in one or more Environmental Laws, whether now in existence or hereinafter enacted; provided, however, that “Hazardous Substance” shall (i) include petroleum and petroleum products (other than naturally occurring crude oil and gas) and (ii) include radioactive substances which are not naturally occurring, and (iii) include any friable or non-friable asbestos or asbestos-containing material contained in or affixed to a structure existing on the Property or otherwise located in, on or about the Property as of the date of this Agreement. As used herein, “Environmental Laws” shall mean any and all federal, state, municipal and local laws, statutes, ordinances, rules, and regulations which are in effect as of the date of this Agreement, or any and all federal, or state laws, statutes, rules and regulations which may hereafter be enacted and which apply to the Property or any part thereof, pertaining to the use, generation, storage, disposal, release, treatment or removal of any Hazardous Substances, including without limitation, the Comprehensive Environmental Response Compensation Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., (“RCRA”), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and California Health and Safety Code Section 25100, et seq. Notwithstanding anything herein to the contrary, the Developer shall have no obligation to indemnify the City as herein provided with respect to any Hazardous Substances which are proven by the Developer to have been first brought onto the Property subsequent to sale by the Developer of the Property, or the affected portions thereof.

## **SECTION 17: MORTGAGEE PROTECTIONS**

17.1 Right to Encumber. The Parties agree that nothing in this Agreement shall prevent or limit the Developer or Assignee Developer, in its sole discretion, from encumbering the Property, or any portion thereof, including without limitation any private improvements thereon, by any mortgage or other security device to a Mortgagee as

defined in Section 1.20 of this Agreement. The City acknowledges that the Mortgagee providing such financing may request certain modifications to this Agreement and the City agrees, upon request from time to time, to meet with the Developer, Assignee Developer, and/or such representatives of a Mortgagee to negotiate in good faith regarding such request for modification.

17.2 Mortgage Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, including the lien of any mortgagee. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgagee made in good faith and for value and any acquisition or acceptance of title or any right or interest in or with respect to the Property, or any portion thereof, by a Mortgagee shall be subject to all of the terms and conditions contained in this Agreement.

17.3 Mortgagee Not Obligated. No Mortgagee of the Developer or Assignee Developer shall in any way be obligated by any provisions of this Agreement, nor shall any covenant or any other provision of this Agreement be construed or interpreted to obligate such Mortgagee. However, any provision or covenant of this Agreement to be performed by the Developer or Assignee Developer as a condition precedent to the performance of a provision or covenant of this Agreement by the City shall continue to be a condition precedent to City's performance under this Agreement.

17.4 Notice of Default to Mortgagee. If City receives written notice from a Mortgagee of the Developer or Assignee Developer requesting a copy of any notice of default given to the Developer or Assignee Developer under this Agreement and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to the Developer or Assignee Developer, any notice given to the Developer or Assignee Developer with respect to any claim by City that the Developer or Assignee Developer has not complied in good faith with the terms of this Agreement or has committed an event of default. City shall only be obligated to serve such notice on any Mortgagee actually giving notice as provided for herein, and only at the address actually given by the Mortgagee in said notice. Mortgagees shall be required to provide City with a notice of change of address in the same manner as the original request for service of notice.

17.5 Mortgagee Rights and Obligations. Notwithstanding any default by the Developer or Assignee Developer, this Agreement shall not be terminated and any Mortgagee to whom notice has been given may assume all of the rights, benefits and obligations of the Developer or Assignee Developer in this Agreement as to the Property, or portion thereof, upon which the Mortgagee has a security interest if:

17.5.1 The Mortgagee notifies the City in writing within sixty (60) calendar days of the date the City gives notice of default to the Mortgagee of its intent to cure the default;

17.5.2 The Mortgagee thereafter commences to effectuate a cure of the default relative to the proportionate share of the Developer's or Assignee Developer's

obligation this Agreement allocable to that part of the Property in which the Mortgagee has an interest and diligently pursues completion of the cure within sixty (60) calendar days if the Mortgagee elects to cure without acquiring and obtaining possession of the Property, or any portion thereof; and

17.5.3 If the cure requires the Mortgagee to obtain title or possession of the Property, or any portion thereof, the Mortgagee shall:

17.5.3.1 Notify the City in writing within sixty (60) calendar days of the date the City gives notice of default to the Mortgagee of its intent to cure the default relative to the proportionate share of the Developer's or Assignee Developer's obligation under this Agreement allocable to that part of the Property in which the Mortgagee has an interest;

17.5.3.2 Commence foreclosure proceedings within sixty (60) calendar days of the date of the Mortgagee's written notice to City of intent to cure;

17.5.3.3 Diligently pursue foreclosure proceedings to conclusion and obtain title and/or possession of the Property, or portion thereof, on which the cure is to be effectuated; and

17.5.3.4 Diligently pursue to effectuate and complete a cure in a timely manner.

17.5.4 Subject to the foregoing and there being no notice of default given by the City, any Mortgagee of the Developer or Assignee Developer who records a notice of default as to its mortgage or other security instrument, City shall consent to the assignment of all of the Developer's or Assignee Developer's rights, benefits, covenants and obligations under this Agreement to said Mortgagee. As to any purchaser of the Property, or any portion thereof, at a foreclosure or trustee sale, and there being no default of the Developer or Assignee Developer under this Agreement, City shall consent to the assignment of all of the Developer's or Assignee Developer's rights, benefits, covenants and obligations under this Agreement to said purchaser. If there is any event of default of this Agreement as to the Property, or portion thereof, acquired by the purchaser at a foreclosure or trustee sale, the purchaser shall be required to cure the event of default according to the provisions of this Section prior to the City consenting to such assignment. The Developer shall remain liable, however, for any obligations under the Amended Agreement unless the Developer is released by City or the applicable portion of the Property is transferred with the consent of the City in accordance with Section 8 of this Agreement, provided that such Mortgagee or other purchaser assumes the Developer's obligations under this Agreement.

17.5.5 If the Mortgagee or foreclosure-sale purchaser complies with the provisions of this Section, the City shall approve an Assignment of this Agreement to the Mortgagee or foreclosure-sale purchaser as it affects the Property, or portion thereof, upon which the Mortgagee or foreclosure-sale purchaser has obtained title and/or possession if the Mortgagee so requests.

17.5.6 Notwithstanding the foregoing, as to the Property or portion thereof to which the Mortgagee has acquired title, if the Mortgagee elects to develop the Property, or any portion thereof, in accordance with the Project Approvals, the Mortgagee shall be required to assume and perform the obligations and other affirmative covenants of the Developer or Assignee Developer under this Agreement.

17.6 Developer Remains Liable. Unless expressly released by the City in writing, the Developer or Assignee Developer shall remain legally and contractually liable to the City for all of the Developer's or Assignee Developer's, respectively, covenants and obligations under this Agreement as to the Property, or portion thereof, that is acquired by a Mortgagee or subsequent approved purchaser at a foreclosure or trustee sale. Upon an approved Assignment of this Agreement to a Mortgagee or subsequent purchaser at a foreclosure or trustee sale, City shall release in writing the Developer or Assignee Developer from its covenants and obligations under this Agreement that are expressly assigned to or assumed by the Mortgagee or subsequent approved purchaser at a foreclosure or trustee sale as to the Property, or portion thereof, that is acquired.

17.7 Bankruptcy. Notwithstanding the foregoing provisions of this Section 18, if any Mortgagee of the Developer or Assignee Developer is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving the Developer or Assignee Developer, the times specified in Section 18.5 for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such Mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than one (1) year.

17.8 No Automatic Assignment to Mortgagee. Notwithstanding the foregoing provisions of this Section 18, no Mortgagee of the Developer or Assignee Developer shall become a party to this Agreement, or obtain any rights, privileges or obligations of this Agreement, except as provided for in this Section 18.

17.9 Assignment to Mortgagee. A Mortgagee or foreclosure-sale purchaser of the Developer or Assignee Developer who complies with the requirements of Section 17.5 shall be approved as an assignee of all the rights, benefits and obligations of this Agreement as it pertains to the Property, or portion thereof, that the Mortgagee or foreclosure-sale purchaser acquires.

17.10 Amendment. There shall be no amendment to or modification of this Agreement except as provided for in Section 13 of this Agreement governing amendments.

**SECTION 18: INTERPRETATION AND ENFORCEMENT OF AGREEMENT**

18.1 Complete Agreement. This Agreement represents the complete understanding between the Parties, and supersedes all prior agreements, discussions and negotiations relating to the subject matter hereof. No amendment, modification or cancellation of this Agreement shall be valid unless in writing and executed by the Parties.

18.2 Severability. If any terms, provisions, covenants or conditions of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provisions for development of the Property as set forth in this Agreement, including without limitation the payment of the fees and provision of improvements set forth therein, are essential elements of this Agreement and City and the Developer would not have entered into this Agreement but for such provisions and if determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

18.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed by interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

18.4 Applicable Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of California and any applicable laws of the United States of America.

18.5 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

18.6 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

18.7 Authority of Signatories. All the Parties represent and warrant that the persons signing this Agreement on their behalves have full authority to bind the respective Parties.



18.8 Waiver and Delays. Failure by either Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or failure by either Party to exercise its rights upon a default by the other Party, shall not constitute a waiver of any right to demand strict performance by such other Party in the future.

18.9 Third Party Actions. Nonperformance by either Party shall not be excused because of a failure of a third person, except as specifically provided herein.

18.10 Estoppel Certificates. Any Party may, at any time and from time to time, deliver written notice to another Party requesting certification in writing that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; (ii) this Agreement has not been amended, or, if so amended, identifying the amendments; and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or, if in default, describing the nature and extent of any such default. A Party receiving a request hereunder shall execute and return a certificate within thirty (30) days following the receipt thereof. The City Manager of the City shall have the authority to execute any such certificate requested by the Developer in form reasonably acceptable to the City Manager. The City acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees.

18.11 Exhibits. All exhibits referred to in, and attached to, this Agreement are incorporated herein by such reference.

18.12 Adoption of Agreement. Adoption of this Agreement by the City shall be by ordinance.

18.13 Recording of Agreement. Within ten (10) days following the adoption by the City of the ordinance approving this Agreement, or any subsequent amendment hereof, the City Clerk shall submit for recordation a fully executed copy hereof with the County Recorder of Riverside County, State of California.

18.14 Further Assurances. The Parties each agree to do such other and further acts and things, and to execute and deliver such instruments and documents (not creating any obligations additional to those otherwise imposed by the Agreement) as either may reasonably request from time to time in furtherance of the purposes of this Agreement.

**[BALANCE OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES APPEAR ON FOLLOWING PAGE.]**

IN WITNESS WHEREOF, the Parties have executed this Agreement, to be effective as of the date set forth in the first paragraph hereof.

“DEVELOPER”

“CITY”

Beazer Homes Holdings Corp.,  
a Delaware corporation

CITY OF MORENO VALLEY,  
a municipal corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_, Mayor

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney

**EXHIBIT "A"**  
**PROPERTY LEGAL DESCRIPTION**

**EXHIBIT "B"**

**CURRENT FEES**

**Schedule Effective September 23, 2009**

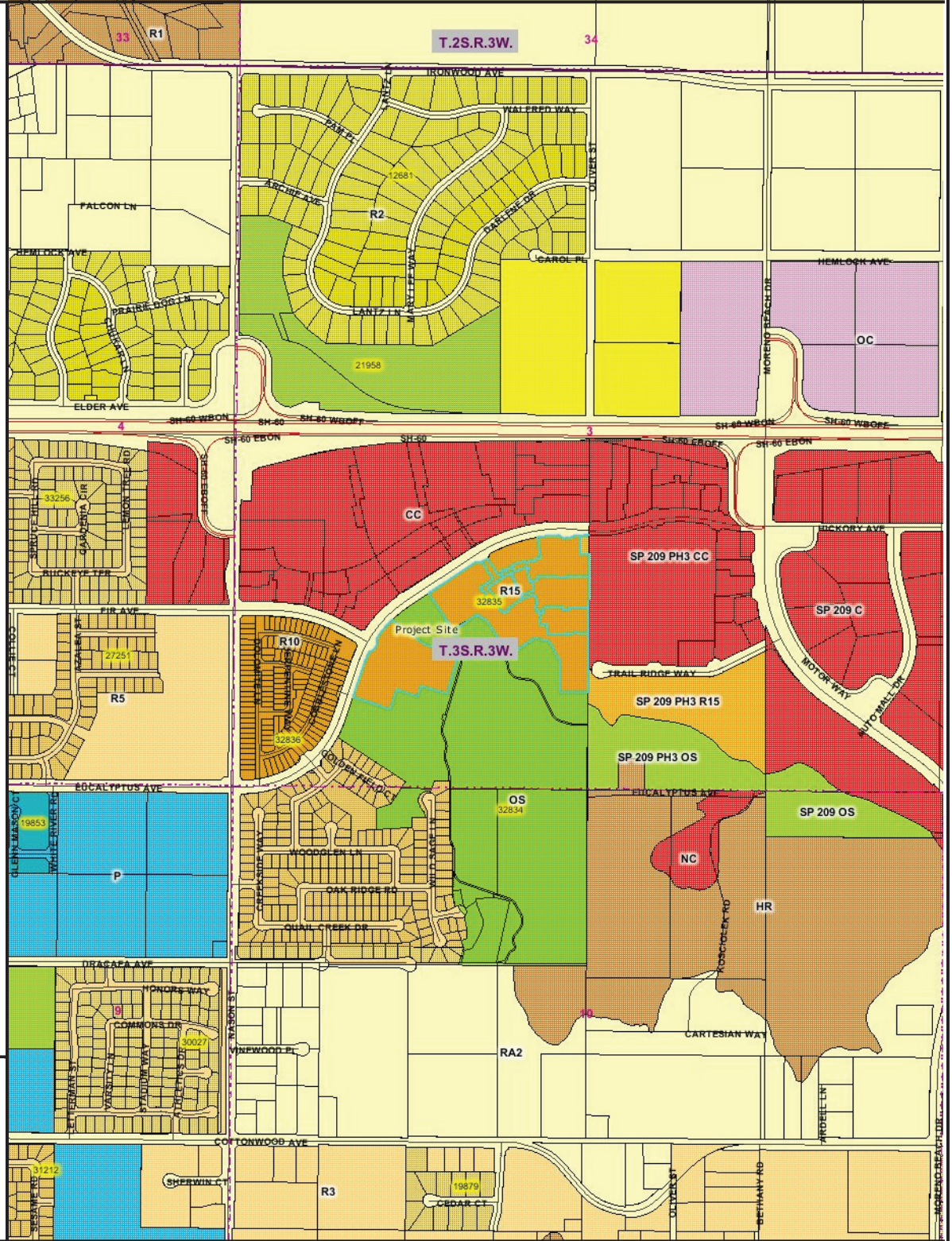
**[attached]**

# Zoning Map

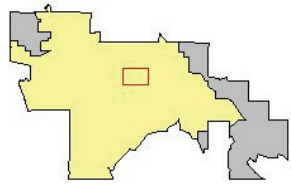
PA10-0038, 0039, 0029

## Legend

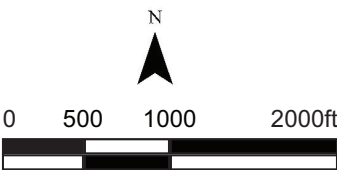
-  Selected Features
-  Highways
-  Townships
-  Sections
-  Parcels
-  Roads
-  Tracts
- Zoning**
-  Commercial
-  Industrial/Business Park
-  Large Lot Residential
-  Multi-family
-  Office
-  Open Space/Park
-  Planned Development
-  Public Facilities
-  Residential 2 Dwellings/Acre
-  Residential Agriculture 2 Dwellings/Acre
-  Suburban Residential
-  Sphere of Influence
-  Waterbodies
- City Boundaries**
-  Calimesa
-  Moreno Valley
-  Perris
-  Riverside



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## ATTACHMENT 3



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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.*

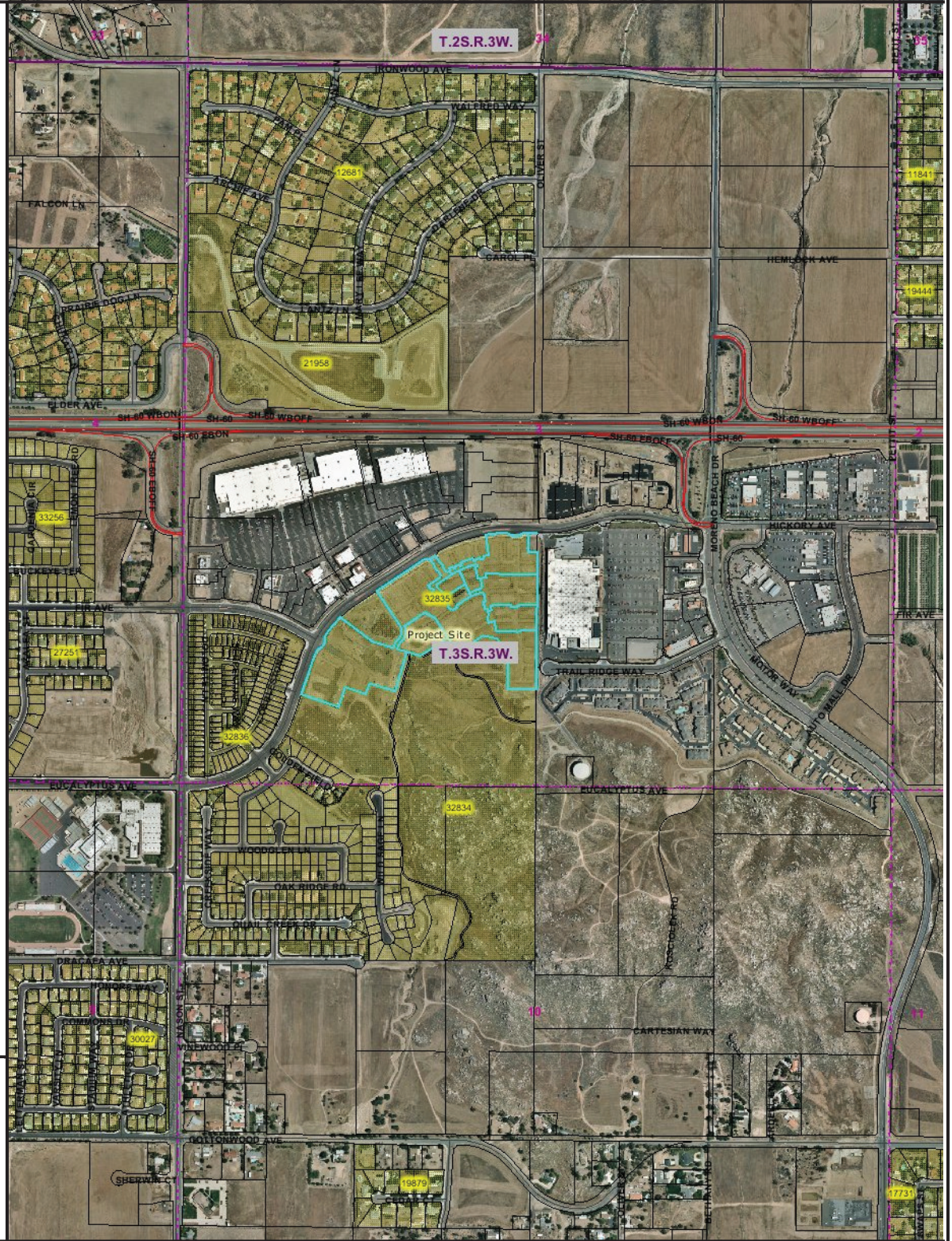
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# Aerial Map

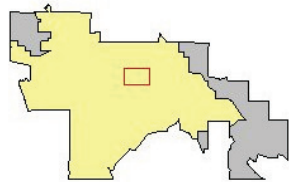
PA10-0038, 0039, 0029

## Legend

-  Selected Features
-  Highways
-  Townships
-  Sections
-  Parcels
-  Roads
-  Tracts
-  Sphere of Influence
-  Waterbodies
-  City Boundaries
-  Calimesa
-  Moreno Valley
-  Perris
-  Riverside



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## ATTACHMENT 4

N



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**Item No. E.1**

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.*

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## PLANNING COMMISSION STAFF REPORT

Case: PA10-0038 (Tentative Tract Map No. 36340), PA10-0039 (Conditional Use Permit) and PA10-0029 (Development Agreement).

Date: February 24, 2011

Applicant: Beazer Homes

Representative: MDS Consulting

Location: Southeast corner of Fir Avenue and Eucalyptus Avenue.

Proposal: A Tentative Tract Map No. 36340 (PA10-0038) and Conditional Use Permit (PA10-0039) for a 275 small lot single-family residential detached Planned Unit Development (PUD) to include a community recreation building, private open space, drainage and various community open space lots on a 29.27 acre portion of land in the R15 (Residential 15) and OS (Open Space) land use districts. A development agreement (PA10-0029) is included with the project.

Redevelopment Area: Yes

Recommendation: Approval

### SUMMARY

The applicant, Beazer Homes is requesting the approval of Tentative Tract Map No. 36340 for a 275 lot single-family residential detached subdivision on 29 acre site to include a community recreation facility with pool. The applicant is also requesting a Conditional Use Permit (CUP) for the approval of a Planned Unit Development (PUD) to include small residential lots with common open space lots for recreational opportunities within the R15 (Residential 15) land use district and the protection of existing rock outcroppings, private open space and a drainage basin within the OS (Open Space) land use district. The project will include a proposed development agreement and is consistent with surrounding land use density requirements.

## **BACKGROUND**

A map (Tentative Tract Map No 32825) was originally approved at the same location under PA04-0146 in 2005, with a final condominium map recorded in 2006. This included approval of 276 condominium units and various open space, recreation and drainage lots on virtually the same amount of acreage. The site was graded and the construction of a condominium model home complex was commenced. Said model was demolished by Beazer in 2010. The applicant is requesting to revise the 276 unit condominium project approved in 2005 with a 275 unit single-family detached small lot community.

## **PROJECT DESCRIPTION**

### **Project**

The project consists of three discretionary components. The first component includes a tentative tract map (PA10-0038) with small lot single-family residential subdivision of approximately 29 acres of land. The second component is a proposed Conditional Use Permit or Planned Unit Development (PA09-0039) that provides standards for the small lot single family subdivision and also protects natural rock outcroppings and provides common open space and private/common recreational opportunities. The third component is a Development Agreement providing reductions in certain development impact fees in exchange for construction of the project in accordance with the current proposal.

The following summarizes the three (3) discretionary components for the project:

### **Tentative Tract Map**

Tentative Tract Map No. 36340 is the mechanism to legally subdivide the project site into individual lots. The 29 acre site is broken up into two land use districts, Open Space (OS) and Residential-15 (R15). The following further summarizes the project from a zoning and land use perspective:

#### **A. Open Space (OS)**

Approximately four (4) acres of the site lies in the OS land use district, located primarily within the center of the tract. The OS land use district is limited to environmentally sensitive land uses and does not permit any housing development. A small rock outcropping is embedded between the two residential portions of the tract, and will remain intact as private open space labeled as "Nature Park" on the map. An existing multi-use trail and drainage basin with a point of access is located within the southern portion of the OS zone. In all cases, the proposed residential development portion of the tract map will occur at the base of the hill and would not encroach into the OS land use district or affect the steepest areas included on the map.

#### **B. Residential 15 (R15)**

Approximately 25 acres of the site lies within the R15 land use district. The site will consist of individual lots with detached single-family homes, common open space and private access roads. The non open space includes a recreation

building and pool area. A total of 275 developable lots are proposed in this portion of the plan. The 275 lots/units include a density of approximately eleven (11) units per acre within the R15 land use district portion of the development.

The minimum lot size under the R15 land use district for multiple-family residential development is one acre. There are no specific minimum lot sizes imposed for single-family residential uses, which are allowed in multiple-family districts. Although individual lots within the tract will be small and range from 1,846 square feet to 3,181 square feet, the extension of open space surrounding the lots will provide additional space for recreational purposes and act as an extension of open space areas included on individual lots. Flexibility in lot size and design is allowed through a planned unit development as long as the density does not exceed the maximum for the district (fifteen units per acre in this case).

### **Planned Unit Development**

To pursue the varied single-family residential design of the proposed small lot development, the applicant is proposing a conditional use permit (CUP) for a Planned Unit Development (PUD). The PUD section of the Municipal Code (Section 9.03.060) requires specific goals or design accomplishments of the project, while the proposed development adheres to the following finding:

- **Greater innovation in housing development and diversity of housing choices than would otherwise be possible according to the strict application of the site development regulations contained in this title.**

In the case of PA10-0038 (Tentative Tract Map 36340) and PA10-0039 (Conditional Use Permit), the proposed project meets the criteria established above, as it will include a mix of home sites, which includes a small single-family row concept at the density and with the amenities of a multiple family development. The concept will include two story homes between 1,377 to 1981 square feet, while adding many recreational opportunities as well as protecting the highest hillside/rock outcropping areas and other natural resources in the general vicinity. The dense residential development project will allow for a walkable community and pedestrian access to existing regional shopping centers to the east and north of the subject site. Pedestrian access will be provided at all three (3) driveways to Eucalyptus Avenue and will allow residents to enjoy surrounding retail amenities while at the same time limiting some automobile trips and vehicle miles traveled. The applicant is providing on-site recreation facilities such as private/common open space, a community center, a pool and tot lots. The proposed project will offer residential opportunities of owning a home on a small lot for the first time home buyer and/or senior.

The following are certain allowances for those developments approved under a planned unit development concept, or Section 9.03.060 of the Municipal Code, and a synopsis of how the proposed development concurs within the established language:

- **Permitted Uses and Density.** Only those uses permitted within the applicable zoning district shall be allowed within any planned unit development. The average density of any planned unit development shall not exceed the number of dwelling units per acre allowed under the applicable zoning district regulations.

First of all, the project will include detached single-family residential homes, a permitted use in an R15 land use district. Secondly, the proposed project will meet housing needs provided within the City's Housing Element of the General Plan by expanding the range of housing options in the community. Moreover, the project design and proposed density at 11 units per acre will not exceed the number of dwelling units per acre allowed under the R15 land use district. Due to the project including over 4 acres within the Open Space (OS) land use district, the protection of a natural rock outcropping and addition of a required drainage area, and with the addition of common open space areas designated for play grounds, recreation and a pool site, the applicant was unable to meet the minimum 12 units per acre of density currently required by the Municipal Code for the R15 land use district. Since the density remains consistent from what was approved with the original residential project in 2005, staff recommends approving the proposed eleven (11) units per acre density for land within the R15 land use district. No significant loss of density would be created by approval of the current proposal.

- **Deviations from Site Development Standards.** Planned unit developments may deviate from the site development standards set forth in the applicable zoning district regarding lot area, lot dimensions, lot coverage, setbacks and building height. Any such deviation(s) shall be to the minimum degree necessary to achieve one or more of the purposes listed in the section.

Deviations from the Municipal Code with the proposed project include lot area, lot dimensions, maximum floor area ratio, lot coverage and all setbacks. A Development Standards chart highlighting revised development standards/deviations has been included under the Planned Unit Development/ Conditional Use Permit (Attachment No. 3). Staff believes that proposed deviations for the project site are justified since the tract does not exceed the maximum density standards allowed under the underlying land use districts, provides community recreation opportunities and meets criteria established under Section 9.03.060 (Planned Unit Developments) of the Municipal Code.

### **Other Design Considerations**

The design guideline of providing a minimum of five (5) feet of variation of residential units from their front and side yard setbacks along streetscapes would not be met for most units contained within the proposed small lot residential tract. In addition, street trees would not be able to be placed in all internal planter areas adjacent to the streetscape due to the size of the lot and limited front yard area. In order to break up the massing or housing product along streetscapes, corner housing units provide enhanced elevation details and embellishments. In addition, a variation of landscape materials, including larger shrub materials, will compensate for the lack of street trees along the streets and allow continual break-up of the project massing. In addition, units will be clustered in strategic locations such as on corner lots, adjacent to

guest parking stalls and within visual common areas to further break up product massing and provide an attractive environment.

Site line distance along Eucalyptus Avenue has been determined to be based on a 50 miles per hour design, as specified by the City Traffic Engineer. Although the condition included by the Transportation Engineering Division to review street site line distance was required to be completed prior to map recordation, the site line study was conducted by the applicant prior to entitlement. In most instances, trees and some walls may need to be modified, however Lots 120 and 129 would also most likely be affected with lots required to be adjusted to the south or possibly eliminated to provide appropriate distance from the sight line. A condition of approval has been added to address any modifications prior to the final map.

As part of the conditional use permit application for a PUD, the applicant has provided conceptual elevation design plans of the single-family homes and recreation building proposed for the tract. Based on the number of lots and homes being proposed, a minimum of eleven (11) footprints and four (4) elevations is required per the Municipal Code Design Guidelines. Overall, the project meets or exceeds the minimum requirements for footprints and elevations. The Planning Commission has the opportunity to conceptually review and approve the proposed architectural renderings for the tract. Color elevations of the model homes are included within Exhibit 4 of this report and will be available at the Planning Commission meeting in larger context. If approved, the applicant will also be required to submit an administrative model home complex application that will include final architectural model plans.

### **Development Agreement**

The applicant has proposed a development agreement (PA10-0029) with the small lot residential project. The term of this agreement shall commence twelve (12) months from the effective date of the final ordinance approving the development agreement or the date of the issuance of the first building permit, whichever occurs first, and shall extend for a period of four (4) years thereafter unless said agreement is earlier terminated or amended.

As part of the proposed development agreement, the Developer agrees to build all required improvements in accordance with project approvals, including, but not limited to recreational facilities to include a recreation building, pool, play areas, seating areas, trails, and greenbelts. The Developer will also construct a high quality entry statement reasonably acceptable to City, perimeter walls and landscaping, all remaining public street improvements, including the ultimate design traffic signal at Fir and Eucalyptus Avenues, and all regional trail system improvements. In addition, the developer will incorporate energy efficient features into the development which may include LED or similar energy efficient lighting in common areas, including exterior lighting on the front of housing units; solar water heating for the recreation building and pool; as well as providing energy efficiency for all housing units which will be at least ten (10%) beyond the requirement of the current building code requirements.

With the proposed development agreement, the Developer will get a reduction in Development Impact Fees (DIF). In the first two years after the commencement of the term of the agreement, the DIF shall be reduced by 50% from the Current Fee **Item No. E.1**

third year after the effective date, the DIF shall be reduced by 40% from the current fees, while in the fourth year the DIF shall be reduced by 30% from the current fees. The applicant has identified the DIF reductions as necessary for the financial feasibility of proceeding with the project at this time. The applicant has previously provided substantial public improvements in the vicinity of the project including improvements necessary to facilitate the development of the adjacent Stoneridge Towne Centre. Development of the project at this time will support the continued vitality and growth of that shopping center as well as the also adjacent Moreno Beach Plaza.

### **Site/Surrounding Area**

The site consists of vacant parcels that were previously graded. Model homes for the previous condominium project were constructed on site, and have since been demolished due to the change in residential product.

In addition, the site was previously graded but did contain some weedy vegetation upon inspection. A rock outcropping and hilly terrain was included within the OS land use portions of the tract. Based on a staff site inspection of the site, there was no concentrated vegetation evident and no natural drainage area bisecting the site.

Many opportunities for recreation will be included within the tract and on the periphery of the development. Various lettered lots within the proposed tract will include common open space areas that are proposed to contain open turf play areas, tot lots, shade structures and picnic/BBQ areas. Improvements and easements for a multi-use trail will be included along the southern portion of the tract. In addition, a community center with pool is proposed for the interior of the tract.

Surrounded land uses include primarily residential and commercial development. Specifically, land uses include vacant land and single-family residential uses to the west, open space land immediately to the south with an apartment complex to the southeast, and regional commercial shopping centers to the north and east.

### **Access/Parking**

Three (3) points of access have been provided for the tract from Eucalyptus Avenue. All proposed interior streets, drive aisles and courtyard areas would be gated off from general outside public access and will be maintained by a homeowners association. Pedestrian access will also be provided by gates to Eucalyptus Avenue.

Parking requirements for the project includes 2.5 spaces per unit or lot. The housing product will contain required minimum enclosed 20x20 two (2) car garages. A condition of approval has been added to require an adjustment of all 20x20 dimensioned garages to exclude any appurtenant structures such as water heaters and washer/dryers. Although street parking will be prohibited on internal roadways, an additional 138 guest parking stalls will be scattered throughout the site, providing the remaining 0.5 space per unit parking requirement.

### **Design/Landscaping**

As development in the tract will only occur within the R15 portion, the site meets

Developments) of the Municipal Code. For example, all walls and fences are conditioned to be consistent with the provisions for community walls and fences within the Municipal Code. The plans include a mixture of six (6) foot high solid decorative block wall with pilasters and a cap and open decorative wrought iron/tubular steel fence with pilasters along exterior and interior street frontages. A decorative wall with a cap and pilasters would be required to be extended along the eastern perimeter adjacent to the regional shopping center. Open fencing would be established for most areas adjacent to designated common open space areas. Internal fencing between units will include a poly-vinyl fencing material.

A minimum 10-foot wide on-site landscape area in addition to the right of way landscape is required to be installed along Eucalyptus Avenue. All frontage landscape and common open space landscape in the tract will be maintained by a homeowners association.

Conceptual designs of the proposed housing product are included as part of the project. A condition of approval has been included that requests administrative review of the recreation building elevations if not provided for review as part of the Planning Commission public hearing.

A water quality basin, for water quality and flood control was originally established within the OS district and is currently constructed. Landscape, including trees, shrubs and groundcover, as well as irrigation shall be installed and maintained by the HOA for all sides and or slopes of the basins and bio-ponds. A hydroseed mix with an irrigation system is acceptable for the bottom of all bio-ponds. A decorative wrought iron or tubular steel fence, or other fence/wall approved by the Community & Economic Development Director, is required at the top of basin/pond slopes to provide full security.

## **REVIEW PROCESS**

The proposed project has undergone some design changes since the submittal of the initial application on to the Planning Division on October 27, 2010. The Project Review Staff Committee (PRSC) first reviewed the project application on November 16, 2010 within a staff only meeting and December 1, 2010 with the applicant present. After various redesigns, corrections were provided by the applicant. The revised map, along with the submittal of the required PUD, constituted an addition meeting with PRSC staff on January 19, 2011. Various comments throughout the review process included enhancements to product type and product embellishments, review of deviations provided by the project under the PUD standards and placement of required street trees. The applicant has since addressed the initial concerns identified by the reviewing departments, or certain items have been provided through project conditions of approval.

## **ENVIRONMENTAL**

A tentative tract map (PA04-0146 – Tentative Tract Map No. 32835) was originally approved for a 276 unit condominium complex and various open space components on April 4, 2005, while the site was previously graded. At that time, a Negative Declaration was adopted pursuant to California Environmental Quality Act guidelines.

Historically, the project site was part of the Stoneridge Specific Plan (SP No. 211). The plan included 236 acres located south of Highway 60 in the central portion of Moreno Valley and included a mixture of commercial, office and medical-related land uses. On November 16, 2004, SP 211 and the associated environmental document were repealed. Projects including a 205 unit single-family residential Planned Unit Development (PUD) and a 139 unit small lot single-family residential Planned Unit Development were then developed to the west of the subject site. In addition the Stoneridge Towne Centre and Moreno Beach Plaza retail centers were developed to the east and north of the subject site.

The original project included 276 residential condominium units housed in multi-story buildings within the R15 portion of the 29 acre site. The proposed project (PA10-0038/39 – Tentative Tract Map No. 36340) includes approximately 275 single-family residential lots on the same amount of acreage disturbed. Grading previously occurred shortly after project entitlements were approved in 2005. Approval of a drainage basin and private open space will remain with this project in the OS land use district portion. Based on the comparisons of the two projects, the proposed project is not considered more intensive than the original project approved in 2005.

Pursuant to Section 15164 of CEQA, an addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15161 calling for the preparation of a subsequent EIR or negative declaration have occurred. No substantial changes have occurred from the original project which would require major revisions of the environmental document or prior negative declaration, and no new significant environmental effects have been identified with the proposed 275 unit single-family residential project on roughly 29 gross acres of land.

### **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 Press Enterprise newspaper on February 11, 2011 (Attachment No.1).

### **REVIEW AGENCY COMMENTS**

Staff received the following responses to the Project Review Staff Committee transmittal; which was sent to all potentially affected reviewing agencies.

<b><u>Agency</u></b>	<b><u>Response Date</u></b>	<b><u>Comments</u></b>
1. The Gas Company	December 28, 2010	No Comments
2. Riverside County Flood Control and Water Conservation	November 30, 2010	The project would require applicable fees to be paid. The District would consider accepting ownership of any proposed channels, storm drains etc.



**STAFF RECOMMENDATION**

That the Planning Commission:

**APPROVE** Resolution Nos. 2011-05, 2011-06 and 2011-07 and thereby:

1. **ADOPT** an Addendum to a Negative Declaration: and,
2. **APPROVE** PA10-0038 (Tentative Tract Map No. 36340) and PA10-0039 (Conditional Use Permit/Planned Unit Development) for a 275 lot single-family residential development with common and natural open space areas and a community recreation building with pool on an approximately 29 gross-acre site in the R15 (Residential -15) and OS (Open Space) land use districts, based on the findings included in the resolutions, subject to the attached conditions of approval included as Exhibit A to the resolutions (Attachments 2 and 3); and,
3. **RECOMMEND** that the City Council **APPROVE** PA10-0029 (Development Agreement) based on the findings included in the resolution (Attachment 4).

Prepared by:

Mark Gross, AICP  
Senior Planner

Approved by:

John C. Terell, AICP  
Planning Official

ATTACHMENTS:

1. Public Hearing Notice
2. Planning Commission Resolution No. 2011-05, with attached Conditions of Approval.
3. Planning Commission Resolution No. 2011-06 with attached Conditions of Approval and Development Standards Chart
4. Planning Commission No. 2011-07 with attached development agreement
5. Zoning Map
6. Aerial Map
7. Reduced Tentative Tract Map No 36340
8. Reduced Preliminary Grading Plan
9. Reduced Plot Plan/Planned Unit Development Maps
10. Reduced Preliminary Landscape Plans

EXHIBITS:

1. Tentative Tract Map No. 36340
2. Preliminary Grading Plan
3. Site Development Plan
4. Preliminary Landscape Plan
5. 1-521-ation building floor and eleva

**Item No. E.1**

- (provided in reduced format in Exhibit 6).
6. Tentative Tract Map No. 36340 Information Booklet.

1 **2. Case Number: PA10-0038 Tentative Tract Map. No. 36340**  
2 **PA10-0039 Conditional Use Permit**  
3 **PA10-0029 Development Agreement**  
4

5 **CHAIR DE JONG** – Staff report please  
6

7 **SENIOR PLANNER GROSS** – Yes, good evening Chair De Jong and members  
8 of the Planning Commission. I'm Mark Gross, Senior Planner, here to provide a  
9 report on the proposed residential project here before you this evening, which  
10 has definitely been a rarity around these parts for a while. The Applicant, Beazer  
11 Homes is requesting the approval of Tentative Tract Map No. 36340 as well as a  
12 Conditional Use Permit and a Planned Unit Development for a 275 lot single  
13 family residential small lot detached subdivision on 29 acres to include individual  
14 home sites and community recreation facilities within two land use districts; one  
15 of them the R15 land use district which is where the home sites will be located  
16 and then you have a protection of existing rock outcroppings and drainage basin  
17 which is existing on the OS (open space) land use district.  
18

19 The project is located on the southeast corner of Eucalyptus and Iris and consists  
20 of a revision to an existing 276 unit condominium project approved back in 2005  
21 for Beazer Homes and is consistent with surrounding land use density  
22 requirements and with current smaller lot single family and surrounding multiple  
23 family developments in the vicinity. The design and location of the project will  
24 allow for walkable communities; actually, a walkable community to two  
25 surrounding regional commercial centers which would likely reduce vehicle miles  
26 and trips, where it gives that walk ability to these particular sites. Conceptual  
27 plans of the models, map and the plot plan are located there on the far wall. The  
28 Applicant has also I believe and you should have this as a copy, booklets with  
29 additional elevation plans and project details and I believe that is in Exhibit 6 of  
30 the report.  
31

32 Now what I'd like to do briefly is just summarize the three discretionary  
33 components of the project before you this evening. The first item is the Tentative  
34 Tract Map which is delineating land uses into approximately four acres within the  
35 OS land use district; again that is in the center of the tract to include open space  
36 and drainage basin uses and then you have the 25 acres within the R15 land use  
37 district, which would include the 275 individual lots for single family ownership  
38 and then you also have a number of lettered lots for common and private open  
39 space type areas.

40 The second component of the project is the Conditional Use Permit/Planned Unit  
41 Development. Now the project is meeting allowable Planned Unit Development  
42 requirements; will not exceed the maximum density of 15 units per acre and does  
43 provide for many amenities found which you would typically find in multiple family  
44 developments and that would include again the private open space, tot lots,  
45 community recreation building, a pool, picnic and barbecue areas and numerous  
46 turf play areas. Now the small lot single family development will provide in this

ATTACHMENT 6

1 case a greater innovation of housing and choice of ownership most likely in this  
2 case for the first time home buyer or senior.

3  
4 Now the developer is asking for allowable deviations which are allowed within the  
5 Planned Unit Development portion and that is as long as amenities are included  
6 in the project, and I think there are quite a few amenities within this particular  
7 project. The deviations that we are talking about do include lot area, lot  
8 dimension, lot coverage and setbacks. Now an example of the size of the lots;  
9 we're talking the lots ranging from about 1,846 square feet to approximately  
10 3,181 square feet; while the unit square footage will range from anywhere 1,377  
11 square feet to 1,981 square feet.

12  
13 The third component of this particular project is the development agreement.  
14 Now the developer had previously provided substantial public improvements in  
15 the vicinity of the original project necessary to facilitate the development of the  
16 adjacent Stone Ridge Town Center which is directly to the north. The Applicant  
17 has identified a temporary, in this case with the Development Agreement, a  
18 temporary reduction of development impact fees as necessary for the financial  
19 feasibility of providing with this revised project during this time of economic  
20 uncertainty. Now as part of the proposed agreement, the developer agrees to  
21 build all required improvements including a recreation building and I think some  
22 of the things we talked about; pool, play area; seating areas, trails, green belts,  
23 parking and such.

24  
25 The developer will also incorporate energy efficient features into the development  
26 which may include LED or similar energy efficient lighting in common areas, solar  
27 water heater for heating for the recreation building and pool as well as providing  
28 energy efficiency for all housing units, which will be at least ten percent beyond  
29 the requirement of current building code requirements. Now the environmental  
30 determination for this project does include an addendum to the previous Negative  
31 Declaration in accordance with California Environmental Quality Act Guidelines.  
32 No substantial changes have occurred from the project which would require  
33 major revisions of the environmental document and no new significant  
34 environmental effects have been identified with this 275 unit residential single  
35 family project versus the 276 unit which is just one additional unit for the multiple  
36 family project which was previously approved out on that site.

37  
38 The Public Notice was sent to all property owners on record surrounding the site,  
39 published in the newspaper and posted on site. Staff did not receive any public  
40 inquiries on the project. Now as a reminder this evening, Planning Commission  
41 will be making a decision on the Tentative Map and the Conditional Use Permit  
42 and will provide a recommendation to the City Council on the Development  
43 Agreement. The Development Agreement will then tier off from this and be  
44 presented to the City Council as an Ordinance. That concludes the Planning  
45 Division's portion of the report. At this time I'd like to turn it over Clement

1 Jimenez, the Senior Engineer to discuss a couple of minor modifications to Land  
2 Development Project conditions of approval.

3  
4 **SENIOR LAND DEVELOPMENT ENGINEER JIMENEZ** – Hi, good evening  
5 Chair and members of the Planning Commission. My name is Clement Jimenez  
6 with the Land Development Division. In addition to the green sheet before you  
7 which revises one of our conditions of approval, to make it more applicable to this  
8 particular project where the maintenance of the water quality basin in going to be  
9 borne by the HOA and not by the City. We have eliminated some sections of our  
10 special standard condition of approval there as you can see and struck out font  
11 and in addition to that we have other conditions of approval that we would like to  
12 revise to reflect the currently submitted map before you, which we got after we  
13 wrote the conditions of approval and one of the conditions that we would like to  
14 revise is LD57(c). We would like it to read, “private storm drain easement  
15 retained by owner, his successors and assigns for storm drain line improvements  
16 from the end of Canyon Rock Court to the Eucalyptus Avenue south right-of-  
17 way”. It is basically going to be a private storm drain versus a public storm drain  
18 as was previously stated. The other change is also to LD57 (g). We propose  
19 that that subsection be deleted entirely. It was a typo and then the other  
20 condition is LD65. That condition is no longer applicable because of the revised  
21 map before you. Before this latest version of the Tentative Map there was a two  
22 foot strip along the not a park area shown on sheet 3 of the Tentative Map. That  
23 no longer exists because of the negotiations that Beazer has had with the  
24 Eastern Municipal Water District, so it is no longer applicable and we are  
25 proposing to delete that condition and that concludes the changes from Land  
26 Development. Thank you.

27  
28 **CHAIR DE JONG** – Okay thank you. Okay are there any Commissioner  
29 questions of staff? I have a question. Mark is there, I didn’t see, is there a  
30 physical connection from the development to the public use trail and if not could  
31 there be one? I didn’t see one.

32  
33 **PLANNING OFFICIAL TERELL** – My understanding is that there is not and that  
34 is a standard or a preference on the part of the Parks and Recreation  
35 Department.

36  
37 **CHAIR DE JONG** – They don’t want a connection?

38  
39 **PLANNING OFFICIAL TERELL** – They don’t; they prefer not to have private  
40 connections right into the trail. If it’s possible, if there is going to be one, I’m sure  
41 that has already been arranged with the prior approval, so the Applicant might be  
42 able to help us out because they worked more directly with the Parks and  
43 Recreation than Planning did.

44  
45 **CHAIR DE JONG** – It just seems a shame that they can’t have direct access to it  
46 at some point; it is such a large development.

1 **PLANNING OFFICIAL TERELL** – Right, there are access points but they are  
2 further around the corner.

3  
4 **CHAIR DE JONG** – I know and my other question is that I noticed there is a lot of  
5 existing utilities and fire hydrants in place. Will those have to be relocated or are  
6 they sufficient for this development?

7  
8 **PRINCIPAL LAND DEVELOPMENT ENGINEER SAMBITO** – Hello Mr.  
9 Commissioner. The answer to that is yes. Some of them will need to be  
10 modified to accommodate the new layout but the Applicant made a very good  
11 attempt to leave as many as they could in place to accommodate their new  
12 design.

13  
14 **CHAIR DE JONG** – It makes sense, good. Are there any other questions?

15  
16 **COMMISSIONER GELLER** – Yes, why are the DIF fees being reduced?

17  
18 **PLANNING OFFICIAL TERELL** – Primarily due to the investment in the  
19 infrastructure Beazer already made in excess of what is required for their project.  
20 They put in a lot of infrastructure related to the development of Stone Ridge  
21 Shopping Center for which they could not get credit or reimbursement. The other  
22 is obviously to induce the project because Staff feels that it will have a beneficial  
23 impact on those two shopping centers and their continued growth.

24  
25 **COMMISSIONER GELLER** – Okay

26  
27 **COMMISSIONER DOZIER** – I was looking at the new condition where any of the  
28 bio-swales or any of the water treatment on the property is going to be paid for by  
29 the homeowners through the HOA. Is that typical to have the HOA pay for that?

30  
31 **SENIOR LAND DEVELOPMENT ENGINEER JIMENEZ** – Yes, for multi-family  
32 residential projects that is typical as well as this project.

33  
34 **COMMISSIONER DOZIER** – Alright because I noticed then there was dedicated  
35 maintenance easements the City of Moreno Valley, and then if they are taking  
36 care it the City is not taking care of it, so they don't need an easement. Do I  
37 understand that correctly?

38  
39 **SENIOR LAND DEVELOPMENT ENGINEER JIMENEZ** – That's correct

40  
41 **COMMISSIONER DOZIER** – I gotcha, okay

42  
43 **CHAIR DE JONG** - Okay seeing no more questions I'll go ahead and open  
44 Public Testimony and call the Applicant forward. Good evening.

1 **APPLICANT** – Good evening Chair, Commissioners and Staff. First of all I want  
2 to thank you for your time today. I want to say a special thanks to Mark and John  
3 and the rest of the City Staff to inspect this review. Beazer has just finished off  
4 about 400 units just adjacent to this property and also helped build all the main  
5 infrastructure along Nason, Eucalyptus and Fir along with the commercial center  
6 and as Mark was mentioning before, this is a new development for us here. We  
7 started back in 2005. We actually built a model there; everything tanked and we  
8 find out now that condo's are hard to get financing for now so that's why we  
9 came up with this new detached single lot home. Beazer is really excited to be  
10 here. This is our third project here recently, so we hope this will be successful  
11 and hope that you guys are in favor of it also.

12  
13 **CHAIR DE JONG** – Okay thank you. Are there any questions?

14  
15 **COMMISSIONER GELLER** – I am concerned and I just want you to think about  
16 it. I am concerned with the left elevations. I understand I guess supposedly they  
17 are going to be back to back on the houses but I just don't think that's what we  
18 had in mind when we talked about four-sided architecture. I'm not sure that there  
19 is anything that we should do but I just wanted to bring that to your attention at  
20 this moment.

21  
22 **APPLICANT** – If I could speak on that...

23  
24 **COMMISSIONER GELLER** – Sure

25  
26 **APPLICANT** – The reason why the left elevation is blank on that wall below the  
27 fence line is basically because the other parties patio is going to be right there,  
28 so it's kind of weird having a window looking out to your adjacent neighbor's  
29 patio. So it's kind of a privacy thing...

30  
31 **CHAIR DE JONG** – That is in all cases?

32  
33 **APPLICANT** – In all cases and then if see on the left elevation end units it is on  
34 the top. That's where we provided the additional windows on the elevation.

35  
36 **CHAIR DE JONG** – So the blank wall would never be facing a street or a drive?

37  
38 **APPLICANT** – Never be facing a street or a drive...

39  
40 **CHAIR DE JONG** – Okay, does that make any difference down there?

41  
42 **COMMISSIONER GELLER** – You know it's hard till you actually drive by them.  
43 That's been said many times and you drive through some of these  
44 neighborhoods and they look absolutely abysmal because you can see clearly  
45 between the houses and just all these blank walls. I'm not suggesting you put  
46 more windows in. I don't know, I just... the theory that no one sees it just never

1 seems to... but again I don't have the ability to visualize driving through the  
2 complex, but that's exactly what I didn't want to have to see.

3  
4 **PLANNING OFFICIAL TERELL** – Yes we did and unfortunately that was so long  
5 ago I don't think I saved, but there were pictures... Beazer has built a similar  
6 project up in Sacramento and we had the opportunity to see pictures of it and  
7 what they had done there is they provided street scenes and in looking down the  
8 street what you could normally see was kind of the return on the houses and you  
9 can see on certainly the top one, the detailing is closest to the end of the unit  
10 where it's most likely to be seen, so we did as for that. Originally as I recall there  
11 was nothing on those walls, so it's a faux window, it's not a real window or a  
12 window with the shutters closed, so it's a little more detailed than you can see,  
13 but we tried to focus those on the ends of the units where you are most likely to  
14 see between the units. The difference between... there are probably some that  
15 are wider but the typical distance between them is feet between units. The  
16 typical distance between say single family tracts, where we realize you can see  
17 much more is 15 feet between homes, so it's much, much closer.

18  
19 **CHAIR DE JONG** – And houses with 15 feet between them really do have the  
20 four-sided architecture addressed and that's a different story.

21  
22 **PLANNING OFFICIAL TERELL** – Well we haven't see any since the Ordinance  
23 was... but that's the intent; yes; in those cases you would have windows on all  
24 four sides and those windows would all have detailing similar to what is on the  
25 front.

26  
27 **COMMISSIONER GELLER** – I have a couple other questions. Is the HOA going  
28 to be responsible for the front yard maintenance?

29  
30 **APPLICANT** – That is correct

31  
32 **COMMISSIONER GELLER** – Okay, I know that had been done on many of  
33 these so they will have a consistent look. And how much guest parking is there  
34 and how far is it? I mean if someone has a party, where are the people going to  
35 park?

36  
37 **APPLICANT** – There is a half-unit per... there is a half-space per resident and  
38 they are bay parking, so it's like in a standard parking lot and they are scattered  
39 pretty well throughout the site.

40  
41 **SENIOR PLANNER GROSS** – There is a total I believe of 138

42  
43 **COMMISSIONER GELLER** – They are well hidden

44  
45 **PLANNING OFFICIAL TERELL** – When you start counting, there is like three  
46 here and four there and six there and it's up to 138.



1 **COMMISSIONER GELLER** – Okay that’s all I have

2  
3 **CHAIR DE JONG** – Thank you. Are there any Commissioners of the Applicant?  
4 Okay, I don’t have any right now either

5  
6 **APPLICANT** – Thank you

7  
8 **CHAIR DE JONG** – Okay I’m going to close Public Testimony and open  
9 Commissioner Debate.

10  
11 **COMMISSIONER GELLER** – Well I guess I’ll go first to go last. Yes other than  
12 the left elevations, you know if they are always only going to be six feet apart I  
13 guess you’re not going to see them. I’m certainly not going to have somebody do  
14 something for nothing; just you know again looking at the pictures they don’t...  
15 but I think this is for whole array of reasons and all the reasons specified, that  
16 this is the development concept of the future in terms of keeping the costs down;  
17 keeping the energy efficiency down; walkability; closeness to the shopping  
18 center. I mean I’d say I think this is for a whole array of reasons probably the  
19 building style of the future and the PUD is a great concept to allow far more  
20 flexibility than just having rows and rows of identical lots of somewhat identical  
21 houses and I know this area well. I’ve spent the last 20 years hiking through  
22 there. I’ve been watching the trails develop over the years and trying to figure  
23 out how to get around the houses, but you know I certainly know this area well  
24 and like I say I think this kind of innovative design is really the future of detached  
25 houses as a practical matter. Nobody is going to be able afford anything else  
26 and I think they’ve done an excellent job. I think it is going to be a nice looking  
27 center and the other work that they have done in that center you know exceeded  
28 my expectations in terms of overall and I approved that whole thing a long, long  
29 time ago, so I’m in support of the project and I have no objection to the  
30 amendments to the conditions.

31  
32 **CHAIR DE JONG** – Okay, George...

33  
34 **COMMISSIONER SALAS** – Well I’m not happy with... I don’t like the six feet  
35 houses every three feet apart or six feet apart, but I agree with Commissioner  
36 Geller on the economic times that I guess this is going to be what we are looking  
37 at. They’ve done a real good job of presentation and the elevations are nice  
38 looking, so I’ll support the project.

39  
40 **COMMISSIONER GELLER** – And lastly no one has to buy them, I mean if they  
41 don’t want neighbors that close they don’t buy this product.

42  
43 **CHAIR DE JONG** – That’s a better way to put it.

44  
45 **COMMISSIONER GELLER** – Yes, that’s what I meant to say. I wasn’t...  
46

1 **COMMISSIONER DOZIER** – I was very pleased to see this come forward  
2 because I thought that it was going to stay vacant for a longer period of time as  
3 the development community tried to figure out where the market was going to be,  
4 so I'm happy to see it come forward at this time. It's kind of the light at the end of  
5 tunnel kind of thing. We get some construction going in town and we take an  
6 area that is now vacant and looks unfinished and it gets finished and it will  
7 certainly improve the prospects for additional business for the center which is  
8 right across the street and around the corner. All of those are positives for the  
9 City. We are talking about jobs; we're talking about capital investment and this is  
10 a sign of the economic times. You can't pencil out the same kinds of projects  
11 that were penciled out just three years ago or four years ago in a different  
12 economy and I think these look very, very good and I've seen other projects like  
13 it that are designed similarly where the people work it out. They are happy to  
14 own their own home. They are happy and they show pride of ownership. The  
15 problems that you have with parking and closeness... actually the closeness  
16 forces you almost to know your neighbor a little better and so people just work it  
17 out. They have a big party; they work it out. They say hey I'm going to have a  
18 party this Saturday and I need your space and your space and your space and if  
19 it's okay for a few hours they work it out, so I'm happy to see it and I certainly am  
20 supportive of it. It is coming a lot sooner than I thought.

21  
22 **VICE CHAIR BAKER** – Yes I think this is a great project for the area and we're  
23 moving towards getting some housing for people that is affordable. They are not  
24 going to have to mortgage the farm to get in here. In looking at this, there are a  
25 lot of amenities for these people in this close to 30 acres. I see there is a spa in  
26 there; a pool; a big open space. This is a great deal, so I'm behind it 100 percent  
27 and I see all those parking spaces in here when I go to the colored layout, which  
28 there is probably way over a hundred, so I'm always concerned when I see  
29 something like this because parking is a real problem when you have a couple of  
30 guests and they are sprinkled out here pretty nicely. I like the remote gated  
31 access; that is always good, so there are a lot of plusses to this project, so I'm for  
32 it and I think we need to move forward with it. Thank you

33  
34 **CHAIR DE JONG** – I too am in support. I think this is another great product to  
35 our housing portfolio in the City. It's just another different product that people  
36 can choose from and I think that's what makes it so great. It is a sign of the  
37 times; the reduced size and the smaller side yards, but that is what a lot of  
38 people are going to be wanting. I had a question for Traffic. Is this going to put a  
39 pinch on the end of Eucalyptus there where it kind of dead ends to the right there  
40 down by Walmart? I know that is more out of our hands; it is more in Cal Trans  
41 getting that end of the street off-ramp kind of thing redesigned. Is that going to  
42 move forward any time soon any faster than was originally planned?

43  
44 **TRAFFIC ENGINEER LEWIS** – Good evening; Eric Lewis, City Traffic Engineer.  
45 There aren't immediate plans to get that work done. It is a lot of money to build  
46 the interchange obviously so thankfully though Nason is moving along very

1 quickly here and so they'll be some bumps in the road so to speak for a little  
2 while and then a lot of progress and then the next phase will probably be Moreno  
3 Beach.

4  
5 **CHAIR DE JONG** – Good, okay, I didn't mean to divert much on that. I really like  
6 keeping the open space. I'm glad that we as a City have decided to maintain the  
7 rocky boulder open spaces. I think it is going to be a great product and if I may  
8 bring my fellow Commissioner attention to this elevation here where it shows  
9 along the street, it has windows along the bottom of it, so it's a different elevation,  
10 so that's good. I was happy to see that too. With that I think we're ready for a  
11 motion.

12  
13 **COMMISSIONER DOZIER** – When you alluded to traffic patterns, I just want to  
14 go on the public record and say we sometimes as planners, people say why did  
15 you approve all of those homes and all of those cars before the street  
16 intersections were done? This is some of the reason why. There is a need to  
17 move forward with kind of project and there are so many plusses for it that we  
18 can't wait to do those intersections; one, because of the cost and the times today  
19 and trying to get that money to do those kinds of improvements. Sure we would  
20 like to do them ahead of time and if we had the money and the power it would  
21 already be done before the project is approved, so for a little while it is going to  
22 be a little inconvenient. I know that stop light at Nason going onto the freeway;  
23 that bridge overpass is going to get backed up from time to time but the local  
24 residents are going to have to try to avoid it and go around it and figure out  
25 another way to traverse through there, but I want to go on record and say that  
26 we're aware of it; we know it; we're not doing this in a void, but sometimes things  
27 have to go forward first before we can get in a position to make it so that is really,  
28 really convenient for everybody.

29  
30 **CHAIR DE JONG** – Well said

31  
32 **PLANNING OFFICIAL TERELL** – Following onto that point, the development  
33 agreement as proposed, there are no reductions in the TUMF fee; the regional  
34 fee and those are the fees that really pay for those big improvements like  
35 interchanges as in the case of Nason and the design work for Moreno Beach  
36 which is actually pretty far along.

37  
38 **CHAIR DE JONG** – Good, glad to hear that. Who would like to make a motion  
39 tonight or are we ready for one? I think we're ready for it.

40  
41 **COMMISSIONER GELLER** – Well I'll make it since...

42  
43 **CHAIR DE JONG** – Well this will be the last time  
44

1 **COMMISSIONER GELLER** – Yes you won't have me to kick around so...  
2 alright... I'd like to make a motion that we **APPROVE** Resolution No. 2011-05,  
3 2011-06 and 2011-07 and thereby:

- 4 1. **ADOPT** an Addendum to a Negative Declaration; and,
- 5 2. **APPROVE** PA10-0038 Tentative Tract Map No. 36340, PA10-0039  
6 Conditional Use Permit/Planned Unit Development for a 275 lot single family  
7 residential development with common and natural open space areas and a  
8 community recreation building with pool on an approximately 29 gross-acre  
9 site in the R15 (Residential 15) and OS (Open Space) land use districts,  
10 based on the findings included in the Resolutions, subject to the attached  
11 conditions of approval as amended included as Exhibit A to the resolution,  
12 Attachments 2 and 3; and,
- 13 3. **RECOMMEND** that the City Council **APPROVE** PA10-0028 Development  
14 Agreement based on the findings included in the resolution, (Attachment 4).

15  
16 **VICE CHAIR BAKER** - Second

17  
18 **CHAIR DE JONG** – Thank you and we have a second. Is there any discussion?  
19 All those in favor?

20  
21 Opposed – 0

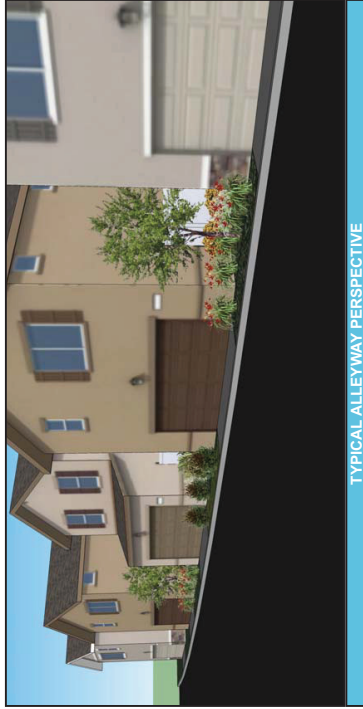
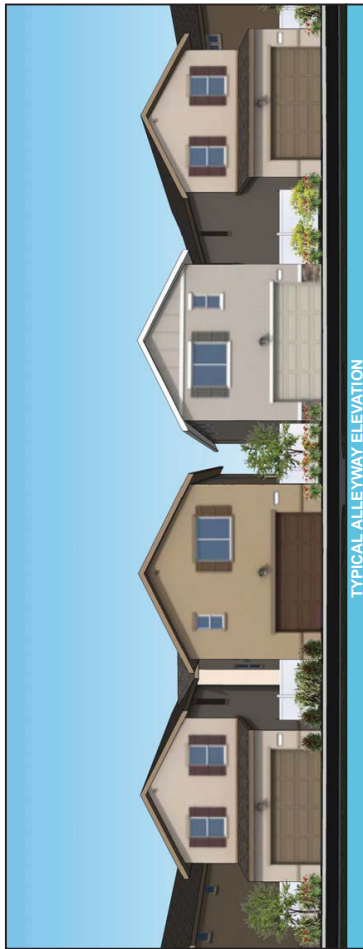
22  
23 **Motion carries 5 – 0**

24  
25 **CHAIR DE JONG** – Staff wrap up please

26  
27 **PLANNING OFFICIAL TERELL** – Yes the Tentative Tract Map and the  
28 Conditional Use Permit shall become final... Those approvals unless appealed to  
29 the City Council within 15 days or actually 10 days; I'm sorry, there is a Tentative  
30 Tract Map included and then the Development Agreement will go forward to the  
31 City Council for final review and action and that is scheduled for March 22<sup>nd</sup>.

32  
33 **CHAIR DE JONG** – Okay thank you very much. Thank you and good luck.  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46





**PLANTING CONCEPT**  
Residential alleyway will be enhanced with various sizes of colorful shrubs and groundcovers to define streetscape theme and to screen portions of the building architecture.



ROCKCLIFFE AT STONERIDGE RANCH



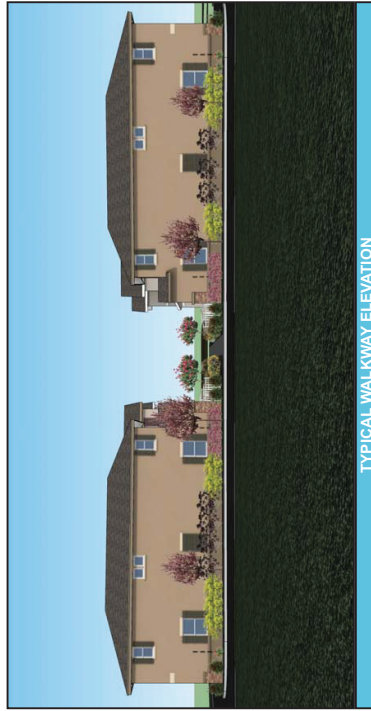


TYPICAL FRONT YARD ELEVATION



TYPICAL WALKWAY PERSPECTIVE

**PLANTING CONCEPT**  
 Typical front yard landscape concept provides a private courtyard and accent landscaping in common areas. Common area landscaping includes colorful accent trees and shrubs to define areas and provides an aesthetically pleasing experience.



TYPICAL WALKWAY ELEVATION



TYPICAL CORNER PERSPECTIVE

**PLANTING CONCEPT**  
 Corner lot streetscape landscape concept will consist of colorful accent trees and shrubs of various sizes to create a layered landscape to define street circulation, screen portions of corner lot buildings and provide a visually pleasing landscape experience.

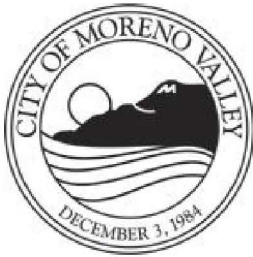


ROCKCLIFFE AT STONERIDGE RANCH



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

## Report to City Council

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**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:** July 12, 2011

**TITLE:** PUBLIC HEARING REGARDING THE MAIL BALLOT PROCEEDING FOR FIRST INDUSTRIAL—APNS 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, AND 316-200-029 BALLOTING FOR NPDES AND CSD ZONE M

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### RECOMMENDED ACTION

1. Staff recommends that the City Council, after conducting the individual Public Hearings and accepting public testimony:
  - a. Direct the City Clerk to tabulate the National Pollutant Discharge Elimination System (NPDES) ballots for First Industrial;
  - 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 Assessors Parcel Numbers (APNs) 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029.
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 First Industrial;

- 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 APNs 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029.

### **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 costs of special services to those parcels receiving the benefit. The City's Arterial Median Maintenance Policy, adopted by the CSD February 2003 and subsequently amended January 2006, requires that certain commercial, industrial, and multifamily developments be conditioned to fund the maintenance of arterial medians.

First Industrial—APNs 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029 has Conditions of Approval that require them to provide a funding source to help support the Stormwater Management program and the CSD Zone M program. Approving the NPDES maximum commercial/industrial regulatory rate and the CSD Zone M annual charge through a mail ballot proceeding shall fulfill these requirements.

### **DISCUSSION**

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, a mail ballot proceeding is being conducted to give the property owners the option to approve or oppose the NPDES maximum commercial/industrial regulatory rate and the annual charges for the CSD Zone M program. The property owners are given two opportunities to address the legislative body. These two opportunities are the Public Meeting on June 28, 2011 and the Public Hearing on July 12, 2011, when the results 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. Provided the mail ballots are approved, the City will also be authorized to levy the NPDES maximum commercial/industrial regulatory rate on the annual property tax bill or as a monthly charge on a utility bill.

Special Districts, a division of the Public Works Department, 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 pruning, trimming, fertilizing, replacing plant material(s) as necessary, litter removal, maintenance of the irrigation systems, weed control, payment of the water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians. The CSD Zone M annual charges are levied on the property tax bill.

The CSD Zone M annual charges for APNs 316-200-003, 316-200-009, 316-200-010, 316-200-011, 316-200-012, 316-200-013, 316-200-014, 316-200-018, 316-200-028, and 316-200-029 were estimated based on the proposed Perris Blvd. median adjacent to the parcels. Upon future development, parcels adjacent to the proposed median shall be conditioned to provide a funding source for the annual maintenance. At which point, the annual charges for balloting APNs shall be proportionally adjusted.

## **ALTERNATIVES**

1. **Conduct the Public Hearing**, tabulate the ballots, verify, and accept the results of the mail ballot proceeding for First Industrial, 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 CSD Zone M annual charges for First Industrial. *This alternative will fulfill the 45-day noticing period and Public Hearing requirements as mandated by Proposition 218.*
2. **Do not conduct the Public Hearing**, tabulate the ballots, verify, or accept the results of the mail ballot proceeding for First Industrial. *This alternative would be contrary to Proposition 218 mandates and may not allow the property owners to comply with their conditions of approval.*

## **FISCAL IMPACT**

For fiscal year (FY) 2010/11, the NPDES annual regulatory rate and estimated CSD Zone M charges for First Industrial are as follows:

<b>Property Owner</b>	<b>NPDES Maximum Commercial/Industrial Rate</b>	<b>CSD Zone M Annual Charge</b>
<b>First Industrial</b>		
APN 316-200-003 (and any division thereof)	\$205	\$494.31
APN 316-200-009 (and any division thereof)	205	492.14
APN 316-200-010 (and any division thereof)	205	516.09
APN 316-200-011 (and any division thereof)	205	489.96
APN 316-200-012 (and any division thereof)	205	2,184.13
APN 316-200-013 (and any division thereof)	205	520.44
APN 316-200-014 (and any division thereof)	205	520.44
APN 316-200-018 (and any division thereof)	205	1040.89
APN 316-200-028 (and any division thereof)	205	435.52
APN 316-200-029 (and any division thereof)	205	1,796.51

Beginning in FY 2011/12, 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.

**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.**

**There is no impact in the General Fund for the ongoing maintenance of the proposed median on Perris Blvd, north of Nandina Ave.** 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. 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/CSD Board is to accept public testimony, tabulate the returned ballots, verify, and accept the results of the mail ballot proceeding for First Industrial.

**NOTIFICATION**

On May 17, 2011, a ballot packet was mailed to the owner of each parcel associated with Tentative Parcel Map 35859. The packets included a notice to the property owner, map of the project area, the NPDES commercial/industrial rate schedule, instructions, ballots, and postage-paid envelopes for returning the ballots to the City Clerk. (See Attachment 1.)

Newspaper advertising for the June 28, 2011, Public Meeting and July 12, 2011, Public Hearing was published in The Press-Enterprise on June 9, 2011. Additionally, the Public Hearing notification was published on June 23 and again on June 30, 2011.

**ATTACHMENT**

Attachment 1: First Industrial sample 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:  
Candace E. Cassel,  
Special Districts Division Manager

Concurred by:  
Mark Sambito,  
Engineering 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 10.11\Zone M NPDES\PA07-0165 First Industrial (TPM 35859)\Stfrpt PH 07.12.11.doc

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TEL: 951.413.3480  
FAX: 951.413.3498  
WWW.MORENO-VALLEY.CA.US



14325 FREDERICK STREET, SUITE 9  
P. O. BOX 88005  
MORENO VALLEY, CA 92552-0805

First Industrial  
c/o First Industrial Realty Trust  
Jeff Evans, Operations Director  
898 N. Sepulveda Blvd., Suite 750  
El Segundo, CA 90245

May 17, 2011

**NOTICE TO PROPERTY OWNER-MAIL BALLOT PROCEEDING FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) MAXIMUM COMMERCIAL/INDUSTRIAL REGULATORY RATE AND COMMUNITY SERVICES DISTRICT (CSD) ZONE M (COMMERCIAL, INDUSTRIAL, AND MULTIFAMILY IMPROVED MEDIAN MAINTENANCE) FOR APNs 316-200-003, 316-200-011, 316-200-028, and 316-200-029**

**\*\*\*\*\* OFFICIAL BALLOT ENCLOSED \*\*\*\*\***  
Llame al 951.413.3480 para obtener información verbal en Español

### **Introduction**

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, the City of Moreno Valley Special Districts Division is conducting a mail ballot proceeding to provide the owner of APNs 316-200-003, 316-200-011, 316-200-028, and 316-200-029 (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 charges for the CSD Zone M program.

### **Background**

#### *NPDES Maximum Commercial/Industrial Regulatory Rate*

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 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.

#### *CSD Zone M Charge*

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. 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.

ATTACHMENT 1

## **Services Provided**

### *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*

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: trimming, pruning, fertilizing, replacing plant material(s) as necessary, litter removal, weed control, maintenance of the irrigation system, payment of water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

## **How is the Amount of the Charge Determined?**

### *NPDES Maximum Commercial/Industrial Regulatory Rate*

Each fiscal year (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 rate levied shall not exceed the rate previously approved by the property owners.

### *CSD Zone M Charge*

The annual CSD Zone M charge includes maintenance and administration costs. The CSD Zone M charge shall be proportionally adjusted if APN 316-200-003, 316-200-011, 316-200-028, and 316-200-029 are subdivided. If APNs are merged then the annual charges for those APNs shall be combined. The charge levied shall not exceed the charge previously approved by the property owners.

## **Proposed Charge**

### *NPDES Maximum Commercial/Industrial Regulatory Rate*

For FY 2010/11, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total amount of the NPDES rates levied for FY 2010/11 for the program as a whole is \$392,575.

### *CSD Zone M Charge*

The CSD Zone M annual charge for FY 2010/11 for the proposed Perris Blvd. median is \$494.31 for APN 316-200-003, \$489.96 for APN 316-200-011, \$435.52 for APN 316-200-028, and \$1,796.51 for APN 316-200-029. The total amount of the CSD Zone M charges levied for FY 2010/11 for the program as a whole is \$141,530.98.

## **Annual Adjustment**

Beginning in FY 2011/12, 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.

## **Duration of the Charge**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy



amount will be assessed to APN 316-200-003, 316-200-011, 316-200-028, and 316-200-029 (and any division thereof) and shall be placed on the 2011/12 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 planning 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.

### **Public Hearing**

To provide information concerning this mail ballot proceeding the City/CSD has scheduled one (1) Public Meeting and one (1) Public Hearing, which will be held at the **Moreno Valley City Hall Council Chamber located at 14177 Frederick Street, Moreno Valley.**

<u>Public Meeting</u>	<u>Public Hearing</u>
Tuesday, June 28, 2011 6:30 P.M. (Or As Soon Thereafter As The Matter May Be Called)	Tuesday, July 12, 2011 6:30 P.M. (Or As Soon Thereafter As The Matter May Be Called)

Tabulation of all returned ballots will commence after the close of the Public Hearing. All ballots received shall be tabulated under the direction of the City Clerk/Secretary of the CSD Board of Directors in compliance with the current Policy For Conducting Mail Ballot Proceedings Policy #1.12.

### **Effect if Inclusion into and Approval of the Charges is Approved**

Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate will be confirmed if a simple majority (50%+1) of the ballots are marked in favor of the NPDES rate. Inclusion into the CSD Zone M program and approval of the annual charge will be confirmed if a simple majority of the returned valid weighted ballots approve the annual charge.

### **Effect if Inclusion into and Approval of the Charges is Not Approved**

#### *NPDES Maximum Commercial/Industrial Regulatory Rate*

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements shall result in noncompliance with the Conditions of Approval. If there is a tie or if a majority of the returned valid ballots oppose the NPDES rate, then the rate will not be levied on the property tax bill.

#### *CSD Zone M Charge*

If there is a tie or if a majority of the returned valid weighted ballots oppose the CSD Zone M annual charge, then the annual charge will not be levied on the property tax bills and noncompliance of the Conditions of Approval shall result.

### **For More Information**

If you have any questions about the proposed programs, the annual charges, or about the mail ballot proceeding 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.

### **Completing Your Ballot**

Property owner may submit the enclosed ballots to the City Clerk in support of or opposition to the proposed programs and annual charges. Please follow the instructions listed below to complete and

return your ballots. Procedures for the completion, return, and tabulation of the ballots are also on file in the City Clerk's office.

1. Mark the enclosed ballots in support of or opposition to the proposed programs and annual charges **by placing a mark in the corresponding box.**
2. Sign your name on the ballots. Ballots received without signature(s) 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. Ballot(s) must be **received** by the City Clerk prior to the close of the Public Hearing to be held on **Tuesday, July 12, 2011**, 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.

### Ballot Marks

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



A dot or oval mark substantially inside a box;



A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box and/or associated clause; or



A square or rectangle around the box and/or associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

**Ballot Mark Revisions (Changes):** An error or desire to revise (change) a selection made on the ballot may be completed and returned any time **prior** to the conclusion of public testimony at the Public Hearing. **The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.**

**OFFICIAL MAIL BALLOT for ASSESSOR PARCEL NUMBERS (APNs)  
316-200-003, 316-200-011, 316-200-028, and 316-200-029**

**Moreno Valley Community Services District (CSD) Zone M  
(Commercial, Industrial, and Multifamily Improved Median Maintenance)**

**YES\*** — as the property owner of APNs 316-200-003, 316-200-011, 316-200-028, and 316-200-029 (and any division thereof), **I approve** the annual CSD Zone M charges for FY 2010/11 for the proposed Perris Blvd. median of \$494.31 for APN 316-200-003, \$489.96 for APN 316-200-011, \$435.52 for APN 316-200-028, and \$1,796.51 for APN 316-200-029. Beginning FY 2011/12, the annual CSD Zone M charges 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 CSD Zone M annual levy amounts shall be assessed on the Riverside County property tax bills as planning of the Perris Blvd median occurs. The CSD Zone M charges shall be proportionally adjusted if said APNs are subdivided. If parcels are merged then the annual charges for those parcels shall be combined.

**NO\*\*** — as the property owner of APNs 316-200-003, 316-200-011, 316-200-028, and 316-200-029, **I do not approve** the CSD Zone M annual parcel charges. I understand that not incorporating said APNs into the CSD Zone M program is a violation of the Conditions of Approval. The CSD Zone M charges shall not be levied on the Riverside County property tax bill.

Assessor Parcel Number	YES*	NO**	CSD Zone M Annual Charge*
316-200-003 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$494.31
316-200-011 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$489.96
316-200-028 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$435.52
316-200-029 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$1,796.51

\*The weighted value for each APN is equal to its proposed annual charge. The total proposed charge for TPM 35859 is \$8,490.43.

**This ballot must be received by the Secretary of the Board of the CSD (City Clerk) prior to the close of the Public Hearing to be held on July 12, 2011, 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 for Assessor Parcel Numbers (APNs)  
316-200-003, 316-200-011, 316-200-028, and 316-200-029**

**National Pollutant Discharge Elimination System (NPDES)  
Maximum Commercial/Industrial Regulatory Rate**

**YES\*** — as property owner of APNs 316-200-003, 316-200-011, 316-200-028, and 316-200-029, **I approve** the NPDES maximum commercial/industrial regulatory rate and services. For FY 2010/11, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. Upon approval of the maximum regulatory rate, the annual levy amount shall be placed on the Riverside County property tax bill or as a monthly charge on a utility bill. Beginning FY 2011/12, 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. 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.

**NO\*\*** — as property owner of APNs 316-200-003, 316-200-011, 316-200-028, and 316-200-029, **I do not approve** the NPDES maximum commercial/industrial regulatory rate and services. I understand that not approving the NPDES maximum commercial/industrial regulatory rate to fund federally mandated NPDES Permit requirements shall result in noncompliance with the project's Conditions of Approval. The NPDES maximum commercial/industrial regulatory rate shall not be levied on the Riverside County property tax bill.

Assessor Parcel Number	YES*	NO**	NPDES Maximum Commercial/Industrial Regulatory Rate
316-200-003 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205 per parcel
316-200-011 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205 per parcel
316-200-028 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205 per parcel
316-200-029 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205 per parcel

**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 July 12, 2011, 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

**COMMON INTEREST, COMMERCIAL, INDUSTRIAL AND QUASI-PUBLIC USE NPDES RATE SCHEDULE**  
 Adopted by the City Council on January 10, 2006











LEVEL 1		LEVEL II	
<b>NPDES Administration</b> <i>(Not covered by CSA 152)</i>		<b>Site Design, Source Control and Treatment Control BMPs Monitoring and Maintenance</b>	
<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>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><b>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</b></p>			
<b>PROPOSED PARCEL RATE</b>	<b>Per Month</b>	<b>Per Year</b>	<b>PROPOSED PARCEL RATE</b>
	\$2.67	\$32.00	<b>Per Month</b> \$12.58 <b>Per Year</b> \$151.00

**Inflation Factor Adjustments**

- FY 2006/2007 - 4.5% = (\$33.00 & \$158.00)
- FY 2007/2008 - 3.1% = (\$34.00 & \$163.00)
- FY 2008/2009 - 4.2% = (\$35.00 & \$170.00)
- FY 2009/2010 - no change = (\$35.00 & \$170.00)
- FY 2010/2011 - no change = (\$35.00 & \$170.00)

# TPM 35859

## APN

-  316200003
-  316200009
-  316200010
-  316200011
-  316200012
-  316200013
-  316200014
-  316200018
-  316200028
-  316200029

Roads

Parcels

City Boundary

Median

Landscaped Areas

Map reflects all changes indicated  
on Riverside County Assessor Maps  
as of May 11, 2011.

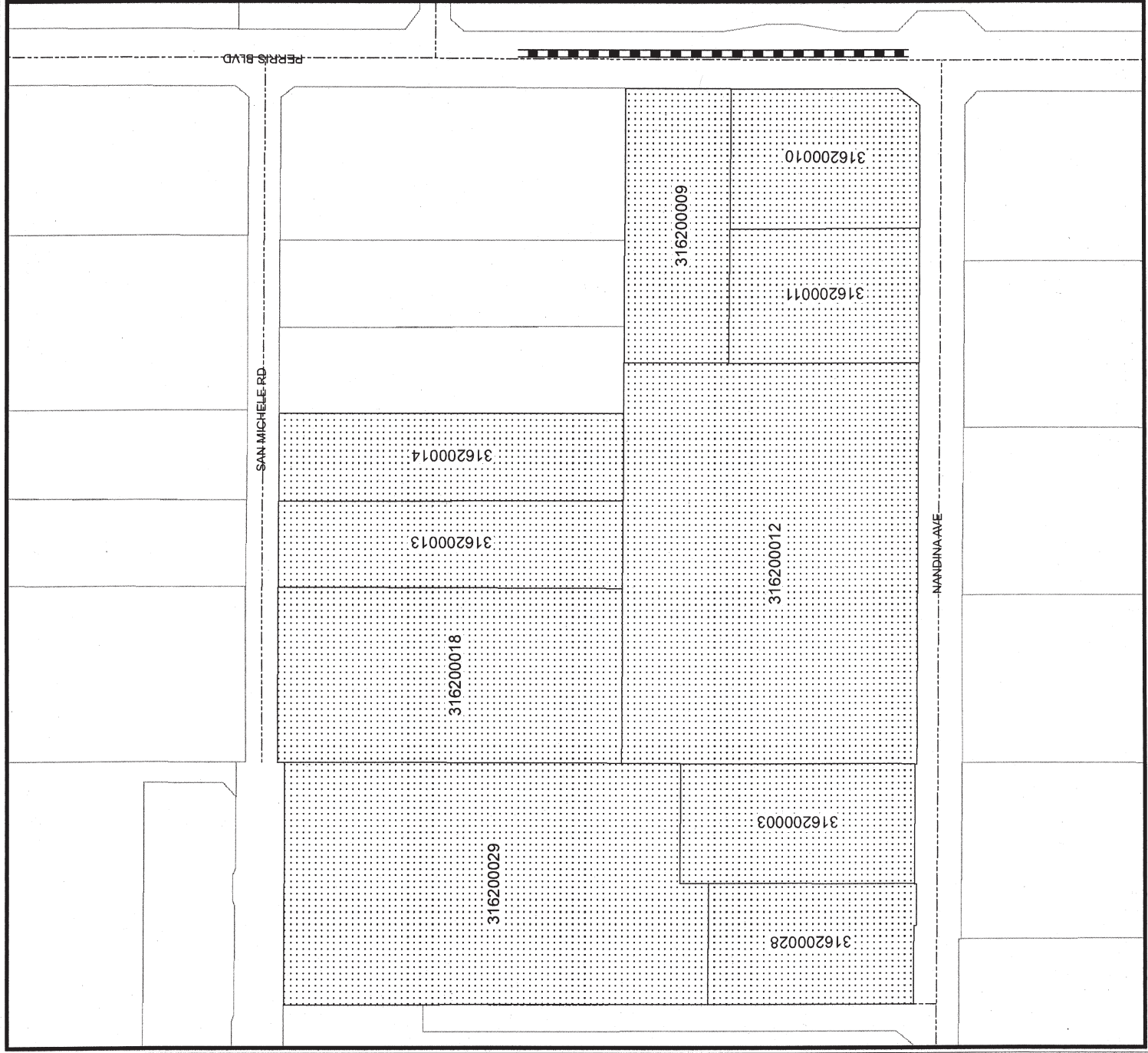


G:\VAP\SDA\TPM 35859 PA07-0165.mxd

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



# RIDGE PROPERTY TRUST

201 Covina Avenue, Suite 8 | Long Beach, CA 90803  
T: (562) 856-3819 | F: (562) 856-3820  
www.rptrust.com

June 29, 2011

Mr. John Terell  
Planning Official  
City of Moreno Valley  
14177 Frederick Street  
P.O. Box 88005  
Moreno Valley, CA 92552-0805

Re: Case P08-133, PA08-0098, PA10-0017, PA08-0097, and PA09-0022  
Applicant: Ridge Rancho Belago, LLC  
Owner: Ridge Rancho Belago, LLC

Dear John,

As you know, on May 12, 2011 the City of Moreno Valley Planning Commission disapproved adoption of Resolution No. 2011-13 recommending to the Moreno Valley City Council the following items:

1. Approval of P08-133 (Approval and Certification of the EIR for the WestRidge Commerce Center project),
2. Approval of PA08-0098 (Zone Change),
3. Approval of PA10-0017 (Municipal Code Amendment),
4. Approval of PA08-0097 (Plot Plan), and
5. Approval of PA09-0022 (Tentative Parcel Map 36207)

On May 18<sup>th</sup>, Ridge Rancho Belago LLC formally appealed (see the attached letter) the decision of the Moreno Valley Planning Commission to the 5 member Moreno Valley City Council.

Our appeal to the Moreno Valley City Council Members was then scheduled for the July 12, 2011 City Council meeting.

Per this letter, I respectfully request a continuance of our appeal to the City Council meeting scheduled for August 23, 2011.

Thank you for your consideration and please call me if you have any questions.

Sincerely,



Dennis Rice, President

Ridge Rancho Belago, LLC

By: Ridge Property Trust II, a Maryland real estate investment trust

Cc: Jeff Bradshaw, City of Moreno Valley  
Gil Saenz, Inland Empire Development Services

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T: (562) 856-3819 | F: (562) 856-3820  
www.rptrust.com

City of Moreno Valley City Council Members  
c/o City of Moreno Valley Planning Division  
14177 Frederick Street  
Moreno Valley, CA 92553

Re: P08-133, PA08-0097, 0098, 0022 and PA08-0017

Dear Council Members Stewart, Batey, Hastings, Molina and Co:

Please accept this letter as our formal appeal of the City of Moreno Valley Planning Commission denial of the proposed Westridge Commerce Center Project (the "Project") at the Planning Commission Meeting held on May 12, 2011. Specifics of the Project are as follows:

**Case Description:**

Plot Plan for a 937,260 square foot warehouse facility on 55 acres, Tentative Parcel Map No. 36027, Zone Change from BP to LI, a Municipal Code Amendment and an Environmental Impact Report.

Pursuant to the denial, there were many questions and discussions centered on the following:

- 1) Aesthetics (the Architecture of the building).
- 2) The uncertainty of a known lessee at this time.
- 3) Traffic

Our position and basis for our appeal relating to the above are:

1) We have constructed buildings in Centerpointe Business Park (across Frederick Street from City Hall) that are similar to what we are proposing at WestRidge Commerce Center and we have received many compliments from past planning commissions and city councils. This issue is totally personal, subjective, and without merit. We worked hard with staff to make this building appealing and to the level of standards Moreno Valley can be very proud of. In fact, the WestRidge Commerce Center architect, HPA, is the same architect for the Skechers building.

2) It is a very rare situation to have a lessee sign a lease for a building without the entitlements in place. The fact that Skechers signed a lease without entitlements is rare. Considering Skechers is a partner in the building with Highland Fairview and the fact there are very few, if any, sites available in the Inland Empire of a size to accommodate the large Skechers building.



3) Intersections and roadway improvements were clearly identified in the traffic analysis as being necessary to maintain or improve operational levels of service for this Project and General Plan. This Project will build all required improvements in the immediate vicinity as well as other off-site infrastructure required by the development. Furthermore, Redlands Blvd is a city designated truck route and the planning commission stated they did not want trucks mixing with automobiles.

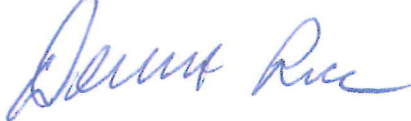
**Applicant:**

Ridge Rancho Belago, LLC

**Owner:**

Ridge Rancho Belago, LLC

Sincerely,

A handwritten signature in blue ink that reads "Dennis Rice". The signature is written in a cursive style with a large initial "D".

**Dennis Rice, President**

**Ridge Rancho Belago, LLC**

**By: Ridge Property Trust II, a Maryland real estate investment trust**

**RIDGE** PROPERTY TRUST



Community & Economic Development Department  
 Planning Division  
 14177 Frederick Street  
 P.O. Box 88005  
 Moreno Valley, CA 92552-0805  
 (951) 413-3206  
 (951) 413-3210 FAX

## PROJECT APPLICATION

No.:

Application must be completely filled out to be accepted.

### TYPE OF APPLICATION

(One Application Form Required for Each Type of Application)

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Administrative Plot Plan       | <input type="checkbox"/> Development Agreement      | <input type="checkbox"/> Specific Plan                  |
| <input type="checkbox"/> Administrative Variance        | <input type="checkbox"/> Development Code Amendment | <input type="checkbox"/> Specific Plan Amendment        |
| <input type="checkbox"/> Amended Conditional Use Permit | <input type="checkbox"/> Extension of Time          | <input type="checkbox"/> Tentative Parcel Map           |
| <input type="checkbox"/> Amended Plot Plan              | <input type="checkbox"/> General Plan Amendment     | <input type="checkbox"/> Tentative Tract Map            |
| <input type="checkbox"/> Change of Zone                 | <input type="checkbox"/> Plot Plan                  | <input type="checkbox"/> Variance                       |
| <input type="checkbox"/> Conditional Use Permit         | <input type="checkbox"/> Pre-Application Review     | <input checked="" type="checkbox"/> Other <u>Appeal</u> |

### APPLICATION INFORMATION

Project/Business Name (if any): West Ridge Commerce Center

Project Description: The project proposes the development of a 937,260 SF warehouse facility on 55 acres. This application is to appeal the Planning Commission denial of the project on May 12, 2011.

Property Address/Location: South of SR60 on the north side of Eucalyptus Ave and

Assessor's Parcel Number(s): 488-330-003 Through-006 and -026 approximately 650 feet west of Redlands Blvd.

Gross Area: \_\_\_\_\_ Net Area: \_\_\_\_\_ Proposed # of Lots/Parcels: \_\_\_\_\_ Proposed # of Residential Units: \_\_\_\_\_

Related Application(s): \_\_\_\_\_ Specific Plan Name/No. : \_\_\_\_\_

### CONTACT PERSONS

**APPLICANT** Name: Ridge Rancho Belago LLC Telephone: (562) 856-3819

Address: 201 Covina Ave, Suite 8 Fax No. (562) 856-3820

City: Long Beach State: CA Zip: 90803 E-mail Address: dprice@rptrust.com

Contact Person: Dennis Rice

**OWNER** Name: same as above Telephone: ( )

Address: \_\_\_\_\_ Fax No. ( )

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

**REPRESENTATIVE** Name: Inland Empire Development Services Telephone: (951) 845-1003

Address: 931 Monarch Court Fax No. (951) 845-225-0430

City: Beaumont State: CA Zip: 92223 E-mail Address: gilsaenz@msn.com

Contact Person: \_\_\_\_\_

APPLICATION CONTINUES ON REVERSE

**PROJECT INFORMATION**

Existing Zoning and General Plan Designations

Proposed Zoning and General Plan Designations (if applicable)

Existing Uses and/or Structures on Site

Surrounding Uses: North \_\_\_\_\_

South \_\_\_\_\_

East \_\_\_\_\_

West \_\_\_\_\_

Lot Size(s) (Sq. Ft.) (Smallest/Largest) N/A

Graded Area (sq. ft.)

Total Building Size (Sq. Ft.)

Impervious area (sq. ft.)

Setbacks: Front

Flood Zone

Side (interior)

Side (street side)

Rear

Maximum Building Height

Total No. of Parking Stalls:

Standard

Handicapped

**APPLICATION PROCESSING**

**Each application must be submitted with the required processing fee and all applicable submittal requirements. Additional information or materials may be needed before an application is accepted as complete. An incomplete application may be closed if it remains inactive for 180 days or more.**

**OWNER'S SIGNATURE**

I, Ridge Rancho Belago LLC am the owner of the property described in this application and hereby authorize

Print Name

Dennis S. Rice to act on my behalf on matters pertaining to this application.

Applicant/Representative Name

Property Owner's Signature

Dennis S. Rice

5-18-2011

Date

**Note:** If more than one owner, a separate page must be attached, listing the names and addresses of all persons (if a corporation, list officers and principals) having interest in the property ownership.

**APPLICANT'S SIGNATURE**

I certify under penalty of perjury that all the foregoing information is true and correct, and recognize that any false or misleading information shall be grounds for denial of this application. I also acknowledge that I am aware of and agree to indemnify the City in any legal proceedings pertaining to this request for discretionary land use approval. Section 9.02.310 of the Moreno Valley Municipal Code.

Dennis S. Rice

Applicant's Signature

5-18-2011

Date

RIDGE RANCHO BELAGO, LLC

CTYMORENO

CITY OF MORENO VALLEY

DATE	INVOICE NO	DESCRIPTION	INVOICE AMOUNT
5-16-11	51611	APPEAL PROCESS APP FEE	750.00
CHECK DATE	5-17-11	CHECK NUMBER	1194
TOTAL >			750.00

PLEASE DETACH AND RETAIN FOR YOUR RECORDS

RIDGE RANCHO BELAGO, LLC

CTYMORENO

CITY OF MORENO VALLEY

DATE	INVOICE NO	DESCRIPTION	INVOICE AMOUNT
5-16-11	51611	APPEAL PROCESS APP FEE	750.00
CHECK DATE	5-17-11	CHECK NUMBER	1194
TOTAL >			750.00

PLEASE DETACH AND RETAIN FOR YOUR RECORDS

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

RIDGE RANCHO BELAGO, LLC

8430 WEST BRYN MAWR AVE  
SUITE 400  
CHICAGO, IL 60631  
773-695-1250

JP MORGAN CHASE BANK, N.A.  
CHICAGO, IL 60603

2-1710

DATE May 17, 2011 CHECK NO. 1194 AMOUNT \*\*\*\*\*\$750.00

Pay:\*\*\*\*\*Seven hundred fifty dollars and no cents

PAY TO THE ORDER OF CITY OF MORENO VALLEY  
14177 Frederick Street  
PO Box 88005  
Moreno Valley, CA 92552

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK—HOLD AT AN ANGLE TO VIEW

700 1 194 00 0000 13 07 19549 123 00



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>But</i>
CITY MANAGER	<i>ms</i>

## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Barry Foster, Community & Economic Development Director

**AGENDA DATE:** July 12, 2011

**TITLE:** A PUBLIC HEARING REGARDING AN APPEAL OF THE PLANNING COMMISSION DENIAL OF A ZONE CHANGE (PA08-0098) FROM BUSINESS PARK (BP) TO LIGHT INDUSTRIAL (LI) FOR A 55 ACRE SITE FOR THE WEST RIDGE COMMERCE CENTER PROJECT. THE PROJECT ALSO INCLUDES A PLOT PLAN (PA08-0097) FOR A 937,260 SQUARE FOOT WAREHOUSE FACILITY; TENTATIVE PARCEL MAP NO. 36207 (PA09-0022) TO CREATE A SINGLE PARCEL; AND A MUNICIPAL CODE AMENDMENT TO PROVIDE A MINIMUM SEPARATION/BUFFERING OF WAREHOUSE/INDUSTRIAL FACILITIES OVER 50,000 SQUARE FEET FROM ADJACENT RESIDENTIAL DISTRICTS. AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED FOR THE PROJECT. THE PROJECT SITE IS LOCATED ON THE SOUTH SIDE OF STATE ROUTE 60, ON THE NORTH SIDE OF EUCALYPTUS AVENUE AND APPROXIMATELY 650 FEET WEST OF REDLANDS BOULEVARD. THE APPLICANT IS RIDGE RANCHO BELAGO, LLC.

---

### **RECOMMENDED ACTION**

Staff recommends that the City Council conduct a public hearing for review of an appeal of the Planning Commission denial of Zone Change application PA08-0098, and take one of the following actions:

If the City Council elects to uphold the Planning Commission's denial of Zone Change application PA08-0098:

1. **ADOPT** City Council Resolution No. 2011-76 denying Zone Change application PA08-0098, based on the findings in the Resolution.

OR

If the City Council elects to overturn the Planning Commission decision, and approve the project:

1. **ADOPT** City Council Resolution No. 2011-77 APPROVING AND CERTIFYING that the Environmental Impact Report (EIR) for the West Ridge Commerce Center Project (Attachment 1) has been completed in compliance with the California Environmental Quality Act;
2. **INTRODUCE** Ordinance No. 829 APPROVING Zone Change application PA08-0098 for 55 acres from Business Park (BP) to Light Industrial (LI) as shown on Exhibit A;
3. **INTRODUCE** Ordinance No. 830 APPROVING Municipal Code Amendment PA10-0017 to provide for setbacks and buffering of warehouse/industrial buildings from adjacent residential zones, based on the findings in the City Council Ordinance;
4. **ADOPT** City Council Resolution No. 2011-78 APPROVING Plot Plan PA08-0097, based on the findings in the Resolution, and the conditions of approval as attached to the resolution as Exhibit A; and
5. **ADOPT** City Council Resolution No. 2011-79 APPROVING Tentative Parcel Map No. 36207 (PA09-0022), based on the findings in the Resolution, and the conditions of approval as attached to the resolution as Exhibit A.

**ADVISORY BOARD/COMMISSION RECOMMENDATION**

The Planning Commission, on May 12, 2011, denied the proposed Zone Change required to allow the project. The Planning Commission adopted Resolution No. 2011-13 (Attachment 21) on June 9<sup>th</sup> documenting the denial by a vote of 3-2 with two commissioners absent or abstaining. Individual Planner Commissioners stated concerns with increased truck traffic on Redlands Boulevard, impacts to aesthetics and views from State Route 60, and the lack of a specified tenant for the project.

**Appeal**

An appeal of the Planning Commission's denial was submitted on May 19, 2011, by the applicant, Ridge Rancho Belago, LLC. The appeal was received within the required 15 day appeal period. The appeal letter has been included as Attachment 22.

The letter listed the following as the reasons for the appeal:

- The project's architecture is consistent with prior approvals for warehouse buildings of similar size;
- Requiring a project to have a signed lease agreement prior to approval of the land use is not a standard practice.
- Redlands Boulevard is currently identified as a truck route in the City's General Plan. The traffic study identified intersection and roadway segments that required mitigation to meet or improve General Plan levels of service requirements and the project has been conditioned to complete/install infrastructure in the immediate vicinity and off-site to mitigate operational impacts to the City's circulation system.

## **BACKGROUND**

### **West Ridge Commerce Center**

The applicant, Ridge Rancho Belago, LLC, submitted five applications for development of the West Ridge Commerce Center Project (Zone Change, Municipal Code Amendment, Plot Plan, Tentative Parcel Map, and Environmental Impact Report), in order to develop a 937,260 square foot warehouse facility on a 55-acre site located on south side of the Moreno Valley Freeway, on the north side of Fir Avenue/Future Eucalyptus Avenue and approximately 650 feet west of Redlands Boulevard.

#### **Zone Change**

The project site is currently zoned Business Park (BP) with a Business Park (BP) General Plan land use designation. The Business Park zone limits warehouse buildings to no more than 50,000 square feet. A Zone Change to Light Industrial (LI) is required to allow the larger building proposed by the project. Both the BP and LI zones are compatible with the BP General Plan land use designation.

Land uses to the west include a mix of BP and various residential zones and to east properties are zoned Community Commercial and Light Industrial. Land uses to the south across future Eucalyptus are Residential 2 (Residential – up to 2 units per acre). In other portions of the City, the BP zone provides a buffer between the LI zone and residential zones. In providing for this separation or buffering for the proposed project, a new standard is presented as a Municipal Code Amendment in the following section.

#### **Municipal Code Amendment**

Buffering of the proposed warehouse/industrial development from the residentially zoned properties to the south was an issue reviewed for the project. Future Eucalyptus Avenue separates the proposed project from residentially zoned properties to the south. There is an existing single family residence immediately to the south of the project site.

In order to provide compatibility between current and proposed land uses, the air quality study included in the project Environmental Impact Report (EIR) proposes a buffer zone

of 250 feet from the project's truck court to the residential zone to the south (centerline of Fir Avenue/Future Eucalyptus Avenue).

The Municipal Code currently identifies the Business Park (BP) district as the zone to "provide a transition between residential and other sensitive uses and more intense industrial and warehousing uses".

The Municipal Code Amendment would add a standard to the Light Industrial zone to require industrial and warehouse structures greater than 50,000 square feet to be separated from any residential district as determined by an air quality and noise impact analysis. The minimum separation distance would be 250 feet between the residential district and the building, truck court or loading area. Attachment 18 provides the proposed Amendment text. The proposed amendment would be effective City-wide.

### Plot Plan

The Plot Plan is for a 937,260 square foot warehouse distribution facility on 55 acres. The warehouse facility is a permitted use in the proposed Light Industrial zone. The building is set back 435 from the centerline of Fir/Future Eucalyptus Street while the adjacent truck court is set back 250 from the centerline of Fir/Future Eucalyptus Street.

The warehouse facility includes 173 loading docks with roll-up doors, truck staging and parking areas for 175 trailers within the enclosed truck court, two office areas and 307 parking spaces for employees and visitors. Proposed parking exceeds the City's requirements for truck and employee/visitor parking for a warehouse use.

The loading and truck parking areas on the northern and southern elevations and are screened by perimeter concrete tilt-up walls and slopes with a tree row required along the State Route 60 frontage. The lettered lot at the northeast corner of the site will be planted and maintained by the applicant/developer until the property is transferred to Caltrans for future development of the reconfigured Redlands Boulevard offramp.

The project has been conditioned to provide parking lot and setback landscape to include ground cover, shrubs and trees. Two on-site detention/water quality basins will be extensively landscaped. The project's Fir Avenue/Future Eucalyptus Avenue frontage will include curb, gutter, parkway, sidewalk and a segment of multi-use trail.

### Tentative Parcel Map

Tentative Parcel Map No. 36207 is proposed to combine the five parcels located within the project site into a single 55 acre parcel with lettered lots to convey property to Caltrans for future development of a new off-ramp and to Riverside County Flood Control for maintenance of a portion of the adjacent Quincy Channel.

## **ENVIRONMENTAL**

### Initial Study/Notice of Preparation



An Initial Study was completed after all discretionary applications were deemed complete. Based on the information within the Initial Study, an Environmental Impact Report (EIR) was recommended to be prepared. A Notice of Preparation for the EIR was issued on October 1, 2009, with the public comment period beginning on October 5, 2009 and ending on November 3, 2009. A public meeting to receive input on the issues to be covered by the EIR was held at City Hall on October 28, 2009.

#### Draft Environmental Impact Report

Subsequent to that meeting, the Draft EIR was prepared by Applied Planning and submitted to the City and its peer consultant for review.

City staff and the peer review consultant reviewed the Draft EIR for compliance with the California Environmental Quality Act (CEQA) Guidelines and required revisions to address identified questions and concerns. After revisions were incorporated into the document, the Draft EIR was circulated for a 45-day public review period, starting on October 22, 2010, and ending on December 6, 2010. A public information meeting was held during the comment period on December 2, 2010.

The Draft EIR was sent to all required responsible agencies and numerous interested parties on October 18, 2010, as well as to the City's Environmental and Historical Preservation Board. Twenty-four comment letters were provided during the 45-day review period. Two letters were received after the end of the review period.

#### Final Environmental Impact Report

The Draft EIR and Response to Comments constitute the Final EIR. Responses to the comments received during the 45 day review period are included in the Response to Comments. Comment letters were received on December 10, 2010, from the South Coast Air Quality Management District and from a resident, Tom Hyatt. Due to the lateness of the letters, they were not included in the Response to Comments and instead have been addressed in a separate attachment to this staff report.

The Final EIR was mailed to all interested parties and responsible agencies on April 28, 2011, in excess of the minimum notice period of 10 days required by CEQA. As was the case with the Draft EIR, the Final EIR was provided for public review at City Hall, the City Library and posted on the City's website.

#### Significant and Unavoidable Impacts

Analysis presented in the EIR indicates that the proposed project will have a number of potentially significant impacts, either as direct result of the proposed project or cumulatively with other proposed projects on traffic and circulation, air quality, noise, and aesthetics. The EIR includes a number of proposed mitigation measures to reduce or eliminate potential significant impacts. Even with proposed mitigation, a number of

potential impacts cannot be reduced to a less than significant level. As identified in the document, these impacts are considered to be significant and unavoidable.

Although certain identified impacts cannot be reduced to less than significant levels, CEQA allows the decision making agency to balance the economic, legal, social, technological or other benefits of a proposed project against its unavoidable environmental impacts when determining whether to approve the proposed project. This would include project benefits such as the creation of jobs. If the decision making body determines that the benefits of a proposed project outweigh its unavoidable adverse environmental effects, it may adopt a statement of overriding considerations and approve the project.

### Mitigation Measures

The EIR includes mitigation measures intended to reduce project-specific and cumulative impacts for Traffic and Circulation, Air Quality/Greenhouse Gas Emissions, Noise, Water Supply, Cultural Resources, and Biological Resources. All other environmental effects evaluated in the EIR are considered to be less than significant and do not require mitigation. All mitigation measures have also been included as conditions of approval for the project.

### Approval and Certification

Typically, the Planning Commission would take public testimony on the EIR and project and forward a recommendation to City Council. However, since the Planning Commission voted 3-2 denying approval of the requested Zone Change, effectively denying the project, no review or recommendation on the EIR was required.

Before the proposed project can be acted upon, the City Council must review the final EIR, receive public testimony and either certify or reject the Final EIR and project Mitigation Monitoring Program.

### Municipal Code Amendment

The proposed Municipal Code Amendment is considered a minor alteration to land use limitations which qualifies as exempt under California Environmental Quality Act Guidelines, per Section 15305, as a Class 5 Categorical Exemption.

## **DISCUSSION**

### Planning Commission Public Hearing

Prior to the Planning Commission public hearing on May 12, 2011, staff received three emails from the Sierra Club commenting on the project and the related EIR. An email was also submitted by Paul Claxton, along with letters from the South Coast Air Quality Management Board and Johnson & Sedlack (Attachments 23-28). Copies of the referenced correspondence were provided to the Planning Commission.

A public hearing for the project was conducted on May 12, 2011. Following presentation of the staff report, the applicant spoke and answered Commissioner questions related to building architecture, notification efforts by the applicant, and pre-leasing the building prior to approval of the land use.

There were three speakers at this meeting. Concerns raised by the speakers included increased truck traffic on Redlands Boulevard and Ironwood Avenue, too frequent changes to the General Plan Land Use Element, the City's policy for notification of a public hearing, opposition to the Zone Change request, preservation of the rural east end of City, air quality and Commissioner objectivity.

The Planning Commission asked the applicant whether they would agree to change the architecture or guarantee a tenant or buyer. The applicant indicated that securing a tenant or buyer prior to approval of the project was not a possibility. The applicant was not willing to make changes to the architecture and asserted that the proposed architecture meets current City design criteria. Planning staff stated that the proposed architecture is consistent with both the Municipal Code and prior City warehouse approvals.

Following public testimony, the Planning Commissioners discussed the project, and then voted 3-2 to deny the Zone Change, effectively denying the project based on concerns with the project's design and potential impacts. There was no discussion of the Environmental Impact Report and no recommendation action taken on project's environmental documents.

### **ALTERNATIVES**

1. The City Council could deny the project by adopting the denial resolution included as Attachment 2.
2. The City Council could approve the project by adopting the resolutions and ordinances included as Attachments 3 through 7.
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.

### **SUMMARY**

This report addresses the appeal of the Planning Commission's May 12, 2011 denial of Zone Change application PA08-0098 to change the zone from Business Park to Light Industrial for a 55 acre site for the West Ridge Commerce Center project. The project also includes applications for Plot Plan PA08-0097 for a 937,260 square foot warehouse facility on 55 acres; Tentative Parcel Map No. 36207 to create a single parcel; and a Municipal Code amendment to Chapter 9.05 Industrial Districts to provide a minimum

separation or buffering of warehouse/industrial facilities over 50,000 square feet from adjacent residential districts. An Environmental Impact Report has been prepared for the proposal. Staff has provided recommended actions that would permit City Council to either uphold the Planning Commission denial or overturn that action and approve the proposed project.

### **NOTIFICATION**

Notice of the appeal of the proposed West Ridge Commerce Center project was provided to all property owners of record within 300' of the properties covered under these applications as well as agencies and interested parties that requested notification of public meetings for this project. 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. City Council Denial Resolution No. 2011-76
3. Environmental Impact Report Resolution No. 2011-77, including Statement of Overriding Considerations and Mitigation Monitoring Program
4. Ordinance No. 829 - Zone Change
5. Ordinance No. 830 - Municipal Code Amendment
6. Resolution No. 2011-78 - Plot Plan PA08-0097
7. Resolution No. 2011-79 - Tentative Tract Map 36207
8. Planning Commission Staff Report excluding exhibits
9. Planning Commission Minutes from May 12, 2011 meeting
10. Environmental Impact Report
11. Site Plan
12. Elevations
13. Color Rendering
14. Cross Sections – Line of Sight
15. Preliminary Landscape Plan
16. Tentative Parcel Map 36207
17. Aerial Photograph
18. Revisions to Municipal Code Chapter 9.05 Industrial Districts
19. Response to SCAQMD comments
20. Response to Tom Hyatt comments
21. Planning Commission Denial Resolution No. 2011-13
22. Appeal letter from Ridge Rancho Belago, LLC dated 05/19/11
23. Sierra Club email dated 05/05/11
24. Sierra Club email dated 05/09/11
25. Sierra Club email dated 05/11/11
26. Johnson & Sedlack comment letter dated 05/12/11
27. South Coast Air Quality Board comment letter dated 05/12/11
28. Email comments from Paul Claxton date 05/11/11

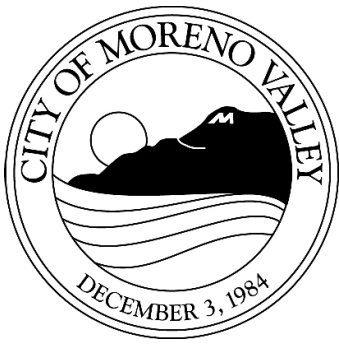
Prepared By:  
Jeff Bradshaw  
Associate Planner

Department Head Approval:  
Barry Foster  
Community & Economic Development Director

Concurred By:  
John C. Terrell, AICP  
Planning Official

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

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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:** P08-133 – Environmental Impact Report  
PA08-0098 – Zone Change  
PA10-0017 – Municipal Code Amendment  
PA08-0097 – Plot Plan  
PA09-0022 – Tentative Parcel Map No. 36207

**APPLICANT:** Ridge Rancho Belago, LLO

**OWNER:** Ridge Rancho Belago, LLC

**REPRESENTATIVE:** Inland Empire Development Services

**LOCATION:** South side of State Route 60, on the north side of Eucalyptus Avenue and approximately 650 feet west of Redlands Boulevard

**PROPOSAL:** A public hearing regarding an appeal of the Planning Commission's May 12, 2011 denial of a Zone Change (PA08-0098) from Business Park (BP) to Light Industrial (LI) for a 55 acre site for the West Ridge Commerce Center project. The project also includes a Plot Plan (PA08-0097) for a 937,260 square foot warehouse facility; Tentative Parcel Map No. 36207 (PA09-0022) to create a single parcel; and a Municipal Code Amendment to provide a minimum separation/buffering of warehouse/industrial facilities over 50,000 square feet from adjacent residential districts. An Environmental Impact Report has been prepared for the project.

**ENVIRONMENTAL DETERMINATION:** Environmental Impact Report

**COUNCIL DISTRICT:** 3

Any person interested in any listed proposal can contact the Community & Economic 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** N ↑

## CITY COUNCIL HEARING

City Council Chamber, City Hall  
14177 Frederick Street  
Moreno Valley, Calif. 92553

**DATE AND TIME:** July 12, 2011 at 6:30 PM

**CONTACT PLANNER:** Jeff Bradshaw

**PHONE:** (951) 413-3224

ATTACHMENT 1

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RESOLUTION NO. 2011-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DENYING A CHANGE OF ZONE (PA08-0098) FROM BP (BUSINESS PARK) TO LI (LIGHT INDUSTRIAL) FOR AN APPROXIMATE 55 ACRE SITE, LOCATED WITHIN ASSESSOR'S PARCEL NUMBERS 488-330-003 THROUGH -006 AND -026.

WHEREAS, the applicant, Ridge Rancho Belago, LLC, has filed an application for the approval of a change of zone (PA08-0098) from BP (Business Park) to LI (Light Industrial) for an approximately 55 acre site located on the south side of State Route 60, on the north side of Fir Avenue/Future Eucalyptus Avenue and approximately 650 feet west of Redlands Boulevard.

WHEREAS, on May 12, 2011, the Planning Commission of the City of Moreno Valley held a meeting to consider the Zone Change application.

WHEREAS, on June 9, 2011, the Planning Commission adopted a resolution by a vote of 3 to 2 to deny the proposed Change in Zone.

WHEREAS, on July 12, 2011, the City Council held a public hearing to consider an appeal of the Planning Commission's denial of the Zone Change application.

WHEREAS, the project also includes applications for an Environmental Impact Report (EIR) (P08-133), a Municipal Code Amendment (PA10-0017), a Plot Plan (PA08-0097) and Tentative Parcel Map No. 36207 (PA09-0022). Since the City Council voted to deny the Change of Zone, no action on the related project applications is required, since the applications are moot.

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 July 12, 2011, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:
  - 1. The Moreno Valley General Plan designates State Route 60 (SR-60) as a local scenic road (Policy 7.7.3). In addition, Figure 5.11-1, "Major Scenic Resources," illustrates that the Project site is located within a view corridor.

ATTACHMENT 2

The proposed Change of Zone may not be consistent with the General Plan's policy regarding protection of scenic resources. The proposed project includes a 937,260 square foot warehouse industrial building which exceeds the maximum building area of 50,000 square feet permitted by the current zoning designation of Business Park. Adequately designing a building elevation(s) that is visible along a scenic corridor might prove difficult due to the scale and massing of a single large warehouse building. A business park comprised of smaller buildings (50,000 square feet or less) might afford opportunities for view corridors between the structures.

2. The proposed warehouse industrial buildings would increase the amount of heavy truck traffic on adjacent Redlands Boulevard leading from the project to Highway 60. Potential conflicts may be created with the mixing of heavy trucks and residential and business park traffic. The increase in heavy truck traffic would be incompatible with the lower intensity business park uses and residential uses identified on the General Plan Land Use Element for this area. The proposed warehouse industrial building would be better suited to areas in the City that provide better access to the freeway system through upgraded roadways and freeway interchanges.

BE IT FURTHER RESOLVED that the City Council HEREBY APPROVES Resolution No. 2011-          , DENYING a Change of Zone (PA08-0098) for an approximate 55 acre site from BP (Business Park) to LI (Light Industrial).

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor of the City of Moreno Valley

ATTEST:

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

APPROVED AS TO FORM:

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

**RESOLUTION JURAT**

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

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

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RESOLUTION NO. 2011-77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (P08-133), ADOPTION OF THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVAL OF THE MITIGATION MONITORING PROGRAM FOR THE WEST RIDGE COMMERCE CENTER PROJECT, GENERALLY LOCATED ON THE SOUTH SIDE OF STATE ROUTE 60, ON THE NORTH SIDE OF FIR AVENUE/FUTURE ECUALYPTUS AVENUE AND APPROXIMATELY 650 FEET WEST OF REDLANDS BOULEVARD.

WHEREAS, on July 12, 2011, the City Council of the City of Moreno Valley held a public hearing to consider the Environmental Impact Report and all related environmental documentation for the proposed project, which includes a Plot Plan for a 937,260 square foot distribution warehouse facility on 55 acres. The warehouse building includes 173 dock doors and provides parking for 307 employees/visitors and 175 trailer parking spaces within the enclosed truck court. The project site is currently zoned Business Park which limits warehouse buildings to no more than 50,000 square feet. A Zone Change to Light Industrial is required to allow the larger building proposed by the project. Tentative Parcel Map No. 36207 proposes to combine the multiple parcels of the project site into a single parcel. This project also requires approval of a Municipal Code amendment to Chapter 9.05 Industrial Districts to require a minimum separation or buffering of warehouse facilities over 50,000 square feet from adjacent Residential districts. The proposed amendment will be effective citywide;

WHEREAS, the project includes applications for a Change of Zone (PA08-0098), Municipal Code Amendment (PA10-0017), a plot plan (PA08-0097) and a tentative parcel map (PA09-0022). All the applications are related but shall not be approved unless the Environmental Impact Report (P08-133) is certified and approved.

WHEREAS, a Draft Environmental Impact Report (DEIR) was initially prepared for this project. Said DEIR was initially circulated for review on October 22, 2010, while the review period ended on December 6, 2010. A Final EIR, (including the Draft EIR and responses to comments), has been completed and is being recommended for certification, prior to the approval of discretionary permits related to the project.

WHEREAS, on April 28, 2011, the City published a notice in the local newspaper (Press Enterprise) and distributed copies of the draft Final EIR with complete responses to comments to the State Clearinghouse, local agencies and other interested parties;

ATTACHMENT 3

WHEREAS, on July 12, 2011, the City Council held a public hearing to consider a Final EIR for this project.

WHEREAS on July 12, 2011, the City Council reviewed in full the Final EIR, the Statement of Overriding Considerations and Mitigation Monitoring Program;

WHEREAS, the draft and final EIR concerning the proposed West Ridge Commerce Center Project were prepared in sufficient detail and duly circulated in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the City of Moreno Valley Rules and Procedures to Implement CEQA;

WHEREAS, the Final EIR recommended to the City Council includes all responses to comments thereon;

WHEREAS, the final EIR includes a review of potential impacts associated with the implementation of the West Ridge Commerce Center Project, including, but not limited to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, land use, noise, transportation/traffic, and utilities/service systems;

WHEREAS, a Mitigation Monitoring Program has been completed to ensure that all of the mitigation measures outlined in the final EIR are implemented, and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the City Council of the City of Moreno Valley does hereby resolve as follows:

1. The City Council certifies that the final Environmental Impact Report (EIR) for the West Ridge Commerce Center Project on file with the Community & Economic Development Department, incorporated herein by this reference, has been completed in compliance with the California Environmental Quality Act, that the City Council reviewed and considered the information contained in the final EIR and that the final EIR reflects the City's independent judgment and analysis; and
2. The City Council hereby adopts the Findings and Statement of Overriding Considerations regarding the final EIR for the West Ridge Commerce Center Project, attached hereto as Exhibit A; and
3. The City Council hereby approves the Mitigation Monitoring Program for the final EIR for the proposed West Ridge Commerce Center Project, attached hereto as Exhibit B.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

**RESOLUTION JURAT**

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

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)



**Facts, Findings and Statement of Overriding Considerations  
Regarding the Environmental Effects and the Approval of the  
Westridge Commerce Center Project  
(State Clearinghouse No. 2009101008)**

**I. INTRODUCTION**

The City Council of Moreno Valley (this “Council”), in certifying the EIR for the Westridge Commerce Center Project and approving Tentative Parcel Map 36207 and a Plot Plan authorizing the construction of up to 937,260 square feet of light industrial/distribution warehouse uses (the “Project”), makes the Findings described below and adopts the Statement of Overriding Considerations presented at the end of the Findings. The Environmental Impact Report (“EIR”) was prepared by the City acting as lead agency pursuant to the California Environmental Quality Act (“CEQA”). Hereafter, unless specifically identified, the Notice of Preparation (“NOP”), Notice of Availability & Completion (“NOA/NOC”), Draft EIR (“DEIR”), Technical Studies, Final EIR containing Responses to Comments and textual revisions to the Draft EIR (“FEIR”), and the Mitigation Monitoring and Reporting Program (“MMRP”) will be referred to collectively herein as the “EIR.” These Findings are based on the entire record before this Council, including the EIR. This Council adopts the facts and analyses in the EIR, which are summarized below for convenience. The omission of some detail or aspect of the EIR does not mean that it has been rejected by this Council.

**II. PROJECT SUMMARY**

**A. PROJECT DESCRIPTION**

**1. Site Location**

The Project is located in the City of Moreno Valley. The Project site consists of approximately 54.66 acres of vacant and undeveloped land, located southeasterly of the SR-60 interchange with Redlands Boulevard. Specifically, the Project is bounded by SR-60 to the North, Fir Avenue (future Eucalyptus Avenue) to the south, the Quincy Channel to the

EXHIBIT A

west, and vacant land designated for commercial use between the Project's east boundary and Redlands Boulevard, approximately 700 feet to the east.

Properties to the west of the Westridge Commerce Center Project site, across the Quincy Channel, are currently in agricultural production; however, a development proposal has been submitted to the City for this adjacent site, involving six (6) distribution warehouse facilities totaling approximately 2.25 million square feet on 117 acres, and an EIR is currently being prepared for this project. To the south, across the Fir (future Eucalyptus) Avenue alignment, properties are currently vacant with the exception of one residence located near the southeasterly corner of the Project site. No active development proposals exist for southerly adjacent properties, which have a General Plan Land Use designation of "R2," allowing two dwelling units (DU) per acre. Properties immediately to the east of the Project site are designated for commercial use, though no development proposal is currently on file. Further to the east, across Redlands Boulevard, the Highland Fairview Corporate Park project is currently under construction. At buildout, this Project would involve approximately 2.6 million square feet of warehouse distribution uses and 200,000 square feet of commercial uses on approximately 158 acres located south of SR-60, between Redlands Boulevard and Theodore Street.

## **2. Project Description**

The Project consists of construction and operation of an approximately 937,260 square foot light industrial/distribution warehouse facility, with onsite parking, circulation, and all required infrastructure. The Project site is currently designated for Business Park/Light Industrial uses in the City's General Plan, and its zoning designation is Business Park. The development of the Project requires a change of zone, from Business Park to Light Industrial zoning, to allow for the proposed light industrial/distribution warehouse uses configured in a single structure greater than 50,000 square feet. A Municipal Code text amendment to Section 9.05.020 B is also required by the Project, to provide objective standards for the development of Light Industrial uses adjacent to residentially-zoned property in order to ensure the protection of the health, safety and welfare of future residents.

### **3. Actions Covered by the EIR**

The EIR will support the following discretionary approvals:

- A zone change from Business Park to Light Industrial;
- Amendment to Municipal Code Section 9.05.020 B [Light Industrial Districts];
- Tentative Parcel Map approval (PM 36207);
- Development Plan Review and Plot Plan approval for the entire Project;
- Construction, grading, and encroachment permit approvals;
- Vacation and/or dedication of public rights-of-way and easements;
- Approval of the Final Water Quality Management Plan (WQMP); and
- Any other City of Moreno Valley approvals that may be necessary pursuant to applicable laws and regulations.

### **B. PROJECT OBJECTIVES**

The Project Objectives include the following:

- Transition the existing site into a productive use;
- Develop a project that is sensitive to the surrounding land uses;
- Provide jobs-producing, light industrial uses to the City of Moreno Valley and local community;
- Capitalize on the site's regional freeway access; and
- Increase economic benefits to the City of Moreno Valley through increased tax generation and job creation.

### **III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION**

The City has conducted an extensive review of this Project which included the DEIR, FEIR and supporting technical studies, along with a public review and comment period first during the circulation of the NOP/Initial Study and then through the circulation of the DEIR. The following is a summary of the environmental review of this Project:

- On October 1, 2009 the City circulated a Notice of Preparation (“NOP”) and the Initial Study that identified the environmental issues that the City anticipated would be analyzed in the Project’s DEIR to the State Clearinghouse, responsible agencies, and other interested parties.
- On October 28, 2009, the City conducted a public scoping meeting to allow members of the public to provide comments and input regarding the scope and content of the DEIR.
- The NOP public review period ran for 30 days, from October 1 to October 30, 2009. Written comments on the NOP were received from 26 different agencies, organizations, and individuals. The scope of the issues identified in the comments expressing concern included potential impacts associated with: aesthetics; agricultural resources; air quality; biological resources; geology and soils (seismic risk); hazardous materials; hydrology/water quality; land use; noise; solid waste generation; traffic and circulation; water supply; alternatives selection; cumulative impacts; growth inducement; and the use of green building standards and solar energy.
- Based on the Initial Study, included in the DEIR in Appendix A, and comments received pursuant to the NOP, it was determined that some issues need not be addressed in depth in the DEIR because previous studies of other analyses provided sufficient information and analysis to conclude that there was little or no potential for significant impacts. These environmental topics included: (1) Agricultural Resources; (2) Geology and Soils; (3) Hazards/Hazardous Materials; (4) Mineral Resources; (5) Population/Housing; (6) Public Services; (7) Recreation; and, (8) Utilities and Service Systems.

- On October 21, 2010, the NOA/NOC was filed with the Riverside County Recorder and the State Clearinghouse and the DEIR was circulated for the 45 day public review, which ended December 6, 2010.
- The City received a total of six (6) comment letters from public agencies; five (5) from local business or community organizations; and thirteen (13) from individuals. The City prepared specific responses to all comments. The responses to comments are included in Section 3.0 of the FEIR.
- On December 2, 2010, the City held a publicly noticed meeting to provide additional information about the Project and the EIR.
- On April 29, 2011 in accordance with *Public Resources Code* Section 21092.5, the City provided written proposed responses to public agencies that commented on the DEIR.
- On May 12, 2011, the City Planning Commission conducted a public hearing to consider the Project. After public testimony presented at the hearing, the Planning Commission denied the requested Zone Change for the Project, effectively denying the Project.
- On May 19, 2011, an appeal letter and application were submitted to the City by the applicant, Ridge Rancho Belago, LLC, appealing the Planning Commission's denial of the Project to the City Council.
- On June 30, 2011, Notice of the City Council hearing to consider the Project was provided in the following newspaper(s) of general and/or regional circulation: Press Enterprise.
- On July 12, 2011, this Council approved a continuance to August 23, 2011.
- On August 23, 2011, this Council held a public hearing to consider the Project and staff recommendations. The City, after considering written comments and oral testimony on the EIR, determined that no new information was presented that would require recirculation of the EIR. Following public testimony, submission of additional written comments, and staff recommendations, this Council certified the EIR, adopted these Facts, Findings and the Statement of Overriding

Considerations, and the further recommendations in the Staff Report, and approved the Project, including the requested change of zone, Municipal Code Amendment, and PM 36207 (collectively the “Approvals”).

#### **IV. INDEPENDENT JUDGMENT FINDING**

The Applicant retained the independent consulting firm of Applied Planning, Inc. (“Applied Planning”) to prepare the EIR for the Project. Applied Planning has prepared the EIR under the supervision, direction and review of the City with the assistance of an independent peer review (Willdan Associates). The City of Moreno Valley is the Lead Agency for the preparation of the EIR, as defined by CEQA CPCR Section 21067 as amended. The City Council has received and reviewed the EIR prior to certifying the EIR and prior to making any decision to approve or disapprove the Project.

**Finding:** The EIR for the Project reflects the City’s independent judgment. The City has exercised independent judgment in accordance with *Public Resources Code* Section 21082.1(c) (3) in directing the consultant in the preparation of the EIR, as well as reviewing, analyzing and revising material prepared by the consultant.

##### **A. GENERAL FINDING ON MITIGATION MEASURES**

In preparing the Approvals for this Project, City staff incorporated the mitigation measures recommended in the EIR as applicable to the Project. In the event that the Approvals do not use the exact wording of the mitigation measures recommended in the EIR, in each such instance, the adopted Approvals are intended to be identical or substantially similar to the recommended mitigation measure. Any minor revisions were made for the purpose of improving clarity or to better define the intended purpose.

**Finding:** Unless specifically stated to the contrary in these findings, it is this Council’s intent to adopt all mitigation measures recommended by the EIR which are applicable to the Project. If a measure has, through error, been omitted from the Approvals or from these Findings, and that measure is not specifically reflected in these Findings, that measure shall be deemed to be adopted pursuant to this paragraph. In addition, unless specifically stated to the contrary in these Findings, all Approvals repeating or rewording mitigation measures recommended in the EIR are intended to be substantially similar to the mitigation measures

recommended in the EIR and are found to be equally effective in avoiding or lessening the identified environmental impact. In each instance, the Approvals contain the final wording for the mitigation measures.

**V. ENVIRONMENTAL IMPACTS AND FINDINGS**

City staff reports, the EIR, written and oral testimony at public meetings or hearings, these facts, findings and statement of overriding considerations, and other information in the administrative record, serve as the basis for the City's environmental determination.

The detailed analysis of potentially significant environmental impacts and proposed mitigation measures for the Project is presented in Section 4.0 and 5.0 of the DEIR and Section 4.0 of the FEIR. Responses to comments on the DEIR, along with copies of the comments, are provided in Chapter 3.0 of the FEIR.

The EIR evaluated nine major environmental categories for potential impacts including Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hydrology and Water Quality, Land Use, Noise, Traffic and Circulation and Water Supply. Both Project-specific and cumulative impacts were evaluated. Of these nine major environmental categories, this Council concurs with the conclusions in the EIR that the issues and sub issues discussed in Sections V.A and V. B below either are less-than-significant without mitigation or can be mitigated below a level of significance. For the remaining potential environmental impacts that cannot feasibly be mitigated below a level of significance discussed in Section V.C, overriding considerations exist which make these potential impacts acceptable to this Council.

**A. LESS-THAN-SIGNIFICANT ENVIRONMENTAL IMPACTS NOT REQUIRING MITIGATION**

The Moreno Valley City Council hereby finds that the following potential environmental impacts of the Project are less-than-significant and therefore do not require the imposition of mitigation measures.

1. **Land Use**

a. **General Plan Consistency**

**Potential Significant Impact:** Whether the Project is consistent with applicable provisions of the City’s General Plan.

**Findings:** Potential impacts of the Project related to consistency with the General Plan are discussed in detail in Section 4.1 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to General Plan consistency will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site’s General Plan Land Use designation is “Business Park/Light Industrial.” The warehouse and distribution uses proposed by the Project are permitted or conditionally permitted by, and therefore are considered to be consistent with, applicable General Plan Land Use Plans and Policies. (DEIR, pg. 4.1-17) Accordingly, impacts associated with General Plan consistency would be less-than-significant and no mitigation is required.

b. **Zoning Consistency**

**Potential Significant Impact:** Whether the Project would conflict with the applicable zoning.

**Findings:** Potential impacts of the Project related to consistency with zoning are discussed in detail in Section 4.1 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to zoning consistency will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site’s existing zoning designation of Business Park (BP) does not allow for development of distribution warehouse uses within single structures of more than 50,000 square feet, as proposed by the Project. As such, a zone change from BP to Light Industrial (LI) is requested in order to accommodate the Project. The proposed LI zoning designation is consistent with the site’s underlying General Plan Land Use designation of Business Park/Light Industrial. In order to ensure compatibility of the Project’s proposed Light Industrial zoning with adjacent residentially zoned land uses, a Municipal Code Amendment is also proposed that would require a minimum separation of 250 feet between light industrial uses and residentially-zoned properties. This 250-foot minimum separation shall be increased as



required to fully mitigate any potentially significant health risks and/or potentially significant operational noise impacts at adjacent residential properties. (DEIR, pgs. 4.1-20 to 4.1-24) Accordingly, with approval of the Project's requested zone change and Municipal Code Amendment, impacts associated with zoning consistency would be less-than-significant and no mitigation is required.

**c. Consistency with SCAG Plans and Policies**

**Potential Significant Impact:** Whether the Project would conflict with any applicable Southern California Association of Governments (SCAG) plan or policy.

**Findings:** Potential impacts of the Project related to consistency with the applicable SCAG plans and policies are discussed in detail in Section 4.1 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impacts related to inconsistency with SCAG's regional plans or policies areas will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The City of Moreno Valley is a SCAG member agency, and is subject to applicable Policies of SCAG's regional plans. The DEIR assessed the Project and found it to be consistent with applicable SCAG Policies on Growth Management, Air Quality, Open Space and Conservation, and Water Quality, Regional Transportation. The Project was also found to be consistent with SCAG's Regional Transportation Plan and Compass Growth Visioning Principles. (DEIR, pgs. 4.1-24 to 4.1-30) Accordingly, any impact associated with SCAG plan or policy consistency would be less-than-significant and no mitigation is required.

**d. Consistency with Applicable Habitat Conservation Plans**

**Potential Significant Impact:** Whether the Project would conflict with applicable Habitat Conservation Plans or other natural community conservation plans.

**Findings:** Potential impacts of the Project related to consistency with the applicable Habitat Conservation Plan are discussed in detail in Section 4.1 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to consistency with applicable Habitat Conservation Plan policies will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site is within the jurisdiction of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and the Stephens' Kangaroo Rat Habitat Conservation Plan. The Project complies with all applicable provisions of the MSHCP. The Project site is not within an MSHCP Criteria Cell, nor is the site within 1,000 feet of an identified Criteria Cell. No MSHCP conservation areas or habitat linkages occur onsite. (DEIR, pg. 4.1-31) Accordingly, any impacts related to consistency with the MSHCP would be less-than-significant and no mitigation is required.

Prior to the implementation of the MSHCP, Riverside County adopted a separate HCP for the Stephens' kangaroo rat (SKR, *Dipodomys stephensi*), which are federally listed as endangered and state listed as threatened. As with the MSHCP, participants of the SKR HCP can incorporate projects into the incidental "take" permit for SKR if the project complies with the requirements of the SKR HCP implementing agreement. Payment of the mitigation fees and compliance with the SKR HCP requirements provides full mitigation under CEQA for impacts to SKR. (DEIR, pg. 4.8-14)

**e. Potential to Divide an Established Community**

**Potential Significant Impact:** Whether the Project would physically divide an established community.

**Findings:** Potential impacts of the Project related to the potential division of an established community are discussed in detail in Section 4.1 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to the physical division of an established community will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site is located within, and continues the business park/light industrial land uses that exist or are proposed along the City's southerly SR-60 frontage, consistent with land use and development patterns reflected in the Moreno Valley General Plan Land Use Map. Adjacent parcels to the east and south are currently vacant, with the exception of a single family residence to the south of Fir (future Eucalyptus) Avenue near the Project site's southeasterly corner. Parcels adjacent to this residence are designated for Rural Residential (RA-2) uses. However, with the exception of the single existing residence south of Fir (future Eucalyptus) Avenue, this adjacent, residentially designated area is not yet

developed, and as such, does not constitute an “established community.” Implementation of the Project will realize light industrial/warehouse distribution uses that are compatible with, and similar to, anticipated development to the east and west of the Project as part of the approved Highland Fairview Corporate Park project, and the proposed ProLogis project. (DEIR, pgs. 4.1-32 to 4.1-33) Accordingly, any impacts related to the division of an established community would be less-than-significant and no mitigation is required.

**f. Cumulative Impacts Related to Land Use**

**Potential Significant Impact:** Whether the Project would result in cumulatively significant impacts to land use.

**Findings:** Potential cumulative impacts of the Project related to land use are discussed in detail in Section 5.1.1.1 of the DEIR. Based on the entire record before us, this Council finds that no cumulatively significant impacts related to land use will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** Implementation of the Project would result in the introduction of a new industrial use in an area of the City that has, until recently, been largely undeveloped. While it is acknowledged that development of the Project would result in a permanent change to the perceived rural character of the Project area, the proposed land use is consistent with the City’s General Plan Land Use Element. The Project is also consistent with SCAG’s regional plans and policies and the Western Riverside County MSHCP. With approval of the requested zone change (from Business Park to Light Industrial) and Municipal Code Amendment, in addition to approval of the discretionary actions identified in Section II (A)(3) of these Findings, the Project’s contributions to potential cumulative land use impacts related to General Plan, Zoning, and Regional Plan consistency are less-than-significant. There are no known or probable off-site development proposals that would not, or could not, comply with applicable General Plan provisions; or that would otherwise adversely compound land use approvals requested by the Project, and so be determined to be cumulatively significant. It is assumed that other development projects within the cumulative impact area will also request appropriate discretionary land use approval where necessary, thereby reducing potential cumulative impacts. (DEIR, pgs. 5-5 to 5-7) Accordingly, any impacts to land use would not be cumulatively considerable and no mitigation is required.

## 2. Traffic and Circulation

### a. Increase in Roadway Hazards

**Potential Significant Impact:** Whether the Project would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

**Findings:** Potential impacts of the Project related to increased roadway hazards are discussed in detail in Section 4.2 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to increased hazards will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** To ensure appropriate design and implementation of all Project access improvements, the final design of the Project site plan, to include locations and design of proposed driveways, shall be reviewed and approved by the City Traffic Engineer. Efficient and safe operations of the Project are provided by on-site and localized circulation and intersection improvements included as components of the Project. The safety of bicyclists and pedestrians shall be taken into consideration during the final design of future intersections within the vicinity of the Project. Additionally, sight distance at each Project access point shall be reviewed with respect to standard Caltrans/City of Moreno Valley sight distance standards at the time of preparation of final grading, landscape and street improvement plans. Temporary and short-term traffic detours and traffic disruption that may result during Project construction is adequately addressed through the submittal of a construction area traffic management plan as required by the City Engineer. The required construction area traffic management plan will identify traffic control for any street closure, detour, or other disruption to traffic circulation. The plan also identifies construction vehicle access routes, hours of construction traffic, traffic controls and detours. Implementation of the approved construction area traffic management plan and resulting construction traffic control measures reduces potential circulation system impacts during construction to levels that are less-than-significant. (DEIR, pgs. 4.2-84 to 4.2-85) Therefore, no mitigation is required.

**b. Emergency Access**

**Potential Significant Impact:** Whether the Project would result in inadequate emergency access or access to nearby uses.

**Findings:** Potential impacts of the Project related to emergency access are discussed in detail in Section 4.2 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to emergency access will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** Implementation of the construction area traffic management plan/construction traffic control measures will assure adequate emergency access during the construction of the Project. Adequate emergency access will be provided upon completion of the Project improvements and mitigation measures. Prior to buildout of the local roadway system, which will ultimately include a bridge over the Quincy Channel, analysis included in the DEIR indicates that emergency vehicles serving the Project vicinity will be able to meet or exceed Moreno Valley Fire Protection Agency objectives for a five-minute response time using any of three alternate routes. Additionally, buildout of the local roadway system will improve overall emergency response to the area. (DEIR, pgs. 4.2-86 to 4.2-88) Accordingly, any impacts related to emergency access would be less-than-significant and no mitigation is required.

**c. Alternative Transportation**

**Potential Significant Impact:** Whether the Project would conflict with adopted policies supporting alternative transportation.

**Findings:** Potential impacts of the Project related to alternative transportation are discussed in detail in Section 4.2 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to alternative transportation will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** Riverside Transit Agency (RTA) currently provides fixed-route bus service regionally along SR-60, and locally via Moreno Beach Drive, allowing for the possibility of future connections near the Project site. City staff has coordinated with RTA and determined that installation of a bus stop or turn-out will not be required of the Project. However, the Project does not propose elements or aspects that would interfere or conflict with

the future provision of transit services. The Project will provide pedestrian and bikeway facilities consistent with City Municipal Code requirements to be identified in the Project Conditions of Approval, thereby reducing potential impacts below significance thresholds. Accordingly, the potential for the Project to conflict with policies supporting alternative transportation is determined to be less-than-significant. (DEIR, pg. 4.2-89) Therefore, no mitigation is required.

**d. Air Traffic Patterns**

**Potential Significant Impact:** Whether the Project would increase or otherwise affect existing air traffic patterns.

**Findings:** Potential impacts of the Project related to air traffic patterns are discussed in detail in Section 4.2 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to any change in air traffic patterns will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site is not located within an Airport Area of Influence or Airport Land Use Plan (ALUP). The March Inland Port/March Air Reserve Base is the airport located nearest the Project site, approximately five miles to the southwest. The Project does not propose elements that would affect, or be affected by, air traffic facilities. Accordingly, the potential for the Project to conflict with policies supporting alternative transportation is determined to be less-than-significant. (DEIR, pgs. 4.2-89 to 4.2-90) Therefore, no mitigation is required.

**3. Air Quality**

**a. Air Quality Management Plan Consistency**

**Potential Significant Impact:** Whether the Project would conflict with or obstruct implementation of the applicable air quality plan.

**Findings:** Potential impacts of the Project related to the applicable air quality plan are discussed in detail in Section 4.3 of the DEIR. Based on the entire record before us, this Council finds that development of the Project will not result in significant impacts related to inconsistencies with the applicable air quality plan and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project is consistent with, and will not impede or otherwise conflict with implementation of the Air Quality Management Plan (“AQMP”). The

Project is consistent with AQMP Consistency Criterion No. 1 because it will not cause a potential increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP. (DEIR, pgs. 4.3-51 to 4.3-52) The Project will not exceed the California Ambient Air Quality Standards (“CAAQS”) for localized criteria pollutants during construction operations. While operational emissions will be generated in excess of SCAQMD’s regional threshold criteria, these emissions are already accounted for in the AQMP since the Project is consistent with the land uses and development intensities reflected in the City General Plan and incorporated in the adopted AQMP. Consistent with intent and provisions of the AQMP, the Project will implement all feasible mitigation, and comply with all applicable SCAQMD rules developed to reduce air pollutant emissions. The Project is also consistent with AQMP Consistency Criterion No. 2 because the extent of air pollutant emissions generated by the Project would be no greater than is reflected in the current General Plan and incorporated in the adopted AQMP. Because the Project is consistent with the General Plan Land Use designation of Business Park/Light Industrial, it does not exceed growth projections contained in the City’s General Plan, and is consistent with growth assumptions in the AQMP. (DEIR, pgs. 4.3-52 to 4.3-53) Accordingly, impacts related to consistency with the applicable air quality plan will be less-than-significant and no mitigation is required.

**b. Objectionable Odors**

**Potential Significant Impact:** Whether the Project would create objectionable odors affecting a substantial number of people.

**Findings:** Potential impacts of the Project related to objectionable odors are discussed in detail in Section 4.3 of the DEIR. Based on the entire record before us, this Council finds that development of the Project will not result in significant impacts due to objectionable odors and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project does not propose land uses typically associated with emitting objectionable odors. Potential odors during Project construction may result from heavy equipment exhaust and the application of asphalt and architectural coatings. Standard construction requirements would minimize odor impacts from construction. The construction odor emissions would be temporary, short-term, and intermittent in nature and would cease upon

completion of the respective phase of construction and is thus considered less-than-significant. Project-related operational odor sources such as vehicle exhaust and routine painting/maintenance activities are typical of industrial/commercial activities and would be localized to the immediate Project vicinity, with little or no off-site effects. (DEIR, pg. 4.3-88) Accordingly, impacts related to objectionable odors will be less-than-significant and no mitigation is required.

### **c. Greenhouse Gas Emissions**

**2. Potential Significant Impact:** Whether the Project would directly or indirectly generate greenhouse gas emissions that may have a significant impact on the environment.

**3. Findings:** Potential impacts of the Project related to greenhouse gas emissions are discussed in detail in Section 4.3 of the DEIR. Based on the entire record before us, this Council finds that development of the Project will not result in significant impacts related to the direct or indirect creation of greenhouse gas emissions and, therefore, no mitigation is required. Nonetheless, in order to reduce Project-related operational source air pollutants and greenhouse gas emissions to the extent feasible, and to promote sustainability through conservation of energy and other natural resources, the following Mitigation Measures 4.3.11 through 4.3.13 will be implemented through the MMRP.

*4.3.11 Buildings shall surpass incumbent California Title 24 Energy Efficiency performance standards by a minimum of 20 percent for water heating and space heating and cooling. Verification of increased energy efficiencies shall be documented in Title 24 Compliance Reports provided by the Applicant, and reviewed and approved by the City prior to the issuance of the first building permit. Any combination of the following design features may be used to fulfill this mitigation measure provided that the total increase in efficiency meets or exceeds 20 percent.*

- Increase in insulation such that heat transfer and thermal bridging is minimized;*
- Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption;*
- Incorporate dual-paned or other energy efficient windows;*



- *Incorporate energy efficient space heating and cooling equipment;*
- *Interior and exterior energy efficient lighting which exceeds the California Title 24 Energy Efficiency performance standards shall be installed, as deemed acceptable by the City of Moreno Valley. Automatic devices to turn off lights when they are not needed shall be implemented;*
- *To the extent that they are compatible with landscaping guidelines established by the City of Moreno Valley, shade producing trees, particularly those that shade buildings and paved surfaces such as streets and parking lots and buildings shall be planted at the Project site.*
- *Paint and surface color palette for the Project shall emphasize light and off-white colors which will reflect heat away from the buildings.*
- *All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design.*

4.3.12 *The Project shall be designed to facilitate the reduction of waste generated by building occupants that is hauled to and disposed of in landfills by providing easily accessible areas that are dedicated to the collection and storage of recyclable materials including: paper, cardboard, glass, plastics, and metals. Locations of proposed recyclable materials collection areas are subject to review and approval by the City. Prior to Final Site Plan approval, locations of proposed recyclable materials collection areas shall be delineated on the Project Site Plan.*

4.3.13 *GHG emissions reductions measures shall also include the following:*

- *The Project shall provide secure, weather-protected on-site bicycle storage/parking consistent with City of Moreno Valley requirements;*
- *The Project shall provide pedestrian and bicycle connections to surrounding areas, consistent with provisions of the City of Moreno Valley General Plan. Location and configurations of proposed pedestrian and bicycle connections are subject to review and approval by the City. Prior to Final Site Plan*

*approval, pedestrian and bicycle connections shall be indicated on the Project Site Plan;*

- *The Project shall provide onsite showers (one for males and one for females). Lockers for employees shall be provided.*
- *Any traffic signals installed as part of the Project will utilize light emitting diodes (LEDs);*
- *The Project will establish a Transportation Management Association (TMA). The TMA will coordinate with other TMAs within the City to encourage and coordinate carpooling among building occupants. The TMA will advertise its services to building occupants, and offer transit and/or other incentives to reduce GHG emissions. Additionally, a shuttle will be provided during any one hour period where more than 20 employees utilize public transit. A plan will be submitted by the TMA to the City within two months of Project completion that outlines the measures implemented by the TMA, as well as contact information;*
- *The Project shall provide preferential parking for carpools and vanpool. Locations and configurations of proposed preferential parking for carpools and vanpools are subject to review and approval by the City. Prior to Final Site Plan approval, preferential parking for carpools and vanpools shall be delineated on the Project Site Plan;*
- *The Project shall provide at least two electric vehicle charging stations. Locations and configurations of proposed charging stations are subject to review and approval by the City. Prior to issuance of the first building permit, stub outs for charging stations shall be indicated on the Project building plans.*
- *Lease/purchase documents shall identify that tenants are encouraged to provide incentives to realize the following:*
  - *Implementation of compressed workweek schedules;*
  - *SmartWay partnership;*

- o *Achievement of at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidated trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers.*
- o *Achievement of at least 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers.*
- o *Use of fleet vehicles conforming to 2010 air quality standards or better.*
- o *Installation of catalytic converters on gasoline-powered equipment.*
- o *Inclusion of electric powered and/or compressed natural gas fueled trucks and/or vehicles in fleets;*
- o *Establishment and use of carpool/vanpool programs, complemented by parking fees for single-occupancy vehicles;*
- o *Provision of preferential parking for EV and CNG vehicles;*
- o *Use of electrical equipment (instead of gasoline-powered equipment) for landscape maintenance;*
- o *Use of electric (instead of diesel or gasoline-powered) yard trucks; and*
- o *Use of SmartWay 1.25 rated trucks.*

**Facts in Support of the Findings:** As indicated in Section 15064(b) of the CEQA Guidelines, the determination of significance of greenhouse gases is not “ironclad;” rather, the “determination of whether a project may have a significant effect on the environment calls for careful judgment” by the City “based to the extent possible on scientific and factual data.” The City of Moreno Valley has not adopted a numeric threshold of significance for emissions of greenhouse gases. Nonetheless, the DEIR’s analysis demonstrates that the Project will not exceed the proposed quantitative thresholds of CARB or the SCAQMD. Accordingly, Project greenhouse gas emissions impacts are considered less-than-significant. (DEIR, pgs. 4.3-88 to 4.3-94)

**a. Greenhouse Gas Emission Reduction Plan Consistency**

**Potential Significant Impact:** Whether the Project would conflict with any applicable plan, policy or regulation adopted for the purposes of reducing the emissions of greenhouse gases.

**Findings:** Potential impacts of the Project related to consistency with greenhouse gas emission reduction plans are discussed in detail in Section 4.3 of the DEIR. Based on the entire record before us, this Council finds that development of the Project will not result in significant impacts related to inconsistencies with the applicable greenhouse gas emissions reduction plans and, therefore, no mitigation is required.

**Facts in Support of the Findings:** In the absence of approved guidelines or thresholds, the Project's consistency with the State's goals for reducing GHG emissions is assessed by determining whether the Project is consistent with or obstructs the 39 Recommended Actions identified by CARB in its Climate Change Scoping Plan. As documented in the DEIR, the Project is consistent with, or otherwise not in conflict with the CARB Scoping Plan recommended measures and actions and the GHG emission reduction strategies set forth in the 2006 CAT Report. Additionally, Project GHG emissions will be further reduced with implementation of the Project design features and mitigation measures. (DEIR, pgs. 4.3-94 to 4.3-110) Accordingly, impacts related to consistency with applicable greenhouse gas emissions reduction plans will be less-than-significant and no mitigation is required.

**4. Noise**

**a. Ground-Borne Vibration/Ground-Bourne Noise**

**Potential Significant Impact:** Whether the Project would result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

**Findings:** Potential impacts of the Project relating groundborne vibration and groundborne noise are discussed in detail in Section 4.4 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to ground-borne vibration and groundborne noise will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project does not propose activities or uses that would result in long-term substantial or even perceptible vibration levels. (DEIR, pg. 4.4-28) Although

heavy equipment employed during Project construction could potentially generate groundborne vibration resulting in annoyance at area residential land uses, the only sensitive receptor close enough to the Project site to experience disturbance is the single residence located at 28855 Fir Avenue. Vibration-producing activities at this location are unlikely to be sustained during the entire construction period, but will occur rather only during the times that heavy construction equipment in the vicinity of this residence at the Project site perimeter. (DEIR, pgs. 4.4-27 to 4.4-28) Accordingly, potential groundborne vibration impacts due to Project construction or operations are less-than-significant and no mitigation is required.

**b. Aircraft Noise**

**Potential Significant Impact:** Whether the Project would result in significant impacts related to aircraft noise.

**Findings:** Potential impacts of the Project related to aircraft noise are discussed in detail in Section 4.4 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to aircraft noise will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site is not located within an airport land use plan or within two miles of a public airport, public use airport, or private airstrip. While occasional aircraft overflight noise from regional air facilities is expected to occur, the Project would not expose people residing or working in the Project area to excessive noise levels from aircraft operations. (DEIR, pg. 4.4-28) Accordingly, impacts related to aircraft noise will be less-than-significant and no mitigation is required.

**5. Water Supply**

**a. Effect on Groundwater Supplies**

**Potential Significant Impact:** Whether the Project would substantially deplete groundwater supplies or interfere substantially with groundwater recharge.

**Findings:** Potential impacts of the Project in regard to groundwater supply are discussed in detail in Section 4.5 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to groundwater supply will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project does not propose nor require direct ground water withdrawals. Water to be provided to the Project will be supplied from imported water through MWD, with no impact to groundwater supplies. As such, the Project would not substantially deplete groundwater supplies. Nor will the Project substantially interfere with groundwater recharge capabilities. No designated groundwater recharge facilities exist within or proximate to the Project site, nor does the Project propose elements or operations that would directly or indirectly affect any designated groundwater recharge facilities. The Project will establish open space areas and landscaping allowing for potential capture, retention and infiltration of storm waters to the groundwater table. Accordingly, Project-related impacts relative to groundwater supply and recharge are less-than-significant. (DEIR, pgs. 4.5-26 to 4.5-27) Therefore, no mitigation is required.

**b. Require New Water Supplies**

**Potential Significant Impact:** Whether the Project would require new or expanded water supplies.

**Findings:** Potential impacts of the Project in regard to water supply are discussed in detail in Section 4.5 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to groundwater supply will occur as a result of development of the Project and, therefore, no mitigation is required. Nonetheless, in order to further reduce the Project's overall water use, ensure ongoing availability and reliability of water supplies within the EMWD service area, and provide for timely, monitored compliance with requirements stipulated in the Project Water Supply Assessment (WSA), the following EMWD Conditions of Approval are incorporated as EIR Mitigation Measure 4.5.1 through 4.5.4. Prior to building permit issuance, the developer shall provide a will-serve letter from EMWD demonstrating compliance with the following Conditions of Approval.

4.5.1 *Prior to the issuance of building permits, the Project Applicant shall contribute funding toward the acquisition of new water supplies, new treatment or recycled water facilities, and water efficiency measures for existing customers to develop new water supplies. The extent of additional funding shall be determined by the EMWD and may take the form of a new component of connection fees or a separate charge.*

- 4.5.2 *The Applicant shall install water efficient devices and landscaping according to the requirements of EMWD's water use efficiency ordinance(s) effective at the time of Project construction.*
- 4.5.3 *The Applicant shall meet with EMWD staff at the earliest feasible date to develop a Plan of Service (POS) for the Project. The POS shall detail water, wastewater and recycled water facilities requirements to serve the Project, to be constructed by the Applicant.*
- 4.5.4 *Until the Project begins construction, the Project Water Supply Assessment shall be reviewed for its continued accuracy and adequacy every three (3) years, commencing on the WSA approval date of June 4, 2008. The Project Applicant shall maintain communication with EMWD on the status of the Project, and the lead agency shall request the referenced three-year periodic review and update of the WSA. If neither the project applicant nor the lead agency contacts EMWD within three (3) years of approval of this WSA, it shall be assumed that the Project no longer requires the estimated water demand as calculated in the WSA. The demand for the Project will not be considered in assessments for future projects, and the assessment provided within the Project WSA shall be considered invalid.*

**Facts in Support of the Findings:** As required under SB 610/221, a WSA has been prepared for the Project. The Project WSA demonstrates water supply sufficiency from existing and planned resources, and under conditions that are even more restrictive than the single-year and multiple-dry year scenario standards of SB 610. Within the WSA, Eastern has stipulated Conditions of Approval ensuring implementation and operation of the Project in a manner that provides for efficient use of available water supplies. With the implementation of these conditions, incorporated in the DEIR as Mitigation Measures 4.5.1 through 4.5.4, Project-related impacts relative to water supply are less-than-significant. (DEIR, pgs. 4.5-27 to 4.5-29)

**c. Cumulative Impacts Related to Water Supply**

**Potential Significant Impact:** Whether the Project would result in cumulatively considerable impacts related to water supply.

**Findings:** Potential cumulative impacts of the Project related to water supply are discussed in detail in Section 5.1.1.5 of the DEIR. Based on the entire record before us, this Council finds that no cumulatively significant impacts related to water supply will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** Potential cumulative or areawide impacts attributable to water demands of the Project are adequately planned and provided for under local and regional water management plans. It is assumed that other development projects within the cumulative impact area will also be realized consistent with development anticipated by the adopted Urban Water Management Plan (UWMP), and, like the Project, be required to pay connection and use fees providing for improvement and maintenance of serving water systems, thereby reducing potential cumulative impacts. Based on the preceding discussion, the Project's potential contribution to cumulative impacts in regard to water supply is not considerable, and the cumulative effects of the Project are less-than-significant. (DEIR, pg. 5-17) Therefore, no mitigation is required.

## **6. Hydrology and Water Quality**

### **a. Violate Water Quality Standards**

**Potential Significant Impact:** Whether the Project would violate any water quality standards or waste discharge requirements; result in erosion or siltation on- or off-site; or otherwise substantially degrade water quality.

**Findings:** Potential impacts of the Project related to water quality are discussed in detail in Section 4.6 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to any exceedance of water quality or waste discharge standards will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** Potential erosion and siltation impacts related to Project construction will be addressed through the preparation and implementation of a City-approved Storm Water Pollution Prevention Plan (SWPPP), which is required to identify sources of sediments and other pollutants that could affect the quality of storm water discharge, and associated Best Management Practices (BMPs) such as the installation of filter fabric fences, sandbars, and checkdams to reduce pollutants within storm water discharge consistent with City,



County, and Regional Water Quality Control Board (RWQCB) performance standards. To prevent or reduce the effects of urban runoff that could result from long-term Project operations, a Project-specific Water Quality Management Plan (WQMP) will be implemented consistent with the requirements of Riverside County's National Pollutant Discharge Elimination System (NPDES) permit. The Project WQMP will incorporate selected BMPs approved by the City, the Riverside County Flood Control and Water Conservation District, and the Santa Ana RWQCB to establish a program and means to prevent or minimize potential storm water pollutant discharges over the life of the Project. As such, the potential for the Project to violate any water quality standards or waste discharge requirements; result in erosion or siltation on- or off-site; or otherwise substantially degrade water quality is determined to be less-than-significant. (DEIR, pgs. 4.6-16 to 4.6-22) Accordingly, no mitigation is required.

**b. Flooding on- or off-site**

**Potential Significant Impact:** Whether the Project would 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 amount of surface runoff in a manner that would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems; or provide substantial additional sources of polluted runoff.

**Findings:** Potential impacts of the Project relating flooding and stormwater management are discussed in detail in Section 4.6 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to flooding or excess runoff will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project's drainage facilities will maintain existing drainage patterns (trending from northwest to southeast) will be maintained, and no stormwater runoff from the Project site will be directed to the Quincy Channel. Project storm water management improvements will be implemented to accommodate existing off-site flows in combination with increased onsite storm water discharge rates/volumes, and to address Project-related urban storm water pollutants. These include construction of a concrete cut-off wall protection barrier along the westerly edge of the Project area, to be located and designed so as not to impact any Delineated Jurisdictional Areas along the eastern bank of Quincy Channel,

and to help prevent any further erosion caused by migrating flows from the Quincy culvert crossing the SR-60 freeway. Along the south side of the Project, within the Fir (future Eucalyptus) Avenue right-of-way, drainage facilities will be installed consistent with Riverside County's Moreno Area Drainage Plan (ADP) line D-3. Along the east side of the property, the existing 60-inch culvert will remain in place to convey the runoff from north of the freeway to the existing drainage ditch on the west side of Redlands Boulevard. (DEIR, pgs. 4.6-23 to 4.6-25)

On-site, a series of underground pipes has been designed to collect the runoff from around the proposed facility. The underground pipes will be routed to the proposed bio-retention basins and detention basin at the south side of the facility. These basins would reduce storm water discharge from the site to levels equivalent to pre-development conditions, thereby precluding incremental impacts to receiving storm drain facilities. The on-site detention basin system will be designed to detain the differential runoff created due to the development of the site for the 2, 5, 10 and 100 year; 1, 3, 6 and 24 hour storm events. The detention basins will be equipped with an overflow structure that will release runoff into the public storm drain facility (Line D-3) and will ultimately drain to the drainage ditch along the west side of Redlands Boulevard.

Prior to issuance of grading permits, detailed final grading and drainage plans will be reviewed and approved by the City, in compliance with City, County, and SARWQCB requirements. Implementation of approved Project drainage improvements ensures that the Project would appropriately convey storm water runoff without adversely affecting upstream or downstream drainage characteristics. Further, pursuant to the Project SWPPP and WQMP (which, as discussed previously, are designed to minimize potential hydrologic and water quality impacts), Project-generated storm water runoff would not constitute a substantial pollutant source. (DEIR, pgs. 4.6-24 to 4.6-25) Accordingly, the Project would not substantially alter existing drainage patterns and has been developed in a manner that will assure that future runoff does not create any flooding issues, or otherwise exceed the capacity of stormwater drainage systems. Accordingly, any impacts related to flooding and stormwater management would be less-than-significant and no mitigation is required.

**c. Place Structures or Housing within a 100-Year Floodplain**

**Potential Significant Impact:** Whether the Project would place housing or structures that would impede or redirect flood flows within a 100-year flood hazard area.

**Findings:** Potential impacts of the Project related to hydrology and flooding are discussed in detail in Section 4.6 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to the placement of structures or housing within a 100-year floodplain will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site is not located within a 100-year flood hazard area, nor is the Project site located within a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 100-year floodplain. Further, the Project does not propose the construction of housing. Implementation of new drainage facilities will ensure adequate flood carrying capacity for storm drainage generated on-site, as well as existing runoff entering the Project site from adjacent properties. As such, the potential for the Project to place housing or structures within a 100-year flood hazard area which would impede or redirect flood flows is less-than-significant. (DEIR, pg. 4.6-27) Accordingly, no mitigation is required.

**d. Other Flood Hazards**

**Potential Significant Impact:** Whether the Project would 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; or inundation by seiche, tsunami, or mudflow.

**Findings:** Potential impacts of the Project related to flood hazards discussed in detail in Section II-E of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to flood hazards will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site is not located within a dam inundation area, nor does the Project site lie within a General Plan-designated 100-year flood hazard area or FIRM 100-year floodplain area. Notwithstanding, in order to preclude potential flood damage, the Project will be designed to provide protection of the proposed buildings and Project employees for the 100-year flood event by ensuring that the finished floor is set a minimum of one foot above the 100-year on-site flood elevation. Further, the proposed Project site is not

located within the vicinity of a hazardous coastal area, large water body, or unstable hills or slope. As such, the Project would not expose people to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam; or by inundation from a seiche, tsunami, or mudflow. (DEIR, pg. 4.6-28) Accordingly, no mitigation is required.

**e. Cumulative Impacts Related to Hydrology and Water Quality**

**Potential Significant Impact:** Whether the Project would result in cumulatively significant impacts related to hydrology and water quality.

**Findings:** Potential cumulative impacts of the Project related to hydrology and water quality are discussed in detail in Section 5.1.1.6 of the DEIR. Based on the entire record before us, this Council finds that no significant cumulative impacts related to hydrology and water quality will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The cumulative impact area for hydrology/water quality impact considerations is generally defined as the area within the jurisdiction of the Santa Ana RWQCB. In accordance with NPDES requirements, the Project proponent will be required to prepare a construction activities erosion control plan to alleviate potential sedimentation and construction storm water discharge contamination impacts of the Project. The Project incorporates storm water management components, including drainage facilities and BMPs, which collectively act to ensure that post-development storm water discharge rates and volumes do not exceed pre-development conditions. Moreover, the Project's proposed storm water management systems will be designed, constructed and maintained so as to ensure compliance with City, RCFCWQCD, and RWQCB storm water quality requirements. In these regards, prior to issuance of building permits, all proposed storm water management components are subject to review and approval by the City, RCFCWQCD, and RWQCB. Ancillary facilities will also be subject to reviewed and approved by Caltrans. Storm water management components to be implemented by the Project, in combination with mandated compliance with State, RWQCB, and City storm water management requirements ensures that adequate storm water conveyance and treatment facilities will be provided to support development and operations of the Project. (DEIR, pgs. 5-18 to 5-19) Accordingly, the Project's potential contribution to cumulative

hydrology and water quality impacts would not be considerable, and the cumulative effects of the Project are less-than-significant.

## **7. Cultural Resources**

### **a. Disturbance of Human Remains**

**Potential Significant Impact:** Whether the Project would disturb any human remains, including those interred outside of formal cemeteries.

**Findings:** Potential impacts of the Project related to the potential disturbance of human remains are discussed in detail in Section 4.7 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to the disturbance of human remains will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The likelihood of encountering human remains in the course of Project development is remote; however, as required by California Health and Safety Code Section 7050.5, should human remains be found, no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are found to be prehistoric, the coroner would coordinate with the California Native American Heritage Commission as required by State law. Based on compliance with these existing regulations, the Project's potential to adversely disturb human remains is considered unlikely. (DEIR, pg. 4.7-14) Accordingly, any impacts associated with the disturbance of human remains would be less-than-significant and no mitigation is required.

### **b. Cumulative Impacts Related to Cultural Resources**

**Potential Significant Impact:** Whether the Project would result in cumulative considerable impacts to cultural resources.

**Findings:** Potential cumulative impacts of the Project on cultural resources are discussed in detail in Section 5.1.1.7 of the DEIR. Based on the entire record before us, this Council finds that no cumulatively significant impacts related to cultural resources will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The cumulative impact area for prehistoric, archaeological, and historic resources generally includes the Perris Plain/Perris Valley area (including the Cities

of Moreno Valley and Perris, and surrounding unincorporated communities). Impacts to any cultural resources within this area would be site-specific. In the event that potentially significant resources are encountered at any development sites within the cumulative impact area, specific mitigation measures would be applied before construction activities could proceed. There are no known or probable potentially significant off-site development proposals that would interact with, or compound Project-related cultural resources impacts, that could be determined to be cumulatively significant. To the extent that each development proposal within the cumulative impact area provides appropriate mitigation during landform modification activities, cumulative impacts to cultural resources are reduced below significance thresholds. Based on the preceding, the Project's potential contribution to cumulative cultural resources impacts is not considerable, and the cumulative effects of the Project are less-than-significant. (DEIR, pg. 5-19) Therefore, no mitigation is required.

## **8. Biological Resources**

### **a. Federally Protected Wetlands**

**Potential Significant Impact:** Whether the Project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act.

**Findings:** Potential impacts of the Project related to federally protected wetlands are discussed in detail in Section 4.8 of the DEIR. Based on the entire record before us, this Council finds that development of the Project will not result in significant impacts related to federally protected wetlands and, therefore, no mitigation is required.

**Facts in Support of the Findings:** No federally protected wetlands, as defined by Section 404 of the Clean Water Act, exist in the Project area. The Quincy Channel, an ephemeral drainage that runs along the western edge of the Project site, and an existing off-site drainage channel on the west side of Redlands Boulevard contain Army Corps of Engineers (Corps) and California Department of Fish and Game (CDFG) jurisdictional areas, but these channels do not contain federally protected wetlands, as defined by Section 404 of the Clean Water Act. Nor does the Project propose uses or facilities that would otherwise substantively and adversely affect Section 404 federally protected wetlands. Accordingly, potential impacts would be less-than-significant. (DEIR, pg. 4.8-29) Therefore, no mitigation is required.

**b. Wildlife Movement, Migration, and Nursery Sites**

**Potential Significant Impact:** Whether the Project would 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.

**Findings:** Potential impacts of the Project related to wildlife movement, migration, and nursery sites are discussed in detail in Section 4.8 the DEIR. Based on the entire record before us, this Council finds that development of the Project will not result in significant impacts related to wildlife movement, migration, and nursery sites and, therefore, no mitigation is required.

**Facts in Support of the Findings:** During preparation of the MSHCP, wildlife corridors and habitat linkages throughout western Riverside County were analyzed extensively. No MSHCP wildlife habitat linkages or movement corridors were identified at the Project site. Nor does the Project propose facilities or activities that would substantively and adversely affect any offsite designated wildlife habitat linkage or movement corridor. On this basis, the potential for the Project to interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites, is determined to be less-than-significant. (DEIR, pgs. 4.8-29 to 4.8-30) Therefore, no mitigation is required.

**c. Local Policies or Ordinances Protecting Biological Resources**

**Potential Significant Impact:** Whether the Project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

**Findings:** Potential impacts of the Project related to local policies or ordinances protecting biological resources are discussed in detail in Section 4.8 of the DEIR. Based on the entire record before us, this Council finds that development of the Project will not result in significant impacts related to local policies or ordinances protecting biological resources and, therefore, no mitigation is required.

**Facts in Support of the Findings:** No local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, have been identified as applicable to the Project. (DEIR, pg. 4.8-30) Accordingly, impacts related to local policies or ordinances protecting biological resources will be less-than-significant and no mitigation is required.

**f. Consistency with Applicable Habitat Conservation Plans**

**Potential Significant Impact:** Whether the Project would conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

**Findings:** Potential impacts of the Project related to consistency with the applicable Habitat Conservation Plan are discussed in detail in Section 4.8 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to consistency with applicable Habitat Conservation Plan policies will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The City of Moreno Valley is a participating agency in the Western Riverside County Multiple-Species Habitat Conservation Plan (MSHCP). As such, only projects consistent with the MSHCP will be developed within the City. The Project Biological Resources Assessment includes a discussion of MSHCP compliance, and determines that the Project “is in full compliance with the Western Riverside County MSHCP, assuming the focused burrowing owl surveys are conducted in spring 2009.” These surveys were conducted in July 2009, and found no burrowing owls or evidence of their occupation on-site. As such, the Project is in compliance with the MSHCP. (DEIR, pg. 4.8-31) Accordingly, any impacts related to consistency with the MSHCP would be less-than-significant and no mitigation is required. This species has not been recorded within the Project area in the past and is presumed absent from the site. Additionally, the Project is consistent with the Habitat Conservation Plan for the Stephens’ Kangaroo Rat, which allows for incidental take of Stephens’ Kangaroo Rat for projects located within the plan area. With payment of the appropriate mitigation fee, which the City requires as a standard procedure during the processing of development applications, any potential impacts to Stephens’ kangaroo rat would be less-than-significant.

**d. Cumulative Impacts Related to Biological Resources**

**Potential Significant Impact:** Whether the Project would result in cumulatively significant impacts to biological resources.

**Findings:** Potential cumulative impacts of the Project related to biological resources are discussed in detail in Section 5.1.1.8 of the DEIR. Based on the entire record before us, this



Council finds that no cumulatively significant impacts related to biological resources will occur as a result of development of the Project.

**Facts in Support of the Findings:** Implementation of mitigation measures proposed in the MMRP would reduce potential impacts to biological resources to levels that are less-than-significant. In this regard, mitigation of Project-specific biological resources impacts will also reduce the Project's potential incremental contributions to cumulative biological resources impacts within the region such that no additional mitigation for cumulative biological resources impacts is required. To the extent that each development proposal within the cumulative impact area(s) provides appropriate mitigation, cumulative impacts to biological resources are reduced to levels that are less-than-significant. Pursuant to the provisions of CEQA, each development project within the cumulative impact area that requires a discretionary action by a public agency will be assessed for its potential impacts on biological resources. Appropriate biological resources mitigation will also be required of other projects within the cumulative impact area(s). In this regard, it is noted that because the future extension of Fir (future Eucalyptus) Avenue to the west across Quincy Channel is not a part of the proposed Project, the future crossing activities will require separate regulatory permits and approvals as well as specific mitigation for impacts, similar to the mitigation included in the DEIR. With the application of the mitigation measures identified in the MMRP, the Project's potential contribution to cumulative impacts in regard to biological resources is not considerable, and the cumulative effects of the Project are determined to be less-than-significant. (DEIR, pgs. 5-20 to 5-23) Accordingly, no mitigation is required.

## **9. Aesthetics**

### **a. Scenic Resources**

**Potential Significant Impact:** Whether the Project would substantially damage scenic resources, including, but not limited to, trees, rock outcroppings and historic buildings within a State scenic highway.

**Findings:** Potential impacts of the Project related to scenic resources are discussed in detail in Section 4.9 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to scenic resources will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** The Project site is comprised of vacant disturbed property and does not contain designated scenic resources. No rock outcroppings or historic buildings are located onsite. Although the City's General Plan designates SR-60 as a local scenic road, this highway is not included in the California Department of Transportation's list of Officially Designated Scenic Highways. The Project will replace the existing, mature pine trees along its northerly boundary (adjacent to SR-60) with a double-row of new trees, in order to visually screen the Project from the view of freeway travelers. Pursuant to the City's criteria for the removal of mature trees, at least three new trees will be planted in the place of each mature tree that is removed. New trees will be drought-resistant, and will be planted and irrigated in coordination with Caltrans and City requirements. (DEIR, pg. 4.8-19) Accordingly, impacts to scenic resources would be less-than-significant and no mitigation is required.

**b. Visual Character**

**Potential Significant Impact:** Whether the Project would substantially degrade the existing visual character or quality of the site and its surroundings.

**Findings:** Potential impacts of the Project related to visual character are discussed in detail in Section 4.9 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to visual character will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** Determinations of visual character and quality are inherently subjective by nature. The DEIR acknowledges that the proposed alteration of the Project site from its current undeveloped state to light industrial development will represent a noticeable change in baseline visual characteristics. It is further noted that development of the subject site with business park and/or light industrial uses reflects buildout of the area anticipated under the General Plan, resulting in substantial visual change of the area, whether under the Project, or some other unspecified development proposal. To provide a visual transition and buffer between southerly adjacent properties (zoned for large lot residential uses) and the Project site, the Project incorporates a 250-foot landscaped setback along its southerly boundary. Masonry walls (which would be planted with vines on the public-facing sides to provide a landscape screen and deter graffiti) are also proposed to screen the Project's operations from surrounding land uses. As supported by the preceding discussions, and with implementation of

the Project's design features, the Project's potential to substantially degrade the existing visual character or quality of the site and its surroundings is less-than-significant. (DEIR, pgs. 4.8-20 to 4.8-21) Accordingly, any impacts to the area's visual character would be less-than-significant and no mitigation is required.

**c. Light or Glare**

**Potential Significant Impact:** Whether the Project would create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

**Findings:** Potential impacts of the Project related to light and glare are discussed in detail Section 4.9 of the DEIR. Based on the entire record before us, this Council finds that no significant impacts related to light and glare will occur as a result of development of the Project and, therefore, no mitigation is required.

**Facts in Support of the Findings:** Onsite lighting, including parking lot and loading dock lighting, will be required to comply with all applicable sections of the City's zoning ordinance, including but not limited to Section 9.08.100, "Lighting." Project lighting will be designed and implemented so as to illuminate the site without causing undue light or glare, and to avoid light overspill on adjacent properties. (DEIR, pgs. 4.9-23 to 4.9-25) Accordingly, any impacts related to light and glare would be less-than-significant and no mitigation is required

**B. ENVIRONMENTAL IMPACTS MITIGATED TO A LEVEL OF LESS-THAN-SIGNIFICANT**

*Public Resources Code* Section 21081 states that no public agency shall approve or carry out a project for which an EIR has been completed which identifies one or more significant effects unless the public agency makes one or more of the following findings:

- I. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.
- II. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- III. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and

overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Certain of the following issues from the environmental categories analyzed in the EIR, including Traffic and Circulation, Cultural Resources, and Biological Resources, were found to be potentially significant, but can be mitigated to a less-than-significant level with the imposition of mitigation measures. This Council hereby finds pursuant to *Public Resources Code* Section 21081 that all potentially significant impacts listed below can and will be mitigated to below a level of significance by imposition of the mitigation measures in the EIR; and that these mitigation measures are included as Conditions of Approval and set forth in the MMRP adopted by this Council. Specific findings of this Council for each category of such impacts are set forth in detail below.

**1. Traffic and Circulation**

**a. Substantial Increase in Traffic**

**Potential Significant Impact:** The EIR evaluated and concluded that the Project-related traffic could contribute to level of service (LOS) exceedances under Opening Year conditions at the intersection of Redlands Boulevard at the SR-60 westbound ramps, and at the intersection of Redlands Boulevard at Fir (future Eucalyptus) Avenue.

**Finding:** Implementation of the following mitigation measures will reduce potential Opening Year traffic impacts at affected intersections:

*4.2.1 Redlands Boulevard at SR-60 Westbound Ramps Improvements:*

- *Install a traffic signal.*

*This improvement is currently approved, programmed, and permitted by Caltrans. If not otherwise completed prior to Project opening, the required traffic signal shall be constructed by the Applicant prior to issuance of the first Certificate of Occupancy.*

*4.2.2 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:*

*Prior to issuance of the first Certificate of Occupancy, the Applicant shall construct the following improvements:*

- *Install a traffic signal;*
- *Construct a southbound right turn auxiliary lane which extends the full length of the segment of Redlands Boulevard between the SR-60 Eastbound Ramps and Fir (future Eucalyptus) Avenue for a southbound lane configuration of one shared left-through lane and one right turn lane; and*
- *Construct an eastbound left-turn lane with 300 feet of storage for an eastbound lane configuration of one left-turn lane and one shared through-or-right-turn-lane.*

**Facts in Support of the Finding:** Based on analysis performed as part of the Project Traffic Impact Analysis (TIA), the Project would contribute additional traffic to preexisting Opening Year Ambient Condition deficiencies occurring at the intersection of Redlands Boulevard at the SR-60 westbound ramps. Also, with the addition of Project traffic, the intersection of Redlands Boulevard at Fir (future Eucalyptus) Avenue would perform unacceptably during peak hours. (DEIR, pgs. 4.2-31 through 4.2-34) However, with implementation of the roadway improvements identified in Mitigation Measures 4.2.1 and 4.2.2, these impacts will be reduced to a less-than-significant level. (DEIR, pg. 4.2-35)

## **2. Cultural Resources**

### **a. Archaeological/Historic Resources**

**Potential Significant Impact:** The EIR evaluated and concluded that the Project construction activities could potentially disturb unknown or unrecorded archaeological or historic resources which may be present in a buried context.

**Finding:** Implementation of the following mitigation measures will reduce potential impacts to archaeological and/or historic resources to a less-than-significant level:

4.7.1 *A professional cultural resources monitor (Project Paleontological Monitor) shall conduct full-time monitoring throughout site excavation and grading activities. The monitor shall be equipped to salvage and record the location of historic and/or archaeological resources as they may be unearthed to avoid construction delays, consistent with the requirements of California Public Resources Code Section 21083.2. The monitor shall be empowered to temporarily halt or divert*

*equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. One monitor for both archaeological and paleontological resources is sufficient if the monitor is qualified in both disciplines to the satisfaction of the City of Moreno Valley.*

4.7.2 *Should historic or prehistoric resources of potential significance be identified, a qualified archaeologist shall be contacted to assess the find(s) and make recommendations in regard to further monitoring. Consistent with the requirements of Public Resources Code section 21083.2., resources shall be left in an undisturbed state. Where preservation in place is infeasible, all recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by a qualified archaeologist, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.*

**Facts in Support of the Finding:** No known cultural resources of significance exist within the Project site. Additionally, no significant evidence of the early twentieth century occupation of the property was identified by the Project Cultural Resources Investigation. Nonetheless, some potential exists for resources to be located onsite in a buried context. Implementation of Mitigation measures 4.7.1 and 4.7.2 will ensure that archaeological and/or historic resources that may be unearthed during Project construction will be identified and preserved consistent with the recommendations of the Cultural Resources Study and California law. Accordingly, the Project's potential to impact archaeological or historic resources is less-than-significant as mitigated. (DEIR, pgs. 4.7-11 through 4.7-13)

#### **b. Paleontological Resources**

**Potential Significant Impact:** The EIR evaluated and concluded that the Project construction activities could potentially disturb unique paleontological resources which may be present in a buried context.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to paleontological resources to a less-than-significant level:

4.7.3 *Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the Project site, subject to the following certain constraints:*

- *Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontologic resources by a qualified paleontologic monitor or his/her representative must take place;*
- *A paleontological mitigation-monitoring plan shall be developed before grading begins;*
- *Paleontological monitors shall be equipped to salvage and record the location of fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates;*
- *Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens; and*
- *Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources.*

**Facts in Support of the Finding:** Based on information presented in the Cultural Resources Investigation, the Project area is considered to have a moderate level of sensitivity for paleontological resources, indicating that paleontological resources may be encountered within the Project site. The area consists of older Quaternary alluvial deposits that have been associated with fossil specimens, which are covered by surficial deposits of younger Quaternary alluvium. In the course of Project site preparation activities, paleontological specimens may be uncovered. Mitigation Measure 4.7.3 requires paleontological monitoring during ground-disturbing activities that would exceed the relative depths of the younger alluvium on-site. Implementation of this mitigation measure would ensure that paleontological resources which may be present within

subsurface areas of the site are adequately identified and preserved. Accordingly, the Project's potential to impact paleontological resources is less-than-significant as mitigated. (DEIR, pgs. 4.7-13 through 4.7-14)

### 3. Biological Resources

#### a. **Vegetation Communities and Special Status Plant Species**

**Potential Significant Impact:** The EIR evaluated and concluded that the Project's construction activities could have an adverse effect on CDFG and Corps jurisdictional areas, including riparian habitat areas existing on-site within the Quincy Channel, and off-site within the existing drainage channel adjacent to Redlands Boulevard.

**Finding:** Implementation of the following Mitigation will reduce potential impacts to jurisdictional areas to a less-than-significant level:

4.8.1 *Prior to the issuance of a grading permit, a "no touch" area shall be staked along the westerly limit of Project development as defined by the alignment of the scour wall proposed along the Quincy Channel. Importantly, the westerly limits of development shall be established so as to preclude potential permanent impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Prior to the issuance of a grading permit, a City-approved Project biologist shall be retained to initiate and supervise monitoring of construction activities to ensure protection and preservation of adjacent Channel areas.*

4.8.2 *Prior to issuance of a grading permit, the proposed scour wall to be located between the developed Project site and the Quincy Channel shall be shown on the grading plans. Alignment of the scour wall shall be field-determined and physically delineated by the Project biologist in consultation with the City. Importantly, the scour wall alignment shall be established so as to preclude potential impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Ongoing monitoring of construction activities shall be maintained throughout implementation of the scour wall to ensure protection and preservation of adjacent Channel areas.*



- 4.8.3 *Prior to issuance of a building permit, landscape and irrigation plans shall be approved which demonstrate that no invasive, non-native plants will be planted or seeded within 150 feet of the avoided riparian habitat along the Quincy Channel.*
- 4.8.4 *Prior to the issuance of any grading permits and prior to any physical disturbance of any jurisdictional areas, the applicant shall obtain a stream bed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit, from both the California Department of Fish and Game and the U.S. Army Corps of Engineers. Written verification of such a permit or waiver shall be provided to the Community Development Department - Planning Division and the Public Works Department - Land Development Division.*
- 4.8.5 *Prior to issuance of a grading permit, the Applicant shall develop and implement a Habitat Mitigation and Monitoring Plan (HMMP) to restore impacted riparian (mulefat) habitat. Prior to implementation, the HMMP shall be reviewed and approved by the CDFG. If in its final design, the CDFG-approved HMMP involves use or restoration of USACE or RWQCB jurisdictional areas, USACE and/or RWQCB approval shall also be obtained. The HMMP shall, at a minimum, meet the following requirements:*
- A habitat replacement and/or enhancement ratio of at least 1:1 for temporary impact;*
  - A success criterion of at least 80 percent cover of native riparian vegetation for replaced habitat;*
  - Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, native plant re-vegetation for areas temporarily disturbed by construction, and regular maintenance and monitoring activities to ensure the success of the mitigation plan; and*
  - Prior to the issuance of a grading permit, as part of the Project HMMP, appropriate maintenance and monitoring protocols will be developed in concert with CDFG based on final Project designs, and the ultimate scope, location, and type of mitigation reflected in the HMMP as approved by CDFG.*

**Facts in Support of the Finding:** Design of the Project includes a buffer area to provide physical separation between the developed site and the adjacent Quincy Channel, in order to

minimize direct impacts to the Channel's habitat areas and associated vegetation communities and special status plant species. However, construction of the "scour wall" that would be implemented to prevent further erosion along the Quincy Channel could result in direct, temporary impacts to approximately 0.003 acres (22 lineal feet) of mulefat vegetated riparian habitat determined to be within California Department of Fish & Game (CDFG) jurisdictional areas. (DEIR pgs. 4.8-18 through 4.8-20) Additionally, implementation of drainage improvements associated with the Project could result in a potential direct permanent impact to 0.08 acres of un-vegetated riparian habitat located in the existing drainage channel adjacent to Redlands Boulevard (DEIR, pgs. 4.8-21 to 4.8-22). This 0.08 acres has been determined to be jurisdictional under the Army Corps of Engineers (Corps), CDFG, State Water Resources Control Board (SWRCB), and MSHCP Riverine/Riparian Habitat (as defined under Section 6.1.2 of the MSHCP) programs. Indirect impacts to proximate candidate, sensitive, or special status plant species could occur through the introduction of invasive plant species as a result of Project implementation. (DEIR pg. 4.8-23) With implementation of Mitigation Measures 4.8.1 to 4.8.5, Project impacts related to vegetation communities and sensitive plant species will be reduced to a less-than-significant level.

#### **b. Nesting Birds**

**Potential Significant Impact:** The EIR evaluated and concluded that the Project could have an adverse effect on nesting birds, which are protected under both the Migratory Bird Treaty Act and California Fish and Game Code.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to the nesting birds to a less-than-significant level:

4.8.6 *If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly. If vegetation is to be cleared during the nesting season (February 15 – July 31), all suitable habitat will be thoroughly surveyed for the presence of nesting birds within 72 hours prior to clearing. All surveys shall be performed by a qualified Project biologist to be retained by the Applicant and vetted by the City. The survey results shall be submitted by the Project Applicant to the Planning*

*Division. If any active nests are detected, the nest(s) shall be flagged in the field and mapped on the construction plans along with a minimum 50-foot buffer and up to 300 feet for raptors, with the final buffer distance to be determined by the Project biologist. The buffer area shall be avoided until the nesting cycle is complete or it is determined that the nest has failed. In addition, the Project biologist will be present on the site to monitor vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed.*

**Facts in Support of the Finding:** The removal of existing vegetation within the Project site as part of construction could affect nesting birds. Disturbing or destroying active nests is a violation of the Migratory Bird Treaty Act. In addition, nests and eggs are protected under California Fish and Game Code Section 3503.5. Project implementation must be accomplished in a manner that avoids impacts to active nests during the breeding season. (DEIR, pg. 4.8-25) Therefore, implementation of Mitigation Measure 4.8.6 is required to ensure that potential Project impacts related to nesting birds are reduced to a less-than-significant level.

**c. Burrowing Owls**

**Potential Significant Impact:** The EIR evaluated and concluded that the Project could have an adverse effect on the Burrowing Owl, a special-status wildlife species.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to the Burrowing Owl to a less-than-significant level:

4.8.7 *Within 30 days of site clearing activities, a pre-construction burrowing owl survey shall be conducted to document the presence/absence of any occupied owl burrows. Any owls present shall be passively or actively relocated following CDFG approved protocols, and with CDFG permission, prior to commencement of clearing. The survey shall be submitted to the Planning Division prior to issuance of a grading permit.*

**Facts in Support of the Finding:** The Project area is located within the MSHCP burrowing owl survey area. Focused burrowing owl surveys are required during the owl breeding season (April through August), pursuant to Section 6.3.2 and Appendix E, “Summary of Species Survey

Requirements. (DEIR, pgs. 4.8-25 to 4.8-26) Therefore, implementation of Mitigation Measure 4.8-7 will reduce Project impacts related to the Burrowing Owl to a less-than-significant level.

**d. Riparian Habitat**

**Potential Significant Impact:** The EIR evaluated and concluded that the Project could adversely affect riparian habitat/CDFG jurisdictional areas.

**Finding:** Implementation of the preceding Mitigation Measures 4.8.1 through 4.8.5 will reduce potential impacts to riparian habitat to a less-than-significant level.

**Facts in Support of the Finding:** Construction of the Project's proposed scour wall in the westerly portion of the Project site, adjacent to the Quincy Channel, will result in the temporary disturbance of an estimated 0.003 acres (22 lineal feet) of vegetated mulefat riparian habitat/CDFG jurisdictional areas. The Project will have no direct impacts to any other sensitive natural community identified in local or regional plans, policies, and regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. Potential indirect impacts may occur to proximate sensitive natural communities should invasive plant species be introduced to the area through Project implementation. (DEIR pg. 4.8-28) With implementation of Mitigation Measures 4.8.1 to 4.8.5, Project impacts related to riparian habitat will be reduced to a less-than-significant level.

**C. ENVIRONMENTAL IMPACTS NOT FULLY MITIGATED TO A LEVEL OF LESS-THAN-SIGNIFICANT**

The Moreno Valley City Council finds the following environmental impacts identified in the EIR remain significant even after application of all feasible mitigation measures: cumulative traffic impacts to study area intersections and roadway segments; cumulative traffic impacts to mainline freeway segments; short-term construction air quality impacts; long-term operational air quality impacts; cumulative air quality impacts; short-term construction noise impacts (individually and cumulatively); and change to scenic vistas (individually and cumulatively).

In accordance with CEQA Guidelines Section 15092(b)(2), the City Council of the City of Moreno Valley cannot approve the project unless it first finds (1) under *Public Resources Code* Section 21081(a)(3), and CEQA Guidelines Section 15091(a)(3), that specific economic, legal, social technological, or other considerations, including provisions of employment

opportunities to highly trained workers make infeasible the mitigation measures or project alternatives identified in the FEIR; and (2) under CEQA Guidelines section 15092(b), that the remaining significant effects are acceptable due to overriding concerns described in the CEQA Guidelines Section 15093 and, therefore, a statement of overriding considerations is included herein.

**1. Traffic and Circulation**

**a. Intersection Operations**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that Project-related traffic would cumulatively exceed established level of service standards, affecting certain intersection locations under Opening Year cumulative conditions and cumulative General Plan buildout conditions.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measures 4.2.3 through 4.2.8, addressing Opening Year cumulative conditions, and Mitigation Measures 4.2.9 through 4.2.17, addressing cumulative General Plan buildout conditions, are incorporated into the MMRP for the Project, and will be implemented as specified therein. However, the Council finds that even with application of these mitigation measures, cumulative intersection operation impacts are considered significant and unavoidable.

*4.2.3 Moreno Beach Drive at SR-60 Eastbound Ramps Improvements:*

- *Construct an eastbound right-turn lane and re-stripe the shared left-or-right-turn lane as an exclusive left-turn lane, for an eastbound lane configuration of one left-turn lane and one right-turn lane. These improvements would require the dedication of right-of-way from the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.*

*These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year Cumulative traffic impacts at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps.*

#### 4.2.4

##### *Moreno Beach Drive at SR-60 Westbound Ramps Improvements:*

- *Coordinate traffic signal timing with the signal at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps. These improvements would be funded through Project participation in the TUMF Program. Although the intersection of Moreno Beach Drive at SR-60 Westbound Ramps is anticipated to operate at an acceptable LOS, the coordination of traffic signal timing with the signal at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps would ensure continued satisfactory operations.*

*The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year Cumulative traffic impacts at the intersection of Moreno Beach Drive at SR-60 Westbound Ramps.*

#### 4.2.5

##### *Redlands Boulevard at SR-60 Westbound Ramps Improvements:*

- *Install a traffic signal (a TUMF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.1);*
- *Construct a second northbound through lane and a right-turn lane with overlap phasing, for a northbound lane configuration of one left-turn lane, two through lanes and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way on the east side of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection; and*
- *Construct a second southbound through lane, for a southbound lane configuration of one left-turn lane and two through lanes. These improvements would require the dedication of right-of-way on the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection.*

*The traffic signal noted above will be constructed by the Project pursuant to Mitigation Measure 4.2.1. The remaining improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF,*

*thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year Cumulative traffic impacts at the intersection of Redlands Boulevard at SR-60 Westbound Ramps.*

4.2.6 *Redlands Boulevard at SR-60 Eastbound Ramps Improvements:*

- Construct a second northbound through lane for a northbound lane configuration of one left turn lane and two through lanes. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and restriping of all lanes on the south leg of the intersection;*
- Construct a second southbound through lane, for a southbound lane configuration of one left-turn lane and two through lanes. These improvements would require the dedication of right-of-way on the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and*
- Construct an eastbound right-turn lane and re-stripe the shared left-or-right turn lane as an exclusive left-turn lane, for an eastbound lane configuration of one left-turn lane and one right-turn lane. These improvements would require the dedication of right-of-way on the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.*

*These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year cumulative traffic impacts at the intersection of Redlands Boulevard at SR-60 Eastbound Ramps.*

4.2.7 *Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:*

- Install a traffic signal (a DIF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.2).*
- Construct a northbound left-turn lane with 200 feet of storage and a second through lane, for a northbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn-lane. These improvements*

would require the dedication of right-of-way from the east side of Redlands Boulevard, and restriping of all lanes on the south leg of the intersection. Construction of the northbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF Program.

- Construct a southbound left-turn lane with 250 feet of storage, a second left-turn lane that extends back to the SR-60 Eastbound Ramps, a second through lane, and a right-turn lane with overlap phasing and a pocket length that is the full length of the segment, for a southbound lane configuration of two left-turn lanes, two through lanes, and one right-turn-lane with overlap phasing. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF program. Construction of one southbound left-turn lane would be funded through participation in the DIF program. The noted right-turn southbound lane would be constructed by the Project pursuant to Mitigation Measure 4.2.2. Overlap phasing to this right-turn lane will be added when determined appropriate by the City Traffic Engineer, and will be funded through fair share fee participation. Remaining improvements would also be funded through fair share fee contributions.
- Construct dual eastbound left-turn lanes with 300 feet of storage and a second through lane, for an eastbound lane configuration of two left-turn lanes, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the south side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the west leg of the intersection. A single eastbound turn with 300 feet of storage will be constructed by the Project under Opening Year Ambient Conditions pursuant to Mitigation Measure 4.2.2. The remaining improvements would be funded through participation in the DIF Program.



- *Construct a westbound left-turn lane, a second through lane, and a right-turn lane with overlap phasing, providing 200 feet of storage for both the left-turn and right-turn lanes, for a westbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane with overlap phasing. These improvements would require the dedication of right-of-way from the north side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the east leg of the intersection. Construction of the westbound left and through lanes would be funded through participation in the DIF Program; remaining improvements would be funded through fair share fee participation.*

4.2.8 *Quincy Street at Fir (future Eucalyptus) Avenue Improvements:*

- *Install a stop-control on the south leg of the intersection;*
- *Construct a northbound shared left-or-right-turn lane. Quincy Street should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction;*
- *Construct an eastbound shared through-or-right-turn lane. The Fir (future Eucalyptus) Avenue extension should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction; and*
- *Construct a westbound left-turn lane and through lane. The Fir (future Eucalyptus) Avenue extension should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction.*

*These improvements would be funded through participation in the DIF Program. The Project will pay required DIF, facilitating construction of new intersection improvements at Quincy Street at Fir (future Eucalyptus) Avenue.*

4.2.9 *Moreno Beach Drive at SR-60 Eastbound Ramps Improvements:*

- *Construct the SR-60 eastbound on- and off-ramps, designed as a standard diamond and consistent with the proposed SR-60 Freeway/Moreno Beach Drive interchange design, and install a traffic signal at the new intersection;*
- *Construct a third northbound through lane, for a northbound lane configuration of three through lanes and a right-turn lane. These*

*improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection;*

- Construct the SR-60 eastbound off-ramp with an eastbound lane configuration of one left-turn lane and dual right-turn lanes; and*
- Construct the SR-60 eastbound on-ramp on Moreno Beach Drive with a minimum of two travel lanes.*

*These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps.*

#### **4.2.10**

##### *Moreno Beach Drive at SR-60 Westbound Ramps Improvements:*

- Construct a second northbound through lane, for a northbound lane configuration of two through lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection);*
- In addition to the planned on-ramp for southbound vehicles which is part of the future SR-60/Moreno Beach Drive interchange design, a second southbound through lane and a right-turn lane, for a southbound lane configuration of two through lanes and a right-turn lane. These improvements would require dedication on the west side of Moreno Beach Drive and re-striping of all lanes on the north leg of the intersection;*
- Construct the SR-60 westbound on-ramp for vehicles traveling southbound on Moreno Beach Drive with a minimum of one travel lane; and*
- Construct a second westbound left-turn lane, for a westbound lane configuration of two left-turn lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way*

*from the north side of the SR-60 Westbound Ramps and re-striping of all lanes on the east leg of the intersection.*

*These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Moreno Beach Drive at SR-60 Westbound Ramps.*

*4.2.11 Moreno Beach Drive at Fir (future Eucalyptus) Avenue Improvements:*

- Construct dual northbound left-turn lanes and re-stripe the northbound right-turn lane as a shared through-or-right turn lane for a northbound lane configuration of two left-turn lanes, two through lanes and a shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection. Restriping of the northbound right-turn lane as a shared through-or-right turn lane would be funded through participation in the DIF Program. Remaining improvements would be funded through fair share fee participation;*
- Construct a southbound left-turn lane and a right-turn lane with overlap phasing, for a southbound lane configuration of two left-turn lanes, three through lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the west side of Moreno Beach Drive and re-striping of all lanes on the north leg of the intersection, and would be funded through fair share fee participation;*
- Construct the new eastbound leg of this intersection with dual left-turn lanes, a through lane, and a shared through-or-right-turn lane. Construction of one eastbound left-turn lane, the eastbound through lane, and the eastbound shared through-or-right-turn lane would be funded through participation in the DIF Program. Remaining improvements would be funded through fair share fee participation; and*

- *Construct a westbound through lane and implement overlap phasing on the right-turn movement, for a westbound lane configuration of one left-turn lane, two through lanes, and a right-turn lane with overlap phasing. This improvement would be funded through fair share fee participation.*

*The Project will pay required DIF and fair share fees, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Moreno Beach Drive at Fir (future Eucalyptus) Avenue.*

*4.2.12 Quincy Street at Fir (future Eucalyptus) Avenue Improvements:*

- *Install a stop-control on the south leg of the intersection;*
- *Construct a northbound shared left-or-right-turn lane;*
- *Construct the eastbound approach of the Fir (future Eucalyptus) Avenue extension with a through lane and a shared through-or-right-turn lane; and*
- *Construct the westbound approach of the Fir (future Eucalyptus) Avenue extension with a left-turn lane, a through lane, and a shared through-or-right-turn lane.*

*These improvements would be funded through participation in the DIF Program. The Project will pay required DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Quincy Street at Fir (future Eucalyptus) Avenue.*

*4.2.13 Redlands Boulevard at SR-60 Westbound Ramps Improvements:*

- *Install a traffic signal (a TUMF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.1);*
- *Construct a northbound through lane and a right-turn lane with overlap phasing, for a northbound lane configuration of one left-turn lane, two through lanes and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the east side*

*of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection;*

- *Construct a southbound left-turn lane and a through lane, for a southbound lane configuration of two left-turn lanes and a through lane, and a shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and*
- *Construct a westbound left-turn lane and a right-turn lane, for a westbound lane configuration of one left-turn lane, one shared left-through lane and a right-turn lane. These improvements would require the dedication of right-of-way from the north side of the SR-60 Westbound Ramps and re-striping of all lanes on the east leg of the intersection.*

*The traffic signal noted above will be constructed by the Project pursuant to Mitigation Measure 4.2.1. The remaining improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at Redlands Boulevard at SR-60 Westbound Ramps.*

**4.2.14** *Redlands Boulevard at SR-60 Eastbound Ramps Improvements:*

- *Construct two northbound through lanes, for a northbound lane configuration of one left-turn lane and three through lanes, with the pocket length for the northbound left-turn lane at the full length of the segment. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and restriping of all lanes on the south leg of the intersection;*
- *Construct two southbound through lanes, for a southbound lane configuration of two through lanes and a shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the west side*

*of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and*

- *Re-stripe the shared eastbound left-or-right-turn lane as an exclusive left-turn lane, for an eastbound lane configuration of two left-turn lanes and one right-turn lane. These improvements would require the dedication of right-of-way on the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.*

*These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at SR-60 Eastbound Ramps.*

*4.2.15 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:*

- *Install a traffic signal (a DIF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.2).*
- *Construct a northbound left turn lane with 200-feet of storage and a second through lane for a northbound lane configuration of one left turn lane, one through lane and one shared through right turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard. Restriping of all lanes on the south leg of the intersection, and construction of the northbound through lane would be funded through participation in the TUMF Program. Remaining improvements would be funded through participation in the DIF Program;*
- *Construct a southbound left turn lane with 250-feet of storage, a second left turn lane that extends back to the SR-60 Eastbound ramps, a second through lane and a right turn lane with overlap phasing for a southbound lane configuration of two left turn lanes, two through lanes and one right turn lane with overlap phasing, with a right-turn pocket length that extends the full length of the segment. These improvements would require the dedication of*

*right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program. Construction of one southbound left-turn lane would be funded through participation in the DIF program. The noted right-turn southbound lane would be constructed by the Project pursuant to Mitigation Measure 4.2.2. Overlap phasing for this right-turn lane will be added when determined appropriate by the City Traffic Engineer, and will be funded through fair share fee participation. Remaining improvements would also be funded through Fair Share Fees;*

- Construct dual eastbound left-turn lanes with 300 feet of storage and a second through lane, for an eastbound lane configuration of two left-turn lanes, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the south side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the west leg of the intersection. A single eastbound turn with 300 feet of storage will be constructed by the Project under Opening Year Ambient Conditions pursuant to Mitigation Measure 4.2.2. The remaining improvements would be funded through participation in the DIF Program; and*
- Construct a westbound left-turn lane, one through lane, and a right-turn lane with overlap phasing, for a westbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane with overlap phasing [these improvements would require the dedication of right-of-way from the north side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the east leg of the intersection]. Construction of the westbound left and through lanes would be funded through participation in the DIF Program; remaining improvements would be funded through participation in the fair share fee assessments.*

*The Project will pay required TUMF, DIF and fair share fees, thereby satisfying its proportional fee responsibilities for improvements required to mitigate*

*General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at Fir (future Eucalyptus) Avenue.*

4.2.16 *Redlands Boulevard at Eucalyptus (future Encilia) Avenue Improvements:*

- *Install a traffic signal. This improvement would be funded through participation in the DIF Program;*
- *Construct a northbound left-turn lane and a shared through-or-right-turn lane, for a northbound lane configuration of one left-turn lane, one through lane and one shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection. Construction of the northbound left-turn lane would be funded through participation in the DIF Program; remaining improvements would be funded through participation in the TUMF Program;*
- *Construct a southbound left-turn lane, a through lane, and a right-turn lane, for a southbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF program;*
- *Re-stripe the eastbound right-turn lane as a through lane and construct an additional shared through-or-right-turn lane, for an eastbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way with from the south side of Eucalyptus (future Encilia) Avenue and the re-striping of all lanes on the west leg of the intersection, and would be funded through participation in the DIF Program; and*



- *Construct the westbound approach with one left-turn lane, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the north side of Eucalyptus (future Encilia) Avenue, and the re-striping of all lanes on the east leg of the intersection, and would be funded through participation in the DIF Program.*

*The Project will pay required TUMF and DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at Eucalyptus (future Encilia) Avenue.*

#### 4.2.17

##### *Redlands Boulevard at Cottonwood Avenue Improvements:*

- *Construct a northbound through lane, for a northbound lane configuration of one left-turn lane, one through lane and one shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and the re-striping of all lanes on the south leg of the intersection, and would be funded through participation in the TUMF Program;*
- *Construct a southbound left-turn lane and a through lane, for a southbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and the restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF Program;*
- *Re-stripe the eastbound right-turn lane as a through lane, and construct an additional through-or-right-turn lane, for an eastbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the south side of Cottonwood Avenue, and the re-striping of all lanes on the west leg of the intersection, and would be funded through participation in the DIF Program; and*

- *Construct the westbound approach with one left-turn lane, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the north side of Cottonwood Avenue, and the re-striping of all lanes on the east leg of the intersection, and would be funded through participation in the DIF Program.*

*The Project will pay required TUMF and DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at Cottonwood Avenue.*

**Facts in Support of the Finding:** With completion of the improvements recommended under Mitigation Measures 4.2.3 through 4.2.17, acceptable levels of service would be realized at all Study Area intersections under cumulative Opening Year and General Plan buildout conditions with the Project. (See DEIR Tables 4.2-10 and 4.2-11) Improvements necessary to mitigate potentially significant intersection impacts would be accomplished in part by the Project, with the balance of required improvements realized under combined TUMF, DIF, and fair share fee traffic improvement programs. With specific regard to Project payment of Development Impact Fees (DIF), it is recognized that the City, as an interim and temporary measure, has reduced required DIF payments by 50%. Notwithstanding, the reduced DIF payment program is considered to have sufficient funds to construct prioritized improvements necessary to alleviate traffic impacts. That is, over time, the City's DIF structure, allocation of fees, and prioritization of improvements is able to flexibly respond to traffic demands within the City such that funding for all necessary improvements is available in a timely manner. It is further noted that should supplemental funds be required, the City is able to secure these funds through other sources including but not limited to: state and federal grants, redevelopment funds and Measure A gas tax funds.

However, timely completion of the required improvements in total cannot be assured based on Project participation in mandated traffic impact fee programs (TUMF, DIF, and fair share). Further, ramp and interchange improvements affecting the SR-60 are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency. The Project's contribution to intersection impacts is therefore determined to be cumulatively significant and unavoidable notwithstanding mitigation. (DEIR, pgs. 4.2-36 to 4.2-55).

**b. Roadway Segments**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that Project-related traffic would cumulatively exceed established level of service standards, affecting certain roadway segments under Opening Year cumulative conditions.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measures 4.2.18 and 4.2.19 are incorporated into the MMRP for the Project, and will be implemented as specified therein. However, the Council finds that even with application of these mitigation measures, cumulative roadway segment impacts are considered significant and unavoidable.

4.2.18 *Quincy Street south of Fir (future Eucalyptus) Avenue Improvements:*

- *Construct Quincy Street south of Eucalyptus Avenue as a two-lane undivided roadway with a minimum of one travel lane in each direction.*

*The Project will pay required DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year cumulative traffic impacts at the segment of Quincy Street south of Fir (future Eucalyptus) Avenue.*

4.2.19 *Fir (future Eucalyptus) Avenue west of Quincy Street to the westerly Project boundary and Fir (future Eucalyptus) Avenue east of Redlands Boulevard Improvements:*

- *Construct the Fir (future Eucalyptus) Avenue extension from the current terminus near the Auto Mall to Quincy Street, and connecting to Fir (future Eucalyptus) Avenue at the westerly project boundary. Continue Fir (future Eucalyptus) Avenue east of Redlands Boulevard. Fir (future Eucalyptus) Avenue is to be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction.*

*The Project will pay required DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year cumulative traffic impacts affecting the segment of Fir (future Eucalyptus) Avenue between*

*the Auto Mall and the westerly Project Boundary, and Fir (future Eucalyptus) Avenue east of Redlands Boulevard.*

**Facts in Support of the Finding:** With completion of the improvements recommended under Mitigation Measures 4.2.7, 4.2.18 and 4.2.19, acceptable V/C and LOS conditions would be realized at all Study Area roadway segments under Opening Year Cumulative Conditions with the Project. Implementation of the previously identified Mitigation Measure 4.2.7 would ensure acceptable conditions at the segment of Redlands Boulevard located north of the SR-60 Westbound Ramps to Eucalyptus (future Encilia) Avenue. (See DEIR Table 4.2-13) Improvements necessary to mitigate potentially significant Opening Year Cumulative Condition roadway segment impacts would be accomplished in part by the Project, with the balance of required improvements realized under combined TUMF, DIF, and fair share fee traffic improvement programs. With specific regard to Project payment of Development Impact Fees (DIF), it is recognized that the City, as an interim and temporary measure, has reduced required DIF payments by 50%. Notwithstanding, the reduced DIF payment program is considered to have sufficient funds to construct prioritized improvements necessary to alleviate traffic impacts. That is, over time, the City's DIF structure, allocation of fees, and prioritization of improvements is able to flexibly respond to traffic demands within the City such that funding for all necessary improvements is available in a timely manner. It is further noted that should supplemental funds be required, the City is able to secure these funds through other sources including but not limited to: state and federal grants, redevelopment funds and Measure A gas tax funds.

However, timely completion of the required improvements in total cannot be assured based on Project participation in mandated traffic impact fee programs (TUMF, DIF, and fair share). Further, roadway segment improvements at or affecting the SR-60 at Redlands Boulevard interchange improvements are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency. As such, there are no feasible mitigation measures that will reduce the Project's roadway segment impacts under Opening Year cumulative conditions below significance thresholds. (DEIR, pgs. 4.2-60 through 4.2-67)

**c. Freeway Mainline Segments**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that Project-related traffic would cumulatively exceed established level of service standards at study area freeway segments under General Plan buildout conditions.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant there are no known feasible mitigation measures that could reduce this impact to a level of less than significant. Accordingly, Project-related impacts to Study Area freeway mainline segments under General Plan buildout conditions will remain significant and unavoidable.

**Facts in Support of the Finding:** The EIR determined that implementation of the Project would contribute additional traffic to segments of SR-60 within the Study Area that under General Plan buildout conditions (with or without the Project) are projected to operate under deficient conditions. While it is foreseeable that improvements to SR-60 in the Project vicinity will be completed prior to General Plan Buildout, timely completion of these improvements cannot be definitively assured. Further, SR-60 mainline improvements are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency. As such, there are no feasible mitigation measures that will reduce the Project's roadway segment impacts under Opening Year cumulative conditions below significance thresholds. (DEIR, pgs. 4.2-79 to 4.2-80) As such, the Project's potential to adversely affect scenic vistas is determined to be individually significant and cumulatively considerable.

**2. Air Quality**

**a. Short-Term Construction Emissions**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that the Project's construction source emissions would temporarily exceed SCAQMD regional and localized significance thresholds, thereby potentially violating an air quality standard or contributing to an existing or projected air quality violation.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measures 4.3.1 through 4.3.9 are incorporated into the MMRP for

the Project, and will be implemented as specified therein. However, the Council finds that even with application of these mitigation measures, construction emissions-related air quality impacts are considered significant and unavoidable.

4.3.1 *Consistent with URBEMIS modeling inputs and to effect implementation of Rule SCAQMD Rule 403, the following measures shall be incorporated:*

- *All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions.*
- *The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the Project are watered at least three times daily during dry weather. Watering, with complete coverage of disturbed areas, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day.*
- *The contractor shall ensure that traffic speeds on unpaved roads and Project site areas are reduced to 15 miles per hour or less to reduce PM<sub>10</sub> and PM<sub>2.5</sub> fugitive dust haul road emissions.*
- *Site disturbance during mass grading and fine grading activities shall not exceed 13.66 acres per day.*
- *Ground cover shall be replaced, and/or non-toxic soil stabilizers shall be applied (according to manufacturers' specifications) to any inactive construction areas (previously graded areas inactive for ten days or more);*
- *In support of Project plan specifications and contract document language; and as means of controlling on-site construction vehicle speeds, for the duration of Project construction activities, speed limit signs (15 mph maximum) shall be posted at entry points to the Project site, and along any unpaved roads providing access to or within the Project site and/or any unpaved designated on-site travel routes.*

4.3.2 *The contractor shall minimize pollutant emissions by maintaining equipment engines in good condition and in proper tune according to manufacturer's*

*specifications and during smog season (May through October) by not allowing construction equipment to be left idling for more than five minutes (per California law).*

4.3.3 *The contractor shall ensure use of low-sulfur diesel fuel in construction equipment as required by the California Air Resources Board (CARB) (diesel fuel with sulfur content of 15 ppm by weight or less).*

4.3.4 *Contractor(s) shall ensure that all off-road heavy-duty construction equipment utilized during construction activity shall be CARB Tier 2 Certified or better.*

4.3.5 *In order to reduce localized Project impacts to sensitive receptors in the Project vicinity during construction, construction equipment staging areas shall be located at least 300 feet away from sensitive receptors.*

4.3.6 *During Project construction, existing electrical power sources (e.g., power poles) shall be utilized to power electric construction tools including saws, drills and compressors, to minimize the need for diesel or gasoline powered electric generators.*

4.3.7 *The Applicant shall use “Zero-Volatile Organic Compounds” paints, coatings, and solvents with a VOC content lower than required under Rule 1113 (not to exceed 150 grams/liter; 1.25 pounds/gallon). High Pressure Low Volume (HPLV) applications of paints, coatings and solvents shall be consistent with South Coast Air Quality Management District Rule 1113. Alternatively, the Applicant shall use materials that do not require painting or are pre-painted.*

4.3.8 *Grading plans, construction specifications and bid documents shall also include the following notations:*

- *Off-road construction equipment shall utilize alternative fuels e.g., biodiesel fuel (a minimum of B20), natural gas (CNG), liquefied natural gas (LNG), propane, except for equipment where use of such fuels or fuel would void the equipment warranty;*
- *Gravel pads shall be provided at all access points to prevent tracking of mud onto public roads;*

- *Install and maintain trackout control devices at all access points where paved and unpaved access or travel routes intersect;*
- *The contractor or builder shall designate a person or person(s) to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite;*
- *The contractor or builder shall post a publicly visible sign with the telephone number and person to contact regarding dust complaints. The contact person shall take corrective action within 24 hours;*
- *High pressure injectors shall be provided on diesel construction equipment where feasible;*
- *Engine size of construction equipment shall be limited to the minimum practical size;*
- *Substitute gasoline-powered for diesel powered construction equipment where feasible;*
- *Use electric construction equipment where feasible;*
- *Install catalytic converters on gasoline-powered equipment where feasible;*
- *Ride-sharing program for the construction crew shall be encouraged and shall be supported by contractor(s) via incentives or other inducement;*
- *Documentation shall be provided to the City of Moreno Valley indicating that construction workers have been encouraged to carpool or otherwise reduce VMT to the greatest extent practical, including providing information on available park and ride programs;*
- *Lunch services shall be provided onsite during construction to minimize the need for offsite vehicle trips;*
- *All forklifts used during construction and in subsequent operation of the Project shall be electric or natural gas powered.*

4.3.9 *Throughout Project construction, a construction relations officer/community liaison, appointed by the Applicant, shall be retained on-site. In coordination and*



*cooperation with the City, the construction relations officer/community liaison shall respond to any concerns related to PM10 (fugitive dust) generation or other construction-related air quality issues.*

**Facts in Support of the Finding:** Even after compliance with applicable SCAQMD Rules and implementation of Mitigation Measures 4.3.1 through 4.3.9, Project construction activities would temporarily exceed SCAQMD regional emissions thresholds for volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>); and would also temporarily exceed localized emissions thresholds for particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). (See DEIR Tables 4.3-9 and 4.3-10) Project construction-related emissions in exceedance of SCAQMD's regional and localized significance thresholds are therefore determined to be significant and unavoidable air quality impacts notwithstanding mitigation. (DEIR, pgs. 4.3-53 through 4.3-65).

**b. Long-Term Operational Emissions**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that the Project could potentially exceed SCAQMD daily emissions significance thresholds.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation. The Council finds that Mitigation Measure 4.3.10 is incorporated into the MMRP for the Project, and will be implemented as specified therein. However, the Council finds that even with application of this mitigation measure, operational emissions-related air quality impacts are considered significant and unavoidable.

4.3.10 *All Project entrances shall be posted with signs which state:*

- *Truck drivers shall turn off engines when not in use;*
- *Diesel delivery trucks servicing the Project shall not idle for more than three (3) minutes; and*
- *Telephone numbers of the building facilities manager and CARB, to report violations.*

**Facts in Support of the Finding:** Even after compliance with applicable SCAQMD Rules and implementation of Mitigation Measure 4.3.10, as well as Mitigation Measures 4.3.11 through 4.3.13 enumerated in Section V(A)(3)(c) above, Project operational activities will exceed SCAQMD daily emissions thresholds for VOC and NOx. (DEIR Table 4.3.13) Project operational-related impacts that exceed long-term, operational emissions thresholds are therefore determined to be significant and unavoidable air quality impacts notwithstanding mitigation. (DEIR, pgs. 4.3-65 to 4.3.73)

**c. Sensitive Receptors**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that Project construction activities could temporarily expose sensitive receptors to potentially substantial pollutant concentrations.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measures 4.3.1 through 4.3.9, enumerated in Section C(2)(a) above, are incorporated into the MMRP for the Project, and will be implemented as specified therein. However, the Council finds that even with application of these mitigation measures, the Project will result in cumulatively significant and unavoidable air quality impacts.

**Facts in Support of the Finding:** Even after compliance with applicable SCAQMD Rules and implementation of Mitigation Measures 4.3.1 through 4.3.9, the Project's construction source emissions could result in the temporary exposure of sensitive receptors to PM<sub>10</sub> and PM<sub>2.5</sub> emissions in excess of applicable SCAQMD localized significance thresholds. Existing sensitive receptors are identified as a single developed residential use located at 28855 Fir Avenue. Although additional parcels zoned for residential land uses (potential future sensitive receptors) are present within the area of LST exceedance, they are largely undeveloped. All other study area receptor locations (existing residences south of Eucalyptus (future Encilia) Avenue and north of SR-60, and area school sites) are well beyond the area of the Project's temporary LST exceedances for particulate matter. (DEIR, pgs. 4.3-73 through 4.3-76)

#### **d. Cumulative Air Quality Impacts**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that the Project could potentially result in a cumulatively considerable net increase of criteria pollutants for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measures 4.3.1 through 4.3.13, enumerated in Sections A(3)(c) and C(2)(a) & (b) above, are incorporated into the MMRP for the Project, and will be implemented as specified therein. However, the Council finds that even with application of these mitigation measures, the Project will result in cumulatively significant and unavoidable air quality impacts.

**Facts in Support of the Finding:** The Project is located within non-attainment areas for PM<sub>10</sub>, PM<sub>2.5</sub>, and ozone (VOC and NO<sub>x</sub> are ozone precursors). Even after compliance with applicable SCAQMD Rules and implementation of Mitigation Measures 4.3.1 through 4.3.13, the Project will result in the following cumulatively significant and unavoidable air quality impacts: (1) Short-term Project construction activities that exceed the regional thresholds for VOC and NO<sub>x</sub> emissions are cumulatively significant for the duration of construction activities; (2) Short-term Project construction activities that exceed the localized significance thresholds for PM<sub>10</sub> and PM<sub>2.5</sub> emissions are cumulatively significant for the duration of construction activities; (3) Long-term operations of the Project that exceeds the regional thresholds for VOC and NO<sub>x</sub> are cumulatively significant; and (4) The Project's operational VOC and NO<sub>x</sub> emissions, in combination with VOC and NO<sub>x</sub> emissions generated by other sources affecting the encompassing ozone non-attainment areas, will result in a cumulatively considerable net increase of this pollutant within the nonattainment areas. (DEIR, pgs. 5-12 to 5-13)

### **3. Noise**

#### **a. Short-Term Construction Noise (Individual and Cumulative)**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that the Project could potentially result in the 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; and potentially result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measures 4.4.1 through 4.4.4, presented below, are incorporated into the MMRP for the Project, and will be implemented as specified therein. However, the Council finds that even with application of these mitigation measures, short-term construction-related noise impacts are considered significant and unavoidable, and are determined cumulatively considerable for the duration of Project construction activities.

4.4.1 *Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that during all Project site construction, construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards. And further that the construction contractor shall place all stationary construction equipment so that emitted noise is directed away from off-site receptors nearest the Project site. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.*

4.4.2 *Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that the construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and off-site receptors nearest the Project site during all project construction. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.*

4.4.3 *Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that construction activities, including haul truck operations, shall be limited to the hours between 7:00 a.m. and 8:00 p.m. Monday through Friday. No Project-related construction activities shall occur on*

*weekends or Federal holidays. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.*

4.4.4 *Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that for the duration of grading and site preparation activities, temporary construction noise curtains or similar line-of-sight noise reduction measures shall be installed along the Project's southerly boundary. Noise curtains shall be installed so as to provide maximum reduction for noise sensitive uses (at present a single residence located southerly of the Project site) and shown on the grading plans prepared for the Project.*

**Facts in Support of the Finding:** Even with implementation of Mitigation Measures 4.4.1 through 4.4.4, the Project's construction activities would result in a temporary exceedance of applicable noise level standards and a temporary increase in ambient noise levels in the Project vicinity. Because construction noise levels are conservatively estimated to exceed the City's maximum permissible sound level for daytime hours as received at a residential land use (60 dBA Leq), construction noise is considered a significant and unavoidable impact of the Project. (DEIR, pgs. 4.4-15 to 4.4-21). Cumulative noise impacts for the duration of construction activities are also recognized as significant. (DEIR, pg. 5-14) As such, short-term construction noise impacts are determined to be individually and cumulatively significant notwithstanding mitigation.

#### **4. Aesthetics**

##### **a. Scenic Vistas (Individual and Cumulative)**

**Significant Unavoidable Impact:** The EIR evaluated and concluded that the Project could have an adverse effect on a scenic vista.

**Finding:** Based on the entire record before us, this Council finds that this impact is potentially significant as there are no known feasible mitigation measures that could reduce this impact to a level of less than significant. Accordingly, Project-related impacts to scenic vistas will remain significant and unavoidable.

**Facts in Support of the Finding:** The EIR determined that implementation of the Project would potentially result in the restriction or interruption of near and distant scenic vistas. The Project proposes a single large structure (more than 970,000 square feet), that would alter and or/obstruct views through the currently undeveloped Project area. View obstruction will be limited to some extent by engineering and grading requirements that will establish the Project's building pad considerably below the grade of the adjacent SR-60. The Project will nonetheless interrupt the expansive views of open space and mountains from SR-60, Redlands Boulevard, Fir (future Eucalyptus) Avenue, and other areas surrounding the Project site. In order to minimize the viewshed impacts of the Project, the building height or overall scale would need to be substantially reduced. Reducing the height of the building is considered infeasible, since the facility's height is largely dictated by the logistics use, and the need to provide standard "dock-high" bays for the loading and unloading of trucks. Similarly, the proposed Project intends to serve a market need for users that demand a large, integrated facility. As such, the concept of substantially reducing the size of the building, or creating multiple buildings in lieu of one single building would compromise a basic objective of the Project. As such, there are no feasible mitigation measures that will reduce the Project's potential aesthetic impacts on scenic vistas below significance thresholds. (DEIR, pgs. 4.9-10 through 4.9-19) In combination with other known or probably development projects in the vicinity, the Project would also result in the cumulatively considerable restriction or interruption of near and distant scenic views. (DEIR, pgs. 5-23 to 5-15) As such, the Project's potential to adversely affect scenic vistas is determined to be individually significant and cumulatively considerable.

#### **D. ADEQUACY OF THE RANGE OF PROJECT ALTERNATIVES**

The EIR analyzed three alternatives to the Project as proposed, and evaluated these alternatives for their ability to meet the Project's objectives as described in Section II.B above. CEQA requires the evaluation of a "No Project Alternative" to assess a maximum net change in the environment as a result of implementation of the Project. At the direction of the City of Moreno Valley, two different "No Project" scenarios have been evaluated. The first, referred to as the No Project/No Build Alternative, assumes the site would remain in its current undeveloped state. The second, referred to as the No Project/Existing Zoning Alternative, makes a reasoned assessment as to the future development of the subject site should the Project under consideration not be developed. A Reduced Intensity Alternative was also selected for analysis. CEQA

requires the evaluation of alternatives that can reduce the significance of identified impacts and “feasibly attain most of the basic objectives of the proposed Project.” Thus, in order to develop a range of reasonable alternatives, the Project Objectives must be considered when this Council is evaluating the alternatives.

**1. Alternative 1 – No Project/No Build Alternative**

**Description:** Under the No Project/No Build Alternative (hereinafter referenced as the “No Build” Alternative), it is presumed that if the Project or some similar development proposal is not implemented on the subject site, then there would be no other known or probable scenarios for the subject property, the site would likely remain in its current undeveloped state for the foreseeable future. (DEIR, pg. 5-31)

**Impacts:** The No Build Alternative would result in a significant lessening of impacts when compared to the proposed Project. (DEIR, pgs. 5-25 through 5-65) Similar to the Project, the No Build Alternative would result in less than significant impacts in the following areas: Land Use; Water Supply; Hydrology and Water Quality; Cultural Resources; and Biological Resources. No discretionary actions or zone change would be required under the No Build Alternative. (DEIR, pg. 5-48) In addition, the Project’s significant and unavoidable traffic impacts, construction noise impacts, construction and operational air quality impacts, and impacts to scenic vistas would not occur. (DEIR, pgs. 5-50 to 5-65) Under the No Build Alternative, potential traffic/transportation impacts would be representative of existing conditions. The No Build Alternative would reduce the aggregate amount of fee contributions available for long-term traffic improvements when compared to fee contributions realized under the Project. Additionally, the No Build Alternative would not realize Project-specific road widening/lane reconfiguration and signalization improvements as detailed in the Project Traffic Impact Analysis. Significant freeway mainline segment deficiencies would persist with or without the Project. (DEIR, pg. 5-49). Visual attributes of the Project site would remain in their current state. (DEIR, pg. 5-63)

**Objectives:** Under the No Build Alternative, the subject site would remain in its current undeveloped state, and none of the Project Objectives would be achieved. (DEIR, pg. 5-64)

**Finding:** Under the No Build Alternative, no development would occur. This Alternative would avoid all of the significant and unavoidable impacts associated with traffic, air quality, noise and aesthetics that have been identified within the DEIR. However, the City Council finds

that the No Build Alternative would not fulfill any of the Project Objectives. Because the No Build Alternative will not fulfill the Project Objectives, the City Council hereby rejects the No Build Alternative.

## 2. Alternative 2 – No Project/Existing Zoning Alternative

**Description:** The No Project/Existing Zoning Alternative (hereinafter referenced as the “No Project” Alternative), considers the environmental conditions that would occur if the subject site were developed consistent with its existing Business Park zoning designation. To allow for quantified comparison of potential traffic impacts and related vehicular source air quality and noise impacts, the No Project Alternative assumes the site is developed consistent with assumptions employed in the City’s General Plan Buildout traffic modeling, which was projected to be approximately four (4) times higher than would otherwise be generated by logistics/distribution warehouse uses such as those proposed under the Project.. (DEIR, pgs. 5-31 to 5-32)

**Impacts:** The No Project Alternative would result in a significant lessening of impacts when compared to the proposed Project. (DEIR, pgs. 5-25 through 5-72; EIR topical areas: Land Use; Water Supply; Hydrology and Water Quality; Cultural Resources; and Biological Resources.) Under the No Project Alternative, a zone change would not be required. (DEIR, pg. 5-48) The Project’s significant and unavoidable construction noise impacts and construction source air quality impacts would likely be similar to those of the Project. (DEIR, pgs. 5-52 and 5-56) Potential traffic impacts could be substantively increased under the No Project Alternative, due to the increased traffic associated with Business Park land uses. Significant mainline freeway segment impacts under General Plan Buildout conditions would persist, and due to increased traffic generation under the No Project Alternative, would likely be exacerbated. (DEIR, pgs. 5-50 to 5-51) Associated vehicular (operational) air pollutant emissions would similarly be increased when compared to the Project; however, the vehicle mix under the No Project Alternative would likely reflect decreased heavy truck traffic. Significant VOC and NOx emissions thresholds exceedances occurring under the Project would be incrementally greater under the No Project Alternative. (DEIR, pg. 5-53). Vehicular noise would also likely increase under the No Project Alternative based on increased trip generation. However, as with the Project, it is considered unlikely that sensitive receptors would be affected by potential vehicular



noise levels based on their physical separation from roadways and the presence of intervening noise-attenuating walls. (DEIR, pg. 5-57) Potential impacts to viewsheds may be reduced under the No Project Alternative, since the Business Park zoning designation would limit maximum individual building areas to 50,000 square feet. This limitation on individual building sizes could allow for configurations of the developed site that would provide additional or varied views through the Project site to off-site scenic resources. (DEIR, pg. 5-63)

**Objectives:** Business Park/Light Industrial uses that could be implemented under the No Project Alternative could substantially achieve the Project's development objectives for the site. Like the Project, it is anticipated that new development under the No Project Alternative would be designed and implemented so as to be compatible with neighboring land uses. The No Project Alternative would effectively capitalize on the site's regional freeway accessibility and visibility. New jobs, including light industrial, office, limited support commercial, or research and development employment opportunities would be created by the No Project Alternative. This Alternative would also provide additional tax revenues available to the City. (DEIR, pgs. 5-64 to 5-65)

**Finding:** Under the No Project Alternative, development of a business park development with a similar scale to that of the Project would occur. This Alternative would reduce the Project's potential aesthetic impacts, in that a series of smaller buildings could be constructed in place of the Project's single structure, allowing views through the site. However, none of the Project's remaining significant and unavoidable environmental impacts would be reduced under the No Project Alternative. Conversely, increased trip generation under a business park land use would likely lead to increased traffic, with correlating increases in air pollutant emissions and vehicular noise. Although the No Project Alternative could substantially achieve the Project's Objectives, because the No Project Alternative would not reduce the majority of the Project's significant and unavoidable impacts, the City Council hereby rejects the No Project Alternative.

### 3. Alternative 3 – Reduced Intensity Alternative

**Description:** The Reduced Intensity Alternative assumes the same general land use type as the Project, but at a development intensity scoped to reduce the extent of regional threshold exceedances for VOC based on operational emissions that would otherwise result from the Project. In that the same type of development is proposed, most if not all the Project Objectives would be achieved to a certain extent. (DEIR, pg. 5-33) Implementation of the Reduced Intensity Alternative would yield approximately 684,200 square feet of development, a reduction of approximately 27 percent or approximately 253,060 square feet, when compared to the approximately 937,260 square-foot Project analyzed in the EIR. (DEIR, pg. 5-48).

**Impacts:** The Reduced Intensity Alternative would result in similar, albeit slightly lessened, impacts when compared to the Project. (DEIR, pgs. 5-25 through 5-72; EIR topical areas: Land Use; Water Supply; Hydrology and Water Quality; Cultural Resources; and Biological Resources.) Under the Reduced Intensity Alternative, maximum construction-related emissions from site preparation and grading would likely be the same as for the Project, though it would occur within a shorter time frame due to the reduced development area. In this regard, the maximum daily site disturbance and amount of equipment employed concurrently would likely be similar to the construction scenario envisioned for the Project. As with the Project, mitigated construction-related emissions would still exceed SCAQMD emissions thresholds. Because the scope of development would be reduced under this Alternative, the duration of construction activities and resulting construction emissions and noise may be reduced when compared to the Project. (DEIR, pgs. 5-51 and 5-57) Based on its reduced scope of development and associated reductions in vehicle trips and vehicular emissions, long-term operations under the Reduced Intensity Alternative would be reduced by approximately 27 percent when compared to the Project. Operational NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions under this Alternative would, however, still exceed applicable SCAQMD thresholds. Accordingly, as with the Project, this Alternative would result in cumulatively significant emissions contributions to existing non-attainment conditions for ozone and particulates. (DEIR, pgs. 5-53 to 5-55) The Reduced Intensity Alternative would result in an approximate 27 percent reduction in development intensity, with a commensurate reduction in trip generation when compared to the Project. The extent of area-wide traffic improvements and required traffic impact mitigation realized under the Project would also be reduced. Significant freeway mainline traffic impacts projected to occur under

General Plan buildout conditions would persist with or without development under the Reduced Intensity Alternative. As such, freeway impacts under this scenario would be less than the Project, but likely still be considered significant. (DEIR, pg. 5-51) The reduced area of development under the Reduced Intensity Alternative would also incrementally reduce significant viewshed impacts otherwise occurring under the Project. (DEIR, pg. 5-64)

**Objectives:** The Reduced Intensity Alternative would, to some degree, realize the Project Objectives. However, because the scale of the development would be diminished under this Alternative, the resulting generation of sales tax, the number of jobs created, and potential second tier economic benefits to the City and region (e.g. wholesale/retail support sales; temporary and long-term construction jobs, and facilities maintenance employment opportunities) would likely be reduced when compared to the Project. (DEIR, pg. 5-65)

**Finding:** Under the Reduced Intensity Alternative, a light industrial warehouse/ distribution facility reduced by approximately 27 percent (or 263,000 square feet) would be realized as compared to the Project. The City Council hereby finds that the Reduced Intensity Alternative will not avoid or substantially reduce the significant and unavoidable construction noise impacts and construction and operational air quality impacts identified in the EIR. This Alternative would not meet Project Objectives to the same extent as the Project. Furthermore, the scale of the reduction in intensity would not maximize or realize the economic potential of the site. Based on the reduced scope of development, the Reduced Intensity Alternative would diminish capacities and capabilities to satisfy existing and projected unmet market demands within the trade area. The Reduced Intensity Alternative would also result in comparatively fewer opportunities to provide jobs, as compared to the Project. Therefore, the City Council rejects the Reduced Intensity Alternative on the basis that it fails to avoid or substantially reduce the significant and unavoidable impacts of the Project and does not meet the Project Objectives as well as the Project. The City Council also finds that each of these considerations constitutes a ground for rejecting this alternative that is independently sufficient to support the City Council's rejection of this alternative.

#### **4. Alternatives Considered and Rejected**

A variety of additional alternatives were considered as part of the DEIR's Alternatives Analysis. (DEIR, pgs. 5-32 through 5-41) An Extended Construction Alternative

and Multiple Building Design Alternative were considered and ultimately rejected based on infeasibility. Additionally, four Alternative Site locations were considered within the DEIR. The criteria for identifying potential alternate sites included:

- Location within the City of Moreno Valley;
- Appropriate General Plan and zoning designations, or the ability to be so-designated;
- Minimum size of 50 acres and a roughly rectangular shape;
- Location proximate to locate transportation corridors or at a regional transportation hub;
- Currently undeveloped or underutilized;
- Currently available;
- Access to existing or planned adequate serving infrastructure; and
- Able to support operations in a manner compatible with other proximate land uses.

Each of the four sites that were analyzed met the general requirements in that each was currently vacant, more than 50 acres and roughly a rectangular configuration; each was zoned for industrial uses and served by nearby utilities and infrastructure. Alternative Sites 1 through 4 are locally accessible and also located near the I-215 freeway, a regional transportation corridor. (DEIR, Figure 5.2-1) Upon further analysis, each of these sites was found to be currently unavailable. Alternative Site 1 currently has applications under review by the City for 1.6 million square feet of distribution warehouse uses, while development plans have been submitted and approved for Alternative Sites 2, 3 and 4.

#### **5. Environmentally Superior Alternative**

Based on comparative reductions in traffic generation, and associated reductions in noise and air emissions, and generally reduced scale, among the Alternatives considered, the Reduced Intensity Alternative would result in the greatest reduction in environmental effects, and is thus considered the environmentally superior alternative. (DEIR, pg. 5-65). The Reduced Intensity Alternative would also generally reduce other environmental effects of the Project, and

to a limited degree, realize attainment of the basic Project Objectives. (DEIR pgs. 5-47 to 5-65) Development of the Project or the Reduced Intensity Alternative would contribute to area employment and the City's overall tax base. However, because scope of land uses would be substantively reduced under the Reduced Intensity Alternative, the resulting effective realization of the Project Objectives, to include economic benefits to the City and region, would likely be similarly diminished. (DEIR, pg. VI-40)

#### **E. GROWTH-INDUCING IMPACTS**

CEQA requires a discussion of ways in which the proposed Project could be growth inducing. Specifically, CEQA Guidelines Section 1512602(d) states that an EIR must describe the ways in which the proposed Project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.

The types of employment opportunities offered by the Project (both management and regular employees) are relatively common throughout Southern California and are unlikely to generate significant population migration (if any). Any Project-related employment demands would likely be filled by the existing surplus personnel pool within the Moreno Valley area, and/or neighboring communities, especially with the currently low jobs per household ratio in the City, and regionally high unemployment rates. The Project would not foster growth or a concentration of population in excess of what is assumed in pertinent master plans, land use plans, or in projections made by regional planning. (DEIR, pgs. 5-67 to 5-68)

Currently, the Project site is vacant and undeveloped. However, expansions of water and wastewater systems, along with other urban utilities, are programmed to serve the vicinity consistent with anticipated development of the City and region. In order to accommodate forecasted growth of the City and region over the long term, it is anticipated these improvements will be implemented regardless of the City's ultimate decision on the Westridge Commerce Center Project. The Project is not considered to provide an inducement to other lands within its vicinity to undertake unanticipated development due to the availability of new or expanded infrastructure systems. (DEIR, pgs. 5-68 to 5-69)

Notwithstanding, development of the Project as envisioned will entail upgrade/modification of infrastructure in the immediate Project vicinity, including abutting roadways, the local water distribution and sewer collection systems, and storm drainage

conveyance facilities. Infrastructure improvements necessitated by the implementation of the Project may facilitate and encourage development of nearby properties. However, the characteristics and intensities of development that could occur on these properties are governed by the Moreno Valley General Plan. Development of these properties within the context of the approved General Plan should not result in unforeseen impacts or impacts that cannot be mitigated. (*Id.*)

Additionally, it is recognized that provision of services, e.g., utilities, fire protection, and law enforcement, may be expanded or otherwise enhanced to meet additional demands of the Project. Project design and payment of impact mitigation fees reduces individual and cumulative impacts in these regards. Services expansion or enhancements based on incremental demands of the Project will not result in substantial additional capacity that could be considered growth inducing. (*Id.*)

Investment in the Project would have local and regional economic impacts which may result in indirect growth-inducing effects. The Project's potential economic benefits could indirectly result in employment growth in the region. This growth, in combination with other anticipated employment growth in the region, could indirectly result in population growth and an increased demand for housing. (*Id.*) Such growth has a variety of potential effects on the physical environment, including but not limited to, effects on air quality, ambient noise levels, traffic impacts, and water quality. It is not anticipated that the additional employment opportunities created by the Project would be substantial enough to produce noticeable population growth within the City and region. (DEIR, p. 5-68)

## **F. SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES**

*Public Resources Code* Section 21100(b)(2)(B) and CEQA Guidelines Sections 15126(c), 15126.2(c), and 15127, require that for certain types or categories of projects, an EIR must address significant irreversible environmental changes that would occur should the project be implemented. As presented at CEQA Guidelines Section 15127, the topic of Significant Irreversible Environmental Changes needs to be addressed in EIRs prepared in connection with any of the following activities:

- (a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;

(b) The adoption by a local agency formation commission of a resolution making determinations; or

(c) A project which will be subject to the requirements for preparing of an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. Sections 4321-4347.

The Project qualifies under Guidelines §15127 (a) in that a zone change is required in order to implement the Project. As such, this EIR analysis addresses any significant irreversible environmental changes which would be involved in the proposed action should it be implemented [Guidelines, Sections 15126(e) and 15127]. An impact would fall into this category if:

- A project would involve a large commitment of nonrenewable resources;
- The primary and secondary impacts of a project would generally commit future generations to similar uses;
- A project involves uses in which irreversible damage could result from any potential environmental incidents associated with the project; or
- The proposed consumption of resources is not justified (e.g., the project results in wasteful use of energy).

With regard to the above considerations, various natural resources, in the form of construction materials and energy resources, will be used in the construction of the Project, but their use is not expected to result in shortfalls in the availability of these resources. The Project presents no significant possibility of irreversible environmental damage “from any potential environmental incidents associated with the project.” The Project does not propose facilities or uses that would result in potentially significant environmental incidents. Moreover, all feasible mitigation is incorporated in the Project to reduce its potential environmental effects. As discussed herein, the Project will not result in or cause unwarranted or wasteful use of resources, including energy. (DEIR, pgs. 5-73 to 5-74)

**9. STATEMENT OF OVERRIDING CONSIDERATIONS**

The Moreno Valley City Council adopts this Statement of Overriding Considerations with respect to the significant unavoidable impacts associated with adoption of the Project as addressed in the EIR, specifically:

1. Traffic Impacts – Intersections and Roadway Segments (Cumulative); and
2. Traffic Impacts – Mainline Freeway Segments (Cumulative).
3. Short-Term Construction Air Quality Impacts (Individual and Cumulative);
4. Long-Term Operational Emissions (Individual and Cumulative);
5. Short-Term Construction Noise (Individual and Cumulative); and
6. Aesthetic Impacts – Change to Scenic Vistas (Individual and Cumulative)

The Moreno Valley City Council hereby declares that, pursuant to CEQA Guidelines Section 15093, the City Council has balanced the benefits of the proposed Project against any significant and unavoidable environmental impacts in determining whether to approve the proposed Project. If the benefits of the proposed Project outweigh the unavoidable adverse environmental impacts, those impacts are considered “acceptable.”

The City Council hereby declares that the EIR has identified and discussed significant effects that may occur as a result of the Project. With the implementation of the mitigation measures discussed in the EIR, these impacts can be mitigated to a level of less than significant except for the unavoidable and significant impacts discussed in Section V(D) herein.

The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project.

The City Council hereby declares that to the extent any mitigation measures recommended to the City are not incorporated, such mitigation measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social, and other benefits that this City Council finds outweigh the unmitigated impacts.



The City Council further finds that except for the Project, all other alternatives set forth in the EIR are infeasible because they would prohibit the realization of the Project objectives and/or specific economic, social or other benefits that this City Council finds outweigh any environmental benefits of the alternatives.

The City Council hereby declares that, having reduced the adverse significant environmental effects of the Project, to the extent feasible by adopting the proposed mitigation measures, having considered the entire administrative record on the Project and having weighed the benefits of the Project against its unavoidable significant impact after mitigation, the City Council has determined that the social, economic and environmental benefits of the Project outweigh the potential unavoidable significant impacts and render those potential significant impacts acceptable based on the following considerations:

- The Project will provide development consistent with the General Plan and in conformance with municipal standards, codes and policies;
- The Project provides development that improves and maximizes economic viability of a vacant site by transitioning the Project site into a productive light industrial use;
- The Project is located at the intersection of a major street and an interstate freeway, maximizing access opportunities for the convenience of operations;
- The Project creates additional employment-generating opportunities for the City of Moreno Valley and surrounding communities; and
- The Project provides adequate infrastructure and public amenities, including upgrading and widened streets, signal upgrades and utility improvements.

As the CEQA Lead Agency for the proposed action, the City of Moreno Valley has reviewed the Project description and the alternatives presented in the EIR, and fully understands the Project and Project alternatives proposed for development. Further, this Council finds that all potential adverse environmental impacts and all feasible mitigation measures to reduce the impacts from the project have been identified in the Draft EIR, the Final EIR and public testimony. This Council also finds that a reasonable range of alternatives was considered in the EIR and this document, Section V(E) above, and finds that approval of the Project is appropriate.

This Council has identified economic and social benefits and important policy objectives, Section V(H) above, which result from implementing the Project. The Council has balanced these substantial social and economic benefits against the unavoidable significant adverse effects of the Project. Given the substantial social and economic benefits that will accrue from the Project, this Council finds that the benefits identified herein override the unavoidable environmental effects.

California Public Resource Code 21002 provides: “In the event specific economic, social and other conditions make infeasible such Project alternatives or such mitigation measures, individual projects can be approved in spite of one or more significant effects thereof.” Section 21002.1(c) provides: “In the event that economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, the project may nonetheless be approved or carried out at the discretion of a public agency...” Finally, California Administrative Code, Title 4, 15093 (a) states: “If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

The City Council hereby declares that the foregoing benefits provided to the public through approval and implementation of the Project outweighs the identified significant adverse environmental impacts of the Project that cannot be mitigated. The City Council finds that each of the Project benefits outweighs the unavoidable adverse environmental impacts identified in the EIR and, therefore, finds those impacts to be acceptable.

## **10. CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT**

The Moreno Valley City Council finds that it has reviewed and considered the FEIR in evaluating the Project, that the FEIR is an accurate and objective statement that fully complies with CEQA and the CEQA Guidelines, and that the FEIR reflects the independent judgment of the City Council.

The City Council declares that no new significant information as defined by CEQA Guidelines Section 15088.5 has been received by the City Council after the circulation of the DEIR that would require recirculation. All of the information added to the FEIR merely clarifies,

amplifies or makes insignificant modifications to an already adequate DEIR pursuant to CEQA Guidelines Section 15088.5(b).

The City Council hereby certifies the EIR based on the following findings and conclusions:

**A. Findings**

**1. CEQA Compliance**

As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Findings and supporting documentation. The City Council determines that the Findings contain a complete and accurate reporting of the environmental impacts and mitigation measures associated with the Project, as well as complete and accurate reporting of the unavoidable impacts and benefits of the Proposed Project as detailed in the Statement of Overriding Considerations. The City Council finds that the EIR was prepared in compliance with CEQA and that the City Council complied with CEQA's procedural and substantive requirements.

**2. Significant Unavoidable Impacts/Statement of Overriding Considerations:**

The Project will have significant adverse impacts even following adoption of all feasible mitigation measures which are required by the City Council. The following significant environmental impacts have been identified in the FEIR and will require mitigation but cannot be mitigated to a level of insignificance as set forth in Section V(D) of these Findings: Traffic Impacts – Intersections and Roadway Segments (Cumulative); Traffic Impacts – Freeway Mainline Segments (Cumulative); Short-Term Construction Air Quality Impacts (Individual and Cumulative); Long-Term Operational Emissions (Individual and Cumulative); Short-Term Construction Noise (Individual and Cumulative); and Aesthetic Impacts – Changes to Scenic Vistas (Individual and Cumulative). The City Council has eliminated or substantially reduced environmental impacts where feasible as described in the Findings, and the City Council determines that the remaining unavoidable significant adverse impacts are acceptable due to the reasons set forth in the preceding Statement of Overriding Considerations.

### **3. Conclusions**

**a.** All potentially significant environmental impacts from implementation of the proposed Project have been identified in the FEIR and, with the implementation of the mitigation measures defined herein and set forth in the MMRP, will be mitigated to a less-than-significant level, except for the impacts identified in Section V(D) above.

**b.** Other reasonable alternatives to the proposed Project that could feasibly achieve the basic objectives of the proposed Project have been considered and rejected in favor of the proposed Project.

**c.** Environmental, economic, social and other considerations and benefits derived from the development of the proposed Project override and make infeasible any alternatives to the proposed Project or further mitigation measures beyond those incorporated into the proposed Project.

### **11. ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM**

Pursuant to *Public Resources Code* Section 21081.6, the City Council hereby adopts, as conditions of approval of the Project, the MMRP set forth in Section 4.0 of the Final EIR. In the event of any inconsistencies between the mitigation measures as set forth herein and the MMRP, the MMRP shall control, except to the extent that a mitigation measure contained herein is inadvertently omitted from the MMRP, in which case such mitigation measure shall be deemed as if it were included in the MMRP.

## **4.0 MITIGATION MONITORING PLAN**

### **4.1 INTRODUCTION**

To ensure that the mitigation measures contained in this EIR are properly implemented, a monitoring program has been developed pursuant to State law. This Mitigation Monitoring Plan (MMP) identifies measures incorporated in the Project which reduce its potential environmental effects; the entities responsible for implementation and monitoring of mitigation measures; and the appropriate timing for implementation of mitigation measures. As described in CEQA § 15097, this MMP employs both reporting on, and monitoring of, Project mitigation measures.

The objectives of the MMP are to:

- Assign responsibility for, and ensure proper implementation of, mitigation measures;
- Assign responsibility for, and provide for monitoring and reporting of, compliance with mitigation measures;
- Provide the mechanism to identify areas of noncompliance and need for enforcement action before irreversible environmental damage occurs.

Mitigation monitoring and reporting procedures incorporated in the Project are presented in the following Section 4.2. Specific mitigation measures incorporated in the Project, mitigation timing, and implementation and reporting/monitoring responsibilities are presented at Table 4.2-1.

### **EXHIBIT B**

## 4.2 MITIGATION MONITORING AND REPORTING

### **Mitigation Monitoring and Responsibilities**

As the Lead Agency, the City of Moreno Valley is responsible for ensuring full compliance with the mitigation measures adopted for the proposed Project. The City will monitor and report on all mitigation activities. Mitigation measures will be implemented at different stages of development throughout the Project area. In this regard, the responsibilities for implementation have been assigned to the Applicant, Contractor, or a combination thereof.

If during the course of Project implementation, any of the mitigation measures identified herein cannot be successfully implemented, the City shall be immediately informed, and the City will then inform any affected responsible agencies. The City, in conjunction with any affected responsible agencies, will then determine if modification to the Project is required and/or whether alternative mitigation is appropriate.

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<b><u>Traffic and Circulation</u></b>				
<p>4.2.1 Redlands Boulevard at SR-60 Westbound Ramps Improvements:</p> <ul style="list-style-type: none"> <li>Install a traffic signal.</li> </ul> <p>This improvement is currently approved, programmed, and permitted by Caltrans. If not otherwise completed prior to Project opening, the required traffic signal shall be constructed by the Applicant prior to issuance of the first Certificate of Occupancy.</p>	<p>Prior to issuance of first Certificate of Occupancy</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department, California Department of Transportation</p>	<p>Before issuance of first Certificate of Occupancy</p>
<p>4.2.2 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:</p> <p>Prior to issuance of the first Certificate of Occupancy, the Applicant shall construct the following improvements:</p> <ul style="list-style-type: none"> <li>Install a traffic signal;</li> <li>Construct a southbound right turn auxiliary lane which extends the full length of the segment of Redlands Boulevard between the SR-60 Eastbound Ramps and Fir (future Eucalyptus) Avenue for a southbound lane configuration of one shared left-through lane and one right turn lane; and</li> <li>Construct an eastbound left-turn lane with 300 feet of storage for an eastbound lane configuration of one left-turn lane and one shared through-or-right-turn-lane.</li> </ul>	<p>Prior to issuance of first Certificate of Occupancy</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first Certificate of Occupancy</p>
<p>4.2.3 Moreno Beach Drive at SR-60 Eastbound Ramps Improvements:</p> <ul style="list-style-type: none"> <li>Construct an eastbound right-turn lane and re-stripe the shared left-or-right-turn lane as an exclusive left-turn lane,</li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

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**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<p>4.2.3 (cont'd)</p> <p><i>for an eastbound lane configuration of one left-turn lane and one right-turn lane. These improvements would require the dedication of right-of-way from the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.</i></p> <p><i>These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year Cumulative traffic impacts at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps.</i></p>				
<p>4.2.4 <i>Moreno Beach Drive at SR-60 Westbound Ramps Improvements:</i></p> <ul style="list-style-type: none"> <li><i>Coordinate traffic signal timing with the signal at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps. These improvements would be funded through Project participation in the TUMF Program. Although the intersection of Moreno Beach Drive at SR-60 Westbound Ramps is anticipated to operate at an acceptable LOS, the coordination of traffic signal timing with the signal at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps would ensure continued satisfactory operations.</i></li> </ul> <p><i>The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year Cumulative traffic impacts at the intersection of Moreno Beach Drive at SR-60 Westbound Ramps.</i></p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>



**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.5 Redlands Boulevard at SR-60 Westbound Ramps Improvements:</p> <ul style="list-style-type: none"> <li>• Install a traffic signal (a TUMF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.1);</li> <li>• Construct a second northbound through lane and a right-turn lane with overlap phasing, for a northbound lane configuration of one left-turn lane, two through lanes and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way on the east side of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection; and</li> <li>• Construct a second southbound through lane, for a southbound lane configuration of one left-turn lane and two through lanes. These improvements would require the dedication of right-of-way on the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection.</li> </ul> <p>The traffic signal noted above will be constructed by the Project pursuant to Mitigation Measure 4.2.1. The remaining improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year Cumulative traffic impacts at the intersection of Redlands Boulevard at SR-60 Westbound Ramps.</p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<p>4.2.6 <i>Redlands Boulevard at SR-60 Eastbound Ramps Improvements:</i></p> <ul style="list-style-type: none"> <li>• <i>Construct a second northbound through lane for a northbound lane configuration of one left turn lane and two through lanes. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and restriping of all lanes on the south leg of the intersection;</i></li> <li>• <i>Construct a second southbound through lane, for a southbound lane configuration of one left-turn lane and two through lanes. These improvements would require the dedication of right-of-way on the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and</i></li> <li>• <i>Construct an eastbound right-turn lane and re-stripe the shared left-or-right turn lane as an exclusive left-turn lane, for an eastbound lane configuration of one left-turn lane and one right-turn lane. These improvements would require the dedication of right-of-way on the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.</i></li> </ul> <p><i>These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year cumulative traffic impacts at the intersection of Redlands Boulevard at SR-60 Eastbound Ramps.</i></p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.7 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:</p> <ul style="list-style-type: none"> <li>• Install a traffic signal (a DIF<sup>1</sup> improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.2);</li> <li>• Construct a northbound left-turn lane with 200 feet of storage and a second through lane, for a northbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and restriping of all lanes on the south leg of the intersection. Construction of the northbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF Program.</li> <li>• Construct a southbound left-turn lane with 250 feet of storage, a second left-turn lane that extends back to the SR-60 Eastbound Ramps, a second through lane, and a right-turn lane with overlap phasing and a pocket length that is the full length of the segment, for a southbound lane configuration of two left-turn lanes, two through lanes, and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through</li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

<sup>1</sup>With specific regard to Project payment of Development Impact Fees (DIF), it is recognized that the City, as an interim and temporary measure, has reduced required DIF payments by 50%. Notwithstanding, the reduced DIF payment program is considered to have sufficient funds to construct prioritized improvements necessary to alleviate traffic impacts. That is, over time, the City's DIF structure, allocation of fees, and prioritization of improvements is able to flexibly respond to traffic demands within the City such that funding for all necessary improvements is available in a timely manner. It is further noted that should supplemental funds be required, the City is able to secure these funds through other sources including but not limited to: state and federal grants, redevelopment funds and Measure A gas tax funds.

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.2.7 (cont'd)				
<p><i>participation in the TUMF program. Construction of one southbound left-turn lane would be funded through participation in the DIF program. The noted right-turn southbound lane would be constructed by the Project pursuant to Mitigation Measure 4.2.2. Overlap phasing to this right-turn lane will be added when determined appropriate by the City Traffic Engineer, and will be funded through fair share fee participation. Remaining improvements would also be funded through fair share fee contributions.</i></p> <ul style="list-style-type: none"> <li>• <i>Construct dual eastbound left-turn lanes with 300 feet of storage and a second through lane, for an eastbound lane configuration of two left-turn lanes, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the south side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the west leg of the intersection. A single eastbound turn with 300 feet of storage will be constructed by the Project under Opening Year Ambient Conditions pursuant to Mitigation Measure 4.2.2. The remaining improvements would be funded through participation in the DIF Program.</i></li> <li>• <i>Construct a westbound left-turn lane, a second through lane, and a right-turn lane with overlap phasing, providing 200 feet of storage for both the left-turn and right-turn lanes, for a westbound lane configuration of one left-turn lane, two through lanes, and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the north side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the east</i></li> </ul>				

**Table 4.2-1  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.7 (cont'd)</p> <p><i>leg of the intersection. Construction of the westbound left and through lanes would be funded through participation in the DIF Program; remaining improvements would be funded through fair share fee participation.</i></p>				
<p>4.2.8 Quincy Street at Fir (future Eucalyptus) Avenue Improvements:</p> <ul style="list-style-type: none"> <li>• <i>Install a stop-control on the south leg of the intersection;</i></li> <li>• <i>Construct a northbound shared left-or-right-turn lane. Quincy Street should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction;</i></li> <li>• <i>Construct an eastbound shared through-or-right-turn lane. The Fir (future Eucalyptus) Avenue extension should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction; and</i></li> <li>• <i>Construct a westbound left-turn lane and through lane. The Fir (future Eucalyptus) Avenue extension should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction.</i></li> </ul> <p><i>These improvements would be funded through participation in the DIF Program. The Project will pay required DIF, facilitating construction of new intersection improvements at Quincy Street at Fir (future Eucalyptus) Avenue.</i></p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
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<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<p>4.2.9 <i>Moreno Beach Drive at SR-60 Eastbound Ramps Improvements:</i></p> <ul style="list-style-type: none"> <li>• <i>Construct the SR-60 eastbound on- and off-ramps, designed as a standard diamond and consistent with the proposed SR-60 Freeway/Moreno Beach Drive interchange design, and install a traffic signal at the new intersection;</i></li> <li>• <i>Construct a third northbound through lane, for a northbound lane configuration of three through lanes and a right-turn lane. These improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection;</i></li> <li>• <i>Construct the SR-60 eastbound off-ramp with an eastbound lane configuration of one left-turn lane and dual right-turn lanes; and</i></li> <li>• <i>Construct the SR-60 eastbound on-ramp on Moreno Beach Drive with a minimum of two travel lanes.</i></li> </ul> <p><i>These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps.</i></p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>
<p>4.2.10 <i>Moreno Beach Drive at SR-60 Westbound Ramps Improvements:</i></p> <ul style="list-style-type: none"> <li>• <i>Construct a second northbound through lane, for a northbound lane configuration of two through lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection;</i></li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.10 (cont'd)</p> <ul style="list-style-type: none"> <li>In addition to the planned on-ramp for southbound vehicles which is part of the future SR-60/Moreno Beach Drive interchange design, a second southbound through lane and a right-turn lane, for a southbound lane configuration of two through lanes and a right-turn lane. These improvements would require dedication on the west side of Moreno Beach Drive and re-striping of all lanes on the north leg of the intersection;</li> <li>Construct the SR-60 westbound on-ramp for vehicles traveling southbound on Moreno Beach Drive with a minimum of one travel lane; and</li> <li>Construct a second westbound left-turn lane, for a westbound lane configuration of two left-turn lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the north side of the SR-60 Westbound Ramps and re-striping of all lanes on the east leg of the intersection.</li> </ul> <p>These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Moreno Beach Drive at SR-60 Westbound Ramps.</p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>
<p>4.2.11 Moreno Beach Drive at Fir (future Eucalyptus) Avenue Improvements:</p> <ul style="list-style-type: none"> <li>Construct dual northbound left-turn lanes and re-stripe the northbound right-turn lane as a shared through-or-right turn lane for a northbound lane configuration of two left-turn lanes, two through lanes and a shared through-or-right turn lane. These improvements would require the dedication of</li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<i>4.2.11 (cont'd)</i>				
<p><i>right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection. Restriping of the northbound right-turn lane as a shared through-or-right turn lane would be funded through participation in the DIF Program. Remaining improvements would be funded through fair share fee participation;</i></p> <ul style="list-style-type: none"> <li><i>• Construct a southbound left-turn lane and a right-turn lane with overlap phasing, for a southbound lane configuration of two left-turn lanes, three through lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the west side of Moreno Beach Drive and re-striping of all lanes on the north leg of the intersection, and would be funded through fair share fee participation;</i></li> <li><i>• Construct the new eastbound leg of this intersection with dual left-turn lanes, a through lane, and a shared through-or-right-turn lane. Construction of one eastbound left-turn lane, the eastbound through lane, and the eastbound shared through-or-right-turn lane would be funded through participation in the DIF Program. Remaining improvements would be funded through fair share fee participation; and</i></li> <li><i>• Construct a westbound through lane and implement overlap phasing on the right-turn movement, for a westbound lane configuration of one left-turn lane, two through lanes, and a right-turn lane with overlap phasing. This improvement would be funded through fair share fee participation.</i></li> </ul> <p><i>The Project will pay required DIF and fair share fees, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Moreno Beach Drive at Fir (future Eucalyptus) Avenue.</i></p>				



**Table 4.2-1  
Westridge Commerce Center Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.12 Quincy Street at Fir (future Eucalyptus) Avenue Improvements:</p> <ul style="list-style-type: none"> <li>• Install a stop-control on the south leg of the intersection;</li> <li>• Construct a northbound shared left-or-right-turn lane;</li> <li>• Construct the eastbound approach of the Fir (future Eucalyptus) Avenue extension with a through lane and a shared through-or-right-turn lane; and</li> <li>• Construct the westbound approach of the Fir (future Eucalyptus) Avenue extension with a left-turn lane, a through lane, and a shared through-or-right-turn lane.</li> </ul> <p>These improvements would be funded through participation in the DIF Program. The Project will pay required DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Quincy Street at Fir (future Eucalyptus) Avenue.</p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>
<p>4.2.13 Redlands Boulevard at SR-60 Westbound Ramps Improvements:</p> <ul style="list-style-type: none"> <li>• Install a traffic signal (a TUMF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.1);</li> <li>• Construct a northbound through lane and a right-turn lane with overlap phasing, for a northbound lane configuration of one left-turn lane, two through lanes and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection;</li> <li>• Construct a southbound left-turn lane and a through lane, for a southbound lane configuration of two left-turn lanes and a through lane, and a shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the west side of</li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.13 (cont'd)</p> <p><i>Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and</i></p> <ul style="list-style-type: none"> <li>• <i>Construct a westbound left-turn lane and a right-turn lane, for a westbound lane configuration of one left-turn lane, one shared left-through lane and a right-turn lane. These improvements would require the dedication of right-of-way from the north side of the SR-60 Westbound Ramps and re-striping of all lanes on the east leg of the intersection.</i></li> </ul> <p><i>The traffic signal noted above will be constructed by the Project pursuant to Mitigation Measure 4.2.1. The remaining improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at Redlands Boulevard at SR-60 Westbound Ramps.</i></p>				
<p>4.2.14 <i>Redlands Boulevard at SR-60 Eastbound Ramps Improvements:</i></p> <ul style="list-style-type: none"> <li>• <i>Construct two northbound through lanes, for a northbound lane configuration of one left-turn lane and three through lanes, with the pocket length for the northbound left-turn lane at the full length of the segment. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and restriping of all lanes on the south leg of the intersection;</i></li> <li>• <i>Construct two southbound through lanes, for a southbound lane configuration of two through lanes and a shared through-or-right-turn lane. These improvements would</i></li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.14 (cont'd)</p> <p>require the dedication of right-of-way from the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and</p> <ul style="list-style-type: none"> <li>• Re-stripe the shared eastbound left-or-right-turn lane as an exclusive left-turn lane, for an eastbound lane configuration of two left-turn lanes and one right-turn lane. These improvements would require the dedication of right-of-way on the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.</li> </ul> <p>These improvements would be funded through participation in the TUMF Program. The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at SR-60 Eastbound Ramps.</p>				
<p>4.2.15 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:</p> <ul style="list-style-type: none"> <li>• Install a traffic signal (a DIF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.2);</li> <li>• Construct a left-turn lane with 200 feet of storage and a second through lane for a northbound lane configuration of one left-turn lane, one through lane and one shared through right-turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard. Restriping of all lanes on the south leg of the intersection, and construction of the northbound through lane would be funded through participation in the TUMF Program. Remaining improvements would be funded through participation in the DIF Program;</li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.2.15 (cont'd)				
<ul style="list-style-type: none"> <li>• Construct a southbound left turn lane with 250 feet of storage, a second left-turn lane that extends back to the SR-60 Eastbound ramps, a second through lane and a right turn lane with overlap phasing for a southbound lane configuration of two left turn lanes, two through lanes and one right turn lane with overlap phasing, with a right turn pocket length that extends the full length of the segment. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program. Construction of one southbound left-turn lane would be funded through participation in the DIF program. The noted right-turn southbound lane would be constructed by the Project pursuant to Mitigation Measure 4.2.2. Overlap phasing for this right-turn lane will be added when determined appropriate by the City Traffic Engineer, and will be funded through fair share fee participation. Remaining improvements would also be funded through fair share fees;</li> <li>• Construct dual eastbound left-turn lanes with 300 feet of storage and a second through lane, for an eastbound lane configuration of two left-turn lanes, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the south side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the west leg of the intersection. A single eastbound turn lane with 300 feet of storage will be constructed by the Project under Opening Year Ambient Conditions pursuant to Mitigation</li> </ul>				

**Table 4.2-1  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.15 (cont'd)</p> <p><i>Measure 4.2.2. The remaining improvements would be funded through participation in the DIF Program; and</i></p> <ul style="list-style-type: none"> <li>• <i>Construct a westbound left-turn lane, one through lane, and a right-turn lane with overlap phasing, for a westbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane with overlap phasing [these improvements would require the dedication of right-of-way from the north side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the east leg of the intersection]. Construction of the westbound left and through lanes would be funded through participation in the DIF Program; remaining improvements would be funded through participation in the fair share fee assessments.</i></li> </ul> <p><i>The Project will pay required TUMF, DIF and fair share fees, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at Fir (future Eucalyptus) Avenue.</i></p>				
<p>4.2.16 Redlands Boulevard at Eucalyptus (future Encilia) Avenue Improvements:</p> <ul style="list-style-type: none"> <li>• <i>Install a traffic signal. This improvement would be funded through participation in the DIF Program;</i></li> <li>• <i>Construct a northbound left-turn lane and a shared through-or-right-turn lane, for a northbound lane configuration of one left-turn lane, one through lane and one shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection. Construction of the northbound left-turn lane</i></li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.16 (cont'd)</p> <p>would be funded through participation in the DIF Program; remaining improvements would be funded through participation in the TUMF Program;</p> <ul style="list-style-type: none"> <li>• Construct a southbound left-turn lane, a through lane, and a right-turn lane, for a southbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF program;</li> <li>• Re-stripe the eastbound right-turn lane as a through lane and construct an additional shared through-or-right-turn lane, for an eastbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the south side of Eucalyptus (future Encilia) Avenue and the re-striping of all lanes on the west leg of the intersection, and would be funded through participation in the DIF Program; and</li> <li>• Construct the westbound approach with one left-turn lane, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the north side of Eucalyptus (future Encilia) Avenue, and the re-striping of all lanes on the east leg of the intersection, and would be funded through participation in the DIF Program.</li> </ul>				

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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.16 (cont'd) The Project will pay required TUMF and DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at Eucalyptus (future Encilia) Avenue.</p>				
<p>4.2.17 Redlands Boulevard at Cottonwood Avenue Improvements:</p> <ul style="list-style-type: none"> <li>• Construct a northbound through lane, for a northbound lane configuration of one left-turn lane, one through lane and one shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and the re-striping of all lanes on the south leg of the intersection, and would be funded through participation in the TUMF Program;</li> <li>• Construct a southbound left-turn lane and a through lane, for a southbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and the restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF Program;</li> <li>• Re-stripe the eastbound right-turn lane as a through lane, and construct an additional through-or-right-turn lane, for an eastbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-</li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

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Westridge Commerce Center Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.17 (cont'd)</p> <p>way from the south side of Cottonwood Avenue, and the re-striping of all lanes on the west leg of the intersection, and would be funded through participation in the DIF Program; and</p> <ul style="list-style-type: none"> <li>Construct the westbound approach with one left-turn lane, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the north side of Cottonwood Avenue, and the re-striping of all lanes on the east leg of the intersection, and would be funded through participation in the DIF Program.</li> </ul> <p>The Project will pay required TUMF and DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate General Plan Buildout traffic impacts at the intersection of Redlands Boulevard at Cottonwood Avenue.</p>				
<p>4.2.18 Quincy Street south of Fir (future Eucalyptus) Avenue Improvements:</p> <ul style="list-style-type: none"> <li>Construct Quincy Street south of Eucalyptus Avenue as a two-lane undivided roadway with a minimum of one travel lane in each direction.</li> </ul> <p>The Project will pay required DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year cumulative traffic impacts at the segment of Quincy Street south of Fir (future Eucalyptus) Avenue.</p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>
<p>4.2.19 Fir (future Eucalyptus) Avenue west of Quincy Street to the westerly Project boundary and Fir (future Eucalyptus) east of Redlands Boulevard Improvements:</p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development</p>	<p>Before issuance of first building permit</p>



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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.2.19 (cont'd)</p> <ul style="list-style-type: none"> <li>Construct the Fir (future Eucalyptus) Avenue extension from the current terminus near the Auto Mall to Quincy Street, and connecting to Fir (future Eucalyptus) Avenue at the westerly project boundary. Continue Fir (future Eucalyptus) Avenue east of Redlands Boulevard. Fir (future Eucalyptus) Avenue is to be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction.</li> </ul> <p>The Project will pay required DIF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year cumulative traffic impacts affecting the segment of Fir (future Eucalyptus) Avenue between the Auto Mall and the westerly Project Boundary, and Fir (future Eucalyptus) Avenue east of Redlands Boulevard.</p> <p><b>Air Quality</b></p> <p>To facilitate monitoring and compliance, applicable SCAQMD and CARB regulatory requirements are restated as Mitigation Measures 4.3.1 through 4.3.3 below, and shall be incorporated in all Project plans, specifications and contract documents.</p> <p>4.3.1 Consistent with URBEMIS modeling inputs and to effect implementation of SCAQMD Rule 403, the following measures shall be incorporated :</p> <ul style="list-style-type: none"> <li>All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions.</li> <li>The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the Project are watered at least</li> </ul>	<p>Ongoing throughout construction</p>	<p>Contractor</p>	<p>City Building Official, SCAQMD</p>	<p>Ongoing throughout construction</p>

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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.1 (cont'd)</p> <p><i>three times daily during dry weather. Watering, with complete coverage of disturbed areas, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day.</i></p> <ul style="list-style-type: none"> <li>• <i>The contractor shall ensure that traffic speeds on unpaved roads and Project site areas are reduced to 15 miles per hour or less to reduce PM10 and PM2.5 fugitive dust haul road emissions.</i></li> <li>• <i>Site disturbance during mass grading and fine grading activities shall not exceed 13.66 acres per day.</i></li> <li>• <i>Ground cover shall be replaced, and/or non-toxic soil stabilizers shall be applied (according to manufacturers' specifications) to any inactive construction areas (previously graded areas inactive for ten days or more).</i></li> <li>• <i>In support of Project plan specifications and contract document language; and as means of controlling on-site construction vehicle speeds, for the duration of Project construction activities, speed limit signs (15 mph maximum) shall be posted at entry points to the Project site, and along any unpaved roads providing access to or within the Project site and/or any unpaved designated on-site travel routes.</i></li> </ul>				
<p>4.3.2 <i>The contractor shall minimize pollutant emissions by maintaining equipment engines in good condition and in proper tune according to manufacturer's specifications and during smog season (May through October) by not allowing construction equipment to be left idling for more than five minutes (per California law).</i></p>	<p>Ongoing throughout construction</p>	<p>Contractor</p>	<p>City of Moreno Valley Building Official, SCAQMD</p>	<p>Ongoing throughout construction</p>

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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.3 The contractor shall ensure use of low-sulfur diesel fuel in construction equipment as required by the California Air Resources Board (CARB) (diesel fuel with sulfur content of 15 ppm by weight or less).</p> <p>Additional mitigation required of the Project is identified below, and shall be incorporated in all Project plans, specifications and contract documents.</p>	Ongoing throughout construction	Contractor	City of Moreno Valley Building Official, SCAQMD	Ongoing throughout construction
<p>4.3.4 Contractor(s) shall ensure that all off-road heavy-duty construction equipment utilized during construction activity shall be CARB Tier 2 Certified or better.</p>	Ongoing throughout construction	Contractor	City of Moreno Valley Building Official, SCAQMD	Ongoing throughout construction
<p>4.3.5 In order to reduce localized Project impacts to sensitive receptors in the Project vicinity during construction, construction equipment staging areas shall be located at least 300 feet away from sensitive receptors.</p>	Ongoing throughout construction	Contractor	City of Moreno Valley Building Official, SCAQMD	Ongoing throughout construction
<p>4.3.6 During Project construction, existing electrical power sources (e.g., power poles) shall be utilized to power electric construction tools including saws, drills and compressors, to minimize the need for diesel or gasoline powered electric generators.</p>	Ongoing throughout construction	Contractor	City of Moreno Valley Building Official, SCAQMD	Ongoing throughout construction
<p>4.3.7 The Applicant shall use "Zero-Volatile Organic Compounds" paints, coatings, and solvents with a VOC content lower than required under Rule 1113 (not to exceed 150 grams/liter; 1.25 pounds/gallon). High Pressure Low Volume</p>	Ongoing throughout construction	Contractor	City of Moreno Valley Building Official, SCAQMD	Ongoing throughout construction

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.7 (cont'd)</p> <p><i>(HPLV) applications of paints, coatings, and solvents shall be consistent with South Coast Air Quality Management District Rule 1113. Alternatively, the Applicant shall use materials that do not require painting or are pre-painted.</i></p>				
<p>4.3.8 <i>Grading plans, construction specifications and bid documents shall also include the following notations:</i></p> <ul style="list-style-type: none"> <li>• <i>Off-road construction equipment shall utilize alternative fuels e.g., biodiesel fuel (a minimum of B20), natural gas (CNG), liquefied natural gas (LNG), propane, except for equipment where use of such fuels would void the equipment warranty;</i></li> <li>• <i>Gravel pads shall be provided at all access points to prevent tracking of mud onto public roads;</i></li> <li>• <i>Install and maintain trackout control devices at all access points where paved and unpaved access or travel routes intersect;</i></li> <li>• <i>The contractor or builder shall designate a person or person(s) to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite;</i></li> <li>• <i>The contractor or builder shall post a publicly visible sign with the telephone number and person to contact regarding dust complaints. The contact person shall take corrective action within 24 hours;</i></li> <li>• <i>High pressure injectors shall be provided on diesel construction equipment where feasible;</i></li> </ul>	<p>Ongoing throughout construction</p>	<p>Contractor</p>	<p>City of Moreno Valley Building Official, SCAQMD</p>	<p>Ongoing throughout construction</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.8 (cont'd)</p> <ul style="list-style-type: none"> <li>• Engine size of construction equipment shall be limited to the minimum practical size;</li> <li>• Substitute gasoline-powered for diesel powered construction equipment where feasible;</li> <li>• Use electric construction equipment where feasible;</li> <li>• Install catalytic converters on gasoline-powered equipment where feasible;</li> <li>• Ride-sharing program for the construction crew shall be encouraged and shall be supported by contractor(s) via incentives or other inducement;</li> <li>• Documentation shall be provided to the City of Moreno Valley indicating that construction workers have been encouraged to carpool or otherwise reduce VMT to the greatest extent practical, including providing information on available park and ride programs;</li> <li>• Lunch services shall be provided onsite during construction to minimize the need for offsite vehicle trips;</li> <li>• All forklifts used during construction and in subsequent operation of the Project shall be electric or natural gas powered.</li> </ul>				
<p>4.3.9 Throughout Project construction, a construction relations officer/community liaison, appointed by the Applicant, shall be retained on-site. In coordination and cooperation with the City, the construction relations officer/community liaison shall respond to any concerns related to PM10 (fugitive dust) generation or other construction-related air quality issues.</p>	<p>Throughout Project construction</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Throughout Project construction</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<p>4.3.10 All Project entrances shall be posted with signs which state:</p> <ul style="list-style-type: none"> <li>• Truck drivers shall turn off engines when not in use;</li> <li>• Diesel delivery trucks servicing the Project shall not idle for more than three (3) minutes; and</li> <li>• Telephone numbers of the building facilities manager and CARB, to report violations.</li> </ul> <p>These measures shall be enforced by the on-site facilities manager (or equivalent).</p> <p>Although potential Project-related Global Climate Change (GCC) impacts would be less-than-significant, the following Mitigation Measures 4.3.11 through 4.3.14 are provided to reduce Project related operational source air pollutants and greenhouse gas emissions to the extent feasible, and to promote sustainability through conservation of energy and other natural resources.</p>	<p>Prior to issuance of first Certificate of Occupancy</p>	<p>Contractor</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first Certificate of Occupancy</p>
<p>4.3.11 Buildings shall surpass incumbent California Title 24 Energy Efficiency performance standards by a minimum of 20 percent for water heating and space heating and cooling. Verification of increased energy efficiencies shall be documented in Title 24 Compliance Reports provided by the Applicant, and reviewed and approved by the City prior to the issuance of the first building permit. Any combination of the following design features may be used to fulfill this mitigation measure provided that the total increase in efficiency meets or exceeds 20 percent.</p> <ul style="list-style-type: none"> <li>• Increase in insulation such that heat transfer and thermal bridging is minimized;</li> <li>• Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption;</li> </ul>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.11 (cont'd)</p> <ul style="list-style-type: none"> <li>• Incorporate dual-paned or other energy efficient windows;</li> <li>• Incorporate energy efficient space heating and cooling equipment;</li> <li>• Interior and exterior energy efficient lighting which exceeds the California Title 24 Energy Efficiency performance standards shall be installed, as deemed acceptable by the City of Moreno Valley. Automatic devices to turn off lights when they are not needed shall be implemented;</li> <li>• To the extent that they are compatible with landscaping guidelines established by the City of Moreno Valley, shade producing trees, particularly those that shade buildings and paved surfaces such as streets and parking lots and buildings shall be planted at the Project site.</li> <li>• Paint and surface color palette for the Project shall emphasize light and off-white colors which will reflect heat away from the buildings.</li> <li>• All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design.</li> </ul>				
<p>4.3.12 The Project shall be designed to facilitate the reduction of waste generated by building occupants that is hauled to and disposed of in landfills by providing easily accessible areas that are dedicated to the collection and storage of recyclable materials including: paper, cardboard, glass, plastics, and metals. Locations of proposed recyclable materials collection areas are subject to review and approval by the City. Prior to Final Site Plan approval, locations of proposed recyclable materials collection areas shall be delineated on the Project Site Plan.</p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.13 GHG emissions reductions measures shall also include the following:</p> <ul style="list-style-type: none"> <li>The Project shall provide secure, weather-protected on-site bicycle storage/parking consistent with City of Moreno Valley requirements;</li> <li>The Project shall provide pedestrian and bicycle connections to surrounding areas, consistent with provisions of the City of Moreno Valley General Plan. Location and configurations of proposed pedestrian and bicycle connections are subject to review and approval by the City. Prior to Final Site Plan approval, pedestrian and bicycle connections shall be indicated on the Project Site Plan;</li> <li>The Project shall provide onsite showers (one for males and one for females). Lockers for employees shall be provided.</li> <li>Any traffic signals installed as part of the Project will utilize light emitting diodes (LEDs);</li> <li>The Project will establish a Transportation Management Association (TMA). The TMA will coordinate with other TMAs within the City to encourage and coordinate carpooling among building occupants. The TMA will advertise its services to building occupants, and offer transit and/or other incentives to reduce GHG emissions. Additionally, a shuttle will be provided during any one hour period where more than 20 employees or construction workers utilize public transit. A plan will be submitted by the TMA to the City within two months of Project completion that outlines the measures implemented by the TMA, as well as contact information; The Project shall</li> </ul>	<p>Prior to issuance of first Certificate of Occupancy</p>	<p>Contractor</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first Certificate of Occupancy</p>



**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.13 (cont'd)</p> <p><i>provide preferential parking for carpools and vanpool. Locations and configurations of proposed preferential parking for carpools and vanpools are subject to review and approval by the City. Prior to Final Site Plan approval, preferential parking for carpools and vanpools shall be delineated on the Project Site Plan;</i></p> <ul style="list-style-type: none"> <li>• <i>The Project shall provide at least two electric vehicle charging stations. Locations and configurations of proposed charging stations are subject to review and approval by the City. Prior to issuance of the first building permit, stub outs for charging stations shall be indicated on the Project building plans.</i></li> <li>• <i>Lease/purchase documents shall identify that tenants are encouraged to provide incentives to realize the following:</i> <ul style="list-style-type: none"> <li>○ <i>Implementation of compressed workweek schedules;</i></li> <li>○ <i>SmartWay partnership;</i></li> <li>○ <i>Achievement of at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidated trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers.</i></li> <li>○ <i>Achievement of at least 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers.</i></li> <li>○ <i>Use of fleet vehicles conforming to 2010 air quality standards or better.</i></li> </ul> </li> </ul>				

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.3.13 (cont'd)</p> <ul style="list-style-type: none"> <li>○ Installation of catalytic converters on gasoline-powered equipment.</li> <li>○ Inclusion of electric powered and/or compressed natural gas fueled trucks and/or vehicles in fleets;</li> <li>○ Establishment and use of carpool/vanpool programs, complemented by parking fees for single-occupancy vehicles;</li> <li>○ Provision of preferential parking for EV and CNG vehicles;</li> <li>○ Use of electrical equipment (instead of gasoline-powered equipment) for landscape maintenance;</li> <li>○ Use of electric (instead of diesel or gasoline-powered) yard trucks;</li> <li>○ Use of SmartWay 1.25 rated trucks.</li> </ul>				
<p><b>4.4 Noise</b></p> <p>4.4.1 Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that during all Project site construction, construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards. And further that the construction contractor shall place all stationary construction equipment so that emitted noise is directed away from off-site receptors nearest the Project site. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.</p>	<p>Prior to issuance of first grading or building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading or building permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<p>4.4.2 Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that the construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and off-site receptors nearest the Project site during all Project construction. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.</p>	<p>Prior to issuance of first grading or building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading or building permit</p>
<p>4.4.3 Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that construction activities, including haul truck operations, shall be limited to the hours between 7:00 a.m. and 8:00 p.m. Monday through Friday. No Project-related construction activities shall occur on weekends or Federal holidays. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.</p>	<p>Prior to issuance of first grading or building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading or building permit<sup>++</sup></p>
<p>4.4.4 Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that for the duration of grading and site preparation activities, temporary construction noise curtains or similar line-of-sight noise reduction measures shall be installed along the Project’s southerly boundary. Noise curtains shall be installed so as to provide maximum reduction for noise sensitive uses (at present a single residence located southerly of the Project site) and shown on the grading plans prepared for the Project.</p>	<p>Prior to issuance of first grading or building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading or building permit</p>

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**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<b>4.5 Water Supply</b>				
<i>To further minimize the Project’s overall water use, ensure on-going availability and reliability of water supplies within the EMWD service area, and provide for timely, monitored compliance with requirements stipulated in the Project WSA, the following EMWD Conditions of Approval are incorporated as EIR Mitigation Measures. Prior to building permit issuance, the developer shall provide a will-serve letter from EMWD demonstrating compliance with the following Conditions of Approval.</i>				
<i>4.5.1 Prior to the issuance of building permits, the Project Applicant shall contribute funding toward the acquisition of new water supplies, new treatment or recycled water facilities, and water efficiency measures for existing customers to develop new water supplies. The extent of additional funding shall be determined by the EMWD and may take the form of a new component of connection fees or a separate charge.</i>	Prior to issuance of first building permit	Applicant	City of Moreno Valley Development Department	Before issuance of first building permit
<i>4.5.2 The Applicant shall install water efficient devices and landscaping according to the requirements of EMWD’s water use efficiency ordinance(s) effective at the time of Project construction.</i>	Prior to issuance of first Certificate of Occupancy	Applicant	City of Moreno Valley Development Department	Before issuance of first Certificate of Occupancy
<i>4.5.3 The Applicant shall meet with EMWD staff at the earliest feasible date to develop a Plan of Service (POS) for the Project. The POS shall detail water, wastewater and recycled water facilities requirements to serve the Project, to be constructed by the Applicant.</i>	Prior to issuance of first grading or building permit	Applicant	City of Moreno Valley Development Department	Before issuance of first grading or building permit

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
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4.5.4 Until the Project begins construction, the Project Water Supply Assessment shall be reviewed for its continued accuracy and adequacy every three (3) years, commencing on the WSA approval date of June 4, 2008. The Project Applicant shall maintain communication with EMWD on the status of the Project, and the lead agency shall request the referenced three-year periodic review and update of the WSA. If neither the Project applicant nor the lead agency contacts EMWD within three (3) years of approval of this WSA, it shall be assumed that the Project no longer requires the estimated water demand as calculated in the WSA. The demand for the Project will not be considered in assessments for future projects, and the assessment provided within the Project WSA shall be considered invalid.

**Cultural Resources**

4.7.1 A professional cultural resources monitor (Project Paleontological Monitor) shall conduct full-time monitoring throughout site excavation and grading activities. The monitor shall be equipped to salvage and/or record the location of historic and/or archaeological resources as they may be unearthed to avoid construction delays, consistent with the requirements of California Public Resources Code Section 21083.2. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. One monitor for both archaeological and paleontological resources is sufficient if the monitor is qualified in both disciplines to the satisfaction of the City of Moreno Valley.

Ongoing throughout site excavation and grading activities

Applicant

City of Moreno Valley Development Department

Ongoing throughout site excavation and grading activities

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.7.2 <i>Should historic or prehistoric resources of potential significance be identified, a qualified archaeologist shall be contacted to assess the find(s) and make recommendations in regard to further monitoring. Resources shall be left in an undisturbed state where feasible. Where preservation in place is infeasible, all recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by a qualified archaeologist, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.</i></p>	<p>Prior to issuance of first Certificate of Occupancy</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first Certificate of Occupancy</p>
<p>4.7.3 <i>Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the Project site, subject to the following certain constraints:</i></p> <ul style="list-style-type: none"> <li>• <i>Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontological resources by a qualified paleontological monitor or his/her representative must take place;</i></li> <li>• <i>A paleontological mitigation-monitoring plan shall be developed before grading begins;</i></li> <li>• <i>Paleontological monitors shall be equipped to salvage and/or record the location of fossils as they are unearthed to avoid</i></li> </ul>	<p>Prior to issuance of first grading permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/ Reporting Entity	Monitoring/Reporti Frequency
<p>4.7.3 (cont'd)</p> <p>construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates;</p> <ul style="list-style-type: none"> <li>• Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens; and</li> <li>• Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontological personnel to have low potential to contain fossil resources.</li> </ul>				
<p><b><u>4.8 Biological Resources</u></b></p>				
<p>4.8.1 Prior to the issuance of a grading permit, a “no touch” area shall be staked along the westerly limit of Project development as defined by the alignment of the scour wall proposed along the Quincy Channel. Importantly, the westerly limits of development shall be established so as to preclude potential permanent impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Prior to the issuance of a grading permit, a City-approved Project biologist shall be retained to initiate and supervise monitoring of construction activities to ensure protection and preservation of adjacent Channel areas.</p>	<p>Prior to issuance of first grading permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading permit</p>
<p>4.8.2 Prior to issuance of a grading permit, the proposed scour wall to be located between the developed Project site and the Quincy Channel shall be shown on the grading plans. Alignment</p>	<p>Prior to issuance of first grading permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.8.2 (cont'd) of the scour wall shall be field-determined and physically delineated by the Project biologist in consultation with the City. Importantly, the scour wall alignment shall be established so as to preclude potential impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Ongoing monitoring of construction activities shall be maintained throughout implementation of the scour wall to ensure protection and preservation of adjacent Channel areas.</p>				
<p>4.8.3 Prior to issuance of a building permit, landscape and irrigation plans shall be approved which demonstrate that no invasive, non-native plants will be planted or seeded within 150 feet of the avoided riparian habitat along the Quincy Channel.</p>	<p>Prior to issuance of first building permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first building permit</p>
<p>4.8.4 Prior to the issuance of <u>any</u> grading permits and prior to any physical disturbance of any jurisdictional areas, the applicant shall obtain a stream bed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit, from both the California Department of Fish and Game and the U.S. Army Corps of Engineers. Written verification of such a permit or waiver shall be provided to the Community Development Department - Planning Division and the Public Works Department - Land Development Division.</p>	<p>Prior to issuance of first grading permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading permit</p>
<p>4.8.5 Prior to issuance of a grading permit, the Applicant shall develop and implement a Habitat Mitigation and Monitoring Plan (HMMP) to restore impacted riparian (mulefat) habitat. Prior to implementation, the HMMP shall be reviewed and approved by the</p>	<p>Prior to issuance of first grading permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading permit</p>



**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.8.5 (cont'd)</p> <p>CDFG. If in its final design, the CDFG-approved HMMP involves use or restoration of USACE or RWQCB jurisdictional areas, USACE and/or RWQCB approval shall also be obtained. The HMMP shall, at a minimum, meet the following requirements:</p> <ul style="list-style-type: none"> <li>• A habitat replacement and/or enhancement ratio of at least 1:1 for temporary impact;</li> <li>• A success criterion of at least 80 percent cover of native riparian vegetation for replaced habitat; and</li> <li>• Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, native plant re-vegetation for areas temporarily disturbed by construction and regular maintenance and monitoring activities to ensure the success of the mitigation plan; and</li> <li>• Prior to the issuance of a grading permit, as part of the Project HMMP, appropriate maintenance and monitoring protocols will be developed in concert with CDFG based on final Project designs, and the ultimate scope, location, and type of mitigation reflected in the HMMP as approved by CDFG.</li> </ul>				
<p>4.8.6 If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly. If vegetation is to be cleared during the nesting season (February 15 – July 31), all suitable habitat will be thoroughly surveyed for the presence of nesting birds within 72 hours prior to clearing. All surveys shall be performed by a qualified Project biologist to be</p>	<p>Prior to issuance of first grading permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading permit</p>

**Table 4.2-1  
Westridge Commerce Center Project  
Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.8.6 (cont'd) retained by the Applicant and vetted by the City. The survey results shall be submitted by the Project Applicant to the Planning Division. If any active nests are detected, the nest(s) shall be flagged in the field and mapped on the construction plans along with a minimum 50-foot buffer and up to 300 feet for raptors, with the final buffer distance to be determined by the Project biologist. The buffer area shall be avoided until the nesting cycle is complete or it is determined that the nest has failed. In addition, the Project biologist will be present on the site to monitor vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed.</p>				
<p>4.8.7 Within 30 days of site clearing activities, a pre-construction burrowing owl survey shall be conducted to document the presence/absence of any occupied owl burrows. Any owls present shall be passively or actively relocated following CDFG approved protocols, and with CDFG permission, prior to commencement of clearing. The survey shall be submitted to the Planning Division prior to issuance of a grading permit.</p>	<p>Prior to issuance of first grading permit</p>	<p>Applicant</p>	<p>City of Moreno Valley Development Department</p>	<p>Before issuance of first grading permit</p>

## ORDINANCE NO. 829

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING ZONE CHANGE APPLICATION PA08-0098 TO CHANGE THE ZONE FROM BUSINESS PARK TO LIGHT INDUSTRIAL FOR A 55 ACRE SITE (ASSESSOR'S PARCEL NUMBERS 488-330-003 THROUGH -006 AND -026).

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

### SECTION 1 GENERAL:

1.1 The applicant, Ridge Rancho Belago, LLC, has filed application PA08-0098, requesting an amendment of the City' Official Zoning Atlas as described in this ordinance.

1.2 Pursuant to the provisions of the law, a public hearing was held before the City Council on July 12, 2011.

1.3 The matter was fully discussed, and the public and other agencies presented testimony and documentation.

1.4 An Environmental Impact Report is proposed for the project under California Environmental Quality Act (CEQA) guidelines.

### SECTION 2 FINDINGS:

2.1 Based upon substantial evidence presented to this City Council on July 12, 2011, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:

1. Conformance with General Plan Policies – The proposed amendment is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The project proposes a change to the Zoning Atlas for properties located within Assessor's Parcel Numbers 488-330-003 through -006 and -026 from Business Park (BP) to Light Industrial (LI). Potential impacts to traffic and air quality have been examined through the preparation of a Final Environmental Impact Report. Subject to approval of the Final Environmental Impact Report, the proposed Zone Change is consistent with and does not conflict with the goals, objective, policies or programs of the General Plan.

2. Health, Safety and Welfare – The proposed amendment will not adversely affect the public health, safety or general welfare.

### **ATTACHMENT 4**

Ordinance No. 829  
Date Adopted:

FACT: The proposed Zone Change will not adversely affect the public health, safety or general welfare. A Final EIR has been prepared to address the potential environmental impacts of the Zone Change in accordance with the provisions of the California Environmental Quality Act (CEQA). Subject to approval of the Final EIR, the proposed Zone Change will not have a significant affect on public health or be materially injurious to surrounding properties or the environment as a whole.

3. Conformance with the Zoning Regulations – The proposed pre-zoning is consistent with the purposes and intent of Title 9 of the City of Moreno Valley Municipal Code.

FACT: The applicant has met the City's Municipal Code and other regulations to change the zone. As proposed, the zone change from BP to LI for the 55 acre project site is consistent with the purposes and intent of Title 9.

### SECTION 3 AMENDMENT OF THE OFFICIAL ZONING ATLAS:

3.1 The City of Moreno Valley Official Zoning Atlas, as adopted by Ordinance No. 359, on April 14, 1992, of the City of Moreno Valley, and as amended thereafter from time to time by the City Council of the City of Moreno Valley, is further amended by placing in effect the zone or zone classification as shown on the attached map (marked "Exhibit A" and included herein by reference and on file in the office of the City Clerk).

### SECTION 4 EFFECT OF ENACTMENT:

4.1 Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

### SECTION 5 NOTICE OF ADOPTION:

5.1 Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

Ordinance No. 829  
Date Adopted: \_\_\_\_\_

SECTION 6 EFFECTIVE DATE:

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

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

**ORDINANCE JURAT**

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE ) ss.

CITY OF MORENO VALLEY )

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. \_\_\_\_\_ had its first reading on \_\_\_\_\_, \_\_\_\_\_ and had its second reading on \_\_\_\_\_, \_\_\_\_\_, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

Ordinance No. 829  
Date Adopted: \_\_\_\_\_

## ORDINANCE NO. 830

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING APPLICATION PA10-0017 AMENDING THE MUNICIPAL CODE TO MAKE CHANGES TO CHAPTER 9.05 INDUSTRIAL DISTRICTS.

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

### SECTION 1 GENERAL:

1.1 The applicant, Ridge Rancho Belago, LLC, has filed Municipal Code Amendment application PA10-0017, requesting an amendment to the City's Municipal Code, which proposes revisions to Chapter 9.05 of Title 9 to provide a minimum separation/buffering of warehouse/industrial facilities over 50,000 square feet from adjacent residential districts.

1.2 Pursuant to the provisions of the law, a public hearing was held before the City Council on July 12, 2011.

1.3 The matter was fully discussed, and the public and other agencies presented testimony and documentation.

1.4 Although the proposed amendment will be effective citywide, it addresses minor land use matters and does not have the potential to adversely affect the public health, safety or welfare of the population residing in the City of Moreno Valley or surrounding jurisdictions. As a minor alteration to land use limitations, the Municipal Code Amendment is determined to be exempt under California Environmental Quality Act Guidelines, per Section 15305, as a Class 5 Categorical Exemption.

### SECTION 2: FINDINGS

2.1 With respect to the proposed Municipal Code Amendment, and based upon substantial evidence presented to the City Council during the public hearing on November 30, 2010, including written and oral staff reports, and the record from the public hearing, the City Council hereby specifically finds as follows:

1. Conformance with General Plan Policies – The proposed Municipal Code Amendment is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The project proposes changes to Permitted Uses Table 9.02.020-1 of the Municipal Code. The proposed Municipal Code Amendment is consistent with and does not conflict with the goals, objective, policies or programs of the General Plan.

### **ATTACHMENT 5**

Ordinance No. 830  
Date Adopted:

2. Health, Safety and Welfare – The proposed amendment will not adversely affect the public health, safety or general welfare.

FACT: The proposed Municipal Code Amendment will not adversely affect the public health, safety or general welfare. As a minor alteration to land use limitations, the Municipal Code Amendment is determined to be exempt under California Environmental Quality Act Guidelines, per Section 15305, as a Class 5 Categorical Exemption. No land use changes on specific parcels of land are included in the proposed Municipal Code Amendment.

3. Conformance with Title 9 – The proposed Municipal Code Amendment is consistent with the purposes and intent of Title 9.

FACT: The proposed amendment meets all applicable Municipal Code requirements. As proposed, the amendment is consistent with the purposes and intent of Title 9.

### SECTION 3 MUNICIPAL CODE AMENDMENT:

3.1 Chapter 9.02 of Title 9 of the City of Moreno Valley Municipal Code is hereby revised as follows:

#### **Chapter 9.05 INDUSTRIAL DISTRICTS**

##### **9.05.010 Purpose and intent.**

A. The primary purpose of the industrial districts is to provide a sound and diversified economic base and ample employment opportunities for the citizens of Moreno Valley. It is the further intent of this chapter to accomplish this through the establishment of a specific, well-defined pattern of industrial activities which is compatible with residential, commercial, institutional and open space uses located elsewhere in the community; has good access to the regional transportation system; accommodates the personal needs of workers and business visitors; and which meets the service needs of local businesses.

B. In addition to the above, it is the further intent of the industrial districts:

1. To reserve appropriately located areas for industrial use and protect these areas from inharmonious uses;

2. To protect residential, commercial and nuisance-free nonhazardous industrial uses from noise, odor, dust, smoke, truck traffic and other objectional influences and from fire, explosion, radiation and other hazards potentially related to certain industrial uses;

3. To provide sufficient open space around industrial structures to protect them and surrounding areas from hazard and to minimize the impact of industrial plants on nearby residential or commercial districts; and

Ordinance No. 830  
Date Adopted: \_\_\_\_\_



4. To minimize traffic congestion and to avoid the overloading of utilities by restricting the construction of buildings and structures of excessive size in relation to the size of the buildable parcel. (Ord. 359 (part), 1992)

**9.05.020 Industrial districts.**

A. Business Park District (BP). The primary purpose of the business park (BP) district is to provide for light industrial, research and development, office-based firms and limited supportive commercial in an attractive and pleasant working environment and a prestigious location. This district is intended to provide a transition between residential and other sensitive uses and more intense industrial and warehousing uses.

B. Light Industrial District (LI). The primary purpose of the light industrial (LI) district is to provide for light manufacturing, light industrial, research and development, warehousing and distribution and multitenant industrial uses, as well as certain supporting administrative and professional offices and commercial uses on a limited basis. This district is intended as an area for light industrial uses that can meet high performance standards. This district requires buffering between residential districts and industrial and warehouse structures greater than 50,000 square feet in building area within the LI district. Please refer to the Special Site Development Standards in Section 9.05.040.B.9.

C. Industrial (I). The primary purpose of the industrial (I) district is to provide for manufacturing, research and development, warehousing and distribution and multitenant industrial uses, as well as certain supporting administrative and professional offices and commercial uses on a limited basis. This district is intended as an area for industrial uses that can meet high performance standards but that frequently do not meet site development standards appropriate to planned research and development parks.

D. Business Park-Mixed Use (BPX). The purpose of the business park-mixed use (BPX) district is to provide locations for limited convenience commercial and business support services within close proximity to industrial and business park uses. (Ord. 693 § 2 (part) (Exh. B), 2005; Ord. 590 § 2 (part), 2001; Ord. 359 (part), 1992)

**9.05.030 Permitted uses for industrial districts.**

For the industrial district, unless otherwise expressly provided in this title, permitted uses are limited to those described in the Permitted Uses Table 9.02.020-1 in Section 9.02.020 of this title. (Ord. 359 (part), 1992)

**9.05.040 Industrial site development standards.**

A. General Requirements.

1. The following table sets forth minimum property development standards for all land, buildings and structures constructed within the specified industrial districts. All sites shall conform to the dimensions set forth in this section. A development or

center may, however, be a combination of many parcels totaling at least the required site size, but its design must be integrated and unified.

2. In addition, projects must comply with the special requirements enumerated in Section 9.05.040(B), the performance standards included in Chapter 9.10 and any other applicable city ordinances, policies and programs.

**Table 9.05.040-8**  
**Industrial Site Development**  
**Minimum Standards**

Requirement	BP / LI <sup>1</sup>	BPX	I
1. Minimum site area (in acres)	1	1	5
2. Minimum site width (in feet)	200	200	300
3. Minimum site depth (in feet)	200	200	300
4. Minimum front building setback area (in feet)	20	20	20
5. Minimum interior side building setback area (in feet)*	*(see note below)	*(see note below)	—
6. Minimum street side building setback area (in feet)	20	20	20
7. Minimum rear building setback area (in feet)*	*(see note below)	*(see note below)	—

<sup>1</sup>See Special Site Development Standards 9.05.040.B.9 for unique separation requirements for structures greater than 50,000 square feet in building area.

\*Structures shall be constructed on the property line or a minimum of three feet from the property line.

B. Special Site Development Standards.

1. When any industrial district abuts a property in any residential district, a minimum building setback equal to the building height, but not less than of twenty (20) feet shall be required from such residential district. Further, the ten (10) feet of such setback nearest the district boundary line shall be landscaped.

2. Where off-street parking areas industrial districts are visible from any street, screening in the form of a landscaped earthen berm, shrubs, or decorative wall three feet in height shall be erected between the required landscape area and the parking area.

3. In all industrial districts, required front building setback areas shall be landscaped. The landscaping shall consist predominantly of plant materials except for necessary walks and drives.

4. Except as otherwise permitted, a street side building setback area in any industrial district shall be used only for landscaping, pedestrian walkways, driveways or off-street parking. Where off-street parking in any industrial district is located within building setback areas, a minimum landscaped area ten (10) feet in depth shall be provided between the property line and parking area, with an additional minimum landscaped area ten (10) feet in depth required between the parking area and the building.

5. Except as otherwise permitted, required rear and interior side building setback areas in any industrial district shall be used only for landscaping, pedestrian walkways, driveways, off-street parking or loading, recreational activities or facilities, and similar accessory activities.

6. Parking for each use shall comply with the requirements of Chapter 9.11 and this section.

7. The land uses planned for each development shall be specified on the approved site plans. No use shall be established unless the development where it is located has adequate parking facilities to accommodate such use and any planned uses that share parking facilities with such use.

8. In the BP, LI and I districts, the retail sales of goods produced or warehoused in connection with a manufacturing, assembly or warehouse use may be conducted, provided that no more than fifteen (15) percent of the gross floor area of the space occupied by such use is devoted to retail sales. Any merchandise storage or display areas to which the public has access shall be considered as committed to the percentage of building area used for retail purposes.

9. In the LI district, industrial and warehouse structures greater than 50,000 square feet in building area shall be separated from any Residential district as determined by an air quality and noise impact analysis. The minimum separation distance for such uses shall be 250 feet between the Residential district and the building, truck court or loading area.

10. The parcelization of a business complex for marketing, financing or other purpose shall not establish separate privileges with respect to the maximum percentage of floor area specified in this section with respect to the BPX district. (Ord. 643 § 2.2, 2003; Ord. 616 § 2.2.5, 2005; Ord. 590 § 2 (part), 2001; Ord. 497 §§ 1.1, 1.2, 1.3, 1996; Ord. 464 §§ 1.2, 1.3, 1995; Ord. 405 §§ 1.1, 1.2, 1993; Ord. 359 (part), 1992)

SECTION 4: EFFECT OF ENACTMENT:

4.1 Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

4.2 All prior enactments of the City, which are in conflict with this Ordinance, are hereby repealed, effective upon the date which this Ordinance becomes effective and operative.

SECTION 5: NOTICE OF ADOPTION:

5.1 Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 6: EFFECTIVE DATE:

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

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

Ordinance No. 830  
Date Adopted: \_\_\_\_\_

**ORDINANCE JURAT**

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE ) ss.

CITY OF MORENO VALLEY )

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. \_\_\_\_\_ had its first reading on \_\_\_\_\_, \_\_\_\_\_ and had its second reading on \_\_\_\_\_, \_\_\_\_\_, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

Ordinance No. 830  
Date Adopted:

**Item No. E.3**

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RESOLUTION NO. 2011-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, FOR APPROVAL OF PLOT PLAN PA08-0097 FOR DEVELOPMENT OF A 937,260 SQUARE FOOT WAREHOUSE DISTRIBUTION FACILITY ON 55 ACRES LOCATED WITHIN ASSESSOR'S PARCEL NUMBERS 488-330-003 THROUGH -006 AND -026.

WHEREAS, the applicant, Ridge Rancho Belago, LLC, has filed an application for the approval of PA08-0097, a plot plan for a 937,260 square foot warehouse distribution facility on 55 acres, as described in the title of this Resolution.

WHEREAS, on July 12, 2011, the City Council held a public hearing to consider the project.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

WHEREAS, there is hereby imposed on the subject development 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, BE IT RESOLVED, 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 July 12, 2011, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:

1. Conformance with General Plan Policies – The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The General Plan encourages a mix of industrial uses to provide a diversified economic base and ample employment opportunities.

ATTACHMENT 6

Stated policies require the avoidance of adverse impacts on surrounding properties and the screening of industrial uses to reduce glare, noise, dust, vibrations and unsightly views. The project as designed and conditioned would achieve the objectives of the City of Moreno Valley's General Plan. The proposed project is consistent with the General Plan

and do not conflict with the goals, objectives, policies, and programs established within the Plan.

2. Conformance with Zoning Regulations – The proposed use complies with all applicable zoning and other regulations.

FACT: The project site is current zoned BP. The project proposes a Zone Change to LI to allow for a building larger than 50,000 square feet. Subject to approval of the related Zone Change application (PA08-0098) the proposed use will comply with all applicable zoning other regulations. The project is designed in accordance with the provisions of Chapter 9.05 Industrial Districts of 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: The proposed 937,260 square warehouse facility as designed and conditioned will not adversely affect the public health, safety or general welfare. A Final EIR has been prepared to address the potential environmental impacts of the project in accordance with the provisions of the California Environmental Quality Act (CEQA).

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 on the south side of State Route 60 and east of the Moreno Valley Auto Mall. Land uses to the north include the freeway with BP zone land to the west and Community Commercial zone land to the east. South of the facility on the other side of Fir Avenue/Future Eucalyptus Avenue is vacant RA-2 zone land with tract homes in the RA-2 zone approximately  $\frac{3}{4}$  miles further south. The proposed warehouse distribution facility is a permitted use in both the BP and LI zones, but the size proposed by the project requires a Zone Change and the proximity to the Residential district to the south requires a Municipal Code Amendment to establish a minimum separation or buffering of warehouse facilities over 50,000 square feet from adjacent Residential districts. As designed and conditioned and subject to



approval of the above mentioned Zone Change and Municipal Code Amendment, is compatible with existing and proposed land uses in the vicinity.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. FEES

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 PA08-0097, incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

3. CITY RIGHT TO MODIFY/ADJUST; PROTEST LIMITATIONS

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.

The 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 a notice has been given 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 HEREBY APPROVES Resolution No. 2011-          , APPROVING Plot Plan PA08-0097 for a 937,260 square foot warehouse distribution facility on a 55 acre site, based on the findings in the Resolution, and the conditions of approval as attached to the resolution as Exhibit A.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor of the City of Moreno Valley

ATTEST:

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

APPROVED AS TO FORM:

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

**RESOLUTION JURAT**

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE ) ss.

CITY OF MORENO VALLEY )

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

**CITY OF MORENO VALLEY  
CONDITIONS OF APPROVAL FOR  
PLOT PLAN PA08-0097 FOR A WAREHOUSE DISTRIBUTION FACILITY  
ASSESSOR'S PARCEL NUMBERS: 488-330-003 TO -006 AND -026**

**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 & ECONOMIC DEVELOPMENT DEPARTMENT**

**Planning Division**

- P1. Approval of Plot Plan PA08-0097 is subject to adoption of a Zone Change (PA08-0098) from the Business Park zone to the Light Industrial zone for the project site and adoption of a Municipal Code Amendment (PA10-0017) to establish a minimum buffering/separation from buildings over 50,000 square in area and adjacent residential zoned land.**
- P2. Plot Plan PA08-0097 has been approved for development of a 937,260 square foot warehouse distribution facility, to be built on a 55 acre site within Assessor's Parcel Numbers 488-330-003 to -006 and -026. The facility includes 173 dock doors and 14,000 square feet of office. Required parking for this use equates to a total of 307 employee/visitor parking spaces and 173 truck/trailer parking spaces.**
- P3. Development of the warehouse facility is subject to approval of Tentative Parcel Map No. 36207 and the subsequent recordation of this map.**

EXHIBIT A

7

Resolution No. 2011-78  
Date Adopted: July 12, 2011

- P4. A mitigation monitoring fee, as provided by City ordinance, shall be paid by the applicant within 30 days of project approval. No City permit or approval shall be issued until such fee is paid. (CEQA)**
- 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).**
- P6. The gates into truck loading and parking areas that are within view of a public street 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 design of all swales and basins that are visible from the public right-of-way shall be integrated with the surrounding landscape areas.**
- P9. Screening walls of decorative block or concrete tilt-up construction shall be provided to fully screen the truck loading and parking area for from view from Fir/Eucalyptus Avenue.**
- P10. Enhanced landscape shall be provided in the planter areas near each driveway and near the office portions of the facilities.**
- P11. 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.**
- P12. Loading or unloading activities shall be conducted from the truck bays or designated loading areas only. (MC 9.10.140, CEQA)**
- P13. No outdoor storage is permitted on the project site, except for truck and trailer storage in designated areas within the screened truck courts.**

- P14. If the proposed project requires blasting, it shall be used only as a last resort. In such cases, it shall be approved by the Fire Marshall, and the developer shall comply with the current City ordinance governing blasting. (Ord)**
- P15. 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)
- P16. PA08-0097 shall be developed in accordance with the approved plans on file in the Community & Economic Development Department - Planning Division, the Municipal Code regulations, General 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)
- P17. 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)
- P18. A drought tolerant, low water using landscape palette shall be utilized throughout the project to the extent feasible.
- P19. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030)
- P20. 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 & Economic Development Department - Planning Division. (MC 9.12.020)

#### **Prior to Issuance of Grading Permits**

- P21. (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.
- P22. (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 & Economic 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).

- P23. (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. 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. (GP Objective 1.5, MC 9.08.080, DG)
- P24. (GP) Prior to approval of any grading permit, the developer shall submit for review and approval of a tree plan to the Planning Division. The plan shall identify all mature trees (4 inch trunk diameter or larger) on the subject property, City right-of-way or Caltrans right-of-way. Using the grading plan as a base, the plan shall indicate trees to be relocated, retained, and removed. Replacement trees shall be: shown on the plan; be a minimum size of 24 inch box; and meet a ratio of three replacement trees for each mature tree removed or as approved by the Community Development Director. (GP Objective 4.4, 4.5, DG)
- P25. (GP) Prior to approval of any grading permit, local and master-planned multi-use trail easements shall be shown in accordance with the City's Master Trail Plan.
- P26. (GP) Prior to issuance of grading permits, the developer shall pay the applicable Stephens' Kangaroo Rat (SKR) Habitat Conservation Plan mitigation fee. (Ord)
- P27. (GP) For projects abutting State Highway 60, a sixteen foot reservation for future right-of-way shall be provided.**



**P28. (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.**

**P29. (GP) If a median is required, then 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)**

**P30. (GP) Prior to issuance of any grading permits, mitigation measures contained in the Mitigation Monitoring Program approved with this project shall be implemented as provided therein.**

**P31. (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.**

**P32. (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.**

**P33. (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.**

**P34. (GP) Prior to the issuance of grading permits, a “no touch“ area shall be staked along the westerly limit of project development as defined by the scour wall and a City approved Biologist be retained to monitor construction activities to ensure protection and preservation of Channel areas. Upon the completion of the above mitigation measure an on-site grading permit may be issued for project work to commence.**

- P35. (GP) Prior to any physical disturbance of any natural drainage course, or any wetland determined to contain riparian vegetation, the applicant shall obtain a stream bed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit, from both the California Department of Fish and Game and the U.S. Army Corps of Engineers. Written verification of such a permit or waiver shall be provided to both the Planning Division and the Public Works Department - Land Development Division. (CEQA, State and Federal codes)**
- P36. (GP) Prior to the approval of any precise grading permits, the developer shall submit written documentation and a planting coverage map/plan to the Planning and Land Development Divisions for all parcels identified as future State Highway 60 right-of-way as well as specifications for an erosion control/wildflower hydroseed mixture appropriate to the site's climate zones and soils to be applied at a time and in a manner that optimizes germination and coverage of the parcels consistent with the erosion control requirements for the site. Said landscape shall be maintained free of weeds and overgrowth by the developer or successor in interest until such time as the parcels are transferred to the City or Caltrans.**
- P37. (GP) Prior to issuance of grading permits, landscape plans (trees, shrubs and groundcover) for basins maintained by an POA or other private entity shall be submitted to the Planning Division for review and approval for the sides and/or slopes. A hydroseed mix with irrigation is acceptable for the bottom of all the basin areas. All detention basins shall include trees, shrubs and groundcover up to the concreted portion of the basin. A solid decorative wall with pilasters, tubular steel fence with pilasters or other fence or wall approved by the Community Development Director is required to secure all water quality and detention basins more than 18 inches in depth.**
- P38. (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. 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.**
  - B. 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.**
  - C. A 14 foot tall solid wall of decorative block with pilasters and a cap or concrete tilt-up construction shall be provided to screen the trucks, parked trailers and the loading areas and loading docks from view from Fir/Eucalyptus Avenue and at the northeast corner of the site.**
  - D. Wrought iron/tubular steel fence is required along portions of the northern, western and eastern property lines.**

- E. A four foot tall three rail fence to match adjacent trail fencing is required to enclose the basins located along Fir/Eucalyptus Avenue.**
- F. An 8 foot tall coated chain link fence is required along the western property line along the Riverside County Flood Control maintenance road.**

### **Prior to Issuance of Building Permits**

- P39. (BP) Prior to issuance of building permits, the Community & Economic 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)
- P40. (BP) Prior to issuance of building permits, screening details shall be addressed on plans for roof top equipment and trash enclosures submitted for Community & Economic 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)
- P41. (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 & Economic 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)
- P42. (BP) Prior to issuance of building permits or as permitted by current City policy, 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. (Ord)

- P43. (BP) Prior to issuance of building permits, final landscaping and irrigation plans shall be submitted to the Community & Economic 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 as well as along Highway 60 to provide proper screening of trucks.**
  - 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. **Dense landscape (spacing of one tree per 20 feet) shall be placed in front of the wall along all designated yard areas and vines shall be planted at the base of the wall and be directed along said wall.**
  - K. **A minimum size of 24" box mature trees shall be placed along the freeway or northern elevations of the building. Trees shall be in a double row or closely spaced as shown on the preliminary landscape plan?**
  - L. **Minimum 24 inch box Eucalyptus Nicholii shall be used for the street trees along the Eucalyptus Avenue frontage. Spacing of trees shall be limited to 80 foot on center for parkways and medians in sight line distance areas noted on the plans; however trees to the equivalency of 40 foot on center shall be planted in the parkway for the entire site. Additional denser parkway tree placement (between 25 to 30 feet on center) would be required for areas outside of the line of sight. A preferred alternative to placing trees only on the designated parkway landscape areas would be to widen the four foot landscape separation between the sidewalk and trail to 8 feet and reduce the parkway landscape to 8 feet in site line distance areas to provide additional trees within the designated line of sight areas alternating at 80 foot spacing to**

- achieve the overall 40 foot spacing requirement.
- M. **Focal entries of the site on Eucalyptus Avenue are void of trees and or shrubs on the preliminary landscape plan and they shall be shown on the plans, or alternatively document on the landscape and tree plans that the equivalency of one tree per 30 linear feet of building dimension visible from the parking lot and all public rights of away in addition to on tree per 30 linear feet of parking lot adjacent to the interior property is being met.**
  - N. **The design of all swales and basins that are visible from the public right-of-way shall be integrated with the surrounding landscape areas.**
- P44. (BP) Prior to the issuance of building permits, the landscape plans shall include landscape treatment for trash enclosures located outside of a truck court, to include landscape on three sides, and trash enclosures shall include decorative enhancements such as an enclosed roof and other decorative features that are consistent with the architecture of the proposed commercial buildings on the site, subject to the approval of the Community & Economic Development Director.**
- P45. (BP) Prior to the issuance of building permits, all fences and walls required or proposed on site, shall be approved by the Community & Economic Development Director. (MC 9.08.070)
- P46. (BP) Prior to the issuance of building permits, downspouts will be interior to the building, or if exterior, integrated into the architecture of the building to include compatible colors and materials to the satisfaction of the Community & Economic Development Director.
- P47. (BP) Prior to the issuance of building permits the building site plan shall include decorative concrete or pavers for all driveway ingress/egress locations for the project.
- P48. (BP) Prior to issuance of building permits for a final map for Tentative Parcel Map No. 36207 (PA09-0022) must be approved and recorded and all conditions of approval related to the parcel map must be satisfied.**
- P49. (BP) Prior to issuance of any building permits, mitigation measures contained in the Mitigation Monitoring Program approved with this project shall be implemented as provided therein. (CEQA)**

**Prior to Issuance of Certificate of Occupancy or Building Final**

- P50. (CO) Prior to issuance of any Certificates of Occupancy or building final, mitigation measures contained in the Mitigation Monitoring Program approved with this project shall be implemented as provided therein. (CEQA) (Advisory)**

- P51. (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 & Economic Development Department – Planning Division. (MC 9.080.070).
- P52. (CO) Prior to issuance of Certificate of Occupancy or building final, installed landscaping and irrigation shall be reviewed by the Community & Economic Development Department - Planning Division. The landscaping shall be installed in accordance with the City's Landscape Standards and the approved landscape plans.
- P53. (CO) All rooftop equipment shall be appropriately screened and not visible from the Highway 60 or Eucalyptus/Fir Avenue rights of way.**

### **MITIGATION MEASURES**

- P54. MM 4.2.1 Redlands Boulevard at SR-60 Westbound Ramps Improvements:**
- Install a traffic signal. If not otherwise completed prior to Project opening, the required traffic signal shall be constructed by the Applicant prior to issuance of the first Certificate of Occupancy.
- P55. MM 4.2.2 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:** Prior to issuance of the first Certificate of Occupancy, the Applicant shall construct the following improvements:
- Install a traffic signal;
  - Construct a southbound right turn auxiliary lane which extends the full length of the segment of Redlands Boulevard between the SR-60 Eastbound Ramps and Fir (future Eucalyptus) Avenue for a southbound lane configuration of one shared left-through lane and one right turn lane; and
  - Construct an eastbound left-turn lane with 300 feet of storage for an eastbound lane configuration of one left-turn lane and one shared through-or-right-turn-lane.
- P56. MM 4.2.3 Moreno Beach Drive at SR-60 Eastbound Ramps Improvements:**
- Construct an eastbound right-turn lane and re-stripe the shared left-or-right turn lane as an exclusive left-turn lane, for an eastbound lane configuration of one left-turn lane and one right-turn lane. These improvements would require the dedication of right-of-way from the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.
- P57. MM 4.2.4 Moreno Beach Drive at SR-60 Westbound Ramps Improvements:**
- Coordinate traffic signal timing with the signal at the intersection of Moreno Beach Drive at SR-60 Eastbound Ramps.
- P58. MM 4.2.5 Redlands Boulevard at SR-60 Westbound Ramps Improvements:**
- Install a traffic signal (a TUMF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.1);

- Construct a second northbound through lane and a right-turn lane with overlap phasing, for a northbound lane configuration of one left-turn lane, two through lanes and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way on the east side of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection; and
- Construct a second southbound through lane, for a southbound lane configuration of one left-turn lane and two through lanes. These improvements would require the dedication of right-of-way on the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection.

**P59. MM 4.2.6 Redlands Boulevard at SR-60 Eastbound Ramps Improvements:**

- Construct a second northbound through lane for a northbound lane configuration of one left turn lane and two through lanes. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and restriping of all lanes on the south leg of the intersection;
- Construct a second southbound through lane, for a southbound lane configuration of one left-turn lane and two through lanes. These improvements would require the dedication of right-of-way on the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and
- Construct an eastbound right-turn lane and re-stripe the shared left-or-right turn lane as an exclusive left-turn lane, for an eastbound lane configuration of one left-turn lane and one right-turn lane. These improvements would require the dedication of right-of-way on the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.

**P60. MM 4.2.7 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:**

- Install a traffic signal (a DIF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.2);
- Construct a northbound left-turn lane with 200 feet of storage and a second through lane, for a northbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and restriping of all lanes on the south leg of the intersection.
- Construct a southbound left-turn lane with 250 feet of storage, a second left-turn lane that extends back to the SR-60 Eastbound Ramps, a second through lane, and a right-turn lane with overlap phasing and a pocket length that is the full length of the segment, for a southbound lane configuration of two left-turn lanes, two through lanes, and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. The noted right-turn southbound lane would be constructed by the Project pursuant to Mitigation Measure 4.2.2. Overlap phasing to this right-turn lane will be added when determined appropriate by the City Traffic Engineer,
- Construct dual eastbound left-turn lanes with 300 feet of storage and a second through lane, for an eastbound lane configuration of two left-turn lanes, one through lane, and one shared through-or-right-turn lane. These improvements would require

the dedication of right-of-way from the south side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the west leg of the intersection. A single eastbound turn with 300 feet of storage will be constructed by the Project under Opening Year Ambient Conditions pursuant to Mitigation Measure 4.2.2.

- Construct a westbound left-turn lane, a second through lane, and a right-turn lane with overlap phasing, providing 200 feet of storage for both the left-turn and right-turn lanes, for a westbound lane configuration of one left-turn lane, two through lanes, and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the north side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the east leg of the intersection. Construction of the westbound left and through lanes would be funded through participation in the DIF Program; remaining improvements would be funded through fair share fee participation.

**P61. MM 4.2.8 Quincy Street at Fir (future Eucalyptus) Avenue Improvements:**

- Install a stop-control on the south leg of the intersection;
- Construct a northbound shared left-or-right-turn lane. Quincy Street should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction;
- Construct an eastbound shared through-or-right-turn lane. The Fir (future Eucalyptus) Avenue extension should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction; and
- Construct a westbound left-turn lane and through lane. The Fir (future Eucalyptus) Avenue extension should be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction.

**P62. MM 4.2.9 Moreno Beach Drive at SR-60 Eastbound Ramps Improvements:**

- Construct the SR-60 eastbound on- and off-ramps, designed as a standard diamond and consistent with the proposed SR-60 Freeway/Moreno Beach Drive interchange design, and install a traffic signal at the new intersection;
- Construct a third northbound through lane, for a northbound lane configuration of three through lanes and a right-turn lane. These improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection;
- Construct the SR-60 eastbound off-ramp with an eastbound lane configuration of one left-turn lane and dual right-turn lanes; and
- Construct the SR-60 eastbound on-ramp on Moreno Beach Drive with a minimum of two travel lanes.

**P63. MM 4.2.10 Moreno Beach Drive at SR-60 Westbound Ramps Improvements:**

- Construct a second northbound through lane, for a northbound lane configuration of two through lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection;



- In addition to the planned on-ramp for southbound vehicles which is part of the future SR-60/Moreno Beach Drive interchange design, a second southbound through lane and a right-turn lane, for a southbound lane configuration of two through lanes and a right-turn lane. These improvements would require dedication on the west side of Moreno Beach Drive and re-striping of all lanes on the north leg of the intersection;
- Construct the SR-60 westbound on-ramp for vehicles traveling southbound on Moreno Beach Drive with a minimum of one travel lane; and
- Construct a second westbound left-turn lane, for a westbound lane configuration of two left-turn lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the north side of the SR-60 Westbound Ramps and re-striping of all lanes on the east leg of the intersection.

- P64. MM 4.2.11 Moreno Beach Drive at Fir (future Eucalyptus) Avenue Improvements:**
- Construct dual northbound left-turn lanes and re-stripe the northbound right-turn lane as a shared through-or-right turn lane for a northbound lane configuration of two left-turn lanes, two through lanes and a shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Moreno Beach Drive and re-striping of all lanes on the south leg of the intersection. Restriping of the northbound right-turn lane as a shared through-or-right turn lane would be funded through participation in the DIF Program. Remaining improvements would be funded through fair share fee participation;
  - Construct a southbound left-turn lane and a right-turn lane with overlap phasing, for a southbound lane configuration of two left-turn lanes, three through lanes and a right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the west side of Moreno Beach Drive and re-striping of all lanes on the north leg of the intersection, and would be funded through fair share fee participation;
  - Construct the new eastbound leg of this intersection with dual left-turn lanes, a through lane, and a shared through-or-right-turn lane. Construction of one eastbound left-turn lane, the eastbound through lane, and the eastbound shared through-or-right-turn lane would be funded through participation in the DIF Program. Remaining improvements would be funded through fair share fee participation; and
  - Construct a westbound through lane and implement overlap phasing on the right-turn movement, for a westbound lane configuration of one left-turn lane, two through lanes, and a right-turn lane with overlap phasing. This improvement would be funded through fair share fee participation.
- P65. MM 4.2.12 Quincy Street at Fir (future Eucalyptus) Avenue Improvements:**
- Install a stop-control on the south leg of the intersection;
  - Construct a northbound shared left-or-right-turn lane;
  - Construct the eastbound approach of the Fir (future Eucalyptus) Avenue extension with a through lane and a shared through-or-right-turn lane; and

- Construct the westbound approach of the Fir (future Eucalyptus) Avenue extension with a left-turn lane, a through lane, and a shared through-or-right-turn lane.

**P66. MM 4.2.13 Redlands Boulevard at SR-60 Westbound Ramps Improvements:**

- Install a traffic signal (a TUMF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.1);
- Construct a northbound through lane and a right-turn lane with overlap phasing, for a northbound lane configuration of one left-turn lane, two through lanes and one right-turn lane with overlap phasing. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and re-striping of all lanes on the south leg of the intersection;
- Construct a southbound left-turn lane and a through lane, for a southbound lane configuration of two left-turn lanes and a through lane, and a shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and
- Construct a westbound left-turn lane and a right-turn lane, for a westbound lane configuration of one left-turn lane, one shared left-through lane and a right-turn lane. These improvements would require the dedication of right-of-way from the north side of the SR-60 Westbound Ramps and re-striping of all lanes on the east leg of the intersection. The traffic signal noted above will be constructed by the Project pursuant to Mitigation Measure 4.2.1.

**P67. MM 4.2.14 Redlands Boulevard at SR-60 Eastbound Ramps Improvements:**

- Construct two northbound through lanes, for a northbound lane configuration of one left-turn lane and three through lanes, with the pocket length for the northbound left-turn lane at the full length of the segment. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and restriping of all lanes on the south leg of the intersection;
- Construct two southbound through lanes, for a southbound lane configuration of two through lanes and a shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard and re-striping of all lanes on the north leg of the intersection; and
- Re-stripe the shared eastbound left-or-right-turn lane as an exclusive left-turn lane, for an eastbound lane configuration of two left-turn lanes and one right-turn lane. These improvements would require the dedication of right-of-way on the south side of the SR-60 Eastbound Ramps and re-striping of all lanes on the west leg of the intersection.

**P68. MM 4.2.15 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements:**

- Install a traffic signal (a DIF improvement to be constructed by the Project pursuant to Mitigation Measure 4.2.2);
- Construct a left-turn lane with 200 feet of storage and a second through lane for a northbound lane configuration of one left-turn lane, one through lane and one shared through right-turn lane. These improvements would require the

dedication of right-of-way from the east side of Redlands Boulevard. Restriping of all lanes on the south leg of the intersection, and construction of the northbound through lane would be funded through participation in the TUMF Program. Remaining improvements would be funded through participation in the DIF Program;

- Construct a southbound left turn lane with 250 feet of storage, a second left-turn lane that extends back to the SR-60 Eastbound ramps, a second through lane and a right turn lane with overlap phasing for a southbound lane configuration of two left turn lanes, two through lanes and one right turn lane with overlap phasing, with a right turn pocket length that extends the full length of the segment. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program. Construction of one southbound left-turn lane would be funded through participation in the DIF program. The noted right-turn southbound lane would be constructed by the Project pursuant to Mitigation Measure 4.2.2. Overlap phasing for this right-turn lane will be added when determined appropriate by the City Traffic Engineer, and will be funded through fair share fee participation. Remaining improvements would also be funded through fair share fees;

- Construct dual eastbound left-turn lanes with 300 feet of storage and a second through lane, for an eastbound lane configuration of two left-turn lanes, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the south side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the west leg of the intersection. A single eastbound turn lane with 300 feet of storage will be constructed by the Project under Opening Year Ambient Conditions pursuant to Mitigation Measure 4.2.2.; and

- Construct a westbound left-turn lane, one through lane, and a right-turn lane with overlap phasing, for a westbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane with overlap phasing [these improvements would require the dedication of right-of-way from the north side of Fir (future Eucalyptus) Avenue, and restriping of all lanes on the east leg of the intersection]. Construction of the westbound left and through lanes would be funded through participation in the DIF Program; remaining improvements would be funded through participation in the fair share fee assessments.

**P69. MM 4.2.16 Redlands Boulevard at Eucalyptus (future Encilia) Avenue Improvements:**

- Install a traffic signal. This improvement would be funded through participation in the DIF Program;

- Construct a northbound left-turn lane and a shared through-or-right-turn lane, for a northbound lane configuration of one left-turn lane, one through lane and one shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard and restriping of all lanes on the south leg of the intersection. Construction of the northbound left-turn lane would be funded through participation in the DIF

Program; remaining improvements would be funded through participation in the TUMF Program;

- Construct a southbound left-turn lane, a through lane, and a right-turn lane, for a southbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF program;

- Re-stripe the eastbound right-turn lane as a through lane and construct an additional shared through-or-right-turn lane, for an eastbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the south side of Eucalyptus (future Encilia) Avenue and the re-striping of all lanes on the west leg of the intersection, and would be funded through participation in the DIF Program; and

- Construct the westbound approach with one left-turn lane, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the north side of Eucalyptus (future Encilia) Avenue, and the re-striping of all lanes on the east leg of the intersection, and would be funded through participation in the DIF Program.

**P70. MM 4.2.17 Redlands Boulevard at Cottonwood Avenue Improvements:**

- Construct a northbound through lane, for a northbound lane configuration of one left-turn lane, one through lane and one shared through-or-right turn lane. These improvements would require the dedication of right-of-way from the east side of Redlands Boulevard, and the re-striping of all lanes on the south leg of the intersection, and would be funded through participation in the TUMF Program;

- Construct a southbound left-turn lane and a through lane, for a southbound lane configuration of one left-turn lane, two through lanes, and one right-turn-lane. These improvements would require the dedication of right-of-way from the west side of Redlands Boulevard, and the restriping of all lanes on the north leg of the intersection. Construction of the southbound through lane would be funded through participation in the TUMF Program; remaining improvements would be funded through participation in the DIF Program;

- Re-stripe the eastbound right-turn lane as a through lane, and construct an additional through-or-right-turn lane, for an eastbound lane configuration of one left-turn lane, one through lane, and one shared through-or-right-turn lane. These improvements would require the dedication of right-of-way from the south side of Cottonwood Avenue, and the re-striping of all lanes on the west leg of the intersection, and would be funded through participation in the DIF Program; and

- Construct the westbound approach with one left-turn lane, one through lane, and one shared through-or-right-turn-lane. These improvements would require the dedication of right-of-way from the north side of Cottonwood Avenue, and

the re-striping of all lanes on the east leg of the intersection, and would be funded through participation in the DIF Program.

- P71. **MM 4.2.18 Quincy Street south of Fir (future Eucalyptus) Avenue Improvements:**
- Construct Quincy Street south of Eucalyptus Avenue as a two-lane undivided roadway with a minimum of one travel lane in each direction.
- P72. **MM 4.2.19 Fir (future Eucalyptus) Avenue west of Quincy Street to the westerly Project boundary and Fir (future Eucalyptus) east of Redlands Boulevard Improvements:**
- Construct the Fir (future Eucalyptus) Avenue extension from the current terminus near the Auto Mall to Quincy Street, and connecting to Fir (future Eucalyptus) Avenue at the westerly project boundary. Continue Fir (future Eucalyptus) Avenue east of Redlands Boulevard. Fir (future Eucalyptus) Avenue is to be constructed as a two-lane undivided roadway with a minimum of one travel lane in each direction.
- P73. **MM 4.3.1 Consistent with URBEMIS modeling inputs and to effect implementation of SCAQMD Rule 403, the following measures shall be incorporated :**
- All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions.
  - The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the Project are watered at least three times daily during dry weather. Watering, with complete coverage of disturbed areas, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day.
  - The contractor shall ensure that traffic speeds on unpaved roads and Project site areas are reduced to 15 miles per hour or less to reduce PM10 and PM2.5 fugitive dust haul road emissions.
  - Site disturbance during mass grading and fine grading activities shall not exceed 13.66 acres per day.
  - Ground cover shall be replaced, and/or non-toxic soil stabilizers shall be applied (according to manufacturers' specifications) to any inactive construction areas (previously graded areas inactive for ten days or more).
  - In support of Project plan specifications and contract document language; and as means of controlling on-site construction vehicle speeds, for the duration of Project construction activities, speed limit signs (15 mph maximum) shall be posted at entry points to the Project site, and along any unpaved roads providing access to or within the Project site and/or any unpaved designated on-site travel routes.
- P74. **MM 4.3.2 The contractor shall minimize pollutant emissions by maintaining equipment engines in good condition and in proper tune according to**

manufacturer's specifications and during smog season (May through October) by not allowing construction equipment to be left idling for more than five minutes (per California law).

- P75. MM 4.3.3 The contractor shall ensure use of low-sulfur diesel fuel in construction equipment as required by the California Air Resources Board (CARB) (diesel fuel with sulfur content of 15 ppm by weight or less).
- P76. MM 4.3.4 Contractor(s) shall ensure that all off-road heavy-duty construction equipment utilized during construction activity shall be CARB Tier 2 Certified or better.
- P77. MM 4.3.5 In order to reduce localized Project impacts to sensitive receptors in the Project vicinity during construction, construction equipment staging areas shall be located at least 300 feet away from sensitive receptors.
- P78. MM 4.3.6 During Project construction, existing electrical power sources (e.g., power poles) shall be utilized to power electric construction tools including saws, drills and compressors, to minimize the need for diesel or gasoline powered electric generators.
- P79. MM 4.3.7 The Applicant shall use "Zero-Volatile Organic Compounds" paints, coatings, and solvents with a VOC content lower than required under Rule 1113 (not to exceed 150 grams/liter; 1.25 pounds/gallon). High Pressure Low Volume (HPLV) applications of paints, coatings, and solvents shall be consistent with South Coast Air Quality Management District Rule 1113. Alternatively, the Applicant shall use materials that do not require painting or are pre-painted.
- P80. MM 4.3.8 Grading plans, construction specifications and bid documents shall also include the following notations:
- Off-road construction equipment shall utilize alternative fuels e.g., biodiesel fuel (a minimum of B20), natural gas (CNG), liquefied natural gas (LNG), propane, except for equipment where use of such fuels would void the equipment warranty;
  - Gravel pads shall be provided at all access points to prevent tracking of mud onto public roads;
  - Install and maintain trackout control devices at all access points where paved and unpaved access or travel routes intersect;
  - The contractor or builder shall designate a person or person(s) to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite;
  - The contractor or builder shall post a publicly visible sign with the telephone number and person to contact regarding dust complaints. The contact person shall take corrective action within 24 hours;
  - High pressure injectors shall be provided on diesel construction equipment where feasible;
  - Engine size of construction equipment shall be limited to the minimum

practical size;

- Substitute gasoline-powered for diesel powered construction equipment where feasible;
- Use electric construction equipment where feasible;
- Install catalytic converters on gasoline-powered equipment where feasible;
- Ride-sharing program for the construction crew shall be encouraged and shall be supported by contractor(s) via incentives or other inducement;
- Documentation shall be provided to the City of Moreno Valley indicating that construction workers have been encouraged to carpool or otherwise reduce VMT to the greatest extent practical, including providing information on available park and ride programs;
- Lunch services shall be provided onsite during construction to minimize the need for offsite vehicle trips;
- All forklifts used during construction and in subsequent operation of the Project shall be electric or natural gas powered.

**P81. MM 4.3.9** Throughout Project construction, a construction relations officer/community liaison, appointed by the Applicant, shall be retained on-site. In coordination and cooperation with the City, the construction relations officer/community liaison shall respond to any concerns related to PM10 (fugitive dust) generation or other construction-related air quality issues.

**P82. MM 4.3.10** All Project entrances shall be posted with signs which state:

- Truck drivers shall turn off engines when not in use;
- Diesel delivery trucks servicing the Project shall not idle for more than three (3) minutes; and
- Telephone numbers of the building facilities manager and CARB, to report violations.

These measures shall be enforced by the on-site facilities manager (or equivalent).

**P83. MM 4.3.11** Buildings shall surpass incumbent California Title 24 Energy Efficiency performance standards by a minimum of 20 percent for water heating and space heating and cooling. Verification of increased energy efficiencies shall be documented in Title 24 Compliance Reports provided by the Applicant, and reviewed and approved by the City prior to the issuance of the first building permit. Any combination of the following design features may be used to fulfill this mitigation measure provided that the total increase in efficiency meets or exceeds 20 percent.

- Increase in insulation such that heat transfer and thermal bridging is minimized;
- Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption;
- Incorporate dual-paned or other energy efficient windows;
- Incorporate energy efficient space heating and cooling equipment;
- Interior and exterior energy efficient lighting which exceeds the California Title 24 Energy Efficiency performance standards shall be installed, as deemed acceptable by the City of Moreno Valley. Automatic devices to turn off lights

when they are not needed shall be implemented;

- To the extent that they are compatible with landscaping guidelines established by the City of Moreno Valley, shade producing trees, particularly those that shade buildings and paved surfaces such as streets and parking lots and buildings shall be planted at the Project site.

- Paint and surface color palette for the Project shall emphasize light and off-white colors which will reflect heat away from the buildings.

All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design.

**P84. MM 4.3.12** The Project shall be designed to facilitate the reduction of waste generated by building occupants that is hauled to and disposed of in landfills by providing easily accessible areas that are dedicated to the collection and storage of recyclable materials including: paper, cardboard, glass, plastics, and metals. Locations of proposed recyclable materials collection areas are subject to review and approval by the City. Prior to Final Site Plan approval, locations of proposed recyclable materials collection areas shall be delineated on the Project Site Plan.

**P85. MM 4.3.13** GHG emissions reductions measures shall also include the following:

- The Project shall provide secure, weather-protected on-site bicycle storage/parking consistent with City of Moreno Valley requirements;

- The Project shall provide pedestrian and bicycle connections to surrounding areas, consistent with provisions of the City of Moreno Valley General Plan. Location and configurations of proposed pedestrian and bicycle connections are subject to review and approval by the City. Prior to Final Site Plan approval, pedestrian and bicycle connections shall be indicated on the Project Site Plan;

- The Project shall provide onsite showers (one for males and one for females). Lockers for employees shall be provided.

- Any traffic signals installed as part of the Project will utilize light emitting diodes (LEDs);

- The Project will establish a Transportation Management Association (TMA). The TMA will coordinate with other TMAs within the City to encourage and coordinate carpooling among building occupants. The TMA will advertise its services to building occupants, and offer transit and/or other incentives to reduce GHG emissions. Additionally, a shuttle will be provided during any one hour period where more than 20 employees or construction workers utilize public transit. A plan will be submitted by the TMA to the City within two months of Project completion that outlines the measures implemented by the TMA, as well as contact information; The Project shall provide preferential parking for carpools and vanpool. Locations and configurations of proposed preferential parking for carpools and vanpools are subject to review and approval by the City. Prior to Final Site Plan approval, preferential parking for carpools and vanpools shall be delineated on the Project Site Plan;

- The Project shall provide at least two electric vehicle charging stations.



Locations and configurations of proposed charging stations are subject to review and approval by the City. Prior to issuance of the first building permit, stub outs for charging stations shall be indicated on the Project building plans.

• Lease/purchase documents shall identify that tenants are encouraged to provide incentives to realize the following:

- Implementation of compressed workweek schedules;
- SmartWay partnership;
- Achievement of at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidated trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers.
- Achievement of at least 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers.
- Use of fleet vehicles conforming to 2010 air quality standards or better.
- Installation of catalytic converters on gasoline-powered equipment.
- Inclusion of electric powered and/or compressed natural gas fueled trucks and/or vehicles in fleets;
- Establishment and use of carpool/vanpool programs, complemented by parking fees for single-occupancy vehicles;
- Provision of preferential parking for EV and CNG vehicles;
- Use of electrical equipment (instead of gasoline-powered equipment) for landscape maintenance;
- Use of electric (instead of diesel or gasoline-powered) yard trucks;
- Use of SmartWay 1.25 rated trucks.

**P86. MM 4.4.1** Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that during all Project site construction, construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards. And further that the construction contractor shall place all stationary construction equipment so that emitted noise is directed away from off-site receptors nearest the Project site. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.

**P87. MM 4.4.2** Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that the construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and off-site receptors nearest the Project site during all Project construction. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.

- P88. MM 4.4.3 Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that construction activities, including haul truck operations, shall be limited to the hours between 7:00 a.m. and 8:00 p.m. Monday through Friday. No Project-related construction activities shall occur on weekends or Federal holidays. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings. The statement in the plans and specifications shall be reviewed and approved by the City of Moreno Valley Planning Department, or their designee.**
- P89. MM 4.4.4 Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that for the duration of grading and site preparation activities, temporary construction noise curtains or similar line-of-sight noise reduction measures shall be installed along the Project's southerly boundary. Noise curtains shall be installed so as to provide maximum reduction for noise sensitive uses (at present a single residence located southerly of the Project site) and shown on the grading plans prepared for the Project.**
- P90. MM 4.5.1 Prior to the issuance of building permits, the Project Applicant shall contribute funding toward the acquisition of new water supplies, new treatment or recycled water facilities, and water efficiency measures for existing customers to develop new water supplies. The extent of additional funding shall be determined by the EMWD and may take the form of a new component of connection fees or a separate charge.**
- P91. MM 4.5.2 The Applicant shall install water efficient devices and landscaping according to the requirements of EMWD's water use efficiency ordinance(s) effective at the time of Project construction.**
- P92. MM 4.5.3 The Applicant shall meet with EMWD staff at the earliest feasible date to develop a Plan of Service (POS) for the Project. The POS shall detail water, wastewater and recycled water facilities requirements to serve the Project, to be constructed by the Applicant.**
- P93. MM 4.5.4 Until the Project begins construction, the Project Water Supply Assessment shall be reviewed for its continued accuracy and adequacy every three (3) years, commencing on the WSA approval date of June 4, 2008. The Project Applicant shall maintain communication with EMWD on the status of the Project, and the lead agency shall request the referenced three-year periodic review and update of the WSA. If neither the Project applicant nor the lead agency contacts EMWD within three (3) years of approval of this WSA, it shall be assumed that the Project no longer requires the estimated water demand as calculated in the WSA. The demand for the Project will not be considered in assessments for future projects, and the assessment provided within the Project WSA shall be considered invalid.**

- P94. MM 4.7.1 A professional cultural resources monitor (Project Paleontological Monitor) shall conduct full-time monitoring throughout site excavation and grading activities. The monitor shall be equipped to salvage and/or record the location of historic and/or archaeological resources as they may be unearthed to avoid construction delays, consistent with the requirements of California Public Resources Code Section 21083.2. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. One monitor for both archaeological and paleontological resources is sufficient if the monitor is qualified in both disciplines to the satisfaction of the City of Moreno Valley.**
- P95. MM 4.7.2 Should historic or prehistoric resources of potential significance be identified, a qualified archaeologist shall be contacted to assess the find(s) and make recommendations in regard to further monitoring. Resources shall be left in an undisturbed state where feasible. Where preservation in place is infeasible, all recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by a qualified archaeologist, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/ historic resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.**
- P96. MM 4.7.3 Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the Project site, subject to the following certain constraints:**
- Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontological resources by a qualified paleontological monitor or his/her representative must take place;**
  - A paleontological mitigation-monitoring plan shall be developed before grading begins;**
  - Paleontological monitors shall be equipped to salvage and/or record the location of fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates;**
  - Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens; and**
  - Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontological personnel to have low potential to contain fossil resources**

- P97. MM 4.8.1** Prior to the issuance of a grading permit, a “no touch” area shall be staked along the westerly limit of Project development as defined by the alignment of the scour wall proposed along the Quincy Channel. Importantly, the westerly limits of development shall be established so as to preclude potential permanent impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Prior to the issuance of a grading permit, a City-approved Project biologist shall be retained to initiate and supervise monitoring of construction activities to ensure protection and preservation of adjacent Channel areas.
- P98. MM 4.8.2** Prior to issuance of a grading permit, the proposed scour wall to be located between the developed Project site and the Quincy Channel shall be shown on the grading plans. Alignment of the scour wall shall be field-determined and physically delineated by the Project biologist in consultation with the City. Importantly, the scour wall alignment shall be established so as to preclude potential impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Ongoing monitoring of construction activities shall be maintained throughout implementation of the scour wall to ensure protection and preservation of adjacent Channel areas.
- P99. MM 4.8.3** Prior to issuance of a building permit, landscape and irrigation plans shall be approved which demonstrate that no invasive, non-native plants will be planted or seeded within 150 feet of the avoided riparian habitat along the Quincy Channel.
- P100. MM 4.8.4** Prior to the issuance of any grading permits and prior to any physical disturbance of any jurisdictional areas, the applicant shall obtain a stream bed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit, from both the California Department of Fish and Game and the U.S. Army Corps of Engineers. Written verification of such a permit or waiver shall be provided to the Community Development Department - Planning Division and the Public Works Department - Land Development Division.
- P101. MM 4.8.5** Prior to issuance of a grading permit, the Applicant shall develop and implement a Habitat Mitigation and Monitoring Plan (HMMP) to restore impacted riparian (mulefat) habitat. Prior to implementation, the HMMP shall be reviewed and approved by the CDFG. If in its final design, the CDFG-approved HMMP involves use or restoration of USACE or RWQCB jurisdictional areas, USACE and/or RWQCB approval shall also be obtained. The HMMP shall, at a minimum, meet the following requirements:
- A habitat replacement and/or enhancement ratio of at least 1:1 for temporary impact;
  - A success criterion of at least 80 percent cover of native riparian vegetation for replaced habitat; and
  - Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, native plant re-vegetation for areas

temporarily disturbed by construction and regular maintenance and monitoring activities to ensure the success of the mitigation plan; and

- Prior to the issuance of a grading permit, as part of the Project HMMP, appropriate maintenance and monitoring protocols will be developed in concert with CDFG based on final Project designs, and the ultimate scope, location, and type of mitigation reflected in the HMMP as approved by CDFG.

**P102. MM 4.8.6** If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly. If vegetation is to be cleared during the nesting season (February 15 – July 31), all suitable habitat will be thoroughly surveyed for the presence of nesting birds within 72 hours prior to clearing. All surveys shall be performed by a qualified Project biologist to be retained by the Applicant and vetted by the City. The survey results shall be submitted by the Project Applicant to the Planning Division. If any active nests are detected, the nest(s) shall be flagged in the field and mapped on the construction plans along with a minimum 50-foot buffer and up to 300 feet for raptors, with the final buffer distance to be determined by the Project biologist. The buffer area shall be avoided until the nesting cycle is complete or it is determined that the nest has failed. In addition, the Project biologist will be present on the site to monitor vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed.

**P103. MM 4.8.7** Within 30 days of site clearing activities, a pre-construction burrowing owl survey shall be conducted to document the presence/absence of any occupied owl burrows. Any owls present shall be passively or actively relocated following CDFG approved protocols, and with CDFG permission, prior to commencement of clearing. The survey shall be submitted to the Planning Division prior to issuance of a grading permit.

### **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.

- B2. (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.

## FIRE PREVENTION BUREAU

- 1. Prior to building permits being issued, the applicant shall complete the proposed pipeline improvements shown on EMWD WO#12713. These improvements include proposed pipeline additions on site and off.**
- 2. The following Standard Conditions shall apply.**

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) A 50% reduction in fire flow was granted for the use of fire sprinklers throughout the facility. The reduction shall only apply to fire flow; hydrant spacing shall be per the fire flow requirements listed in CFC Appendix B and C prior to credits being granted.
- F3. Industrial, Commercial, Multi-family, Apartment, Condominium, Townhouse or Mobile Home Parks. A combination of on-site and off 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. 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)

- F5. Prior to construction and issuance of building permits, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.4 and MVMC 8.36.050 Section A)
- F6. Prior to construction and issuance of Building Permits, fire lanes and fire apparatus access roads shall have an unobstructed width of not less than 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)
- F7. Prior to construction, all roads, driveways and private roads shall not exceed 12 percent grade. (CFC 503.2.7 and MVMC 8.36.050)
- F8. 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)
- F9. 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)
- F10. 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)
- F11. Prior to issuance of Building Permits, the applicant/developer shall participate in the Fire Impact Mitigation Program. (Fee Resolution as adopted by City Council)
- F12. Prior to issuance of Building Permits, the applicant/developer shall furnish one copy of the water system plans to the Fire Prevention Bureau for review. Plans shall:
- a) Be signed by a registered civil engineer or a certified fire protection engineer;
  - b) Contain a Fire Prevention Bureau approval signature block; and
  - c) Conform to hydrant type, location, spacing of new and existing hydrants and minimum fire flow required as determined by the Fire Prevention Bureau.

After the local water company signs the plans, the originals shall be presented to the Fire Prevention Bureau for signatures. The required water system, including fire hydrants, shall be installed, made serviceable, and be accepted by the Moreno Valley Fire Department prior to beginning construction. They shall be maintained accessible.

Existing fire hydrants on public streets are allowed to be considered available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. (CFC 508.1 and MVMC 8.36.100)



- F13. 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)
- F14. 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)
- F15. 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)
- F16. 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)
- F17. 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)
- F18. 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 Agency Department of Environmental Health and the Fire Prevention Bureau. (CFC 3401.4 and 2701.5)
- F19. 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.
- F20. 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)

- F21. 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)
- F22. 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.
- F23. 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 the fire department or other persons authorized by the Fire Chief in accordance with Appendix Chapter 1 and MVMC 8.36.100.
- F24. 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 & CBC Chapter 33)
- F25. 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).

- F26. 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)
- F27. 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)
- F28. 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)
- F29. 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)
- F30. 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)
- F31. 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)
- F32. Emergency and Fire Protection Plans shall be provided when required by the Fire Prevention Bureau. (CFC Section 105)

- F33. 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 and plot plan 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 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 hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110). Prior to approval of the related improvement or grading plans, the developer shall submit the approved drainage study, on compact disk, in (.pdf) digital format to the Land Development Division of the Public Works Department.
- 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) 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.

LD11. (G) Upon approval of the tentative tract map and 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

LD12. (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.

LD13. (GPA) Prior to approval of grading plans, the developer shall ensure compliance with the City Grading ordinance, these Conditions of Approval and the following criteria:

- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points. Unless otherwise approved by the City Engineer, lot lines shall be located at the top of slopes.
- b. Any grading that creates cut or fill slopes adjacent to the street shall provide erosion control, sight distance control, and slope easements as approved by the City Engineer.
- c. A grading permit shall be obtained from the Public Works Department Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
- d. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City. (MC 9.14.030)

- e. The developer shall submit a soils and geologic report to the Public Works Department – Land Development Division. The report shall address the soil’s stability and geological conditions of the site.

LD14. (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.

LD15. (GPA) Prior to approval of the grading plans for projects that will result in discharges of storm water associated with construction with a soil disturbance of one or more acres of land, the developer shall submit a Notice of Intent (NOI) and obtain a Waste Discharger’s Identification number (WDID#) from the State Water Quality Control Board (SWQCB). The WDID# shall be noted on the grading plans prior to issuance of the first grading permit.

LD16. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall submit two (2) copies of the final project-specific Water Quality Management Plan (WQMP) for review by the City Engineer that :

- a. Addresses Site Design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizes directly connected impervious areas to the City’s street and storm drain systems, and conserves natural areas;
- b. Incorporates Source Control BMPs and provides a detailed description of their implementation;
- c. Incorporates Treatment Control BMPs and provides information regarding design considerations;
- d. Describes the long-term operation and maintenance requirements for BMPs requiring maintenance; and
- e. Describes the mechanism for funding the long-term operation and maintenance of the BMPs.

A copy of the final WQMP template can be obtained on the City’s Website or by contacting the Land Development Division of the Public Works Department.

LD17. (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

- LD18. (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. The approved final WQMP shall be submitted to the Storm Water Program Manager on compact disk(s) in Microsoft Word format prior to grading plan approval.
- LD19. (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.
- LD20. (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.
- LD21. (GPA) Prior to the approval of the grading plans, the developer shall pay applicable remaining grading plan check fees.
- LD22. (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.
- LD23. (GP) Prior to issuance of a grading permit, or building permit when a grading permit is not required, for projects that require a project-specific Water Quality Management Plan (WQMP), a project-specific final WQMP (F-WQMP) shall be approved. Upon approval, a WQMP Identification Number is issued by the Storm Water Management Section and shall be noted on the rough grading plans as confirmation that a project-specific F-WQMP approval has been obtained.
- LD24. (GP) Prior to the issuance of a grading permit the developer shall submit recorded slope easements from adjacent landowners in any areas where grading resulting in slopes is proposed to take place outside of the project boundaries. For all other offsite grading, written permission from adjacent property owners shall be submitted.
- 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. (MA) Prior to approval of the map, the developer shall enter into an agreement with the City and Riverside County Flood Control and Water Conservation District establishing the terms and conditions covering the inspection, operation and maintenance of Master Drainage Plan facilities required to be constructed as part of the project. (MC 9.14.110)

LD31. (MR) Prior to recordation of the map the developer shall comply with the requirements of the City Engineer based on recommendations of the Riverside County Flood Control District regarding the construction of County Master Plan Facilities. (MC 9.14.110)

LD32. (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 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 90 days prior to City Council action authorizing recordation of the final map and the financial option selected. (California Government Code & Municipal Code)

LD33. (MR) Prior to recordation of the Final Map, the Grading Plan (s) and Landscape and Irrigation Plan (s) prepared for the "Water Quality Ponds/Bio-Swales" shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer or other registered/licensed professional as required. The developer, or the developer's successors or assignees shall secure the initials of the Engineering Division Manager or his designee on the mylars prior to the plans being approved by the City Engineer. (MC 9.14.100.C.2)

LD34. (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

LD35. (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.

LD36. (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)

LD37. (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.

LD38. (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.

LD39. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:

- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.

- b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)
  - c. The minimum centerline and flow line grades shall be one percent unless otherwise approved by the City Engineer. (MC 9.14.020)
- LD40. (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.
- LD41. (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.
- LD42. (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.
- LD43. (IPA) Prior to approval of the improvement plans, any 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)
- LD44. (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)
- LD45. (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)

LD46. (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)

LD47. (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.

LD48. (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.

LD49. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees.

#### Prior to Building Permit

LD50. (BP) Prior to issuance of a building permit (excluding model homes), an approval by the City Engineer is required of the water quality control basin(s). The developer shall provide certification to the line, grade, flow test and system invert elevations.

LD51. (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.

LD52. (BP) Prior to issuance of a building permit, the developer shall submit for review and approval, a Waste Management Plan (WMP) that shows data of waste tonnage, supported by original or certified photocopies of receipts and weight tags or other records of measurement from recycling companies and/or landfill and disposal companies. The Waste Management Plan shall contain the following:

- a. The estimated volume or weight of project waste to be generated by material type. Project waste or debris may consist of vegetative materials including trees, tree parts, shrubs, stumps, logs, brush, or any other type of plants that are cleared from a site. Project waste may also include roadwork removal, rocks, soils, concrete and other material that normally results from land clearing.
- b. The maximum volume or weight of such materials that can be feasibly diverted via reuse and recycling.
- c. The vendor(s) that the applicant proposes to use to haul the materials.
- d. Facility(s) the materials will be hauled to, and their expected diversion rates.

- e. Estimated volume or weight of clearing, grubbing, and grading debris that will be landfilled .

Approval of the WMP requires that at least fifty (50) percent of all clearing, grubbing, and grading debris generated by the project shall be diverted, unless the developer is granted an exemption. Exemptions for diversions of less than fifty (50) percent will be reviewed on a case by case basis. (AB939, MC 8.80)

Prior to Certificate of Occupancy

- LD53. (CO) Prior to issuance of a certificate of occupancy, if the project involves a non-residential subdivision, the map shall be recorded.
- LD54. (CO) Prior to issuance of the last certificate of occupancy or building final, the developer shall pay all outstanding fees.
- LD55. (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.
- LD56. (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.
- LD57. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, except as noted in the Special Conditions, including but not limited to the following applicable improvements:
  - a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, medians, redwood header boards, pavement tapers/transitions and traffic control devices as appropriate.
  - b. Storm drain facilities including, but not limited to: storm drain pipe, storm drain laterals, open channels, catch basins and local depressions.
  - c. City-owned utilities.
  - d. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water.

- e. Under grounding of existing and proposed utility lines less than 115,000 volts.
- f. Relocation of overhead electrical utility lines including, but not limited to: electrical, cable and telephone.

LD58. (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)

LD59. (CO) Prior to issuance of a certificate of occupancy or building final, in order to treat for water quality the sub-area tributary to the basin, the Developer must comply with the following:

- a. The water quality basin and all associated treatment control BMPs and all hardware per the approved civil drawing must be constructed, certified and approved by the City Engineer including, but not limited to, piping, forebay, aftbay, trash rack, etc.) Landscape and irrigation plans are not approved for installation at this time.
- b. Provide the City with an Engineer's Line and Grade Certification.
- c. Perform and pass a flow test per City test procedures.

LD60. (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

LD61. (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

**LD62. Prior to approval of the rough grading plan, this project shall demonstrate, via a final drainage study, that the increased runoff resulting from the development of this site is mitigated. During no storm event shall the flow leaving the site in the developed condition be larger than that of the pre-developed condition. The**

drainage study shall analyze the following events: 1, 3, 6 and 24-hour duration events for the 2, 5, 10 and 100-year storm events. The applicant understands that additional detention measures, beyond those shown on the tentative map and preliminary drainage study, may be required.

**LD63.** Prior to approval of the precise grading plan, the developer shall obtain the following offsite dedications from the adjacent property owner(s), per separate instrument, and submitted to the City for review and approval. The offsite area referenced is located between the project's east boundary line and Redlands Boulevard.

- a. A 10-foot street right-of-way dedication on the north side of Eucalyptus Avenue (formerly Fir Avenue) starting from this project's east boundary line east to Redlands Boulevard to ensure a centerline to north right-of-way distance of 50 feet for an Arterial, City Standard 104A.
- b. A 39-foot half street right-of-way dedication on the entire east side of "A" Street within the adjacent offsite properties 488-330-027 and 488-330-028 to ensure a centerline to east right-of-way distance of 39 feet for an Industrial Collector, City Standard 106.
- c. A 2-foot public access easement for the portions of sidewalk which are outside of the public right-of-way, along the north side of Eucalyptus Avenue from this project's east property line east to Redlands Boulevard.
- d. An 11-foot multi-use trail easement to the City adjoining and north of the 2-foot public access easement listed above for trail purposes, along the north side of Eucalyptus Avenue from this project's east property line east to Redlands Boulevard.
- e. Any necessary corner cutback right-of-way dedications per City Standard 208.

**LD64.** Prior to approval of the precise grading plans, the 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.

**LD65.** Prior to approval of the precise grading plans, the grading plans shall clearly show that the parking lot conforms to current City and ADA standards. The parking lot shall be 5% maximum, 1% minimum, 2% maximum at or near any disabled parking stall and travel way. 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](http://www.usdoj.gov)) and as approved by the City's Building and Safety Division.

- LD66.** Prior to precise grading plan approval, the plans shall show roof drains directed to a landscaped area rather than being routed directly to the parking lot. Alternatively, roof drain flows can be directed to private storm drains which will connect to the treatment control best management practice. This shall be shown in the approved F-WQMP.
- LD67.** Prior to approval of the grading and/or improvement plans, the plans shall show the relocation of the existing water line near State Highway 60 so that it is located outside of the lettered lot being conveyed to the City for future highway expansion purposes. Ideally, the water line shall be relocated within the Eucalyptus Avenue right-of-way. The developer shall coordinate with the utility purveyor Eastern Municipal Water District (EMWD) and the City. The developer will be responsible for quitclaiming the existing abandoned easement as well as obtaining any necessary new easements.
- LD68.** Prior to approval of the grading and/or improvement plans, the plans shall show the design for the proposed improvements to the existing Quincy Channel, along the entire west side of the project and any off-site upstream or downstream improvements, as necessary. The design shall be approved by both Riverside County Flood Control and Water Conservation District (RCFC&WCD) and the City. The improvements shall consist of, but not be limited to, construction of a scour wall including soil removal and recompaction and a maintenance access road including a driveway approach from Eucalyptus Avenue. The developer will be responsible for obtaining the appropriate permit(s) and clearance(s).
- LD69.** Prior to approval of the grading and/or improvement plans, the plans shall show the design for the proposed improvements to the existing ditch located on the west side of Redlands Boulevard. Improvements may include, but not be limited to, the reconstruction of the existing headwall, the installation of energy dissipater(s), and a proposed pipe culvert under Eucalyptus Avenue.
- LD70.** Prior to the issuance of a grading permit, the developer shall secure all necessary off-site drainage easements for the proposed offsite drainage improvements. All easements shall be plotted and labeled on the design plans. Written permission must be obtained from off-site property owner(s) for all off-site grading and easements.
- LD71.** Prior to approval of the improvement plans, the plans shall show the design for the installation of storm drain Line D-3 of RCFC&WCD's Moreno Area Drainage Plan (ADP). The plans shall show all accompanying drainage improvements such as catch basins, laterals, etc. to properly collect and convey storm flows to Line D-3. Line D-3 shall connect to the existing ditch located on the west side of Redlands Boulevard. The design shall be approved by both RCFC&WCD and the City.



**LD72.** Prior to approval of the parcel map, the map shall show the appropriate dedication along State Highway 60, shown as a lettered lot, and conveyed to the City, for future highway expansion, consistent with Caltrans' current expansion plans, as approved by the City Engineer.

**LD73.** Prior to approval of the parcel map, the map shall show the area near the Quincy Channel, shown as a lettered lot, to be dedicated to RCFC&WCD, for drainage improvement construction, maintenance and access purposes. The area to be dedicated shall be coordinated with and approved by both RCFC&WCD and the City.

**LD74.** Prior to approval of the parcel map, the map shall show the following:

- a. A 10-foot street right-of-way dedication on the north side of Eucalyptus Avenue (formerly Fir Avenue) along project's south frontage to ensure a centerline to north right-of-way distance of 50 feet for an Arterial, City Standard 104A.
- b. A 39-foot half street right-of-way dedication on the entire west side of "A" Street along this project's east frontage to ensure a centerline to west right-of-way distance of 39 feet for an Industrial Collector, City Standard 106.
- c. The appropriate street right-of-way dedication for a cul-de-sac at the northern terminus of "A" Street per City Standard Plan 123.
- d. A 4-foot minimum pedestrian right-of-way dedication behind any driveway approach per City Standard 118C, on both Eucalyptus Avenue and "A" Street.
- e. A 2-foot public access easement to the City for the portions of sidewalk which are outside of the public right-of-way, along the north side of Eucalyptus Avenue.
- f. An 11-foot multi-use trail easement to the City adjoining and north of the 2-foot public access easement listed above for trail purposes, along the north side of Eucalyptus Avenue.
- g. Corner cutback right-of-way dedications per City Standard 208.

**LD75.** Prior to approval of the parcel map, 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. **Redlands Boulevard, future Divided Arterial, City Standard 103A (110-foot RW / 66-foot CC) shall not be constructed to its ultimate half-width improvements with this project. However, it is acknowledged that some level of interim improvements will be required to facilitate the orderly development of this project. This project shall install the required interim improvements as directed by the City's Land Development and Transportation Engineering Divisions during design plan check. Improvements might consist of, but not be limited to, pavement, base, street widening to include an auxiliary lane from the SH-60 E/B off-ramp south to Eucalyptus Avenue, redwood header, curb and/or AC berm, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, removal/relocation and/or undergrounding of any power poles with overhead utility lines less than 115,000 volts, and dry and wet utilities.**
- b. **Eucalyptus Avenue (formerly Fir Avenue), Arterial, City Standard 104A (100-foot RW / 76-foot CC) shall be constructed to half-width plus an additional 18 feet south of the centerline, with an additional 5 foot gravel shoulder south of the 18 feet, along the entire project's south frontage and continuing offsite easterly to Redlands Boulevard. A 10-foot right-of-way dedication on the north side of the street, along the project's south property line, shall be shown on the parcel map. Required offsite dedications shall be per separate instrument. Improvements shall consist of, but not be limited to, pavement, base, redwood header, gravel, curb, gutter, sidewalk, a multi-use trail as approved by the City's Parks and Community Services Department, landscaping, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, removal/relocation and/or undergrounding of any power poles with overhead utility lines less than 115,000 volts, and dry and wet utilities.**
- c. **"A" Street, Industrial Collector, City Standard 106 (78-foot RW / 56-foot CC) shall be constructed to half-width plus an additional 18 feet minimum east of the centerline, along the project's east property line, however, per the planning level documents, the applicant has opted to construct full-width improvements. A 39-foot right-of-way dedication on the west side of the street, along the project's east property line, shall be shown on the parcel map. Required offsite dedications shall be per separate instrument. Improvements shall consist of, but not be limited to, pavement, base, curb, gutter, sidewalk, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, dry and wet utilities.**
- d. **The developer shall ensure adequate turn-around on Eucalyptus Avenue at the west end of the project, east of Quincy Channel, as approved by the City's Land Development, Transportation Engineering and Fire Prevention Divisions/Department.**

- e. **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.**
- f. **The developer shall install all necessary on-site and off-site drainage improvements to properly collect and convey drainage entering, within and leaving the project. This may include, but not be limited to on-site and perimeter drainage improvements to properly convey drainage within and along the project site, and downstream off-site improvements of master plan storm drain lines. The developer shall construct the following storm drain lines: Line D-3 in Eucalyptus Avenue of the Moreno Master Drainage Plan.**

**LD76. The Applicant shall prepare and submit for approval a final, project-specific water quality management plan (F-WQMP). 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, errata corrected 1-22-09. 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.**

**LD77. 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.**

- a. **Project POC include Nutrients, Oxygen Demanding Substances, and Pathogens (Bacteria and Viruses).**
- b. **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**

**LD78. The Applicant has proposed to incorporate the use of bioretention systems. Final design details of the bioretention System and pervious concrete system 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.**

**LD79. 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.**

**LD80. The Applicant shall, prior to building or grading permit closeout or the issuance of a certificate of occupancy, demonstrate:**

- a. That all structural BMPs have been constructed and installed in conformance with the approved plans and specifications.**
- b. That all structural BMPs described in the F-WQMP have been implemented in accordance with approved plans and specifications.**
- c. That the applicant is prepared to implement all non-structural BMPs included in the FWQMP, conditions of approval, and building/grading permit conditions.**
- d. That an adequate number of copies of the approved F-WQMP are available for the future owners/occupants of the project.**

**PUBLIC WORKS DEPARTMENT – SPECIAL DISTRICTS DIVISION**

**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 PA08-0097; 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.** **If a median is required to be constructed then,** plans for parkway, median, slope, and/or open space landscape areas designated on the tentative map or in these Conditions of Approval for incorporation into Moreno Valley Community Services District **Zone M**, shall be prepared and submitted in accordance with the *City of*

*Moreno Valley Public Works Department Landscape Design Guidelines.* Contact the Special Districts Division of the Public Works Department to obtain copies of this document.

- SD3. **If a median is required to be constructed then**, the developer, or the developer's successors or assignees shall be responsible for all parkway and/ or median landscaping maintenance until such time as the District accepts maintenance duties.
- SD4. **If a median is required to be constructed then**, plan check fees for review of parkway/median landscape plans for improvements that shall be maintained by the Moreno Valley Community Services District are due upon the first plan submittal. (MC 3.32.040)
- SD5. **If a median is required to be constructed then**, inspection fees for the monitoring of landscape installation associated with Moreno Valley Community Services District maintained parkways/medians are due prior to the required pre-construction meeting. (MC 3.32.040)
- SD6. 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 Building Permit Issuance

- SD7. (BP) This project has been identified to be included in the formation of a Map Act Area of Benefit Special District for the construction of **major thoroughfares and/or freeway** improvements. The property owner(s) shall participate in such District, and pay any special tax, assessment, or fee levied upon the project property for such District. At the time of the public hearing to consider formation of the district, the property owner(s) will not protest the formation, but the property owners(s) will retain the right to object if any eventual assessment is not equitable, that is, if the financial burden of the assessment is not reasonably proportionate to the benefit which the affected property obtains from the improvements which are to be installed. (Street & Highway Code, GP Objective 2.14.2, MC 9.14.100)
- SD8. (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)

SD9. *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 90 days prior to the City's issuance of a building permit and the financial option selected to fund the continued maintenance. (California Government Code)

SD10. (BP) **If a median is required to be constructed then**, final median, parkway, slope, and/or open space landscape/irrigation plans for those areas designated on the tentative map or in these Conditions of Approval for inclusion into Community Services District shall be reviewed and approved by the Community Development Department – Planning Division, and the Public Works Department – Special Districts and Transportation Divisions prior to the issuance of the first Building Permit.

Prior to Certificate of Occupancy

SD11. (CO) **If a median is required to be constructed then**, this project is conditioned to provide a funding source for the capital improvements and/or maintenance for the Fir Ave. (Future Eucalyptus 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 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 90 days prior to their issuance and the financial option selected to fund the continued maintenance.

SD12. (CO) 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.

- SD13. (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.
- SD14. (CO) **If a median is required to be constructed then**, all parkway and/or median landscaping specified in the tentative map or in these Conditions of Approval shall be constructed prior to the issuance of the Certificate of Occupancy/Building Final for this project.
- SD15. (CO) Prior to the issuance of the first Certificate of Occupancy or building final for this project, the developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. The developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C program. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate at the time of payment and as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

## **PUBLIC WORKS DEPARTMENT – TRANSPORTATION ENGINEERING DIVISION**

### **GENERAL CONDITIONS**

**TE1. Future Eucalyptus Avenue is classified as an Arterial (100’RW/76’CC) per City Standard Plan No. 104A. Any modifications or improvements undertaken by this project shall be consistent with the City’s standards for this facility. Sidewalk shall be curb separated. The project shall construct pavement improvements from the eastern property boundary to Redlands Boulevard consistent with Land Development Condition LD76b.**

**TE2. Future Collector Street is classified as an Industrial Collector (78’RW/56’CC) per City Standard Plan No. 106. Any modifications or improvements undertaken by this project shall be consistent with the City’s standards for this facility.**

Prior to Grading Permit

**TE3. (GP) Prior to issuance of a grading permit, the project applicant shall submit conceptual striping plans for street improvements along Eucalyptus Avenue as well as Redlands Boulevard.**

Prior to Improvement Plan Approval or Construction Permit

TE4. 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.

TE5. 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.

TE6. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic engineer shall be required.

TE7. Sight distance at driveways and on streets shall conform to City Standard Plan No. 125 A, B, and C at the time of preparation of final grading, landscape, and street improvements.

TE8. Prior to final approval of the street improvement plans, interim and ultimate alignment studies shall be approved by the City Traffic Engineer.

**TE9. Prior to the final approval of the street improvement plans, the project applicant shall prepare traffic signal design plans for the following intersections:**

- **Redlands Boulevard/SR-60 Westbound Ramp (The City has an approved design and Caltrans permit for this intersection. The applicant shall utilize the City design for construction.)**
- **Redlands Boulevard/Future Eucalyptus Avenue**

**TE10. Prior to the final approval of the street improvement plans, the project applicant shall design a southbound auxiliary lane (additional southbound lane) from the SR-60 Eastbound Ramp to Future Eucalyptus Avenue. The minimum width of the auxiliary lane shall be 16'.**



**TE11. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Redlands Boulevard and Eucalyptus Avenue to provide the following geometrics:**

**Northbound: One left turn lane, one through lane  
Southbound: One through lane, one right turn lane  
Eastbound: One left turn lane, one right turn lane  
Westbound: N/A**

**NOTE: All curb return radii shall be 50 feet.**

**TE12. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Redlands Boulevard and SR-60 Eastbound Ramp to provide the following geometrics:**

**Northbound: One left turn lane, one through lane  
Southbound: One shared through/right turn lane  
Eastbound: One left turn lane, one right turn lane  
Westbound: N/A**

**NOTE: All curb return radii shall be 50 feet.**

**TE13. Prior to final approval of the street improvement plans, the project applicant shall design the intersection of Redlands Boulevard and SR-60 Westbound Ramp to provide the following geometrics:**

**Northbound: One left turn lane, one through lane, one right turn lane  
Southbound: One left turn lane, one shared through/right turn lane  
Eastbound: One shared left turn/through/right turn lane  
Westbound: One shared left turn/through/right turn lane**

**NOTE: The City has an approved design and Caltrans permit for these improvements. The applicant shall utilize the City design for construction.**

**TE14. Prior to issuance of a construction permit, the project applicant shall pay to the City all applicable "Fair Share" impact fees per the findings of the Environmental Impact Report.**

Prior to Certificated of Occupancy or Building Final

**TE15. (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.**

**TE16. (CO) Each gated entrance from a public street will be provided with the following, or as approved by the City Engineer:**

- A. A storage lane with length sufficient to support the queuing predicted by the traffic study (minimum of 75 feet).
- B. Signing and striping at the gate, including no parking signs.
- C. A separate pedestrian entry, if pedestrian access is necessary.
- D. Presence loop detectors (or another device) within 1 or 2 feet of the gates that ensures that the gates remain open while any vehicle is in the queue.

All of these features must be kept in working order.

**TE17. (CO) Prior to issuance of a certificate of occupancy, the project applicant shall construct the intersection/roadway improvements identified in TE9, TE10, TE11, TE12, and TE13 per the approved plans.**

**Prior to Acceptance of Streets Into The City-maintained Road System**

TE18. 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 UTILITY**

**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 PA08-0097. 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" 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).

## **PARKS AND COMMUNITY SERVICES DEPARTMENT**

### **Acknowledgement of Conditions**

The following items are Parks and Community Services Department Conditions of Approval for project PA08-0097. This project shall be completed at no cost to any Government Agency. All questions regarding Parks and Community Services Department Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Parks and Community Services Department 951.413.3280. The applicant is fully responsible for communicating with the Parks and Community Services Department project manager regarding the conditions.

**PCS1.** A multi-use trail shall be designated for PA08-0097/98. The trail shall be 11' wide, located along the north side of Eucalyptus Avenue (Fir Ave.). The trail requires a crossing over Quincy Street on the north side of Eucalyptus Avenue. The trail shall be designed similar to the Highland Fairview project east of Redlands Blvd. The trail shall be dedicated as an easement to the CSD. Additionally, a multi-use trail shall be located along the west side of Quincy Channel.

If the applicant's property includes this area, the applicant shall install the trail. The trail shall match the trail on Quincy Street, south of Cottonwood Avenue. This trail is approximately 14' wide, plus another 2' concrete step out from adjoining street (or parking lot). The applicant shall coordinate this trail with RCFC. The trail shall be dedicated as an easement to the CSD.

On November 19, 2008, the Trail Board recommended that the trail be located to the north side of Eucalyptus Avenue, being consistent with the Highland Fairview project.

### **Standard Trail Conditions**

#### **PCS2. Parks and Community Services Department**

- a. Trail construction shall adhere to: The City's Standard Plans, 'The Greenbook Standard Specifications for Public Works Construction', 'California Code of Regulations Title 24' (where applicable), and the Park and Community Services Specification Guide.
- b. The General Contractor shall be a State of California Class 'A' General Engineering Contractor, per the Business and Professions Code Section 7056, or a combination of State of California Class 'C' licenses for which the work is being performed. Licenses must be current and in good standing, for the duration of the project.
- c. All utility easements shall not interfere with the trail or its fencing. A map of all easements and the corresponding easement rights shall be presented to Parks and Community Services prior to scheduling the Tentative Map for approval.

- d. (R) A restriction shall be placed on lots that are adjacent to the trail, preventing openings or gates accessing the trail. This shall be done through Covenants, Conditions, and Restrictions (CC&R's). A copy of the CC&R's with this/her restriction noted shall be submitted and approved by the Director of Parks and Community Services or his/her designee prior to the recordation of the Final Map.
- e. Trails shall not be shared with any above ground utilities, blocking total width access.
- f. The following plans require Parks and Community Services written approval: Tentative tract/parcel maps; rough grading plans (including all Delta changes); Final Map; precise grading plans; street improvement plans; traffic signal plans; fence and wall plans; landscape plans for areas adjacent to trails; trail improvement plans.
- g. (GP) A detailed rough grading plan with profile for the trail shall be submitted and approved by the Director of Parks and Community Services or his/her designee prior to the issuance of grading permits.
- h. Grading certification and compaction tests are required, prior to any improvements being installed.
- i. A minimum two-foot graded bench is required where trails adjoin landscaped or open space areas.
- j. (R) Prior to the approval of the Final Map, a detailed map of the trail and areas adjacent to the trail shall be submitted to the Director of Parks and Community Services or his/her designee prior for review and written approval.
- k. (R) All necessary documents to convey to the City and/or the Community Services District any required dedications for parks or open space, as specified on the tentative map or in these Conditions of Approval shall be submitted by the developer to Parks and Community Services, prior to the recordation of the final map.
- l. (R) Prior to recordation of the Final Map, the developer shall post security (bonds) to guarantee construction of the trail to the City's standards. Copies of the bonds shall be provided to Parks and Community Services, prior to the approval of the Final Map.
- m. (BP) Prior to the issuance of the first Building Permit, final improvement plans (mylars and AutoCAD & PDF file on a CD-ROM) shall be reviewed and approved by the Community Development Department – Planning Division; the Public Works Department – Land Development and Transportation Division; Fire Prevention; and Parks and Community Services Department. Landscaped areas adjacent to the park shall be designed to prevent water on the park.
- n. Eight sets of complete trail improvement plans shall be submitted to Parks and Community Services for routing. Adjacent landscaping and walls shall be shown on the plans. Final construction plans and details require wet stamped and signed Mylars, eight sets of bond copies and one Mylar copy from the City signed mylars, the AutoCAD file on CD, and a PDF file on CD. As-builts for the trails have the same requirements as final plan submittals.

- o. All street crossings shall be signed with approved 'STOP' signs, trail signs, and posts. All improved equestrian trail crossings at signalized intersections that are constructed at their ultimate locations shall have high mounted push buttons. These shall be coordinated through the Transportation Division.
- p. CSD Zone 'A' plan check fees shall be paid prior to the second plan check.
- q. CSD Zone 'A' inspection fees shall be paid prior to signing of Mylars.
- r. (BP) The trail shall be surveyed and staked by the developer. The trail shall be inspected and approved by the Director of Parks and Community Services or his/her designee prior to the issuance of any building permits for production units.
- s. Any damage to trails or fencing during construction shall be repaired by the developer and inspected by the Director of Parks and Community Services or his/her designee; prior to the last phase of building permit issuance.
- t. A minimum 38' radius shall be incorporated on all trails where a change of direction occurs (minor or major). Additionally, widening of the trail is necessary in most situations. This is only necessary where trails share Fire Prevention access.
- u. Drive approaches shall adhere to City Std. Plan #118C.
- v. Concrete access areas to trails with decomposed granite surfaces shall be rough finished concrete (typically raked finish). The access shall extend to the main trail flat surface.
- w. (BP) In order to prevent the delay of building permit issuance, any deviation from trail fencing materials or trail surface materials shall be submitted to Director of Parks and Community Services or his/her designee and approved in writing 60-days prior to the commencement of trail construction.
- x. Any unauthorized deviation from the approved plan, specifications, City Standard Plans, or Conditions of Approval may result in the delay of building permit issuance and/or building Finals/ Certificate of Occupancy of the project conditioned for improvements.
- y. Where required, decorative solid-grouted block wall (no precision block, stucco, veneer finishes, PVC, or wood fencing) with a minimum height of 72" on the trailside shall be installed along lots that adjoin the trail. Block walls shall be located solely on private property. If landscaping is to be utilized between the block wall and the trail, a PVC fence shall be installed along the trail separating the landscaping from the trail (where required). All block walls that have public view shall have an anti-graffiti coating per Parks and Community Services specifications. Combination block/tubular steel fences shall only be utilized where approved by Parks and Community Services. Tubular steel shall comply with Parks and Community Services standards. Coating for tubular steel shall be anti-graffiti coating for metal per Parks and Community Services specifications. If alternate products are requested, the requested material(s) shall be presented to the Director of Parks and Community Services or his/her designee for review and approval. Under no circumstances can alternate products be utilized without prior written authorization from the Director of Parks and Community Services or his/her designee.
- z. Any damage to existing landscape or hardscape areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the City or Community Services District.

- aa.** All inspections shall be requested two (2) working days in advance from the Parks and Community Services Department at the time of rough and precise grading; fence and gate installation; curb and drainage; flatwork; D.G. installation; graffiti coating; and final inspection.
- bb.** (BP) Trail construction in single family developments shall commence prior to 30% of total building permit issuance. Trail completion and acceptance (single family developments) for maintenance shall be completed prior to 70% of total building permit issuance.
- cc.** (CO) Trail construction in multi-family or commercial developments shall commence with the rough grading. Trail completion and acceptance for maintenance shall be completed prior to the issuance of 50% of the total certificates-of-occupancy (for multi-family and/or commercial developments).

**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 & Economic Development Department - Building Division for routing to the Police Department. (MC 9.08.080)



RESOLUTION NO. 2011-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, FOR APPROVAL OF TENTATIVE PARCEL MAP 36207 (PA09-0022) TO COMBINE THE EXISTING FIVE PARCELS LOCATED WITHIN THE PROJECT SITE INTO A SINGLE 55 ACRE PARCEL.

WHEREAS, the applicant, Ridge Rancho Belago, LLC, has filed an application for the approval of Tentative Parcel Map No. 36207 (PA09-0022), to combine the existing five parcels located within the project site into a single 55 acre, as described in the title of this Resolution.

WHEREAS, on July 12, 2011, the City Council held a public hearing to consider the project.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

WHEREAS, there is hereby imposed on the subject development 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, BE IT RESOLVED, 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 July 12, 2011, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:

ATTACHMENT 7

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. The proposed parcel map will combine the existing five parcels located within the project site into a single 55 acre parcel. The proposed land division is consistent with existing goals, objectives, policies and programs of the general plan.

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.

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 on the south side of State Route 60 and east of the Moreno Valley Auto Mall. Land uses to the north include the adjacent freeway with Office zoned land north of the freeway. Land uses to the east include a mix of vacant Business Park, and residential zoned land. Land uses to the east include vacant Community Commercial zoned land. Land uses to the south include vacant RA-2 zone land on the other side of Fir Avenue/Future Eucalyptus Avenue with developed tract homes located approximately  $\frac{3}{4}$  miles to the south. 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 Fir Avenue/Future Eucalyptus Avenue. The parcel map is designed in accordance with the provisions of 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: A Final EIR has been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA), concluding that with mitigation and 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 parcel map would not cause serious public health problems. The Eastern Municipal Water District will provide water and sewer services to the project site. 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 utility and 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 designed in accordance with the provisions of 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 parcel map, 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 propose housing. The project would not increase the demand for housing beyond that anticipated in the City's Housing Element or 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, the project and/or its tenants and employees 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. FEES

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 PA09-0022, incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

3. CITY RIGHT TO MODIFY/ADJUST; PROTEST LIMITATIONS

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.

The 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 a notice has been given 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 HEREBY APPROVES Resolution No. 2011-          , APPROVING Tentative Parcel Map No. 36207 (PA09-0022) to combine the existing five parcels located within the project site into a single 55 acre, subject to the attached conditions of approval included as Exhibit A.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

**RESOLUTION JURAT**

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE ) ss.

CITY OF MORENO VALLEY )

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

**CITY OF MORENO VALLEY  
CONDITIONS OF APPROVAL FOR PA09-0022  
TENTATIVE PARCEL MAP NO. 36207  
ASSESSOR'S PARCEL NUMBERS: 488-330-003 TO -006 AND -026**

**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 & ECONOMIC DEVELOPMENT DEPARTMENT**

**Planning Division**

- P1. Tentative Parcel Map No. 36207 is approved for the purposes of re-configuring the existing five parcels located within the project site and creating a single 55 acre parcel with lettered lots for a storm drain channel and a future off-ramp for State Route 60.**
- P2. Development within Tentative Parcel Map No. 36207 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.**
- P3. This approval shall comply with all applicable requirements of the City of Moreno Valley Municipal Code.
- 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 A



- P5. The site shall be developed in accordance with the approved tentative map on file in the Community & Economic 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. 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)
- P7. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030)

**Prior to Issuance of Grading Permits**

- P8. (GP) Prior to issuance of grading permits, the developer shall pay the applicable Stephen's' Kangaroo Rat (SKR) Habitat Conservation Plan mitigation fee. (Ord)
- P9. (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.
- P10. (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).

- P11. (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)
- P12. (GP) Prior to approval of any grading permits, any required 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)**
- P13. (GP) Prior to the issuance of a precise grading permit, the 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.**
- P14. (GP) Prior to the issuance of a precise 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.**
- P15. (GP) Prior to the issuance of any 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**

- P16. (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)

## **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.

- B2. (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.

## **FIRE PREVENTION BUREAU**

- 1. Prior to building permits being issued, the applicant shall complete the proposed pipeline improvements shown on EMWD WO#12713. These improvements include proposed pipeline additions on site and off.**
2. The following Standard Conditions shall apply.

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) A 50% reduction in fire flow was granted for the use of fire sprinklers throughout the facility. The reduction shall only apply to fire flow; hydrant spacing shall be per the fire flow requirements listed in CFC Appendix B and C prior to credits being granted.
- F3. Industrial, Commercial, Multi-family, Apartment, Condominium, Townhouse or Mobile Home Parks. A combination of on-site and off 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. 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)
- F5. Prior to construction and issuance of building permits, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.4 and MVMC 8.36.050 Section A)
- F6. Prior to construction and issuance of Building Permits, fire lanes and fire apparatus access roads shall have an unobstructed width of not less than 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)
- F7. Prior to construction, all roads, driveways and private roads shall not exceed 12 percent grade. (CFC 503.2.7 and MVMC 8.36.050)
- F8. 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)

- F9. 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)
- F10. 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)
- F11. Prior to issuance of Building Permits, the applicant/developer shall participate in the Fire Impact Mitigation Program. (Fee Resolution as adopted by City Council)
- F12. Prior to issuance of Building Permits, the applicant/developer shall furnish one copy of the water system plans to the Fire Prevention Bureau for review. Plans shall:
- a) Be signed by a registered civil engineer or a certified fire protection engineer;
  - b) Contain a Fire Prevention Bureau approval signature block; and
  - c) Conform to hydrant type, location, spacing of new and existing hydrants and minimum fire flow required as determined by the Fire Prevention Bureau.

After the local water company signs the plans, the originals shall be presented to the Fire Prevention Bureau for signatures. The required water system, including fire hydrants, shall be installed, made serviceable, and be accepted by the Moreno Valley Fire Department prior to beginning construction. They shall be maintained accessible.

Existing fire hydrants on public streets are allowed to be considered available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. (CFC 508.1 and MVMC 8.36.100)

- F13. 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)
- F14. 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)

- F15. 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)
- F16. 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)
- F17. 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)
- F18. 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 Agency Department of Environmental Health and the Fire Prevention Bureau. (CFC 3401.4 and 2701.5)
- F19. 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.
- F20. 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)
- F21. 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)

- F22. 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.
- F23. 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 the fire department or other persons authorized by the Fire Chief in accordance with Appendix Chapter 1 and MVMC 8.36.100.
- F24. 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 & CBC Chapter 33)
- F25. 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/neighbor structures and use.

NOTE: Each application for a permit shall include a hazardous materials inventory statement (HMIS).

- F26. 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)
- F27. 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)
- F28. 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)
- F29. 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)
- F30. 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)
- F31. 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)
- F32. Emergency and Fire Protection Plans shall be provided when required by the Fire Prevention Bureau. (CFC Section 105)
- F33. 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 and plot plan 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 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 hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110). Prior to approval of the related improvement or grading plans, the developer shall submit the

approved drainage study, on compact disk, in (.pdf) digital format to the Land Development Division of the Public Works Department.

- 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) 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.
- LD11. (G) Upon approval of the tentative tract map and 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

- LD12. (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.
- LD13. (GPA) Prior to approval of grading plans, the developer shall ensure compliance with the City Grading ordinance, these Conditions of Approval and the following criteria:
- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points. Unless otherwise approved by the City Engineer, lot lines shall be located at the top of slopes.
  - b. Any grading that creates cut or fill slopes adjacent to the street shall provide erosion control, sight distance control, and slope easements as approved by the City Engineer.

- c. A grading permit shall be obtained from the Public Works Department Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
- d. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City. (MC 9.14.030)
- e. The developer shall submit a soils and geologic report to the Public Works Department – Land Development Division. The report shall address the soil’s stability and geological conditions of the site.

LD14. (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.

LD15. (GPA) Prior to approval of the grading plans for projects that will result in discharges of storm water associated with construction with a soil disturbance of one or more acres of land, the developer shall submit a Notice of Intent (NOI) and obtain a Waste Discharger’s Identification number (WDID#) from the State Water Quality Control Board (SWQCB). The WDID# shall be noted on the grading plans prior to issuance of the first grading permit.

LD16. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall submit two (2) copies of the final project-specific Water Quality Management Plan (WQMP) for review by the City Engineer that :

- a. Addresses Site Design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizes directly connected impervious areas to the City’s street and storm drain systems, and conserves natural areas;
- b. Incorporates Source Control BMPs and provides a detailed description of their implementation;
- c. Incorporates Treatment Control BMPs and provides information regarding design considerations;
- d. Describes the long-term operation and maintenance requirements for BMPs requiring maintenance; and
- e. Describes the mechanism for funding the long-term operation and maintenance of the BMPs.

A copy of the final WQMP template can be obtained on the City’s Website or by contacting the Land Development Division of the Public Works Department.

LD17. (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

LD18. (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. The approved final WQMP shall be submitted to the Storm Water Program Manager on compact disk(s) in Microsoft Word format prior to grading plan approval.

LD19. (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.

LD20. (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.

LD21. (GPA) Prior to the approval of the grading plans, the developer shall pay applicable remaining grading plan check fees.

LD22. (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.

LD23. (GP) Prior to issuance of a grading permit, or building permit when a grading permit is not required, for projects that require a project-specific Water Quality Management Plan (WQMP), a project-specific final WQMP (F-WQMP) shall be approved. Upon approval, a WQMP Identification Number is issued by the Storm Water Management Section and shall be noted on the rough grading plans as confirmation that a project-specific F-WQMP approval has been obtained.

LD24. (GP) Prior to the issuance of a grading permit the developer shall submit recorded slope easements from adjacent landowners in any areas where grading resulting in slopes is proposed to take place outside of the project boundaries.

For all other offsite grading, written permission from adjacent property owners shall be submitted.

- 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. (MA) Prior to approval of the map, the developer shall enter into an agreement with the City and Riverside County Flood Control and Water Conservation District establishing the terms and conditions covering the inspection, operation and maintenance of Master Drainage Plan facilities required to be constructed as part of the project. (MC 9.14.110)
- LD31. (MR) Prior to recordation of the map the developer shall comply with the requirements of the City Engineer based on recommendations of the Riverside County Flood Control District regarding the construction of County Master Plan Facilities. (MC 9.14.110)
- LD32. (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 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 90 days prior to City Council action authorizing recordation of the final map and the financial option selected. (California Government Code & Municipal Code)

LD33. (MR) Prior to recordation of the Final Map, the Grading Plan (s) and Landscape and Irrigation Plan (s) prepared for the "Water Quality Ponds/Bio-Swales" shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer or other registered/licensed professional as required. The developer, or the developer's successors or assignees shall secure the initials of the Engineering Division Manager or his designee on the mylars prior to the plans being approved by the City Engineer. (MC 9.14.100.C.2)

LD34. (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

LD35. (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.

LD36. (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)

LD37. (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.

- LD38. (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.
- LD39. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:
- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.
  - b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)
  - c. The minimum centerline and flow line grades shall be one percent unless otherwise approved by the City Engineer. (MC 9.14.020)
- LD40. (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.
- LD41. (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.
- LD42. (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.
- LD43. (IPA) Prior to approval of the improvement plans, any 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)
- LD44. (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)

- LD45. (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)
- LD46. (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)
- LD47. (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.
- LD48. (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.
- LD49. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees.

#### Prior to Building Permit

- LD50. (BP) Prior to issuance of a building permit (excluding model homes), an approval by the City Engineer is required of the water quality control basin(s). The developer shall provide certification to the line, grade, flow test and system invert elevations.
- LD51. (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.

LD52. (BP) Prior to issuance of a building permit, the developer shall submit for review and approval, a Waste Management Plan (WMP) that shows data of waste tonnage, supported by original or certified photocopies of receipts and weight tags or other records of measurement from recycling companies and/or landfill and disposal companies. The Waste Management Plan shall contain the following:

- a. The estimated volume or weight of project waste to be generated by material type. Project waste or debris may consist of vegetative materials including trees, tree parts, shrubs, stumps, logs, brush, or any other type of plants that are cleared from a site. Project waste may also include roadwork removal, rocks, soils, concrete and other material that normally results from land clearing.
- b. The maximum volume or weight of such materials that can be feasibly diverted via reuse and recycling.
- c. The vendor(s) that the applicant proposes to use to haul the materials.
- d. Facility(s) the materials will be hauled to, and their expected diversion rates.
- e. Estimated volume or weight of clearing, grubbing, and grading debris that will be landfilled .

Approval of the WMP requires that at least fifty (50) percent of all clearing, grubbing, and grading debris generated by the project shall be diverted, unless the developer is granted an exemption. Exemptions for diversions of less than fifty (50) percent will be reviewed on a case by case basis. (AB939, MC 8.80)

#### Prior to Certificate of Occupancy

LD53. (CO) Prior to issuance of a certificate of occupancy, if the project involves a non-residential subdivision, the map shall be recorded.

LD54. (CO) Prior to issuance of the last certificate of occupancy or building final, the developer shall pay all outstanding fees.

LD55. (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.

LD56. (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.

LD57. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, except as noted in the Special Conditions, including but not limited to the following applicable improvements:

- a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, medians, redwood header boards, pavement tapers/transitions and traffic control devices as appropriate.
- b. Storm drain facilities including, but not limited to: storm drain pipe, storm drain laterals, open channels, catch basins and local depressions.
- c. City-owned utilities.
- d. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water.
- e. Under grounding of existing and proposed utility lines less than 115,000 volts.
- f. Relocation of overhead electrical utility lines including, but not limited to: electrical, cable and telephone.

LD58. (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)

LD59. (CO) Prior to issuance of a certificate of occupancy or building final, in order to treat for water quality the sub-area tributary to the basin, the Developer must comply with the following:

- a. The water quality basin and all associated treatment control BMPs and all hardware per the approved civil drawing must be constructed, certified and approved by the City Engineer including, but not limited to, piping, forebay, aftbay, trash rack, etc.) Landscape and irrigation plans are not approved for installation at this time.
- b. Provide the City with an Engineer's Line and Grade Certification.
- c. Perform and pass a flow test per City test procedures.

LD60. (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

LD61. (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**

**LD62. Prior to approval of the rough grading plan, this project shall demonstrate, via a final drainage study, that the increased runoff resulting from the development of this site is mitigated. During no storm event shall the flow leaving the site in the developed condition be larger than that of the pre-developed condition. The drainage study shall analyze the following events: 1, 3, 6 and 24-hour duration events for the 2, 5, 10 and 100-year storm events. The applicant understands that additional detention measures, beyond those shown on the tentative map and preliminary drainage study, may be required.**

**LD63. Prior to approval of the precise grading plan, the developer shall obtain the following offsite dedications from the adjacent property owner(s), per separate instrument, and submitted to the City for review and approval. The offsite area referenced is located between the project's east boundary line and Redlands Boulevard.**

- a. A 10-foot street right-of-way dedication on the north side of Eucalyptus Avenue (formerly Fir Avenue) starting from this project's east boundary line east to Redlands Boulevard to ensure a centerline to north right-of-way distance of 50 feet for an Arterial, City Standard 104A.**
- b. A 39-foot half street right-of-way dedication on the entire east side of "A" Street within the adjacent offsite properties 488-330-027 and 488-330-028 to ensure a centerline to east right-of-way distance of 39 feet for an Industrial Collector, City Standard 106.**

- c. A 2-foot public access easement for the portions of sidewalk which are outside of the public right-of-way, along the north side of Eucalyptus Avenue from this project's east property line east to Redlands Boulevard.
- d. An 11-foot multi-use trail easement to the City adjoining and north of the 2-foot public access easement listed above for trail purposes, along the north side of Eucalyptus Avenue from this project's east property line east to Redlands Boulevard.
- e. Any necessary corner cutback right-of-way dedications per City Standard 208.

**LD64.** Prior to approval of the precise grading plans, the 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.

**LD65.** Prior to approval of the precise grading plans, the grading plans shall clearly show that the parking lot conforms to current City and ADA standards. The parking lot shall be 5% maximum, 1% minimum, 2% maximum at or near any disabled parking stall and travel way. 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](http://www.usdoj.gov)) and as approved by the City's Building and Safety Division.

**LD66.** Prior to precise grading plan approval, the plans shall show roof drains directed to a landscaped area rather than being routed directly to the parking lot. Alternatively, roof drain flows can be directed to private storm drains which will connect to the treatment control best management practice. This shall be shown in the approved F-WQMP.

**LD67.** Prior to approval of the grading and/or improvement plans, the plans shall show the relocation of the existing water line near State Highway 60 so that it is located outside of the lettered lot being conveyed to the City for future highway expansion purposes. Ideally, the water line shall be relocated within the Eucalyptus Avenue right-of-way. The developer shall coordinate with the utility purveyor Eastern Municipal Water District (EMWD) and the City. The developer will be responsible for quitclaiming the existing abandoned easement as well as obtaining any necessary new easements.

**LD68.** Prior to approval of the grading and/or improvement plans, the plans shall show the design for the proposed improvements to the existing Quincy Channel, along the entire west side of the project and any off-site upstream or downstream improvements, as necessary. The design shall be approved by both Riverside County Flood Control and Water Conservation

District (RCFC&WCD) and the City. The improvements shall consist of, but not be limited to, construction of a scour wall including soil removal and recompaction and a maintenance access road including a driveway approach from Eucalyptus Avenue. The developer will be responsible for obtaining the appropriate permit(s) and clearance(s).

**LD69.** Prior to approval of the grading and/or improvement plans, the plans shall show the design for the proposed improvements to the existing ditch located on the west side of Redlands Boulevard. Improvements may include, but not be limited to, the reconstruction of the existing headwall, the installation of energy dissipater(s), and a proposed pipe culvert under Eucalyptus Avenue.

**LD70.** Prior to the issuance of a grading permit, the developer shall secure all necessary off-site drainage easements for the proposed offsite drainage improvements. All easements shall be plotted and labeled on the design plans. Written permission must be obtained from off-site property owner(s) for all off-site grading and easements.

**LD71.** Prior to approval of the improvement plans, the plans shall show the design for the installation of storm drain Line D-3 of RCFC&WCD's Moreno Area Drainage Plan (ADP). The plans shall show all accompanying drainage improvements such as catch basins, laterals, etc. to properly collect and convey storm flows to Line D-3. Line D-3 shall connect to the existing ditch located on the west side of Redlands Boulevard. The design shall be approved by both RCFC&WCD and the City.

**LD72.** Prior to approval of the parcel map, the map shall show the appropriate dedication along State Highway 60, shown as a lettered lot, and conveyed to the City, for future highway expansion, consistent with Caltrans' current expansion plans, as approved by the City Engineer.

**LD73.** Prior to approval of the parcel map, the map shall show the area near the Quincy Channel, shown as a lettered lot, to be dedicated to RCFC&WCD, for drainage improvement construction, maintenance and access purposes. The area to be dedicated shall be coordinated with and approved by both RCFC&WCD and the City.

**LD74.** Prior to approval of the parcel map, the map shall show the following:

- a. A 10-foot street right-of-way dedication on the north side of Eucalyptus Avenue (formerly Fir Avenue) along project's south frontage to ensure a centerline to north right-of-way distance of 50 feet for an Arterial, City Standard 104A.

- b. A 39-foot half street right-of-way dedication on the entire west side of "A" Street along this project's east frontage to ensure a centerline to west right-of-way distance of 39 feet for an Industrial Collector, City Standard 106.
- c. The appropriate street right-of-way dedication for a cul-de-sac at the northern terminus of "A" Street per City Standard Plan 123.
- d. A 4-foot minimum pedestrian right-of-way dedication behind any driveway approach per City Standard 118C, on both Eucalyptus Avenue and "A" Street.
- e. A 2-foot public access easement to the City for the portions of sidewalk which are outside of the public right-of-way, along the north side of Eucalyptus Avenue.
- f. An 11-foot multi-use trail easement to the City adjoining and north of the 2-foot public access easement listed above for trail purposes, along the north side of Eucalyptus Avenue.
- g. Corner cutback right-of-way dedications per City Standard 208.

**LD75.** Prior to approval of the parcel map, 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. Redlands Boulevard, future Divided Arterial, City Standard 103A (110-foot RW / 66-foot CC) shall not be constructed to its ultimate half-width improvements with this project. However, it is acknowledged that some level of interim improvements will be required to facilitate the orderly development of this project. This project shall install the required interim improvements as directed by the City's Land Development and Transportation Engineering Divisions during design plan check. Improvements might consist of, but not be limited to, pavement, base, street widening to include an auxiliary lane from the SH-60 E/B off-ramp south to Eucalyptus Avenue, redwood header, curb and/or AC berm, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, removal/relocation and/or undergrounding of any power poles with overhead utility lines less than 115,000 volts, and dry and wet utilities.
- b. Eucalyptus Avenue (formerly Fir Avenue), Arterial, City Standard 104A (100-foot RW / 76-foot CC) shall be constructed to half-width plus an additional 18 feet south of the centerline, with an additional 5

foot gravel shoulder south of the 18 feet, along the entire project's south frontage and continuing offsite easterly to Redlands Boulevard. A 10-foot right-of-way dedication on the north side of the street, along the project's south property line, shall be shown on the parcel map. Required offsite dedications shall be per separate instrument. Improvements shall consist of, but not be limited to, pavement, base, redwood header, gravel, curb, gutter, sidewalk, a multi-use trail as approved by the City's Parks and Community Services Department, landscaping, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, removal/relocation and/or undergrounding of any power poles with overhead utility lines less than 115,000 volts, and dry and wet utilities.

- c. "A" Street, Industrial Collector, City Standard 106 (78-foot RW / 56-foot CC) shall be constructed to half-width plus an additional 18 feet minimum east of the centerline, along the project's east property line, however, per the planning level documents, the applicant has opted to construct full-width improvements. A 39-foot right-of-way dedication on the west side of the street, along the project's east property line, shall be shown on the parcel map. Required offsite dedications shall be per separate instrument. Improvements shall consist of, but not be limited to, pavement, base, curb, gutter, sidewalk, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, dry and wet utilities.
- d. The developer shall ensure adequate turn-around on Eucalyptus Avenue at the west end of the project, east of Quincy Channel, as approved by the City's Land Development, Transportation Engineering and Fire Prevention Divisions/Department.
- e. 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.
- f. The developer shall install all necessary on-site and off-site drainage improvements to properly collect and convey drainage entering, within and leaving the project. This may include, but not be limited to on-site and perimeter drainage improvements to properly convey drainage within and along the project site, and downstream off-site improvements of master plan storm drain lines. The developer shall construct the following storm drain lines: Line D-3 in Eucalyptus Avenue of the Moreno Master Drainage Plan.



**LD76. The Applicant shall prepare and submit for approval a final, project-specific water quality management plan (F-WQMP). 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, errata corrected 1-22-09. 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.**

**LD77. 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.**

- a. Project POC include Nutrients, Oxygen Demanding Substances, and Pathogens (Bacteria and Viruses).**
- b. 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**

**LD78. The Applicant has proposed to incorporate the use of bioretention systems. Final design details of the bioretention System and pervious concrete system 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.**

**LD79. 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.**

**LD80. The Applicant shall, prior to building or grading permit closeout or the issuance of a certificate of occupancy, demonstrate:**

- a. That all structural BMPs have been constructed and installed in conformance with the approved plans and specifications.**
- b. That all structural BMPs described in the F-WQMP have been implemented in accordance with approved plans and specifications.**

- c. That the applicant is prepared to implement all non-structural BMPs included in the FWQMP, conditions of approval, and building/grading permit conditions.
- d. That an adequate number of copies of the approved F-WQMP are available for the future owners/occupants of the project.

**PUBLIC WORKS DEPARTMENT – SPECIAL DISTRICTS DIVISION**

**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 PA08-0097; 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. **If a median is required to be constructed then**, plans for parkway, median, slope, and/or open space landscape areas designated on the tentative map or in these Conditions of Approval for incorporation into Moreno Valley Community Services District **Zone M**, shall be prepared and submitted in accordance with the *City of Moreno Valley Public Works Department Landscape Design Guidelines*. Contact the Special Districts Division of the Public Works Department to obtain copies of this document.
- SD3. **If a median is required to be constructed then**, the developer, or the developer’s successors or assignees shall be responsible for all parkway and/ or median landscaping maintenance until such time as the District accepts maintenance duties.

- SD4. **If a median is required to be constructed then**, plan check fees for review of parkway/median landscape plans for improvements that shall be maintained by the Moreno Valley Community Services District are due upon the first plan submittal. (MC 3.32.040)
- SD5. **If a median is required to be constructed then**, inspection fees for the monitoring of landscape installation associated with Moreno Valley Community Services District maintained parkways/medians are due prior to the required pre-construction meeting. (MC 3.32.040)
- SD6. 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 Building Permit Issuance

- SD7. (BP) This project has been identified to be included in the formation of a Map Act Area of Benefit Special District for the construction of **major thoroughfares and/or freeway** improvements. The property owner(s) shall participate in such District, and pay any special tax, assessment, or fee levied upon the project property for such District. At the time of the public hearing to consider formation of the district, the property owner(s) will not protest the formation, but the property owners(s) will retain the right to object if any eventual assessment is not equitable, that is, if the financial burden of the assessment is not reasonably proportionate to the benefit which the affected property obtains from the improvements which are to be installed. (Street & Highway Code, GP Objective 2.14.2, MC 9.14.100)
- SD8. (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)
- SD9. *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 90 days prior to the City's issuance of a building permit

and the financial option selected to fund the continued maintenance. (California Government Code)

SD10. (BP) **If a median is required to be constructed then**, final median, parkway, slope, and/or open space landscape/irrigation plans for those areas designated on the tentative map or in these Conditions of Approval for inclusion into Community Services District shall be reviewed and approved by the Community Development Department – Planning Division, and the Public Works Department – Special Districts and Transportation Divisions prior to the issuance of the first Building Permit.

Prior to Certificate of Occupancy

SD11. (CO) **If a median is required to be constructed then**, this project is conditioned to provide a funding source for the capital improvements and/or maintenance for the Fir Ave. (Future Eucalyptus 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 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 90 days prior to their issuance and the financial option selected to fund the continued maintenance.

SD12. (CO) 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.

SD13. (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.

SD14. (CO) **If a median is required to be constructed then**, all parkway and/or median landscaping specified in the tentative map or in these Conditions of Approval shall be constructed prior to the issuance of the Certificate of Occupancy/Building Final for this project.

SD15. (CO) Prior to the issuance of the first Certificate of Occupancy or building final for this project, the developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. The developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C program. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate at the time of payment and as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

## **PUBLIC WORKS DEPARTMENT – TRANSPORTATION ENGINEERING DIVISION**

### **GENERAL CONDITIONS**

**TE1. Future Eucalyptus Avenue is classified as an Arterial (100’RW/76’CC) per City Standard Plan No. 104A. Any modifications or improvements undertaken by this project shall be consistent with the City’s standards for this facility. Sidewalk shall be curb separated. The project shall construct pavement improvements from the eastern property boundary to Redlands Boulevard consistent with Land Development Condition LD76b.**

**TE2. Future Collector Street is classified as an Industrial Collector (78’RW/56’CC) per City Standard Plan No. 106. Any modifications or improvements undertaken by this project shall be consistent with the City’s standards for this facility.**

Prior to Grading Permit

**TE3. (GP) Prior to issuance of a grading permit, the project applicant shall submit conceptual striping plans for street improvements along Eucalyptus Avenue as well as Redlands Boulevard.**

Prior to Improvement Plan Approval or Construction Permit

TE4. 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.

TE5. 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.

TE6. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic engineer shall be required.

TE7. Sight distance at driveways and on streets shall conform to City Standard Plan No. 125 A, B, and C at the time of preparation of final grading, landscape, and street improvements.

TE8. Prior to final approval of the street improvement plans, interim and ultimate alignment studies shall be approved by the City Traffic Engineer.

**TE9. Prior to the final approval of the street improvement plans, the project applicant shall prepare traffic signal design plans for the following intersections:**

- **Redlands Boulevard/SR-60 Westbound Ramp (The City has an approved design and Caltrans permit for this intersection. The applicant shall utilize the City design for construction.)**
- **Redlands Boulevard/Future Eucalyptus Avenue**

**TE10. Prior to the final approval of the street improvement plans, the project applicant shall design a southbound auxiliary lane (additional southbound lane) from the SR-60 Eastbound Ramp to Future Eucalyptus Avenue. The minimum width of the auxiliary lane shall be 16'.**

**TE11. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Redlands Boulevard and Eucalyptus Avenue to provide the following geometrics:**

**Northbound: One left turn lane, one through lane  
Southbound: One through lane, one right turn lane  
Eastbound: One left turn lane, one right turn lane  
Westbound: N/A**

**NOTE: All curb return radii shall be 50 feet.**

**TE12. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Redlands Boulevard and SR-60 Eastbound Ramp to provide the following geometrics:**

**Northbound: One left turn lane, one through lane  
Southbound: One shared through/right turn lane  
Eastbound: One left turn lane, one right turn lane  
Westbound: N/A**

**NOTE: All curb return radii shall be 50 feet.**

**TE13. Prior to final approval of the street improvement plans, the project applicant shall design the intersection of Redlands Boulevard and SR-60 Westbound Ramp to provide the following geometrics:**

**Northbound: One left turn lane, one through lane, one right turn lane  
Southbound: One left turn lane, one shared through/right turn lane  
Eastbound: One shared left turn/through/right turn lane  
Westbound: One shared left turn/through/right turn lane**

**NOTE: The City has an approved design and Caltrans permit for these improvements. The applicant shall utilize the City design for construction.**

**TE14. Prior to issuance of a construction permit, the project applicant shall pay to the City all applicable “Fair Share” impact fees per the findings of the Environmental Impact Report.**

Prior to Certificated of Occupancy or Building Final

**TE15. (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.**

**TE16. (CO) Each gated entrance from a public street will be provided with the following, or as approved by the City Engineer:**

- A. A storage lane with length sufficient to support the queuing predicted by the traffic study (minimum of 75 feet).
- B. Signing and striping at the gate, including no parking signs.
- C. A separate pedestrian entry, if pedestrian access is necessary.
- D. Presence loop detectors (or another device) within 1 or 2 feet of the gates that ensures that the gates remain open while any vehicle is in the queue.

All of these features must be kept in working order.

**TE17. (CO) Prior to issuance of a certificate of occupancy, the project applicant shall construct the intersection/roadway improvements identified in TE9, TE10, TE11, TE12, and TE13 per the approved plans.**

**Prior to Acceptance of Streets Into The City-maintained Road System**

TE18. 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 UTILITY

**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 PA08-0097. 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" 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).

## **PARKS AND COMMUNITY SERVICES DEPARTMENT**

### **Acknowledgement of Conditions**

The following items are Parks and Community Services Department Conditions of Approval for project PA08-0097. This project shall be completed at no cost to any Government Agency. All questions regarding Parks and Community Services Department Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Parks and Community Services Department 951.413.3280. The applicant is fully responsible for communicating with the Parks and Community Services Department project manager regarding the conditions.

**PCS1.** A multi-use trail shall be designated for PA08-0097/98. The trail shall be 11' wide, located along the north side of Eucalyptus Avenue (Fir Ave.). The trail requires a crossing over Quincy Street on the north side of Eucalyptus Avenue. The trail shall be designed similar to the Highland Fairview project east of Redlands Blvd. The trail shall be dedicated as an easement to the CSD. Additionally, a multi-use trail shall be located along the west side of Quincy Channel.

If the applicant's property includes this area, the applicant shall install the trail. The trail shall match the trail on Quincy Street, south of Cottonwood Avenue. This trail is approximately 14' wide, plus another 2' concrete step out from adjoining street (or parking lot). The applicant shall coordinate this trail with RCFC. The trail shall be dedicated as an easement to the CSD.

On November 19, 2008, the Trail Board recommended that the trail be located to the north side of Eucalyptus Avenue, being consistent with the Highland Fairview project.

### **Standard Trail Conditions**

#### **PCS2. Parks and Community Services Department**

- a. Trail construction shall adhere to: The City's Standard Plans, 'The Greenbook Standard Specifications for Public Works Construction', 'California Code of Regulations Title 24' (where applicable), and the Park and Community Services Specification Guide.
- b. The General Contractor shall be a State of California Class 'A' General Engineering Contractor, per the Business and Professions Code Section 7056, or a combination of State of California Class 'C' licenses for which the work is being performed. Licenses must be current and in good standing, for the duration of the project.

- c. All utility easements shall not interfere with the trail or its fencing. A map of all easements and the corresponding easement rights shall be presented to Parks and Community Services prior to scheduling the Tentative Map for approval.
- d. (R) A restriction shall be placed on lots that are adjacent to the trail, preventing openings or gates accessing the trail. This shall be done through Covenants, Conditions, and Restrictions (CC&R's). A copy of the CC&R's with this/her restriction noted shall be submitted and approved by the Director of Parks and Community Services or his/her designee prior to the recordation of the Final Map.
- e. Trails shall not be shared with any above ground utilities, blocking total width access.
- f. The following plans require Parks and Community Services written approval: Tentative tract/parcel maps; rough grading plans (including all Delta changes); Final Map; precise grading plans; street improvement plans; traffic signal plans; fence and wall plans; landscape plans for areas adjacent to trails; trail improvement plans.
- g. (GP) A detailed rough grading plan with profile for the trail shall be submitted and approved by the Director of Parks and Community Services or his/her designee prior to the issuance of grading permits.
- h. Grading certification and compaction tests are required, prior to any improvements being installed.
- i. A minimum two-foot graded bench is required where trails adjoin landscaped or open space areas.
- j. (R) Prior to the approval of the Final Map, a detailed map of the trail and areas adjacent to the trail shall be submitted to the Director of Parks and Community Services or his/her designee prior for review and written approval.
- k. (R) All necessary documents to convey to the City and/or the Community Services District any required dedications for parks or open space, as specified on the tentative map or in these Conditions of Approval shall be submitted by the developer to Parks and Community Services, prior to the recordation of the final map.
- l. (R) Prior to recordation of the Final Map, the developer shall post security (bonds) to guarantee construction of the trail to the City's standards. Copies of the bonds shall be provided to Parks and Community Services, prior to the approval of the Final Map.
- m. (BP) Prior to the issuance of the first Building Permit, final improvement plans (mylars and AutoCAD & PDF file on a CD-ROM) shall be reviewed and approved by the Community Development Department – Planning Division; the Public Works Department – Land Development and Transportation Division; Fire Prevention; and Parks and Community Services Department. Landscaped areas adjacent to the park shall be designed to prevent water on the park.

- n. Eight sets of complete trail improvement plans shall be submitted to Parks and Community Services for routing. Adjacent landscaping and walls shall be shown on the plans. Final construction plans and details require wet stamped and signed Mylars, eight sets of bond copies and one Mylar copy from the City signed mylars, the AutoCAD file on CD, and a PDF file on CD. As-builts for the trails have the same requirements as final plan submittals.
- o. All street crossings shall be signed with approved 'STOP' signs, trail signs, and posts. All improved equestrian trail crossings at signalized intersections that are constructed at their ultimate locations shall have high mounted push buttons. These shall be coordinated through the Transportation Division.
- p. CSD Zone 'A' plan check fees shall be paid prior to the second plan check.
- q. CSD Zone 'A' inspection fees shall be paid prior to signing of Mylars.
- r. (BP) The trail shall be surveyed and staked by the developer. The trail shall be inspected and approved by the Director of Parks and Community Services or his/her designee prior to the issuance of any building permits for production units.
- s. Any damage to trails or fencing during construction shall be repaired by the developer and inspected by the Director of Parks and Community Services or his/her designee; prior to the last phase of building permit issuance.
- t. A minimum 38' radius shall be incorporated on all trails where a change of direction occurs (minor or major). Additionally, widening of the trail is necessary in most situations. This is only necessary where trails share Fire Prevention access.
- u. Drive approaches shall adhere to City Std. Plan #118C.
- v. Concrete access areas to trails with decomposed granite surfaces shall be rough finished concrete (typically raked finish). The access shall extend to the main trail flat surface.
- w. (BP) In order to prevent the delay of building permit issuance, any deviation from trail fencing materials or trail surface materials shall be submitted to Director of Parks and Community Services or his/her designee and approved in writing 60-days prior to the commencement of trail construction.
- x. Any unauthorized deviation from the approved plan, specifications, City Standard Plans, or Conditions of Approval may result in the delay of building permit issuance and/or building Finals/ Certificate of Occupancy of the project conditioned for improvements.
- y. Where required, decorative solid-grouted block wall (no precision block, stucco, veneer finishes, PVC, or wood fencing) with a minimum height of 72" on the trailside shall be installed along lots that adjoin the trail. Block walls shall be located solely on private property. If landscaping is to be utilized between the block wall and the trail, a PVC fence shall be installed along the trail separating the landscaping from the trail (where required). All block walls that have public view shall have an anti-graffiti coating per Parks and Community Services specifications. Combination block/tubular steel fences shall only be utilized where approved by Parks and Community Services. Tubular steel shall comply with Parks and Community Services standards. Coating for tubular steel shall be anti-graffiti coating for metal per Parks and

Community Services specifications. If alternate products are requested, the requested material(s) shall be presented to the Director of Parks and Community Services or his/her designee for review and approval. Under no circumstances can alternate products be utilized without prior written authorization from the Director of Parks and Community Services or his/her designee.

- z. Any damage to existing landscape or hardscape areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the City or Community Services District.
- aa. All inspections shall be requested two (2) working days in advance from the Parks and Community Services Department at the time of rough and precise grading; fence and gate installation; curb and drainage; flatwork; D.G. installation; graffiti coating; and final inspection.
- bb. (BP) Trail construction in single family developments shall commence prior to 30% of total building permit issuance. Trail completion and acceptance (single family developments) for maintenance shall be completed prior to 70% of total building permit issuance.
- cc. (CO) Trail construction in multi-family or commercial developments shall commence with the rough grading. Trail completion and acceptance for maintenance shall be completed prior to the issuance of 50% of the total certificates-of-occupancy (for multi-family and/or commercial developments).

**POLICE DEPARTMENT**

**Note: All Special conditions are in bold lettering.** All other conditions are standard to all or most development projects

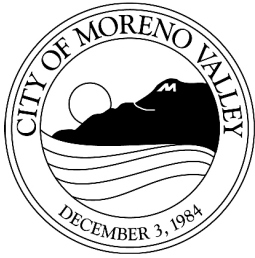
**Standard Conditions**

- 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 & Economic Development Department - Building Division for routing to the Police Department. (MC 9.08.080)

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**PLANNING COMMISSION  
STAFF REPORT**

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Case: PA08-0098 – Zone Change  
PA10-0017 – Municipal Code Amendment  
PA08-0097 – Plot Plan  
PA09-0022 – Tentative Parcel Map No. 36207  
P08-133 – Environmental Impact Report

Date: May 12, 2011

Applicant: Ridge Rancho Belago LLC

Representative: Dennis Rice

Location: South side of State Route 60, on the north side of Eucalyptus Avenue and approximately 650 feet west of Redlands Boulevard

Proposal: Plot Plan for a 937,260 square foot warehouse facility on 55 acres; a Zone Change from Business Park to Light Industrial; Tentative Parcel Map No. 36207 to create a single parcel; and a Municipal Code amendment to Chapter 9.05 Industrial Districts to provide a minimum separation or buffering of warehouse/industrial facilities over 50,000 square feet from adjacent residential districts. An Environmental Impact Report has been prepared for the proposal.

Redevelopment Area: No

Recommendation: Approval

**SUMMARY**

This project proposes the development of a 937,260 square foot warehouse facility on 55 acres. The project requires approval of a tentative parcel map, Zone Change and a Municipal Code Amendment, and certification of a Final EIR.

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### PROJECT DESCRIPTION

The applicant, Ridge Rancho Belago, LLC, has submitted five applications for development of the West Ridge Commerce Center Project, which include a Zone Change, a Municipal Code Amendment, a Plot Plan, a Tentative Parcel Map, and an Environmental Impact Report, in order to develop a 937,260 square foot warehouse facility on a 55-acre site (Assessor's Parcel Numbers 488-330-003 through -006 and -026) located on south side of the Moreno Valley Freeway, on the north side of Fir Avenue/Future Eucalyptus Avenue and approximately 650 feet west of Redlands Boulevard.

#### Zone Change

The project site is currently zoned Business Park (BP) with a Business Park (BP) General Plan land use designation. The Business Park zone limits warehouse buildings to no more than 50,000 square feet. A Zone Change to Light Industrial (LI) is required to allow the larger building proposed by the project. Both the BP and LI zones are compatible with the BP General Plan land use designation.

Land uses to the west include a mix of BP and various residential zones and to east properties are zoned Community Commercial and Light Industrial. Land uses to the south across future Eucalyptus are Residential 2 (Residential – up to 2 units per acre). In other portions of the City, the BP zone provides a buffer between the LI zone and residential zones. In providing for this separation or buffering for the proposed project, a new standard within Chapter 9.05 Industrial Districts of Title 9 and is presented as Municipal Code Amendment in the following section.

#### Municipal Code Amendment

Buffering of the proposed warehouse/industrial development from the residentially zoned properties to the south was a concern raised and reviewed for the project. Future Eucalyptus Avenue will separate the proposed project from the residentially zoned properties to the south. There is an existing single family residence immediately to the south of the project site, this residence and the vacant residential property to the south have been reviewed as sensitive receptors.

In order to provide greater compatibility between current and proposed land uses, the air quality study included in the project Environmental Impact Report (EIR) proposes a buffer zone of approximately 250 feet from the project's truck court to the residential zone to the south (centerline of Fir Avenue/Future Eucalyptus Avenue).

The Municipal Code currently identifies the Business Park (BP) district as the zone to “provide a transition between residential and other sensitive uses and more intense industrial and warehousing uses”.

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Application PA10-0017 for a Municipal Code Amendment proposes to add a standard to the Light Industrial zone that would require industrial and warehouse structures greater than 50,000 square feet in building area to be separated from any Residential district as determined by an air quality and noise impact analysis. The minimum separation distance for such uses shall be 250 feet between the Residential district and the building, truck court or loading area.

If approved, the proposed amendment would be effective City-wide.

Please see Exhibit E to Planning Commission Resolution No. 2011-13 for a copy of the proposed revisions to Chapter 9.05 Industrial Districts of Title 9.

Plot Plan

The Plot Plan is for a 937,260 square foot warehouse distribution facility, to be located on 55 acres located south of the Moreno Valley Freeway and approximately 650 east of Redlands Boulevard. The warehouse facility is a permitted use in the existing Business Park zone and also permitted in the proposed Light Industrial zone. The building is set back 435 from the centerline of Fir/Future Eucalyptus Street while the adjacent truck court is set back 250 from the centerline of Fir/Future Eucalyptus Street.

The warehouse facility includes 173 loading docks with roll-up doors, truck staging and parking areas for 175 trailers within the enclosed truck court, two office areas and 307 parking spaces for employees and visitors. Proposed parking exceeds the City's requirements for truck and employee/visitor parking for a warehouse use.

The loading and truck parking areas have been placed on the northern and southern elevations and are screened by perimeter concrete tilt-up walls with slopes with a tree row also required along the State Route 60 frontage. The lettered lot at the northeast corner of the site will be planted with groundcover and maintained by the applicant/developer until the property is transferred to Caltrans for future development of the reconfigured Redlands Boulevard offramp.

The project has been conditioned to provide standard parking lot and setback landscape to include ground cover shrubs and trees. Two on-site detention/water quality basins will be extensively landscaped. The project's Fir Avenue/Future Eucalyptus Avenue frontage will be developed with curb, gutter, parkway, sidewalk and a segment of multi-use trail.

Tentative Parcel Map

Tentative Parcel Map No. 36207 is proposed to combine the five parcels located within the project site into a single 55 acre parcel with lettered lots to convey property to Caltrans for future development of a new off-ramp and to Riverside County Flood Control for maintenance of a portion of the adjacent Quincy Channel.

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#### **Site**

The project site is comprised of vacant land that is mostly level and at grade with Fir Avenue/Future Eucalyptus Avenue and at or below grade of adjacent State Route 60. There are no trees, rock outcroppings or existing structures located within the limits of the project site. The project site includes a portion of the Quincy Channel which includes some riparian vegetation.

#### **Surrounding Area**

The project is located in an area that includes a mix of business park, office, commercial, residential and agricultural uses. Developed land within proximity to the project site includes citrus groves, the Moreno Valley Auto Mall and Moreno Beach Plaza (Walmart) center to the west at Moreno Beach Drive, the 1.8 million square foot Highland Fairview Business Park (Skechers) warehouse facility under construction to the east between Redlands and Theodore and large lot subdivisions approximately 1/4 mile to the south in the RA-2 zone. Developed uses to the north on the other side of State Route 60 include an RV storage site, a telecommunications antenna, a residence and a feed store.

The vacant 120 acre site to the west is currently proposed for development of a 2.2 million square foot industrial park by ProLogis, The site for this neighboring project is currently zoned Business Park, Business Park Mixed Use, R15, R5, and RA-2. That applicant is proposing a General Plan Amendment and Zone Change from existing zoning to Light Industrial.

#### **Access**

The project site will be accessed directly from Fir Avenue/Future Eucalyptus Avenue via Redlands Boulevard and State Route 60. This portion of Fir Avenue/Future Eucalyptus Avenue would be constructed by the applicant/developer as a condition of the project.

The driveways and interior drive aisles associated with the project 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.

#### **Design**

Site design of the proposed warehouse distribution facility is consistent with requirements of the City's Municipal Code.

The architectural design of the building is a concrete tilt-up construction. 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.

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Staff worked with the applicant to ensure that all sides of the building include architectural treatment. The loading bays and trailer storage areas along the northern and southern elevations have been screened from view. The screen wall along the south elevation is a fourteen (14) foot wall of concrete tilt-up construction which will match the building design and colors.

Landscaping for the site is proposed at around 13% of the site area including the water quality/detention basins. The City's Municipal Code does not require a minimum percentage 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.

Signs are not a part of this approval and will be reviewed and approved under separate administrative permit.

**REVIEW PROCESS**

In the review of this project, consideration was given to the potential impact to surrounding land uses by the proposed Zone Change and Municipal Code Amendment as well as the Plot Plan for the warehouse facility.

Upon review at PRSC on November 19, 2008, modifications were required to the site plan. Comments from staff included revisions to the layout of the parking lot, access from adjacent roads, screening, architecture, typical street sections, grading and the submittal of required technical studies.

Subsequent PRSC reviews occurred in May and September 2009, and April, August and November 2010. Upon review of a final draft of the site plan and completion of the Final Environmental Impact Report, a determination was made to schedule this project for a Planning Commission public hearing on May 12, 2011.

The applicant held a community meeting on February 27, 2008, to present the project to neighboring property owners. There were approximately 30 people in attendance. Concerns raised at the meeting were related to the proposed land use changes, traffic, noise, light and glare, aesthetics, quality of life, impacts to property values, air quality, crime, and storm runoff.

**ENVIRONMENTAL**

Initial Study/Notice of Preparation

An Initial Study was completed after all discretionary applications were deemed complete. Based on the information within the Initial Study, an Environmental Impact Report (EIR) was recommended to be prepared. A Notice of Preparation for the EIR was issued on October 1, 2009, with the public comment period beginning on October 5, 2009 and ending on November 3, 2009. A public meeting to receive input on the issues to be covered by the EIR was held at City Hall on October 28, 2009.

Draft Environmental Impact Report

Subsequent to that meeting, draft environmental documents were prepared by the applicant's consultant Applied Planning and submitted to the City and its peer consultant for review.

City staff and the peer review consultant reviewed the draft environmental documents for compliance with the California Environmental Quality Act (CEQA) Guidelines and required revisions to address identified questions and concerns. After revisions were incorporated into the document, the Draft EIR was circulated for a 45-day public review period, starting on October 22, 2010, and ending on December 6, 2010. A public information meeting was held during the comment period on December 2, 2010

The Draft EIR was sent to all required State and local agencies and numerous interested parties on October 18, 2010, as well as to the City's Environmental and Historical Preservation Board. Twenty-four comment letters were provided during the 45-day review period. An additional two letters were received after the end of the review period.

Final Environmental Impact Report

Responses to the twenty-four comments received during the 45 day review period are included in the Response to Comments. Comment letters were received on December 10, 2010, from the South Coast Air Quality Management District and from a resident, Tom Hyatt. Due to the lateness of the letters, they were not included in the Response to Comments and instead have been addressed in a separate attachment to this staff report.

The Response to Comments and related documents were mailed to all interested parties and responsible agencies on April 28, 2011, to allow for their review prior to Planning Commission hearing, in excess of the minimum notice period of 10 days required by CEQA. As was the case with the Draft EIR, the draft Final EIR was provided for public review at City Hall, the City Library and posted on the City's website.

Significant and Unavoidable Impacts

Analysis presented in the EIR indicates that the proposed project will have a number of potentially significant impacts, either as direct result of the proposed project or cumulatively with other proposed projects on traffic and circulation, air quality, noise, and aesthetics. The EIR includes a number of proposed mitigation measures to reduce or eliminate potential significant impacts. Even with proposed mitigation, a number of potential impacts cannot be reduced to a less than significant level. As identified in the document, these noted impacts above are considered to be significant and unavoidable.

Although impacts to traffic and circulation, air quality, noise, and aesthetics cannot be reduced to less than significant levels, CEQA allows a decision making body to consider a statement of overriding considerations and findings. CEQA requires the decision making agency to balance the economic, legal, social, technological or other benefits of a proposed project against its unavoidable environmental impacts when determining whether to approve the proposed project. This would include project benefits such as the creation of jobs or other beneficial project features versus project impacts that cannot be mitigated to less than significant levels. If the decision making body determines that the benefits of a proposed project outweigh the unavoidable adverse environmental effects, it may approve a statement of overriding considerations and approve the project.

Mitigation Measures

The EIR includes mitigation measures intended to reduce project-specific and cumulative impacts for Traffic and Circulation, Air Quality/Greenhouse Gas Emissions, Noise, Water Supply, Cultural Resources, and Biological Resources. All other environmental effects evaluated in the EIR are considered to be less than significant, or can be adequately mitigated below significant thresholds.

Mitigation measures are included to reduce the environmental impacts where possible, even where the impacts could not be reduced to less than significant levels. All mitigation measures have also been included as conditions of approval for the project.

Approval and Certification

The Planning Commission will take public testimony on the EIR and project and forward a recommendation to City Council. Before the proposed project can be acted upon, the City Council will need to review the final environmental document, receive public testimony and either certify or reject the EIR and project Mitigation Monitoring Program.

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Municipal Code Amendment

Although the proposed Municipal Code Amendment will be effective Citywide, it is considered a minor alteration to land use limitations which qualifies as exempt under California Environmental Quality Act Guidelines, per Section 15305, as a Class 5 Categorical Exemption.

**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. As of the date of report preparation, staff had received no public inquiries in response to the noticing for this project.

**REVIEW AGENCY COMMENTS**

Staff received the following responses to the Project Review Staff Committee transmittal; which was sent to all responsible reviewing agencies.

<b><u>Agency</u></b>	<b><u>Response Date</u></b>	<b><u>Comments</u></b>
Southern California Edison	October 27, 2008	No Issues
Riverside County Flood Control	December 1, 2008	District Master Plan Facilities

Conditions of approval have been included to address concerns from the responding agencies.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission adopt Resolution No. 2011-13 and thereby recommend that the City Council take the following actions:

1. **APPROVE AND CERTIFY** that the Environmental Impact Report (EIR) for the West Ridge Commerce Center Project (Exhibit A) has been completed in compliance with the California Environmental Quality Act; and
2. **APPROVE** Zone Change PA08-0097 for 55 acres from Business Park (BP) to Light Industrial (LI) as shown on Exhibit B;
3. **APPROVE** Municipal Code Amendment PA10-0017 to provide for setbacks and buffering of warehouse/industrial building from adjacent residential zones as shown on Exhibit C;
4. **APPROVE** PA08-0097 (Plot Plan), subject to the attached conditions of approval included as Exhibit D; and



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5. **APPROVE** PA09-0022 (Tentative Parcel Map No. 36207), subject to the attached conditions of approval included as Exhibit E.

Prepared by:

Approved by:

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Jeff Bradshaw  
Associate Planner

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John C. Terrell, AICP  
Planning Official

**ATTACHMENTS:**

1. Public Hearing Notice
2. Planning Commission Resolution No. 2011-13  
Exhibit A - Final Environmental Impact Report  
Exhibit B – Zone Change Map  
Exhibit C – Municipal Code Amendment  
Exhibit D – Plot Plan Conditions of Approval  
Exhibit E – Parcel Map Conditions of Approval
3. Site Plan
4. Elevations
5. Color Rendering
6. Cross Sections – Line of Sight
7. Preliminary Landscape Plan
8. Tentative Parcel Map 36207
9. Aerial Photograph
10. Response to SCAQMD comments
11. Response to Tom Hyatt comments

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1   **3. Case Number:**       **P08-133**           **Environmental Impact Report**  
2                               **PA08-0097**           **Plot Plan**  
3                               **PA08-0098**           **Zone Change**  
4                               **PA09-0022**           **Tentative Parcel Map No. 36207**  
5                               **PA10-0017**           **Municipal Code Amendment**

6  
7           **Case Planner:**       **Jeff Bradshaw**  
8  
9

10  
11   **ASSOCIATE PLANNER BRADSHAW** – Thank you. Good evening Vice Chair  
12 Baker and members of the Planning Commission. My name is Jeff Bradshaw.  
13 I’m an Associate Planner with the Planning Division. The item before you this  
14 evening is proposed by the Applicant; Ridge Rancho Belago. They have  
15 submitted five applications as part of this proposal. They include a Zone  
16 Change, a Municipal Code Amendment, Plot Plan, Tentative Parcel Map and an  
17 Environmental Impact Report and those applications are all part of a proposal to  
18 develop a 937,260 square foot warehouse distribution facility on a 55 acre site.  
19 This is located in the east part of Moreno Valley on the south side of the Moreno  
20 Valley Freeway, on the north side of Fir or future Eucalyptus Avenue and about  
21 650 feet west of Redlands Boulevard. I am going to try to present the information  
22 to you as succinctly as I can. This is a fairly large project and somewhat  
23 complicated project so I hope you’ll bear with me as I present the information and  
24 I want to make sure it is clear to you; both the Commission and the public.  
25

26 Starting with the Zone Change, the project is currently zoned Business Park or  
27 BP. The General Plan designation for this site is consistent with that. It also has  
28 a Business Park General Plan designation. One of the standards of the  
29 Business Park zone is the limitation that it places on warehouse structures that  
30 are developed within that zone and there is a limit on individual structures being  
31 no larger than 50,000 square feet. The Zone Changes proposed in this case to  
32 allow for the building that is being proposed; a single structure that would exceed  
33 that limitation, so the change proposed is to go from Business Park to Light  
34 Industrial Zone and that will allow for the larger building. It is important to note  
35 that both the present Business Park Zone as well as the proposed Light Industrial  
36 Zone are both consistent with the underlying General Plan designation that is  
37 there on that site.  
38

39 The Municipal Code Amendment that is proposed and if I could provide just a  
40 little background on that proposal...Under the current... one of the current  
41 standards again under the Business Park Zone is this concept that that district  
42 would act as a buffer or transition area between Business Park development and  
43 adjacent residential zoning and other sensitive land uses. Even though this site  
44 would be separated from property to the south by Eucalyptus Avenue, it is still in  
45 its present location located in proximity to residential zoning and so what is  
46 proposed by the applicant is to establish in addition to the Business Park

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1 separation concept; to establish an alternative or another way of buffering  
2 sensitive land use from these larger warehouse sites and so the proposal is a  
3 new standard or change to Chapter 9.05 of Title 9, the Industrial District Section  
4 and the concept is to add a requirement within the Light Industrial Zone that  
5 would require warehouse structures that are larger than 50,000 square feet be  
6 separated from any adjacent residential zoning by a minimum separation  
7 distance of 250 feet and that would be between the residential district boundary  
8 and any warehouse building or truck court loading area and that is a minimum. At  
9 the same time the language also suggests that that separation or buffering  
10 distance be determined by the results of Air Quality and Noise Impact Studies, so  
11 while 250 feet might be the minimum, we might have a project where the studies  
12 may actually ask for more than that and so the accompanied Municipal Code  
13 Amendment offers another way for development to occur in close proximity or  
14 adjacent to residential zoning. And for reference purposes the revised language  
15 that is being proposed to that section is attached to Planning Commission  
16 Resolution 2011-13 and that is included as Exhibit E for reference.

17  
18 With regards to the development of the building, the structure that is proposed  
19 again is 937,260 square feet. The construction type that is being proposed is  
20 concrete tilt-up with architectural treatments on all four sides of the building. The  
21 colors for the building and the perimeter walls are earth tones with varying  
22 amounts of accent colors and vertical features to help break up the architecture.  
23 The facility as designed provides parking for both the trucks and for the  
24 employees and visitors to the site. There are 173 loading dock doors. This  
25 facility and the project as designed exceeds the City's requirements for parking  
26 for trucks, employees and visitors. The loading and truck areas would be  
27 screened from view from offsite. The truck court is enclosed by 14 foot tall  
28 perimeter concrete tilt-up walls that would screen the loading activities on both  
29 the north and south sides of the building. In addition to that, the activity there is  
30 screened by slopes and a tree row that also has been conditioned and required  
31 of the project along the State Route 60 frontage of the property. You might have  
32 noted on the Site Plan there is some area at the northeast corner of the property  
33 that extends out into what would be future Cal Trans right-of-way and that area  
34 will be maintained by the Applicant with some interim landscape until such time  
35 that the property convey to Cal Trans for development of future off-ramp  
36 improvements at Redlands Boulevard. As noted on the Site Plan the project has  
37 been conditioned and designed to accommodate required landscaping for the  
38 parking lot, the project's perimeter, the water quality basins and retention basins  
39 that are on site. All those areas will be landscaped to be consistent with the City  
40 standards. The future Eucalyptus Avenue frontage will include parkway, a  
41 sidewalk and there is also a segment of multi-use trail that will be built by the  
42 developer to satisfy City General Plan requirements.

43  
44 I also wanted to point out some of the obligations that the Applicant has or the  
45 developer rather for street improvements associated with this project. They are  
46 required to construct at the Eucalyptus Avenue frontage across their site and that

1 improvement actually extends from their property eastward to Redlands  
2 Boulevard. They would be responsible for constructing Street A which is along  
3 the eastern property line of the project to a half-width. They are responsible for  
4 traffic signal improvements at Redlands Boulevard at the westbound off-ramp as  
5 well as at the intersection of Redlands and Eucalyptus Avenue. They will also be  
6 responsible for constructing an additional southbound lane on Redlands  
7 Boulevard that extends from the eastbound off-ramp down to Eucalyptus and  
8 finally they are also required to work with the City to construct turning lanes at a  
9 number of intersections there at Redlands Boulevard and the on and off ramps at  
10 the 60 freeway, so all of those are required of the project and must occur before  
11 occupancy permits are allowed for the building.

12  
13 The project site is comprised of multiple parcels and so there is a Parcel Map  
14 that accompanies this development. The intent of that map would be to combine  
15 the five parcels into a single usable parcel so they can develop the 55 acres. It  
16 would also allow for the opportunity to convey property to both Cal Trans in the  
17 future for off-ramp improvements as well as the Riverside County Flood Control  
18 District to complete storm drain or channel improvements in the Quincy Channel  
19 along the western property line.

20  
21 I want to provide just some background on the Environmental that is required for  
22 this project because of the scale and size of this project and the potential impacts  
23 that would result from its construction. An Environmental Impact Report was  
24 required for this project and going back to when this project was submitted, Staff  
25 had the opportunity to work with an Environmental Consultant to prepare an  
26 Initial Study Check List and out of that Check List it was determined that there  
27 were some CEQA categories that needed to be examined further. There was a  
28 Notice of Preparation of an EIR that was circulated in October of 2009. The  
29 result of that was the City was able to receive responses from various  
30 responsible agencies and members of the community. Here they identified  
31 concerns that they had with that document. And were able to hold a public  
32 meeting in October of 2009 for their input. That information was used in the  
33 preparation of a draft document that was prepared and routed to Staff and to a  
34 third party; a peer review consultant that was hired by the City to assist in the  
35 review of that document and over the course of the next year we worked with the  
36 consultant in the preparation of that document. When that document was  
37 complete and ready, it was made available; the draft of that document was made  
38 available to the public for comment and that was a period that began in October  
39 of 2010 and ended on December 6<sup>th</sup>, 2010.

40  
41 Again as part of that process we held another community meeting and were able  
42 to receive comments from the community as well as other responsible agencies  
43 about that document. Following that response period City Staff worked with the  
44 consultant to prepare responses to those comments and was able to complete  
45 the final EIR and make the response to comments available and distribute those  
46 in April of this year.

1 The Staff Report when it was circulated to you included both the draft document  
2 as well as the response to comments and hopefully you had an opportunity to be  
3 able to review that information. Another effort the City made to be able to put the  
4 information out and have it available for the public was placing it online on the  
5 City's website for access as well as making it available in a hardcopy format at  
6 both the City and at the library. Again as we examined the project, there were a  
7 number of categories that were identified as having the potential for having  
8 impacts and through the review of the project it was determined that mitigation  
9 measures were required in some instances. Those have been introduced in the  
10 document and are included to help reduce impacts where possible. There are  
11 categories or instances where the impacts were not reduced to less than  
12 significant levels but in all instances mitigation measures have been applied and  
13 the impacts reduced to the extent possible.

14  
15 The EIR did include mitigation measures for the following categories and the  
16 intent again to reduce impacts and those are for traffic and circulation, air quality,  
17 greenhouse gas emissions, noise, water supply, cultural resources and biological  
18 resources as well. The analysis in the EIR indicated that the project would have  
19 a number of potentially significant impacts and again in some of those categories  
20 and those include traffic circulation, air quality, noise and aesthetics. The EIR  
21 identifies mitigation measures to help reduce those, but even with mitigation the  
22 categories that I just listed do result in some impacts that can't be reduced to a  
23 less than significant level. The California Environmental Quality Act does allow  
24 for the decision body which would be the City Council to ultimately consider in  
25 instances like this a Statement of Overriding Consideration and make findings in  
26 response to that situation and if the decision making body were to determine that  
27 the benefits of the project outweigh the adverse environmental effects, it could  
28 approve the project with a Statement of Overriding Consideration.

29  
30 The project presented this evening; standard notification was completed for this  
31 project. A Display notice was published in the newspaper; the site was posted as  
32 well as notices being sent to all property owners within 300 feet of the property  
33 and of this evening I had received 6 comment letters connected to this evening's  
34 public hearing and this would be in addition to any comments that were provided  
35 through the review of the environmental document. I believe copies of that  
36 correspondence was provided to you and there should be copies on the dais and  
37 those were letters that were submitted to us from the Sierra Club; from South  
38 Coast Air Quality Management District; from Johnson and Sedlack which is an  
39 Attorney that represents some residents here in town; some organizations and  
40 then also from an individual named Paul Claxton and so all that information has  
41 been made available for you.

42  
43 Additionally there was a memo prepared this evening. It is the yellow  
44 correspondence that you have and the intent of that memo is to identify some  
45 corrections that Staff noted that needed to be made to the Resolution and was  
46 one of those was a correction to some text that shouldn't have been in the

1 Resolution; it was an oversight. It was text from another project that needed to  
2 be deleted and the other was some additional language that we felt made your  
3 action this evening, if you choose to approve the project or recommend approval  
4 rather, to make that action more complete. I believe that Transportation had one  
5 correction that they were going to suggest to the Conditions of Approval, so I'll  
6 give some time to Michael Lloyd from Transportation.

7  
8 **TRANSPORTATION ENGINEER LLOYD** – Good evening Commissioners, this  
9 is Michael Lloyd with Transportation Engineering. I'd like to provide some  
10 clarification on Condition TE10. The condition was intended for Redlands  
11 Boulevard and the way it was worded initially wasn't clear, so I'd like to amend  
12 the condition such that it would read "prior to the final approval of the street  
13 improvement plans, the project applicant shall design a southbound auxiliary  
14 lane, additional southbound lane on Redlands Boulevard from the State Route 60  
15 eastbound ramp to future Eucalyptus Avenue. The minimum width of the  
16 auxiliary lane shall be 16 feet". Thank you.

17  
18 **PLANNING OFFICIAL TERELL** – Yeah and with that I believe that the  
19 Community and Economic Development Director wanted to follow-up on Jeff's  
20 report.

21  
22 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** –  
23 Thank you. I'm Barry Foster. I'm the Community and Economic Development  
24 Director. I just wanted to offer up some ideas from an economic development  
25 standpoint and offer my support for this project. I hope that you got a copy; I  
26 actually gave out a table. Did you all get a copy of that? I hope you are aware  
27 that a couple of weeks ago the City Council actually approved an Economic  
28 Development Action Plan and with that Action plan we're looking at accelerating  
29 and doing a number of different things in the next two years to really help with  
30 development in the community, but most importantly we are looking to increase  
31 employment opportunities; create jobs in this community. We think that the  
32 driving force in improving the economy in Moreno Valley is to help with the job  
33 market; is to address the fact that we've got a 16.2 percent unemployment rate.

34  
35 A lot of our residents that do have employment have to leave the community for  
36 work. I think in the past couple of years, we've done a fairly good job of creating  
37 jobs. We've created over 3,600 jobs in the last few years in some very  
38 challenging economic times but we really need to do a lot more and so really the  
39 focus of that Economic Development Plan is to look at opportunities at a number  
40 of areas in the community to try to create more jobs; more employment  
41 opportunities for our residents and I think that if you look at these charts they are  
42 pretty eye opening in looking at the challenges that we face and kind of where we  
43 are at right now. If you look at the top one we are looking at a number of  
44 communities in the Inland Region that are fairly similar in size to Moreno Valley  
45 with the exception of maybe Chino in terms of population, but you can look really  
46 at the work force that is currently there in those other communities versus the

1 housing units in those communities and that is really what you striving to do is  
2 you are looking for a balance between the number of housing units and the jobs  
3 that you have in your community. That is not the number of people; that is not  
4 your residents that have jobs; that is the jobs that you have in your community;  
5 that are situated in your community. If you look at that list, the only community  
6 that is upside down is Moreno Valley. We really need to do a lot better job at  
7 creating employment opportunities here in this community and really try to  
8 improve that balance. We are significantly out of balance right now. If you drop  
9 down to the second group on that table, you can look at those same communities  
10 and look at the inventory that is currently developed for Industrial and Business  
11 Park in those communities and jobs again; and again we are very lacking in  
12 terms of inventory.

13  
14 With opening of Skechers, we'll have 10.1 million square feet in this community.  
15 That is very low in comparison with those other communities that are very similar  
16 in size and population. Even the City of Chino which has half the population that  
17 we have has 30 million more square feet than we have right now. We need to  
18 provide opportunities to have industrial distribution logistics in this community.  
19 That is the one way that we are going to help stimulate and produce new  
20 employment opportunities and jobs in this community that our residents  
21 desperately need to have. If you go down and look at the last part at the survey;  
22 that is a current survey that shows the zoning that is currently in place. The  
23 project that you are looking at tonight has a Business Park zoning already in  
24 place and we're also looking at Industrial, so even including the zoning that you  
25 already have in terms of the Business Park, we have 9 percent. At the height; at  
26 the top there is Ontario with 25 with the vast majority of those communities are  
27 somewhere in the middle there. What is the sweet spot? Where should we be?

28  
29 I'm not offering any ideas now, but it is certainly should be higher than what we  
30 have, so that Economic Development Action Plan that we are really advocating is  
31 looking at ways to re-zone areas that are undeveloped to produce jobs. If you  
32 look enough people would counter and say we'll got all this property in the south  
33 part of town in the Industrial Specific Plan area; you've got some property across  
34 the street here. If you develop what is currently zoned there and there are a lot  
35 of projects that are being looked at in those areas, you will probably have another  
36 12 million square feet that you could do fairly easily. You still are only doubling  
37 what we currently have. You are still nowhere near where the rest of these  
38 communities are at. You are really selling yourself short in terms of having  
39 available undeveloped land for opportunities with zoning for distribution, light  
40 manufacturing and logistics. You are really selling yourself short to have those  
41 opportunities for that kind of development, so that's why we are looking at and  
42 trying to stress that there are opportunities in the east part of Moreno Valley in  
43 that Rancho Belago area where this property is located in to look at  
44 opportunities; to make sure that we have property that is zoned properly that can  
45 produce jobs.



1 The real question with this project is it is currently zoned Business Park, so you  
2 are not allowed to do a building greater than 50,000 square feet. It is the same  
3 situation that Highland Fairview had with Skechers. It had the same zoning in  
4 place. It is do you want a number of small buildings or one large building that  
5 can be master designed with four sided architecture and all those kinds of  
6 things... with this property if you kept it in place with the way it is you could do 19  
7 or more smaller buildings 50,000 square feet or less. That market is not here. I  
8 really don't know when that market will come back. That market of those small  
9 industrial buildings it is just not here and I really don't know when and if it will  
10 come back again.

11  
12 The opportunity where the large retailers are looking for is what Skechers did. It  
13 is taking 5 buildings that they currently have in Ontario and Mira Loma and  
14 putting them into one 1.8 million square foot facility that is better planned and  
15 better designed. Skechers saves 15 million dollars annually on their operating  
16 costs by moving to that facility. It is state of the art in terms of automation and  
17 everything else. It still produces 1,100 jobs; different kinds of jobs. They are not  
18 the old school fork lift and all that kind of thing. It is higher tech. It is all  
19 computers and that and that is really the direction that logistics is going to, but  
20 they are consolidated into one large building and saving money. That is what a  
21 number of retailers have seen and that is what they are looking and they need  
22 more product; they need opportunities to have those kinds of buildings and that is  
23 what the developer is proposing, is one 965,000 square foot building rather than  
24 19 or more smaller buildings. The developer has a solid track record. They have  
25 built a lot of projects across the street. They are a national developer. They  
26 brought in Serta Mattress; Minka Lighting, ResMed, Frazee Paint and we are  
27 working on tentative improvements for Harbor Freight right now. They brought in  
28 National...Very respected companies that have produced jobs for this  
29 community.

30  
31 That is really what we need. We need to look at opportunities and make sure  
32 that we the proper zoning in place, so this project has done all the EIR's; they've  
33 done... there are 80 pages of conditions of approval for this project. They have a  
34 significant buffer from the residential, but really the question is do you want 19 or  
35 more smaller buildings or do you want one large building. That really is the  
36 question, so with that I think from an economic development standpoint, certainly  
37 we support the project and I'm happy to answer any questions.

38  
39 **VICE CHAIR BAKER** – Are there any Commissioner with questions for Staff?

40  
41 **COMMISSIONER OWINGS** – Could I start up?

42  
43 **VICE CHAIR BAKER** – Go for it Tom

44  
45 **COMMISSIONER OWINGS** – Okay first of all I'd like to clarify something for the  
46 new Commissioners so should I address you Mr. Bradshaw?

1 **ASSOCIATE PLANNER BRADSHAW** – I'd be happy to try to answer any  
2 questions that you have.

3  
4 **COMMISSIONER OWINGS** – Because this Applicant is asking for a Zone  
5 Change, doesn't the Planning Commission have the absolute discretion as to  
6 whether or not to grant approval for this zone change? In other words take for  
7 example last week... a guy comes in and he has a little 16 house housing unit  
8 and it meets all the standards; it meets all the criteria; the Planning Commission  
9 would be hard pressed to not approve that without a really proper statement of  
10 findings, but in this particular case isn't it true that we have absolute discretion  
11 whether or not to approve the Zone Change?

12  
13 **ASSOCIATE PLANNER BRADSHAW** – This type of a change along with the  
14 Municipal Code Amendment starts with the Staff presentation to the Planning  
15 Commission and their role is to review the information and make a  
16 recommendation.

17  
18 **COMMISSIONER OWINGS** – No I'm not questioning that, I'm just trying to find  
19 our proper role. We have absolute discretion don't we whether or not we  
20 approve the Zone Change?

21  
22 **ASSOCIATE PLANNER BRADSHAW** – The result of this evening would be a  
23 recommendation to Council.

24  
25 **COMMISSIONER OWINGS** – Right, but we have absolute discretion, correct?

26  
27 **PLANNING OFFICIAL TERELL** – That's correct Commissioner... this is what is  
28 called a discretionary review and therefore the Commission has as you said  
29 absolute discretion to recommend approval, denial or something in between.

30  
31 **COMMISSIONER OWINGS** – So if you have absolute discretion we could  
32 potentially bargain for something that would go some standard in excess of the  
33 current standards for our approval, correct?

34  
35 **PLANNING OFFICIAL TERELL** – You can ask...

36  
37 **COMMISSIONER OWINGS** – We'll that's a bargain. Both parties have to agree  
38 right... we established that earlier

39  
40 **PLANNING OFFICIAL TERELL** – That's correct

41  
42 **COMMISSIONER OWINGS** - Okay I can tell that I'm not going to be a second  
43 term Commissioner. Can you tell that right now? You know first of all has there  
44 been a tenant identified for this?

45

1 **PLANNING OFFICIAL TERELL** – Well that’s really a question for the Applicant  
2 but our understanding is there is not a tenant.

3  
4 **COMMISSIONER OWINGS** – So this is a spec building so we have no idea what  
5 type of business that is going to be housed in this 930,000 square foot building,  
6 correct?

7  
8 **PLANNING OFFICIAL TERELL** – The specific type; no. It would have to be a  
9 range of business that is permitted in that zone.

10  
11 **COMMISSIONER OWINGS** – So I looked at the South Coast Air Quality thing  
12 and you guys are the experts on all of this and this is a bit above my pay grade in  
13 terms of understanding some it, so we have to rely on you to make sure that I do  
14 and I do trust the City Staff to make the proper direction or to make the proper  
15 responses, but isn’t a little hard to ascertain what the traffic would be on  
16 Redlands Boulevard if we don’t know what type of business is going to go in that  
17 900,000 square foot building.

18  
19 **PLANNING OFFICIAL TERELL** – Well I’ll defer to Michael Lloyd to answer that  
20 question but typically this is a term of our... we look at what is called the  
21 reasonable; it’s often called worst case development based on agreed standards  
22 and I’ll let Michael kind of explain exactly how...

23  
24 **COMMISSIONER OWINGS** – Well I don’t really want to get into lengthy detail,  
25 what I just really want to do...

26  
27 **PLANNING OFFICIAL TERELL** – Oh it will be short

28  
29 **COMMISSIONER OWINGS** – Okay, I just want a general answer to the question  
30 in general. Wouldn’t it be kind of hard to ascertain the impact to the community  
31 both on traffic or pollution? It seems like I read through all of these people’s  
32 concerns. They seem to center around traffic on the 60 center, traffic on  
33 Redlands Boulevard and they center on overall air quality as a result of the trucks  
34 etc, so it seems to me that it is a bit difficult to ascertain with any degree of  
35 accuracy unless we know what type of person is going to go into it and I’m just  
36 looking for sort of a general idea of whether you agree with that or not.

37  
38 **PLANNING OFFICIAL TERELL** – Well the assessment was done as this being a  
39 warehouse facility, so it is a facility that has a certain number of truck docks and  
40 there are averages; accepted standards, but again I’ll defer to Michael to talk  
41 about that.

42  
43 **COMMISSIONER OWINGS** – Okay Michael... you know because there seems  
44 to be quite a bit of difference between and take for an example a Big 5 in  
45 Riverside across from Raceway Ford and the Skechers plant up here. You know  
46 Skechers has lots of truck bays. They may not be all used at one time. They

1 may be used sort of for storage until they are filled or until they are directed. The  
2 Big 5 is not quite like that and you know from an honest observation of a  
3 neighbor of Big 5 which is close to a million square feet, I never see a truck go in  
4 or out of it. I would say the impact to the traffic in front of Raceway is almost  
5 negligible if any. The employees create more of a traffic problem than the trucks  
6 or anything so that is quite a different plant than maybe might or warehoused or  
7 might be placed in this particular project, correct.

8  
9 **TRANSPORTATION ENGINEER LLOYD** – Correct... there is variation from  
10 warehouse to warehouse but as John indicated the standards that we follow are  
11 based upon averages, so the calculations are based upon observations as you  
12 indicated where there are some warehouses that have lower truck volumes  
13 versus warehouses that would have higher truck volumes and we develop  
14 averages and then apply it to the proposed project's total square footage and  
15 then distribute that traffic onto that street system for analysis.

16  
17 **COMMISSIONER OWINGS** – Okay thank you. John it is my understanding that  
18 Fairview Highland is prohibited from any traffic on Redlands Boulevard as a  
19 result of an agreement between Highland Fairview and the Sierra Club. Is that  
20 correct?

21  
22 **PLANNING OFFICIAL TERELL** – They are... there is a preclusion of opening up  
23 the road that connects to Redlands Boulevard until a future phase of that  
24 development and there is a restriction on the ...

25  
26 **COMMISSIONER OWINGS** - ... truck traffic on Redlands Boulevard, right? That  
27 is why all truck traffic in Highland Fairview is directed to Theodore?

28  
29 **PLANNING OFFICIAL TERELL** – Well as part of Phase 1, it is all directed to  
30 there because there is no connection to Redlands in Phase 1, but by Phase 3  
31 there will be a connection and trucks will be directed to Theodore. Obviously  
32 once a truck leaves that facility it can't be prohibited from going to Redlands  
33 because Redlands is actually a truck route, but the intent and the agreement as  
34 you said with the Settlement Agreement subsequent to the approval of that  
35 project did kind of give a proactive requirement on the part of Highland Fairview  
36 as the landlord to direct trucks towards Theodore.

37  
38 **COMMISSIONER OWINGS** – So you say you know Redlands Boulevard is a  
39 truck route, so if you know could you please tell me the basis on which the Sierra  
40 Club made that part of their agreement with Highland Fairview. I mean what was  
41 the purpose of it; what was their concern and how did the agreement resolve  
42 their concern or address their concern?

43  
44 **PLANNING OFFICIAL TERELL** – Well I can't speak for them. I think there was  
45 a concern of adding a lot of truck traffic to a route that is heavily used for  
46 commuter traffic primarily from Moreno Valley to the freeway or from Moreno

1 Valley to and from Redlands, so there was a concern about if trucks go to  
2 Redlands they might be more likely to drive north to and through San Timoteo  
3 Canyon to get to the 10 freeway, so I think that was as I recall was their major  
4 concern was that trucks needed to be directed towards the freeway.

5  
6 **COMMISSIONER OWINGS** – That concern would be just as valid for this  
7 proposed project wouldn't it as it was for Highland Fairview?

8  
9 **PLANNING OFFICIAL TERELL** – I can't speak for them...

10  
11 **COMMISSIONER OWINGS** – In your opinion

12  
13 **PLANNING OFFICIAL TERELL** - ... but I would suspect they might have a  
14 similar concern as I think is expressed maybe in some of their comment letters in  
15 the Environmental Impact Report.

16  
17 **COMMISSIONER OWINGS** – So maybe impossible to direct traffic from the new  
18 project to Theodore but is there a similar possibility of a solution that Sierra Club  
19 was able to work out with the developer of Highland Fairview with the current  
20 developer of this proposed project?

21  
22 **PLANNING OFFICIAL TERELL** – There are not the same options for this  
23 property. Obviously this property is much smaller than the Highland Fairview  
24 project. It is roughly a third the size of that and truck traffic can go towards  
25 Redlands or at some future date could go towards Moreno Beach, which I'm not  
26 sure that is a better alternative.

27  
28 **COMMISSIONER OWINGS** – Okay, when addressing Tom Hyatt's concerns in  
29 your packet in locating the warehouse to another area, the City Staff  
30 recommended five alternative sites and reasons why the five alternative sites  
31 were not suitable. Noticeably absent from the list was Highland Fairview's  
32 property which has approximately 20 to 40 million square feet of available  
33 warehouse space. Is there a reason the Staff did not include Highland Fairview  
34 in the analysis?

35  
36 **PLANNING OFFICIAL TERELL** – Are you referencing in the alternative section  
37 of the EIR? I think the...

38  
39 **COMMISSIONER OWINGS** – Well in your response to Tom Hyatt's letter, you  
40 stated that you had Staff look at the available sites and there were five and there  
41 were actually four but you added a fifth one and that none of those sites were  
42 really suitable for this project, so I was just wondering why Highland Fairview was  
43 not on ...

1 **PLANNING OFFICIAL TERELL** – The reason is because other than the  
2 Skechers facility, the Highland Fairview property to the south does not currently  
3 permit this kind of development on it.

4  
5 **COMMISSIONER OWINGS** – Well neither did some of the sites that you  
6 proposed as alternate sites, so I don't see that as a criteria for excluding it. You  
7 even mentioned in one of your comments that some of those sites would require  
8 a zone change.

9  
10 **PLANNING OFFICIAL TERELL** – Well I guess I need you to reference the  
11 particular page because I am not the person that responded to that.

12  
13 **COMMISSIONER OWINGS** – It was actually Jeff because it is unfair to put you  
14 on the hot seat. But anyhow is there any reason why Highland Fairview was not  
15 included as a potential alternate for a site when you were responding to Mr.  
16 Hyatt.

17  
18 **PLANNING OFFICIAL TERELL** – I can't think of a particular reason why it would  
19 not have been included or it was not included.

20  
21 **COMMISSIONER OWINGS** – Okay, alright, this question is for both I think for  
22 you John and for you Mr. Foster. It is my understanding the City and you just  
23 kind of eluded to that fact, just to prove a City Development Plan or I think that is  
24 probably the wrong terminology but you get the idea... what is it; the Action Plan  
25 last month and you know from what I read off of the website it was approved by  
26 City Council 5 – 0 which designated the area east of Redlands Boulevard as the  
27 future corporate park development. How does this project fit into that  
28 development plan? Why doesn't it? If the City Council directs in their plan that  
29 this type of development would be placed east of Redlands Boulevard, why are  
30 we recommending approval for this plan at its current location?

31  
32 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – I'm  
33 not sure specifically mentioned east of Redlands. It talked about the Rancho  
34 Belago area and that's a much bigger area.

35  
36 **COMMISSIONER OWINGS** – It does mention that particularly east of Redlands  
37 Boulevard.

38  
39 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – I think  
40 it was specifically talking about the Moreno Highlands Plan.

41  
42 **COMMISSIONER OWINGS** – Let me ask you a question. If it says, if the current  
43 plan approved by the City Council says that this type of development should  
44 occur east of Redlands Boulevard, would that alter the Planning Staff's opinion of  
45 the project?  
46

1 **PLANNING OFFICIAL TERELL** – No, I believe and if I can speak to the most  
2 recent action by the City Council; that related to creating additional General Plan  
3 designated areas where industrial development could occur and this particular  
4 site is already in the General Plan allowing industrial uses.

5  
6 **COMMISSIONER OWINGS** – Well it is not allowing the use that they are asking  
7 right now or we wouldn't be talking about it.

8  
9 **PLANNING OFFICIAL TERELL** – That's correct, but it does allow industrial  
10 uses.

11  
12 **COMMISSIONER OWINGS** – Alright, I'm bordering on arguing here and I'm  
13 sorry. Did the Planning Staff give consideration to require the consistent  
14 architectural design consistent with Highland Fairview's building be made a  
15 condition of this project to prevent the area from becoming a hodge-podge of  
16 building designs. If you look at the industrial site on Sycamore Canyon between  
17 Alessandro and Box Springs, it looks like a checkerboard. It looks like somebody  
18 said let's try this and let's try that, let's try this and you know this is going to be  
19 visible from the freeway and if we are trying to make Rancho Belago into a up-  
20 scaled community development park why wouldn't higher standards be required  
21 of this building, so the simple question is did you consider it?

22  
23 **PLANNING OFFICIAL TERELL** – Well I'm not quite sure what you mean by  
24 higher than what?

25  
26 **COMMISSIONER OWINGS** – Well you know I'm not talking but beauty is in the  
27 eye of the beholder, whether it is a pretty building or it is an ugly building, but it  
28 seems to me that there could have been some consideration given and I just  
29 want to know if you did to making this project a condition of approval for the zone  
30 change that this builder; that this development be consistent in its architectural  
31 design with Highland Fairview.

32  
33 **PLANNING OFFICIAL TERELL** – And I guess the quick answer to that is no.  
34 This is not part of a Specific Plan that has established a particular type of design.  
35 Staff did look at this and wanted a high quality of design and also if you look at it,  
36 it includes of similarities. The color palette is similar. It is basically white. Most  
37 of the building is white and it also includes the spandrel glass which is a material  
38 that is very prevalent on the corners of the Skechers building.

39  
40 **COMMISSIONER OWINGS** – But there would be nothing that would prevent this  
41 Planning Commission to make that a condition of approval, would it?

42  
43 **PLANNING OFFICIAL TERELL** – I guess if we could define what that meant...

44  
45 **COMMISSIONER OWINGS** – Well at least consistent with the project. I think  
46 that's pretty clear. I have seen that lots in Planning Commissions.

1 **PLANNING OFFICIAL TERELL** – I would ask for clarification of it because we  
2 would not... I mean Planning Staff would never recommend that this building  
3 look exactly like the Skechers building. Probably different than Sycamore  
4 Canyon which I agree there is quite a variety of architecture over there and  
5 colors; is the Ontario Business Park east of the Airport. It is actually a Specific  
6 Plan but you look at the buildings and they are sort of different but they all kind of  
7 blend in.

8  
9 **COMMISSIONER OWINGS** – John you know there is no standard for Moreno  
10 Valley for this; there is no City standard, so the Planning Commission has to act  
11 as that standard. Wouldn't you agree? We have to be the one that set the  
12 standards.

13  
14 **PLANNING OFFICIAL TERELL** – You need to provide direction to set the  
15 standards. That is correct.

16  
17 **COMMISSIONER OWINGS** – So if we want to have an upscale development  
18 park there, shouldn't some consideration be given to creating a building that is  
19 consistent with the largest building in the City?

20  
21 **PLANNING OFFICIAL TERELL** – And I guess my contention would be that it is.

22  
23 **COMMISSIONER OWINGS** – So then Mr. Foster I just was wondering  
24 instructionally, could you tell me what the definition of work force is on the chart  
25 you passed out.

26  
27 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – It is  
28 all jobs in that community. I don't have a break down on types. It is total work  
29 force.

30  
31 **COMMISSIONER OWINGS** – When you say all jobs is that all jobs held by  
32 people who live in Moreno Valley or is that all jobs held by anybody?

33  
34 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – No,  
35 those are jobs that are currently in Moreno for all types and that is the same thing  
36 with those other communities.

37  
38 **COMMISSIONER OWINGS** – So for example taking Ontario, we don't really  
39 know if anybody that works; that 107,000 do we know if they live in Ontario?

40  
41 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – No

42  
43 **COMMISSIONER OWINGS** – We don't, so that might be an unfair comparison  
44 right?

45



1 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – No  
2 what we are looking at is a jobs balance of housing units...

3  
4 **COMMISSIONER OWINGS** – But it really doesn't measure employment in  
5 Moreno Valley does it?

6  
7 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – No it  
8 does not.

9  
10 **COMMISSIONER OWINGS** – Thank you. Alright, Industrial Business Park down  
11 here where you have these percentages is for each of those, are you trying to  
12 equate Industrial Business Park square footage with the percent with  
13 employment? Is that what you are saying that there is a direct correlation?

14  
15 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – That's  
16 the percentage of Industrial and Business Park zoning in Moreno Valley and  
17 those other communities and there is a correlation between the jobs that you can  
18 produce from that kind of development.

19  
20 **COMMISSIONER OWINGS** – But there might be other factors that might cause  
21 Moreno Valley for example to be less than Ontario that are not taken into  
22 consideration in this analysis?

23  
24 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – Yes  
25 there is

26  
27 **COMMISSIONER OWINGS** – Thank you and there could be many factors, right?

28  
29 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – Yes

30  
31 **COMMISSIONER OWINGS** – Thank you... so the real question is my opinion...  
32 Let me ask you a question too. What is your official title for the City?

33  
34 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** –  
35 Community and Economic Development Director

36  
37 **COMMISSIONER OWINGS** – So are you John's boss?

38  
39 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – Yes

40  
41 **COMMISSIONER OWINGS** – Do you feel a bit funny about advocating so  
42 heavily for this in front of this Planning Commission when in fact they are  
43 supposed to be the City Staff and take an objective look?

44  
45 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – My  
46 comments were from an economic development standpoint.

1 **COMMISSIONER OWINGS** – Well I appreciate that you are wearing that hat, but  
2 when you are back in the office does that present a problem?

3  
4 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – No

5  
6 **COMMISSIONER OWINGS** – Thank you. So that’s about it. Thank you.

7  
8 **COMMISSIONER VAN NATTA** – I wrote a list of questions and you have hit  
9 most of them already but I do have a question. Isn’t there plans in the future for  
10 a school over on that side of town like maybe north of the freeway north off of  
11 Ironwood someplace or sometime in the future?

12  
13 **PLANNING OFFICIAL TERELL** – The School District is considering two  
14 potential sites for a future High School. They have not yet made a determination.  
15 One of those is on Ironwood west of Redlands and the other is at Ironwood and  
16 Nason.

17  
18 **COMMISSIONER VAN NATTA** – Okay would it be likely that students from the  
19 south side of the freeway would be attending that school?

20  
21 **PLANNING OFFICIAL TERELL** – It’s hard to tell but one of the other things that  
22 I participate in is the School Attendance Boundary Committee as a  
23 representative and the intent of the School District Staff in looking for High  
24 School 5 is really to have all students north of the freeway go to a high school  
25 north of the freeway. Valley View High School which is the closest High School  
26 in that location, half of their students come from north of the freeway, so one of  
27 the thoughts about having High School 5 north of the freeway is that they could  
28 have the freeway as a dividing line for school attendance boundaries, but there is  
29 nothing to say that students south of the freeway might not attend there just like  
30 students north of the freeway now attend Valley View.

31  
32 **COMMISSIONER VAN NATTA** – Okay because I’m looking at the traffic patterns  
33 here and I’m concerned about people who are going to the north side to the  
34 south side, whether it is for work or whether they are driving through San  
35 Timoteo to get to work or something like that because if Redlands is now going to  
36 be used as a truck route in and out of this location and Moreno Beach is a very  
37 busy intersection there with all the businesses and everything and Theodore is  
38 being used by trucks, that really limits the amount of access that people south of  
39 the freeway have to north of the freeway or to that route up there through the hills  
40 to go to work in San Bernardino or Redlands or any place up there and I  
41 remember all the debate that went on about building the Highland Fairview  
42 project and people concerned about traffic and I remember how strongly it was  
43 emphasized that oh no it is not going to be a problem. All that traffic is going to  
44 in and out of Theodore and I even saw I thought at one point an architectural  
45 rendition showing how it was going to be developed along the future Eucalyptus  
46 Avenue to where the trucks could not even go through there to get back onto the

1 freeway, they would have to leave the Highland Fairview project, go to Theodore  
2 and get on the freeway, so this comment about them being able to use Redlands  
3 in the future was a little puzzling to me because I thought it was really clear that  
4 the truck traffic was going to be on Theodore.

5  
6 **PLANNING OFFICIAL TERELL** – That is the intent of that project and that is the  
7 commitment of the developer of that project. The graphic that was shown that I  
8 think showed kind of and looked at what is similar across Sunnymead Boulevard  
9 as you get up at Frederick, but that is not a requirement of that project. It was  
10 just a suggestion that they had or something that might prohibit or you know  
11 really make it physically impossible for trucks to go towards to Redlands. The  
12 reality is that they've made an affirmative commitment to direct to director traffic  
13 to Theodore, but in the final analysis, they can't. It would be very difficult to  
14 never have a truck go that way, but your question I think was what is the impact  
15 on Redlands Boulevard relative to truck traffic and I'm going to defer to Michael  
16 Lloyd because that is an element of the Traffic Study to identify how many trucks  
17 and motor vehicles would be accessing Redlands Boulevard to get to the  
18 freeway and what is the mitigation to make sure that with that additional truck  
19 traffic, should it be approved, that street still operates at a safe and appropriate  
20 level consistent with our General Plan.

21  
22 **COMMISSIONER VAN NATTA** – And as an add-on to that question I would ask  
23 other than I heard you speak about a traffic lane on Redlands Boulevard, but I  
24 didn't hear about any specific improvements that this developer would be  
25 contributing to on the Redlands interchange. I think it is going to need more than  
26 just adding a simple traffic lane to do that and recalling again what we went  
27 through on the approval. I mean I watched all the meetings and everything like  
28 that and all the things that were required for the development for Highland  
29 Fairview. Are there similar mitigations being required of this developer? How  
30 much money is going to be put into developing freeway on-ramps and off-ramps  
31 and that whole interchange there that is going to be chargeable to this site which  
32 isn't a third of the Highland Fairview but more like 40 percent?

33  
34 **PLANNING OFFICIAL TERELL** – Well Highland Fairview is actually approved  
35 for 2.4 million square feet of industrial and then it has its commercial in addition  
36 to that, so it is the total and not just the current building, but yes there are similar  
37 mitigation measures and I'll defer to Michael to kind of list those briefly.

38  
39 **TRANSPORTATION ENGINEER LLOYD** – Good evening again; Michael Lloyd  
40 with Transportation Engineering. Based on the Traffic Study that was conducted  
41 for this project, the project applicant would be required to install a traffic signal at  
42 Redlands Boulevard and the State Route 60 westbound ramp. They would also  
43 be required to install a traffic signal at Redlands Boulevard and Eucalyptus  
44 Avenue. The applicant would be required to construct an additional southbound  
45 auxiliary lane along Redlands Boulevard between State Route 60 eastbound  
46 ramp down to Eucalyptus Avenue. The applicant would also be required to

1 improve the intersection of Redlands and Eucalyptus to include turn lanes; that  
2 includes a northbound left as well as a southbound right turn lane. The project  
3 applicant would also be required to improve the intersection of Redlands  
4 Boulevard and State Route 60 eastbound ramp to provide turn lanes. Currently  
5 there is a northbound left turn lane. This project would be required to install in  
6 the eastbound direction a left turn lane as well as a right turn lane. Currently  
7 there is only one lane there, so this would be required to put in an additional turn  
8 lane to accommodate the right turning trucks and cars. This project would also  
9 be required to install improvements at Redlands and the State Route 60  
10 westbound ramp. I don't recall off the top of my head and I apologize what turn  
11 lanes are out there currently today, but I believe there is a northbound through  
12 lane; a southbound through lane and this project would be required to construct a  
13 northbound right turn lane again to accommodate traffic from south of freeway  
14 turning onto the ramp and those are the specific improvements that this project  
15 would be required to construct.

16

17 **PLANNING OFFICIAL TERELL** – And those would be similar but not the same  
18 as the improvement that Highland Fairview is doing on Theodore.

19

20 **COMMISSIONER VAN NATTA** – Uh huh, so that is in anticipation of a great  
21 number of trucks going up and down on Redlands which still doesn't address the  
22 fact of what about people going in private cars north and south of the freeway.  
23 That still doesn't leave us a safe and easy way to get across without being  
24 subject to additional traffic there, but okay I see...

25

26 **PLANNING OFFICIAL TERELL** – There will be additional traffic and there will be  
27 truck traffic, so I think the Traffic Study shows that it would meet the standards  
28 for the City of Moreno Valley for its General Plan, but again it is obviously going  
29 to be more traffic than is there today and trucks that are not there today.

30

31 **COMMISSIONER VAN NATTA** – But what is difficult is gauging the amount of  
32 traffic because we were able to take a look at and you know count how many  
33 trucks was Skechers going to use because we knew who the tenant was going to  
34 be and what are their plans and when do they run and everything else like that,  
35 but this still leaves a lot of questions about that. My other question has to do with  
36 the chart that you gave us and you are comparing several different communities  
37 here to Moreno Valley, but then when you get down into the Industrial and  
38 Business Park zoning who have included a couple of other communities. I just  
39 want to make sure John was listening because I had a question.

40

41 **PLANNING OFFICIAL TERELL** – I'm sorry... I was just checking because we  
42 were thinking that the Traffic Consultant that prepared the study; obviously  
43 Michael reviewed it and is very well versed in the City's standards, but it is our  
44 understanding that the Traffic Engineer who prepared the Study that was  
45 reviewed by Michael is also here, so if we need him I just wanted to verify that  
46 but I'm sorry, your question...

1  
2 **COMMISSIONER VAN NATTA** – Okay... yeah but just in response to that, that  
3 still is using supposed numbers of maybe and we don't know until we know who  
4 the tenant is going to be on that property how it is going to be affected.

5  
6 **PLANNING OFFICIAL TERELL** – Right and the reason we do that is because  
7 first of all a tenant is not... let me go back. For the Highland Fairview project, the  
8 analysis was done the same way as the analysis for this project. The added  
9 information was for Skechers as they had more specific information which was  
10 lower than what the study indicated, so it was just more information, but the  
11 standard; that project was actually reviewed based on the same standard of an  
12 average and Skechers identified their truck traffic is lower than the average and  
13 whether that changed the decision or not I'm not sure, but the other thing to take  
14 into account is once a building is built, we can't assume that the same tenant will  
15 be there until the building is torn down or redeveloped, so that's why we have to  
16 look at it at this average.

17  
18 **COMMISSIONER VAN NATTA** – I understand that when you have somebody in  
19 with a 20 year lease or something, at least you know you have some certainty of  
20 what is going on for the next 20 years. In looking at your chart here with your  
21 Industrial Business Park zoning and the other cities that have been added here  
22 and you said there is correlation to employment levels and the amount of  
23 Industrial and Business Park zoning in a city, does that mean that Perris with  
24 21.7 percent of Industrial and Business Park zoning as compared to Moreno  
25 Valley's with 9 percent has a lower unemployment rate?

26  
27 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – No

28  
29 **COMMISSIONER VAN NATTA** – I didn't think so

30  
31 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – We  
32 didn't have the work force numbers for those three communities so we didn't  
33 include those.

34  
35 **COMMISSIONER VAN NATTA** – Because it is my understanding that Perris'  
36 unemployment level is just as disastrous as Moreno Valley's and yet they have  
37 more than double the amount of Industrial and Business Park zoning within their  
38 City, which there again we get back into we don't who the tenant is and it is kind  
39 of like if I wanted to rent out a room in my house because I need more money,  
40 I'm going to very, very careful who I rent to because I want to protect my children  
41 and I want to make sure it is safe and everything like that and knowing who is  
42 going to be moving in is kind of a nice thing to know if we have it and in this case  
43 we don't have it. All we know is that it is going to increase truck traffic on a street  
44 that we as the residents were told before was going to be protected from truck  
45 traffic. I guess I'm arguing and I should be just asking questions. Okay that was  
46 all I had to know.

1  
2 **COMMISSIONER SALAS** – I'm kind of confused. Are we adding a lane to the  
3 ramp or are they going to add a lane or are they going to widen the ramp... I  
4 mean the bridge over the freeway? Are they widening that?

5  
6 **TRANSPORTATION ENGINEER LLOYD** – They would not be conditioned to  
7 widen the bridge structure.

8  
9 **COMMISSIONER SALAS** – So in other words we're going to add lanes that are  
10 going to funnel down to one lane because that is only a one lane going across.  
11 Is that correct?

12  
13 **TRANSPORTATION ENGINEER LLOYD** – That is correct

14  
15 **COMMISSIONER SALAS** – That's not good

16  
17 **COMMISSIONER OWINGS** – Just to follow-up to your question, when you say  
18 you know if they have been moved out 12 years; a tenant moves out in 10 years,  
19 John wouldn't they still be bound by the conditions of approval if they moved in  
20 20 years from now or 30 years and then they'd be right back here asking us to  
21 amend those conditions, so it's not really an accurate analogy is it?

22  
23 **PLANNING OFFICIAL TERELL** – As long as they can continue to meet the  
24 conditions of approval and typically the environmental is done for this broader  
25 range of possibilities and not just a specific tenant. That was my point.

26  
27 **COMMISSIONER OWINGS** – If Big 5 went out of business tomorrow in their  
28 distribution center across from our dealership, any potential tenant would be  
29 bound by any of the conditions of approval for that project and they would have  
30 to come here or to the Planning Commission in Riverside to seek changes to it,  
31 so it's not like it's open season when someone moves out.

32  
33 **PLANNING OFFICIAL TERELL** – No, they still have to comply with the  
34 conditions of approval and again the conditions of approval, other than special  
35 conditions that might have been added are based on the averages. They are not  
36 based the specific tenant.

37  
38 **COMMISSIONER OWINGS** – So and then on these Industrial Business Park  
39 zoning statistics we really probably should have a breakdown between the  
40 Industrial and the Business Park portion of it; right, the large buildings versus the  
41 small buildings for each of those cities before we can make any real beginning of  
42 any kind of analysis as to which one of those types of businesses produces the  
43 most business. Now I understand now that the current business climate says  
44 you know the bigger buildings are more in favor than the smaller buildings, but  
45 there is no real correlation between the size of the building and jobs created are  
46 there?

1  
2 **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR FOSTER** – There  
3 is not and cities will differ in terms of what they classify as a Business Park. Not  
4 every city is unique to what Moreno Valley does where they require that 50,000  
5 square feet or smaller. There are a lot of communities that would have Business  
6 Park zoning that would require a larger building.

7  
8 **COMMISSIONER OWINGS** – You know I just, if by manner of just reminding  
9 everybody the definition of average; it is the best of the worse and worst of the  
10 best, so depending on where you fit in on that average, it could be good or it  
11 could be bad, so that is just more of a comment.

12  
13 **VICE CHAIR BAKER** – Okay, is there anyone else for comments to the Staff?

14  
15 **COMMISSIONER OWINGS** – I do have one. I hate to belabor it but intellectual  
16 honesty demands me to ask you this question. Paul Claxton writes and he says I  
17 can hardly wait for 200 semi trucks an hour to roll down the 60 Freeway,  
18 Ironwood and other streets creating the noise and the pollution. That is not a  
19 factual statement is it?

20  
21 **PLANNING OFFICIAL TERELL** – That is related to the Skechers warehouse,  
22 right; the comment...

23  
24 **COMMISSIONER OWINGS** – Well right, but even that... is that factual?

25  
26 **PLANNING OFFICIAL TERELL** – No

27  
28 **COMMISSIONER OWINGS** – It is not factual, so what would that actual number  
29 be?

30  
31 **PLANNING OFFICIAL TERELL** – Something less than 200... There was a  
32 number there and I thought it was something of over a little over a thousand was  
33 the average... kind of the... It wasn't related to the specific... I believe with  
34 Skechers it was a very low number because they knew exactly how many trucks  
35 that would be coming in and out of there...

36  
37 **COMMISSIONER OWINGS** – And they certainly wouldn't be on Ironwood would  
38 they?

39  
40 **PLANNING OFFICIAL TERELL** – No, Ironwood is not a truck route is it?

41  
42 **TRANSPORTATION ENGINEER LLOYD** – That is correct. Ironwood in this  
43 particular area is not a truck route and so they would be prohibited from using  
44 Ironwood.

45 **COMMISSIONER OWINGS** – Well he goes onto say this warehouse hasn't  
46 created a single job in the City. That's not true either is it?

1  
2 **PLANNING OFFICIAL TERELL** – Well it has created construction jobs certainly  
3 already.

4  
5 **COMMISSIONER OWINGS** – Alright... Well I just think everybody should be  
6 honest in their comments.

7  
8 **VICE CHAIR BAKER** – Okay, moving on. Does anyone else want to comment?  
9 At this point I think we'd like to bring the Applicant forward. Would you please  
10 state your name and address for the record.

11  
12 **APPLICANT RICE** – Sure my name is Dennis Rice and I reside at 201 Covina,  
13 Long Beach, California. I'm with Ridge Property Trust and we're the developer of  
14 the proposed project which we call West Ridge Commerce Center. By way of  
15 background, Ridge Property Trust is a private real estate investment trust. It was  
16 mentioned earlier that we are a national company. We are headquartered in  
17 Chicago. We have an office here in Southern California, one in Dallas, Texas  
18 and one in Monterey, Mexico and we've done some other work in the City of  
19 Moreno Valley and also here in the East Inland Empire. Specifically we have  
20 developed about half of the Centerpoint Business Park Project across the street  
21 here, which is bounded by Frederick to the west; Cactus to the south; Alessandro  
22 to the north and Heacock to the east there. We've built five buildings totaling  
23 about 1.85 million square feet. They are all 100 percent leased right now and we  
24 have about six more buildings to build there, totaling about just under 1.2 million  
25 square feet and that will finish out that project. It is 162 acres. We also have a  
26 building down in Perris that we developed. It was 1,310,000 square feet and that  
27 was leased out to Hanes Brands and we have room down there to do about  
28 another 2.6 million square feet in addition to the building that we're proposing  
29 today of 937,000 square feet.

30  
31 One thing I'd like to point out with the Hanes Brands because we have talked  
32 about truck traffic and averages and the best of the worst and the worst of the  
33 best, is Hanes again is 1,310,000 square feet. They have and depending on  
34 their season; right now they are in their back to school season. They employ  
35 between 800 and 900 people in that facility. They average throughout the year  
36 25 inbound trucks and they average 40 trucks per day that are outbound, so a  
37 total of about 65 trucks per day on average, which kind of goes to some degree  
38 with what Mr. Owings was saying with the Big 5 facility over there near the  
39 Raceway Ford Dealership. Before I go any further, I'd like to thank the City Staff;  
40 especially Jeff and John. We've worked really hard on this project to get it to this  
41 point. Also, I appreciate all the input of the other Planning groups and all the  
42 different departments within Public Works, Parks and Community Services and  
43 the Police and Fire folks. We've owned this property now for a little over 4 years.  
44 We bought it in March of 2007.

45 One thing I would like to talk a little bit more about the project. I think Jeff did a  
46 great job of explaining all the particulars about the project, but one thing we did



1 and I believe you may have gotten this package from me is we did a Community  
2 Outreach Program that we started about a year ago in June of 2010 and what we  
3 did with that program is we mailed about 20,000 project brochures to the  
4 residents on the east side. It was a four page color brochure that had a tear  
5 away card that people could mail back in and what we got out of that was about  
6 154 responses out of the 20,000. Six of those went undecided; 29 were in  
7 opposition of the project and 119 were in support of the project. Back in October  
8 of 2010 we hosted a project Open House at our Centerpoint Project where we  
9 invited all the people that replied to the cards, various community leaders within  
10 the City of Moreno Valley and also the different Moreno Valley Chamber of  
11 Commerce's and back then in November we did a promotion to make the  
12 community aware of the Public Hearing/Public Information Meeting that was  
13 going to take place on December 2<sup>nd</sup> and also on November 13<sup>th</sup> and December  
14 11<sup>th</sup>, we walked door to door on that east end of town and handed out about 800  
15 project brochures on this particular project here and engage with people and  
16 answered any questions that they might have with regards to the project within  
17 the packages all the response cards that we got in the mail and again some were  
18 in opposition and some were in favor and there were some good comments and  
19 we have a project website that people can go and refer to.

20  
21 We have a link to the Draft EIR and also the Final EIR. We also have a 1-800  
22 number they can call and can leave a message and we get back to them and try  
23 to answer any questions they may have or discuss any issues that they have.  
24 With that we've got our team here that put together the EIR; Ross Geller and  
25 Charlie Wray with Applied Planning and are here to answer any questions and  
26 also we've got Eric Affith(?) with Urban Crossroads to answer any questions with  
27 regards to the Traffic Study that was done.

28  
29 **COMMISSIONER OWINGS** – Mr. Chairman may I ask a few questions?

30  
31 **VICE CHAIR BAKER** – Yes

32  
33 **COMMISSIONER OWINGS** – Mr. Rice my name is Tom Owings; welcome.

34  
35 **APPLICANT RICE** – Thank you

36  
37 **COMMISSIONER OWINGS** – You know my view of this job is I don't have a dog  
38 in the hunt. I am not on anyone's payroll except my own and I feel that our job as  
39 Commissioners is just to make sure that everybody in the audience has their  
40 questions answered that they would ask if they were sitting here, so I hope you  
41 will take my questions in that spirit.

42  
43 **APPLICANT RICE** – Sure

44  
45 **COMMISSIONER OWINGS** – This is a very impressive book and in fair  
46 disclosure/ full disclosure I live on Canterbury Downs Way, which is not within

1 300 feet of your project, but I do live within a close proximity to it, so I did get one  
2 of these beautiful folders that you sent; questionnaires. I looked it over from  
3 head to toe and I couldn't find anywhere in here where you said how large this  
4 building was going to be in this brochure. There is nowhere in this brochure does  
5 it say it's a million square feet and now I do have to tell you that I've had two  
6 cataracts repaired since then or prior to that so I have may have missed it, but I  
7 don't see it and I just wondered why it wasn't mentioned when you got the public  
8 response.

9  
10 **APPLICANT RICE** – Yeah, I don't know the answer to that Commissioner. I  
11 believe there were references to the website where you could gather that  
12 information.

13  
14 **COMMISSIONER OWINGS** – Well you know the question just is begging you  
15 know if it is going to create a lot of jobs and have all the positive attributes or  
16 things to the community that are attributed by the size of it, that we would  
17 mention the size, but that is okay. So then the other thing that I noticed in it was  
18 that there were like 19 people who said they were against your project and they  
19 basically talked about traffic congestion. You know there were a few vague  
20 illusions to you know livability of the neighborhood but really I just don't know, I  
21 can't put a finger on what that is... Traffic we all know; pollution we all know and  
22 congestion around it by trucks, we all know, so of the people that said that they in  
23 favor of it, other than the fact that they didn't realize it was a million square feet. I  
24 didn't see a lot of comments about it. There were a few that said jobs, so I  
25 wondered if you could address how many jobs will be brought to the community  
26 as a result of it, since we don't even know who is going occupy it.

27  
28 **APPLICANT RICE** – That is a great question. I don't know the number of jobs.  
29 All I can tell you is...

30  
31 **COMMISSIONER OWINGS** – Okay, but you do allude to it in your brochure as  
32 300.

33  
34 **APPLICANT RICE** – That is based on the number of parking stalls that are  
35 available

36  
37 **COMMISSIONER OWINGS** – The parking stalls respectfully don't equate to jobs.

38  
39 **APPLICANT RICE** – True

40  
41 **COMMISSIONER OWINGS** – Especially in the days where they stress so much  
42 carpooling

43  
44 **APPLICANT RICE** – Right and I'll give you an example of that down in Perris at  
45 the Hanes Brand building, they have 800 to 900 jobs. We have 375 stalls  
46 associated with that building.

1  
2 **COMMISSIONER OWINGS** – But there again, those are all estimates. You say  
3 to the Planning Staff that we are going to have 300 jobs and they tell you how  
4 many parking spots you need.

5  
6 **APPLICANT RICE** – No, I think that is based on...

7  
8 **COMMISSIONER OWINGS** – Well it is based on a Code

9  
10 **PLANNING OFFICIAL TERELL** – It is based on the square footage of the  
11 building

12  
13 **COMMISSIONER OWINGS** – Right, so it is a formula

14  
15 **APPLICANT RICE** – Right

16  
17 **COMMISSIONER OWINGS** – It doesn't necessarily equate to jobs

18  
19 **APPLICANT RICE** – You could have more or you could have less

20  
21 **COMMISSIONER OWINGS** – So what I'm asking you is you know it doesn't that  
22 that 300 number in this brochure really equates to anything except parking  
23 spaces. Is that a fair analysis?

24  
25 **APPLICANT RICE** – I guess so, yes

26  
27 **COMMISSIONER OWINGS** – And another thing I noticed is that a hundred and  
28 something people that said they were in favor of the project, many of them didn't  
29 say what zip code they were in and there were a lot of different streets. Was any  
30 attempt made on your part on your behalf to determine how many of the people  
31 in favor of this project were really living within proximity to the building?

32  
33 **APPLICANT RICE** – No, we did not do that

34  
35 **COMMISSIONER OWINGS** – So there could be people that aren't even in the  
36 same zip code responding that they are support of it. Is that an accurate  
37 statement?

38  
39 **APPLICANT RICE** – It could be accurate. We could give you a copy of the  
40 mailing list if you'd like

41  
42 **COMMISSIONER OWINGS** – Well I understand it, but that's a lot of time for me  
43 to get a map out and find out where all these people are. I'm just asking did you  
44 make any attempt to determine the proximity.

45  
46 **APPLICANT RICE** – No we did not

1  
2 **COMMISSIONER OWINGS** – So there could be people who are saying they are  
3 in favor of it that live on the other end of town.

4  
5 **APPLICANT RICE** – Well the mailing list was pretty much directed to the east  
6 end of town.

7  
8 **COMMISSIONER OWINGS** – Okay, but I noticed there is one in here for 95551  
9 and it would seem that this building is in 95555, which is the largest zip code in  
10 the city.

11  
12 **APPLICANT RICE** – Okay

13  
14 **COMMISSIONER OWINGS** – So my point is there obviously were people who  
15 were mailed this survey... I'm not trying to be argumentative; I'm trying to figure  
16 how much weight I should give this survey.

17  
18 **APPLICANT RICE** – What I think I'll do is I'll get you a copy of the list and...

19  
20 **COMMISSIONER OWINGS** – No, I'm asking you to tell me now.

21  
22 **APPLICANT RICE** – I don't have that information with me here...

23  
24 **COMMISSIONER OWINGS** – The question is simple. Let me finish the question  
25 and then you can answer it. There is a possibility that people said they were in  
26 favor of this that do not in close proximity to the building. Is that a correct  
27 statement?

28  
29 **APPLICANT RICE** – If you say it is, then I'll agree with you.

30  
31 **COMMISSIONER OWINGS** – I'm asking you. You did the study.

32  
33 **APPLICANT RICE** – We mailed it out to 20,000 people Commissioner...

34  
35 **COMMISSIONER OWINGS** – So a fair response is would be you don't know

36  
37 **APPLICANT RICE** – I don't know and what I'll do...

38  
39 **COMMISSIONER OWINGS** – I can accept I don't know

40  
41 **APPLICANT RICE** – Okay, what I'll do is I'll go back and we'll pull those cards  
42 and we'll map those 119 people were.

43  
44 **COMMISSIONER OWINGS** – So you mentioned Hanes... I like your example of  
45 Hanes, but that is not the tenant here, right?

46

1 **APPLICANT RICE** – That’s correct  
2  
3 **COMMISSIONER OWINGS** – Okay, so their usage really might not relate to the  
4 potential use/potential tenant here.  
5  
6 **APPLICANT RICE** – Absolutely  
7  
8 **COMMISSIONER OWINGS** – So have you ever signed as a developer; have you  
9 ever signed a lease for the development of a large building and then gone to the  
10 City and sought entitlements?  
11  
12 **APPLICANT RICE** – No, because I don’t think I could build the building without...  
13  
14 **COMMISSIONER OWINGS** – Well you sign the lease conditioned on  
15 entitlements, right? Have you ever done that?  
16  
17 **APPLICANT RICE** – No  
18  
19 **COMMISSIONER OWINGS** – Okay, so that is not a practice among builders of  
20 large buildings?  
21  
22 **APPLICANT RICE** – No and I don’t think there is really any tenants in the market  
23 that would ever sign a lease conditioned on entitlements because there is no  
24 guarantee that they are going to be able to get that building.  
25  
26 **COMMISSIONER OWINGS** – Are you familiar with Skechers?  
27  
28 **APPLICANT RICE** – Sure  
29  
30 **COMMISSIONER OWINGS** – Did they sign a lease prior to having all their  
31 entitlements?  
32  
33 **APPLICANT RICE** – I don’t know  
34  
35 **COMMISSIONER OWINGS** – I think they did. John do you know?  
36  
37 **PLANNING OFFICIAL TERELL** – Well that was what...that was said and...  
38  
39 **COMMISSIONER OWINGS** – So to the best of your knowledge Skechers signed  
40 a lease prior to having its entitlements?  
41  
42 **PLANNING OFFICIAL TERELL** – Yeah, but I will say that is very unusual  
43  
44 **COMMISSIONER OWINGS** – That’s unusual, but that’s what happened, right?  
45  
46 **PLANNING OFFICIAL TERELL** – Yes

1  
2 **COMMISSIONER OWINGS** – Okay, but you have never done that?

3  
4 **APPLICANT RICE** – No

5  
6 **COMMISSIONER OWINGS** – So it would make it more difficult to get somebody  
7 to sign on without entitlements?

8  
9 **APPLICANT RICE** – It would. If you weren't able to get the entitlements they  
10 obviously would want a right to cancel the lease

11  
12 **COMMISSIONER OWINGS** – But right; I agree with that. That would be  
13 obvious. My point is this; you know this is kind of a pig in a poke to us and it  
14 would sure... and I'd probably vote for it in a nanosecond if I knew who was  
15 going in there and the City had some way of really having a better estimate of all  
16 the impact that it could have to the City and the residents around and so you  
17 know I'm just trying to get to that point to I can vote for your project, so I'm just  
18 wondering could we or how uncomfortable you'd be to say come back to us after  
19 you've had a tenant in mind or even...

20  
21 **APPLICANT RICE** – And then seek entitlements then...

22  
23 **COMMISSIONER OWINGS** – Well seek the zoning change, yes

24  
25 **APPLICANT RICE** – Um, I think it would be very difficult because there are other  
26 opportunities for those tenants to do those build to suits with a guarantee that  
27 they can get that building and there is obviously a lot involved planning wise for a  
28 user of that size to know that they are guaranteed a building there or not.

29  
30 **COMMISSIONER OWINGS** – Would you have any objections to my earlier  
31 comments to making the building consistent to the Skechers building  
32 architecturally?

33  
34 **APPLICANT RICE** – I think like you said, the beauty is in the eye of the beholder  
35 and I think this building is just as good or if not better than the Skechers building.

36  
37 **COMMISSIONER OWINGS** – Well in terms of the standard of construction,  
38 would you say it is going to be the same standard of construction?

39  
40 **APPLICANT RICE** – What is standard of construction mean?

41  
42 **COMMISSIONER OWINGS** – Well the level of construction; excuse me; wrong  
43 term. Would it be the same level of...?

44

1 **APPLICANT RICE** – Yes, it will be a concrete tilt-up; extensive amount of glass.  
2 It has got a lot of that metal that you see on the Skechers building around the  
3 square windows.

4  
5 **COMMISSIONER OWINGS** – Yeah but, okay, but it does look totally different  
6 than the Skechers building to me. Would you have an objection to a condition  
7 that would require you to make it more consistent with the Skechers building?  
8

9 **APPLICANT RICE** – I think I would, yeah

10  
11 **COMMISSIONER OWINGS** – Fair enough

12  
13 **APPLICANT RICE** – Skechers is Skechers and we don't want to be like  
14 Skechers and we don't want to be like Highland Fairview. We want to have our  
15 own identity and I think it is better for the City too.  
16

17 **COMMISSIONER OWINGS** – Well you know it seems to me that you are going  
18 to want people to move or whatever tenant comes into that particular building is  
19 going to want people to live where they work, right?  
20

21 **APPLICANT RICE** – Yes

22  
23 **COMMISSIONER OWINGS** – So we have to have an eye to protecting the visual  
24 impact that this building will have in the very area in which we're going to ask  
25 these people to live. Would you agree with that?  
26

27 **APPLICANT RICE** – Absolutely

28  
29 **COMMISSIONER OWINGS** – You know, initially when Skechers opens, it is my  
30 understanding that most of the people that will be employed there probably still  
31 live in Ontario, so it is our job as a City to seek those people to come over here  
32 and live here so that there being here means something; taxes; spending their  
33 money here; etc, etc., so it would seem to me that we don't want to have an  
34 eyesore from one end of the 60 freeway to the other of these large buildings that  
35 all look alike, so I'm hard pressed to understand while consistency in  
36 architectural design is so objectionable, but with that I'll just pass it on to the  
37 other Commissioners.  
38

39 **COMMISSIONER VAN NATTA** – I had a little time on my hands while I was  
40 watching Dancing with the Stars the other night and I went through a couple of  
41 pages of the comments, just where you had the addresses and stuff of the  
42 people and I did mark down on a map. I used red for the people who were  
43 against it and green for the people who said yes they would like it and I know you  
44 probably can't see too much of that here and this isn't all of them by any means,  
45 but it might not surprise you to know that the closer they were to the project and  
46 the more rural or larger the properties that they lived in, the more likely they were

1 to say they did not want the project there and that most of the responses that  
2 said yes they liked the project were clear down along the south side of town  
3 along LaSalle, south of Iris; some of them over in the 92551 area and so it seems  
4 like those that are most impacted with the project and have the biggest objection  
5 to the traffic and everything else like that were the ones that were closer, so just  
6 kind of respond to what you were asking him about that and that does kind of  
7 give a feel there, but also I circled in purple on this from your report here when  
8 you said that you did door to door in a particular area and with one exception and  
9 that was clear down on this side of here, just going through those first couple of  
10 pages where there were yeses and no's, all the ones that were within that area  
11 that you seem to feel that were most impacted where the ones that said they  
12 didn't like the idea of the project there, but that was just to elaborate on what you  
13 were talking about where it was. I didn't really have any other questions beyond  
14 that except for your hotline and I'm looking at what you gave us on your hotline  
15 and the answers that they were allowed to give after name, phone number, email  
16 address, their options were yes, undecided and looking for work. There wasn't  
17 anything there that said no, so if they did call into the hotline and it is interesting  
18 that almost everybody that said yes, also marked the looking for work, which  
19 might have impacted their answer yes, but why wouldn't the hotline have an  
20 opportunity to say they didn't like it rather than yes or undecided.

21

22 **APPLICANT RICE** – I don't know the answer to that question

23

24 **COMMISSIONER VAN NATTA** – Okay, fair enough, thank you.

25

26 **VICE CHAIR BAKER** – Is there anyone else? Okay, Commissioner Crothers  
27 has a quick question?

28

29 **COMMISSIONER CROTHERS** – I just want to thank my fellow Commissioners  
30 for bringing up some of the issues that I also have while going over these  
31 proposed projects and I just want to thank you for being so efficient and  
32 thorough.

33

34 **VICE CHAIR BAKER** – Is there anyone else for questions to the Applicant?

35

36 **COMMISSIONER OWINGS** – You know Mr. Rice I wonder is there anything that  
37 we should have asked you that we didn't that you'd like to elaborate on or any of  
38 the people that you brought with you that could inform us of the traffic situations  
39 beyond or any of the other concerns that you would like to address tonight?

40

41 **APPLICANT RICE** – No I think you did a pretty good job. Nothing comes to  
42 mind that I would want to ask you right now. We have put a lot of work into this  
43 and I appreciate your consideration. I guess I could ask my team if they have got  
44 anything they'd like to contribute.

45

46 **COMMISSIONER OWINGS** – Certainly, with your permission Mr. Chairman



1 **APPLICANT RICE** – We'll wait until Public Comments. Okay, thank you  
2  
3 **PLANNING OFFICIAL TERELL** – Yeah Chair, at this time and I don't know if this  
4 might be an appropriate time to take a short break if you like or not before we  
5 start the Public Comments. I do know that Commissioner Crothers has to leave  
6 to go to work, so...  
7  
8 **VICE CHAIR BAKER** – That's fine, do we need a...  
9  
10 **COMMISSIONER OWINGS** – Maybe we should just soldier on  
11  
12 **PLANNING OFFICIAL TERELL** – That's up to you, but I just wanted to give  
13 Commissioner Crothers...  
14  
15 **VICE CHAIR BAKER** – She is going to work, so if want to keep moving forward,  
16 I'm with you on it okay.  
17  
18 **PLANNING OFFICIAL TERELL** – Obviously we'll have a tape of these minutes,  
19 so should a decision not be made tonight you would have an opportunity to  
20 review those and still participate.  
21  
22 **VICE CHAIR BAKER** – Oh do you want to take a break?  
23  
24 **COMMISSIONER SALAS** – No go ahead  
25  
26 **VICE CHAIR BAKER** – You're okay... We'll open the Hearing up for Public  
27 Comments on Item No. 3.  
28  
29 **PLANNING OFFICIAL TERELL** – If we can just hold off allowing Commissioner  
30 Crothers to leave and then we can start so she is not walking in front of  
31 somebody that is speaking.  
32  
33 **VICE CHAIR BAKER** – Thank you. Okay our first speaker will be Susan Zeitz;  
34 excuse me and we do have a three minute limit. Please state your name and  
35 address.  
36  
37 **PLANNING OFFICIAL TERELL** – Yeah unfortunately those are the rules that  
38 have been established, so...  
39  
40 **SPEAKER ZEITZ** – My name is Susan Zeitz and I've lived here since 1984 at  
41 26386 Ironwood Avenue here in Moreno Valley; unfortunately on Ironwood. I'd  
42 like to address a few of the things that you guys have been talking about versus  
43 my original thing; high schools. The majority of students who go to Valley View  
44 come north from the north side come from the north west and that's where the  
45 High School needs to be. Putting a High School on site number one or two, but  
46 especially number one is like a Cinderella story. They are trying to fit the land to

1 the project instead of the project to the land. Additional traffic is going to be a  
2 nightmare. Two High Schools so close together with more than 3,000  
3 hormonally challenged teenagers is not a good idea.

4  
5 **VICE CHAIR BAKER** – Would you address the subject matter here

6  
7 **SPEAKER ZEITZ** - I'm getting there.

8  
9 **VICE CHAIR BAKER** – Okay you've got three minutes

10  
11 **SPEAKER ZEITZ** – You guys covered all this stuff too. Yes you did, I heard  
12 High School and I heard all kinds of stuff; traffic; bridges; gas prices over there;  
13 the truckers are not going to stick with the freeway routes, they are going to go  
14 the shortest route. They are going to be on Ironwood. Any increase on big rig  
15 traffic north on Redlands Boulevard is going to be a nightmare for the people who  
16 live on the other side of the side hill. There is already a problem and people  
17 trying to go around these rigs on Ironwood and on Redlands Boulevard and  
18 different places are going to have more head on collisions, so traffic is already  
19 bad on Ironwood; it is already bad on Redlands Boulevard. The bridge is a  
20 nightmare on Nason trying to get to the High Schools because improvements  
21 weren't done when those projects were approved other at Target and all that.

22  
23 The same thing with Skechers; narrow bridge; wide roads on either side; it is a  
24 no-brainer. It is going to be a problem. They already exceed the speed limit on  
25 all of that area over there. I don't know why the planners let them put in the  
26 buildings before they make all of the improvements. The warehouses on the  
27 northeast and southeast are ludicrous, they should be near the freeway  
28 interchanges and not on the end of the town where they are going to try to take  
29 shortcuts and they are going to impact not only the people immediately there but  
30 a lot of other people too.

31  
32 The State of California requires that every City and County have an adopted  
33 General Plan to provide guidance and direction, but it doesn't say they should  
34 continuously manipulate it to suit those with monitorial resources beyond the  
35 means of most of its citizens. Some of our citizens like us moved into this area  
36 because it is largely rural. Some moved into this area because they liked the  
37 original General Plan. Everyone can understand a General Plan will change a  
38 little over time but not to the extent that our City becomes unrecognizable from  
39 the first plan. Every time someone wants a petition to change or amend the  
40 General Plan the City Council should first take into consideration the City's  
41 original General Plan and not it's most recent predecessor. We purchased our  
42 home in 1984 before the incorporation and went to the City meetings and the  
43 planning meetings and we liked the way the plan was made, but every time  
44 someone comes; every time a developer comes in and waves money in front of  
45 you and the City Council, bam, we have an amended General Plan.

1 Often the only people that are notified are those people within 300 feet. It is  
2 ludicrous because what happens in Moreno Valley truly affects every taxpaying  
3 citizen and the City is sneaky. I feel that any time there is a petition to change or  
4 modify the original and I do mean the first one General Plan that written notice  
5 should go out to every taxpaying citizen and not just those within the 300 feet.  
6 This buyer; these people; they bought this building for almost 3 million dollars  
7 knowing that it's not for what they want. They want to put a warehouse there but  
8 they didn't buy it... they bought it knowing it wasn't zoned for that, so they are  
9 feeling pretty certain that they are going to come in front of Moreno Valley and  
10 they are going to be able to change it. You know if they thought you'd say no,  
11 they'd still have spent that money for a piece of property that they can't build a  
12 warehouse on; I don't know. The Press Enterprise quotes Darryl Hill who is the  
13 Vice President of the Dom Commercial Real Estate services sold the property; it  
14 says obviously they wouldn't have purchased this property if Skechers hadn't  
15 happened. It is wrong to come into an area of rural homes and farmlands and  
16 build something not in keeping with the area. You should have never allowed  
17 Skechers.

18  
19 Don't compound the mistake by allowing more warehouses or commercial  
20 properties to ruin the rest of the northeast and southeast end of our Valley. Keep  
21 the industry to the east of Perris Boulevard. Stipulate that before pristine land  
22 can be plowed under and covered in concrete that the unused or underused  
23 commercial areas be utilized first until there just isn't anyplace left to expand.  
24 Don't make our valley one continuous gigantic concrete city. Development  
25 should be done where it has the least amount of impact both on land and its  
26 citizens. Draw the line. Stand your ground. Once pristine land is covered in  
27 cement it is gone forever. Preserve what is left of our rural areas of our valley for  
28 future generations. I hadn't spoken up about this before because I just found out  
29 about it because I live more than 300 feet away and I'm against or any other  
30 warehouses being built on the northeast or southeast end of our valley. Thank  
31 you for giving me the time.

32  
33 **VICE CHAIR BAKER** – You're welcome. Our next Speaker is Deanna Reeder.  
34 State your name and address for the record please.

35  
36 **SPEAKER READER** – My name is Deanna Reeder and I live in District 3 and I  
37 appreciate Mr. Owings and Ms. Van Natta; your questions very much because  
38 we need to question the things that we do. Mr. Ramirez, I'm going through these  
39 comment cards here and you have a comment card here that you were for the  
40 West Ridge Warehouse, which means that you probably should exclude yourself  
41 from voting on this because you are not an unbiased party. You are a very  
42 biased party. You've already participated in getting it here. Mr. Baker, the last  
43 City Council meeting I was at you sat whispering in Mr. Benzeevi's ear through  
44 the meeting. I don't think you are very unbiased either. If you are going to be up  
45 there making decisions on people projects maybe you should show just a little  
46 more discretion on where you hang out and who you hang out with. You should

1 at least put on an air that you are unbiased about it. Now in case you didn't know  
2 Mr. Rice is on the Rancho Belago Economic Council, Board of Directors along  
3 with Benzeevi and you know some of his good old boy club and that's fine; it is  
4 his project, but you all need to be doing your jobs in representing the people of  
5 this City. I believe most of you were appointed because they expected you to  
6 vote the way Mr. Benzeevi wants you to vote. Now that might not happen and  
7 that's not a bad thing. Like I said I appreciate the questions; surprised as all  
8 whatever, but I do appreciate it. I watched... well I send out emails to people and  
9 urge them to send out emails or contact or go to meetings or what have you; you  
10 have one email that is in there by Mr. Hyatt and I know there was a lot more  
11 emails so I'm just wondering where they were at, because most of the people  
12 that I contacted that sent emails on, actually explain why.

13  
14 On the Skechers project; if you read their emails, most of them were weenie jobs.  
15 Well you know what, when they built Skechers, they had what a thousand people  
16 working there and the unemployment in Moreno Valley went up the entire time.  
17 Guess what; what jobs now; didn't happen and the people that are going to work  
18 there aren't from Moreno Valley. Now by attrition, eventually some of them will  
19 be from Moreno Valley, but jobs now didn't; it is not going to happen; tax base  
20 that's not going to happen. That's a pile of crap too. We have a 14 million dollar  
21 deficit and Skechers is supposed to contribute 190 thousand dollars a year in  
22 economic benefit; so in three years that is 570 thousand dollars. How come we  
23 can't get 14 million from them because it is not going to happen? You know what  
24 when we say jobs and we say economic benefit, these are empty promises.  
25 Please do not approve a speculative building. I mean even the ones that aren't  
26 speculative aren't giving us what they said they were. It obstructs the view more  
27 than they said. It is not going to have the landscaping they promised. You try to  
28 get out of the other stuff and... Mr. Rice I approve of the things that you put in  
29 District 4 just so everybody knows where I live at. Through my backyard I look at  
30 a big blue Walgreen's building. Now Skechers was put where it was supposed to  
31 be I would be looking at it every day. I don't look at it every day because it is not  
32 where is supposed to be. Now if this building was put where it is supposed to be  
33 I would be looking at this, so you know these people that tell me this nimbi crap;  
34 that's crap because if you put it where it is supposed to be I would be looking at it  
35 from my backyard and I don't have a problem doing that because that is where it  
36 is supposed to go, so the next person that tells me nimbi, you can do whatever  
37 with it; I'm not going to say it but you get the idea, so that is not the case.

38  
39 Things are planned. You need to put things where are they are planned. You  
40 need to approve them where they are planned. Mr. Benzeevi bought his  
41 approval and just like in San Bernardino, eventually I'm he is going to pay for it.  
42 In fact I'm very sure eventually he is going to pay for it. But you know what, it  
43 has been what six years since what they did in San Bernardino happened and  
44 are just now getting indicted. Things take time; but don't worry, it will happen.  
45 Please don't let him buy an approval and then start getting other warehouses  
46 where they don't belong. This warehouse does not belong there and just like I

1 told Mr. Benzeevi and I did. I said if you put the warehouse where it supposed to  
2 go I will support it. I did. I offered to support the Skechers if it where it was  
3 supposed to go and I am not anti-warehouses. Now if Mr. Rice will put the  
4 building where it should go, I will support it. I will not support over there and I will  
5 ask that you listen to the citizens of the City; not the 500 that Mr. Benzeevi paid  
6 to show up in buses, but the actual people that live here. Thank you.

7  
8 **VICE CHAIR BAKER** – Thank you. The next Speaker we have is Alisha Zeitz.  
9 Please state your name for the record and your address.

10  
11 **SPEAKER ZEITZ** – Hello my name is Alisha Zeitz and I live at 26386 Ironwood  
12 Avenue. I am the face of the youth who will need a future job. I will need to  
13 apply to College and jobs in the next year, so if this Skechers building is bringing  
14 in 1,100 jobs that are mostly technology based, how am I or any of my 3,000 plus  
15 piers going to get a job with this expertise at Skechers. I begin with this question.  
16 It has been brought to my family's attention that the City of Moreno Valley City  
17 Council per their City of Moreno Valley Deficit Elimination Plan has removed  
18 funding from our Moreno Beach Fire Station 58 at Eucalyptus Avenue and  
19 Moreno Beach Drive in the Auto Center across from Walmart. This cut  
20 eliminates 8 sworn firefighters and truck 58; our City's only paramedic truck  
21 company. Calls will be assigned to the remaining stations in the City which they  
22 expect will drop their response time to 60 percent efficiency, which can be the  
23 difference between life and death. Yet you propose adding more industry which  
24 increases the change of industrial accidents where those services will be needed  
25 the most and increase the number of big rigs coming and going in and out of our  
26 valley, which increases the unfortunate, but likely chance of negative interaction  
27 between those tens of thousands of ton trucks with our family vehicles.

28  
29 The northeast and the southeast end of the valley will be affected the most  
30 because we will now be the furthest from help0. This is another good reason to  
31 keep the northeast and southeast areas of our valley rural and not allow further  
32 commercial or warehouse industry into this area. Also the City of Moreno Valley  
33 is located with the South Coast Air Basin. The basin is a physical unit that due to  
34 low wind speeds and prevailing inversion layers retains pollutants for substantial  
35 periods. This slow dispersal of pollutants results in high concentrations of  
36 primary pollutants including carbon monoxide. The basin also supports the  
37 formation of the ozone. The atmospheric haze created by the presence of these  
38 pollutants is known as smog. Adding more industry to the northeast and  
39 southeast end of the valley will further pollute our homes. Please don't change  
40 the zoning to allow more warehouses. Let's retain rural areas of our valley.  
41 Thank you.

42  
43 **VICE CHAIR BAKER** – Thank you. As it sits here I have no more Speaker Slips  
44 for this item, so I'm going to close the Public Hearing.

1 **PLANNING OFFICIAL TERELL** – At this time I think if you could leave the Public  
2 Hearing open and call the Applicant back.

3  
4 **VICE CHAIR BAKER** – Okay, sorry about that. We'll open the Public Hearing up  
5 and let's do that. Mr. Rice do you want to come forward and rebuttal some of  
6 those comments.

7  
8 **APPLICANT RICE**- Yeah I think just a couple of clarifications. Susan had  
9 mentioned purchasing the property for 3 million dollars. That wasn't our  
10 particular site; the site immediately east of us between our east boundary and  
11 Redlands was sold; my understanding in reading a newspaper article less than  
12 30 days ago and I believe the price was 2 or 3 million dollars or so. It wasn't our  
13 site and then Ms. Reeder had mentioned something about me being on the  
14 Board with Iddo; on a Rancho Belago Board, which I have no idea what she is  
15 talking about because I'm on no Board for Rancho Belago.

16  
17 **VICE CHAIR BAKER** – Okay, thank you

18  
19 **APPLICANT RICE** – You bet

20  
21 **PLANNING OFFICIAL TERELL** – So are you going to close the Public Hearing?

22  
23 **VICE CHAIR BAKER** – Yeah, I'll close that.

24  
25 **PLANNING OFFICIAL TERELL** - I wanted to kind of have the City Attorney  
26 comment on one of the comments that was made.

27  
28 **DEPUTY CITY ATTORNEY BRYANT** – One of the comments supposed that a  
29 Commissioner may have pre-judged the item. I just wanted to remind the  
30 Commissioners that if anybody has pre-judged an item before the finding, they  
31 might want to recuse themselves from making a decision if they have pre-judged it.  
32 Perhaps more facts have come out but as long as you can keep an open mind  
33 and think you can go ahead and make a decision on the item.

34  
35 **COMMISSIONER OWINGS** – I think it is important to note that he wrote that card  
36 before he was a member of the Planning Commission. So are we into...

37  
38 **VICE CHAIR BAKER** – So what we do next is we are into Commissioner's  
39 Debate over the project.

40  
41 **COMMISSIONER OWINGS** – Mr. Chairman or Mr. Commissioner could I... I'm  
42 probably going to hate myself for these comments but... I would like to first all  
43 say that I trust every person at this dais. I trust your motives and the people who  
44 are against this project or any project who use ad hominem attacks to discredit a  
45 project really are hurting themselves and I think that this City will never get to a  
46 point where it will grow in a positive way if we don't stop all of this; this non-fact

1 base of personal attacks. Whether or not Iddo Benzeevi is a good person or a  
2 bad person, he has certain rights in this City and they should be obeyed or they  
3 should be respected. Every person in this room has certain rights that need to  
4 be respected by Mr. Benzeevi and everybody else and we need to live by those  
5 rules, so I would really just encourage everyone and I know this is going to fall on  
6 deaf ears, but we need to stop this.

7  
8 There is not a single person involved in this Planning Commission that has  
9 dishonorable motives and if they do you know it is not our place to judge them.  
10 Let their votes and their comments stand for that, so I apologize to you and I  
11 know that today I didn't receive any but I know that next week I might, so I would  
12 just hope that we could all restrain ourselves from those types of attacks and  
13 especially to you Mr. Rice and I apologize for myself. In terms of the question  
14 that is before us, you know I believe that I heard everything that was said by the  
15 people who were here speaking.

16  
17 I do believe that markets change and I think that these folks bought this property  
18 with the intent to do something with it that was consistent with the current zoning  
19 and I think that the market no one could foresee 2009 and the market changed  
20 and so now they want to do something different with it and unlike the earlier  
21 situation, this is not a contractual agreement, this is a matter of property rights,  
22 so I agree that they have the right to ask for this and I happen to agree that under  
23 certain circumstances it should probably be granted, but I personally cannot vote  
24 for the project until I know who the tenant is and I especially can't vote for it when  
25 there is 40,000 square feet or 40 million square feet of potential space  
26 somewhere else or within eyeshot of the building, so until we know who is there, I  
27 feel that it is impossible to judge the exact impact to the community and therefore  
28

29 I will vote no, but I will tell you this Mr. Rice, if you bring a tenant here and can  
30 bring this thing down to more manageable numbers and be more persuasive  
31 about actual jobs and impacts to the area you'd have my vote in two seconds  
32 and that is the situation that I find myself in tonight and I appreciate everybody  
33 listening.

34  
35 **COMMISSIONER RAMIREZ** – I just want to address what was mentioned about  
36 me earlier. Again as Commissioners we take this obligation as a privilege to  
37 serve the people. We are here to provide a non-biased, but yet intelligent  
38 perspective opinion on what is presented to us. The future of our community is  
39 basically our responsibility; our State. Wherever we build today is going to be  
40 here well after we are gone; it is going to be for our kids; for our future, so having  
41 said that I am going to say clearly I am here to vote against this and the reason  
42 why is because the traffic situation on Redlands Boulevard jeopardizes the  
43 security of everyone there. I believe the future of our community if we are to  
44 develop in an economic and industrial way, we have to do it in an efficient,  
45 logistical manner. I think Theodore Boulevard is the ideal location to route traffic  
46 in and out of the City. I think we should protect our citizens, especially those that

1 live off of Redlands north and south of the freeway, so the concern that I have  
2 also is that I agree with Commissioner Owings is that it is hard for us to say yes;  
3 let's go ahead and vote for this when we don't have a tenant that will bring jobs.  
4 It is all speculative. You know the other projects that they have south of the City;  
5 those have tenants already. I would like to see a tenant that will come into our  
6 community that would be basically at the cutting edge of the economic industry;  
7 basically like Skechers in other words; a tenant that is willing to be here for the  
8 long haul that is committed to help this community prosper and thrive. That's all I  
9 have to say. Thank you.

10  
11 **COMMISSIONER VAN NATTA** – I don't think that we can always expect that  
12 when somebody is building an industrial building that they are going to know who  
13 in advance who the tenant is going to be and I think that is an unrealistic  
14 expectation and usually isn't going to happen. They may have some  
15 perspective tenants but it not going to be that often that somebody does a project  
16 of this size that's build to suit like the Highland Fairview project did for the  
17 Skechers tenant, but my objection to this project has to do with fact that it was  
18 very, very clear when Highland Fairview was putting their application in for their  
19 huge building in on the east end of town that that was a major paradigm shift for  
20 a lot of people; that that was not what a lot of people saw that was going to  
21 happen on that end of town and even though it may end up being the best thing  
22 for the City it was only approved after a lot of people were convinced that it was  
23 going to be pretty much curtailed to that area from Redlands east and that it  
24 wasn't going to increase truck traffic coming through the residential area there  
25 along Redlands and that future development of this type was going to be  
26 encouraged to be other high end tenants like the Skechers project and that that  
27 was the only way that we could tolerate that kind of development on the east end  
28 of town, was if it was upscale; if it was somewhat contained and so forth. This  
29 project is lovely as a warehouse as it is, looks just the same as the other big box  
30 warehouses that are in other areas of town. I don't think it reflects the level of or  
31 the type of building that we want to see on the east end of town, but more than  
32 that it puts truck traffic onto Redlands Boulevard and for no other reason than  
33 that I would vote against this project just because of the impact that it is going to  
34 have on the residents of that area and their somewhat semi-rural even though  
35 much less rural than it used to lifestyle.

36  
37 **COMMISSIONER SALAS** – I like the project. I like idea of the project. I agree  
38 with Barry on that we need it, but again the only thing that I don't like about this  
39 project is traffic. If Mr. Rice would come to me and tell me that they are going to  
40 improve the off-ramp and widen it when we could actually have a car and a truck  
41 going at the same time both directions, because it is going to be another Nason  
42 and the 60 freeway there. It is just going to be backed up. The cars are going to  
43 be backed up. There is going to be a stop sign there or a light or whatever is  
44 going to be there. It is going to be horrible. The traffic is going to be backed up  
45 forever. That is where everybody goes to San Timoteo to get out of town to go to



1 Redlands and stuff, so that's what is going to keep me from supporting this  
2 project. Thank you.

3  
4 **VICE CHAIR BAKER** – No they leave it to me. You know this is a double-edged  
5 sword here. We need to get some community development going here and you  
6 can't do it without putting... and the problem we've got here in Moreno Valley in  
7 the proportion of roof-tops to commercial property is way out of whack and I don't  
8 know how to get it back. I mean we've got to get some commercial property in  
9 this town and no one wants it in their area. I mean you know obviously these  
10 fellows own the land and they say go to the south. Well they don't own the land  
11 in the south part of Moreno Valley or they don't own the property out there by  
12 Gilman Springs or Theodore, so I don't know. It seems like to me and this is just  
13 me talking, we're really stymieing ourselves here and I understand all the traffic  
14 problems; the smog and everything you are considering but somewhere we are  
15 going to have to bite the bullet and go forward with this. Obviously I'm probably  
16 in the minority here. I don't whether we ought to vote on this. We've got two  
17 Commissioners absent. This is a big hit here. Looks like right now it is going to  
18 fail and John you may give us some guidance on this. Do whatever you like.

19  
20 **PLANNING OFFICIAL TERELL** – Well you have the option to continue it if you  
21 like so that the other two Commissioners could participate. You also have the  
22 ability to continue to ask the Applicant if he would like to continue it, if he would  
23 like to provide additional information that might address some of your concerns  
24 that came tonight. Based on your comments though, I can count to four and it  
25 looks there are four Commissioners that are not in favor of recommending this  
26 project and therefore that is a majority.

27  
28 **VICE CHAIR BAKER** – Well you know and I don't know if it's proper or not and I  
29 don't know how on earth, because I've been in property rentals and stuff, how  
30 you can have a spec property and that deal with Skechers was really a strange  
31 deal where he had a tenant lined up and lease signed before he even built the  
32 building and I don't know, I'd sure like to talk or have Mr. Rice address that if that  
33 is even possible. I don't know, is that out of line to bring the Applicant back up?

34  
35 **PLANNING OFFICIAL TERELL** – You can do that. I can give you... I'll just let  
36 you know should you choose not to recommend this project, by the Code your  
37 action is final unless appealed. The options that are available to Ridge Realty  
38 are they can choose to appeal this and send it to the City Council. It won't  
39 automatically go there.

40  
41 **COMMISSIONER OWINGS** – No but given the current makeup of the City  
42 Council, they stand a very good chance of success and so you know if I were  
43 advising them, that's what I would advise them to do, but I'm not advising them  
44 so...

1 **PLANNING OFFICIAL TERELL** – Yes, that certainly was the circumstance of  
2 Skechers, so I wouldn't say that would happen this time but the options that are  
3 available to the Commission are to continue it if you like and I'd say continue it if  
4 you'd like more information that you think you would change your decision and if  
5 that is not the case then I would suggest you take the action tonight and Ridge  
6 Realty has the opportunity to appeal that decision should they choose to do so.

7  
8 **COMMISSIONER OWINGS** – Well it seems like let's just do a quick poll. I know  
9 that I'm not going to be persuaded to by any new information at this point unless  
10 of course it was really earth shattering.

11  
12 **COMMISSIONER VAN NATTA** – I can't see anything that would change unless  
13 they had some other route of getting on the freeway other than using Redlands  
14 and I don't see any way that they are going to be able to do that.

15  
16 **VICE CHAIR BAKER** – Let me ask you this. How is this every going to get  
17 straightened out there? I mean somebody is going to move in there eventually  
18 whether you put 19 buildings in there or you put one big one in.

19  
20 **COMMISSIONER SALAS** – That's true too

21  
22 **VICE CHAIR BAKER** – I mean you're going to have some traffic there...

23  
24 **COMMISSIONER OWINGS** – It is different traffic though and we don't know what  
25 it is going to be and that's point. You know if we made exceptions for every  
26 zoning change that comes before us on the basis of my God that is the only way  
27 we are going to fill that property then we may as well not have zoning laws.

28  
29 **COMMISSIONER VAN NATTA** – There might be another use for that that is  
30 more palatable. All I know what is being proposed right now is not to me  
31 palatable and there might be a better use for the land than a single big  
32 warehouse that brings a lot of trucks in and out. Business Park... maybe there  
33 isn't a call for Business Park right now. Maybe we'll be asked to consider some  
34 other type of zoning change for something else there. That's you know; we just  
35 have to look at the project we have before us.

36  
37 **COMMISSIONER OWINGS** – You know Mr. Chairman, just back to where we  
38 were; John and I both agree that there are probably four votes against three.  
39 You know if we wait for next meeting and put it over, they have to wait a whole  
40 month and then the vote might be 7 to 4 or 7 to 0, in which case the City Council  
41 would be more persuaded to uphold our decision. I think what is best for the  
42 Applicant at this time is to just for us to move forward with the four vote  
43 Commission. It will come out 4 – 1 and two people not here. That doesn't really  
44 give a clear indication of where we are at and City Council is going to do what  
45 they are going to do and my guess is they are going to override our  
46 recommendation.

1  
2 **VICE CHAIR BAKER** – Let me ask you this. In the zoning deal how did you  
3 come with 50,000 square feet? That isn't even a Home Depot and I imagine a  
4 Target is more. I know it's more than 50,000.

5  
6 **PLANNING OFFICIAL TERELL** – It was based on...

7  
8 **VICE CHAIR BAKER** – What do you get for 50,000? Is that a Best Buy?

9  
10 **PLANNING OFFICIAL TERELL** – Well let me clarify it. The 50,000 square foot  
11 limit is not the limit on any building, it's the limit on a warehouse industrial  
12 building and as I think has been mentioned, the type of traffic in a large  
13 warehouse is different than the traffic in a small warehouse. There is more traffic  
14 with smaller buildings. Nineteen smaller buildings would have more traffic but  
15 they would have more cars and fewer trucks. The larger the building gets the  
16 more trucks you have and fewer passenger vehicles, so the overall traffic is  
17 actually less with the larger the building but the truck traffic is higher.

18  
19 **COMMISSIONER SALAS** – Okay, so he could come back to us and say I've  
20 decided to put 17 buildings there instead and make a Business Park there, right?

21  
22 **PLANNING OFFICIAL TERELL** – Under the current zoning and if he did that,  
23 pretty much like the tract you had at your last meeting you more or less and I  
24 won't say you have to approve it, but your options are less because there is a  
25 right to build that size building. The current opportunity; there is not an  
26 opportunity to build this building currently without a zone change.

27  
28 **COMMISSIONER SALAS** – Okay with that said I'm going to change my mind.  
29 I'm going to support the project.

30  
31 **COMMISSIONER OWINGS** – So we probably need to just call the question.

32  
33 **PLANNING OFFICIAL TERELL** – So I guess somebody needs to make a...

34  
35 **VICE CHAIR BAKER** – Okay, let's go for the vote on this and I want to make it  
36 clear here that the way that I'm feeling about this no one has bought my vote or  
37 twisted my ear. It is just strictly the way I feel on you know on moving Moreno  
38 Valley forward. I don't know. I don't totally understand a lot of this, I really don't.

39  
40 **COMMISSIONER OWINGS** – You know Mr. Chairman I bet Mr. Rice would  
41 agree with me, if we were to vote this project or the zoning change down, there  
42 would be a little celebration over at Iddo's headquarters tomorrow, so it is kind of  
43 interesting that the supporters of it are so anti-Skechers would really probably be  
44 helping that you know by voting it down. We're probably helping Iddo. It is his  
45 project because you know we are pushing things over that direction, so with that  
46 being said let's call the question.

1 **VICE CHAIR BAKER** – Okay let’s get to the... we’re going to have to have a  
2 move and a second on this. Is somebody in a position because you’ve got quite  
3 a bit of stuff here to read off?  
4

5 **PLANNING OFFICIAL TERELL** – Okay and I’ll kind of give you a little bit of  
6 guidance on that. If someone wants to make a recommendation to approve,  
7 read what is in the Staff Report. If someone wants to make a recommendation to  
8 not recommend; basically for denial, then just make that recommendation of a  
9 denial. We’ll have to bring back a resolution to you that states; that matches your  
10 action at your next meeting; not that Ridge Realty can’t appeal it in the  
11 meantime, but we’ll need a resolution approved by you before we actually go to  
12 Council. But you don’t need to take all those actions about every single little  
13 thing. Basically if you recommend denial of the Zone Change you are precluded  
14 from recommending approval of any of the other actions that are before you, so it  
15 is just... If I perceive what that might be, it would to deny the Zone Change.  
16

17 **COMMISSIONER OWINGS** – Would a simple motion then to just simply say I  
18 move to **DENY** the Zone Change be appropriate.  
19

20 **PLANNING OFFICIAL TERELL** – Correct  
21

22 **COMMISSIONER OWINGS** – So moved  
23

24 **COMMISSIONER VAN NATTA** – Second  
25

26 **VICE CHAIR BAKER** – Okay to the vote; all in favor?  
27

28 **Opposed – 3 (Commissioner Owings, Commissioner Van Natta,  
29 Commissioner Ramirez)**  
30

31 **Motion carries 3 – 2 – 2, (with 2 Absent – Commissioner Dozier,  
32 Commissioner Crothers)**  
33

34 **PLANNING OFFICIAL TERELL** – So with that the wrap up on that is that this  
35 action shall become final unless appealed to the City Council within 15 days.  
36

37 **VICE CHAIR BAKER** – Thank you  
38  
39  
40  
41  
42  
43  
44

# Westridge Commerce Center Final Environmental Impact Report



Prepared for:  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, CA 92552  
City Case # P08-133

Prepared by:  
  
appliedplanning  
inc

April 2011

ATTACHMENT 10

**FINAL ENVIRONMENTAL IMPACT REPORT**

for the

**Westridge Commerce Center Project**

State Clearinghouse Number:  
2009101008

Prepared for:

**The City of Moreno Valley**  
14177 Frederick Street  
Moreno Valley, CA 92553  
City Case No. P08-133

Prepared by:

**Applied Planning, Inc.**  
5817 Pine Avenue, Suite A  
Chino Hills, CA 91709

April 2011

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## **Appendix A: Attachments to Comments and Responses**

Attachment 1: Attachments to Comments Provided by Johnson and Sedlack

Attachment 2: *The AB 32 Challenge: Reducing California's Greenhouse Gas Emissions*

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## **1.0 Introduction**

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# 1.0 INTRODUCTION

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## 1.1 OVERVIEW

This document, combined with the Draft Environmental Impact Report (EIR), constitutes the Final EIR for the Westridge Commerce Center Project (Project). The Draft EIR describes existing environmental conditions relevant to the proposal, evaluates the Project's potential environmental effects, and identifies mitigation measures to reduce or avoid the potentially significant impacts. The Draft EIR was circulated for public review and comment from October 21, 2010 through December 6, 2010.

## 1.2 CONTENT AND FORMAT

Subsequent to this introductory section, Section 2.0 of this document contains corrections and errata to the Draft EIR. Section 3.0 contains copies of each comment letter received on the Draft EIR, along with annotated responses to each comment contained within the letters. The Project Mitigation Monitoring Plan, which includes additional measures developed as a part of this Final EIR, is presented in Section 4.0.

## 1.3 DRAFT EIR COMMENTORS

A total of twenty-four (24) comment letters were received from various agencies and organizations. Additionally, four comment cards were received at a December 2, 2010 public meeting that was held to discuss the Project. The following Table 1.3-1 identifies the Draft EIR commentors. For reference purposes, comments are numbered and may be referred to by an acronym within the Responses to Comments (Final EIR Section 3.0). These acronyms, along with the dates of correspondence received, are also included in Table 1.3-1. Comments denoted with an asterisk \* were received subsequent to the stated close of comments date (December 6, 2010), and are therefore not provided responses within Section 3 of this Final EIR. The Lead Agency has, however, attached these late comments and their corresponding responses to the Project staff report.

**Table 1.3-1  
Draft EIR Commentors**

<b>Commentor</b>	<b>Acronym</b>	<b>Correspondence Date</b>
<b>State Agencies</b>		
Office of Planning & Research - State Clearinghouse	SCH	12/7/10
California Department of Fish and Game	CDFG	12/3/10
California Department of Transportation	DOT	12/6/10
<b>County and Regional Agencies</b>		
Eastern Municipal Water District	EMWD	12/6/10
Riverside County Flood Control and Water Conservation District	RCFC	11/29/10
South Coast Air Quality Management District	AQMD	12/10/10*
<b>Local Organizations and Individuals</b>		
Marcia Amino	MA	12/5/10
Lynne Ashley	LA	12/5/10
Gerald M. Budlong	GB	12/2/10
Center for Community Action and Environmental Justice	CCA	12/6/10
Paul Claxton	PC	12/5/10
Stephen Crews	SCR	12/6/10
Friends of the Northern San Jacinto Valley	FNSJ	12/6/10
Susan Gilchrist	SG	12/6/10
Highland Fairview	HF	12/6/10
Tom Hyatt	TH	12/10/10*
Johnson & Sedlack	JS	12/6/10
Shelly Mesa	SM	12/6/10
Ned and Dawn Newkirk	NDN	12/6/10
Deanna Reeder, Letter 1	DR1	12/6/10
Deanna Reeder, Letter 2	DR2	12/6/10
Residents for a Liveable Moreno Valley	RLMV	12/3/10
Sierra Club	SC	12/6/10
Thomas Thornsley	TT	12/6/10
<b>Comment Cards Received at the City of Moreno Valley Public Meeting, December 2, 2010</b>		
Amora Johnson	AJ-C	12/2/10
Richard Johnson	RJ-C	12/2/10
Deanna Reeder	DR-C	12/2/10
Sierra Club	SC-C	12/2/10

\* Comments received after the stated close of comments date (12/06/10).

## 1.4 POINT OF CONTACT

The Lead Agency for this Project is the City of Moreno Valley. Any questions or comments regarding the preparation of this document, its assumptions, or its conclusions, should be referred to:

Jeff Bradshaw, Associate Planner  
City of Moreno Valley  
Development Department  
14177 Frederick Street  
Moreno Valley, CA 92553

## 1.5 PROJECT SUMMARY

The following information is summarized from the Project Description in the Draft EIR. For additional detail in regard to Project characteristics and Project-related improvements, along with analyses of the Project's potential environmental impacts, please refer to Draft EIR Sections 3.0 and 4.0, respectively.

### 1.5.1 Project Location

The Project site is located southwesterly of the State Route 60/Redlands Boulevard interchange, within the easterly portion of the City of Moreno Valley. The approximately 55-acre site is bounded to the north by State Route 60 (SR-60), to the west by the Quincy Channel, to the south by Fir Avenue (future Eucalyptus Avenue), and by a vacant parcel to the east. The Project's easterly boundary parallels Redlands Boulevard, which is located approximately 700 feet to the east.

### 1.5.2 Project Overview

The subject of this EIR is the proposed development of the Westridge Commerce Center, which has been initiated by the Project proponent, Ridge Property Trust. Together with supporting improvements, the Project will provide for approximately 937,260 square feet of new light industrial warehouse/distribution uses.

In addition, the Project includes the development of supporting infrastructure, including roadway improvements, all necessary utilities including storm water management detention/retention basins, and paved, on-site parking areas.

### 1.5.3 Project Objectives

Primary objectives of the Project, as identified by the Project Applicant, are as follows:

- Transition the existing site into a productive use;
- Develop a project that is sensitive to the surrounding land uses;
- Provide jobs-producing, light industrial uses to the City of Moreno Valley and local community;
- Capitalize on the site's regional freeway access; and
- Increase economic benefits to the City of Moreno Valley through increased tax generation and job creation.

### 1.5.4 Discretionary Actions

Necessary discretionary actions, permits, and consultations allowing for implementation and operation of the Project will include, but are not limited to, the following.

#### 1.5.4.1 Lead Agency Discretionary Actions and Permits

- **Certification of the EIR (City Case # P08-133).** The proposed development is a Project under CEQA, and may result in significant environmental impacts. Lead Agency certification of the Project EIR is required;
- **A zone change from Business Park to Light Industrial (City Case # PA08-0098).** The proposed zone change will allow for construction and operation of the Project's distribution warehouse uses as configured;
- **Amendment to Municipal Code Section 9.05.020 B (City Case # PA10-0017) [Light Industrial Districts],** to provide objective standards for the development of Light Industrial uses adjacent to residentially-zoned property to ensure the protection of the health, safety and welfare of future residents;

- **Parcel Map Approval (City Case # PA09-0022)** to consolidate and reconfigure existing parcels defining the Project site, and to provide necessary easements and dedications;
- **Development Plan Review (City Case # PA08-0097)** pursuant to City of Moreno Valley Municipal Code Section 9.02.030 [Development Review Process], et al.;
- **Construction, grading, and encroachment permits** allowing implementation of the Project facilities within City of Moreno Valley jurisdictional areas; and
- **Vacation and/or dedication of public rights-of-way and easements** as elements of the proposed parcel map, or independent of the map. Rights-of-way and easements will provide public access, and ensure appropriate alignment of and access to infrastructure and utilities.

#### 1.5.4.2 **Responsible and Trustee Agency Discretionary Actions, Permits, and Consultation**

- **Permitting and Consultation through the California Department of Fish and Game (CDFG), to include:**
  - **Lake and Streambed Alteration Agreement (LSA)** addressing potential CDFG jurisdictional area impacts resulting from the Project; and
  - **Consultation** regarding the possible relocation of resident burrowing owls (if burrowing owls are determined to be present on the subject site during required pre-construction surveys).
- **CWA Section 404 and Army Corps of Engineers (ACOE) permitting** will be required for Project activities affecting off-site ACOE jurisdictional areas. CWA Section 404 permitting may also be required should the Project riparian habitat mitigation plan involve or require use of off-site federal jurisdictional areas;

- **Permitting required by/through CWA Section 401 and Santa Ana Regional Water Quality Control Board (SARWQCB)** pursuant to requirements of the National Pollutant Discharge Elimination System (NPDES) Permit;
- **Permitting required by/through the South Coast Air Quality Management District (SCAQMD)** for certain equipment to be temporarily employed within the Project during construction, and/or permanently installed and used over the life of the Project; and
- **Permitting by/through the California Department of Transportation (Caltrans)** for improvements within or that may affect Caltrans rights-of-way.

#### 1.5.4.3 City Development Applications

In support of requested discretionary approvals and permits noted above, development applications submitted by the Project Applicant include:

- **Plot Plan** for a 937,260 square foot warehouse distribution facility;
- **Zone Change** from Business Park to Light Industrial;
- **Tentative Parcel Map** No. 36207 to combine the Project's five parcels into a single parcel; and
- **Application to Amend the City Municipal Code.** The Project Applicant is requesting a Municipal Code text Amendment to Section 9.05.020 B. The requested Amendment would provide objective standards for the development of Light Industrial uses adjacent to residentially-zoned property in order to ensure the protection of the health, safety and welfare of future residents.

## **2.0 Revisions and Errata Corrections**

---



## **2.0 REVISIONS AND ERRATA CORRECTIONS**

### **2.1 INTRODUCTION**

Based on the comments received on the Draft EIR (which are provided in full in Section 3.0 of this Final EIR), this Section presents revisions to the text and graphic illustrations of the Draft EIR. For text corrections, additional text is identified by **bold underlined text**, while deletions are indicated by ~~strikeout font~~. All text revisions affecting mitigation measures have been incorporated into the Mitigation Monitoring Plan presented in Section 4.0 of this Final EIR. It should be noted that the revisions and corrections provided here expand and clarify analyses previously provided, and do not constitute substantive new information. Conclusions of the Draft EIR are not affected by these revisions.

### **2.2 TEXT REVISIONS**

#### **2.2.1 Text Revisions to Draft EIR Section 3.0, Project Description**

Consistent with the comments provided by Thomas Thornsley, the text at DEIR Section 3.5.12, Page 3-17 (excerpt following) is amended to also include notation of screening discussed previously at DEIR Page 3-9:

#### **3.5.12 Screening**

Screening within the Project site will be provided for under Zoning Code Section 9.08.150, "Screening Requirements," and Section 9.10.160, "Outdoor Storage, Trash Areas, and Service Areas." As required under

these portions of the Code, the Project final site plan and building designs shall incorporate screening of mechanical equipment and trash areas. Southerly facing loading docks and adjacent truckyard areas will be screened from off-site views by an approximately 14-foot high screenwall spanning approximately 1,200 feet, across the length of southerly-facing truckyard areas. **Project loading areas will be screened from view on the north and the northernmost portion of the east side by 8-foot high masonry screenwalls.** . . .

## 2.2.2 Text Revisions to Draft EIR Section 4.3, Air Quality

A typographical error appearing in the first paragraph of Draft EIR Page 4.3-68 is corrected as follows, providing consistency with the described trip length/vehicle speed reported in Air Quality Analysis.

Therefore, for purposes of the operational LST analysis the average trip length in URBEMIS was altered to ~~0.5~~0.3 miles which conservatively characterizes on-site vehicle travel. Additionally, the vehicle speed in URBEMIS was altered to ~~five~~ten miles per hour as a conservative measure to account for on-site vehicular travel.

Additionally, in response to correspondence from the South Coast Air Quality Management District and others, the Draft EIR's Air Quality Mitigation Measures are revised as follows.

4.3.1 Consistent with URBEMIS modeling inputs and to effect ~~The following measures shall be incorporated as~~ implementation of SCAQMD Rule 403, the following measures shall be incorporated:

- All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 mph per SCAQMD guidelines in order to limit fugitive dust emissions.
- The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the Project are watered at least three times daily during dry weather. Watering, with complete coverage of disturbed areas, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day.
- The contractor shall ensure that traffic speeds on unpaved roads and Project site areas are reduced to 15 miles per hour or less to reduce PM10 and PM2.5 fugitive dust haul road emissions.
- Site disturbance during mass grading and fine grading activities shall not exceed 13.66 acres per day.
- Ground cover shall be replaced, and/or non-toxic soil stabilizers shall be applied (according to manufacturers' specifications) to any inactive construction areas (previously graded areas inactive for ten days or more);
- In support of Project plan specifications and contract document language; and as means of controlling on-site construction vehicle speeds, for the duration of Project construction activities, speed limit signs (15 mph maximum) shall be posted at entry points to the Project site, and along any unpaved roads providing access to or within the Project site and/or any unpaved designated on-site travel routes.

~~4.3.4 Construction contractors shall use only lowpolluting paints and coatings as defined in SCAQMD Rule 1113.~~

4.3.54 Contractor(s) shall ensure that all off-road heavy-duty construction equipment utilized during construction activity shall be CARB Tier 2 Certified or better.

4.3.65 In order to reduce localized Project impacts to sensitive receptors in the Project vicinity during construction, construction equipment staging areas shall be located at least 300 feet away from sensitive receptors.

4.3.76 During Project construction, existing electrical power sources (e.g., power poles) shall be ~~provided for~~ utilized to power electric construction tools including saws, drills and compressors, to minimize the need for diesel or gasoline powered electric generators.

4.3.87 The Applicant shall use ~~Zero Volatile Organic Compounds paints (no more than 150 grams/liter of VOC) and/or High Pressure Low Volume (HPLV) applications~~ “Zero-Volatile Organic Compounds” paints, coatings, and solvents with a VOC content lower than required under Rule 1113 (not to exceed 150 grams/liter; 1.25 pounds/gallon). High Pressure Low Volume (HPLV) applications of paints, coatings, and solvents shall be consistent with South Coast Air Quality Management District Rule 1113. Alternatively, the Applicant shall use materials that do not require painting or are pre-painted.

4.3.98 Grading plans, construction specifications and bid documents shall also include ~~notation that off road construction equipment shall utilize biodiesel fuel (a minimum of B20), except for equipment where the use of biodiesel fuel would void the equipment warranty.~~ the following notations:

- Off-road construction equipment shall utilize alternative fuels e.g., biodiesel fuel (a minimum of B20), natural gas (CNG), liquefied natural gas (LNG), propane, except for equipment where use of such fuels would void the equipment warranty;

- Gravel pads shall be provided at all access points to prevent tracking of mud onto public roads;
- Install and maintain trackout control devices at all access points where paved and unpaved access or travel routes intersect;
- The contractor or builder shall designate a person or person(s) to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite;
- The contractor or builder shall post a publicly visible sign with the telephone number and person to contact regarding dust complaints. The contact person shall take corrective action within 24 hours;
- High pressure injectors shall be provided on diesel construction equipment where feasible;
- Engine size of construction equipment shall be limited to the minimum practical size;
- Substitute gasoline-powered for diesel powered construction equipment where feasible;
- Use electric construction equipment where feasible;
- Install catalytic converters on gasoline-powered equipment where feasible;
- Ride-sharing program for the construction crew shall be encouraged and shall be supported by contractor(s) via incentives or other inducement;
- Documentation shall be provided to the City of Moreno Valley indicating that construction workers have been encouraged to carpool or otherwise reduce VMT to the greatest extent practical, including providing information on available park and ride programs;
- Lunch services shall be provided onsite during construction to minimize the need for offsite vehicle trips;

- All forklifts used during construction and in subsequent operation of the Project shall be electric or natural gas powered.

4.3.9 Throughout Project construction, a construction relations officer/community liaison, appointed by the Applicant, shall be retained on-site. In coordination and cooperation with the City, the construction relations officer/community liaison shall respond to any concerns related to PM<sub>10</sub> (fugitive dust) generation or other construction-related air quality issues.

4.3.13 GHG emissions reductions measures shall also include the following:

- The Project shall provide secure, weather-protected on-site bicycle storage/parking. ~~Bicycle storage parking/quantity and location shall be consistent with City of Moreno Valley requirements;~~
- The Project shall provide pedestrian and bicycle connections to surrounding areas, consistent with provisions of the City of Moreno Valley General Plan. Location and configurations of proposed pedestrian and bicycle connections are subject to review and approval by the City. Prior to Final Site Plan approval, pedestrian and bicycle connections shall be indicated on the Project Site Plan;
- The Project shall provide onsite showers (one for males and one for females). Lockers for employees shall be provided.
- Any traffic signals installed as part of the Project will utilize light emitting diodes (LEDs);
- The Project will establish a Transportation Management Association (TMA). The TMA will coordinate with other TMAs within the City to encourage and coordinate carpooling among building occupants. The TMA will advertise its services to building occupants, and offer transit and/or other incentives to reduce GHG emissions. Additionally, a shuttle will be provided during any one hour period where more than 20 employees or construction workers utilize public transit. A plan will be submitted by the TMA to the City within two months of Project completion that outlines the measures implemented by the TMA, as well as contact information;

- *The Project shall provide preferential parking for carpools and vanpool. Locations and configurations of proposed preferential parking for carpools and vanpools are subject to review and approval by the City. Prior to Final Site Plan approval, preferential parking for carpools and vanpools shall be delineated on the Project Site Plan;*
- *The Project shall provide at least two electric vehicle charging stations. Locations and configurations of proposed charging stations are subject to review and approval by the City. Prior to issuance of the first building permit, stub outs for charging stations shall be indicated on the Project building plans.*
- **Lease/purchase documents shall identify that tenants are encouraged to provide incentives to realize the following:**
  - o Implementation of compressed workweek schedules;**
  - o SmartWay partnership;**
  - o Achievement of at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidated trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers.**
  - o Achievement of at least 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers.**
  - o Use of fleet vehicles conforming to 2010 air quality standards or better.**
  - o Installation of catalytic converters on gasoline-powered equipment.**
  - o Inclusion of electric powered and/or compressed natural gas fueled trucks and/or vehicles in fleets;**
  - o Establishment and use of carpool/vanpool programs, complemented by parking fees for single-occupancy vehicles;**
  - o Provision of preferential parking for EV and CNG vehicles;**
  - o Use of electrical equipment (instead of gasoline-powered equipment) for landscape maintenance;**

- o Use of electric (instead of diesel or gasoline-powered) yard trucks; and*
- o Use of SmartWay 1.25 rated trucks.*

### **2.2.3 Text Revisions to Draft EIR Section 4.5, Water Supply**

In response to correspondence from the Eastern Municipal Water District, Mitigation Measure 4.5.3 is revised as follows:

- 4.5.3 *The Applicant shall meet with EMWD staff at the earliest feasible date to develop a Plan of Service (POS) for the Project. The POS shall detail water, wastewater and recycled water facilities requirements to serve the Project, to be constructed by the Applicant.*

### **2.2.4 Text Revisions to Draft EIR Section 4.7, Cultural Resources**

In order to ensure that, where appropriate, cultural resources are preserved in place, the following amendments to Mitigation Measures 4.7.1, 4.7.2, and 4.7.3 have been incorporated.

- 4.7.1 *A professional cultural resources monitor (Project Paleontological Monitor) shall conduct full-time monitoring throughout site excavation and grading activities. The monitor shall be equipped to salvage and or record the location of historic and/or archaeological resources as they may be unearthed to avoid construction delays, consistent with the requirements of California Public Resources Code Section 21083.2. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. One monitor for both archaeological and paleontological resources is sufficient if the monitor is qualified in both disciplines to the satisfaction of the City of Moreno Valley.*



4.7.2 *Should historic or prehistoric resources of potential significance be identified, a qualified archaeologist shall be contacted to assess the find(s) and make recommendations in regard to further monitoring. **Resources shall be left in an undisturbed state where feasible. Where preservation in place is infeasible,** All recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by a qualified archaeologist, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.*

4.7.3 *Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the Project site, subject to the following certain constraints:*

- *Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontologic resources by a qualified paleontologic monitor or his/her representative must take place;*
- *A paleontological mitigation-monitoring plan shall be developed before grading begins;*
- *Paleontological monitors shall be equipped to salvage **and/or record the location of** fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates;*

- *Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens; and*
- *Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources.*

## **2.2.5 Text Revisions to Draft EIR Section 4.8, Biological Resources**

In response to correspondence from the California Department of Fish and Game, Mitigation Measure 4.8.5 is revised as follows:

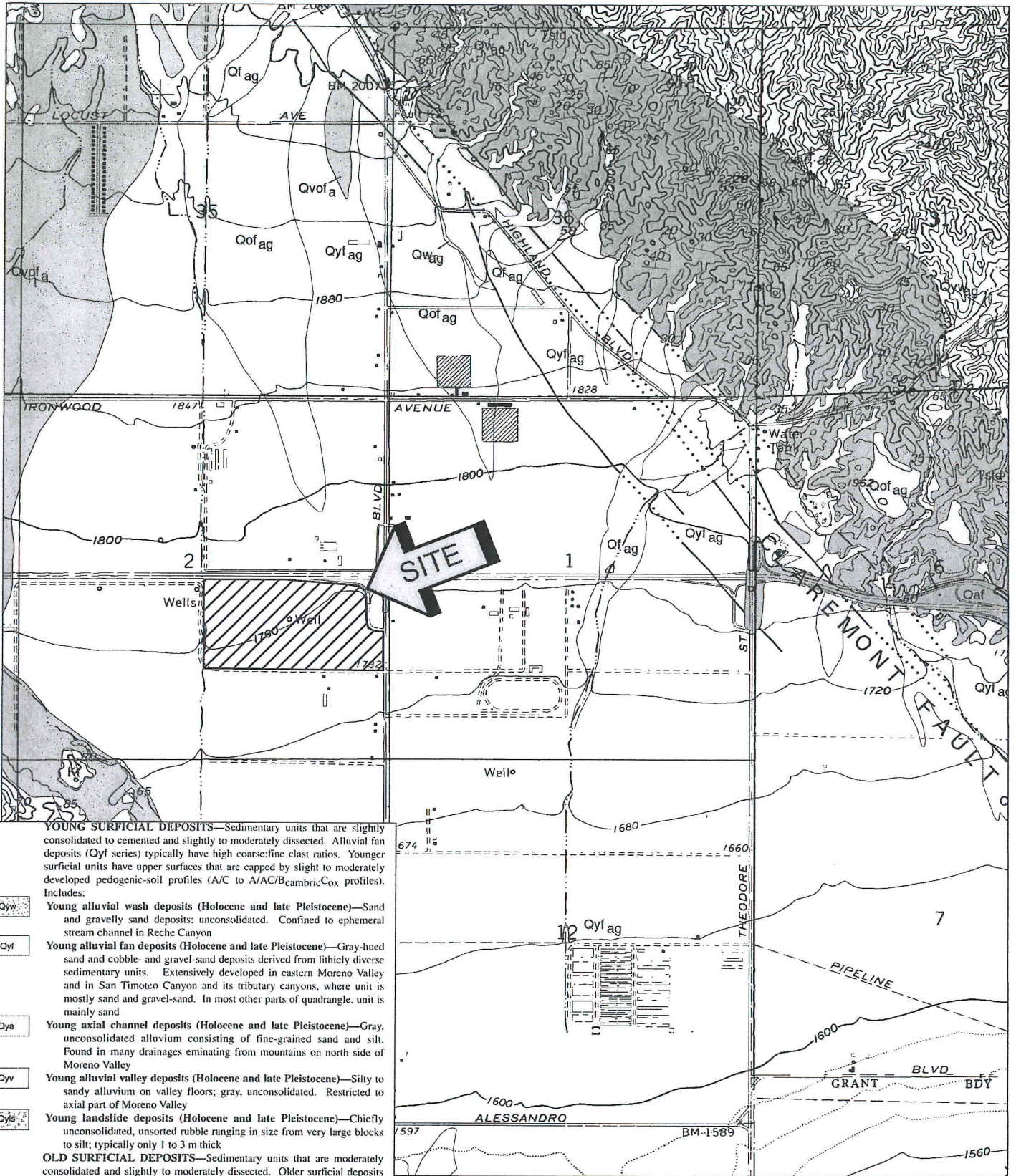
*4.8.5 Prior to issuance of a grading permit, the Applicant shall develop and implement a Habitat Mitigation and Monitoring Plan (HMMP) to restore impacted riparian (mulefat) habitat. Prior to implementation, the HMMP shall be reviewed and approved by the CDFG. If in its final design, the CDFG-approved HMMP involves use or restoration of USACE or RWQCB jurisdictional areas, USACE and/or RWQCB approval shall also be obtained. The HMMP shall, at a minimum, meet the following requirements:*

- *A habitat replacement and/or enhancement ratio of at least 1:1 for temporary impact;*
- *A success criterion of at least 80 percent cover of native riparian vegetation for replaced habitat;*
- *Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, native plant re-vegetation for areas temporarily disturbed by construction, and regular maintenance and monitoring activities to ensure the success of the mitigation plan; and*







- Prior to the issuance of a grading permit, as part of the Project HMMP, appropriate maintenance and monitoring protocols will be developed in concert with CDFG based on final Project designs, and the ultimate scope, location, and type of mitigation reflected in the HMMP as approved by CDFG.

### 2.3 REVISIONS TO GRAPHIC ILLUSTRATIONS

In response to comments received from Gerald M. Budlong, a City of Moreno Valley Environmental and Historical Preservation Board member, several geologic maps, which were used as points of reference in the preparation of the Project Geotechnical Investigation, are incorporated on the following pages as “Plates 1 through 4.”




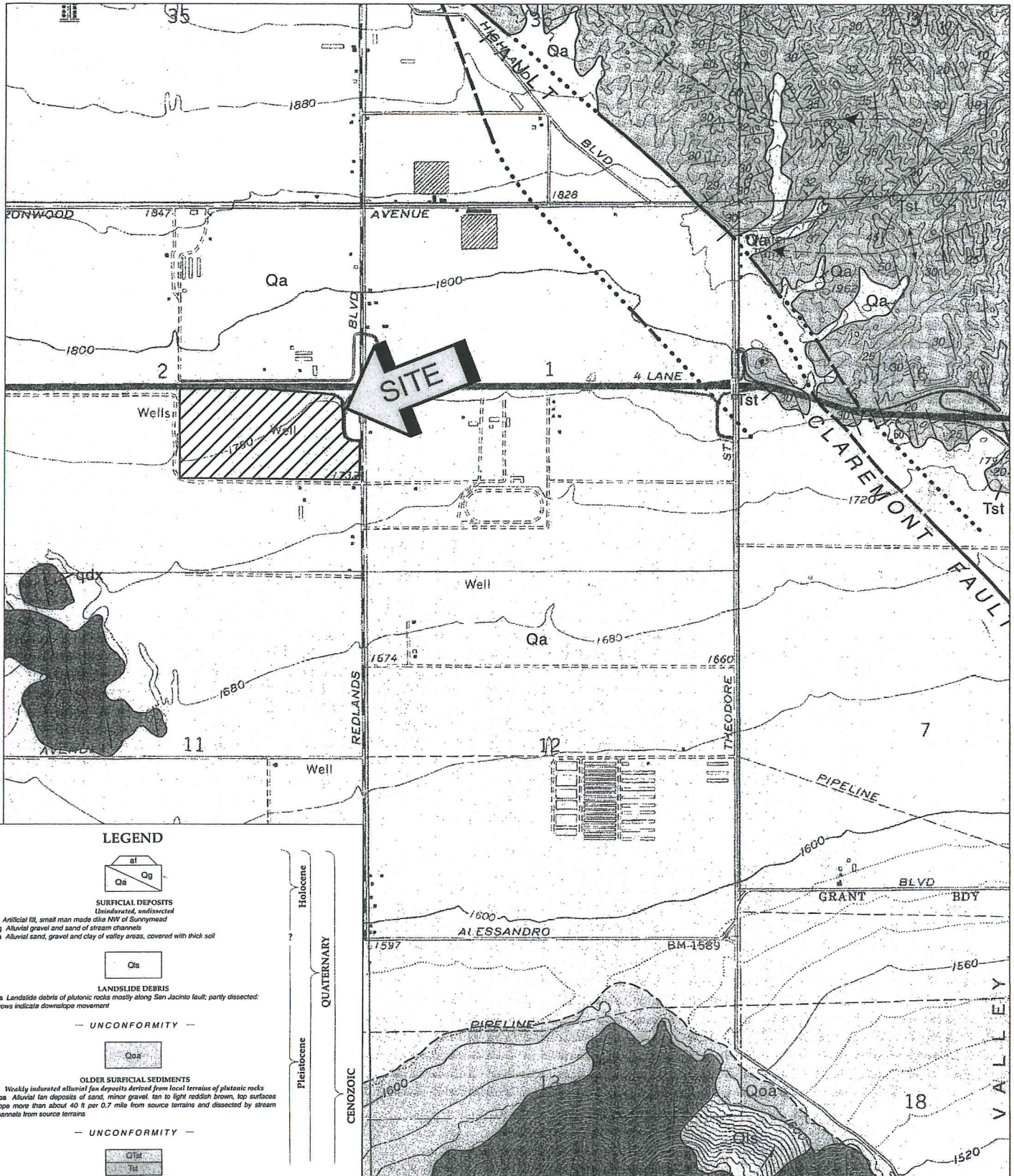
**YOUNG SURFICIAL DEPOSITS**—Sedimentary units that are slightly consolidated to cemented and slightly to moderately dissected. Alluvial fan deposits (Qyf series) typically have high coarse: fine clast ratios. Younger surficial units have upper surfaces that are capped by slightly to moderately developed pedogenic soil profiles (A/C to A/AC/B/cambria-Cox profiles). Includes:

-  **Young alluvial wash deposits (Holocene and late Pleistocene)**—Sand and gravelly sand deposits; unconsolidated. Confined to ephemeral stream channel in Reche Canyon
-  **Young alluvial fan deposits (Holocene and late Pleistocene)**—Gray-hued sand and cobble- and gravel-sand deposits derived from lithically diverse sedimentary units. Extensively developed in eastern Moreno Valley and in San Timoteo Canyon and its tributary canyons, where unit is mostly sand and gravel-sand. In most other parts of quadrangle, unit is mainly sand
-  **Young axial channel deposits (Holocene and late Pleistocene)**—Gray, unconsolidated alluvium consisting of fine-grained sand and silt. Found in many drainages emanating from mountains on north side of Moreno Valley
-  **Young alluvial valley deposits (Holocene and late Pleistocene)**—Silty to sandy alluvium on valley floors; gray, unconsolidated. Restricted to axial part of Moreno Valley
-  **Young landslide deposits (Holocene and late Pleistocene)**—Chiefly unconsolidated, unsorted rubble ranging in size from very large blocks to silt; typically only 1 to 3 m thick
-  **OLD SURFICIAL DEPOSITS**—Sedimentary units that are moderately consolidated and slightly to moderately dissected. Older surficial deposits have upper surfaces that are capped by moderately to well-developed pedogenic soils (A/AB/B/Cox profiles and Bt horizons as much as 1 to 2 m thick and maximum hues in the range of 10YR 5/4 and 6/4 through 7.5YR 6/4 to 4/4 and mature Bt horizons reaching 5YR 5/6). Includes:
  - Old alluvial fan deposits (late to middle Pleistocene)**—Indurated, sandy and gravelly alluvial fan deposits, found on south side of San Timoteo Badlands and in Reche Canyon. Slightly to moderately dissected; reddish-brown. Some deposits include thin, discontinuous surface layer

SOURCE: "GEOLOGIC MAP OF THE SUNNYMEAD 7.5' QUADRANGLE, RIVERSIDE COUNTY, CALIFORNIA" MORTON AND MATTI, 2001



<b>GEOLOGIC MAP</b>	
<b>PROPOSED WEST RIDGE BUSINESS CENTER</b>	
<b>MORENO VALLEY, CALIFORNIA</b>	
SCALE: 1" = 2000'	
DRAWN: DRK	
CHKD: JAS	
SCG PROJECT 06G285-2	
PLATE 1	<b>SOUTHERN CALIFORNIA GEOTECHNICAL</b>



**LEGEND**



**SURFICIAL DEPOSITS**  
*Unindurated, unconsolidated*  
 al Artificial fill, small man made dikes NW of Sunmead  
 Qg Alluvial gravel and sand of stream channels  
 Qa Alluvial sand, gravel and clay of valley areas, covered with thick soil



**LANDSLIDE DEBRIS**  
 Qs Landslide debris of plutonic rocks mostly along San Jacinto fault; partly dissected; arrows indicate downslope movement

--- UNCONFORMITY ---



**OLDER SURFICIAL SEDIMENTS**  
*Weakly indurated alluvial fan deposits derived from local terraces of plutonic rocks*  
 Qoa Alluvial fan deposits of sand, minor gravel, tan to light reddish brown, top surfaces slope more than about 40 ft per 0.7 mile from source terraces and dissected by stream channels from source terraces


--- UNCONFORMITY ---

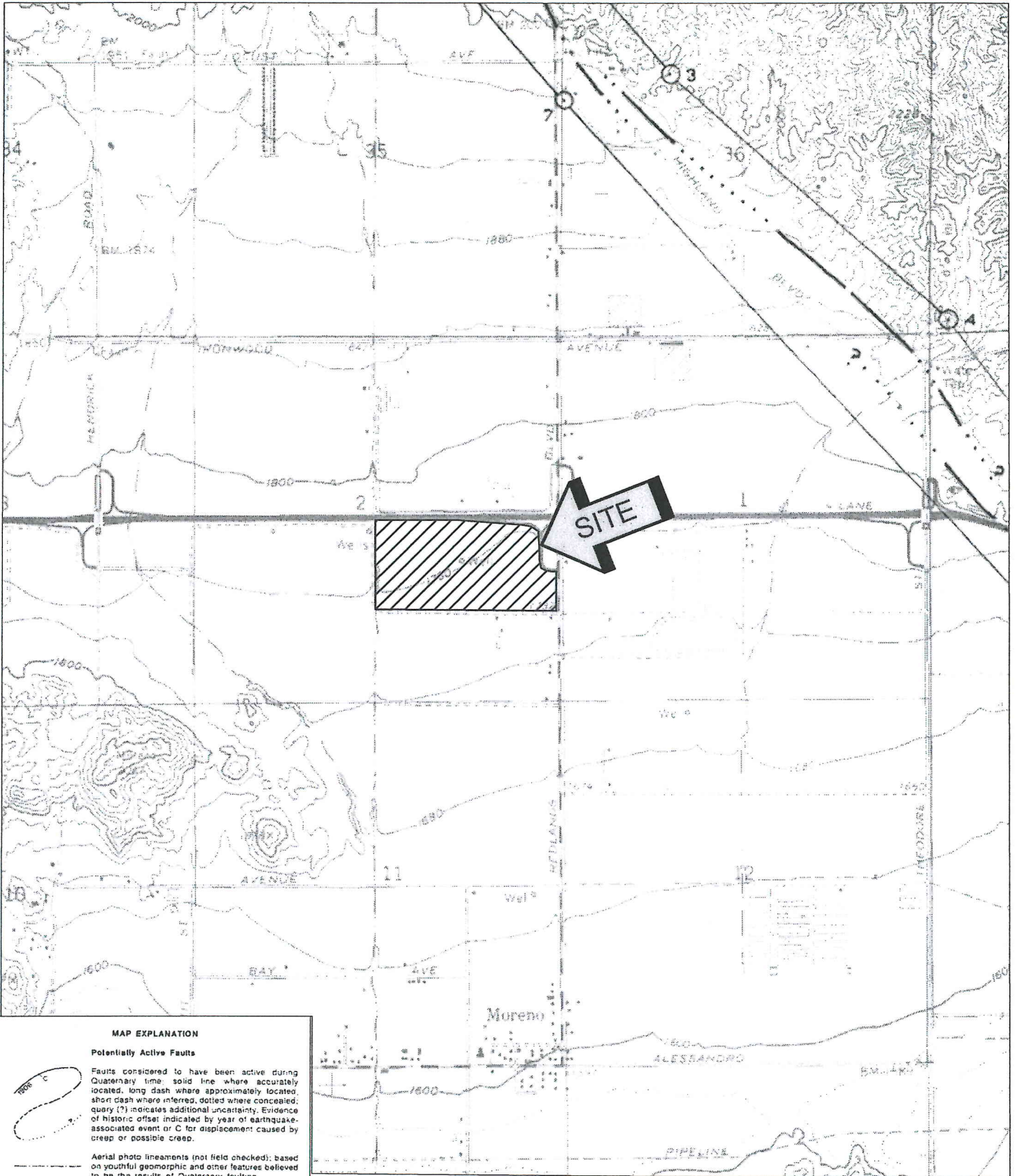


**SAN TIMOTEO FORMATION**  
*(San Timoteo beds of Frick, 1921) stream-laid alluvial sediments of detritus derived from plutonic and metamorphic rocks of San Bernardino Mountains area, weakly indurated, upper part yielded vertebrate fauna diagnostic of Blancan Stage, Plio-Pleistocene (Frick, 1921, Savage, et. al, 1954), or Irvingtonian 1 Stage, earliest Pleistocene (Reynolds, 1987); middle part inferred to be of Pliocene age (Morton and Matti, 2001)*  
 QTst Upper part, sandstone, light gray to tan, fine to coarse grained, arkosic, bedded and minor conglomerate of pebbles and cobbles of mostly granitic detritus, some of gneissic rocks and quartzites; includes thin layers of soft greenish to light reddish silty claystone, unconformably (?) overlain by Qoa in this quadrangle  
 Tst Main part (middle part of Morton and Matti, 2001); lithologically similar to upper part, within 1 km of San Jacinto fault includes more conglomerate; base not exposed in this quadrangle

SOURCE: "GEOLOGIC MAP OF THE SUNNYMEAD/SOUTH 1/2 OF REDLANDS QUADRANGLES, SAN BERNARDINO AND RIVERSIDE COUNTY, CALIFORNIA" DIBBLEE, 2003



<b>GEOLOGIC MAP</b>	
<b>PROPOSED WEST RIDGE BUSINESS CENTER</b>	
<b>MORENO VALLEY, CALIFORNIA</b>	
SCALE: 1" = 2000'	
DRAWN: DRK	
CHKD: JAS	
SCG PROJECT 06G285-2	
PLATE 2	<b>SOUTHERN CALIFORNIA GEOTECHNICAL</b>



**MAP EXPLANATION**

**Potentially Active Faults**



Faults considered to have been active during Quaternary time: solid line where accurately located, long dash where approximately located, short dash where inferred, dotted where concealed; query (?) indicates additional uncertainty. Evidence of historic offset indicated by year of earthquake-associated event or C for displacement caused by creep or possible creep.

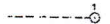


Aerial photo lineaments (not field checked): based on youthful geomorphic and other features believed to be the results of Quaternary faulting

**Special Studies Zone Boundaries**



These are delineated as straight-line segments that connect consecutively numbered turning points so as to define one or more special studies zone segments.



Seaward projection of zone boundary.

SOURCE: "ALQUIST-PRIOLO EARTHQUAKE FAULT ZONES MAP, SUNNYMEAD QUADRANGLE"

**ALQUIST-PRIOLO EARTHQUAKE FAULT ZONE MAP**  
**PROPOSED WEST RIDGE BUSINESS CENTER**  
**MORENO VALLEY, CALIFORNIA**

SCALE: 1" = 2000'

DRAWN: DRK

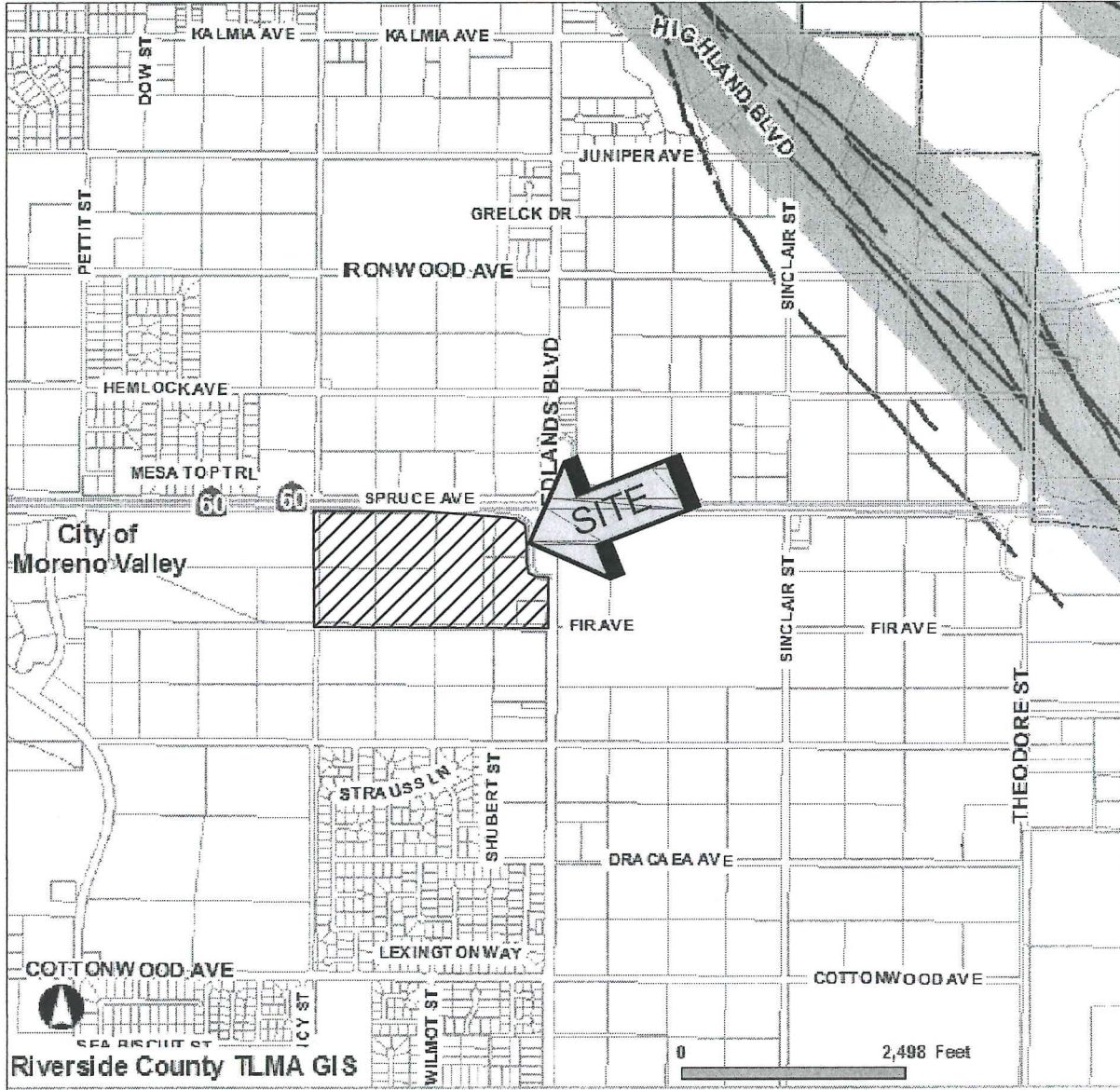
CHKD: JAS

SCG PROJECT  
 06G285-2

PLATE 3



**SOUTHERN CALIFORNIA GEOTECHNICAL**



City of  
Moreno Valley

Riverside County TLMA GIS


SITE

**FAULT ZONES**  
12/15/2010

- INTERSTATES
- HIGHWAYS
- PARCELS
- ALQUIST-PRIOLO
- RIVERSIDE COUNTY
- COUNTY FAULT ZONE
- SAN JACINTO FAULT ZONE
- CITY

SOURCE: "RIVERSIDE COUNTY LAND INFORMATION SYSTEM - FAULT ZONES"



<b>RIVERSIDE COUNTY FAULT ZONES MAP</b>	
PROPOSED WEST RIDGE BUSINESS CENTER	
MORENO VALLEY, CALIFORNIA	
SCALE: 1" = 2000'	
DRAWN: DRK	
CHKD: JAS	
SCG PROJECT 06G285-2	
PLATE 4	<b>SOUTHERN CALIFORNIA GEOTECHNICAL</b>

## **3.0 Comments and Responses**

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## 3.0 COMMENTS AND RESPONSES

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### 3.1 INTRODUCTION

The City of Moreno Valley's Responses to Comments on its Draft EIR for the Westridge Commerce Center are presented herein as required by California Code of Regulations, title 14 (hereinafter, "State CEQA Guidelines") Sections 15089, 15132, and 15088. Specifically, CEQA Guidelines Section 15088, subd. (a) requires that: "[t]he lead agency . . . evaluate comments on environmental issues received from persons who reviewed the draft EIR and . . . prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments." The 45-day comment period on the Draft EIR commenced on October 21, 2010 and concluded December 6, 2010.

Additionally, and as required by Section 15088, the City of Moreno Valley will provide written responses to all comments on the Draft EIR received from public agencies during the 45-day public review period at least 10 days prior to the proposed certification of the Program EIR.

In summary, the City's written responses describe the disposition of significant environmental issues raised and any revisions to the Draft EIR made as a result of the comments. Additionally, the City's written responses provide a good faith, reasoned analysis of all environmental issues raised and cite to specific factual and legal support for the Draft EIR's conclusions.

### 3.1.1 Comments Received

The following section presents a list of the comment letters received during the Draft EIR public review period. Comment letters have been organized by State agencies, County and regional agencies, and comments received from local organizations and individuals. Each letter has been assigned an identifying designation (generally an acronym or name abbreviation), and topical items within each letter have been numbered. Table 3-1 lists all commentor letters received by the City in regard to the Draft EIR, and the designation assigned to each. Comments with an asterisk \* were received subsequent to the stated close of comments date (December 6, 2010), and are therefore not included with the provided responses herein. The Lead Agency has, however, included these late comments and their corresponding responses in the Project staff report.

**Table 3-1  
Draft EIR Commentors**

Commentor	Acronym Assigned	Correspondence Date
<b>State Agencies</b>		
Office of Planning & Research - State Clearinghouse	SCH	12/7/10
California Department of Fish and Game	CDFG	12/3/10
California Department of Transportation	DOT	12/6/10
<b>County and Regional Agencies</b>		
Eastern Municipal Water District	EMWD	12/6/10
Riverside County Flood Control and Water Conservation District	RCFC	11/29/10
South Coast Air Quality Management District	AQMD	12/10/10*
<b>Local Organizations and Individuals</b>		
Marcia Amino	MA	12/5/10
Lynne Ashley	LA	12/5/10
Gerald M. Budlong	GB	12/2/10
Center for Community Action and Environmental Justice	CCA	12/6/10
Paul Claxton	PC	12/5/10
Stephen Crews	SCR	12/6/10
Friends of the Northern San Jacinto Valley	FNSJ	12/6/10

**Table 3-1  
Draft EIR Commentors**

Commentor	Acronym Assigned	Correspondence Date
Susan Gilchrist	SG	12/6/10
Highland Fairview	HF	12/6/10
Tom Hyatt	TH	12/10/10*
Johnson & Sedlack, on behalf of Residents for a Liveable Moreno Valley, and Moreno Valley Group of Sierra Club.	JS	12/6/10
Shelly Mesa	SM	12/6/10
Ned and Dawn Newkirk	NDN	12/6/10
Deanna Reeder, Letter 1	DR1	12/6/10
Deanna Reeder, Letter 2	DR2	12/6/10
Residents for a Liveable Moreno Valley	RLMV	12/3/10
Sierra Club	SC	12/6/10
Thomas Thornsley	TT	12/6/10
<b>Comment Cards Received at the City of Moreno Valley Public Meeting, December 2, 2010</b>		
Amora Johnson	AJ-C	12/2/10
Richard Johnson	RJ-C	12/2/10
Deanna Reeder	DR-C	12/2/10
Sierra Club	SC-C	12/2/10

\* Comments received after the stated close of comments date (12/06/10).

The comment letters and the corresponding numbered responses are presented on the following pages.



Arnold Schwarzenegger  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Cathleen Cox  
Acting Director

December 7, 2010

RECEIVED  
DEC 13 2010

CITY OF MORENO VALLEY

Jeff Bradshaw  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, CA 92553

Subject: PA08-0097 (Plot Plan), PA08-0098 (Zone Change), PA09-0022 (TPM 36207, & PA10-0017  
(Code Amendment)  
SCH#: 2009101008

Dear Jeff Bradshaw:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on December 6, 2010, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

SCH-1

Sincerely,

Scott Morgan  
Director, State Clearinghouse

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2009101008  
**Project Title** PA08-0097 (Plot Plan), PA08-0098 (Zone Change), PA09-0022 (TPM 36207, & PA10-0017 (Code Amendment)  
**Lead Agency** Moreno Valley, City of

**Type** EIR Draft EIR  
**Description** The West Ridge Commerce Center project proposes a 937,260 square foot industrial warehouse building on approximately 55 acres located on the south side of State Route 60, on the north side of Eucalyptus Avenue and ~650 feet west of Redlands Boulevard. The proposed warehouse use requires a change of zone from the Business Park land use district to the Light Industrial land use district. The project also requires approval of Tentative Parcel Map No. 36207 to combine the project parcels into a single parcel and a Municipal Code Amendment to establish a minimum buffering distance between warehouse distribution activities in the LI zone and adjacent residential zones. The Quincy Channel, which is a segment of the City's Master Plan of Drainage, runs along the west site boundary and the project will be responsible for some channel improvements.

**Lead Agency Contact**

**Name** Jeff Bradshaw  
**Agency** City of Moreno Valley  
**Phone** (951) 413-3224 **Fax**  
**email**  
**Address** 14177 Frederick Street  
**City** Moreno Valley **State** CA **Zip** 92553

**Project Location**

**County** Riverside  
**City** Moreno Valley  
**Region**  
**Lat / Long** 33° 56' 7.7" N / 117° 09' 34.5" W  
**Cross Streets** Fir/Eucalyptus Avenue, Redlands Boulevard  
**Parcel No.** 488-330-003 to 006 & 026  
**Township** 3S **Range** 3W **Section** 2 **Base** SBB&M

**Proximity to:**

**Highways** SR 60  
**Airports** No  
**Railways** No  
**Waterways** No  
**Schools** No  
**Land Use** GPD: Business Park  
Z: Business Park

**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Landuse; Noise; Public Services; Soil Erosion/Compaction/Grading; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian

**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 6; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 8; Air Resources Board, Major Industrial Projects; Regional Water Quality Control Board, Region 8; Native American Heritage Commission

**Date Received** 10/21/2010 **Start of Review** 10/21/2010 **End of Review** 12/06/2010

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
STATE CLEARINGHOUSE  
SCH No. 2009101008

Response SCH-1

State Clearinghouse receipt of the Westridge Commerce Center Draft EIR is acknowledged, as is distribution of the Draft EIR to the listed State Agencies. The State-assigned Clearinghouse reference number (SCH No. 2009101008) and dates of the public review period for the Draft EIR (October 21, 2010 through December 6, 2010) are also acknowledged.



California Natural Resources Agency  
DEPARTMENT OF FISH AND GAME  
<http://www.dfg.ca.gov>  
Inland Deserts Region  
3602 Inland Empire Blvd., Suite C-200  
Ontario, CA 91764  
(909) 484-0167

ARNOLD SCHWARZENEGGER, Governor  
JOHN McCAMMAN, Director



December 3, 2010

**RECEIVED**  
DEC - 7 2010  
CITY OF MORENO VALLEY

Jeff Bradshaw  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, CA 92552

Re: Draft Environmental Impact Report for Westridge Commerce Center  
SCH No. 2009101008

Dear Mr. Bradshaw:

The Department of Fish and Game (Department) appreciates this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Westridge Commerce Center. The Department is responding as a Trustee Agency for fish and wildlife resources [Fish and Game Code sections 711.7 and 1802 and the California Environmental Quality Act Guidelines (CEQA) section 15386] and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381), such as a Lake and Streambed Alteration Agreement (Section 1600 *et seq.*) or a California Endangered Species Incidental Take Permit (Fish and Game Code Sections 2080 and 2080.1).

CDFG-1

For this project the Department will be acting as a Trustee and Responsible Agency. As per Section 15096 of the California Environmental Quality Act statute, as a Responsible Agency the Department is obligated to focus its comments on any shortcomings in the CEQA document, the appropriateness of the CEQA document utilized, and additional alternatives or mitigation measures which the CEQA document should include.

The site is located in the City of Moreno Valley, County of Riverside and is bounded on the north by SR-60 and Spruce Avenue, on the south by Eucalyptus Avenue, on the east by vacant land and Redlands Boulevard, and on the west by the Quincy Channel and agricultural land. Surrounding development consists of vacant and agricultural land.

CDFG-2

The proposed project consists of a 937,260 square foot industrial warehouse building on 55 acres. The Quincy Channel runs along the western boundary and will require improvements.

MSHCP

The project is located within the boundary of the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) and is subject to the provisions and policies of that plan. The MSHCP is a Natural Communities Conservation Plan that provides coverage for 146 species and up to 510,000 acres. Participants in the MSHCP are issued take authorization for covered species and do not require Federal or State Endangered Species Act Permits. The City of Moreno Valley is an MSHCP participant.

CDFG-3

*Conserving California's Wildlife Since 1870*

Draft Environmental Impact Report for the Westridge Commerce Center  
 City of Moreno Valley, County of Riverside -- SCH No. 2009101008  
 Page 2 of 4

The project is not within Cell Criteria Areas and does not require additional surveys and narrow endemic surveys, however, burrowing owl surveys are required. Initial surveys showed that burrowing owl was not present.

CDFG-3  
 cont'd.

Recommendations

Per section 15096 of the CEQA statute, as a Responsible Agency the Department is obligated to focus its comments on any inadequacies of the CEQA document and additional alternatives or mitigation measures which should be included in the CEQA document. As a Responsible Agency the Department will be obligated to consult the final CEQA document to prepare a Lake and Streambed Alteration Agreement or a California Endangered Species Incidental Take Permit. If the final CEQA document fails to identify and adequately mitigate all of the impacts of the proposed project and any alternatives, the project proponents will be required to reinitiate the CEQA process at their expense, or fund another CEQA process under the direction of the Department to identify and adequately mitigate all impacts associated with any Department discretionary actions.

CDFG-4

The Department recommends that the Lead Agency clarify the issues raised below and provide a response to these comments in the Final Environmental Impact Report (FEIR) or subsequent CEQA document.

1. Submittal of a 1600 Lake or Streambed Alteration Agreement Notification form for impacts to State jurisdictional waters;
2. Include native plant revegetation for areas temporarily disturbed by construction in the maintenance and monitoring plan;
3. Submit a copy of the maintenance and monitoring plan for the review and approval of the Department.

Biological Resources

A biological assessment was conducted in October, 2008. Biological Resources Assessments for the project site include the following: Burrowing Owl surveys in July, 2009, an off-site biological assessment in May, 2010 and a wetland jurisdictional delineation in February, 2010.

CDFG-5

Biological habitat communities on the site include mulefat riparian, ruderal and agricultural. The site is highly disturbed and was formerly utilized for agricultural purposes. No focused biological surveys were required. Two southern black walnut trees were found on site.

Impacts and Mitigation

Section 14(a) of Appendix G of the CEQA Guidelines provides an outline for significant biological impacts. Section (a) asks whether the project will have a substantial adverse effect "...either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species...".

CDFG-6



Draft Environmental Impact Report for the Westridge Commerce Center  
 City of Moreno Valley, County of Riverside -- SCH No. 2009101008  
 Page 3 of 4

Section (b) asks, in part, whether the project will have a substantial adverse effect on any riparian habitat or other sensitive natural community identified by the California Department of Fish and Game.

CDFG-6  
 cont'd

Impacts to terrestrial biological resources are minimal. Mitigation for these impacts is provided for by participation in the MSHCP. The project is also located within the fee area for the Stephens Kangaroo Rat Habitat Conservation Plan. No burrowing owl were found on the site.

Streambed Alteration Agreements and CEQA

The site is located adjacent to the Quincy Channel. Potential receiving waters from Quincy Channel are the Heacock Channel, Perris Valley Storm Drain and the San Jacinto River. The project site is not within the 100-year floodplain. The Channel is 1,295 linear feet with 2.4 acres of riparian habitat. Sheet flow from the site drains to the east to the jurisdictional channel along the west side of Redlands Boulevard. Both channels collect runoff from SR-60 and north of SR-60. The applicant is proposing to construct a scour wall adjacent to this channel. Along with the scour wall will be a maintenance road and a 50-150 foot buffer between the development and the Channel. The stream is an eroded earthen channel that collects runoff from three five foot wide culverts under SR-60.

CDFG-7

Impacts to Quincy Channel will be from a channel crossing, not the scour wall. Impacts will also occur to an off-site channel. Permanent impacts are .003 acres to the Quincy Channel and 0.08 acres to the channel to the east (off-site). The applicant is proposing to mitigate impacts to jurisdictional State waters and riparian habitat by replacing riparian habitat at a 1:1 ratio, success criteria, and a three year maintenance and monitoring plan.

CDFG-8

If the CEQA documents do not fully identify potential impacts to lakes, streams, and associated resources and provide adequate avoidance, mitigation, monitoring, funding sources, a habitat management plan and reporting commitments, additional CEQA documentation will be required prior to execution (signing) of the Agreement. In order to avoid delays or repetition of the CEQA process, potential impacts to a stream or lake, as well as avoidance and mitigation measures need to be discussed within this CEQA document.

CDFG-9

The Department opposes the elimination of drainages, lakes and their associated habitats. The Department recommends avoiding the stream and riparian habitat to the greatest extent possible. Any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat either on-site or off-site at a minimum 3:1 replacement-to-impact ratio, depending on the impacts and proposed mitigation. Additional mitigation requirements through the Department's Streambed Alteration Agreement process may be required depending on the quality of habitat impacted, proposed mitigation, project design, and other factors.

CDFG-10

We recommend submitting a notification early on, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Streambed Alteration Agreement notification package, please call (562) 430-7924.

Draft Environmental Impact Report for the Westridge Commerce Center  
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The following information will be required for the processing of a Streambed Alteration Agreement and the Department recommends incorporating this information to avoid subsequent CEQA documentation and project delays:

- 1) Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type);
- 2) Discussion of avoidance measures to reduce project impacts; and,
- 3) Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance.

CDFG-11

Section 15370 of the CEQA guidelines includes a definition of mitigation. It states that mitigation includes:

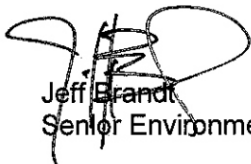
- 1) Avoiding the impact altogether by not taking a certain action or parts of an action,
- 2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation,
- 3) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment,
- 4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action,
- 5) Compensating for the impact by replacing or providing substitute resources or environments.

CDFG-12

In the absence of specific mitigation measures in the CEQA documents, the Department believes that it cannot fulfill its obligations as a Trustee and Responsible Agency for fish and wildlife resources. Permit negotiations conducted after and outside of the CEQA process deprive the public of its rights to know what project impacts are and how they are being mitigated in violation of CEQA Section 15002. Also, because mitigation to offset the impacts was not identified in the CEQA document, the Department does not believe that the Lead Agency can make the determination that impacts to jurisdictional drainages and/or riparian habitat are "less than significant" without knowing what the specific impacts and mitigation measures are that will reduce those impacts.

Thank you for this opportunity to comment. Please contact Robin Maloney-Rames at (909) 980-3818, if you have any questions regarding this letter.

Sincerely,



Jeff Brandt  
Senior Environmental Scientist

cc: Michael Flores

STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND GAME

Letter Dated December 3, 2010

Response CDFG-1

The commentor notes CDFG's status as a responding Trustee Agency for California's fish and wildlife resources, and as a Responsible Agency for CDFG discretionary actions and permits. For the Project under consideration, the commentor notes that CDFG provides comments as both a Trustee and Responsible Agency. The commentor notes further that, pursuant to *CEQA Guidelines* Section 15096, comments provided by Responsible Agencies should focus on shortcomings on an EIR, and on additional alternatives or mitigation to be included in the EIR.

Trustee and Responsible Agency status of CDFG is recognized. The *CEQA Guidelines* Section 15096 directions for comments on EIRs to be provided by Responsible Agencies are acknowledged. It is noted further the *CEQA Guidelines* Section 15096 requires that Responsible Agencies limit their comments to “. . . those project activities which are in the agency's area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency.”

Response CDFG-2

The Project location and scope as summarized by the commentor is materially correct. Please refer also to the detailed Project Description presented in Draft EIR Section 3.0.

Response CDFG-3

The commentor notes location of the Project within the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP). Attributes of the MSHCP and species “take” authorization for MSCHP participants are noted by the commentor. The commentor identifies the City of Moreno Valley as a participant in the MSHCP. The

commentor states further that the Project does not lie within [MSHCP] Cell Criteria Areas, and does not require surveys other than for burrowing owls. The commentor notes that initial [Draft EIR] surveys conducted for the Project indicate that owls are not present on the subject site.

Provisions of the MSHCP are noted, as is the City's status as an MSHCP participant. Species survey requirements for the Project, as stated by the commentor, are consistent with surveys conducted in conjunction with preparation of the Draft EIR. Results of the Project Burrowing Owl Survey (Survey) are summarized in Draft EIR Section 4.8, "Biological Resources," and the Survey is provided at Draft EIR Appendix G. As noted by the commentor, the initial Survey results indicate that burrowing owls are not present on the Project site. The Survey notes that "[n]o burrowing owls or their sign were detected during the surveys and there was no evidence that any burrowing owls occur onsite. In addition, this species has not been recorded from the project area in the past." [Survey, Page 6.] Further, the Draft EIR notes that "[t]he Project area does provide suitable burrowing owl foraging habitat; however, no burrowing owls or their sign were detected during the Project burrowing owl survey." (Draft EIR, Page 4.8-8.)

#### Response CDFG-4

The commentor reiterates *CEQA Guidelines* Section 15096 provisions and requirements. The commentor notes that CDFG will consult the EIR for the purposes of preparing a Lake and Streambed Alteration Agreement and/or issuance of an Incidental Take Permit. The commentor lists three (3) issues to be clarified in the Final EIR:

1. Submittal of a 1600 Lake or Streambed Alteration Agreement Notification form for impacts to State jurisdictional waters;
2. Include native plant re-vegetation for areas temporarily disturbed by construction in the maintenance and monitoring plan;
3. Submit a copy of the maintenance and monitoring plan for the review and approval of the Department.

The following responses are provided to the issues/requirements cited by the commentor.

**1. Submittal of a 1600 Lake or Streambed Alteration Agreement Notification form for impacts to State jurisdictional waters.** Draft EIR Mitigation Measure 4.8.4 requires that a lake and streambed alteration agreement (Section 1600 permit) or waiver be obtained prior to the issuance of any grading permit and that written verification of the permit or waiver be provided to the Lead Agency (Community Development Department-Planning Division and the Public Works Department-Land Development Division). In support of the Permit, the Draft EIR identifies estimated impacts at CDFG jurisdictional areas and habitat, and identifies responding mitigation. This information will be included in subsequent Section 1600 Permit documentation for the Project. Relevant EIR text is excerpted below:

[T]he channel is jurisdictional under the U.S. Army Corps of Engineers, the California Department of Fish and Game, the California Regional Water Quality Control Board and the MSHCP Riverine/Riparian Habitat (as defined under Section 6.1.2 of the MSHCP) programs. Under a maximum potential impact scenario, construction of off-site improvements could result in permanent disturbance and alteration of approximately 0.08 acres (710 lineal feet of 5-foot wide channel, or a total of 3,550 square feet) of un-vegetated riparian habitat. Consultation and permits from these agencies will be required prior to any disturbance of this channel (Draft EIR, Page 4.8-10).

As summarized in Draft EIR Section 4.8 and presented in detail in the Project Jurisdictional Delineation, construction of the Project's proposed scour wall in the westerly portion of the Project site, adjacent to the Quincy Channel, will result in the temporary disturbance of an estimated 0.003 acres (22 lineal feet) of vegetated mulefat

riparian habitat/CDFG jurisdictional areas. This is a potentially significant impact, as acknowledged on Draft EIR Page 4.8-23.

The following mitigation measures addressing potential impacts to jurisdictional/habitat areas were incorporated in the Draft EIR, and will be reflected in subsequent Section 1600 Permit documentation.

4.8.1 *Prior to the issuance of a grading permit, a “no touch” area shall be staked along the westerly limit of Project development as defined by the alignment of the scour wall proposed along the Quincy Channel. Importantly, the westerly limits of development shall be established so as to preclude potential permanent impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Prior to the issuance of a grading permit, a City-approved Project biologist shall be retained to initiate and supervise monitoring of construction activities to ensure protection and preservation of adjacent Channel areas.*

4.8.2 *Prior to issuance of a grading permit, the proposed scour wall to be located between the developed Project site and the Quincy Channel shall be shown on the grading plans. Alignment of the scour wall shall be field-determined and physically delineated by the Project biologist in consultation with the City. Importantly, the scour wall alignment shall be established so as to preclude potential impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Ongoing monitoring of construction activities shall be maintained throughout implementation of the scour wall to ensure protection and preservation of adjacent Channel areas.*

4.8.3 *Prior to issuance of a building permit, landscape and irrigation plans shall be approved which demonstrate that no invasive, non-native plants will be*

*planted or seeded within 150 feet of the avoided riparian habitat along the Quincy Channel.*

*4.8.4 Prior to the issuance of any grading permits and prior to any physical disturbance of any jurisdictional areas, the applicant shall obtain a stream bed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit, from both the California Department of Fish and Game and the U.S. Army Corps of Engineers. Written verification of such a permit or waiver shall be provided to the Community Development Department - Planning Division and the Public Works Department - Land Development Division.*

*4.8.5 Prior to issuance of a grading permit, the Applicant shall develop and implement a Habitat Mitigation and Monitoring Plan (HMMP) to restore impacted riparian (mulefat) habitat. Prior to implementation, the HMMP shall be reviewed and approved by the CDFG. If in its final design, the CDFG-approved HMMP involves use or restoration of USACE or RWQCB jurisdictional areas, USACE and/or RWQCB approval shall also be obtained. The HMMP shall, at a minimum, meet the following requirements:*

- A habitat replacement and/or enhancement ratio of at least 1:1 for temporary impact;*
- A success criterion of at least 80 percent cover of native riparian vegetation for replaced habitat; and*
- Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, and regular maintenance and monitoring activities to ensure the success of the mitigation plan*

*(Draft EIR Pages 4.8-23 through 4.8-24).*

The commentor incorrectly states subsequently (please refer to Comment CDFG-8) that “[i]mpacts to the Quincy Channel will be from a channel crossing, not the scour wall.” Potential impacts from a future crossing of the Quincy Channel at Fir (future Eucalyptus) Avenue are described in the Project Jurisdictional Delineation; however, this crossing is not part of the Project and is not required to support the Project. As noted in Footnote 2 on Draft EIR Page 4.8-19, repeated here for ease of reference:

The EIR Jurisdictional Delineation also acknowledges jurisdictional impacts and associated mitigation and permitting requirements associated with the future bridge crossing of Fir (Eucalyptus) Avenue at the Quincy Channel, located southwesterly adjacent to the Project site. This bridge crossing, to be implemented by the City or others at a future date as a part of areawide circulation system improvements, will permanently impact an estimated 0.47 acres of CDFG jurisdictional areas, with temporary impacts to an additional 0.06 acres of CDFG jurisdictional area. Affected CDFG jurisdictional areas encompass ACOE and RWQCB jurisdictional areas. These are not Project-related impacts, but are however considered in this EIR and CEQA within the context of cumulative impacts. Please refer also to EIR Section 5.1.1.8, Cumulative Biological Resources impacts (Draft EIR Page 4.8-19).

**2. Include native plant re-vegetation for areas temporarily disturbed by construction in the maintenance and monitoring plan.** The last bullet point at Mitigation Measure 4.8.5 is amended as follows to include native plant re-vegetation for areas temporarily disturbed by construction.

- *Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, **native plant re-vegetation for areas temporarily disturbed by construction**, and regular maintenance and monitoring activities to ensure the success of the mitigation plan.*



**3. Submit a copy of the maintenance and monitoring plan for the review and approval of the Department.** As noted above at Mitigation Measure 4.8.5 (as amended):

*[The Project] HMMP shall, at a minimum, meet the following requirements:*

- *A habitat replacement and/or enhancement ratio of at least 1:1 for temporary impact;*
- *A success criterion of at least 80 percent cover of native riparian vegetation for replaced habitat; and*
- *Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, native plant re-vegetation for areas temporarily disturbed by construction, and regular maintenance and monitoring activities to ensure the success of the mitigation plan.*

While the Draft EIR presents a reasoned best estimate of impacts and proposed responsive mitigation based on Project design concepts, details such as monitoring and maintenance of mitigation for impacts to jurisdictional areas and affected habitat are more effectively developed based on final Project designs including detailed grading plans, utility plans design and final building designs. As matter of clarification, the following bullet point is added to Mitigation Measure 4.8.5:

- *Prior to the issuance of a grading permit, as part of the Project HMMP, appropriate maintenance and monitoring protocols will be developed in concert with CDFG based on final Project designs, and the ultimate scope, location, and type of mitigation reflected in the HMMP as approved by CDFG.*

With these revisions, Mitigation Measure 4.8.5 in total will be worded as presented below. These revisions will be reflected in Final EIR Section 2.0, "Revisions and Errata," as well as in the Mitigation Monitoring Plan presented in Final EIR Section 4.0.

4.8.5 *Prior to issuance of a grading permit, the Applicant shall develop and implement a Habitat Mitigation and Monitoring Plan (HMMP) to restore impacted riparian (mulefat) habitat. Prior to implementation, the HMMP shall be reviewed and approved by the CDFG. If in its final design, the CDFG-approved HMMP involves use or restoration of USACE or RWQCB jurisdictional areas, USACE and/or RWQCB approval shall also be obtained. The HMMP shall, at a minimum, meet the following requirements:*

- *A habitat replacement and/or enhancement ratio of at least 1:1 for temporary impact;*
- *A success criterion of at least 80 percent cover of native riparian vegetation for replaced habitat;*
- *Additional requirements, including a 3-year establishment period for the replacement habitat, regular trash removal, native plant re-vegetation for areas temporarily disturbed by construction, and regular maintenance and monitoring activities to ensure the success of the mitigation plan.*
- *Prior to the issuance of a grading permit, as part of the Project HMMP, appropriate maintenance and monitoring protocols will be developed in concert with CDFG based on final Project designs, and the ultimate scope, location, and type of mitigation reflected in the HMMP as approved by CDFG.*

#### Response CDFG-5

The commentor notes biological resources surveys conducted for the Project, and comments further that no focused surveys were required. Surveys and survey results noted by the commentor are materially correct. No further response is required.

#### Response CDFG-6

The commentor cites *CEQA Guidelines* Appendix G suggested threshold considerations addressing habitat modifications and potential impacts to candidate, sensitive or special status species, riparian habitat, or other sensitive natural communities. The commentor notes that [Project] impacts to terrestrial biological resources are minimal, and that mitigation for these impacts is provided for through participation in the encompassing MSHCP. The Project also lies within the fee area for the Stephens' Kangaroo Rat (SKR) Habitat Conservation Plan. Potential impacts to SKR are addressed through fee payments consistent with provisions of the SKR Habitat Conservation Plan. The above statements provided by the commentor are materially correct. No further response is required.

#### Response CDFG-7

The commentor summarizes physical characteristics of the Quincy Channel (Channel), located westerly of the Project site. The commentor notes that the Project Applicant proposes to construct a scour wall adjacent to the Channel. A maintenance road will be constructed on the easterly (developed side) of the wall and an approximate 50-150 foot buffer area will be provided between the wall and the developed warehouse areas.

The commentor's summary descriptions of the Channel and Applicant-initiated improvements are materially correct. No further response is required.

#### Response CDFG-8

The commentor incorrectly states that "[i]mpacts to the Quincy Channel will be from a channel crossing, not the scour wall." As noted in the preceding Response CDFG-4, potential impacts from a future crossing of the Quincy Channel at Fir (Future Eucalyptus) are described in the Project Jurisdictional Delineation; however, this crossing is not part of the Project and is not required to support the Project.

As noted by the commentor, the Draft EIR acknowledges that the Project will result in or cause approximately 0.003 acres of *temporary* [emphasis added] impact to CDFG jurisdictional area along the Quincy Channel due to construction of the scour wall. Impacts arising from eventual future crossing of the Channel are not Project-specific and no mitigation is proposed by the Project. Potential cumulative impacts of the crossing are discussed at Draft EIR Section 5.1.1.8:

. . . [I]t is noted that the ultimate design of Fir (future Eucalyptus) Avenue includes the construction of a crossing to span Quincy Channel. This future channel crossing is not considered a component of the proposed [P]roject and is contingent on vicinity development, which may occur in the next several years. The future construction of a channel crossing could result in permanent and temporary impacts on [the] Quincy Channel. These potential impacts are identified within Section 5.2.2 of the Jurisdictional Delineation Report in Draft EIR Appendix G. Because the future extension of Fir (future Eucalyptus) Avenue to the west across Quincy Channel is not a part of the proposed Project, the future crossing activities will require separate regulatory permits and approvals as well as specific mitigation for impacts, similar to the mitigation included in this EIR. It is further noted, however, that the ultimate extension of Eucalyptus Avenue, including the construction of a Quincy Channel crossing, is included in the City's General Plan Circulation Element, and as such, has been considered as a part of the City's General Plan EIR. Cumulative Project impacts are not affected by the extension of Fir (future Eucalyptus) Avenue or the construction of a Quincy Channel crossing (Draft EIR Pages 5-22 through 5-23).

#### Response CDFG-9

The commentor states that "[i]f the CEQA documents do not fully identify potential impacts to lakes, streams, and associated resources and provide adequate avoidance,

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mitigation, monitoring, funding sources, a habitat management plan and reporting commitments, additional CEQA documentation will be required prior to execution (signing) of the Agreement.”

The commentor’s statement/concern is recognized; however, such concerns are not germane to the Project or to the Draft EIR. Potential Project-related impacts to lakes, streams, and associated resources are fully disclosed and discussed in the Draft EIR and supporting technical studies presented in Draft EIR Appendix G. A summary of impacts and proposed mitigation is provided in preceding responses CDFG-1 through CDFG-8. Please refer also to the detailed discussions presented in Draft EIR Section 4.8, “Biological Resources,” and supporting technical studies provided in Draft EIR Appendix G, “Biological Resource Assessments.” Moreover, all areas of potential jurisdictional impacts are avoided to the extent possible and mitigated where complete avoidance is infeasible. The discussion provided as part of Draft EIR Mitigation Measures 4.8.1 through 4.8.3, as excerpted below, requires and promotes avoidance. The complete text of these mitigation measures is provided in the preceding Response CDFG-4.

*. . . Importantly, the westerly limits of development shall be established so as to preclude potential permanent impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel . . . a City-approved Project biologist shall be retained to initiate and supervise monitoring of construction activities to ensure protection and preservation of adjacent Channel areas.*

*. . . Alignment of the scour wall shall be field-determined and physically delineated by the Project biologist in consultation with the City. Importantly, the scour wall alignment shall be established so as to preclude potential impacts to CDFG and/or Corps Jurisdictional Areas within the westerly adjacent Quincy Channel. Ongoing monitoring of construction activities shall be maintained*

*throughout implementation of the scour wall to ensure protection and preservation of adjacent Channel areas.*

*. . . [N]o invasive, non-native plants will be planted or seeded within 150 feet of the avoided riparian habitat along the Quincy Channel (Draft EIR Page23).*

#### Response CDFG-10

The commentor states that “[t]he Department opposes the elimination of drainages, lakes and their associated habitats. The Department recommends avoiding the stream and riparian habitat to the greatest extent possible. Any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat either on-site or off-site at a minimum 3:1 replacement-to-impact ratio, depending on the impacts and proposed mitigation. Additional mitigation requirements through the Department’s Streambed Alteration Agreement process may be required depending on the quality of habitat impacted, proposed mitigation, project design, and other factors.”

The Project does not propose elimination of drainages, lakes and their associated habitats. Mitigation is proposed for the Project’s temporary impact to 0.003 acres of riparian (mulefat) habitat.<sup>1</sup>The ultimate scope and location of mitigation will be determined in consultation with CDFG through the Streambed Alteration Agreement Notification/Permit process (or waiver), to be completed prior to the issuance of any grading permits and prior to any physical disturbance of any jurisdictional areas. Notification/Permit processes will be initiated by the Applicant at the earliest practicable date. Given the nominal scope of habitat impact (0.003 acres), its relative distance from proposed areas of development, and intervening buffering areas provided, no substantive alteration of the Project is proposed nor anticipated to be

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<sup>1</sup> Total impacts to jurisdictional areas are estimated at 0.083 acres: 0.003 acres temporary impact to jurisdictional mulefat habitat; 0.08 acres permanent impact to non-habitat jurisdictional areas.

required in order to successfully mitigate the Project's temporary impacts to riparian habitat. Contact information provided by the commentor is noted.

#### Response CDFG-11

The commentor notes the following informational requirements for a Streambed Alteration Agreement, and recommends its incorporation in CEQA documents:

- 1) Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type);
- 2) Discussion of avoidance measures to reduce project impacts; and,
- 3) Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance.

The above information is provided in the Draft EIR and supporting jurisdictional delineation information presented at Draft EIR Appendix G. Excerpted germane Draft EIR discussions are presented below, and the commentor is referred to full detailed discussions presented in the body of the Draft EIR, specifically, within Section 1.0, Summary; Section 4.8, Biological Resources; and Section 5.0, Other CEQA Considerations. Supporting technical studies are provided at Draft EIR Appendix G, Biological Resource Assessments.

- 1. Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type).** The Draft EIR states that “[p]roject construction activities will result in the following potentially significant impacts: Potential direct temporary impacts to 0.003 acres, (22 lineal feet) of mulefat vegetated riparian habitat; and Potential direct permanent impact to 0.08 acres of un-vegetated riparian habitat” (Draft EIR Page 1-77, et al.).

2. **Discussion of avoidance measures to reduce project impacts.** The Draft EIR states that “[a]maintenance road will be provided along the easterly edge of the scour wall, and Westerly of the scour wall, a buffer area averaging in width from approximately 50 feet to 150 feet will be established, providing separation between the developed site and the adjacent Quincy Channel. This physical separation between the developed site and the Channel habitat areas minimizes or precludes direct impacts to the Channel and its associated vegetation communities and special status plant species.” (Draft EIR Page 4.8-18, *et al.*) Please refer also to the preceding Response CDFG-9.
  
3. **Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance.** Please refer to Draft EIR Mitigation Measures 4.8.1 through 4.8.5 (as amended through these responses), presented in the preceding Response CDFG-4.

Response CDFG-12

The commentor cites *CEQA Guidelines* Section 15370, which describes/defines mitigation, and states that CDFG cannot fulfill its obligations absent defined impacts and proposed mitigation. CDFG point of contact information is provided.

Project impacts are fully and appropriately defined and disclosed as summarized in the preceding responses and presented in detail in the Draft EIR (0.08 acres permanent impact to non-habitat jurisdictional areas; 0.003 acres temporary impact to jurisdictional mulefat habitat). Mitigation is proposed for impacts determined to be potentially significant. Mitigation includes restoration/replacement habitat at a minimum 1:1 ratio. The Lead Agency considers the defined area of impact and proposed mitigation to be consistent with CDFG requirements, and supports the Department’s obligations and responsibilities as a Trustee and Responsible Agency. Project impacts, as mitigated, are considered to be less-than-significant. Mitigation as revised herein is included in



response to CDFG comments. CDFG staff were contacted (phone conversation 12.16.10) to clarify information provided in the DEIR and discuss CDFG concerns. Subsequent to that conversation, a draft of these responses was emailed to CDFG staff. As indicated in the following email response from CDFG, CDFG staff concurs with the substance of these responses and proposed revisions to the Draft EIR text.

**From:** Robin Maloney-Rames <RMaloney@dfg.ca.gov>  
**Date:** December 29, 2010 9:13:07 AM PST  
**To:** <cray@appliedplanning.com>  
**Subject: Re: Westridge Draft EIR-CDFG Comments and Responses (Draft)**

Hello Charly:

I took a look at the letter and response to comments. It seems to be in order. If you could include this with the Response to Comments I would appreciate it.

thanks  
Robin

Environmental Scientist  
Dept. of Fish and Game  
Eastern Sierra Inland Deserts Region 6  
3602 Inland Empire Blvd., Suite C-220  
Ontario, CA 91764  
(909) 980-3818

Thank you for contacting the California Department of Fish and Game. Pursuant to Governor's Executive Order S-12-10, we are closed on the second, third and fourth Friday of each month.

DEPARTMENT OF TRANSPORTATION

DISTRICT 8

PLANNING

464 WEST 4<sup>th</sup> STREET, 6<sup>th</sup> Floor MS 725

SAN BERNARDINO, CA 92401-1400

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December 6, 2010

Jeff Bradshaw  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, CA 92552

Westridge Development Draft Environmental Impact Report (October 2010). SCH: 009101008.  
Riv-60-PM19.0/20.4

Dear Mr. Bradshaw,

We have completed our review for the above noted project which is located south of State Route 60 (SR-60) east of Quincy Channel, and north of Fir Avenue in the City of Moreno Valley. The project proposal comprises of the construction of 937,260 square feet of new light industrial warehouse/distribution area.

As the owner and operator of the State Highway System (SHS), it is our responsibility to coordinate and consult with local jurisdictions when proposed development may impact our facilities. As the responsible agency under the California Environmental Quality Act (CEQA), it is also our responsibility to make recommendations to offset associated impacts with the proposed project. Although the project is under the jurisdiction of the County of Riverside due to the Project's potential impact to State facilities it is also subject to the policies and regulations that govern the SHS.

DOT-1

We have the following comments:

Traffic Operations

DOT-2

1. Please include a Stacking Distance analysis for the Moreno Beach Road .

2. Traffic Impact Study (page 124, Table 6-11); under Redlands Blvd at SR-60 Westbound Ramp, please include: WBL, WBR, EBL & EBR. Additionally, under SR-60 at eastbound Ramps, please include: SBR.

DOT-3

3. Due to the potential high volumes of truck traffic, please ensure that the ramp intersection will accommodate STAA truck turning movements.

DOT-4

4. Please include the ramp merge/diverge analysis for SR-60 at Moreno Beach Dr. and at Redlands Blvd.

DOT-5

"altrans improves mobility across California"

Mr. Bradshaw  
December 6, 2010  
Page 2

Hydrology

1. Although the proposed improvements should have no significant effect on Caltrans facilities, the documentation submitted did not give specific details how the runoff from the freeway SR-60 will be captured and contained. We would expect the developer's engineer to address this issue during the design and permit approval process.

DOT-6

Permit Requirements:

1. Any proposed alterations to existing improvements within State right-of-way may only be performed upon issuance of a valid encroachment permit and must conform to current Caltrans design standards and construction practices.
2. Review and approval of street, grading and drainage construction plans will be necessary prior to permit issuance. Information regarding permit application and submittal requirements may be obtained by contacting:

Office of Encroachment Permits  
 Department of Transportation  
 464 West 4<sup>th</sup> Street, 6<sup>th</sup> Floor, MS-619  
 San Bernardino, CA 92401-1400  
 (909) 383-4526

DOT-7

We appreciate the opportunity to offer comments concerning this project. If you have any questions regarding this letter, please contact Joe Shaer at (909) 383-6908 or myself at (909) 383-4557 for assistance.

Sincerely,



DANIEL KOPULSKY  
Office Chief  
Community Planning/IGR-CEQA

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION, DISTRICT 8

Letter Dated December 6, 2010

Response DOT-1

Caltrans jurisdiction and statutory responsibilities in regard to the proposed Project's potential effects on SR-60 are acknowledged. Agency review of the Draft EIR is appreciated.

Response DOT-2

The commentor requests a stacking distance analysis for Moreno Beach Road. Within the context of the Caltrans Guide for the Preparation Traffic Impact Studies (State Of California Department Of Transportation), December 2002, the traffic impact analysis consultant, guided by local input and expertise of the Lead Agency, established the parameters and extent of the Project Traffic Impact Analysis (TIA). The Project is anticipated to contribute nominal<sup>2</sup> traffic to Moreno Beach Road for opening year conditions; and would contribute less than 50 peak hour trips to Moreno Beach Road under long-range conditions.

Pursuant to applicable CMP TIA guidelines (see Caltrans TIS Guidelines, Page 2), it is typically unnecessary for projects generating less than 50 peak hour trips to assess potential impacts in regard to stacking or progression through an interchange area. The Lead Agency has not indicated special circumstances or other considerations that would indicate a requirement for a stacking distance analysis for Moreno Beach Road, nor is such the conclusion of the TIA consultant.

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<sup>2</sup>Nominal traffic contributions are defined less than 50 vehicles per day (Project TIA Page 44, et al.)

Response DOT-3

The commentor requests specific analysis of the westbound left-turn, westbound right-turn, eastbound left-turn, and eastbound right-turn movements at the Redlands Boulevard/SR-60 Westbound Ramps. Analysis of the southbound right-turn movement at Redlands Boulevard/SR-60 Eastbound Ramps is also requested.

The westbound left-turn, westbound right-turn, eastbound left-turn, and eastbound right-turn movements at the Redlands Boulevard/SR-60 Westbound Ramps were not individually reported since they are shared lanes, and the queues associated with these movements are reflected in the 95th percentile queue presented for the westbound and eastbound through movements, respectively. Similarly, the southbound right-turn movement at Redlands Boulevard/SR-60 Eastbound Ramps was not reported individually since it is a shared movement with the southbound through lane. Please refer also to TIA Table 4-1 (Intersection Analysis for Existing Conditions).

Response DOT-4

As noted in the discussion of regional access (Draft EIR Section 4.2.2.2 on Page 4.2-8), the Project has been designed to accommodate future interchange improvements planned by Caltrans at Redlands Boulevard and the SR-60, which would upgrade the existing rural configuration to a standard diamond interchange. (Please refer to Figure 3.5-1, Site Plan Concept). The Project would, upon approval, be responsible for payment of Traffic Uniform Mitigation Fee (TUMF) contributions; however, interchange improvements would be constructed by Caltrans, and are not a part of the proposed Project. When designed, reviewed and constructed, it is presumed that the ramps will be required to be consistent with Caltrans design standards, and will accommodate STAA truck turning movements.

Response DOT-5

According to the Transportation Research Board's *Highway Capacity Manual*, the influence area for a merge junction is 1,500 feet downstream, and the influence area for a

diverge junction is 1,500 feet upstream. The distance between the ramps at Redlands Boulevard and Moreno Beach Boulevard is approximately 6,600 feet. There are no other merge/diverge junctions (i.e., interchanges) within the 1,500-foot influence areas of the ramps at Moreno Beach Boulevard and Redlands Boulevard, and as such, merge and diverge analyses were determined unwarranted as part of the Project TIA.

Response DOT-6

As noted by the commentor, specific concerns in regard to the design of collectors for runoff from the SR-60 onto the site will be addressed as part of the design and permit approval process. In general, as discussed in Draft EIR Section 4.6, "Hydrology and Water Quality," storm water will be collected onsite through a series of catch basins and clarifiers, and directed to a municipal drainage system, connections for which would be constructed adjacent to the site within the rights-of-way of Fir (future Eucalyptus) Avenue and Redlands Boulevard.

Response DOT-7

The required review of street, grading and drainage construction plans by Caltrans personnel prior to the issuance of encroachment permits is acknowledged. The address and contact information provided is appreciated.



**Board of Directors**

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**Director of the Metropolitan Water District of So. Calif.**

Randy A. Record

**Legal Counsel**

Redwine and Sherrill

December 6, 2010

Jeff Bradshaw, Associate Planner  
City of Moreno Valley  
Development Department  
14177 Frederick Street  
Moreno Valley, CA 92553

**SUBJECT: West Ridge Commerce Center Project  
Draft Environmental Impact Report  
SCH No. 2009101008**

Dear Mr. Bradshaw:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the above referenced project. The project is generally described as a plot plan for development of a 937,260 square foot warehouse distribution on building on a 55 acre site, Related applications include a Zone Change from Business Park to Light Industrial, a tentative parcel map to combine five parcels into a single parcel and a lettered lot that would be dedicated to the Riverside County Flood Control District for storm channel improvements, and a Municipal Code Amendment to establish a buffering distance between warehouse distribution land uses in the light industrial zone and adjacent residential zones.

EMWD-1

Eastern Municipal Water District (EMWD) offers the following comments with respect to this DEIR document:

- 1- Please revise Mitigation Measure 4.5.3, on page 4.5-29, as follows (revisions indicated in **bold italics**):

**4.5.3 In this East Moreno Valley area, existing water, sewer and recycled water facilities are not adequate to accommodate the Project. Therefore, from a facilities perspective, the Project would be conditioned to construct off-site and on-site water, sewer and recycled facilities needed to serve the**

EMWD-2

**Mailing Address:** Post Office Box 8300 Perris, CA 92572-8300 Telephone: (951) 928-3777 Fax: (951) 928-6177  
**Location:** 2270 Trumble Road Perris, CA 92570 Internet : [www.emwd.org](http://www.emwd.org)



City of Moreno Valley  
December 6, 2010  
Page 2

**Project. Accordingly, a Plan of Services (POS) must be completed and submitted by the Applicant, for EMWD's approval. As soon as possible, the Applicant shall meet with EMWD staff to develop a Plan Of Service (POS) for the Project. The POS shall detail water, wastewater and recycled water facilities requirements to serve the project, to be constructed by the Applicant. Additionally, there could be temporary service impacts while constructing or extending facilities required for this Project, which should be evaluated in the Final EIR.**

EMWD-2  
cont'd.


2- Please note the Water Supply Assessment (WSA) expiration date is June 4, 2011.

EMWD-3

Again, EMWD appreciates the opportunity to comment on this project. Please forward future environmental documents for this project and the response to the above comments prior to EIR certification to the attention of Karen Hackett at the mailing address shown on page one. If you have questions concerning these comments, please feel free to contact Karen Hackett at 951 928-3777, Ext. 4462, or myself at Ext. 4455.

EMWD-4

Sincerely,

  
Joseph B. Lewis  
Director of Engineering Services

JBL:ME:RR:KAH

cc: E. Lovsted

Encl.



**Board of Directors**

**President**  
David J. Slawson

**Vice President**  
Ronald W. Sullivan

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Joseph J. Kuebler, CPA

Randy A. Record  
Philip E. Paule

**Board Secretary**  
Rosemarie V. Howell

**General Manager**  
Anthony J. Pack

**Director of the  
Metropolitan Water  
District of So. Calif.**  
Randy A. Record

**Legal Counsel**  
Redwine and Sherrill

**Developers/Engineers**

**Will your project require service from Eastern Municipal Water District for water, sewer or recycled water?**

EMWD requires beginning dialogue with the applicant at an early point in site design and development of a project, in order to assess the infrastructure needs. Accordingly, we offer to meet with developers/engineers for one initial due-diligence meeting, without requiring a deposit. This meeting is to review your project and determine potential service from EMWD. The objective is to provide a forum to resolve any questions about our development process and help to determine if there are any potential issues that may exist in the area concerning EMWD facilities (water, sewer or recycled water). Afterward, should you decide to pursue your project(s) with EMWD, we will require you to deposit funds and open a Work Order. This Work Order is used to cover staff time and research required to generate a Plan of Service. No improvement plans will be accepted until this pre-project phase is completed and an EMWD Plan of Service has been approved.

In an ongoing effort to develop a dependable and reliable water supply for its customers, EMWD's goal is to maximize the use of recycled water, for landscape demands. All projects that include landscaped areas are carefully considered for recycled water use. This process needs to begin early to avoid unnecessary delays.

In order to set up a Due Diligence meeting we need:

- 1- A completed Due Diligence questionnaire.
- 2- Your proposed agenda for the due-diligence meeting
- 3- Location Map
- 4- Proposed development plan layout if available (hard copy and JPEG format)

I encourage developers/engineers to become familiar with EMWD New Development processes, while designing your project. They have been developed over many years and serve a great importance as they can prevent complications and save time. More information can be found at [http://www.emwd.org/new\\_biz/new-biz-dev.html](http://www.emwd.org/new_biz/new-biz-dev.html)

If at any point in time there are questions or concerns, please do not hesitate to contact me

Sincerely,  
  
Linda H. Petersen  
Development Coordinator ex. 4310  
[Petersel@emwd.org](mailto:Petersel@emwd.org)

EMWD-5

*Mailing Address:* Post Office Box 8300 Perris, CA 92572-8300 Telephone: (951) 928-3777 Fax: (951) 928-6177  
*Location:* 2270 Trumble Road Perris, CA 92570 Internet: [www.emwd.org](http://www.emwd.org)

## EASTERN MUNICIPAL WATER DISTRICT

Letter Dated December 6, 2010

### Response EMWD-1

The commentor has accurately summarized the general aspects of the proposed Project and required discretionary actions.

### Response EMWD-2

As discussed in the EIR, the Project's impacts to water supplies is less-than-significant. Notwithstanding, mitigation is provided to ensure timely construction of service lines/facilities necessary to serve the Project. In this regard, the Lead Agency acknowledges the District's desire to clarify the referenced Mitigation Measure 4.5.3, which is discussed in Draft EIR Section 4.5, "Water Supply." Accordingly, the language of this mitigation measure has been amended as follows.

4.5.3 *The Applicant shall meet with EMWD staff at the earliest feasible date to develop a Plan of Service (POS) for the Project. The POS shall detail water, wastewater and recycled water facilities requirements to serve the Project, to be constructed by the Applicant.*

Related to the Project POS, preliminary information provided by EMWD indicates that provision of adequate fire flows for the area west of Redlands Boulevard and south of SR-60 will require construction of a 24-inch water line within the Fir (future Eucalyptus Avenue) extending westerly from Redlands Boulevard to connect to an existing 24-inch line at the approximate alignment of Petit Street. The extent of the actual construction of the line is not known at this time and is ultimately dependent on the timing of improvements constructed as a part of adjacent proposals. Regardless of these other projects, Certificate of Occupancy for the Project is conditioned on the provision of

adequate fire flows whether achieved by this new line, or by other means acceptable to EMWD and the City Fire Department.

To ensure monitoring and enforcement, this revision to Mitigation Measure 4.5.3 is reflected in the Project Mitigation Monitoring Plan (Final EIR Section 4.0), and in Final EIR Section 2.0, Revisions and Errata. Additional explanatory language provided by the commentor is not considered appropriate for inclusion in this mitigation measure.

The Applicant's responsibility for the construction of all required infrastructure to serve the Project, including but not limited to the extension of off-site and on-site water, wastewater, and recycled water facilities, is acknowledged. As noted in the discussion of Water/Sewer Services on Draft EIR Page 3-21, "[a]lignment of service lines, and connection to existing services will be as required by EMWD."

The possibility of temporary service impacts during the construction or extension of facilities is acknowledged. Coordination with the District in regard to planned or proposed construction actions will occur as part of the preparation of the required POS (identified in Mitigation Measure 4.5.3, above). Additionally, notification of potential utility service disruptions would be provided to existing residents and/or business owners in the area by the developer, acting to minimize their effects. The results and conclusions of the Draft EIR are not affected.

#### Response EMWD-3

As noted in Draft EIR Mitigation Measure 4.5.4 (excerpted below), the upcoming expiration date of the Project's Water Supply Assessment is acknowledged.

*4.5.4 Until the Project begins construction, the Project Water Supply Assessment shall be reviewed for its continued accuracy and adequacy every three (3) years, commencing on the WSA approval date of June 4, 2008. The Project Applicant shall maintain communication with EMWD*

*on the status of the Project, and the lead agency shall request the referenced three-year periodic review and update of the WSA. If neither the Project applicant nor the lead agency contacts EMWD within three (3) years of approval of this WSA, it shall be assumed that the Project no longer requires the estimated water demand as calculated in the WSA.*

Response EMWD-4

As requested, and pursuant to Public Resources Code §21092.5, the District will receive a written response to these comments at least ten days prior to the certification of this EIR.

Response EMWD-5

EMWD provides a standardized Notice to Developers and Engineers outlining EMWD requirements and processes necessary to ensure adequate and timely provision of services.

The Notice to Developers and Engineers (Notice) attached to the above-referenced comment letter is acknowledged, and has been incorporated in this Final EIR for ease of reference. The Applicant consulted with EMWD early in the planning process (due diligence meeting conducted with EMWD staff on January 27, 2009) in order to determine the likely scope and type of improvements required. At the earliest feasible date, the Applicant will coordinate with EMWD in developing the POS for the Project consistent with provisions of the Notice.

WARREN D. WILLIAMS  
General Manager-Chief Engineer



1995 MARKET STREET  
RIVERSIDE, CA 92501  
951.955.1200  
FAX 951.788.9965  
www.rcflood.org  
134314

RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT

November 29, 2010

**RECEIVED**  
DEC - 6 2010  
CITY OF MORENO VALLEY

Mr. Jeff Bradshaw  
City of Moreno Valley  
Community Development Department  
14177 Frederick Street  
Moreno Valley, CA 92553

Dear Mr. Bradshaw:

Re: Notice of Availability  
West Ridge Commerce Center Project  
Draft Environmental Impact Report

This letter is written in response to the Notice of Availability West Ridge Commerce Center Project Draft Environmental Impact Report. The purpose of the proposed project is to develop a 937,260 sq. ft. warehouse distribution building on a 55 acre site located near Eucalyptus Avenue and Redlands Boulevard. The project also requests a zone change of five parcels from Business Park to Light Industrial, combining the five parcels into one and a lettered lot that would be dedicated to the Riverside County Flood Control District for storm channel improvements, and a Municipal Code Amendment.

RCFC-1

The Riverside County Flood Control and Water Conservation District (District) has reviewed the DEIR and has the following comments:

This project involves District Master Drainage Plan facilities, namely Moreno Line G-7 and D-3. The District will accept ownership of such facilities on written request of the City. Facilities must be constructed to District standards and District plan check and inspection will be required for District acceptance. Plan check and administrative fees will be required.

RCFC-2

This project is located within the limits of the District's Moreno Area Drainage Plan for which drainage fees have been adopted; applicable fees should be paid by cashier's check or money order only to the Flood Control District or City prior to issuance of grading permits. Fees to be paid should be at the rate in effect at the time of issuance of the actual permit.

The District is signatory to the Western Riverside County Municipal Species Habitat Conservation Plan (MSHCP). If it is anticipated that the City will request that the District own, operate and maintain the above referenced facilities, the applicant will need to demonstrate that all construction related activities within the District right-of-way or easement are consistent with the MSHCP. To accomplish this, the CEQA document should include a MSHCP consistency report with all of its supporting documents and provide adequate mitigation in accordance with all applicable MSHCP requirements. The MSHCP consistency report should address, at a minimum, Sections 3.2, 3.2.1, 6.1.2, 6.1.3, 6.1.4, 6.3.2, 7.5.3 and Appendix C of the MSHCP.

RCFC-3

134314

Mr. Jeff Bradshaw  
City of Moreno Valley

-2-

November 29, 2010

Re: Notice of Availability  
West Ridge Commerce Center Project  
Draft Environmental Impact Report

General Information

This project may require a National Pollutant Discharge Elimination System (NPDES) permit from the State Water Resources Control Board. Clearance for grading, recordation or other final approval should not be given until the City has determined that the project has been granted a permit or is shown to be exempt.

If this project involves a Federal Emergency Management Agency (FEMA) mapped floodplain, then the City should require the applicant to provide all studies, calculations, plans and other information required to meet FEMA requirements, and should further require that the applicant obtain a Conditional Letter of Map Revision (CLOMR) prior to grading, recordation or other final approval of the project, and a Letter of Map Revision (LOMR) prior to occupancy.

RCFC-4

If a natural watercourse or mapped floodplain is impacted by this project, the City should require the applicant to obtain a Section 1602 Agreement from the California Department of Fish and Game and a Clean Water Act Section 404 Permit from the U.S. Army Corps of Engineers or written correspondence from these agencies indicating the project is exempt from these requirements. A Clean Water Act Section 401 Water Quality Certification may be required from the local California Regional Water Quality Control Board prior to issuance of the Corps 404 permit.

Very truly yours,



EDWIN QUINONEZ  
Senior Civil Engineer

c: Riverside County Planning Department  
Attn: Kathleen Browne

AJK:EQ:blj

RIVERSIDECOUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Letter Dated November 29, 2010

Response RCFC-1

The commentor has accurately summarized the general aspects of the proposed Project and its required discretionary actions.

Response RCFC-2

The District's requirements in regard to transfer of ownership, standards for construction, inspection and fees are acknowledged.

Response RCFC-3

The assessment of the Project's potential to conflict with any applicable habitat conservation plan or natural community conservation plan (Draft EIR Page 4.1-31), indicates that the Project site is within the jurisdiction of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The Project's compliance with all referenced sections of the MSHCP is documented within the *Report on Habitat Assessments and Biological Surveys for the Westridge Project Site* (Pages 42-43, Draft EIR Appendix G).

Response RCFC-4

RCFC provides general information addressing: National Pollutant Discharge Elimination System (NPDES) permit requirements; Federal Emergency Management Agency (FEMA) requirements for projects or actions within or affecting FEMA-mapped floodplains; and Army Corps of Engineers (ACOE)/California Department of Fish and Game (CDFG) requirements for projects or actions within or affecting natural watercourses or mapped floodplains.

The Lead Agency appreciates the general information on permitting requirements provided by the District. As noted in the Draft EIR's discussion of stormwater



permitting (Section 4.6.3.3, Pages 4.6-10 through 4.6-13), the Project is required to obtain clearance from the State Water Resources Control Board pursuant to the NPDES Statewide Industrial Storm Water Permit for General Construction activities. The Project does not lie within, nor would it otherwise affect any mapped floodplain areas. As such, the Project is not subject to FEMA floodplain requirements. As required through Project Mitigation Measure 4.8.4, the Applicant is required to obtain a streambed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit prior to physical disturbance of any jurisdictional areas.

December 5, 2010

Jeff Bradshaw, Associate Planner  
Moreno Valley Planning Division  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley 92552

Re: PROPOSED WAREHOUSE PROJECT, WESTRIDGE COMMERCE CENTER  
CITY CASE #P08-133

Dear Mr. Bradshaw:

I am a Moreno Valley resident, and have looked at the Westridge Commerce Center Draft Environmental Report and feel compelled to comment on this proposed project. I believe the proposed project; a 937,260 square foot warehouse distribution building on a 55-acre site located on the north side of Eucalyptus Avenue, approximately 650 feet west of Redlands Boulevard will negatively impact the overall quality of life in Moreno Valley. **I ask that this project be denied and not be built to the scope/size requested or in the area Ridge Property Trust is asking for it to be built on.**

MA-1

The preamble to our City’s General Plan states, “The City of Moreno Valley embraces the interests of its residents and strives to meet their needs by creating a sense of community. The commitment to this vision encourages attractive amenities and a full range of public services while promoting a **safe and healthy environment. It is the goal of the City to improve the quality of life ...**” and after reviewing the EIR it is apparent that this project will negatively affect: Air Quality, Traffic Congestion, Destroy Aesthetics, Impact Water, Incur Large amounts of Solid Waste, Bring More Light and Noise that overall will result in a deterioration of the quality of life enjoyed by residents of our city overall and in particular residents living on the East Side of our City and also hurt the children in our city by these negative impacts.

MA-2

A survey taken for the City’s General Plan also found out that **47% of our residents wanted to retain the rural character of northeast Moreno Valley** (10% disagreed). This project destroys that rural character, and it would be in the best interests of the residents of our City to honor that desire by denying this project.

MA-3

I do not agree with the philosophy that for economic development to occur and for there to be jobs that I must lower my standard of living to achieve this. The 900 jobs that the EIR for this project suggests will occur, are in no way guaranteed to meet that number nor are they guaranteed to even go to a portion of Moreno Valley residents and this is a tactic that is playing upon the need for jobs in our City by promises that may not be kept, because there is no written contract that will guarantee this job number or that they go to local residents.

MA-4

The EIR states repeatedly that the effects of this project are minimal and not significant in magnitude, however, if this were true this developer would not have to ask for a Zone Change from Business Park to Light Industrial because the proposed warehouse/distribution center at 937,260 sq. ft. exceeds Business Park footage in our City’s General Plan of 50,000 sq. ft. This request in no way benefits the health, safety or welfare of current residents much less future residents as stated in the EIR.

MA-5

This EIR also uses the approval of the 2.6 million square feet for the Highland Fairview Project as a tool for their requests to be granted. Due to the approval and development of Highland Fairview’s mega warehouse and approval of the ProLogis project, any additional project(s) that incur additional

MA-6

Jeff Bradshaw, Associate Planner  
Moreno Valley Planning Division

Re: PROPOSED WAREHOUSE PROJECT  
WESTRIDGE COMMERCE CENTER  
CITY CASE #P08-133

2

truck traffic, and diesel particulate matters into the air, as well as changing the scenic view by building another mega warehouse that will be open 24 hours per day, the accompanying lighting, noise, air pollution, traffic congestion, MUST be factored into the overall effect and impact of the Highland Fairview and ProLogis Projects to determine the real effects that will occur to the residents in the area of this development and the City as a whole.

MA-6  
cont'd.

With the State of California, Riverside County, and Moreno Valley all suffering from large budget deficits it is unknown when the necessary funds to upgrade the freeway, overpasses, roads will be able to be completed, and with numerous diesel trucks that will come from this project, the damage to local roads, streets, and increased congestion, as well as increased dirty air and diesel particulate will hurt our city's overall quality of life and could result in increased traffic accidents and costs to our police and fire as a result.

MA-7

Again, our City's General Plan states, "The image of the community is perceived from freeways, streets and the point of view of the pedestrian. The viewer forms an impression about the beauty and safety of the community as he or she views the surrounding buildings ..." If mega warehouses and distribution centers continue to be built along the eastern portion of our city and exceptions to the business park/light industrial maximum square footage of 50,000 sq. ft. continues to be ignored our city will suffer from negative impressions because we are allowing ourselves to become a warehouse ghetto, and that will also hurt property values of the residents surrounding this project as well as the others of the same ilk, and ultimately will cause depressed property values to continue if not decrease even more than they already have. By denying this project you will be protecting our home values and our city's image rather than letting the 60 freeway become a vision of mega warehouse distribution centers that were never intended to be built en masse in this part of our city.

MA-8

In section 5.3.2.2 Industrial Development of the Moreno Valley General Plan it says, "Industrial and business park development is concentrated in the southern part of the City, generally located south of Iris Avenue and north of San Michele Road to the Perris city limits." Approving this project, as the others that have been approved, goes against what was to be an orderly and organized location for industrial and business park developments, not the east end of our city that was to have the rural characteristics valued and protected.

Although this project says it will get water from MWD and that there is no problem, I would point out that EMWD is still in a Stage 2 Water Shortage and goes on to say in their newsletter, that all EMWD customers are required to eliminate water waste, so how does approving mass warehouses help to not add more stress to our lack of water? And in their 10/21/10 newsletter, MWD says, "Southern California's water reserves are still low

Southern California continues to face significant water supply challenges in 2010 and beyond. ... During the past three years, Metropolitan has tapped its reserves to maintain deliveries to its 26 member agencies and 19 million Southern Californians. Our reserves are down by about 50 percent. With water uncertainties facing the state, the challenge ahead is to continue to lower demand and stretch our reserve supplies as much as possible ... Approving mega warehouse projects does not help in our struggle to maintain adequate water supplies whether it be from EMWD resources or MWD resources. This is another reason this project should be denied.

MA-9

Regarding the increase diesel truck traffic that will occur if this project is approved, in a presentation, Truck Management Strategies in Los Angeles, by Susan Bok, AICP a Senior Transportation Planner,

MA-10

Jeff Bradshaw, Associate Planner  
 Moreno Valley Planning Division

Re: PROPOSED WAREHOUSE PROJECT  
 WESTRIDGE COMMERCE CENTER  
 CITY CASE #P08-133

3

Los Angeles it was noted that “Trucks often pass through or near residential areas en route to ... distribution centers... safety, air pollution, vibration and noise impacts on residents, Truck impacts on roadway surfaces: 1 truck = 10,000 cars” which is a negative health and safety impact that will be incurred on the resident of Moreno Valley if this project is approved.

MA-10  
 cont'd.

In an article from: Contemporary Economic Policy | January 1, 2007 | Bluffstone, Randall A.; Ouder Kirk, Brad | Copyright:

“II. THE ENVIRONMENTAL ISSUES

Diesel exhaust is made up of gas and particulates. Gases include hydrocarbons, carbon dioxide, carbon monoxide, nitrogen oxides, and sulfur oxides, but particulates are of special concern because they are associated with a variety of cancers and cardiopulmonary problems that have been shown to increase the risk of mortality. Relative to gasoline engines, heavy-duty diesel trucks, such as those used in the logistics industry, typically emit at least 24 times more fine particulate matter per mile traveled (Kirchstetter et al., 1999). Health effects associated with these particles fall disproportionately on vulnerable populations, such as the young, elderly, and those who already have compromised respiratory systems.

Recently, the toxic and especially carcinogenic effects of diesel particulate matter (DPM), much of which comes from trucks, have been highlighted. The State of California and the U.S. Environmental Protection Agency (USEPA) have identified more than 40 toxic pollutants in diesel emissions, and in 1998 the California Air Resources Board (CARB) named it a toxic air contaminant (CARB, 2000; Lippmann et al., 2003; Ostro and Chestnut, 1998; SCAQMD, 2003).

MA-11

Particulates are classified according to their diameters. Those less than 2.5 [micro]m ([PM.sub.2.5]) pose the greatest threat to human health because smaller size allows deeper penetration into lung tissues as well as longer float times (as much as several days under dry conditions) and therefore wider deposition. DPM is particularly light, with a mean particle diameter of 0.2 [micro]m, but as much as 20% of DPM can be less than 0.05 [micro]m, which floats longer and penetrates deeper than larger particles. DPM also has a large surface area, making it an ideal carrier for a variety of toxic compounds. DPM typically makes up 10-30% of total [PM.sub.2.5] concentrations. The federal limit for [PM.sub.2.5] is 15 [micro]g/[m.sup.3] average annual concentration and 65 [micro]g/[m.sup.3] maximum concentration during any 24-h period. California has a stricter annual average concentration standard of 12 [micro]g/[m.sup.3]. DPM-specific standards do not exist.

The eastern Inland Empire and particularly the I-215, I-10, and I-15 freeway corridors have very high particulate concentrations. In 2003, Riverside and San Bernardino counties ranked first and second, respectively, in the nation for total particulate pollution (CARB/American Lung Association, 2004). For example, at the Rubidoux monitoring station in Riverside, during the period 2000-2002 the average annual [PM.sub.2.5] concentration was 28.9 [micro]g/[m.sup.3], which is about 1.75 times the federal limit and

Jeff Bradshaw, Associate Planner  
Moreno Valley Planning Division

Re: PROPOSED WAREHOUSE PROJECT  
WESTRIDGE COMMERCE CENTER  
CITY CASE #P08-133  
4

more than twice the state ... Warehouses, trucks, and [PM.sub.2.5]: human health and logistics industry growth in the eastern Inland Empire.(Report)”

This article spells out the health dangers from increased diesel truck traffic to our elderly, children, and our overall population, and this is a very real and dangerous and I might add, unnecessary and unacceptable health risk(s) and as such, this project should be denied as this should not be the price we have to pay for “900 jobs”.

↑  
MA-11  
cont'd.

Sincerely,

Marcia Amino  
10363 Crest Brook Drive  
Moreno Valley 92557  
951-247-8225

MARCIA AMINO

Letter Dated December 5, 2010

Response MA-1

The commentor, a Moreno Valley resident, expresses concern regarding the impact of the Project on the overall quality of life within the City and requests the Project be denied as proposed. These opinions are acknowledged.

Response MA-2

The commentor provides an excerpt of the City's General Plan regarding City goals and offers that the Project is not in keeping with the stated goals of the General Plan. Notwithstanding the commentor's opinions, Project consistency with the applicable provisions of the General Plan are substantiated within each EIR topical section (Land Use-Pages 4.1-17 through 4.1-20; Traffic/Circulation-Pages 4.2-23, 4.2-24; Air Quality-Page 4.3-18; Noise-Pages 4.4-10, 4.4-11; Water Supply-Pages 4.5-24, 4.5-25; Hydrology and Water Quality-Pages 4.6-13, 4.6-14; Cultural Resources-Page 4.7-10; Biological Resources-Pages 4.8-11, 4.8-12; and Aesthetics-Page 4.9-5 through 4.9-7. The commentor's statements and opinions regarding the Project will be forwarded to the decision-makers for their consideration.

Response MA-3

The commentor references a survey of opinion (regarding the City's General Plan) of Moreno Valley residents, wherein 47 percent of residents want to retain the rural character of the area. Notwithstanding poll results offered by the commentor, development of the site with industrial/business park uses is anticipated under the site's current General Plan land Use designation (Business Park/Light Industrial). Please refer also to the discussion of Project consistency with existing land use plans and policies (DEIR Pages 4.1-17 through 4.1-30). Moreover, design and visual attributes of the Project are consistent with General Plan (Community Development Element) Objectives

and Policies generally addressing design and aesthetic considerations (please refer to DEIR Pages 4.9-5 through 4.9-7). The commentor's statements and opinions regarding the Project will be forwarded to the decision-makers for their consideration.

#### Response MA-4

The commentor's assertion that there is no written guarantee that the entire number of jobs referenced in the Draft EIR (approximately 900 jobs)<sup>3</sup> will be filled by Moreno Valley residents is accurate. However, the types of warehousing employment offered by the Project are not considered growth-inducing, as these types of jobs typically draw from the local employment pool and do not induce long commutes.

#### Response MA-5

Contrary to the commentor's assertion that "the EIR states repeatedly that the effects of this project are minimal and not significant in magnitude," the Draft EIR contains 50 mitigation measures, specifically developed to reduce the identified potentially significant impacts. Additionally, the environmental topics of traffic, air quality, and noise were found to have significant and unavoidable impacts, even after the implementation of all feasible mitigation. Please refer to Table 1.10-1 of the Draft EIR for a summary all of Project-related impacts.

The commentor also states an opinion regarding the Project's requested zone change. The General Plan's limitation of square footage (50,000) is per building. It is important to note that the total square footage and uses proposed by the Project are allowed under the site's current General Plan land use designation. The zone change is required to

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<sup>3</sup> Based on one (1) job per 1,030 square feet of development, Riverside County General Plan Appendix E, Buildout Assumptions and Methodology, Page 6, Light Industrial employment multiplier (See DEIR, Page 5-44).

allow the proposed uses to be contained within a building larger than 50,000 square feet.

Response MA-6

The commentor expresses concern regarding the cumulative effects of the Project when combined with other vicinity projects. As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, a number of current or anticipated “related projects” were identified within the cumulative scope of the Westridge Commerce Center Project. In total, 11 related projects were included within the Draft EIR cumulative analysis, including both projects referenced by the commentor (“Highland Fairview and ProLogis”).

In addition to the identified related projects, the cumulative impacts analysis assumed development of the area in a manner consistent with the City of Moreno Valley General Plan, and reflecting the anticipated growth of the region. The analysis of cumulative impacts considered potentially significant impacts that could be considered cumulatively considerable when viewed in the context of known related projects and generalized ambient growth of the City and region. The commentor is referred to Section 5.0, “Other CEQA Topics” of the Draft EIR.

Response MA-7

While the State-wide budget deficit is out of the scope of the EIR, it should be noted that the Project will pay nearly \$6 million in fees for local school, library, fire, and police facilities and local street improvements. Additionally, the Project will invest nearly \$1 million in regional transportation improvements. Implementation will also produce nearly \$1 million for regional water, sewer and flood control improvements. The Project’s impacts on traffic, air quality, and public services are addressed in the EIR.



Response MA-8

The commentor expresses an opinion regarding the Project's role in what she perceives as the degradation of property values and the City's image as a whole. The commentor also asserts that the Project, along with other similar vicinity projects, is a direct contrast of the vision of the General Plan. The project's impacts on aesthetics and consistency with the City's General Plan are addressed in the EIR. The commentor's statements and opinions regarding the Project will be forwarded to the decision-makers for their consideration.

Response MA-9

As required under SB 610/221, a Water Supply Assessment (WSA) has been prepared by the serving water purveyor, Eastern Municipal Water District (EMWD). The Project WSA demonstrates water supply sufficiency from existing and planned resources, and under conditions that are even more restrictive than the single-year and multiple-dry year scenario standards of SB 610. Within the WSA, EMWD has stipulated Conditions of Approval ensuring implementation and operation of the Project in a manner that provides for efficient use of available water supplies. The commentor is referred to Section 4.5, "Water Supply" and Appendix E of the Draft EIR.

Response MA-10

The commentor references a Los Angeles County presentation regarding diesel truck management strategies. Specifically, the commentor excerpts a portion of the presentation regarding diesel truck trips through residential neighborhoods.

It should be noted that Project traffic will not pass through residential neighborhoods. The Project's proximity to State Route 60 minimizes the amount of truck trips occurring on residential streets. Trucks will exit Redlands Boulevard (passing properties designated for commercial and warehouse distribution uses), then turn right on Fir Avenue (future Eucalyptus) to access the site. Properties located south of Fir Avenue (future Eucalyptus) are designated for residential uses; however, trucks will not require

the use of internal neighborhood streets. Ultimate configuration of Redlands Boulevard under its current General Plan designation is a four-lane, divided arterial roadway. Fir Avenue (future Eucalyptus) is designated as an arterial roadway with a 104-foot right-of-way from west of Moreno Beach Drive to east of Redlands Boulevard. Please refer also to DEIR Section 4.3, Air Quality; and DEIR Section 4.4, Noise.

The basis for the statement “1 truck = 10,000 cars” noted in the presentation is unclear. As presented in Section 4.2, “Traffic and Circulation” of the Draft EIR, “passenger car equivalent” (PCE) factors were utilized in the analysis. Specifically, Page 4.2-19 of the Draft EIR states:

“As seen in Table 4.2-5, “passenger car equivalent” (PCE) factors, ranging from 1.5 to 3.0, have been applied to ensure that truck volumes are accurately accounted for in terms of their proportional contributions to traffic impacts. More specifically, the Project Trip Generation Forecast equates two-axle trucks to 1.5 passenger cars. Three-axle trucks are considered the equivalent of two (2) passenger cars; and trucks with four (4) or more axles are counted as the equivalent of three passenger cars. Employing these PCE factors, the Project is anticipated to generate 2,930 Passenger Car Equivalent (PCE) trips per day, with 191 PCE trips occurring during the AM peak hour, and 225 PCE trips occurring during the PM peak hour.”

The PCE factors employed within the Draft EIR were derived from San Bernardino Associated Governments (SANBAG). SANBAG is the metropolitan planning organization for the County, with policy makers consisting of mayors, councilmembers, and county supervisors, and the funding agency for the county’s transit systems.

Response MA-11

The commentor excerpts an article regarding the health dangers of diesel truck traffic. Similarly, Section 4.3, "Air Quality" of the Draft EIR presents background information, including the dangers of criteria pollutants. Additionally, a Health Risk Assessment of Diesel Particulate Emissions was prepared to address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The Health Risk Assessment was prepared in accordance with the document *Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis* (SCAQMD 2003). Results of the Health Risk Assessment (HRA) are summarized at Draft EIR Pages 4.3-80 through 4.3-86, and the HRA is presented in its entirety at Appendix C to the Draft EIR.

Mitigation was developed to address DPM generation (Mitigation Measure 4.3.10). The Draft EIR concluded that, with mitigation, no sensitive receptors or off-site workers will be exposed to DPM-source cancer risks exceeding the SCAQMD's significance criteria. Additionally, the commentor expresses an opinion that the dangers are "unnecessary and unacceptable" and requests that the Project be denied. These opinions will be forwarded to the decision-makers for their consideration.

**From:** Lynne Ashley [lynneashley70@yahoo.com]  
**Sent:** Sunday, December 05, 2010 8:52 AM

Dear Jeffrey,

I live on the North side of the freeway, Ironwood and Moreno Beach, I am very concerned about the health risks for myself and my family with the possibility of more warehouses coming to the East end of Moreno Valley, please see my concerns below.

How will the toxic diesel truck emissions affect the people who will live on the south side of Fir when both this warehouse and Pro Logis as well as Skechers are at full operation?  LA-1

What measures could be implemented during the construction and operation of this warehouse which could lessen the impact on noise, air quality and global warming, but which you are not going to put into place?  LA-2

What will you do to protect the warehouse workers from the effects of toxic diesel pollution?  LA-3

I understand that you do not have a tenant for the building and do not plan to build until you do. Are there any large amounts toxic materials which you would allow to be warehoused at this location? This includes materials which become toxic when burning. If such tenants do occupy this warehouse what are you planning to do in order to protect the residents/workers from the smoke plumes and spills?  LA-4

Why are you not making sure this almost 1,000,000 sq foot building is built to Leadership in Energy and Environmental Design (LEED) standards? The very minimum should be Silver. Please explain why your company will not build and advertise that this will be at least a LEED Silver project and reject any attempt by the tenant to prevent such building standards?  LA-5

How will this project be growth inducing for similar projects?  LA-6

How many toxic diesel trucks do you calculate to use Redlands Blvd to come/go north out of town that are either coming or going from your warehouse? How many large diesel trucks do you calculate will use Redlands Blvd to come/go north out of town when Skechers, Westridge Commerce Center and Pro Logis are in full operation?  LA-7

Since there is only one lane that allows drivers to continue west out of town-- the other forces you off at Central Ave-- how will this project impact the merger to this single lane? How many diesel trucks will come form your project, Skechers and Pro Logis combined during a typical 24 hour day? How will these trucks impact that single lane heading west? What Level of Service (LOS) presently exists and what will the LOS be as a result of these three warehouses?  LA-8

Sincerely,

Lynne Ashley  
12285 Deep Valley Trail  
Moreno Valley, CA 92555

LYNNE ASHLEY

Email Dated December 5, 2010

Response LA-1

The commentor expresses concerns about the effect of diesel truck emissions on the future sensitive receptors located on the south side of Fir Avenue. A Health Risk Assessment of Diesel Particulate Emissions was prepared to address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The Health Risk Assessment was prepared in accordance with the document Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis (SCAQMD 2003). The Health Risk Assessment is summarized within the Draft EIR (see Page 4.3-80) and presented in its entirety as Appendix C to the Draft EIR.

Regionally, the SCAQMD has conducted a cumulative analysis of the toxic air contaminants (including DPM emissions) and their resulting health risks for all of Southern California. This study, Multiple Air Toxics Exposure Study in the South Coast Air Basin, or MATES III, indicates the average excess cancer risk level from exposure to TACs is approximately 1,200 in one million basin-wide. These estimates were based on monitoring data collected at ten fixed sites within the South Coast Air Basin.

None of the fixed monitoring sites are within the immediate Project area. However, MATES III has extrapolated cancer risk levels throughout the Basin by using grid-specific modeling. In this regard, MATES III grid modeling predicted a cancer risk of 524 in one million for the Project area. DPM is included in this cancer risk along with all other TAC sources, and accounts for the predominance (83.6 percent) of the total risk shown in MATES III. The Project will not contribute cumulatively to TACs other than DPM, however, the Project DPM emissions levels are not significant. That is, as discussed in Section 4.3 of the Draft EIR, the SCREEN3 screening analysis prepared for

the Project indicates that the maximally impacted modeled receptor would be exposed to a mitigated inhalation cancer risk of no more than 8.6 in 1 million, which is less than the SCAQMD exposure threshold of 10 in 1 million.

Though the Project DPM emissions would add to existing levels of DPM within the basin, the Project's contribution and associated MICR as mitigated is not individually significant and is not cumulatively considerable.<sup>3</sup>

### Response LA-2

The commentor asks if there are additional mitigation measures not currently contained within the Draft EIR which would lessen noise, air quality, and global warming impacts of the Project. It should be noted that no significant Project-related impacts regarding global warming have been identified. All feasible mitigation measures have been employed within the Draft EIR to reduce any potentially significant impacts. However, as summarized at DEIR Pages 1-18 and 1-19, the Project will result in certain significant and unavoidable air quality and noise impacts.

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<sup>3</sup> [T]he AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR. The only case where the significance thresholds for project specific and cumulative impacts differ is the Hazard Index (HI) significance threshold for toxic air contaminant (TAC) emissions. The project specific (project increment) significance threshold is  $HI > 1.0$  while the cumulative (facility-wide) is  $HI > 3.0$ . It should be noted that the HI is only one of three TAC emission significance thresholds considered (when applicable) in a CEQA analysis. The other two are the maximum individual cancer risk (MICR) and the cancer burden, both of which use the same significance thresholds (MICR of 10 in 1 million and cancer burden of 0.5) for project specific and cumulative impacts. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant (South Coast Air Quality Management District White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution, Appendix D, Page D-3).

Response LA-3

As discussed in the Draft EIR (Page 4.3-80), South Coast Air Quality Management District (SCAQMD) guidance does not require assessment of the potential health risk to on-site workers. Similarly, the following excerpts from the California Office of Health Hazard Assessment (OEHHA) document *Air Toxics Hot Spots Program Risk Assessment Guidelines-The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments* (OEHHA 2003), also indicate that it is not necessary to examine the health effects to on-site workers unless required by RCRA (Resource Conservation and Recovery Act)/CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) or the worker resides on-site.

If a facility must also comply with RCRA/CERCLA HRA requirements, health effects to on-site workers may also need to be addressed. The DTSC's Remedial Project Manager should be consulted on this issue. In some cases it may be appropriate to evaluate risks to on-site receptors. The district should be consulted about special cases for which evaluation of on-site receptors is appropriate, such as facilities frequented by the public or where people may reside (e.g., military facilities).

On-site workers are protected by the California Division of Occupational Safety and Health (CAL/OSHA) and do not have to be evaluated under the Hot Spots program, unless the worker also lives on the facility site, or property. Occasionally, facilities like prisons, military bases, and universities have worker housing within the facility. In these situations the evaluation of on-site cancer risks, and/or acute and chronic non-cancer hazard indices is appropriate under the Hot Spots program.

Since none of these provisions apply to the Project, risk to on-site workers was not evaluated in the Draft EIR.

Response LA-4

The commentor is concerned about the future tenants of the proposed Project, and whether or not hazards materials would be housed at the site. As stated within the Hazards and Hazardous Materials section of the Project Initial Study, presented as Appendix A to the Draft EIR:

“During construction activities, the Project will require limited transport of potentially hazardous materials (e.g., paints, solvents, fertilizer, etc.) to and from the Project site. Additionally, operation of the Project could involve the temporary storage and handling of potentially hazardous materials such as pesticides, fertilizers, or paint products that are pre-packaged for distribution and use. This type of storage, transfer, use and disposal of potentially hazardous materials is extensively regulated at the local, State and federal levels. It is not anticipated that the development of the Project would result in conditions that are not currently addressed by existing regulations...”

No potentially hazardous materials, beyond those described above, are anticipated to be handled at the site. Any such materials used/housed on-site will be subject to applicable local, State and federal laws.

Response LA-5

Contrary to the commentor’s assertion that the Project will not be built to Leadership in Energy and Environmental Design (LEED) standards, the following discussion can be found on Page 3-16 of the Draft EIR:

“The Westridge Commerce Center Project reflects design and operational criteria established under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, a program developed by the United States Green Building Council. This program includes a rating



system that can be applied to new construction as well as tenant improvement projects with performance goals in multiple environmental categories.

LEED certification is contingent, among other requirements, on demonstrated and documented conservation and efficient use of available resources. It is recognized that not all LEED performance standards are applicable or appropriate for the Project, and that different standards may be utilized by the Project's end user(s). However, the Project, as a whole, will be developed as a LEED-certified facility.

In support of LEED-certification, resources conservation, reduction in energy consumption and associated reductions in air pollutant emissions and greenhouse gases (GHGs), the Project will achieve a minimum of 20 percent in energy efficiencies beyond incumbent Title 24 Energy Efficiency standards, as well as compliance with other applicable state and federal energy standards."

The ultimate level of LEED certification cannot be determined at this time, since the tenant(s) for the Project, and therefore specific environmental strategies to be employed at the facility, are unknown. It is also important to note that no significant impacts have been identified in regard to the energy conservation attributes of the Project; nor would any of the identified significant impacts of the Project be reduced based on a certain level of LEED certification.

#### Response LA-6

The commentor expresses concern regarding the growth-inducing effects of the proposed Project. The California Environmental Quality Act (CEQA) requires a discussion of the ways in which a project could be growth-inducing. (Pub. Resources Code, § 21100, subd. (b)(5); CEQA Guidelines, §§ 15126, subd. (d), 15126.2, subd (d).) To

this end, Section 5.3, “Growth-Inducing Impacts of the Proposed Action” of the Draft EIR, contains such a discussion.

As presented on Pages 5-67 through 5-68 of the Draft EIR, it is unlikely that the Project would directly result in any significant population growth, and would not result in population growth for the City beyond that reflected in adopted growth forecasts.

Development of the Project as envisioned will entail upgrade of infrastructure in the immediate Project vicinity, including abutting roadways, the local water distribution and sewer collection systems, and storm drainage conveyance facilities. It is acknowledged within the Draft EIR that infrastructure improvements necessitated by the implementation of the Project may facilitate and encourage development of nearby properties. The City will review all proposed development to ensure compatibility with evolving City and regional land use plans acting to reduce or avoid potentially adverse effects of growth.

#### Response LA-7

Estimated opening-year average daily Project-generated truck traffic ingressing/egressing the Project site via Redlands Boulevard includes:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions are presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).

Cumulative opening year average daily traffic along Redlands Boulevard north of Fir (future Eucalyptus) Avenue is estimated at 30, 400 trips (see TIA Page 115, Exhibit 6-10).

This is inclusive of all trips/all vehicle categories generated by existing, proposed or anticipated development, and includes trips generated by the Westridge Project, Skechers, and Pro Logis cited by the commentor.

Notwithstanding the above-cited average daily truck/traffic volumes, the more germane issue with regard to potential truck traffic impacts is peak hour passenger car equivalent (PCE) intersection traffic volumes. As noted subsequently in this response, all Project-specific traffic impacts, inclusive of truck traffic impacts, are reduced to levels that are less-than-significant. If the commentor's concerns are not really truck traffic volumes, but rather truck-generated diesel emissions, the Project Health Risk Assessment (HRA) summarized at EIR Section 4.4, "Air Quality," and discussed in detail in the Project HRA Study (included at EIR Appendix C) substantiates that with application of mitigation, Project-related diesel emissions will not result in significant adverse health risks.

The commentor is also referred to Section 4.2, "Traffic and Circulation," of the Draft EIR, which includes the following excerpted discussion:

As seen in Table 4.2-5, "passenger car equivalent" (PCE) factors, ranging from 1.5 to 3.0, have been applied to ensure that truck volumes are accurately accounted for in terms of their proportional contributions to traffic impacts. More specifically, the Project Trip Generation Forecast equates two-axle trucks to 1.5 passenger cars. Three-axle trucks are considered the equivalent of two (2) passenger cars; and trucks with four (4) or more axles are counted as the equivalent of three passenger cars. Employing these PCE factors, the Project is anticipated to generate 2,930 Passenger Car Equivalent (PCE) trips per day, with 191 PCE trips occurring during the AM peak hour, and 225 PCE trips occurring during the PM peak hour. (Draft EIR Page 4.2-18.)

Additionally, with regard to cumulative traffic impacts, Page 4.2-67 of the Draft EIR states:

As indicated at Table 4.2-13, with completion of the improvements recommended under Mitigation Measure 4.2.7, 4.2.18 and 4.2.19, acceptable V/C and LOS conditions would be realized at all Study Area roadway segments under Opening Year Cumulative Conditions with the Project. Improvements necessary to mitigate potentially significant Opening Year Cumulative Condition roadway segment impacts would be accomplished in part by the Project, with the balance of required improvements realized under combined TUMF, DIF, and fair share fee traffic improvement programs. However, timely completion of the required improvements in total cannot be assured based on Project participation in mandated traffic impact fee programs (TUMF, DIF, and fair share). Further, roadway segment improvements at or affecting the SR-60 at Redlands Boulevard interchange improvements are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency. *The Project's incremental contributions to Opening Year Cumulative Traffic Impacts at, or affecting, the following roadway segments are therefore considered cumulatively significant and unavoidable:*

- Redlands Boulevard north of the SR-60 Westbound Ramps to Eucalyptus (future Encilia) Avenue;
- Quincy Street south of Fir (future Eucalyptus) Avenue (future street); and

- Fir (future Eucalyptus) Avenue west of Quincy Street to the westerly Project boundary (future street) and Fir (future Eucalyptus) Avenue east of Redlands Boulevard.

Should the Project be approved, the Lead Agency is required to adopt a Statement of Overriding Considerations acknowledging the Project's individually and/or cumulatively significant environmental impacts.

It is further noted that with specific regard to Redlands Boulevard, this road is a designated truck route in the County and a direct route to San Timoteo Canyon Road through Redlands (also designated as a truck route). It is appropriate for Redlands Boulevard to convey Project-related and area truck traffic. To maintain the continuity between affected agencies, the truck route designation for Redlands Boulevard cannot be practically removed. Moreover, there is no feasible means to restrict Redlands Boulevard to local truck trips only, given its direct connection, with no alternative routes, to the previously mention roadways. Further, there is no suggested or demonstrated environmental benefit that would result from restricting use of Redlands Boulevard. The commentor's remarks are forwarded to the decision-makers for their consideration.

#### Response LA-8

In response to the commentor's concerns regarding the levels of service on westbound State Route 60, the Project's Traffic Impact Analysis (TIA, included as Draft EIR Appendix B) examined performance on the SR-60 as part of Appendix 7.8. The City of Moreno Valley requested that a basic freeway segment analysis be conducted between Box Springs Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the TIA. As indicated in the Introduction to this Study (Page 7.8-3), "[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these impacts would be nominal, but rather to analyze the current and future projected operations within the segment based on freeway lane geometrics."

The study concludes that “[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen.” It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As noted in the summary of mitigation on Draft EIR Page 1-51, “[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area.” Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

**RECEIVED**  
DEC - 2 2010

CITY OF MORENO VALLEY

CITY OF MORENO VALLEY  
ENVIRONMENTAL AND HISTORICAL PRESERVATION BOARD  
COMMENTS OF BOARD MEMBER GERALD M. BUDLONG  
24821 Metric Drive  
Moreno Valley, CA 92557  
December 2, 2010



SUBJECT: WESTRIDGE COMMERCE CENTER DRAFT ENVIRONMENTAL  
IMPACT REPORT (DEIR)  
STATE CLEARINGHOUSE NUMBER 2009101008

GB-1

COMMENT GLOBAL TO ALL APPLICABLE DEIR FIGURES: Why are the applicable figures throughout the DEIR not drawn to scale? How can the reader duplicate the science when for instance the maps and plans are not drawn to scale?

1.0 SUMMARY page 1-8 Geology and Soils. The DEIR addresses the Checklist Category "Geology and Soils" in a Geotechnical Investigation prepared for the Project site and is designated Appendices H. Geotechnical Investigation in the EIR. Therefore comments on the CEQA Geology and Soils Category will be addressed below in the Appendices H.

APPENDICES H. GEOTECHNICAL INVESTIGATION, Project No. 06G258-1. Proposed West Ridge Business Center, January 10, 2007, Southern California Geotechnical, Inc.

2.0 SCOPE OF SERVICES, page 3.

GB-2

"The scope of services performed for this project was in accordance with our Proposal No. 06P420, dated November 20, 2006. The scope of services included a visual site reconnaissance, subsurface exploration, field and laboratory testing, and geotechnical engineering analysis to provide criteria for preparing the design of the building foundation, building floor slabs, and parking lot pavements along with site preparation recommendations and construction considerations for the proposed development. The evaluation of the environmental aspect of this site was beyond the scope of services for this geotechnical investigation."

COMMENT: The subject geotechnical investigation appears to consist of a foundation analysis for future foundations for buildings and parking lot pavements. The scope does not evaluate the environmental aspect of this site. Please define what environmental aspects of the site are missing from this report? Is one of the missing environmental aspects a detailed seismic study of this site which defines buried fault(s) and their potential of rupturing the ground surface above them?

3.3 Previous Studies, page 5.

“As part of our investigation of the site, we were provided with one geotechnical report prepared by LGC Inland, Inc. pertaining to the north east portion of the site. The report is summarized below:”

GB-3

COMMENT: I cannot find a copy of the LGC Inland, geotechnical report in the DEIR , Appendices or anywhere else in the DEIR? Should not the DEIR Appendices contain a complete copy of this study rather than just a one-paragraph summary?

6.1 Seismic Design Parameters, page 9

“Faulting and Seismicity

Research of available maps indicates that the subject site is not located with an Alquist-Priolo Earthquake fault zone. Therefore, the possibility of significant fault rupture on the site is not located with an Alquist-Priolo Earthquake Fault Zone. Therefore, the possibility of significant fault rupture of the site is considered to be low.”

GB-4

COMMENT: I cannot find a list of references with subject Appendix H. What are your references used to research the faulting and seismicity conclusions in this study?

UBCSEIS

Version 1.03

COMPUTATION OF 1997 UNIFORM BUILDING CODE SEISMIC DESIGN PARAMETERS, JOB NUMBER: 06G258-1, JOB NAME: West Ridge Business Center, DATE: 12-30-2006, FAULT-DATA-FILE NAME: CDMGUBRC. DAT lists the nearest type A fault as the San Andreas fault 19.8 km away and the nearest type B fault as the San Jacinto-San Jacinto Valley fault 1.0 km away. This table lists faults up to 1000 km away from the site.

COMMENT: Why is the Casa Loma fault missing from this table? Within the city jurisdiction of San Jacinto, the Casa Loma fault is very prominent with a displacement approximately of 20 vertical feet and designated as an Alquist-Priolo Earthquake Fault Zone and proceeds northwest to the vicinity of the San Jacinto Wildlife Area where the State Earthquake Zone terminates.

GB-5

The following study provides geologic evidence of the continuance of the Casa Loma fault located northwest of the State Earthquake Zone. R M Environmental, Inc. prepared a Preliminary Geotechnical Investigation on January 19, 2004, under Project No03-406 for a proposed 347 lot single-family-residential development, 120 +- acres, Assessors Parcel Numbers (APNs) 477-120-(001, 006, 007, 008, 014, 015), near the intersection of Pettit Street and Highway 50 in the City of Moreno Valley. This site abuts the West



Ridge Business Center site on the east side of the single-family residential development site.

↑  
GB-5,  
cont'd

Page 1 of this Geotechnical Investigation presents a scope of work presented in the form of six (6) bullets. The second bullet states "Geologic Mapping of the site by our geologist".

GB-6

COMMENT: Why does the scope of the West Ridge Business Center geotechnical investigation omit the geologic mapping of the site by a geologist?

Page 4 of the R M geotechnical study states "the Casa Loma Fault zone inferred to be located on or within 500 feet of the northeast corner of the site. The site is not located with an Alquist Priolo Earthquake Studies Zone for fault rupture hazard."

"Based on review of the Riverside County Seismic Safety Element (Environ, 1976), the Casa Loma has been inferred as trending in a northwest to southeast direction near the northeast corner of the site. The inferred trace of the Casa Loma fault has been based on the projection of the Reche Canyon Fault to the northwest with the Hemet-San Jacinto faults, the Casa Loma fault may be considered as active."

"The projected fault location and the recommended hazard zone for the Casa Loma fault in the site are shown on Plate 1. Prior to development of the site in this zone, a geologic fault investigation should be conducted to the evaluate if faulting has occurred on the site, and the activity of faulting, if present."

Page 6, 5.2 Ground Rupture states: "A potential for ground rupture exist in the northeast portion of the site. The Casa Loma fault has been mapped as projecting from a northwest to southwest direction near the northeast corner of the site. Prior to development of the northeast portion of the site, a geologic fault investigation should be conducted to the evaluate if faulting has occurred on the site, and the activity of faulting, if present."

GB-7

"The projected fault location and recommended hazard zone for the Casa Loma fault in the site are shown on Plate 1."

The inferred trace of the Casa Loma fault as delineated by the geologist of RM Geotechnical enters the vicinity of the northwest corner of the West Ridge Center property and extends southeast across the property, leaving the property midway at the southern boundary of the site. The recommended hazard zone delineated by the RM Geotechnical geologist covers approximately two-thirds of the proposed footprint of the proposed 937,260 square foot building of West Ridge Center.

For more than 20 years I have been an appointed member of the City Ecological Protection Advisory Committee (name changed to Environmental and Historical Preservation Board) except for the 2.5 years where I served as a member of the City Planning Commission. During my tenure I have always expressed the need for detailed

geologic fault investigations to be conducted to delineate the trace of the Casa Loma fault and to evaluate if faulting has occurred on the site and the activity of faulting. Also since the availability of the U.S. Geological Survey (USGS) Earthquake Hazards Program, I have monitored the recorded earthquake events in Moreno Valley. This USGS program records all earthquakes occurring in the United States for the past 7-days, having a magnitude of 1. I have shared to the Environmental and Historical Preservation Board, Planning Commission and the School Board of the regular USGS records of mini earthquakes along the trace of the Casa Loma fault within the city.

The most recent seismic event occurring along the Casa Loma fault recorded by the USGS was Event No. CI 14870228. This event occurred at 1:49:08 P.M., on October 28, 2010. The USGS recorded the magnitude at 1.1, at a depth of 9 miles, with the epicenter located southwest of Ironwood and Nason.

COMMENT: Why doesn't the City of Moreno Valley require a geologic fault investigation and evaluate if faulting has occurred on the site and the activity of the faulting and present the evidence in the DEIR?

GB-7,  
cont'd

COMMENT: Why didn't Applied Planning Inc., review the City's copy of the R M Environmental Geotechnical Report and utilize the geological, faulting, and mapping data in the West Ridge Commerce Center DEIR?

GB-8

COMMENT: In the past I was an Associate Instructor at San Jacinto Community College, where I conducted Physical Geography 101 classes at night and summer sessions. My final exams always had this question. "Why do you never ever build a building for human occupancy across an active fault?" Would you please answer this question, because the proposed building footprint will over lay the Casa Loma fault defined by R M Environmental Inc., a potentially active fault?

GB-9

An appendix containing pages of the R M Environmental Inc. geotechnical report including the eastern part of plate 1 is included with these comments on the DEIR.

#### 4.9 AESTHETICS

4.9.2 SETTING, page 4.9-3 Last paragraph concerns "Major Scenic Resources" addresses the badlands to the east and the Mount Russell and foothill areas to the east.

GB-10

COMMENT: Why is the San Jacinto Valley containing the agricultural lands, riversidean sage habitat, and the wetlands of the State San Jacinto Wildlife Area, including Mystic Lake not included as a major scenic resource?

COMMENT: Figure 4.9-1 Major Scenic Resources delineates the San Jacinto Valley with the visual scenic resource symbol, why the inconsistency mentioned in proceeding comment. Also the San Jacinto Wildlife Area is mislabeled as Preserve rather than Area.

GB-11

COMMENT: page 4.9-19 Level of Significance: Significant and Unavoidable. The California Department of Transportation's (CALTRANS) list of Officially Designated Scenic Highways is a legislative mandate upon this state agency. The state legislature also mandates cities and counties to address scenic roads and highways in their general plans. CALTRANS recognizes the importance of local scenic roads and highways. For instance, CALTRANS objected to the installation of a billboard adjacent to the right of way of U. S. Route 395(Highway 395) in the unincorporated town of Big Pine in Inyo County. Highway 395 at this location is outside of the CALTRANS Officially Designated Scenic Highway System, however the highway is a county scenic highway. CALTRANS at Inyo County Superior Court stated that the Scenic Highway Element of the Inyo County General Plan designated U.S. Route 395 as a county scenic highway as evidence for removing the billboard. The court in its decision ordered the defendant to remove the billboard in favor of CALTRANS.

GB-12

What are your sources or evidence concerning the scenic values of CALTRANS Officially Designated Scenic Highways having scenic values rated higher than local scenic highways? For instance county scenic Highway 395 at Big Pine is located in the Owens Valley with the White Mountains to the east and the Sierra Nevada, including the Palisade Glacier to the west. The nickname of Owens Valley is the "Deepest Valley" the valley at 4000 feet and the surrounding mountains at 14,000 feet.

COMMENT: page 4.9-19 Why isn't the blocking of the view scape from SR-60 of the visual scenic resources consisting of the San Jacinto Valley a significant impact? Have you ever viewed the reflections of the wetlands of the San Jacinto Wildlife Area?

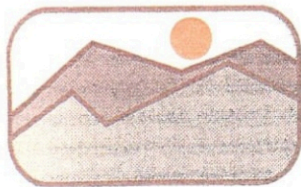
GB-13

APPENDIX

R M Environmental, Inc., Preliminary Investigation dated January 19, 2004

COVER PAGE; Page 1- INTRODUCTION, including project scope;  
 Page 4 -4.0 Geology and 4.1 Regional Geologic Setting;  
 Page 6- 5.0 Seismicity, 5.2 Ground Rupture;  
 Figure 1- Location Map;  
 Plate 1 Site Plan with geological mapping containing projected Casa Loma fault and its recommended hazard zone. Contains only the mapped area east of the logical extension of Quincy Street, contained in three pages:  
 Page 1: SR- 60 south;  
 Page 2: Logical extension of Eucalyptus Avenue;  
 Page 3: Title Block

GB-14



# R M Environmental, Inc.

Geology - Environmental - Geotechnical Engineering

January 19, 2004  
Project No. 03-406

Mr. Jeff Palmer  
5511 Calumet Ave.,  
La Jolla, CA., 92037

**SUBJECT: PRELIMINARY GEOTECHNICAL INVESTIGATION**  
Proposed 347 Lot Single-Family Residential Development  
120± Acres, Assessors Parcel Numbers (APNs) 477-120-(001, 006, 007, 008, 014, 015)  
Near the Intersection of Pettit Street and Highway 60  
City of Moreno Valley, California

Dear Mr. Palmer:

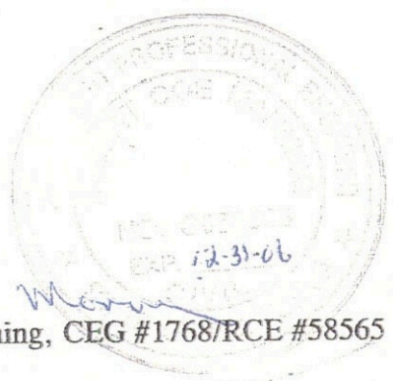
In accordance with your request, we have completed a Preliminary Geotechnical Investigation for the proposed development of the site. This report presents our findings regarding the site geotechnical conditions and recommendations for the anticipated earthwork and geotechnical design of the project.

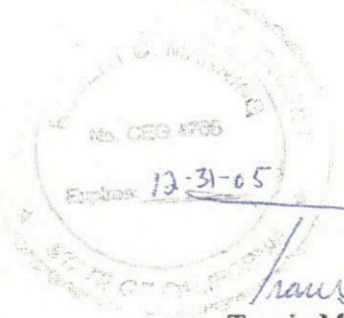
For this investigation, we were provided with a 100-scale Site Plan/topographic map of the site titled "Eucalyptus Site, Moreno Valley, CA." This map was utilized as the base map for our Geotechnical Investigation of the site and is presented as **Plate 1**.

Provided the recommendations presented in this report are implemented during site development, the proposed project is feasible from a geotechnical standpoint.

This opportunity to be of service is sincerely appreciated. If you have any questions, please call us at (909) 446-0041.

Sincerely,

  
Robert C. Manning, CEG #1768/RCE #58565  
President

  
Travis Meier  
Staff Geologist

Mr. Jeff Palmer  
January 19, 2004  
Page 1

## 1.0 INTRODUCTION

This report presents the findings of our Preliminary Geotechnical Investigation for the proposed development of 347 single-family residential lots located southeast of the intersection of Pettit Street and Highway 60, City of Moreno Valley, California.

The site is identified as Assessor Parcel Numbers (APNs) 477-120-(001, 006, 007, 008, 014, 015). The site consists of approximately  $120 \pm$  acres of land located on the south side of Highway 60, southeast of the intersection of Pettit Street and Highway 60, Moreno Valley, California. The geographic setting of the site is shown on **Figure 1 - Site Location Map**.

This report presents our findings regarding the site geotechnical conditions and general recommendations for the anticipated earthwork and geotechnical design of the project.

R M Environmental's scope of work for this investigation included the following:

- ▶ Review of selected background information, aerial photographs, and site reconnaissance;
- ▶ Geologic Mapping of the site by our geologist;
- ▶ Subsurface exploration by means of nine exploratory borings;
- ▶ Laboratory testing of selected soil samples obtained to evaluate geotechnical properties;
- ▶ Analysis of site conditions and test results; and
- ▶ Preparation of this report presenting our findings, conclusions, and recommendations.

### 1.1 Proposed Development

The proposed development of the site includes 347 single-family residential lots with associated streets and infrastructure.

It is our understanding, the proposed structures will be one to two story, wood framed, single family homes. Foundation designs are anticipated to consist of continuous and isolated shallow footing foundation systems, or utilization of post-tension type foundations. Maximum foundation loads using a continuous and isolated shallow footing foundation design are not anticipated to exceed 4 kips and 2 kips per foot for isolated and continuous footings, respectively.

Mr. Jeff Palmer  
January 19, 2004  
Page 4

#### 4.0 GEOLOGY

##### 4.1 Regional Geologic Setting

The site is located in the east portion of the Moreno Valley, which is part of the Perris Block area of the Peninsular Ranges Geomorphic Province of southern California. The regional geology of the site includes the San Timoteo Badlands to the northeast, Mt. Moleno to the south and southwest, and the San Jacinto Valley to the east.

Lateral displacement and uplift of the region have occurred on a series of major, northwest-trending faults which are thought to be related to the regional tectonic framework. These faults include the San Jacinto Fault zone located approximately 1 mile to the northeast, the San Andreas Fault zone located approximately 11 miles to the northeast, and the Casa Loma Fault zone inferred to be located on or within 500 feet of the northeast corner of the site. The site is not located within an Alquist Priolo Earthquake Studies Zone for fault rupture hazard.

Based on review of the Riverside County Seismic Safety Element (Eaviron, 1976), the Casa Loma has been inferred as trending in a northwest to southeast direction near the northeast corner of the site. The inferred trace of the Casa Loma fault has been based on the projection of the Reche Canyon Fault to the northwest with the Hemet-San Jacinto fault zone located to the southeast. Based on prior investigation of the Reche Canyon and Hemet-San Jacinto faults, the Casa Loma fault may be considered as active.

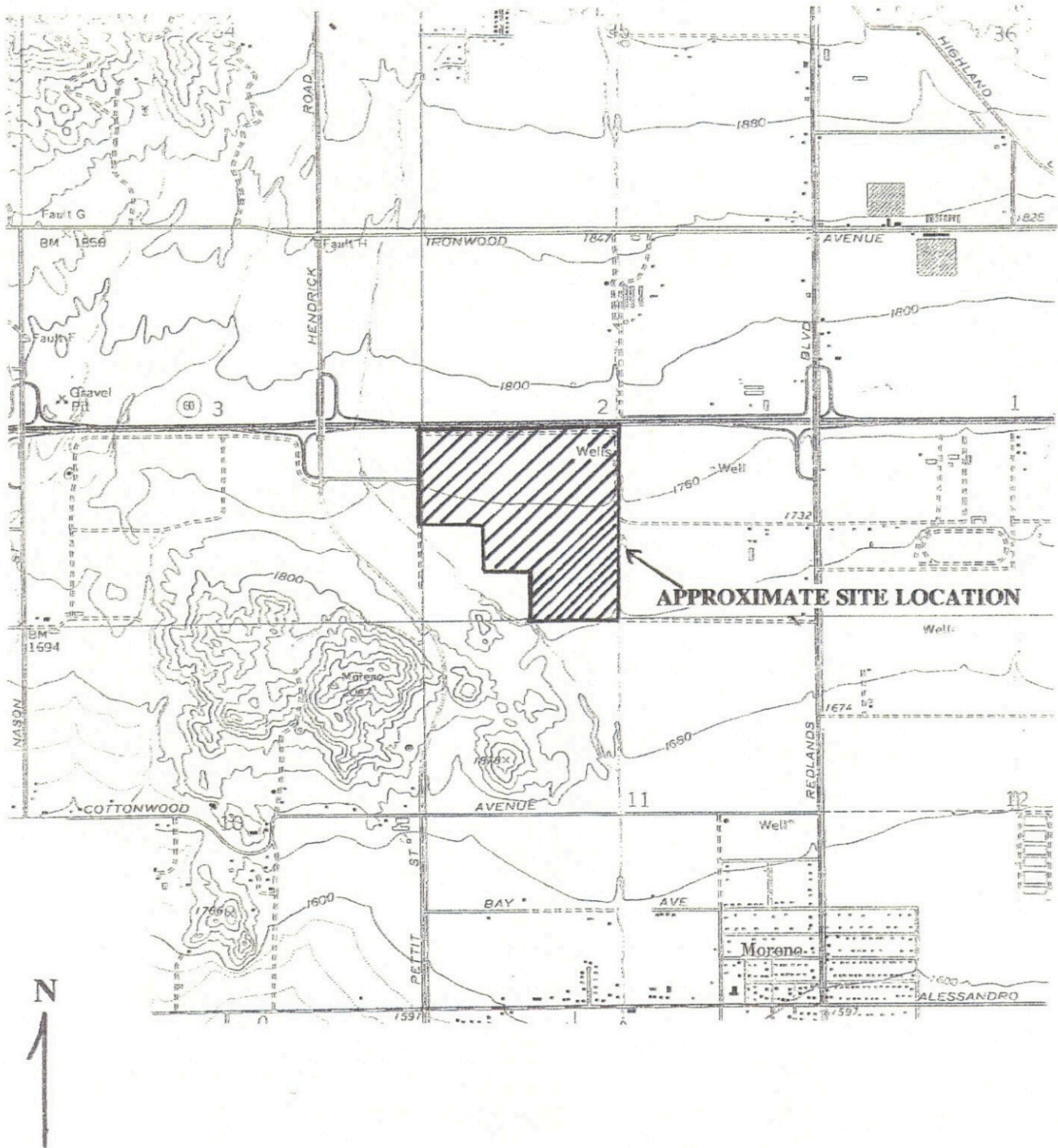
The projected fault location and the recommended hazard zone for the Casa Loma fault in the site are shown on **Plate 1**. Prior to development of the site in this zone, a geologic fault investigation should be conducted to evaluate if faulting has occurred on the site, and the activity of faulting, if present.

##### 4.2 Local Geology

Locally, the site is underlain by at least 50 feet of recent alluvial deposits consisting of slightly moist to very moist, loose to medium dense, soft to very stiff, slightly clayey silts, sandy silts, clayey silts, silts, and fine to medium sands.

The in-situ dry density of the encountered soils varied from approximately 93 pounds per cubic foot (pcf) to 120 pcf. The measured in-situ moisture contents varied from approximately 1.7 to 18.3 percent.

The exploratory boring logs are presented in **Appendix B**. The exploratory boring locations are shown on **Plate 1**. The laboratory test results of the in-situ soils are presented in **Appendix C**.



Scale: 1" = 2,000'

References: U.S.G.S., 1967, PR 1980, Sunnymead, California Quadrangle, 7.5 Minute Series

**LOCATION MAP - 120± Acres, Near the Intersectin of Pettit Street and Highway 60, City of Moreno Valley, California**

Project No. 03-406-geo	DATE: January 2004	FIGURE 1
------------------------	--------------------	----------

Mr. Jeff Palmer  
January 19, 2004  
Page 6

## 5.0 SEISMICITY

### 5.1 Regional Seismicity

The site is located in a region of generally high seismicity which includes essentially all of southern California. During the design life-span of the project, the site is expected to experience ground motions from earthquakes on regional and/or local causative faults.

The site is located within Seismic Zone 4, which can be related to an "effective" peak acceleration of 0.40g, or a peak acceleration of 0.60g.

### 5.2 Ground Rupture

A potential for ground rupture exist in the northeast portion of the site. The Casa Loma fault has been mapped as projecting from a northwest to southwest direction near the northeast corner of the site. Prior to development of the northeast portion of the site, a geologic fault investigation should be conducted to the evaluate if faulting has occurred on the site, and the activity of faulting, if present.

The projected fault location and recommended hazard zone for the Casa Loma fault in the site are shown on **Plate 1**.

### 5.3 Liquefaction

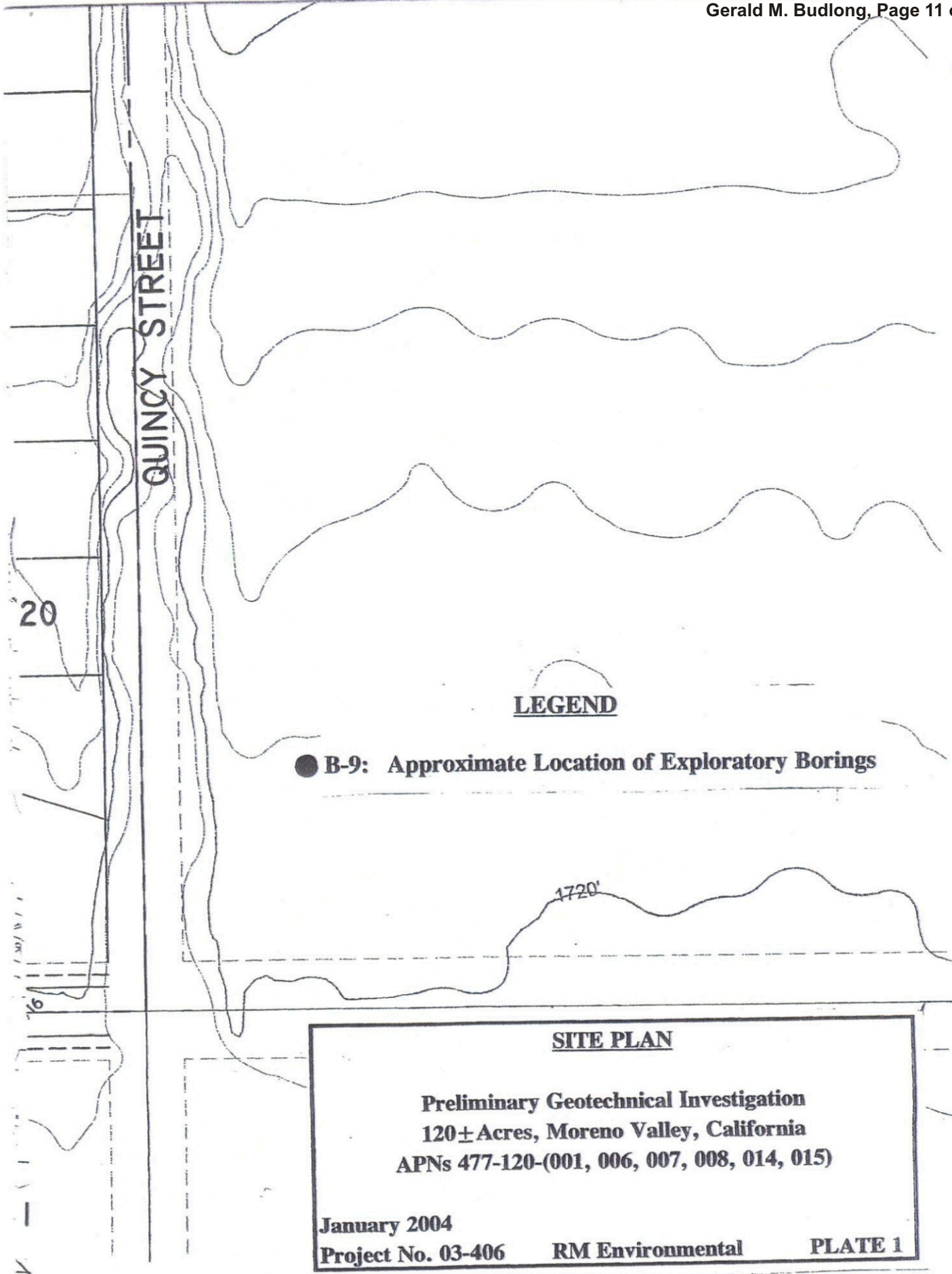
Soil liquefaction is the loss of soil strength due to increased pore water pressures caused by a significant ground shaking. Liquefaction typically consists of the re-arrangement of the soil particles into a denser condition resulting, in this case, in localized areas of settlement, sand boils, and flow failures. Areas underlain by loose to medium dense soils where groundwater is within 40 to 50 feet of the surface are particularly susceptible when subject to ground accelerations such as those due to earthquake motion. Groundwater at the site is greater than 50 feet is depth; therefore, the potential of liquefaction affecting site development may be considered as low.

### 5.4 Geologic Lineament Analysis

For this investigation, a geologic lineament analysis was performed. This analysis included review of the referenced aerial photographs pertinent to the site. Based on the aerial photograph review, no significant topographic or vegetation alignments indicating potential faulting on or projecting into the site were observed.

The site and surrounding areas have been farmed for over 50 years. Aerial photographs were not available prior to the observed farming activities. Therefore, the use of aerial photographs to evaluate geologic lineaments in the vicinity of the site was limited.





**LEGEND**

- B-9: Approximate Location of Exploratory Borings

**SITE PLAN**

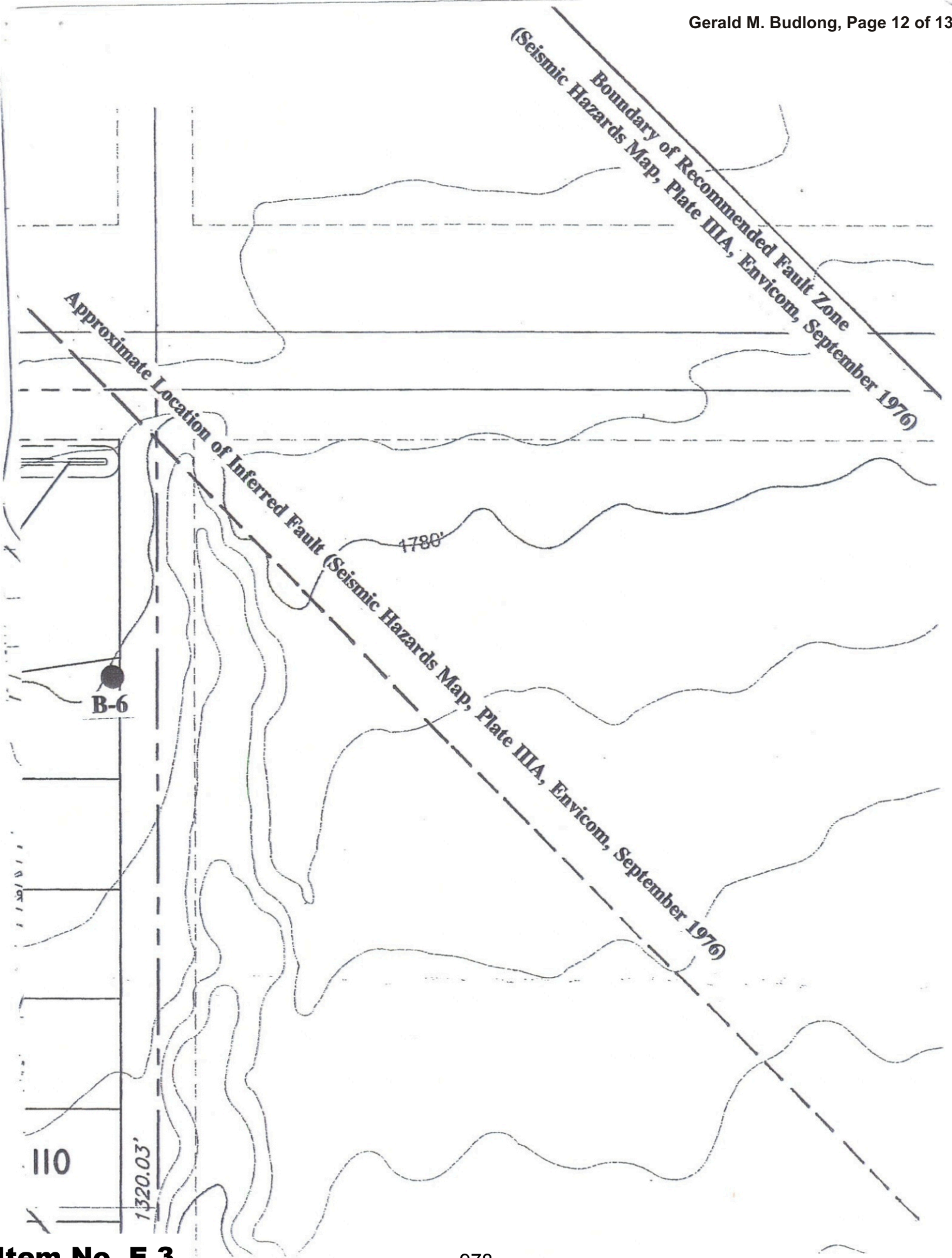
**Preliminary Geotechnical Investigation  
120± Acres, Moreno Valley, California  
APNs 477-120-(001, 006, 007, 008, 014, 015)**

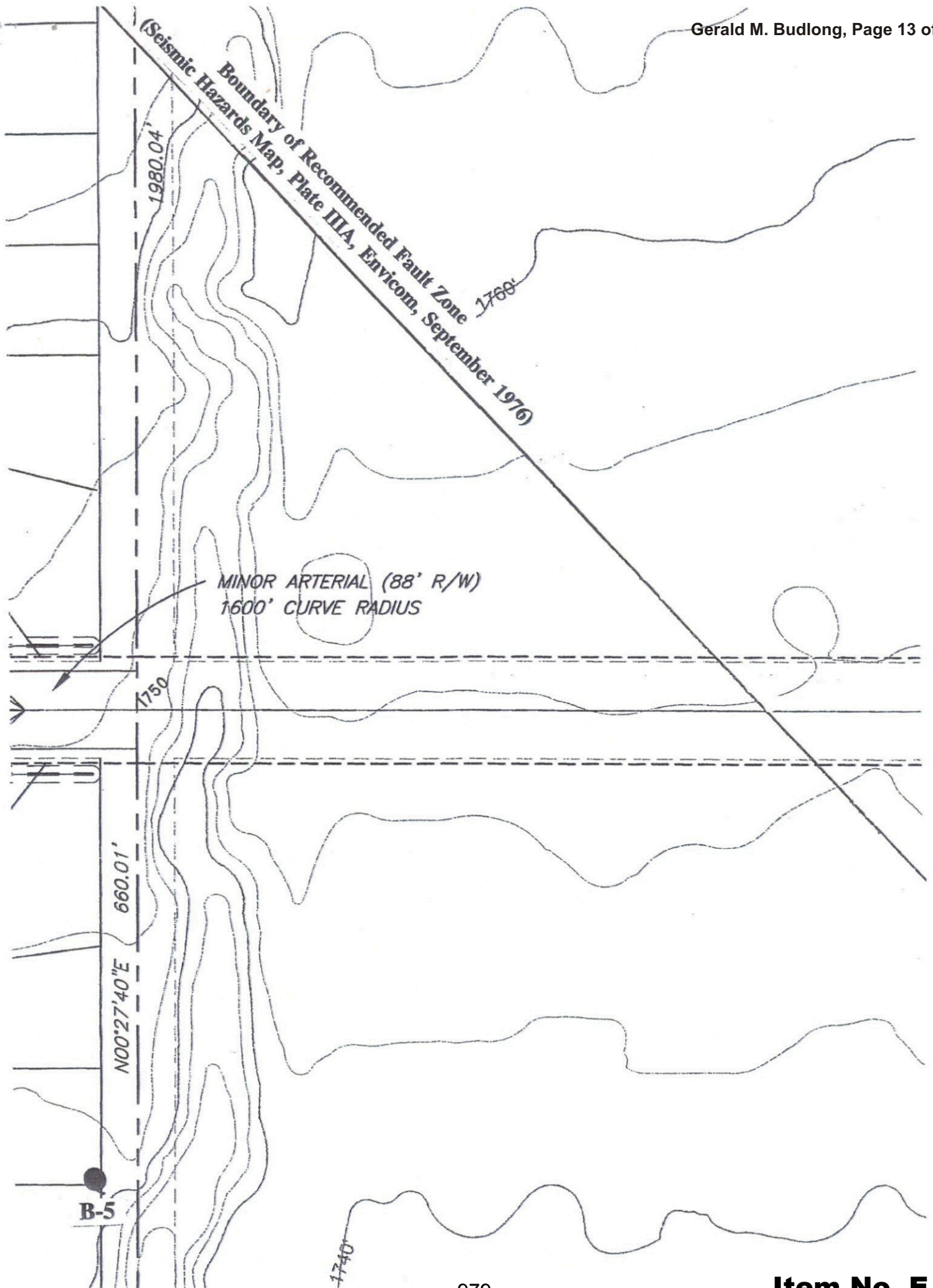
**January 2004**

**Project No. 03-406**

**RM Environmental**

**PLATE 1**





*(Seismic Hazards Map, Plate IIIA, Envicom, September 1976)*  
**Boundary of Recommended Fault Zone**

**MINOR ARTERIAL (88' R/W)**  
**1600' CURVE RADIUS**

**B-5**

GERALD M. BUDLONG  
CITY OF MORENO VALLEY ENVIRONMENTAL AND HISTORICAL  
PRESERVATION BOARD MEMBER

Letter dated December 2, 2010

Response GB-1

The process of reproducing maps and plans at the size required for inclusion in the Draft EIR generally involves a substantial reduction from larger source documents. Where feasible, distances are indicated within the Draft EIR's illustrations; however, for accurately scaled plans, the reader is referred either to the document's Technical Appendices, or to full-sized copies of plans and maps available at the City of Moreno Valley Planning Department.

Response GB-2

The commentor correctly describes the Project Geotechnical Investigation (prepared by Southern California Geotechnical in January 2007, and included in its entirety as Draft EIR Appendix H), and its scope of services, which included a visual site reconnaissance, subsurface exploration, field and laboratory testing, and geotechnical engineering analysis to provide recommendations in regard to building design criteria, site preparation, and construction. The Project Geotechnical Investigation was not intended to provide an environmental evaluation of the Project site; rather, the Phase I Environmental Site Assessment (Project ESA), included in Draft EIR Appendix I, addresses other environmental conditions affecting the Project site.

Both the Project ESA and the Geotechnical Investigation reference a fault study for a portion of the Project site that was prepared prior to the proposed Project application. The *Preliminary Geotechnical Investigation and Fault Study for the Proposed 31-1/2-Acre Residential Development, South of SR-60 and West of Redlands Boulevard, Assessor's Parcel Numbers 477-120-004 and 477-120-005, Moreno Valley, California (Project No. I05876-10)* was prepared by LGC Inland, Inc. (LGC) on September 12, 2005. The LGC Fault Study

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states that “[n]o evidence of fracturing, offsets, or any discernable characteristics related to faulting was observed.” A detailed fault study was not prepared, because it was determined unnecessary based upon Southern California Geotechnical’s review of the LGC Fault Study along with other mapping of the Project site (detailed in the following Response GB-4), and their on-site reconnaissance, which found no evidence of surficial features indicating faulting (i.e., fault scarps, fault line scarps, sag ponds, fractures, or vegetated areas).

### Response GB-3

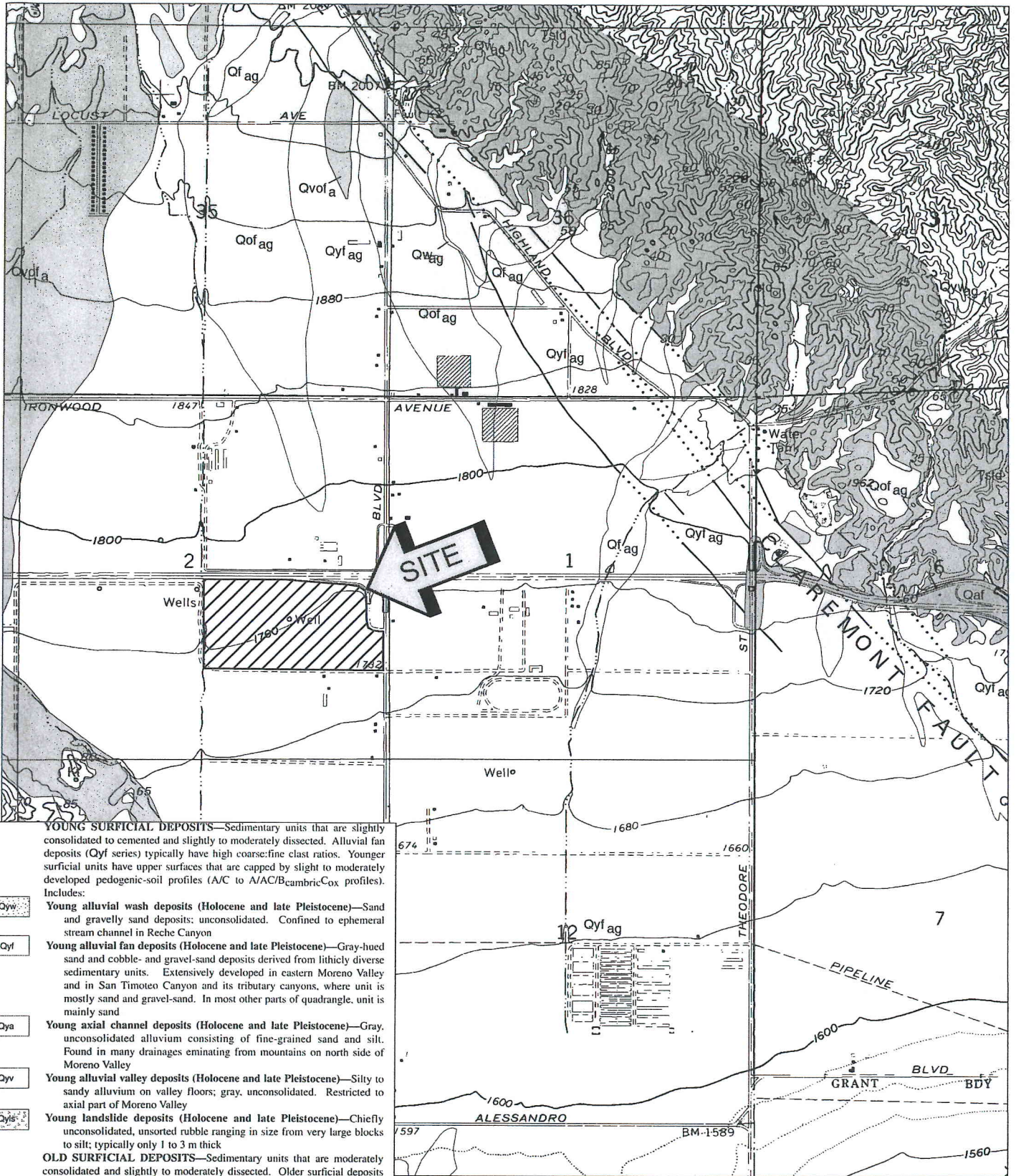
The LGC report is available through the Lead Agency (a copy is available at the Planning Department), and was considered incorporated by reference into the Project Geotechnical Investigation. As discussed in the preceding Response GB-2, because no evidence of faulting or other geologic hazard was identified in this report, it was not determined necessary for inclusion.

### Response GB-4






In addition to the LGC report referenced in the preceding Responses GB-2 and GB-3, several geologic maps were used as points of reference in the preparation of the Project Geotechnical Investigation. These include the following:

- Geologic Map of the Sunnymead 7.5’ Quadrangle, Riverside County, California, by Douglas M. Morton and Jonathan C. Matti, 2001;
- Geologic Map of the Sunnymead/South ½ of Redlands Quadrangles, San Bernardino and Riverside County, California, by Thomas W. Dibblee, Jr., 2003;
- Alquist-Priolo Earthquake Fault Zones Map of the Sunnymead Quadrangle; and
- Riverside County Land Information System – Fault Zone Map.


Copies of these maps are included on the following pages for ease of reference, and have also been incorporated in Final EIR Section 2.0, Revisions and Errata.



**YOUNG SURFICIAL DEPOSITS**—Sedimentary units that are slightly consolidated to cemented and slightly to moderately dissected. Alluvial fan deposits (Qyf series) typically have high coarse: fine clast ratios. Younger surficial units have upper surfaces that are capped by slightly to moderately developed pedogenic soil profiles (A/C to A/AC/B/cambria-Cox profiles). Includes:


-  **Young alluvial wash deposits (Holocene and late Pleistocene)**—Sand and gravelly sand deposits; unconsolidated. Confined to ephemeral stream channel in Reche Canyon
-  **Young alluvial fan deposits (Holocene and late Pleistocene)**—Gray-hued sand and cobble- and gravel-sand deposits derived from lithically diverse sedimentary units. Extensively developed in eastern Moreno Valley and in San Timoteo Canyon and its tributary canyons, where unit is mostly sand and gravel-sand. In most other parts of quadrangle, unit is mainly sand
-  **Young axial channel deposits (Holocene and late Pleistocene)**—Gray, unconsolidated alluvium consisting of fine-grained sand and silt. Found in many drainages emanating from mountains on north side of Moreno Valley
-  **Young alluvial valley deposits (Holocene and late Pleistocene)**—Silty to sandy alluvium on valley floors; gray, unconsolidated. Restricted to axial part of Moreno Valley
-  **Young landslide deposits (Holocene and late Pleistocene)**—Chiefly unconsolidated, unsorted rubble ranging in size from very large blocks to silt; typically only 1 to 3 m thick

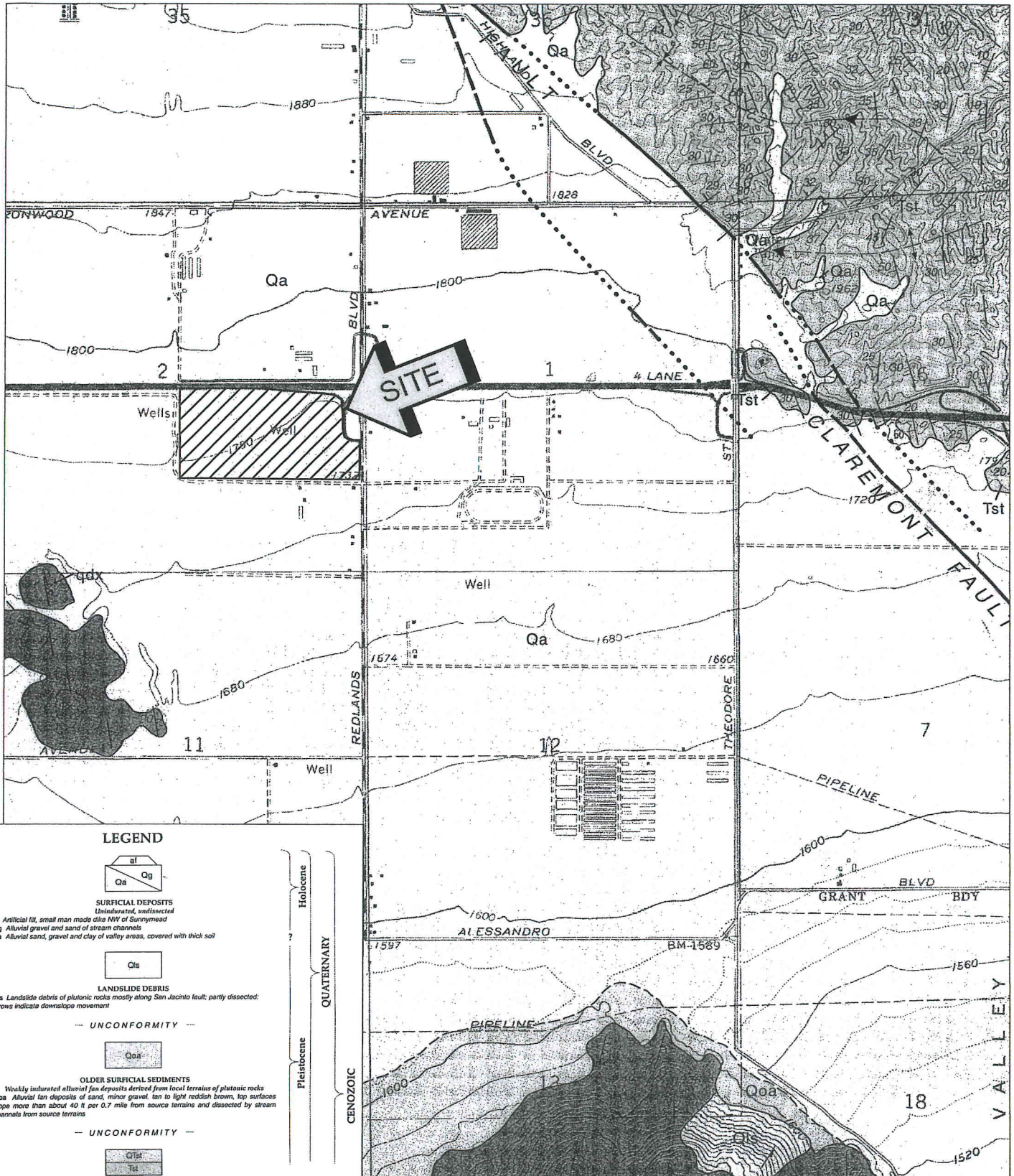
**OLD SURFICIAL DEPOSITS**—Sedimentary units that are moderately consolidated and slightly to moderately dissected. Older surficial deposits have upper surfaces that are capped by moderately to well-developed pedogenic soils (A/AB/B/Cox profiles and Bt horizons as much as 1 to 2 m thick and maximum hues in the range of 10YR 5/4 and 6/4 through 7.5YR 6/4 to 4/4 and mature Bt horizons reaching 5YR 5/6). Includes:

-  **Old alluvial fan deposits (late to middle Pleistocene)**—Indurated, sandy and gravelly alluvial fan deposits, found on south side of San Timoteo Badlands and in Reche Canyon. Slightly to moderately dissected; reddish-brown. Some deposits include thin, discontinuous surface layer

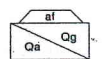
SOURCE: "GEOLOGIC MAP OF THE SUNNYMEAD 7.5' QUADRANGLE, RIVERSIDE COUNTY, CALIFORNIA" MORTON AND MATTI, 2001



<b>GEOLOGIC MAP</b>	
<b>PROPOSED WEST RIDGE BUSINESS CENTER</b>	
<b>MORENO VALLEY, CALIFORNIA</b>	
SCALE: 1" = 2000'	
DRAWN: DRK	
CHKD: JAS	
SCG PROJECT 06G285-2	<b>SOUTHERN CALIFORNIA GEOLOGICAL</b>
PLATE 1	



**LEGEND**



**SURFICIAL DEPOSITS**

al Artificial fill, small man made dikes NW of Sunnymead  
 Qg Alluvial gravel and sand of stream channels  
 Qa Alluvial sand, gravel and clay of valley areas, covered with thick soil



**LANDSLIDE DEBRIS**

Qs Landslide debris of plutonic rocks mostly along San Jacinto fault; partly dissected; arrows indicate downslope movement

--- UNCONFORMITY ---



**OLDER SURFICIAL SEDIMENTS**

Qoa Weekly indurated alluvial fan deposits derived from local terraces of plutonic rocks  
 Qoa Alluvial fan deposits of sand, minor gravel, tan to light reddish brown, top surfaces slope more than about 40 ft per 0.7 mile from source terraces and dissected by stream channels from source terraces

--- UNCONFORMITY ---




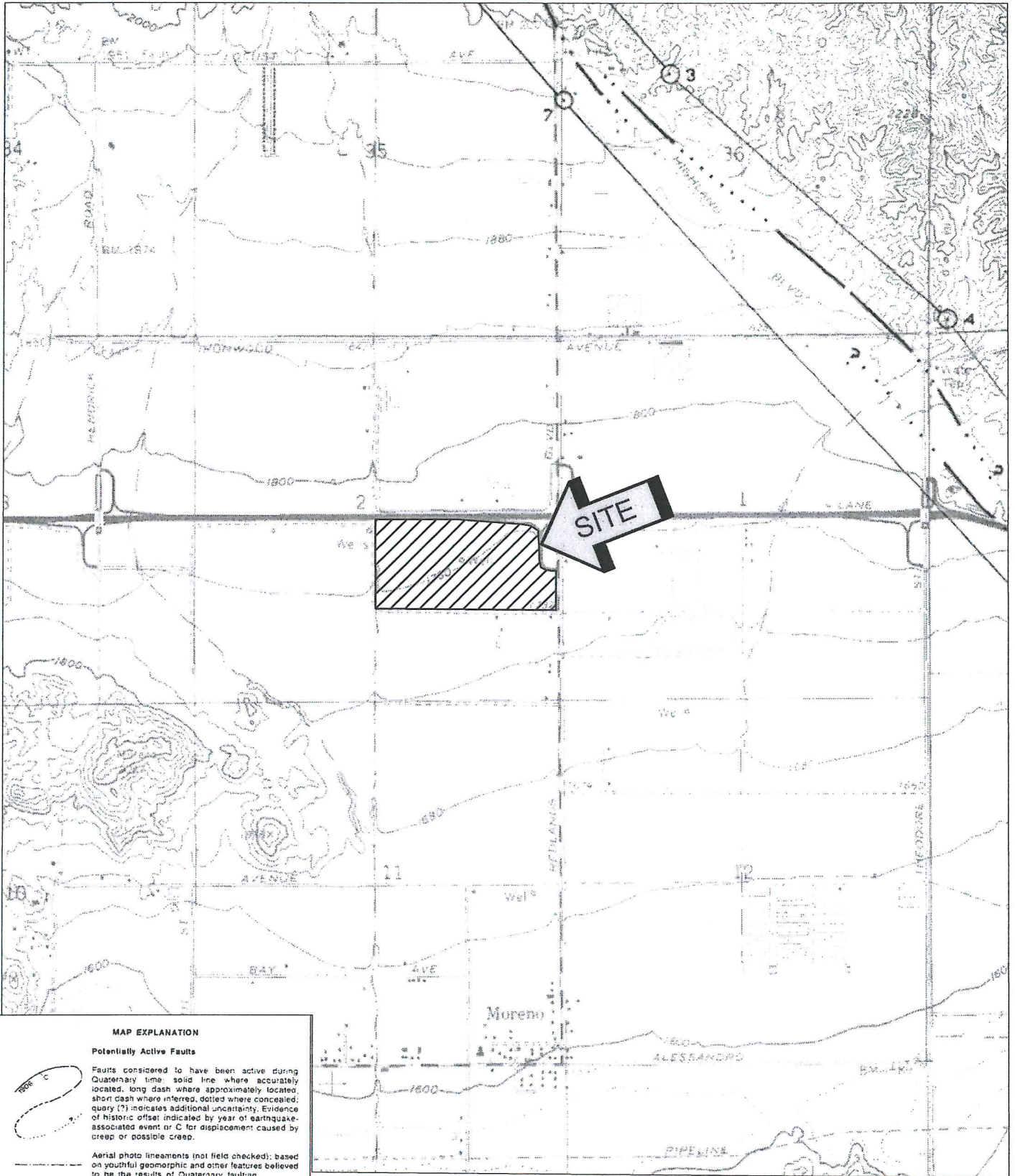
**SAN TIMOTEO FORMATION**

(San Timoteo beds of Frick, 1921) stream-laid alluvial sediments of detritus derived from plutonic and metamorphic rocks of San Bernardino Mountains area, weakly indurated, upper part yielded vertebrate fauna diagnostic of Blancan Stage, Plio-Pleistocene (Frick, 1921, Savage, et. al, 1954), or Irvingtonian 1 Stage, earliest Pleistocene (Reynolds, 1987); must part inferred to be of Pliocene age (Morton and Matti, 2001)  
 QTst Upper part, sandstone, light gray to tan, fine to coarse grained, arkosic, bedded and minor conglomerate of pebbles and cobbles of mostly granitic detritus, some of gneissic rocks and quartzites; includes thin layers of soft greenish to light reddish silty claystone, unconformably (?) overlain by Qoa in this quadrangle  
 Tst Main part (middle part of Morton and Matti, 2001); lithologically similar to upper part, within 1 km of San Jacinto fault includes more conglomerate; base not exposed in this quadrangle

SOURCE: "GEOLOGIC MAP OF THE SUNNYMEAD/SOUTH 1/2 OF REDLANDS QUADRANGLES, SAN BERNARDINO AND RIVERSIDE COUNTY, CALIFORNIA" DIBBLEE, 2003

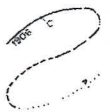


<b>GEOLOGIC MAP</b>	
<b>PROPOSED WEST RIDGE BUSINESS CENTER</b>	
<b>MORENO VALLEY, CALIFORNIA</b>	
SCALE: 1" = 2000'	
DRAWN: DRK	
CHKD: JAS	
SCG PROJECT 06G285-2	
PLATE 2	<b>SOUTHERN CALIFORNIA GEOTECHNICAL</b>



**MAP EXPLANATION**

**Potentially Active Faults**



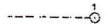
Faults considered to have been active during Quaternary time: solid line where accurately located, long dash where approximately located, short dash where inferred, dotted where concealed; query (?) indicates additional uncertainty. Evidence of historic offset indicated by year of earthquake-associated event or C for displacement caused by creep or possible creep.

Aerial photo lineaments (not field checked): based on youthful geomorphic and other features believed to be the results of Quaternary faulting

**Special Studies Zone Boundaries**



These are delineated as straight-line segments that connect consecutively numbered turning points so as to define one or more special studies zone segments.



Seaward projection of zone boundary.

SOURCE: "ALQUIST-PRIOLO EARTHQUAKE FAULT ZONES MAP, SUNNYMEAD QUADRANGLE"

**ALQUIST-PRIOLO EARTHQUAKE FAULT ZONE MAP**  
**PROPOSED WEST RIDGE BUSINESS CENTER**  
**MORENO VALLEY, CALIFORNIA**

SCALE: 1" = 2000'

DRAWN: DRK

CHKD: JAS

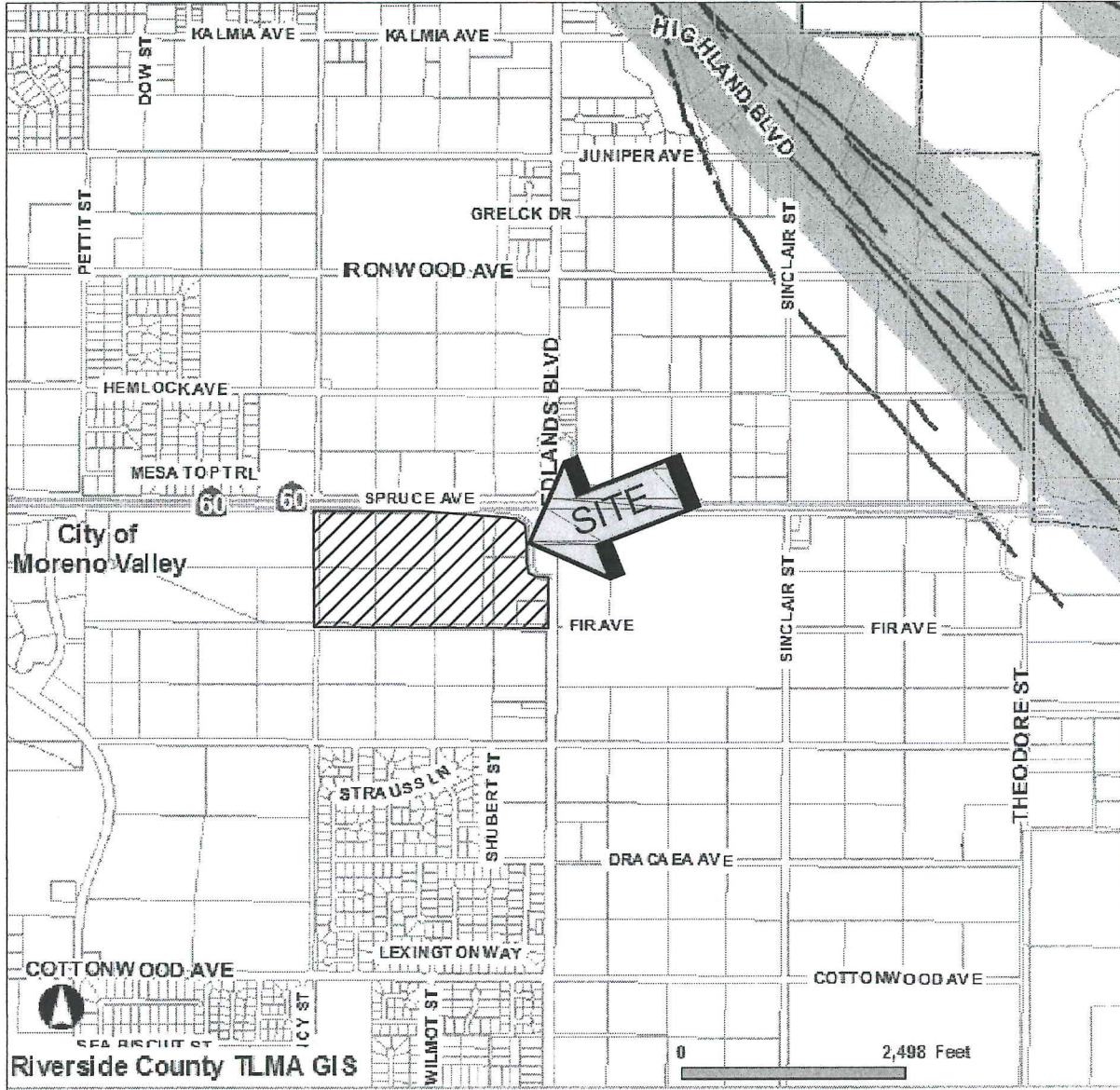
SCG PROJECT  
 06G285-2

PLATE 3



**SOUTHERN CALIFORNIA GEOTECHNICAL**





City of  
Moreno Valley

Riverside County TLMA GIS




**FAULT ZONES**  
12/15/2010

- INTERSTATES
- HIGHWAYS
- PARCELS
- ALQUIST-PRIOLO
- RIVERSIDE COUNTY
- COUNTY FAULT ZONE
- SAN JACINTO FAULT ZONE
- CITY

SOURCE: "RIVERSIDE COUNTY LAND INFORMATION SYSTEM - FAULT ZONES"



<b>RIVERSIDE COUNTY FAULT ZONES MAP</b>	
PROPOSED WEST RIDGE BUSINESS CENTER	
MORENO VALLEY, CALIFORNIA	
SCALE: 1" = 2000'	
DRAWN: DRK	
CHKD: JAS	
SCG PROJECT 06G285-2	
PLATE 4	<b>SOUTHERN CALIFORNIA GEOTECHNICAL</b>

Response GB-5

As noted on Page 9 of the Project Geotechnical Investigation (Draft EIR Appendix H), “The 1997 UBC/2001 CBC Design Parameters have been generat[ed] using UBCSEIS, a computer program published by Thomas F. Blake (January 1998).” It is assumed that the fault parameters were not available for the Casa Loma fault at the time the UBCSEIS program was published.

It may be noted that the building code has changed since the Project Geotechnical Investigation was issued. New development must now be designed in accordance with the requirements of the incumbent edition of the California Building Code (CBC). The CBC provides procedures for earthquake resistant structural design that includes considerations for on-site soil conditions, occupancy, and the configuration of the structure including the structural system and height. The seismic design parameters are based on the soil profile and the proximity of known faults with respect to the subject site. The 2007 CBC Seismic Design Parameters are now generated using *Earthquake Ground Motion Parameters*, a software application developed by the United States Geological Survey (USGS). This software application, available at the USGS website, calculates seismic design parameters in accordance with the 2007 CBC, utilizing a database of deterministic site accelerations at 0.01 degree intervals. Since the UBCSEIS is no longer used to calculate the seismic design parameters for the proposed development, it is not considered relevant that the Casa Loma fault is not listed in the UBCSEIS database.

Please refer to the following Response GB-7 in regard to the referenced Preliminary Geotechnical Investigation for the property westerly adjacent to the Project site, prepared by RM Engineering.

Response GB-6

Please refer to the geologic maps referenced as part of the preceding Response GB-4.

### Response GB-7

The commentor's inclusion of the referenced excerpts from the Preliminary Investigation prepared by RM Engineering (RME) is acknowledged. The site addressed by this report is located westerly adjacent to the Project site. Although RME recommended that a fault investigation be conducted prior to development within the portion of the site within the zone designated by the Riverside County Seismic Safety Element (Envicom, 1976), RME provided no data or evidence that an active fault was located on the site or adjacent sites. In fact, RME performed a geologic lineament analysis and concluded (on Page 6 of the referenced report) that, "[b]ased on the aerial photograph review, no significant topographic or vegetation alignments indicating potential faulting on or projecting into the site were observed." The recommendation by RME to perform a fault study was solely based on the Envicom report.

As referenced in the Project Geotechnical Investigation, Southern California Geotechnical reviewed the LGC report referenced in the preceding Response GB-2. LGC performed a fault study in the southeast portion of the Project site. The fault trench was approximately 400 feet in length and trended S48W (perpendicular to the projection of the nearest faults). The trench was excavated to a maximum depth of approximately 14 feet. LGC stated that "[n]o evidence of fracturing, offsets, or any discernable characteristics related to faulting was observed." It should also be noted that no evidence of surficial features indicating faulting (i.e., fault scarps, fault line scarps, sag ponds, fractures, or vegetated areas) were observed on the subject site at the time of the original geotechnical investigation. In addition, the two geological maps presented as part of the preceding Response GB-4 (Plates 1 and 2) indicate that the closest fault to the subject site is the Claremont Fault Section of the San Jacinto Fault Zone, located 3,700 feet northeast of the site. The mapped active portion of the Casa Loma fault is located approximately 4.5 miles southeast of the Project site.

The Project site is not located within an Alquist-Priolo Earthquake Fault Zone (Plate 3), nor is it located within a Riverside County designated fault zone (Plate 4). Based on

information from the previous LGC report and published geologic maps, it is not considered likely that the Casa Loma fault, located more than four miles southeast of the Project site, would cause on-site surface rupture.

#### Response GB-8

Applied Planning utilized the Project-specific Geotechnical Investigation provided in the Draft EIR, and its assessment of on-site conditions.

#### Response GB-9

As detailed in the preceding Response GB-7, despite the commentor's assertions to the contrary, as documented in the Project-specific Geotechnical Investigation, there is no indication that the Project building footprint will overlay any active fault, nor is there evidence of potential fault rupture.

#### Response GB-10

The Draft EIR's description of major scenic resources is focused primarily on those views that would be potentially affected by the Project. It may be noted that, on Draft EIR Page 4.9-3, the reader is referred to Draft EIR Figure 4.9-1, which is based on an exhibit from the Moreno Valley General Plan. This figure does indicate views of the San Jacinto Wildlife Preserve among the City's major scenic resources. As can also be seen from this figure, the San Jacinto Wildlife Area is located approximately 3.5 miles to the southeast of the Project site. Although not identified in the illustration, the California Department of Fish and Game (<http://www.dfg.ca.gov/lands/wa/region6/sanjacinto/maps.html>) identifies Mystic Lake as being located adjacent to the eastern boundary of the San Jacinto Wildlife Area.

#### Response GB-11

As noted on Draft EIR Page 4.9-3, Figure 4.9-1 is the Draft EIR is a reproduction of Moreno Valley General Plan Figure 5.11-1, and as such, reflects the labeling used in the General Plan.

Response GB-12

The Draft EIR acknowledges, on Page 4.9-10, that the Project site lies within an established view corridor adjacent to the SR-60, and that SR-60 has been locally designated in the Moreno Valley General Plan as a scenic route. Primarily on this basis, the Project was found to have a substantial adverse effect on a scenic vista, which is considered a significant and unavoidable impact. The CEQA thresholds differentiate effects on a “scenic vista” from potential impacts to “scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a State scenic highway.” Although SR-60 has not been designated as a “State scenic highway,” its local importance has been acknowledged in the Draft EIR.

Response GB-13

The Draft EIR acknowledges that the Project would have a substantial adverse effect on scenic vistas, which is considered a significant and unavoidable impact.

Response GB-14

The commentor’s inclusion of the referenced excerpts from the Preliminary Investigation prepared by RM Engineering is acknowledged.

**From:** Rachel Lopez [rachel.lopez@ccaej.org]  
**Sent:** Monday, December 06, 2010 2:19 PM  
**To:** Jeffrey Bradshaw  
**Subject:** Project Description 105-131  
Environmental Impact Analysis 132-135

Land Use and Planning 136-169

Air Quality 261-372

Noise 373-401

This is in response to the Project # 105-131.

Mitigations for the cumulative exposure from projects that have already been approved and those that are in the process of being will have a significant effect on traffic and diesel exposure to residents within the impacted area and fall short of lowering the impacts to residents in close proximity of these projects. How can you mitigate this to include the other projects impacts.

CCA-1

The Environmental Impact Analysis does not indicate or give a true picture of projected truck trips taking into account the other projects and the new Sketchers project. What types of mitigation are being initiated for these projects when they reach full capacity and are taken into account. The noise impacts to the surrounding community and its residents must also be mitigated especially with the additional projects that are in the planning process. What will those mitigations look like on a cumulative level.

CCA-2

There must be in the mitigation of this project stipulations from the projected/future tenants that only 2010-compliant truck fleet cleanest trucks be allowed into the facility and create incentives or a schedule to phase in a clean truck fleet. The project should also consider other alternatives which might be to consider alternatives such as a portion of the fleet might be retrofitted or repowered and be phased in over a period of time which could reduce the air quality health risks and may be more economically feasible.

CCA-3

**Cumulatively Significant and Unavoidable for PM10, PM2.5, VOC and NOx exceedances; and long term VOC and NO exceedances** this phrase is repeated several times in the Draft EIR we must not continue to approve projects in our communities that continue to impact our residents with health risks that can be avoidable with mitigation that should be implemented even before projects are proposed for review. The fact that we see unavoidable and significant in the EIRs is great concern that these projects will continue to be approved with overriding considerations or approved regardless of the impacts to existing or future residents.

CCA-4

There are designated proposed residential projects being proposed along side these industrial facilities with no significant buffer areas dedicated. The SCAQMD and the Air Resources board indicate a buffer zone of not less than 1,000 ft. between a sensitive receptor and a diesel source. These issues must be addressed and mitigated with what ever means are available to the lowest levels possible with **sufficient buffer zones of not less than 1,000** to lessen those impacts. The DEIR have buffers of 250 or 300 how can the developer include/mitigate buffer zones of 1,000 ft.

CCA-5

**Rachel Lopez**

Community Organizer

Center for Community Action and Environmental Justice

Centro de Accin Comunitaria y Justicia Ambiental

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CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE  
RACHEL LOPEZ

Email Dated December 6, 2010

Response CCA-1

The commentor expresses concern regarding the cumulative effects of the Project's contributions to impacts from traffic and diesel emissions when combined with other vicinity projects. As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, a number of current or anticipated "related projects" were identified within the cumulative scope of the Westridge Commerce Center Project. In total, 11 discrete related projects were included within the Draft EIR cumulative analysis, including both projects referenced by the commentor ("Highland Fairview and ProLogis"). Additionally, the cumulative analysis reflects generalized disaggregated regional growth not otherwise attributable to specific development proposals.

In addition to the identified related projects, the cumulative impacts analysis assumed development of the area in a manner consistent with the City of Moreno Valley General Plan, and reflecting the anticipated growth of the region. The analysis of cumulative impacts considered potentially significant impacts that could be considered cumulatively considerable when viewed in the context of known related projects and generalized ambient growth of the City and region. The commentor is referred to Section 5.0, "Other CEQA Topics" of the Draft EIR.

Response CCA-2

As noted in the preceding Response CCA-1, the Draft EIR did consider the effects of cumulative projects including potential cumulative truck trips, including the Highland Fairview ("Skechers") project.



With specific regard to truck traffic, estimated opening-year average daily Project-generated truck trips ingressing/egressing the Project site via Redlands Boulevard include:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions are presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).

Cumulative opening year average daily traffic along Redlands Boulevard north of Fir (future Eucalyptus) Avenue is estimated at 30, 400 trips (see TIA Page 115, Exhibit 6-10), This is inclusive of all trips/all vehicle categories generated by existing, proposed or anticipated development, and includes trips generated by the Westridge Project, Skechers, and Pro Logis cited by the commentor. Vehicular noise impacts from all Project and cumulative traffic are also addressed in the DEIR, and are determined to be less-than-significant. Please refer to DEIR at Pages 4.4-21 through 4.4-23; and 5-14 through 5-17.

Notwithstanding the above-cited average daily truck/traffic volumes, the more germane issue with regard to potential truck traffic impacts is peak hour intersection passenger car equivalent (PCE) traffic volumes. As noted subsequently in this response, all Project-specific traffic impacts, inclusive of truck traffic impacts, are reduced to levels that are less-than-significant. If the commentor's concerns are not really truck traffic volumes, but rather truck-generated diesel emissions, the Project Health Risk Assessment (HRA) summarized at EIR Section 4.4, "Air Quality," and discussed in detail in the Project HRA Study (included at EIR Appendix C) substantiates that with application of

mitigation, Project-related diesel emissions will not result in significant adverse health risks.

The commentor is also referred to Section 4.2, "Traffic and Circulation," of the Draft EIR, which includes the following excerpted discussion:

As seen in Table 4.2-5, "passenger car equivalent" (PCE) factors, ranging from 1.5 to 3.0, have been applied to ensure that truck volumes are accurately accounted for in terms of their proportional contributions to traffic impacts. More specifically, the Project Trip Generation Forecast equates two-axle trucks to 1.5 passenger cars. Three-axle trucks are considered the equivalent of two (2) passenger cars; and trucks with four (4) or more axles are counted as the equivalent of three passenger cars. Employing these PCE factors, the Project is anticipated to generate 2,930 Passenger Car Equivalent (PCE) trips per day, with 191 PCE trips occurring during the AM peak hour, and 225 PCE trips occurring during the PM peak hour. (Draft EIR Page 4.2-18.)

Additionally, with regard to cumulative traffic impacts, Page 4.2-67 of the Draft EIR states:

As indicated at Table 4.2-13, with completion of the improvements recommended under Mitigation Measure 4.2.7, 4.2.18 and 4.2.19, acceptable V/C and LOS conditions would be realized at all Study Area roadway segments under Opening Year Cumulative Conditions with the Project. Improvements necessary to mitigate potentially significant Opening Year Cumulative Condition roadway segment impacts would be accomplished in part by the Project, with the balance of required improvements realized under combined TUMF, DIF, and fair share fee traffic improvement programs. However, timely completion of the

required improvements in total cannot be assured based on Project participation in mandated traffic impact fee programs (TUMF, DIF, and fair share). Further, roadway segment improvements at or affecting the SR-60 at Redlands Boulevard interchange improvements are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency. *The Project's incremental contributions to Opening Year Cumulative Traffic Impacts at, or affecting, the following roadway segments are therefore considered cumulatively significant and unavoidable:*

- Redlands Boulevard north of the SR-60 Westbound Ramps to Eucalyptus (future Encilia) Avenue;
- Quincy Street south of Fir (future Eucalyptus) Avenue (future street); and
- Fir (future Eucalyptus) Avenue west of Quincy Street to the westerly Project boundary (future street) and Fir (future Eucalyptus) Avenue east of Redlands Boulevard.

Should the Project be approved, the Lead Agency is required to adopt a Statement of Overriding Considerations acknowledging the Project's individually and/or cumulatively significant environmental impacts.

Mitigation that addresses identified cumulative impacts was provided in the Draft EIR, and has been incorporated in the Project's Mitigation Monitoring Program, included in Final EIR Section 4.0. It is further noted that other development projects are required to address their own specific impacts, and projects subject to CEQA EIR mandates are also required to address cumulative impacts. In this regard, cumulative impacts are likely

overstated as these estimated impacts do not necessarily reflect or assume mitigation applied by other projects within the affected cumulative impact area.

#### Response CCA-3

The commentor expresses concern about emissions from diesel trucks associated with the Project. Mitigation Measure 4.3.13 has been revised to incorporate the following requirement.

*Lease/purchase documents shall identify that tenants are encouraged to provide incentives to realize the following:*

- *Use of fleet vehicles conforming to 2010 air quality standards or better.*

These revisions are reflected in Final EIR Section 2.0, "Revisions and Errata," as well as in the Mitigation Monitoring Plan presented in Final EIR Section 4.0.

#### Response CCA-4

The commentor correctly reflects the Draft EIR's finding that the Project would have a cumulatively significant air quality impact in regard to the referenced criteria pollutant exceedances (temporary construction-related PM<sub>10</sub>, PM<sub>2.5</sub>, VOC and NO<sub>x</sub> exceedances; and long-term operational VOC and NO<sub>x</sub> exceedances). The commentor's opinions regarding the possible approval of the Project with overriding considerations will be forwarded to decision-makers for their consideration.

#### Response CCA-5

As acknowledged in the Draft EIR (Pages 4.1-7 through 4.1-9), currently undeveloped properties to the south of Fir (future Eucalyptus) Avenue, and to the west of the Quincy Channel are designated for residential uses. Despite the commentor's assertion to the

contrary, the City has no currently active proposals for residential development on any parcels adjacent to the Westridge Commerce Center Project site.

The 1,000 foot buffer zone referenced by the commentor has been offered by the California Air Resources Board as a planning guideline, to be implemented in cases where site-specific analysis has not been conducted.<sup>4</sup> In the case of the Westridge Commerce Center Project, a Health Risk Assessment of Diesel Particulate Emissions was prepared to address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The Health Risk Assessment was prepared in accordance with the document Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis (SCAQMD 2003). The Health Risk Assessment is summarized within the Draft EIR (see Page 4.3-80) and presented in its entirety as Appendix C to the Draft EIR.

As discussed in Section 4.3 of the Draft EIR, the SCREEN3 screening analysis prepared for the Project indicates that the maximally impacted modeled receptor would be exposed to a mitigated inhalation cancer risk of no more than 8.6 in 1 million, which is less than the SCAQMD exposure threshold of 10 in 1 million. The Project HRA considers and evaluates maximum potential exposure to maximum DPM concentrations consistent with established SCAQMD methodologies. The methodology considers not only DPM source emissions (the highest concentrations of which would occur on the Project site) but also considers other exposure/risk determinants including but not limited to: relative distance to and location of receptors, wind patterns, and topography.

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<sup>4</sup> Please refer to the CARB *Air Quality and Land Use Handbook: A Community Health Perspective*, April 2005, Page ES-2, at the following website: <http://www.arb.ca.gov/ch/handbook.pdf>.

With specific regard to DPM emissions air quality impacts generated by Project traffic along area roads, the Project HRA considers potential worst case cancer risk exposures by evaluating pollutant concentrations at the Project site, which include pollutant emissions generated by all vehicles within the site in combination with emissions generated by on-site stationary sources. It is further noted that the cancer risk exposure scenario is in and of itself a conservative assessment of potential cancer risks arising from DPM exposure. That is, pursuant to the adopted SCAQMD/EPA methodologies, calculated DPM-source cancer risks are predicated on extended 70-year/30-year exposure scenarios. Both the 70-year and 30-year cancer risk assessments considered in the Draft EIR represent estimates of theoretic DPM-source cancer risks, and are based on the assumption that a person is exposed to the emission source 24 hours a day for 365 days a year for the entire length of the assumed exposure period. Individuals are typically not stationary at any given outdoor location, spending a portion of each 24-hour cycle indoors. In addition, individuals and families remaining at a given location for 70 or even 30 years would be considered the exception rather than the norm.

The California OEHHA has indicated that based on EPA studies, the EPA recommends a central tendency estimate of 9 years for residency at a given location, and a high-end estimate of 30 years for residency time. Thus, the methodologies used to determine cancer risk (e.g., the assumption of a 24-hour exposure for a 30- or 70- year period) represent a maximum theoretic cancer risk, and is not intended to account for or represent DPM exposures based on residency and occupancy tendencies. As discussed in the Draft EIR, with application of mitigation, applicable cancer risk thresholds are not exceeded. Draft EIR Table 4.3-17 (Page 4.3-86) summarizes maximum mitigated potential cancer risk exposures.

In comparison, DPM emission concentrations generated by Project vehicles traveling along area roads would be substantively reduced in that they reflect only a portion of transient vehicle traffic/emissions, and these emissions are dispersed through vehicle movements and localized winds.

**From:** Paul Claxton [paul1960@verizon.net]  
**Sent:** Sunday, December 05, 2010 10:02 AM

**To:** Jeffrey Bradshaw

**Subject:** Moreno Valley Warehouses/Ridge Project

I am concerned about the efforts to rush into construction the millions of square feet worth of warehouses in the east end of Moreno Valley. These projects can do nothing positive to the natural environment of the area. My biggest concern is turning Moreno Valley into another Ontario with hundreds of diesel trucks lumbering down our roads spewing pollution, creating noise, and traffic. That additional traffic will add to commute times creating additional pollution. The 60 freeway east of this project is not conducive to big rig traffic. I've been a resident here for just nine years and I intentionally bought on the more rural east side to avoid the traffic of the 215 freeway. This project drives a stake into the heart of the city. I'm planning on leaving to seek a better managed city.

PC-1

Paul Claxton  
Moreno Valley CA

PAUL CLAXTON

Email Dated December 5, 2010

Response PC-1

The commentor's general concerns regarding the Project's location and the cumulative impacts of the Project when combined with other vicinity projects are noted. As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, eleven existing and planned development projects were identified within the cumulative scope of the Westridge Commerce Center Project. A thorough discussion of the cumulative impacts is presented at Draft EIR Section 5.1.

Similarly, the commentor's generalized concerns regarding the increased traffic, air quality and noise impacts are discussed in the EIR. Specifically, traffic impacts are addressed in Draft EIR Section 4.2, air quality impacts at Draft EIR Section 4.3 and noise impacts at Draft EIR Section 4.4.

The commentor's statements and opinions regarding the Project are forwarded to the decision-makers for their consideration.



COMMENTS AND QUESTIONS REGARDING THE DEIR AND LAND USEAGE IN GENERAL FOR WESTRIDGE  
COMMERCIAL CENTER, A.K.A. "THE RIDGE PROJECT"

Stephen Crews, Moreno Valley, CA

1. It is evident from current zoning, that lands designated commercial south of SR60, from Moreno Beach Dr. to Redlands Blvd., including land devoted for the Westridge Center, do not extend southerly for a great distance, and thus any commercial development there is not intended as a part of an extensive commercial region. In fact, for this reason, it appears this land serves as a buffer for the residentially zoned areas to the south. Thus, it is incumbent on planners and developers to ensure that properties developed in these commercially zoned areas are in keeping with aesthetics, appearance, landscape, geographic culture, and the sentiments of future residents of the predominant land use in the area, residential. This warehouse structure, with its massive edifice and size could not possibly conform to nor compliment Rancho Belago, "the land of ranches and lakes".

SCR-1

**Has any consideration been given to the degradation of future residential developments in the area by the construction of an eyesore across the street?**

2. One can only presume that there is a cumulative effect of air pollution from SR60, diesel trucks on the site of Westridge, and those travelling on nearby surface streets, as well as these types of contributors to air pollution from future similar developments along the freeway, and that this would have a deleterious effect on the health of citizens residing in residential neighborhoods.

SCR-2

**Has this been taken into consideration, and wouldn't it be advisable to restrict commercial land use to less concentrated populations of heavy polluters, such as diesel trucks?**

3. **The proposed project sits on the mouth of the entrance into the badlands heading east on SR 60, a highway that is essentially a rural route at this point, and one that is treacherous for traffic. At what point does the added introduction of truck traffic become dangerous? The route on SR60 west is extremely congested and practically at a standstill, caused by the incompleteness of recent freeway construction, growth, and lack of capacity. At what point does the introduction of further truck traffic become untenable?**

SCR-3

4. **The local surface roads and overpasses servicing the area of the project are dilapidated and are residential in nature. Will roads be brought up to standards, and who will pay for the inevitable degradation of heavy wear trucks cause on roads, with the potential of harm to automobile motorists?**

SCR-4

STEPHEN CREWS

Letter Dated December 6, 2010

Response SCR-1

The commentor expresses an opinion regarding the land use designations (and the conformation of the proposed Project with the intent of those designations) of the properties located south of the SR-60. These statements and opinions will be forwarded to the decision-makers for their consideration.

The commentor also expresses concern regarding the consideration of nearby residential uses. It is assumed that, in this instance, the commentor is referring to aesthetic consideration. Indeed, the Draft EIR contains a detailed analysis of the Project's aesthetic attributes and impacts within Section 4.9. Specifically, the analysis examined whether the Project would:

- Have a substantial adverse effect on a scenic vista;
- Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a State scenic highway;
- Substantially degrade the existing visual character or quality of the site and its surroundings; or
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

As supported by the analysis, the Project would obstruct views of off-site scenic resources, and would therefore have a substantial adverse effect on a scenic vista. This is a significant and unavoidable impact. All other potential aesthetic impacts of the

Project were determined to be less-than-significant. The commentor is also referred to Figures 4.9-2 through 4.9-8 of the Draft EIR, which illustrate line of sight and view simulations of the Project.

### Response SCR-2

The commentor expresses concern regarding the cumulative effects (air pollution) of the Project when combined with other vicinity projects. As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, a number of current or anticipated “related projects” were identified within the cumulative scope of the Westridge Commerce Center Project. In total, eleven (11) distinct related projects were included within the Draft EIR cumulative analysis.

In addition to the identified related projects, the cumulative impacts analysis assumed development of the area in a manner consistent with the City of Moreno Valley General Plan, and reflecting the anticipated growth of the region. The analysis of cumulative impacts considered potentially significant impacts that could be considered cumulatively considerable when viewed in the context of known related projects and generalized ambient growth of the City and region. The commentor is referred to Section 5.0, “Other CEQA Topics” of the Draft EIR.

Cumulatively significant air quality impacts are summarized at DEIR Page 1-18, 1-19 and are discussed at DEIR pages 5-12 through 5-14.

Should the Project be approved, the Lead Agency is required to adopt Findings of Fact and a Statement of Overriding Considerations acknowledging the Project’s significant environmental impacts, and substantiating that the Project benefits outweigh the unavoidable adverse environmental effects, such that the adverse environmental effects may be considered acceptable.

Response SCR-3

The commentor characterizes location of the Project “on the mouth of the entrance into the badlands heading east on SR-60.” Location of the Project and proximity of the badlands are noted in the Draft EIR:

3.2 PROJECT LOCATION AND BOUNDARIES

The Project site is located in the eastern portion of the City of Moreno Valley, in western Riverside County. Please refer to Figure 3.2-1, “Regional Location.” The Project will be developed within a 54.66-acre site, which is located near the SR-60/Redlands Boulevard interchange. The site is bounded by SR-60 to the north, Fir Avenue (future Eucalyptus Avenue) to the south, the Quincy Channel to the west, and vacant land designated for commercial use between the Project’s east boundary and Redlands Boulevard, approximately 700 feet to the east. Please refer also to the Project site aerial, Figure 3.2-2, “Project Vicinity” (Draft EIR Page 3-1).

General Plan Final EIR Figure 5.11-1, “Major Scenic Resources,” reproduced in this Draft EIR as Figure 4.9-1, indicates the Project site is located along the SR-60 scenic corridor. The Badlands area, located approximately one mile to the north, and the Mount Russell foothills and associated rock outcroppings, located approximately two miles southerly of the site (Draft EIR Page 4.9-3).

The commentor offers that SR-60 “is essentially a rural route at this point, and one that is treacherous for traffic.”

Existing and programmed SR-60 configurations proximate to the Project are accurately and appropriately described in the EIR:

### **Regional Access**

State Route 60 (SR-60), adjacent to the Project site's northerly boundary, provides regional access to the subject property and vicinity. Connection to SR-60 is provided via Redlands Boulevard, located less than one-quarter mile east of the Project site. The Project has been designed to accommodate future interchange improvements planned by Caltrans at Redlands Boulevard and the SR-60, which would upgrade the existing rural configuration to a standard diamond interchange. These interchange improvements would be constructed by Caltrans, and are not a part of the proposed Project. As demonstrated in the analysis presented in this Section, with implementation of the improvements identified subsequently (and in the Project TIA, EIR Appendix B), the existing rural interchange at Redlands Boulevard and the SR-60 will accommodate existing and anticipated future traffic, including Project-related traffic, at Opening Year and beyond. The upgrade of this interchange is included as part of the regional Western Riverside County TUMF improvement program.

The commentor provides no supporting evidence indicating any substantive potential safety concerns along the segment of SR-60 proximate to the project site. Moreover, Caltrans, the Responsible Agency for actions and projects affecting SR-60, has not suggested or indicated any significant safety issues for this segment of highway (Draft EIR, Page 4.2-8).

In response to the commentor's concerns regarding traffic on westbound State Route 60, the Project's Traffic Impact Analysis (TIA, included as Draft EIR Appendix B) examined performance on the SR-60 as part of Appendix 7.8. The City of Moreno Valley requested that a basic freeway segment analysis be conducted between Box Springs Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the TIA. As indicated in the Introduction to this Study (Page 7.8-3), "[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these

impacts would be nominal, but rather to analyze the current and future projected operations within the segment based on freeway lane geometrics.”

The study concludes that “[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen.” It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As noted in the summary of mitigation on Draft EIR Page 1-51, “[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area.” Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

The commentor also provides opinions regarding traffic and safety along SR-60. These statements and opinions will be forwarded to the decision-makers for their consideration.

#### Response SCR-4

The commentor expresses concern regarding the nature and condition of vicinity roadways. Section 3.0, “Project Description” of the Draft EIR includes a complete list of roadway improvements to be implemented by the Project. Roadway improvements to be implemented by the Project prior to issuance of the first Certificate of Occupancy are summarized below:

- Fir Avenue (future Eucalyptus Avenue) will be constructed to its ultimate half-section width (one-half of 104-foot right-of-way section improvements pursuant to City Standard No. 104B) as an arterial roadway from the westerly Project boundary, extending to Redlands Boulevard to the east. Signalization and turn lane improvements will be provided at the intersection of Fir Avenue (future Eucalyptus Avenue) at Redlands Boulevard consistent with City standards and requirements. At the westerly terminus of Fir Avenue (future Eucalyptus Avenue), full cul-de-sac improvements will be provided to allow for vehicle turnaround.
- An auxiliary lane along the westerly side of Redlands Boulevard will be constructed between Fir Avenue (future Eucalyptus Avenue) and the SR-60 eastbound off-ramps.
- The proposed public street (Street "A") at the Project's easterly boundary will be constructed to its ultimate half-section width (one-half of 78-foot right-of-way section improvements pursuant to City Standard No. 106) as an industrial collector roadway from the proposed northern terminus of the road to Fir Avenue (future Eucalyptus Avenue) in conjunction with development. Full improvements will be provided at the cul-de-sac "bulb" to allow for vehicle turnaround.

All roadway improvements proposed by the Project will conform with City engineering standards thereby reducing future maintenance responsibilities for these improvements. The Project will contribute fees and tax revenues to the City that may be directed to the repair and maintenance of area roads.

More specifically, the Project will pay nearly \$6 million in fees for local school, library, fire, and police facilities and local street improvements. Additionally, the Project will invest nearly \$1 million in regional transportation improvements. Implementation will also produce nearly \$1 million for regional water, sewer and flood control improvements.

**FRIENDS OF THE NORTHERN SAN JACINTO VALLEY**  
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[www.northfriends.org](http://www.northfriends.org)

6 December 2010

Via e-mail: [Jeffreyb@moval.org](mailto:Jeffreyb@moval.org)

Mr. Jeff Bradshaw, Associate Planner  
City of Moreno Valley  
14177 Frederick Street/P.O. Box 88005  
Moreno Valley, California 92552-0805

Dear Mr. Bradshaw:

**Re: Westridge Commerce Center Draft Environmental Impact Report (DEIR)—State Clearing House Number 2009101008**

The Friends of the Northern San Jacinto Valley are a local conservation group dedicated to preserving and protecting the Northern San Jacinto Valley, the San Jacinto Wildlife Area, and Mystic Lake. We are a 501(c)(3) organization. Since 1991, we have sponsored monthly nature walks at the wildlife area, reviewed and commented on numerous environmental documents, attended community events to share information about the wildlife area, and we have a long history of supporting public land acquisition at the San Jacinto Wildlife Area.

We have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Westridge Commerce Center and are very discouraged by the poor quality of the environmental document. To a great extent, the Draft EIR presupposes that the Moreno Valley Planning Commission and City Council will adopt a statement of overriding consideration for a number of the identified project impacts. This erroneous presumption allows the preparer of the California Environmental Quality Act (CEQA) document, Applied Planning, Inc., to avoid necessary consideration of feasible mitigation measures and to avert meaningful consideration of project alternatives to reduce or avoid significant environmental impacts. The Draft EIR incorrectly asserts that the following significant project impacts are unavoidable and the City's only prerogative is to make CEQA findings of overriding consideration.

FNSJ-1

**Aesthetics - Loss of Scenic Vista:** Perhaps the most spectacular scenic vista from within the City of Moreno Valley is the view of Mystic Lake with the San Jacinto Mountains in the background which motorists can see while traveling east on Highway 60. This project proposes to block this scenic vista with the side of a warehouse building and summarily omits from consideration potential mitigation measures and a project alternative (Alternative Site)

FNSJ-2



capable of avoiding or minimizing this aesthetic impact. The project proponents have the ability to buy land anywhere for this warehouse which will not be built until they have a tenant and this makes feasible several mitigation opportunities to avoid or lessen the loss of a scenic vista this project will incur. The pad level of the warehouse buildings is proposed to be 25 feet below the grade of Highway 60. *A project design mitigation measure limiting the building height to 25 feet would preserve the present scenic vista from the highway.* In our view, other building design mitigation measures are feasible and can be incorporated into the project to avoid or minimize the loss of this scenic resource.

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**Agriculture - Loss of Farmland of Local Importance:** The Project will convert Farmland of Local Importance to nonagricultural uses and these losses will be cumulatively significant. The Draft EIR fails to consider mitigation for the loss of agricultural land this project will incur and merely dismisses mitigation measures included in the City's General Plan intended to stem the loss of agricultural land. Preservation can be a feasible means of reducing or eliminating the impact of agricultural land loss. The City's General Plan indicates agricultural lands subject to conversion can be mitigated through the purchase or transfer of development rights or the purchase of conservation easements. We believe the Loss of Agricultural lands of Local Importance must be thoroughly discussed and mitigated in the EIR.

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**Air Quality:** The project will generate long-term operational project emissions during operation that will exceed the South Coast Air Quality District's regional thresholds for a number of pollutants detrimental to community health. A recent Press-Enterprise newspaper article (September 11, 2008) indicates most of the cancer risk from Southern California air pollution is from diesel exhaust. The article also notes the Inland area still has the region's worst fine-particle pollution, which is linked to early deaths, heart attacks and, in children, stunted lung development. Diesel soot is the most toxic major ingredient of fine particle pollution. The Inland region is also recognized as having the worst ozone pollution, which causes nausea, fatigue and headaches, and aggravates asthma and other respiratory conditions. The project Draft EIR makes no attempt to mitigate or avoid these long-term operational emissions and instead asks the City Council to make findings of overriding consideration for this air quality impact. The Draft EIR fails to even consider feasible mitigation measures to reduce community exposure to these harmful long-term project pollutants. A feasible mitigation measure worthy of consideration would be for the developer and future warehouse tenant to commit to operating the facility with trucks equipped only with the latest air pollution abatement technology including diesel soot filters. Since Highland Fairview Corporate Center/Skechers project has been able to have 80% of all off-road heavy-duty construction equipment utilized during construction activity certified as CARB Tier III or better, your project and analysis must do at least as well.

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**Climate Change and Greenhouse Gases:** AB 32 requires that California's greenhouse gas emissions be reduced to 1990 levels by the year 2020. The Draft EIR indicates greenhouse gas emissions from the operation of the Westridge Commerce Center project will result in a significant and unavoidable impact to climate change because emissions will hinder or delay California's ability to meet the reduction targets contained in AB 32. The Draft EIR limits its consideration of emission reduction to on-site measures and will request the City Council make

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findings of overriding consideration for the project failure to achieve the reduction targets in AB 32. This approach is incorrect in that the CEQA analysis also needs to consider offsite mitigation remedies such as emission trading regimes and/or carbon sequestration to offset the emissions this project will generate. Given the urgency of climate change solutions, the project proponent’s reliance on a finding of overriding consideration is misplaced.

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**THE EIR MUST ADEQUATELY ANALYZE AND MITIGATE AIR QUALITY IMPACTS**

The EIR fails to adequately analyze and mitigate the significant impacts to air quality resulting from the project. Californians experience the worst air quality in the nation, with annual health and economic impacts estimated in at 8,800 deaths (3,000–15,000 probable range) and \$71 billion (\$36–\$136 billion) per year (Cayan 2006). Ozone and particulate matter (PM) are the pollutants of greatest concern (maximum levels are about double California’s air quality standards) and the current control programs for motor vehicles and industrial sources cost about \$10 billion per year. In light of these underlying conditions it is critical that the air quality analysis be rigorous. The EIR is required to properly analyze the Projects’ direct, indirect, and cumulative contribution to deteriorating air quality.

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**A. SIGNIFICANT AIR QUALITY HAZARDS IN RIVERSIDE COUNTY**

Riverside County has the dubious distinction of being one of the most polluted areas in the country. (American Lung Association 2005; American Lung Association 2008). The Project will directly result in an increase in construction emissions and vehicle trips per day which will increase the level of a broad number of criteria pollutants under the Clean Air Act. The Project will result in significant impacts to air quality that result from significant levels of emissions of Volatile Organic Compounds (VOCs), Nitrogen Oxides (NOx), Carbon Monoxide (CO), and Particulate Matter of 10 microns and 2.5 microns or less (PM10 and PM2.5). Increased diesel exhaust is particularly detrimental to long term human and lung health.

Ozone (O<sub>3</sub>) is the chief component of the common pollutant known as "smog." Ozone is formed when emissions including reactive organic gases (ROG) and oxides of nitrogen (NOx) undergo photochemical reactions in sunlight and are transformed to O<sub>3</sub>. Ozone irritates lung airways and causes inflammation much like a sunburn. Ozone causes wheezing, coughing, pain when taking a deep breath, and breathing difficulties during outdoor activities. The American Lung Association focuses on ozone as one of the most hazardous of the common air pollutants. (American Lung Association 2008). Repeated exposure to ozone pollution for several months may cause permanent lung damage. Children, the elderly, and those with respiratory problems are most at risk, but anyone who spends time outdoors may be affected. Even at very low levels, ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to pneumonia and bronchitis. Ozone also interferes with the ability of plants to produce and store food, which makes them more susceptible to disease, insects, and weather, and damages the leaves of trees and plants, ruining the appearance of cities, national

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parks, and recreation areas. Ozone also reduces crop yields, and is, in fact, responsible for 98% of air quality related crop damage in California. A revised EIR must discuss the proposed project's production of ozone precursor emissions and the direct, indirect, and cumulative impact both on human health and on vegetation and wildlife habitat, especially habitat for threatened, endangered, and sensitive species.

Particulate matter (PM) is a category of pollutant which includes the respirable particles suspended in the the air. PM is classified into "coarse" particles, PM<sub>10</sub>, or those under 10 microns in diameter, and "fine" particles, PM<sub>2.5</sub>, or those under 2.5 microns in diameter, and comes from a variety of sources including diesel exhaust, windblown dust from agriculture and construction and motor vehicles. Because the human respiratory system's ability to filter out harmful particles decreases as particles size decreases, the smallest particles lodge deepest in the lungs and are especially dangerous. PM can contain at least 40 toxic chemicals including heavy metals, nitrates, sulfates, and aerosols, as well as soot, soil, and dust.

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PM is associated with extreme health consequences. PM causes premature death, aggravates asthma, increases coughing, painful breathing, and chronic bronchitis, and decreases lung function. Lung inflammation caused by inhaling PM can also lead to changes in heart rhythm, constriction of blood vessels, blood coagulation, and increased risk of heart attacks. Unlike what is believed about some other air pollutants, there is no "safe" level of PM pollution: even very low levels of PM lead to health impacts. (EWG 2002 at 25). One study found that in Riverside County alone, 353 deaths per year are due to current PM10 levels, and 42,149 asthma attacks per year are due to current PM10 levels. (EWG 2002 at 19). The EIR's failure to address basic information on the link between air quality, health impacts, and impacts to biological resources render it inadequate. This and other information must be analyzed in a revised EIR so that the project's air quality impacts can be analyzed in the full environmental context.

**B. THE EIR FAILS TO ADEQUATELY DESCRIBE THE PROJECT AND ENVIRONMENTAL SETTING**

The EIR must provide a stable and accurate project description in order to properly inform decision makers and the public, as well as provide a proper basis for analysis of impacts and mitigation to address those impacts. Here the EIR fails to fully disclose and analyze the air quality impacts from diesel emissions. One of the project objectives is to "transition the existing site into a productive use" provided by over 900,000 square feet of industrial warehouse/distribution. (DEIR at 3-4). Presumably much of the transportation and traffic associated with industrial warehouse and distribution facilities will be diesel truck traffic, which poses a much greater threat to human health due to the carcinogenic effects of diesel exhaust and fine particulates associated with diesel emissions. However, the EIR fails to describe what types of vehicles will be accessing the facility, in what volumes, at what frequency, and during what times. The EIR must fully disclose the types of vehicles that will be associated with the Project because those different vehicles pose very different threats and must be analyzed and mitigated in different fashions.

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The EIR also fails to adequately describe the environmental baseline of the area affected and regional setting in order to properly inform the CEQA process. CEQA Guidelines § 15125(a) &(c). The EIR also fails to adequately describe the environmental baseline of the area affected and regional setting in order to properly inform the CEQA process. CEQA Guidelines § 15125(a) &(c). The Project is located across Fir Street from land that is zoned residential. The diesel trucks will enter and exit the project by using Fir and therefore will significantly impact future residents. Setting the building 250 feet back from these residential uses does not protect them from each and every diesel truck that enters and exit the Project. The direct, indirect and growth inducing impacts of this project have not been thoroughly analyzed – especially for the future residents immediately south of the project. The 2,000,000 sq. foot Highland Fairview Corporate Center/Skechers project and also the proposed 2,000,000 square foot ProLogis are on either side of this project and will also probably use Fir Street. The California Air Resources Board and others confirm that living close to high traffic and the associated emissions may lead to adverse health effects beyond those associated with regional air pollution in urban areas. (CARB 2005). Specifically, these studies found reduced lung function and increased asthma in children within 1,000 feet of heavy traffic. Id. In addition to the respiratory health effects, proximity to freeways increases potential cancer risk. Id.

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Some land uses are considered more sensitive to air pollution than others due to the types of population groups or activities involved. The South Coast Air Quality Management District ("SCAQMD") includes in its list of sensitive receptors, residences, schools, playgrounds, childcare centers, convalescent homes, retirement homes, rehabilitation centers, and athletic facilities. Sensitive population groups include children, the elderly, and the acutely and chronically ill, especially those with cardiorespiratory diseases. Residential areas are also considered to be sensitive to air pollution because residents tend to be home for extended periods of time, resulting in sustained exposure to any pollutant present. The Project fails to adequately identify the number and their distance from the 240 daily (24-7) moving diesel trucks related to this project as well as that of ProLogis and Highland Fairview Corporate Center/Skechers.

**C. THE EIR FAILS TO ADEQUATELY EXAMINE THE PROJECT'S HEALTH RISKS**

The EIR air quality analysis fails to adequately address the Project's effect on the community's health. Although the DEIR acknowledges that proximity to roads is related to adverse health outcomes, including respiratory problems, the document fails to conduct this critical study of demonstrating what the qualitative or quantitative risk is associated to nearby residents as result of the Project. The Project can lead to increased rates of asthma, decreased, lung or cardiac function, and other threats, but there is no analysis of what that means for the regional residents or visitors. As with other important impact analyses it appears that the EIR authors use their failure to gather data as an excuse for their inability to document the Project's impacts. Such an approach violates the fundamental tenets of CEQA. Without this information, it is all but impossible to accurately and effectively gauge the severity and extent of the health', effects that would result from building the proposed Project. Again, the agencies have a duty to "painstakingly ferret out" the Project's impacts. *Env'tl Planning and Information Council of W.*

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*El Dorado County v. County of El Dorado* (1982) 131 Cal. App. 3d 350,357. It is critically important that the EIR emphasize the cumulative impacts of negative air quality and not simply dismiss those issues without thorough analysis and mitigation.

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**D. THE EIR FAILS TO ADEQUATELY ANALYZE AND IMPOSE MITIGATION MEASURES FOR SIGNIFICANT IMPACTS TO AIR QUALITY**

In an attempt to subvert the procedural requirements of CEQA the EIR fails to adopt feasible mitigation measures that would have substantially lessened significant environmental impacts resulting from the Project. To effectuate its overarching purpose of reducing environmental harm, CEQA requires that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen” a Project’s significant environmental effects. Pub. Res. Code § 21002; Guidelines 15021. CEQA’s substantive mandate is clear, “each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.” Pub. Res. Code § 21002.1(b) (emphasis added).. Mitigation of a project’s significant impacts is one of the “most important” functions of CEQA. *Sierra Club v. Gilroy City Council*, 222 Cal.App.3d 30, 41 (1990).

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There are numerous mitigation measures that could be adopted to reduce the significant air quality impacts associated with this project. Many of the mitigation measures outlined to reduce the significant impacts associated with greenhouse gas emissions can reduce criteria pollutants. Therefore the EIR should fully analyze all greenhouse gas and criteria pollutant mitigation measures in order to reduce the significant impacts to air quality, or describe why those mitigation measures are infeasible.

**I. THE EIR MUST ADEQUATELY ADDRESS THE IMPACTS OF GLOBAL WARMING AND CLIMATE CHANGE**

The Draft EIR must thoroughly evaluate alternatives and mitigation measures that would reduce the Project’s greenhouse gas emissions. Curbing greenhouse gas emissions to limit the effects of climate change is one of the most urgent challenges of our time. Fortunately, the California Environmental Quality Act (“CEQA”), Cal. Pub. Res. Code §§ 21000 et seq., 14 Cal. Code Regs. § 15000 et seq. (“Guidelines”), set forth a clear and mandatory process to address the Project’s greenhouse gas and global warming impacts. This letter sets forth how this analysis should be completed.

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**A. THE EIR MUST ADDRESS THE IMPACT GLOBAL WARMING WILL HAVE ON THE PROJECT**

Unfortunately, the EIR fails to address the impacts of global warming on the Project contrary to the requirements under CEQA. California’s temperatures are expected to rise “dramatically” over the course of this century (Cayan 2007). These factors will impact the planned project, as well as exacerbate its own environmental impacts. Global warming will affect California’s climate, resulting in such impacts as increased temperatures and wildfires, and

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a reduction in snowpack and precipitation levels and water availability. These factors will impact development under any Moreno Valley General Plan Update, as well as exacerbate its own environmental impacts. Therefore, these factors must be considered in the EIR. *See* Guidelines § 15126.2(a) (an EIR “shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected.”) The EIR must use its best efforts to find out and disclose all it reasonably can about the impacts of climate change on the environment and—most importantly—use that information to form an educated opinion about how to plan and adapt for the impacts of climate change. (California Attorney General 2009). Examples of how global warming will impact development under the Moreno Valley General Plan and intensify the environmental impacts it will already have are discussed below. It is not an exhaustive list.

The rise in temperatures resulting from global warming will create a more conducive environment for air pollution formation (Cayan 2007). This will intensify the adverse effects the proposed project will already have on air quality in the project area and threaten residents’ health (Cayan 2007).

Significantly for the state, as well as the project area, is global warming’s impact on water supply. The IPCC specifically identified the American West as vulnerable, warning, “Projected warming in the western mountains by the mid-21st century is very likely to cause large decreases in snowpack, earlier snow melt, more winter rain events, increased peak winter flows and flooding, and reduced summer flows” (IPCC 2007b). Recently, researches found that an increase in atmospheric greenhouse gases has contributed to a “coming crisis in water supply for the western United States” (Barnett 2008). Using several climate models and comparing the results, the researches found that “warmer temperatures accompany” decreases in snow pack and precipitation and the timing of runoff, impacting river flow and water levels (Barnett 2008). These researchers concluded with high confidence that up to 60 percent of the “climate related trends of river flow, winter air temperature and snow pack between 1950-1999” are human-induced (Barnett 2008). This, the researchers wrote, is “not good news for those living in the western United States” (Barnett 2008).

The California Center on Climate Change has also recognized the problem global warming presents to the state’s water supply and predicts that if greenhouse gas emissions continue under the business-as-usual scenario, this snowpack could decline up to 70-90 percent, affecting winter recreation, water supply and natural ecosystems (Cayan 2007). Global warming will affect snowpack and precipitation levels, and California will face significant impacts, as its ecosystems depend upon relatively constant precipitation levels and water resources are already under strain (Cayan 2007). The decrease in snowpack in the Sierra Nevada will lead to a decrease in California’s already “over-stretched” water supplies (Cayan 2007). It could also potentially reduce hydropower and lead to the loss of winter recreation (Cayan 2007). All of this means “major changes” in water management and allocation will have to be made (Cayan 2007). Thus, global warming may directly affect the City’s ability to supply clean, affordable water to the residents, or force the City to change how it will utilize water, and it may also impact other activities outside the project area, such as agriculture.

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Scientists indicate that climate change will also exacerbate the problem of flooding by increasing the frequency and magnitude of large storms, which in turn will cause an increase in the size and frequency of flood events (NRDC 2007). The increasing cost of flood damages and potential loss of life will put more pressure on water managers to provide greater flood protection (NRDC 2007). At the same time, changing climate conditions (decreased snowpack, earlier runoff, larger peak events, etc.) will make predicting and maximizing water supply more difficult (NRDC 2007). These changes in hazard risk and water supply availability must be considered during environmental review.

Water quality, in addition to water quantity and timing, will also be impacted. Changes in precipitation, flow, and temperature associated with climate change will likely exacerbate water quality problems (NRDC 2007). Changes in precipitation affect water quantity, flow rates, and flow timing (Gleick 2000). Shifting weather patterns are also jeopardizing water quality and quantity in many countries, where groundwater systems are overdrawn (Epstein 2005). Decreased flows can exacerbate the effect of temperature increases, raise the concentration of pollutants, increase residence time of pollutants, and heighten salinity levels in arid regions (Schindler 1997).

These are only examples of how global warming will impact the proposed project and intensify the environmental impacts the project will already have. It is not an exhaustive list. Thus, when assessing the impact of the Project on air quality, water supply, flood hazards, and biological resources, the EIR must take into account global warming. To ignore the impact of global warming on the Project and the resources impacted by the Project significantly understates the Project's impacts.

**B. The EIR's Significance Determination is Flawed**

**i. The EIR Fails to Properly Frame the Question of the Significance of the Project's Greenhouse Gas Impacts**

As the EIR properly recognizes, the greenhouse gas emissions generated by the Project constitute a significant impact. (DEIR at 4.3-110). However, the DEIR improperly limits the consideration of its determination of significance to whether the project would significantly hinder or delay California's ability to meet reduction targets contained in AB 32. While the emission reduction targets set by AB 32 are important, they are only a first interim step toward a longer emission reduction pathway necessary to avoiding dangerous anthropogenic interference (DAI) with the climate system. While Project impacts remain significant, the significance criteria should be revised to recognize California's long term emission targets set by Executive Order S-3-05 and consider the extent to which these reductions are consistent with the emission reduction pathway necessary to avoid DAI.

The relevant environmental objective with regard to a project's impact on global warming is stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference ("DAI") with the climate system. Framing the objective of a threshold of significance in the context of preventing DAI with the climate system

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is consistent with the policy of CEQA. As set forth in Public Resources Code Section 21000(d), “The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.” With regard to climate change, the prevention of DAI is the critical threshold to protect the health and safety of the people of California. The prevention of DAI with the climate is also the objective adopted by the international community. As set forth in the United Nations Framework Convention on Climate Change, to which the United States is a party: “The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”<sup>1</sup>

Dangerous anthropogenic interference with the climate system is a defined concept from which a threshold of significance under CEQA can be derived. While environmental impacts from global warming are already being experienced, dangerous anthropogenic interference has typically been defined at temperature increases above 2°C from pre-industrial levels, or a 450 ppm atmospheric concentration of CO<sub>2</sub> eq. (Union of Concerned Scientists 2007). 2050 is the time frame commonly set by scientists in which to achieve the emission reductions necessary for climate stabilization. The emission reduction scenario set by AB 32 and Executive Order S-3-05, whereby emissions are reduced to 1990 levels by 2020 and then to 80% below 1990 levels by 2050, is consistent with a stabilization scenario in the +/- 450 ppm range.<sup>2</sup>

However, climate scientists, including NASA’s premier climatologist, James Hansen, are increasingly calling for more stringent stabilization targets in order to sufficiently reduce the risk of catastrophic outcomes. The best available scientific evidence now indicates that a 2°C temperature increase from pre-industrial levels is well past the point where severe and irreversible impacts will occur. It is now estimated that a mean global temperature increase of 1.5°C above pre-industrial levels has the potential to trigger irreversible melting of the Greenland ice sheet, a process that would result in an eventual 7m sea level rise over and above that caused by thermal expansion of the oceans, and potentially causing an additional sea level rise of 0.75m as soon as 2100. (Warren 2006 at 95). Specific consequences of a 2°C temperature rise from pre-industrial levels include the loss of 97% of the world’s coral reefs and the transformation of 16% of global ecosystems. Approximately one to three billion people would experience an increase in water stress, sea level rise and cyclones would displace millions from the world’s coastlines and agricultural yields would fall in the developed world. (Warren 2006). In the Arctic, ecosystem disruption is predicted owing to complete loss of summer sea ice, with only 42% of the tundra remaining stable. This would destroy the Inuit hunting culture and cause the extinction of the polar bear and large losses in global populations of birds. Moreover, because

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1 United Nations Framework Convention on Climate Change (UNFCCC), art. 2, May 9, 1992, *available at* [http://unfccc.int/essential\\_background/convention/background/items/1349.php](http://unfccc.int/essential_background/convention/background/items/1349.php).

2 While the emission reduction targets embodied in AB 32 and Executive Order S-3-05 can inform a determination of significance thresholds, this is because they reflect scientific data on needed emissions reductions. Under CEQA, regulatory standards can serve as proxies for significance only to the extent that they accurately reflect the level at which an impact can be said to be less than significant. *See, e.g., Protect the Historic Amador Waterways v. Amador Water Agency*, 116 Cal. App. 4th 1099, 1109 (2004).



Arctic ice functions to reflect heat back into the atmosphere, its loss would allow more sunlight to heat the Arctic Ocean and further accelerate the buildup heat and the melting of the Greenland ice sheet. In the Antarctic, key marine mollusks are predicted to become extinct with damaging ramifications for the rest of the Antarctic marine ecosystem. (Warren 2006). As the devastating and irreversible impacts resulting from a 2°C mean global temperature rise are far in excess of any reasonable definition of “dangerous” interference with the climate, a 2°C target is not an acceptable objective for climate policy.

Moreover, equating a particular atmospheric concentration of greenhouse gases with a specific temperature increase involves a significant degree of uncertainty. This is because climate sensitivity – the extent to which temperatures will rise as a result of increasing concentrations of heat-trapping gases – depends on Earth’s response to certain physical processes that are not fully understood. (Cayan 2007 at 4). For example, as greenhouse gas emissions cause temperatures to rise, the atmosphere can hold more water vapor, which traps heat and raises temperatures further – a positive feedback. Clouds created by this water vapor could absorb and re-radiate outgoing infrared radiation from Earth’s surface (another positive feedback) or reflect more incoming shortwave radiation from the sun before it reaches Earth’s surface (a negative feedback). (Cayan 2007). Thus, due to uncertainty in climate sensitivity, scientists estimate that the mean probability of exceeding 2°C where stabilizing greenhouse gases at a CO<sub>2</sub>eq level of 450 ppm is 54% with a 30% probability that global average temperature would rise more than 3°C. (Cayan 2007; Union of Concerned Scientists 2007). This is effectively the equivalent of flipping a coin in the hopes that our children and grandchildren will not be confronted with the displacement of millions of people due to sea level rise, irreversible loss of entire ecosystems, and the triggering of multiple climatic “tipping points” wherein climate change begins to feed on itself and spin rapidly out of control.

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As noted by the Attorney General in a recent guidance on the treatment of climate change in general plans, “the targets set by AB 32 and Executive Order S-3-05 can inform the CEQA analysis.” (California Attorney General 2009 at 4). However, while the emission reduction targets embodied in AB 32 and Executive Order S-3-05 can inform a determination of significance thresholds, this is because they reflect scientific data on needed emissions reductions. *See* Guidelines § 15064(b) (“[t]he determination of whether a project may have a significant effect on the environment calls for careful judgment ... based to the extent possible on scientific and factual data.”). Under CEQA, regulatory standards can serve as proxies for significance only to the extent that they accurately reflect the level at which an impact can be said to be less than significant. *See, e.g., Protect the Historic Amador Waterways v. Amador Water Agency*, 116 Cal. App. 4th 1099, 1109 (2004). Thus, to properly address the question of the significance of Project impacts, the EIR should set forth the environmental objective of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent DAI with the climate system, discuss California’s emission reduction targets and the extent to which these targets are sufficient to meet avoid DAI. In this manner, the EIR will set forth the issues related to the significance of Project impacts in a manner that accurately informs decision makers and the public.

**ii. To Properly Evaluate Significance and Fulfill Its Informational Mandate, the EIR Must Compare Project Emissions with Emission Reduction Targets Set by AB 32 and Executive Order S-3-05**

Although the EIR asserts that the Project would interfere with the goals of AB 32, the EIR fails to provide any data on Project emissions as compared with 1990 levels. Accordingly, it is impossible to analyze the extent to which the Project exceeds AB 32 emission reduction mandates. The EIR must be revised to provide this data.

Moreover, in a failure to adequately describe the Project, the EIR fails to note the year for which the Project envisions build-out. Should the next Moreno Valley General Plan update contemplate growth past 2020, its significance analysis should evaluate the extent to which the Project complies with Executive Order targets. While the trajectory of reductions under Executive Order S-3-05 has not been definitely established, the EIR should make an appropriate assumption, such as a linear decrease to 2050 to determine significance criteria for the undisclosed year of build-out. Thus, if Moreno Valley's General Plan is intended to accommodate growth until 2030, then the EIR could compare Project emissions with emissions approximately 27% below 1990 levels.

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**C. THE EIR MUST ANALYZE AND ADOPT ALL FEASIBLE MITIGATION MEASURES TO REDUCE THE PROJECT'S GREENHOUSE GAS EMISSIONS**

In addition to thoroughly evaluating project alternatives, because it is clear that the project's greenhouse gas emissions will cumulatively contribute to global warming, "the EIR must propose and describe mitigation measures that will minimize the significant environmental effects that the EIR has identified." *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors*, 91 Cal.App.4th 342, 360 (2001). CEQA requires that agencies "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." Pub. Res. Code § 21002.1(b). Mitigation of a project's significant impacts is one of the "most important" functions of CEQA. *Sierra Club v. Gilroy City Council*, 222 Cal.App.3d 30, 41 (1990). Therefore, it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." Pub. Res. Code § 21002. Importantly, mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development." *Federation of Hillside & Canyon Ass'ns v. City of Los Angeles*, 83 Cal.App.4th 1252, 1261 (2000).

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There are any number of feasible measures that can be incorporated into a Climate Action Plan to reduce vehicle miles traveled, energy use, waste, water consumption and other sources of emissions. The California Air Pollution Control Officer's Association (CAPCOA) White Paper on CEQA and Climate Change identifies existing and potential mitigation measures that could be applied to projects during the CEQA process to reduce a project's GHG emissions. (CAPCOA 2008 at Appendix B). The California Office of the Attorney General also has developed a list of reduction mechanisms to be incorporated through the CEQA process. (California Office of the

Attorney General 2008b). These resources provide a rich and varied array of mitigation measures to be incorporated in both the programmatic and project level. Furthermore, substantial federal funding is available to implement these projects so that implementation of greenhouse gas mitigation measures is economically feasible.<sup>3</sup> Because CEQA requires the adoption of all feasible mitigation measures to reduce significant impacts like climate change the Project must adopt all feasible mitigation measures to reduce GHGs or provide substantial evidence as to why the mitigation measures are infeasible. Pub. Res. Code § 21081(a)(3).

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**i. Land Use Measures Reducing Traffic Flow**

The development plan for the proposed project should incorporate public transit into the project design and should attempt to facilitate the use of public transit. (California Office of the Attorney General 2008). Significant effort needs to be shown as to how carpooling will be instituted and alternative fueled cars will be encouraged with special onsite parking location/electrical plug-ins. Will there be on-site eating facilities with food in order to limit driving off site?

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**ii. Land Use and Energy**

The EIR should consider mitigation measures that will ensure the Project will use energy efficiently and conservatively. In doing so, it should analyze incorporating “green building” in the development. Green buildings are those buildings that lower energy consumption, use renewable energy, conserve water, harness natural light and ventilation, use environmentally friendly materials and minimize waste (Commission for Environmental Cooperation 2008).

Buildings create environmental impacts throughout their lifecycle, from the construction phase to their actual use to their eventual destruction (Commission for Environmental Cooperation 2008). In the United States, buildings account for 40 percent of total energy use, 68 percent of total electricity consumption, and 60 percent of total non-industrial waste (Commission for Environmental Cooperation 2008). Buildings also significantly contribute to the release of greenhouse gases. In the U.S. they account for 38 percent of total carbon dioxide emissions (Commission for Environmental Cooperation 2008). More specifically, residential buildings cause up to 1,210 megatons of carbon dioxide, while commercial building create approximately 1,020 megatons (Commission for Environmental Cooperation 2008). This is because buildings require a lot of energy for their day to day operations. Most of the coal-fired power plants – one of the biggest sources of greenhouse gas emissions – slated for development in the United States will supply buildings with the energy they need. In fact, 76 percent of the energy these plants produce will go to operating buildings in the U.S. (Commission for Environmental Cooperation 2008).

FNSJ-17

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<sup>3</sup> Energy Efficiency and Conservation Block Grants are offered by the U.S. Department of Energy to municipalities in order to meet the following purposes: reduce fossil fuel emissions in a manner that is environmentally sustainable and, to the maximum extent practicable, maximizes benefits for local and regional communities; reduce the total energy use of the eligible entities; and improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors. (US DOE 2009). See <http://www.eecbg.energy.gov/>

Using green building techniques, however, can substantially reduce buildings' influence in increasing greenhouse gas emissions. Green buildings help reduce the amount of energy used to light, heat, cool and operate buildings and substitute carbon-based energy sources with alternatives that do not result in greenhouse gas emissions (Commission for Environmental Cooperation 2008). Currently green buildings can reduce energy by 30 percent or more and carbon emissions by 35 percent. (Commission for Environmental Cooperation 2008). The technologies available for green building are already in wide-use and include "passive solar design, high-efficiency lighting and appliances, highly efficient ventilation and cooling systems, solar water heaters, insulation materials and techniques, high-reflectivity building materials and multiple glazing (IPCC 2007c). Additionally, the U.S. Green Building Council (USGBC), a private, nonprofit corporation, has established a nationwide green building rating system, called Leadership in Energy and Environmental Design ("LEED"). The LEED standard supports and certifies successful green building design, construction and operations. It is one of the most widely used and recognized systems, and to obtain LEED certification from the USGBC, project architects must verify in writing that design elements meet established LEED goals. We expect the project's minimum LEED certification to be Silver. And the EIR needs to explain why this would not be your goal.

FNSJ-17  
(cont'd)

Specific mitigation for the greenhouse gas emissions generated by the Project's energy consumption include, but are not limited to:

- Analyzing and incorporating the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) or comparable standards for energy- and resource-efficient building during pre-design, design, construction, operations and management.
- Designing buildings for passive heating and cooling, and natural light, including building orientation, proper orientation and placement of windows, overhangs, skylights, etc.;
- Designing buildings for maximum energy efficiency including the maximum possible insulation, use of compact florescent or other low-energy lighting, use of energy efficient appliances, etc.
- Reducing the use of pavement and impermeable surfaces;
- Requiring water re-use systems;
- Installing light emitting diodes (LEDs) for traffic, street and other outdoor lighting
- Limiting the hours of operation of outdoor lighting
- Maximizing water conservation measures in buildings and landscaping, using drought-tolerant plants in lieu of turf, planting shade trees;
- Ensure that the Project is fully served by full recycling and composting services;
- Ensure that the Project's wastewater and solid waste will be treated in facilities where greenhouse gas emissions are minimized and captured.
- Installing the maximum possible photovoltaic array on the building roofs and/or on the project site to generate all of the electricity required by the Project, and utilizing wind energy to the extent necessary and feasible;
- Installing solar water heating systems to generate all of the Project's hot water requirements;
- Installing solar or wind powered electric vehicle and plug-in hybrid vehicle charging

FNSJ-18

stations to reduce emissions from vehicle trips.

↑ FNSJ-18  
(cont'd)

**iii. Mitigation Related to Project Construction**

- Utilize recycled, low-carbon, and otherwise climate-friendly building materials such as salvaged and recycled-content materials for building, hard surfaces, and non-plant landscaping materials;
- Minimize, reuse, and recycle construction-related waste;
- Minimize grading, earth-moving, and other energy-intensive construction practices;
- Landscape to preserve natural vegetation and maintain watershed integrity;
- Utilize alternative fuels in construction equipment and require construction equipment to utilize the best available technology to reduce emissions.

FNSJ-19

**iv. Transportation Mitigation Measures**

- Encourage and promote ride sharing programs through such methods as a specific percentage of parking spaces for ride sharing vehicles;
- Create a car sharing program within the planned community;
- Create a light vehicle network, such as a neighborhood electric vehicle (NEV) system;
- Provide necessary facilities and infrastructure to encourage residents to use low or zero-emission vehicles, for example, by developing electric vehicle charging facilities and conveniently located alternative fueling stations;
- Provide a shuttle service to public transit within and beyond the planned community;
- Incorporate bicycle lanes and routes into the planned community's street systems.

FNSJ-20

**v. Carbon Offsets**

After all measures have been implemented to reduce emissions in the first instance, remaining emissions that cannot be eliminated may be mitigated through offsets. Preference should be given to offset mitigation measures in that are in close proximity to the project. (SCAQMD 2008). In other words project applicants should prioritize first on mitigation onsite, then on mitigation in the neighborhood or air district, next in state, then finally out of state. (SCAQMD 2008). Care should be taken to ensure that offsets purchased are real (additional), permanent, and verified, and all aspects of the offsets should be discussed in the EIR. As demonstrated by the Office of the Attorney General and SCAQMD offsets are a feasible CEQA mitigation measures<sup>4</sup> once all feasible mitigation measures have been adopted to reduce the Project's carbon footprint and produce energy using renewable sources. (SCAQMD 2008).

FNSJ-21

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4 The California Attorney General's Office has adopted CEQA settlements calling for the auditing, reduction, and offsetting of greenhouse gas emissions related with a Project demonstrating that offsets are a feasible way to reduce a Project's negative environmental effects on global warming. See <http://ag.ca.gov/newsalerts/release.php?id=1466&category=global%20warming> See generally <http://ag.ca.gov/globalwarming/ceqa.php>

**II. THE EIR MUST CONSIDER A REASONABLE RANGE OF ALTERNATIVES**

The EIR failed to consider a meaningful analysis of reasonable alternatives to the Project in order to lessen or avoid the Project’s significant impacts. CEQA mandates that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code § 21002; Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(d). A rigorous analysis of reasonable alternatives to the project must be provided to comply with this strict mandate. “Without meaningful analysis of alternatives in the EIR, neither courts nor the public can fulfill their proper roles in the CEQA process.” *Laurel Heights Improvement Ass’n v. Regents of University of California*, 47 Cal.3d 376, 404 (1988). Moreover, “[a] potential alternative should not be excluded from consideration merely because it ‘would impede to some degree the attainment of the project objectives, or would be more costly’” even when that alternative includes Project development on an alternative site. *Save Round Valley Alliance v. County of Inyo*, 157 Cal. App. 4th 1437, 1456-57 (2007) (quotations omitted).

In analyzing the no-project alternative, the EIR must discuss the need for this project and whether the uses that would potentially utilize the Project can be accommodated in existing areas. As CAPCOA states in its white paper, one way local governments can avoid significant increases in greenhouse gas emissions and help solve the problem of global warming is to “facilitate more efficient and economic use of the lands” already developed within the community (CAPCOA 2008). Reinvesting in existing communities is “appreciably” more efficient than new development and may even result in a net reduction of greenhouse gases (CAPCOA 2008). The EIR should consider an alternative that relies more on higher-density mixed commercial/residential development projects on existing disturbed lands in order to support the reduction of vehicle trips, promote alternatives to individual vehicle travel, and encourage efficient delivery of services and goods (Office of the California Attorney General 2008). The Westridge Commerce Center does not have a tenant and the Project proponent does not plan to build the Project until they do. They already have at least one warehouse that sits empty.

FNSJ-22

An analysis of alternatives should also quantify the estimated greenhouse gas emissions, quantified impacts to biological resources, water resources including water quality and water availability, and traffic resulting from each proposed alternative.

**Biological Resources:** To a great extent the Draft EIR avoids an actual on the ground biological resource impact assessment. Instead the Draft EIR makes the claim that the cumulative wildlife resource impacts of this project will be mitigated by the payment of the Stephens’ Kangaroo Rat Habitat Conservation Plan (SKRHCP) mitigation fee and the Multi-Species Habitat Conservation Plan (MSHCP) mitigation fee. It is important to recognize neither the SKRHCP nor the MSHCP exempts this project from full compliance with the requirements of CEQA. The Draft EIR does not indicate the amount of the SKRHCP mitigation fee or the amount of the MSHCP mitigation fee the project proponent will pay in order to reduce the cumulative wildlife resource impacts of this project to a less than significant level. Nor does the document indicate the mitigation fee amounts the City has collected thus far for SKRHCP and MSHCP wildlife mitigation and to

FNSJ-23

what extent those fees have been used to mitigate cumulative wildlife resource impacts from previously approved projects within the jurisdiction. A lead agency, in this case the City of Moreno Valley, must provide supporting facts and provide analysis to support its conclusion that the payment of SKRHCP and MSHCP mitigation fees will render the project cumulative wildlife resource impacts to less than significant. Absent this analysis, the cumulative wildlife resource impacts this project will incur must be viewed as cumulatively considerable.

FNSJ-23  
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Thank you for the opportunity to comment on the Draft EIR for this project. The Friends would like to be informed of all documents, meetings and public hearings related to this project. Please provide us with a copy of the final EIR and other pertinent documents related to this project. Please contact us at our mailing address which is listed on the first page of this letter.

FNSJ-24

Sincerely



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FNSJ-25  
(cont'd)

FRIENDS OF NORTHERN SAN JACINTO VALLEY

Letter Dated December 6, 2010

Response FNSJ-1

The commentor's opinions in regard to the "quality of the environmental document" will be forwarded to decision-makers for their consideration. The Draft EIR has been prepared to identify the environmental impacts that could result from Project implementation and, where feasible, provides mitigation measures to substantially lessen or avoid the significant effects on the environment. The City of Moreno Valley, the Lead Agency for this Project, is required to consider the Project in its entirety before determining whether to approve the adoption of overriding considerations. As noted in *CEQA Guidelines* § 15093:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
  
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The commentor concludes by correctly noting the Draft EIR's finding that the Westridge Commerce Center Project will result in certain significant and unavoidable impacts in regard to scenic vistas and air quality, but erroneously includes agriculture and global climate change in its summary of Project-related impacts. Specific topical concerns are addressed in the following Responses FNSJ-2 through FNSJ-5.

#### Response FNSJ-2

As discussed in the Draft EIR (Page 4.9-11), "[n]otwithstanding the proposed depressed building pad area, as illustrated in Figures 4.9-4 through 4.9-8, the Project will nonetheless interrupt the expansive views of open space and mountains from SR-60, Redlands Boulevard, Fir (future Eucalyptus) Avenue, and other areas surrounding the Project site. The building will be visible from higher elevations to the north, east, and south, and the rooftop of the building may be visible at a distance from higher elevations." This "interruption" of scenic views has been identified in the Draft EIR (Page 4.9-19 *et al.*) as an individually and cumulatively significant Project impact.

As further noted on Draft EIR Page 4.9-11, "[t]he Project's intent is to create a regional-serving warehouse/logistics facility. In order to minimize the viewshed impacts of the Project, the building height or overall scale would need to be substantially reduced. Reducing the height of the building is considered infeasible, since the facility's height is largely dictated by the logistics use, and the need to provide standard "dock-high" bays for the loading and unloading of trucks." A tenable high-cube warehouse design with a 25-foot building height (estimated internal clear height of 15-20 feet) such as offered by the commentor, does not exist, and is contrary to the very term "high cube." The high-cube warehouse building height concept defines the viability of its internal operations,

which are realized through closely-consolidated and easily-accessible warehoused goods, and use of efficient, high-lift material handling equipment. In another context, in order to accommodate the same volume of warehoused goods and logistics traffic, the floor area of a 45-foot high warehouse would have to be increased by a minimum of 80 percent if reconfigured as a 25-foot high structure. In the case of the Westridge Project, the currently proposed approximately 940,000-square-foot building would have to be at least 1.7 million square feet in size in order to accommodate comparable volume of warehoused goods. This increase in area does not even account for necessary additional internal aisle ways, utilities, service areas, vestibules, etc. Moreover, if constructed as a substantively larger but lower building footprint there would be the additional construction costs, expanded areas of disturbance, increased infrastructure costs, and decreased operational/energy efficiencies associated with such a large building footprint. The suggested 25-foot high building offered by the commentor is untenable and infeasible.

Despite the commentor's assertions to the contrary, the Draft EIR does address, at length, the alternatives that were considered and rejected as part of the review of Project alternatives, including alternative sites. The text on Draft EIR Pages 5-37 through 5-44 provides the basis upon which each of the considered alternative sites was rejected from further consideration. The results and conclusions of the Draft EIR are not affected.

#### Response FNSJ-3

As discussed in the Draft EIR (Pages 1-7 to 1-8), potential impacts regarding the conversion of farmland to non-agricultural uses were considered as part of the Draft EIR and found not to be potentially significant. Despite the commentor's assertions that the Draft EIR "dismisses mitigation measures included in the City's General Plan," the potential loss of agricultural land due to General Plan implementation was acknowledged in the General Plan Final Program EIR (GPEIR) as significant and unavoidable. The GPEIR (Page 5.8-10) states that, "[s]ince the feasible mitigation measures that are available to reduce the impact to loss of farmland within the planning

area are not consistent with the project objectives and land uses of the General Plan alternatives, no mitigation measure is proposed and the impact will be significant and unavoidable.” Certification of the GPEIR required the City to adopt overriding considerations in regard to all impacts determined significant and unavoidable, including the potential for loss of agricultural lands. On this basis, the Project’s Initial Study correctly concluded that the Project would not have the potential to result in significant impacts beyond those already addressed in the City’s GPEIR. Because the Project’s potential impacts are less-than-significant in this regard, no mitigation is required. The commentor’s opinions to the contrary will be forwarded to decision-makers for their review. The results and conclusions of the Draft EIR are not affected.

#### Response FNSJ-4

The Draft EIR acknowledges the Project’s potential impacts in regard to long-term operational exceedance of SCAQMD standards for the emission of the criteria pollutants VOC (volatile organic compounds) and NO<sub>x</sub> (oxides of nitrogen). Despite the commentor’s assertions to the contrary, the Draft EIR addresses the Project’s potential to result in health risks relative to diesel emission exposure on Pages 4.3-79 through 4.3-86. As discussed at Draft EIR Page 4.3-84, with implementation of Mitigation Measure 4.3-10, which would be implemented to control on-site idling, the Project’s potential to expose sensitive receptors to substantial diesel emission-related pollutant concentrations were identified as less-than-significant. It may be noted that Mitigation Measure 4.3.5, as discussed in the Draft EIR (Page 4.3-62 *et al.*), specifically requires Project contractor(s) to ensure that all off-road heavy-duty construction equipment utilized during construction activity shall be CARB Tier 2 Certified or better. Additional mitigation is proposed within this Final EIR addressing operational and construction-source emissions (please refer to revised mitigation presented within the EIR Mitigation Monitoring Program, Final EIR Section 4.0. The commentor erroneously contends that “Since Highland Fairview Corporate Center Skechers project has been able to have 80 % of all off-road heavy-duty construction equipment utilized during construction activity certified as CARB Tier III or better, your project and analysis must do at least as well.”

There is no requirement that the Project implement a given mitigation measure simply because it was applied elsewhere. Such an approach discounts appropriate nexus between impacts and mitigation.

Response FNSJ-5

The commentor misrepresents and misstates the findings of the Draft EIR with regard to the potential significance of the Project's GHG emissions impacts and the Project's potential GCC impacts.

In the Draft EIR's analysis of cumulative impacts (Page 5-13 to 5-14), it is specifically noted that "[i]n regard to the emission of greenhouse gases, the Project's Climate Change Analysis indicated that with the implementation of all Project design features and mitigation measures, greenhouse gas emissions would be reduced, and that the Project is consistent with state strategies to reduce greenhouse gases, including the California Air Resources Board (CARB) Scoping Plan's recommended measures, and the greenhouse gas emission reduction strategies set forth in the 2006 Climate Action Team (CAT) report.

Therefore, the Project would not hinder or delay implementation of AB 32. On this basis, the Project's individual and cumulative impact on climate change is less-than-significant. With specific regard to a cumulative-level analysis of GCC impacts, it is acknowledged that climate change is a global issue and the contribution of each greenhouse gas generated by the Project may have a cumulative effect. As noted in these responses, *CEQA Guidelines* Section 15064(h) (4) importantly provides that . . . "[t]he mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable." Moreover, the EIR qualitative assessment of the Project's impacts based upon consistency with the CARB Scoping Plan and the 2006 CAT Report supports the conclusion that the Project's greenhouse gas emissions are not cumulatively considerable.

The commentor cites various GHG/GCC mitigation schemes, none of which are required in this case since the Project's GHG/GCC individual and cumulative impacts are less-than-significant. Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

#### Response FNSJ-6

The Lead Agency disagrees with the commentor's assertions regarding the adequacy of the Draft EIR's air quality analysis. Detailed analysis of the Project's potential air quality impacts are presented at EIR Section 4.3, "Air Quality." Supporting technical studies [*Westridge Commerce Center Air Quality Impact Analysis, City of Moreno Valley, California* (Urban Crossroads, Inc.), February 3, 2010; *Westridge Commerce Center Health Risk Assessment, City of Moreno Valley, California* (Urban Crossroads, Inc.), February 3, 2010; and *Westridge Commerce Center Climate Change Analysis, City of Moreno Valley, California* (Urban Crossroads, Inc.), February 3, 2010] specifically. The cited analyses address the direct, indirect, and cumulative impacts of the Project..

As detailed in the following responses FNSJ-7 through FNSJ-21, appropriate and enforceable mitigation of the Project's potentially significant individual and cumulative air quality impacts, including potential impacts related to global climate change, have been proposed within the Draft EIR. Appropriate mitigation measures have been carried forward into the Mitigation Monitoring Program included at Section 4.0 within this Final EIR. For each proposed mitigation measure, the MMP identifies: mitigation timing, the responsible mitigation implementation entity, the responsible mitigation monitoring/reporting entity, and mitigation monitoring/reporting frequency. In combination, these provisions act to ensure mitigation enforceability.

#### Response FNSJ-7

The Draft EIR describes, at considerable length (Pages 4.3-4 through 4.3-10), the criteria air pollutants referenced by the commentor, including the possible health effects that have led to the monitoring and control of these pollutants as part of the environmental



review process. With specific regard to commentor-expressed ozone concerns, the Lead Agency has adopted SCAQMD regional thresholds for the ozone precursors NO<sub>x</sub> and VOC. These thresholds are based on the highest level of permitted emissions, and exceedance of these thresholds indicates that mitigation measures should be applied, not that specific health or other environmental damage would occur. The Project applies all feasible mitigation measures to reduce potentially significant Project-related ozone precursor emissions (NO<sub>x</sub> and VOCs). Significant NO<sub>x</sub> and VOC impacts resulting from the Project (regional threshold exceedances) are summarized at DEIR Page 1-17, 1-18. The Project will not exceed applicable localized significance thresholds for NO<sub>2</sub> (DEIR at Page 4.3-61 et al.). The AQMD has not established localized significance thresholds for VOC emissions.

Project NO<sub>x</sub> and VOC emissions are predominantly generated by mobile sources beyond control of the Lead Agency and/or the Applicant [approximately 99.9 percent of Project NO<sub>x</sub> emissions (by weight) are from vehicles; approximately 92.5 percent of Project VOC emissions (by weight) are from vehicles). Even after compliance with SCAQMD rules and regulations, and the application of EIR mitigation measures, operational pollutant emissions would exceed applicable SCAQMD regional emission thresholds for VOC and NO<sub>x</sub>. These impacts are therefore considered to be individually significant. It is noted however, that the Project land use and proposed development are consistent with development and associated air pollutant emissions impacts reflected in and anticipated by the applicable Air Quality Management Plan (AQMP).].

The SCAQMD has established that impacts to air quality are significant if there is a potential to contribute or cause localized exceedances of the federal and/or state ambient air quality standards. Collectively, these are referred to as localized significance thresholds (LSTs). The additional potential secondary effects of ozone to plants and habitat cited by the commentor are noted. There is no demonstrable evidence or support indicating that the Project would cause or substantively contribute to adverse effects to plants or habitat, and to conclude otherwise is speculative.

Lastly, it is noted that the Project is consistent with the applicable Air Quality Management Plan (see EIR at Pages 4.3-49 through 4.3-53) indicating that it would not interfere with projected downward-trending ozone levels within the SCAQMD.<sup>5</sup>

The commentor also provides information regarding PM<sub>10</sub>/PM<sub>2.5</sub> characteristics. Applicable PM<sub>10</sub>/PM<sub>2.5</sub> thresholds are established by the SCAQMD. Potential effects of Project-related temporary localized construction-source PM<sub>10</sub>/PM<sub>2.5</sub> emissions impacts are discussed and disclosed in the EIR:

For modeling purposes, receptors were conservatively placed at a distance of 25 meters (approximately 82 feet) from the site, which is the most conservative distance recommended for use by the SCAQMD. As previously discussed, even with application of all feasible mitigation measures, localized PM<sub>10</sub> and PM<sub>2.5</sub> construction-source emissions will exceed applicable LSTs. More specifically, during construction activity (after mitigation), PM<sub>10</sub> emissions concentrations will exceed applicable LSTs at receptors located 71 meters (approximately 233 feet) or nearer, and PM<sub>2.5</sub> emissions concentrations will exceed applicable LSTs at receptors located 35 meters (approximately 115 feet) or nearer.

These LST exceedances represent a potentially significant impact to sensitive receptors in the Project vicinity for short-term construction activity. It is noted, however, that these exceedances would affect only one existing residence, located to the south of the Project site at 28855 Fir (future Eucalyptus) Avenue. Although parcels designated for residential land uses are present within the area of LST exceedance, they are largely

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<sup>5</sup>*Summary Of The Ozone Air Quality Forum and Technical Roundtable*(Frederick W. Lurmann Sonoma Technology, Inc. for the South Coast Air Quality Management District) January 2007, Pages 2-5, 2-6.

undeveloped. All other study area receptor locations (existing residences south of Eucalyptus (future Encilia) Avenue and north of SR-60, and area school sites) are well beyond the area of the Project's temporary LST exceedances for particulate matter.

It is noted that these exceedances would occur temporarily and intermittently during site preparation and grading processes, and would not substantively affect any receptors at greater distances from the emissions source. Moreover, in that construction emissions are short-term and intermittent, they will not result in any chronic or long-term impacts (Draft EIR, Page 4.3-75).

The Project will not result in or cause long-term exceedance of applicable SCAQMD localized and/or regional thresholds PM<sub>10</sub>/PM<sub>2.5</sub> emissions.

The commentor's opinions and statements will be forwarded to decision-makers for their review. Results and conclusions of the Draft EIR are not affected.

#### Response FNSJ-8

The commentor expresses concern about emissions from diesel trucks associated with the Project. A Health Risk Assessment (HRA) of Diesel Particulate Emissions was prepared to address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The HRA was prepared in accordance with the document *Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis* (SCAQMD 2003). The HRA is summarized within the Draft EIR (see Page 4.3-80) and presented in its entirety at Appendix C to the Draft EIR.

Contrary to the commentor's assertions otherwise, diesel and DPM emissions impacts are specifically evaluated and addressed in the DEIR (See DEIR at Pages 4.3-79 through 4.3-86, and the Project Health Risk Assessment (HRA) included at DEIR Appendix C.

Total anticipated trip generation of the Project, including a quantification of the types of vehicles expected to access the site, is identified at Draft EIR Table 4.2-6 (Page 4.2-19). This Table has been reproduced below for ease of reference.

**Table 4.2-6**  
**Westridge Commerce Center Trip Generation**

Project Description	AM Peak Hour			PM Peak Hour			Daily PCE
	Enter	Exit	Total	Enter	Exit	Total	
<i>High Cube Warehouse (937.260 thousand square feet)</i>							
Passenger Cars	26	22	47	22	34	56	729
Truck Trips (PCE):							
2-axle	5	4	9	4	7	11	145
3-axle	16	13	29	13	21	34	440
4+axle	57	48	105	48	76	124	1,616
Net Truck Trips (PCE)	78	65	143	65	104	169	2,201
<b>Total Trips (PCE)</b>	<b>104</b>	<b>87</b>	<b>191</b>	<b>87</b>	<b>139</b>	<b>225</b>	<b>2,930<sup>1</sup></b>

**Source:** *Westridge Commerce Center Traffic Impact Analysis* (Urban Crossroads) May 20, 2010 (Revised).

<sup>1</sup> 2,930 PCE trips = 1,585 net vehicle trips (the raw arithmetic number of truck and passenger vehicle trips) generated by the Project. It should be noted that because different classes of vehicles (e.g., passenger cars, light trucks, heavy duty trucks) exhibit differing emissions characteristics that for the purposes of quantifying and evaluating air quality impacts, vehicle trips are quantified and segregated by vehicle type. In comparison, the Project's traffic study evaluates the effects of traffic at intersections and roadways, and therefore presents the total vehicle trips in terms of Passenger Car Equivalents (PCEs), thereby recognizing and acknowledging physical size differences in vehicles and related effects on roadways and at intersections.

As indicated in this summary of the Project's trip generation, approximately 75 percent of the Project's daily trips, on average, will be attributable to trucks. As noted at Draft EIR Page 4.3-79, the Project Air Quality analysis assumed, in order to ensure a conservative analysis, that all trucks associated with the Project will be diesel-powered.

In that vehicle class and type directly affect DPM emissions, the Project HRA (please refer to DEIR Appendix C, Table 1, Project Truck Trips) also explicitly defines anticipated daily truck trips (by type) entering/exiting the Project site, as follows:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Regionally, the SCAQMD has conducted a cumulative analysis of the toxic air contaminants (including DPM emissions) and their resulting health risks for all of Southern California. This study, Multiple Air Toxics Exposure Study in the South Coast Air Basin, or MATES III, indicates the average excess cancer risk level from exposure to TACs is approximately 1,200 in one million basin-wide. These estimates were based on monitoring data collected at ten fixed sites within the South Coast Air Basin.

None of the fixed monitoring sites are within the immediate Project area. However, MATES III has extrapolated cancer risk levels throughout the Basin by using grid-specific modeling. In this regard, MATES III grid modeling predicted a cancer risk of 524 in one million for the Project area. DPM is included in this cancer risk along with all other TAC sources, and accounts for the predominance (83.6 percent) of the total risk shown in MATES III. The Project will not contribute cumulatively to TACs other than DPM, however, the Project DPM emissions levels are not significant. That is, as discussed in Section 4.3 of the Draft EIR, the SCREEN3 screening analysis prepared for the Project indicates that the maximally impacted modeled receptor would be exposed to a mitigated inhalation cancer risk of no more than 8.6 in 1 million, which is less than the SCAQMD exposure threshold of 10 in 1 million.

Though the Project DPM emissions would add to existing levels of DPM within the basin, the Project's contribution and associated MICR as mitigated is not individually significant and is not cumulatively considerable.<sup>6</sup>

Contrary to commentor assertions otherwise, baseline (setting) information is provided throughout the EIR. For example, general air quality setting information is presented at EIR Pages 4.3-10 through 4.3-16. Additional applicable specific baseline/setting information is also presented where it is beneficial to related discussions, e.g., the GCC Regulatory Setting is introduced at EIR Page 4.3-24 within the context of GCC/GHG considerations.

The commentor requests analysis of mobile-source DPM emissions for transient vehicles traveling along area roadways. With regard to air quality impacts generated by Project traffic along area roads, regionally significant NO<sub>x</sub> emissions impacts would result as disclosed in the EIR and discussed here. However, no locally significant operational air quality impacts would result from the Project. In this latter regard, the

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<sup>6</sup> [T]he AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR. The only case where the significance thresholds for project specific and cumulative impacts differ is the Hazard Index (HI) significance threshold for toxic air contaminant (TAC) emissions. The project specific (project increment) significance threshold is HI > 1.0 while the cumulative (facility-wide) is HI > 3.0. It should be noted that the HI is only one of three TAC emission significance thresholds considered (when applicable) in a CEQA analysis. The other two are the maximum individual cancer risk (MICR) and the cancer burden, both of which use the same significance thresholds (MICR of 10 in 1 million and cancer burden of 0.5) for project specific and cumulative impacts. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant (South Coast Air Quality Management District White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution, Appendix D, Page D-3).

Project Operational Localized Significance Threshold (LST) analysis considers potential worst case exposure by evaluating criteria pollutant concentrations at the Project site, which include pollutant emissions generated by all vehicles within the site in combination with emissions generated by stationary sources. As discussed in the Draft EIR, these emissions concentrations would not exceed applicable LST thresholds.

Draft EIR Table 4.3-12 (Page 4.3-69) presents the results of the Project operational LST analysis, indicating unmitigated conditions. As shown, results of the analysis indicate that long-term operational emissions will not exceed localized emissions thresholds established by the SCAQMD. Other operational mitigation measures presented in the EIR would act to further reduce already less-than-significant potential operational LST impacts.

Similarly, consistent with SCAQMD protocols and methodologies, the Project Health Risk Assessment considers maximum probable exposure to DPM concentrations, resulting from the entering, exiting and idling diesel vehicles within the Project site. Moreover, the analysis reflects long-term constant exposure (70 year, 24 hours per day) for residential receptors. With application of mitigation, even under this potential maximum exposure scenario, exposure to DPM concentrations would not exceed applicable SCAQMD thresholds (please refer to Draft EIR Table 4.3-17, Page 4.3-86).

As discussed in Section 4.3 of the Draft EIR, the SCREEN3 screening analysis prepared for the Project indicates that the maximally impacted modeled receptor would be exposed to a mitigated inhalation cancer risk of no more than 8.6 in 1 million, which is less than the SCAQMD exposure threshold of 10 in 1 million.

Regionally, the SCAQMD has conducted a cumulative analysis of the toxic air contaminants (including DPM emissions) and their resulting health risks for all of Southern California. This study, Multiple Air Toxics Exposure Study in the South Coast Air Basin, or MATES III, indicates the average excess cancer risk level from exposure to

TACs is approximately 1,200 in one million basin-wide. These estimates were based on monitoring data collected at ten fixed sites within the South Coast Air Basin.

None of the fixed monitoring sites are within the immediate Project area. However, MATES III has extrapolated cancer risk levels throughout the Basin by using grid-specific modeling. In this regard, MATES III grid modeling predicted a cancer risk of 524 in one million for the Project area. DPM is included in this cancer risk along with all other TAC sources, and accounts for the predominance (83.6 percent) of the total risk shown in MATES III. The Project will not contribute cumulatively to TACs other than DPM, and as noted above, the Project DPM emissions levels are not significant.

Though the Project DPM emissions would add to existing levels of DPM within the basin, the Project's contribution and associated MICR as mitigated is not individually significant and is not cumulatively considerable.<sup>7</sup>

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<sup>7</sup> [T]he AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR. The only case where the significance thresholds for project specific and cumulative impacts differ is the Hazard Index (HI) significance threshold for toxic air contaminant (TAC) emissions. The project specific (project increment) significance threshold is  $HI > 1.0$  while the cumulative (facility-wide) is  $HI > 3.0$ . It should be noted that the HI is only one of three TAC emission significance thresholds considered (when applicable) in a CEQA analysis. The other two are the maximum individual cancer risk (MICR) and the cancer burden, both of which use the same significance thresholds (MICR of 10 in 1 million and cancer burden of 0.5) for project specific and cumulative impacts. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant (*South Coast Air Quality Management District White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution*, Appendix D, Page D-3).



Response FNSJ-9

Despite the commentor's assertion to the contrary, the Project has addressed the Project's potential to expose sensitive receptors to substantial pollutant concentrations. The analysis included in the Draft EIR (Pages 4.3-73 to 4.3-86) addresses (1) the potential effects of construction-source emissions at sensitive receptors; (2) potential carbon monoxide (CO) hotspots; and (3) the health risks of diesel particulate emissions. A Health Risk Assessment was prepared to address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The Health Risk Assessment was prepared in accordance with the document Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis (SCAQMD 2003). The Health Risk Assessment is summarized within the Draft EIR (see Page 4.3-80) and presented in its entirety as Appendix C to the Draft EIR.

As discussed above, Project and cumulative diesel emissions impacts are less-than-significant. Project impacts in regard to CO "hotspots" are similarly determined less-than-significant; while temporary construction-source emissions are acknowledged as significant. Please refer also to DEIR Section 4.3, Air Quality and supporting technical air quality studies presented at DEIR Appendix C.

Response FNSJ-10

As discussed in the following responses FNSJ-15, FNSJ-16, and FNSJ-18 through FNSJ-20, additional mitigation has been incorporated through the Final EIR process, to ensure that the Project's air quality and global climate change impacts are lessened to the extent feasible. These revisions are reflected in Final EIR Section 2.0, "Revisions and Errata," as well as in the Mitigation Monitoring Plan presented in Final EIR Section 4.0. Inclusion of these measures does not materially or substantively affect analysis or conclusions of the DEIR. That is, impacts that were previously determined to be less-than-significant remain less-than-significant; and impacts that were previously determined to be significant remain significant.

Response FNSJ-11

The referenced citations are acknowledged and addressed at Response FNSJ-12. Additionally, it is noted that the Project's GHG emissions impacts (as presented at Draft EIR Page 4.3-90) is consistent with Section 15064.4 of the *Guidelines*.

Response FNSJ-12

Other agency approaches to evaluation and mitigation of GHG emissions impacts are noted. It is also noted that CEQA directives allow for each Lead Agency to evaluate and address GHG emissions impacts within the context of Section 15064.4 of the *Guidelines*. The EIR analysis of GHG emissions/GCC impacts (DEIR Pages 4.3-90 through 4.3-11; DEIR Appendix C, Project Climate Change Analysis) is consistent with Section 15064.4 of the *Guidelines*.

Response FNSJ-13

The commentor misinterprets analysis and conclusions provided in the Project GCC Analysis. More specifically, the commentor misstates that the EIR analysis concludes that *greenhouse gas emissions generated by the Project constitute a significant impact*.

Such is not the case, as evidenced in germane excerpted GCC discussions presented below:

**1.4 Summary of Findings**

Results of the analysis indicate that the Project would generate GHG emissions that *may* [emphasis added] have a significant impact on the environment. However, the Project is consistent with, or otherwise not in conflict with (1) recommended measures and actions in the California Air Resources Board (CARB) December 2008 Scoping Plan (CARB Scoping Plan) setting forth strategies and measures to implement in order to achieve the GHG reductions goals set forth in the Global Warming Solutions Act of 2006 (AB 32); and (2) the GHG emission reduction strategies set forth in the 2006 Climate Action Team

(CAT) Report, prepared in response to Executive Order S-3-05, which established total GHG emission targets for the State.

As such, the Project GHG emissions are not cumulatively considerable. Further, mitigation measures are required for the Project that would further reduce GHG emissions associated with the Project beyond what is calculated herein. This analysis takes no credit for such GHG emissions reductions. Thus, this analysis conservatively estimates the overall Project impacts on climate change from GHG emissions and the actual impacts will be less than what is calculated herein (Westridge Commerce Center Climate Change Analysis, Pages 1-2).

To further clarify, germane suggested CEQA Guidelines topical questions include:

Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that *may* [emphasis added] have a significant impact on the environment?

Language in the Project GCC study paraphrases and responds the Guidelines language. As also discussed in the Project GCC Study, it is likely that any GHG emissions reductions achieved locally and within the State will be offset by emissions increases in developing countries such as Brazil, Russia, India and China and that significant effects of climate change, such as global warming and sea level rise, will nevertheless occur due to the continuing effects of past and existing levels of emissions. In the absence of worldwide reduction commitments that are fully funded, any project level reduction measures cannot assure that significant effects on global temperatures and sea levels will be fully mitigated. That is, due to the potential global impacts [beyond the control of the Project] significant GCC impacts may occur even with implementation of the measures set forth in CARB's AB 32 Scoping Plan (see Climate Change Analysis, Page 42).

The commentor suggests alternative analysis/threshold considerations for evaluation of GCC/GHG impacts. Thresholds established in the Draft EIR are consistent with applicable provision of CEQA.

### **Findings and Recommendations**

As indicated in Section 15064(b) of the CEQA Guidelines, the determination of significance of greenhouse gases is not “ironclad;” rather, the “determination of whether a project may have a significant effect on the environment calls for careful judgment” by the City “based to the extent possible on scientific and factual data.” The City of Moreno Valley has not adopted a numeric threshold of significance for emissions of greenhouse gases. Nonetheless, the Project will not exceed the CARB or SCAQMD proposed quantitative thresholds. Therefore, Project GHG emissions impacts are considered less-than-significant (Draft EIR, Pages 4.3-93, 4.3-94).

Additionally, mitigation measures are required for the Project that would further reduce GHG emissions associated with the Project beyond what is calculated herein. The Draft EIR’s analysis takes no credit for such GHG emissions reductions. Thus, the Draft EIR’s analysis conservatively estimates the overall Project impacts on climate change from GHG emissions, and the actual impacts will be less than what is calculated in the Draft EIR and associated Westridge Commerce Center Climate Change Analysis, included as part of Draft EIR Appendix C.

### Response FNSJ-14

Despite the commentor’s statement to the contrary, the Draft EIR does not “assert that the Project would interfere with the goals of AB-32.” On the contrary, the Draft EIR notes (on Page 4.3-95) that “[t]he Project’s consistency with the AB 32 goals for reducing GHG emissions is assessed by determining whether the Project is consistent with or obstructs the 39 Recommended Actions identified by CARB in its Climate Change

Scoping Plan which includes nine Early Action Measures (qualitative approach). In addition, the analysis considers the numeric level of emissions generated by the Project to determine whether the emissions are cumulatively significant (quantitative approach).” Following a detailed presentation of the assessment criteria and analysis of the Project’s consistency with these criteria, the Draft EIR finds (on Page 4.3-109) that “a project that is consistent with CAT strategies is consistent with the strategies suggested to reduce California’s emissions to the levels proposed by Executive Order S-3-05 and AB 32, and therefore the Project will result in a less-than-significant cumulative impact on GCC.”

In regard to the Project’s “build-out” year, as discussed in the Draft EIR Project Description (Page 3-4), “construction is proposed to occur in one phase, with infrastructure and building construction following site preparation operations.” As such, the Project would be effectively “built out” in its opening year, which is identified as 2011, as discussed at Draft EIR Page 4.2-15.

#### Response FNSJ-15

As discussed in the following Responses FNSJ-16 and FSNJ-18 through FNSJ-20, additional mitigation has been incorporated through the Final EIR process, to ensure that the Project’s air quality and global climate change impacts are reduced to the extent feasible. These revisions are reflected in Final EIR Section 2.0, “Revisions and Errata,” as well as in the Mitigation Monitoring Plan presented in Final EIR Section 4.0. It is also noted that air quality mitigation measures presented in the EIR will peripherally act to reduce GHG emissions. However, since the Project’s potential GHG/GCC impacts are (individually and cumulatively) substantiated to be less-than-significant, specific mitigation of potential GHG/GCC impacts is not required. Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

## Response FNSJ-16

The commentor suggests that the Project should incorporate provisions for public transit, carpooling, and other measures as a means of reducing VMT and associated GHG emissions.

Mitigation Measure 4.3.13 has been revised, as indicated below, to include additional VMT/GHG emission reduction measures. For ease of reference, the text of this measure in its entirety is provided. Inclusion of these measures does not materially or substantively affect analysis or conclusions of the DEIR. That is, impacts that were previously determined to be less-than-significant remain less-than-significant; and impacts that were previously determined to be significant remain significant. Added measures are indicated as **underline bold italicized** font.

*4.3.13 GHG emissions reductions measures shall also include the following:*

- The Project shall provide secure, weather-protected on-site bicycle storage/parking. Bicycle storage parking/quantity and location shall be consistent with City of Moreno Valley requirements;*
- The Project shall provide pedestrian and bicycle connections to surrounding areas, consistent with provisions of the City of Moreno Valley General Plan. Location and configurations of proposed pedestrian and bicycle connections are subject to review and approval by the City. Prior to Final Site Plan approval, pedestrian and bicycle connections shall be indicated on the Project Site Plan;*
- **The Project shall provide onsite showers (one for males and one for females). Lockers for employees shall be provided.***
- Any traffic signals installed as part of the Project will utilize light emitting diodes (LEDs);*
- The Project will establish a Transportation Management Association (TMA). The TMA will coordinate with other TMAs within the City to encourage and coordinate carpooling among building occupants. The TMA will advertise its*

services to building occupants, and offer transit and/or other incentives to reduce GHG emissions. Additionally, a shuttle will be provided during any one hour period where more than 20 employees or construction workers utilize public transit. A plan will be submitted by the TMA to the City within two months of Project completion that outlines the measures implemented by the TMA, as well as contact information;

- The Project shall provide preferential parking for carpools and vanpool. Locations and configurations of proposed preferential parking for carpools and vanpools are subject to review and approval by the City. Prior to Final Site Plan approval, preferential parking for carpools and vanpools shall be delineated on the Project Site Plan;
- The Project shall provide at least two electric vehicle charging stations. Locations and configurations of proposed charging stations are subject to review and approval by the City. Prior to issuance of the first building permit, stub outs for charging stations shall be indicated on the Project building plans.
- Lease/purchase documents shall identify that tenants are encouraged to provide incentives to realize the following:
  - o Implementation of compressed workweek schedules;
  - o SmartWay partnership;
  - o Achievement of at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidated trips carried by SmartWay carriers until it reaches a minimum of 90 %of all long haul trips carried by SmartWay 1.0 or greater carriers.
  - o Achievement of at least 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers.

- o Use of fleet vehicles conforming to 2010 air quality standards or better.
- o Installation of catalytic converters on gasoline-powered equipment.
- o Inclusion of electric powered and/or compressed natural gas fueled trucks and/or vehicles in fleets;
- o Establishment and use of carpool/vanpool programs, complemented by parking fees for single-occupancy vehicles;
- o Provision of preferential parking for EV and CNG vehicles;
- o Use of electrical equipment (instead of gasoline-powered equipment) for landscape maintenance;
- o Use of electric (instead of diesel or gasoline-powered) yard trucks; and
- o Use of SmartWay 1.25 rated trucks.

Response FNSJ-17

As discussed on Page 3-16 of the Draft EIR:

“The Westridge Commerce Center Project reflects design and operational criteria established under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, a program developed by the United States Green Building Council. This program includes a rating system that can be applied to new construction as well as tenant improvement projects with performance goals in multiple environmental categories.

LEED certification is contingent, among other requirements, on demonstrated and documented conservation and efficient use of available resources. It is recognized that not all LEED performance standards are applicable or appropriate for the Project, and that different standards may



be utilized by the Project's end user(s). However, the Project, as a whole, will be developed as a LEED-certified facility.

In support of LEED-certification, resources conservation, reduction in energy consumption and associated reductions in air pollutant emissions and greenhouse gases (GHGs), the Project will achieve a minimum of 20 percent in energy efficiencies beyond incumbent Title 24 Energy Efficiency standards, as well as compliance with other applicable state and federal energy standards."

The ultimate level of LEED certification cannot be determined at this time, since the tenant(s) for the Project, and therefore specific environmental strategies to be employed at the facility, are unknown. It is also important to note that no significant impacts have been identified in regard to the energy conservation attributes of the Project; nor would any of the identified significant impacts of the Project be reduced based on a certain level of LEED certification.

#### Response FNSJ-18

The commentor proposes numerous additional measures (presented in the following Table) as means to reduce Project-related greenhouse gas emissions relative to energy consumption. While the suggested measures may in part act to generally reduce Project energy consumption, none of the measures are required in order to achieve the mitigation of impacts identified in the Draft EIR. That is, since the Project's potential GHG/GCC impacts are (individually and cumulatively) substantiated to be less-than-significant, specific mitigation of potential GHG/GCC impacts is not required. Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

Moreover, the commentor provides no indication as to the efficacy of the proposed measures in reducing Project impacts, nor is nexus provided between the proposed

measures and their implied environmental benefit vis-à-vis Project impacts. Certain other suggested “mitigation measures” proposed by the commentor replicate existing policies/requirements/regulations, and are not mitigation.

Additionally, in some instances, the commentor proposes measures that would further reducing environmental impacts that are already determined to be less-than-significant, or less-than-significant with application of measures already included in the Draft EIR. These measures proposed by the commentor are not included as mitigation, though the Lead Agency may impose these additional requirements; typically through Project Conditions of Approval.

Suggested Measure	Response
Analyzing and incorporating the U.S. Green Building Council’s LEED (Leadership in Energy and Environmental Design) or comparable standards for energy- and resource-efficient building during pre-design, design, construction, operations and management.	<b>Replicates existing requirements.</b> As discussed in the Draft EIR (Page 3-16), the Westridge Commerce Center Project reflects design and operational criteria established under the LEED Green Building Rating System.
Designing buildings for passive heating and cooling, and natural light, including building orientation, proper orientation and placement of windows, overhangs, skylights, etc.	
Designing buildings for maximum energy efficiency including the maximum possible insulation, use of compact florescent or other low-energy lighting, use of energy efficient appliances, etc.	
Reducing the use of pavement and impermeable surfaces.	<b>Replicates existing requirements.</b> As noted in the Draft EIR (Page 4.6-13), onsite bio-retention and detention basins, along with selected areas of pervious concrete and perimeter landscape areas are provided throughout the Project site. Additional detail is included in Draft EIR Appendix F, “Water Quality Management Plan.”

Suggested Measure	Response
Requiring water re-use systems.	<b>Replicates existing requirements.</b> The Project is reliant on the Eastern Municipal Water District (EMWD) for the provision of reclaimed water, as well as potable water. Nonetheless, as noted on Draft EIR Page 4.5-25, “[t]he Project will use non-potable water for irrigation to the extent that such water sources are available to the Project. In anticipation of reclaimed/recycled water availability, the Project will design and implement all irrigation systems per EMWD recycled water facilities standards.”
Installing light emitting diodes (LEDs) for traffic, street and other outdoor lighting.	<b>Replicates existing requirements.</b> Use of LEDs is currently required pursuant to EIR Mitigation Measure 4.3.13.
Limiting the hours of operation of outdoor lighting.	<b>Replicates existing requirements.</b> As stated on Draft EIR Page 3-17, the Project site is located within a 45 mile radius of Mt. Palomar Observatory. Consequently, the Project must comply with County Ordinance 655, which includes restrictions in regard to hours of outdoor lighting operations. See also: <a href="http://www.clerkoftheboard.co.riverside.ca.us/ords/600/655.htm">www.clerkoftheboard.co.riverside.ca.us/ords/600/655.htm</a>
Maximizing water conservation measures in buildings and landscaping, using drought-tolerant plants in lieu of turf, planting shade trees.	<b>Replicates existing requirements.</b> Project landscaping will be provided pursuant to the requirements of the Moreno Valley Municipal Code (Section 9.17.030), which specifies a variety of options to meet the drought tolerant needs of the area while ensuring an aesthetically pleasing landscape. Shade trees will be provided pursuant to the requirements of Municipal Code Section 9.17.050 subd. (d)(3).
Ensure that the Project is fully served by full recycling and composting services.	<b>Replicates existing requirements.</b> As noted on Draft EIR Page 3-14, “[p]rior to issuance of a grading permit, the Project will have in place a City approved Solid Waste Diversion and Recycling Plan that demonstrates the diversion and recycling of all salvageable and re-useable wood, metal, plastic and paper products used during Project construction. A similar plan will be in place prior to occupancy that demonstrates the diversion and recycling of all wood, metal, plastic and paper products during ongoing operation of the warehouse and office portions of the Project. The plans will include the name of the waste hauler, their assumed destination for all waste and recycled materials, and the procedures that will be followed to ensure implementation of this measure.
Ensure that the Project’s wastewater and solid waste will be treated in facilities where greenhouse gas emissions are minimized and captured.	<b>Not required.</b> As discussed in the Draft EIR (Pages 3-21 and 3-22), treatment of the Project’s wastewater and solid waste will be accomplished by regional providers (i.e., Eastern Municipal Water District and Waste Management of the Inland Empire), and is outside the control of the Applicant and the City of Moreno Valley.

Suggested Measure	Response
Installing the maximum possible photovoltaic array on the building roofs and/or on the project site to generate all of the electricity required by the Project, and utilizing wind energy to the extent necessary and feasible	<b>Not required.</b> As currently noted under EIR Mitigation Measure 4.3.11: "All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design." There is no requirement or demonstrated nexus requiring full offset of Project electrical consumption through use of photovoltaics or "wind energy."
Installing solar water heating systems to generate all of the Project's hot water requirements.	
Installing solar or wind powered electric vehicle and plug-in hybrid vehicle charging stations to reduce emissions from vehicle trips.	

Response FNSJ-19

As discussed in the preceding Response FNSJ-18, the commentor's suggested mitigation measures to reduce Project impacts in regard to construction activities are addressed in the following table. It is again noted that since the Project's potential GHG/GCC impacts are (individually and cumulatively) substantiated to be less-than-significant, specific mitigation of potential GHG/GCC impacts is not required. Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

Suggested Measure	Response
Utilize recycled, low-carbon, and otherwise climate-friendly building materials such as salvaged and recycled-content materials for building, hard surfaces, and non-plant landscaping materials.	<b>Not required.</b> Consistent with the Project's pursuit of LEED accreditation, the recommended building materials will be utilized to the extent available and feasible.
Minimize, reuse, and recycle construction-related waste.	<b>Replicates existing requirements.</b> As noted in the Draft EIR (Page 3-5), "[a]ny residual materials resulting from site preparation processes will be appropriately disposed of and/or recycled in accordance with the City's Source Reduction and Recycling Element (SRRE)."

Suggested Measure	Response
Minimize grading, earth-moving, and other energy-intensive construction practices.	<b>Not required, no nexus with significant impacts.</b> The Project will not cause or result in individually or cumulatively significant GHG/GCC impacts. There is no requirement to reduce construction-source GHG emissions. Moreover, within the context of Project-specific requirements (e.g., placement of structures approximately 25 feet below the existing grade of SR-60, and proper fill and re-compaction procedures to ensure proper foundation support, consistent with the recommendations of the Project Geotechnical Investigation, included as Draft EIR Appendix H), construction contractor(s) employ techniques and procedures so as to provide for the most efficient use of earth-moving and grading equipment as a matter of course.
Landscape to preserve natural vegetation and maintain watershed integrity.	<b>Replicates existing requirements.</b> Landscape improvements will be provided for the Project as required under the City's Zoning Code Section 9.17, "Landscape Requirements." To minimize risk of invasive non-native plants entering into the riparian habitat along the Quincy Channel, the Project includes mitigation (Measure 4.8.3) that prohibits the use of invasive non-native plant species within 150 feet of the Channel.
Utilize alternative fuels in construction equipment and require construction equipment to utilize the best available technology to reduce emissions.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8.

Response FNSJ-20

As discussed in the preceding Response FNSJ-19, the commentor's suggested mitigation measures to reduce Project impacts in regard to transportation are addressed in the following table. It is again noted that since the Project's potential GHG/GCC impacts are (individually and cumulatively) substantiated to be less-than-significant, specific mitigation of potential GHG/GCC impacts is not required. Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

Suggested Measure	Response
Encourage and promote ride sharing programs through such methods as a specific percentage of parking spaces for ride sharing vehicles.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13.

Suggested Measure	Response
Create a car sharing program within the planned community.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13.
Create a light vehicle network, such as a neighborhood electric vehicle (NEV) system.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13.
Provide necessary facilities and infrastructure to encourage residents to use low or zero-emission vehicles, for example, by developing electric vehicle charging facilities and conveniently located alternative fueling stations.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13.
Provide a shuttle service to public transit within and beyond the planned community.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13.
Incorporate bicycle lanes and routes into the planned community's street systems.	<b>Replicates existing requirements.</b> The Project is required to provide pedestrian and bicycle connections to surrounding areas consistent with provisions of the City of Moreno Valley General Plan pursuant to the existing Mitigation Measure 4.3.13. This measure notes that the location and configurations of proposed pedestrian and bicycle connections are subject to review and approval by the City. Prior to Final Site Plan approval, pedestrian and bicycle connections shall be indicated on the Project Site Plan.

Response FNSJ-21

The commentor suggests that carbon offsets be purchased to address “remaining [greenhouse gas] emissions that cannot be eliminated.” It is again noted that since the Project’s potential GHG/GCC impacts are (individually and cumulatively) substantiated to be less-than-significant, specific mitigation of potential GHG/GCC impacts is not required. Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

Response FNSJ-22

The Lead Agency disagrees with the commentor’s assertions regarding the adequacy of the Draft EIR’s analysis of alternatives. As further presented in the *CEQA Guidelines* Section 15126.6, subd. (a), an EIR need not consider every conceivable alternative, but rather, the discussion of alternatives and their relative merits and impacts should be provided in a manner that fosters informed decision-making and public participation.

To this end, the *CEQA Guidelines* indicate that the range of alternatives selected for examination in an EIR should be governed by “rule of reason,” and requires the EIR to set forth only those alternatives necessary to permit an informed decision. Consistent with the provisions of the *CEQA Guidelines*, the Draft EIR’s analysis of a No Project/No Build Alternative, a No Project/Existing Zoning Alternative, and a Reduced Intensity Alternative present a “reasonable range” of alternatives to the Project that would potentially lessen its environmental effects while allowing for attainment of most Project objectives.

The commentor’s suggestion that “[t]he EIR should consider an alternative that relies more on higher-density mixed commercial/residential development projects on existing disturbed lands” is inconsistent not only with the Project objectives, but with the site’s existing General Plan land use designation and zoning. Additionally, it is unclear that such an alternative would result in a lessening of the Project’s environmental effects, particularly since commercial uses typically generate considerably higher average daily rates of traffic per square foot than light industrial uses, with correlating increases in air emissions. See for example Trip Generation 7<sup>th</sup> Edition (Institute of Traffic Engineers) trip generation rate for Specialty Retail (ITE Code 814), 44.32 trips/thousand square feet; vis-à-vis the Project trip generation rate of 3.12 trips/thousand square feet. On a related note, the EIR specifically considers a “No Project” alternative which assumes development consistent with site’s current Business Park zoning designation. As with the mixed use concept proposed by the commentor, substantially increased trip generation could be expected if developed with business park uses when compared to industrial uses proposed under the Project.

In this regard, for Traffic Analysis Zone (TAZ) 209 encompassing the Project site, the General Plan Buildout traffic model reflects development of the subject site with Business Park/Light Industrial uses, and projects approximately 4.18 times the trip generation for TAZ 209 than would otherwise be generated by logistics/distribution warehouse uses such as those proposed under the Project. The No Project Alternative considered

herein approximates trip generation for the subject site under the General Plan Buildout Scenario at four (4) times that of the Project (Draft EIR, Page 5-32).

Based on the preceding, the commentor's suggested alternative concept fails as feasible alternative to the Project, and does not merit further analysis as part of the Project EIR.

In regard to the question of whether the Project could be accommodated elsewhere, the Draft EIR addresses, at length, the possible alternative sites that were considered as part of the review of Project alternatives (this discussion is found beginning on Draft EIR Page 5-37). As stated in the *CEQA Guidelines*, Section 15126.6 subd. (f)(1)(2)(A), the "key question and first step in [the] analysis [of alternative locations] is whether any of the significant effects of the project would be avoided or substantially lessened by putting the Project in another location."

An alternative site within the City would be considered generally viable if it were located along a regional freeway transportation corridor or at a regional transportation hub; was also locally accessible; was underutilized and currently available; could be developed and operated in a manner that was compatible with other proximate land uses; and was provided, or could feasibly be provided, adequate serving utilities infrastructure. Also supporting location of the Project elsewhere, an Alternative Site should have an appropriate size and configuration (approximately 50 acres and roughly rectangular); and either exhibit appropriate General Plan and Zoning designations or could be feasibly so-designated.

Only locations that would avoid or substantially lessen significant effects of the Project need be considered. To this end, four (4) possible alternative sites were located, as follows:



- Alternative Site 1: 70 acres located between Perris Boulevard and Grove View Road, and south of Indian Avenue to the southern City limits (APNs 316-210-071, -073, -075 and -076);
- Alternative Site 2: 92 acres located between Heacock Street and Indian Street, south of Cardinal Avenue and north of San Michele Road (APNs 316-180-010, 316-170-001, -002, -004, -006, -007, -008, -010, -013, and -014);
- Alternative Site 3: 72 acres located west of Indian Street between Iris Avenue and Krameria Avenue (APNs 316-020-002, -003, -004, -005, -012, -013, -014, -015, -016, -017, -018 and -019); and
- Alternative Site 4: Approximately 69 acres located at the southeast corner of Heacock Street and Iris Avenue (APNs 316-020-001, -006, -007, -028, and -010).

Each of the four (4) sites is currently vacant; is more than 50 acres in size and of a roughly rectangular configuration; is zoned for industrial use; and is adequately served by nearby utilities and infrastructure. Further, Alternative Sites 1 through 4 are proximate to the I-215 regional transportation corridor, and are also locally accessible. Notwithstanding, these sites are all currently unavailable. Alternative Site 1 currently has applications under review for a 1.6 million square foot warehouse distribution facility, while development plans have been submitted and approved for sites 2, 3 and 4.

Other potentially suitable and available properties are located easterly of the current Project site, along the SR-60 corridor. For the purposes of the Alternative Site analysis, the vacant property located southeasterly of the intersection of SR-60 at Theodore Street was selected for analysis, and is identified as Alternative Site 5 (shown in Figure 5.2-2 of the Draft EIR). This property exhibits an appropriate Business Park/Light Industrial General Plan Land Use designation; is of adequate size and is appropriately configured; and is provided access to regional and local roadways. Utilities and services are generally available to the site. The site appears to be available for purchase; however, it

is not currently owned or controlled by the Project Applicant, and a zone change from “Business Park” to “Light Industrial,” would be required, similar to the change of zone requested by the Project.

Although development of the Project on Alternative Site 5 could achieve the Project’s objectives, none of the Project’s potentially significant impacts would be avoided or substantially reduced. Because Alternative Site 5 would not result in the avoidance or substantive reduction of Project-related impacts, this Alternative Site was also rejected from further consideration within the Draft EIR.

The commentor’s states that “[t]he Westridge Commerce Center does not have a tenant and the Project proponent does not plan to build the Project until they do. They already have at least one warehouse that sits empty.” No specific tenant(s) for the Project are currently under contract. Results and conclusions of the EIR are not affected.

The Draft EIR (on Pages 5-49 to 5-62) does provide a comparative analysis of the potential impacts of each alternative in regard to greenhouse gas emissions, biological resources, water supply, water quality, and traffic. As required under *CEQA Guidelines* Section 15126.6, subd. (d), this evaluation includes “sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.”

#### Response FNSJ-23

The City disagrees with the commentor’s assertion that “the Draft EIR avoids an actual on the ground biological resource impact assessment.” Draft EIR Appendix G presents the Biological Resources Survey prepared for the Project, which consists of the following surveys and analysis, conducted throughout the Project area:

- General biological assessment of Project site and nearby off-site areas that could be affected by utility and circulation system improvements, as identified in the following Figure 4.8-1;

- General plant and wildlife surveys;
- Habitat assessment to examine potential for special status plant species;
- Habitat assessment to examine potential for special status wildlife species;
- Habitat assessment for burrowing owl (*Athene cunicularia*), following the recommendations of the California Department of Fish and Game, the burrowing owl survey protocol (CBOC 1993), and the Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP) Section 5.3.2 and MSHCP burrowing owl survey instructions; and
- A jurisdictional delineation, which was prepared pursuant to the requirements of the California Department of Fish and Game and the Army Corps of Engineers.

As further discussed in the Draft EIR (Page 4.8-14), “[p]ayment of the mitigation fee and compliance with the requirements of the MSHCP are intended to provide full mitigation under CEQA, although certain areas within the MSHCP boundaries require additional surveys to determine the presence or absence of specific MSHCP-covered resources, including sensitive plants, burrowing owls, and riparian or riverine areas.” Although focused surveys for threatened, endangered and sensitive plant and wildlife species were not conducted as part of the Project’s general Biological Assessment, protocol surveys were subsequently performed to determine the presence or absence of burrowing owls within areas of potential disturbance. The *Report on Burrowing Owl Surveys for the West Ridge Project Site* (Harsmworth Associates, July 2009) is also included in Draft EIR Appendix G.

In addition, implementation of Draft EIR Mitigation Measure 4.8.7, included in the Mitigation Monitoring Program presented in Final EIR Section 4.0, will ensure that a pre-construction survey be conducted to document the location of any occupied burrows on-site. With the implementation of this mitigation measure, as well as compliance with the requirements of the MSHCP, the Project’s potential to impact burrowing owls is reduced to a less-than-significant level.

The City of Moreno Valley's current schedule of non-residential impact fees indicates that the Project would be subject to an MSHCP fee of \$6,597 per acre, and an additional \$500 per acre SKR (Stephens' kangaroo rat) mitigation fee. On this basis, the Project would contribute approximately \$390,335 to meet its fair-share responsibility for regional plant and wildlife impacts. The amount collected by the City for wildlife mitigation to date, along with the effectiveness of such fee collections, is outside the scope of the Project's environmental analysis. The Draft EIR (Page 4.8-31) notes that "[t]he Project Biological Resources Assessment includes a discussion of MSHCP compliance, and determines that the Project 'is in full compliance with the Western Riverside County MSHCP, assuming the focused burrowing owl surveys are conducted in spring 2009.' These surveys were conducted in July 2009, and found no burrowing owls or evidence of their occupation on-site. This species has not been recorded within the Project area in the past and is presumed absent from the site. As such, the Project is in compliance with the MSHCP." The results and conclusions of the Draft EIR are not affected.

#### Response FNSJ-24

The commentor requests receipt of future information regarding the Project, and as such, has been added to the Project distribution list at the referenced address. A copy of the Project's Final EIR has also been provided to the commentor, as requested.

#### Response FNSJ-25

The commentor lists numerous publications and resources exhibits incorporated by reference. With the exception of certain web-linked publications, exhibits listed "as incorporated by reference" have not been provided. Nor has their disposition, availability, or specific relevance been otherwise identified.

From: sgcricket@aol.com  
Sent: Monday, December 06, 2010 3:20 PM  
To: Jeffrey Bradshaw  
Subject: Western Ridge Commerce Center DEIR

Comments Regarding: West Ridge Commerce Center  
From: Susan Gilchrist

The project under consideration requires a zoning change from Business Park to Light Industrial. It is my understanding that this is a speculative project and there is no tenant identified. This presents a problem for the residents of the eastern portion of the City. There are currently many unoccupied warehouse buildings on Cactus and along the 215 as well as many in other Inland Empire cities. The only logical reason for presenting this project at this time is to "ride the coattails" of Highland Fairview/Skechers and get approval for another megalithic structure. Since the City permitted a building 36 times the size of the General Plan recommendation, what will prevent the Council from approving another oversized structure? The only solution will be to retain the General Plan and wait for the economy to improve so that the long range goals of a diverse job base can be reached.

SG-1

Ten to fifteen years ago, business park zoning was successful and in the future it will be that way again. If zoning changes could be reversed, this would be more acceptable, but they are not. It will never revert to Business Park zoning from Light Industrial and the vision of the eastern portion of the City will be changed forever. Those driving through Moreno Valley will think the City consists of warehouses and sound walls...how attractive!

Questions for the developer:

1. Is this a speculative project or is there a tenant ready to occupy a 900,000 sq ft building?

SG-2

2. What benefit is there to the residents and the City for approving a zone change at this time?

SG-3

3. Why is the City moving away from the General Plan without bringing the entire process back to the residents? Moreno Valley seems to be willing to accept anything offered rather than have high standards and long range goals. The desperation is obvious and not very reassuring. Surrounding cities of Temecula, Murrieta, Menifee, Riverside, and Redlands are constructing buildings with more style and substance than is seen in Moreno Valley. These cities are attracting a variety of businesses while our City accepts the dregs.

SG-4

4. Should the Council change the zoning, will the property be sold to another developer?

SG-5

5. As a condition for the zone change, will the developer be willing to put an appropriate buffer of 1500 feet on the south side of Fir and develop it as a City park with a block wall on the north side of the park?

SG-6

6. Could the traffic flow from both Skechers and Western Ridge be restricted from Redlands Blvd?

SG-7

7. Will the building be constructed to LEEDS standards to include reinforcing the roof and installing solar panels? Will the LEEDS standards equal or exceed the Highland Fairview/Skechers building? Will the developer be conditioned to lower the building so that views will be preserved?

SG-8

8. What restrictions in hours of operation will be enforced? Will trucks move during daylight hours, night hours or both? How many trucks are estimated to use the facility?

SG-9

Sincerely,  
Susan Gilchrist

SUSAN GILCHRIST

Email dated December 6, 2010

Response SG-1

The commentor correctly notes that approval of the Westridge Commerce Center Project would involve a change of zone for the Project site, from Business Park to Light Industrial. The commentor's opinions regarding the proposed zone change will be forwarded to decision-makers for their consideration.

Response SG-2

The commentor inquires: "Is this a speculative project or is there a tenant ready to occupy a 900,000 square foot building?" At this time, no specific tenant(s) for the Project are under contract.

Response SG-3

The commentor inquires: "What benefit is there to the residents and the City for approving a zone change at this time?" The benefits of a project are not germane to an EIR pursuant to CEQA. Nevertheless, certain potential benefits to the residents and the City are reflected in the Project Objectives. More specifically, as noted at Draft EIR Page 3-4, the Primary Objectives of the Project as identified by the Project Applicant include the following:

- Transition the existing site into a productive use;
- Provide jobs-producing, light industrial uses to the City of Moreno Valley and local community; and
- Increase economic benefits to the City of Moreno Valley through increased tax generation and job creation.

Response SG-4

The commentor inquires: “Why is the City moving away from the General Plan without bringing the entire process back to the residents?” The commentor offers opinions on City development review and approval processes, and the character of local and regional development.

As discussed in the Draft EIR (Pages 4.1-6 through 4.1-9), implementation of the Project would not propose or require a change in the Project site’s General Plan land use designation. The commentor’s opinions in regard to the City’s approval process and the character of local and regional development will be forwarded to decision-makers for their consideration.

Response SG-5

The commentor inquires: “Should the Council change the zoning, will the property be sold to another developer?” Should the Project be approved, it is the applicant’s intention to develop the site as proposed. However, there are no restrictions to prohibit the sale of the subject property. It may be noted that, regardless of ownership, Project-specific mitigation measures and other applicable regulations relative to the Project’s construction and operations, including those identified in the Draft EIR, would remain in force.

Response SG-6

The commentor inquires: “As a condition of the requested zone change, will the developer be willing to put an appropriate buffer of 1,500 feet on the south side of Fir (future Eucalyptus) Avenue and develop it as a City park with a block wall on the north side of the park?” As a point of clarification, the requested zone change cannot be lawfully conditioned as suggested. Moreover, there is no codified requirement or environmental impact nexus that would require or suggest a 1,500 setback or the creation of a park southerly of the Project site. The commentor’s remarks are forwarded to the decision-makers for their consideration.

Response SG-7

The commentor inquires: "Could the traffic flow from both Skechers and Western Ridge [the proposed Westridge Project] be restricted from [using] Redlands Boulevard?" Direct and practical access to the Project site is provided via Redlands Boulevard, located less than one-quarter mile easterly of the Project site. The Project provides all necessary improvements to mitigate its direct traffic impacts affecting Redlands Boulevard to levels that are less-than-significant. Additionally, appropriate mitigation is provided for all potentially significant cumulative traffic impacts affecting Redlands Boulevard.

Opening Year access to and from the SR-60 to the Westridge Project site was assumed to utilize Redlands Boulevard exclusively. The Project TIA (included as Draft EIR Appendix B) does account for the fact that, upon the development of Eucalyptus Avenue to the ultimate configuration identified in the Moreno Valley General Plan Circulation Element, Project-related traffic could also access the SR-60 at Moreno Beach Drive.

Redlands Boulevard is a designated truck route in the County and a direct route to San Timoteo Canyon Road through Redlands (also designated as a truck route). It is appropriate for Redlands Boulevard to convey Project-related and area truck traffic. To maintain the continuity between affected agencies, the truck route designation for Redlands Boulevard cannot be practically removed. Moreover, there is no feasible means to restrict Redlands Boulevard to local truck trips only, given its direct connection, with no alternative routes, to the previously mention roadways. Further, there is no suggested or demonstrated environmental benefit that would result from restricting use of Redlands Boulevard by Project traffic. The commentor's remarks are forwarded to the decision-makers for their consideration.



Response SG-8

The commentor inquires: “Will the building be constructed to LEED standards to include reinforcing the roof and installing solar panels? Will the LEEDS standards equal or exceed the Highland Fairview/Skechers building? Will the developer be conditioned to lower the building so that views will be preserved?” Similar to the recently approved Highland Fairview/Skechers project, the Westridge Commerce Center will be built to LEED standards. The following discussion at Draft EIR Page 3-16 is presented here for ease of reference.

The Westridge Commerce Center Project reflects design and operational criteria established under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, a program developed by the United States Green Building Council. This program includes a rating system that can be applied to new construction as well as tenant improvement projects with performance goals in multiple environmental categories.

LEED certification is contingent, among other requirements, on demonstrated and documented conservation and efficient use of available resources. It is recognized that not all LEED performance standards are applicable or appropriate for the Project, and that different standards may be utilized by the Project’s end user(s). However, the Project, as a whole, will be developed as a LEED-certified facility.

In support of LEED-certification, resources conservation, reduction in energy consumption and associated reductions in air pollutant emissions and greenhouse gases (GHGs), the Project will achieve a minimum of 20 percent in energy efficiencies beyond incumbent Title 24 Energy Efficiency standards, as well as compliance with other applicable state and federal energy standards.”

The ultimate level of LEED certification cannot be determined at this time, while the tenant and therefore specific environmental strategies to be employed at the facility, are unknown. It is also important to note that no significant impacts have been identified in regard to the energy conservation attributes of the Project; nor would any of the identified significant impacts of the Project be reduced based on a certain level of LEED certification. There is no requirement that LEED standards implemented by the Highland Fairview/Skechers development be similarly implemented by the instant Project.

As further described in the Aesthetics section of the Draft EIR (Page 4.9-11) and illustrated in Draft EIR Figure 4.9-3, the Project's building foundation is planned to be located approximately 25 feet lower in elevation than the existing elevation of SR-60. Substantial reduction of the height of the building is considered infeasible, since the facility's height is largely dictated by the logistics use, and the need to provide standard "dock-high" bays for the loading and unloading of trucks." The high-cube warehouse building height concept defines the viability of its internal operations, which are realized through closely-consolidated and easily-accessible warehoused goods, and use of efficient, high-lift material handling equipment.

In another context, in order to accommodate the same volume of warehoused goods and logistics traffic, the floor area of a 45-foot high warehouse would have to be increased by a minimum of 80 percent if reconfigured for example as a 25-foot high structure. In the case of the Westridge Project, the currently proposed approximately 940,000 square foot building would have to be at least 1.7 million square feet in size in order to accommodate a comparable volume of warehoused goods. This increase in area does not even account for necessary additional internal aisle ways, utilities, service areas, vestibules, etc. Moreover, if constructed as a substantively larger but lower building footprint there would be substantial additional construction costs, expanded areas of disturbance, increased infrastructure costs, and decreased operational/energy efficiencies associated with such a large building footprint.

Response SG-9

The commentor inquires: "What restrictions in hours of operation will be enforced? Will trucks move during daylight hours, night hours or both? How many trucks are estimated to use the facility?" As noted in the Draft EIR (Page 3-4), "[f]or the purposes of the EIR analysis, the Project is assumed to be operational 24 hours per day, seven (7) days per week, except as may be otherwise limited by applicable codes or regulations." Estimated opening-year average daily Project-generated truck trips ingressing/egressing the Project site include:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions as presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).



**HIGHLAND FAIRVIEW**

14225 Corporate Way  
Moreno Valley, CA 92553  
Tel: 951.867.5300

December 6, 2010

Mr. Jeff Bradshaw  
Associate Planner  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, CA 92553

SUBJECT: Westridge Commerce Center – Comments on Draft EIR

Dear Jeff,

Highland Fairview has reviewed the Draft EIR and is concerned with the manner in which the document addresses a number of environmental issues. As you know, the city imposed numerous mitigation measures and conditions of approval on the Highland Fairview Corporate Park (HFCP) project many of which are not applied to this project, despite the similarities of the two projects. Among these issues are air quality, water quality, freeway landscaping treatment, architectural design, sustainability, hazardous materials, biology, global climate change and many other environmental areas.

To address these concerns, we request a meeting with the City planning, traffic and engineering departments to review the proposed mitigations included in the Draft EIR. We are particularly concerned about the following subject areas:

1. The project's contribution to improvements to SR60 mainline and interchanges.
2. The project's contribution to improvements on Redlands Boulevard. HF has other projects in the area and insufficient improvements by this project should not be allowed.
3. Architectural standards and design comparable to that of the HFCP Skechers building should be articulated from the freeway.
4. The landscape treatment of the interface between the project and SR60 should be comparable to that required by the City for HFCP and should be consistent.
5. The need for a significant commitment from the project to address the visual relationship between the project and the SR60. For example, the HFCP project was lowered 25 feet so that its visual impact could be softened.

HF-1

We request a meeting with City staff as soon as possible to address these concerns.

Sincerely,

Wayne Peterson  
Vice President, Community Planning

## HIGHLAND FAIRVIEW

Letter Dated December 6, 2010

### Response HF-1

The subject line of this letter indicates that it contains comments on the Westridge Commerce Center Draft EIR; however, these comments do not appear to be intended to address the Draft EIR's technical analysis or findings. Instead, the comments focus on the Westridge Commerce Center's "contribution to improvements," and express concerns regarding the equity of mitigation between the Westridge Commerce Center Project and the recently approved Highland Fairview Project (a 2.6 million-square-foot light industrial/commercial development located south of SR-60 east of Redlands Boulevard). A meeting with City staff is requested "to address these concerns."

On this basis, specific technical responses are not warranted. Mitigation for the Project's potential impacts was included in the Draft EIR, and is detailed in the Project's Monitoring Program, provided in Final EIR Section 4.0. Further, the Project's architectural compatibility with City design standards, and with the Highland Fairview project, is addressed on Draft EIR Page 4.9-6.

The commentor's concerns will be forwarded to decision-makers, as requested. City staff will be pleased to meet with the commentor to discuss their concerns.

Raymond W. Johnson, Esq. AICP  
Carl T. Sedlack, Esq., *Retired*  
Abigail A. Broedling, Esq.  
Kimberly Foy, Esq.  
Sarah Krejca, Esq.

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December 3, 2010

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

VIA U.S. MAIL

**RE: Draft Environmental Impact Report for Westridge Commerce Center, State Clearinghouse No. 2009101008.**

Greetings:

This firm submits the following comments on behalf of Residents for a Livable Moreno Valley, the Moreno Valley Group of the Sierra Club, and area residents after reviewing the Draft Environmental Impact Report.

**General Comments:**

The California Environmental Quality Act ("CEQA") was adopted as a disclosure and transparency document. The theory is that by providing a document that adequately describes the environmental consequences of a project to decision makers and the public, the decision makers will make a rational decision based upon the true environmental consequences of the project and if they do not, the electorate can hold them accountable for their decisions. The core of this statutory structure is the adequacy of the document as an informational document.

Unfortunately, the **DEIR for this Project fails as an informational document** as it fails to adequately and accurately consider cumulative impacts throughout the document. The DEIR also misleads decision makers and the public as to the extent and severity of the Project's environmental impacts. The DEIR is often conclusory and does not provide the analysis required by CEQA to inform the public and decision makers of the analytical pathway taken from facts to conclusion. This includes often omitting to provide the information required to properly assess impacts.

Moreover, CEQA requires that where feasible mitigation exists which can substantially lessen the environmental impacts of a project, **all feasible mitigation must be adopted.** In this way

JS-1

CEQA goes beyond its informational role to require that projects substantively lessen their negative effects on the environment. It is critical to proper drafting of an EIR that all feasible mitigation measures be required of a project. This has not been done with this Project. Moreover, all mitigation measures required in the EIR must be fully enforceable and certain to occur. This Project fails to ensure that all feasible mitigation will occur with this Project and instead provides vague, uncertain, and unenforceable approximations of mitigation measures. The Project is also inconsistent with the City of Moreno Valley General Plan. This is unacceptable.

JS-1  
(cont'd)

**Project Overview:**

The Westridge Commerce Center is a proposal, sponsored by ProLogis, for the construction of a 937,260 sq. ft. warehouse-distribution facility on approximately 54.66 acres of mostly undeveloped agricultural land located on the north side of Eucalyptus Avenue, west of Redlands Boulevard, near the SR-60/Redlands Boulevard interchange. The project will include approximately 173 loading docks and 14,000 square feet of office space to be divided between the southeast and southwest corners of the building. The future occupants and uses of the property are unknown at this time.

The project would require the removal of approximately 70,000 cubic yards of soil. The project would require the discretionary approval of a zone change (City Case # PA08-0098) from business park to light industrial. The project would also require an amendment to City of Moreno Valley Municipal Code section 9.05.020 B (City Case # PA10-0017) [Light Industrial Districts] due to the Project sites adjacency to residentially-zoned property and approval of Tentative Parcel Map No. 36207 (City Case # PA09-023). Adjacent to the project site is SR-60 to the north and Eucalyptus Avenue to the south. Properties to the south of the project are zoned Rural Residential (“RA-2”) and designated Primary Animal Keeping Overlay (“PAKO”) Zone. A residence is located near the southeasterly corner of the project site. To the west of the project site, although properties are currently under agricultural production, a proposal, also sponsored by ProLogis, has been made to develop, on 117 acres, six distribution warehouse facilities totaling 2.25 million square feet. Properties immediately to the east are designated commercial. Further east, across Redlands Boulevard, development of the 2.6 million square feet Highland Fairview Corporate Park Project has been approved. Regional access to the Project will be provided by the SR-60/Redlands Avenue interchange.

JS-2

The DEIR concludes that aesthetic impacts are significant and unavoidable. Noise impacts are significant and unavoidable for the construction phase. Air quality impacts are significant and unavoidable for construction and operation phases. The DEIR also concludes cumulative aesthetic, air quality, construction noise, and traffic impacts are significant.

**Cumulative Impacts:**

The cumulative impact analysis is brief, lacking in evidence and data, and generally insufficient. CEQA requires that in order to adequately discuss and analyze potential significant cumulative impacts, “[a] list of past, present, and probable future projects producing related or cumulative impacts” must be included in the DEIR. (Cal. Pub. Res. C. § 15130(b)(1)(A).) The lead agency must also “define the geographic scope of the area

JS-3

affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.” (Cal. Pub. Res. C. § 15130(b)(2).)

Here, the DEIR looks *only* at the cumulative effects from those “probable development proposals” within a two (2)-mile radius of the Project. **The analysis does not account for any past or present projects as required under CEQA and does not “provide a reasonable explanation” for why the two-mile radius was used.** Although a discussion as to why the Traffic Impact analysis was limited to a two-mile radius was provided in the DEIR, this reasoning does not support a basis for why the Cumulative Impact Analysis section of the DEIR was limited to such a small radius and purely probable future projects. Development within Moreno Valley is occurring on a large scale and the resulting impacts should not be ignored. (See Exhibits 1 – 3.) There is also a great amount of residential development within close proximity to the Project site, yet the impacts from these projects are not included in the analysis. For instance, The Moreno Highlands Specific Plan providing for 7,700 residential units located east of the Project site and the Aqua Belle Specific Plan providing for 2,922 “Active Adult” residential units located southwesterly of the Project site are neither included in the analysis nor mentioned in the DEIR. Also, the Centerpointe Project, a 353,859 square feet distribution center (PA07-0147, PA07-0157) which was approved by the Planning Commission in early 2010 was not included. This failure to analyze any impacts from past and present projects, as well as projects outside of the two-mile radius results in an inadequate analysis of the impacts to traffic, air quality, greenhouse gas emissions, and aesthetics, among others.

JS-3  
(cont'd)

Furthermore, the cumulative impact section often fails to recognize that impacts which are less than significant on their own may nonetheless be cumulatively significant. The cumulative impact analysis also fails to summarize “the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available,” as is required by CEQA. (Cal. Pub. Res. C. § 15130(b)(4).)

Therefore, the DEIR fails as an informational document as it does not provide an accurate analysis of the cumulative environmental effects that will result and therefore does not allow for sound and informed decision making on behalf of approving agencies.

**General Plan Consistency:**

CEQA requires that an EIR “discuss any inconsistencies between the proposed project and applicable general plans.” (CEQA Guidelines 15125(d).) Yet, the DEIR fails to discuss the inconsistency of the Project with a number of applicable provisions contained within the General Plan.

The project is inconsistent with the following General Plan provisions: Goal 2.2; Objective 2.13; and Policies 2.10.14, 2.13.1, and 2.13.3. Goal 2.2 requires that “the optimum degree of health, safety, well-being, and beauty for all areas of the community” be achieved yet the Project has numerous significant and unavoidable impacts to the safety, health and well-being of residents throughout Moreno Valley. Policy 2.10.14 requires that existing mature trees be preserved or relocated and only replaced when they cannot be preserved or relocated. Yet, although the Project will replace those existing mature pine trees along the

JS-4



northerly boundary with a double-row of new trees, the DEIR fails to discuss whether these mature trees will be relocated and if not, how or why preservation or relocation of these mature trees is infeasible. Policy 2.13.3 of Objective 2.13 requires that “the sponsor of a development project...assure that all necessary infrastructure improvements...needed to support project development are available at the time that they are needed” yet, as will be discussed below, there is nothing to indicate that those improvements that will be required to mitigate for traffic will actually be implemented.

JS-4  
(cont'd)

**Agricultural Impacts:**

Although the Project will result in the conversion of farmland to non-agricultural uses the DEIR finds that the impact will be less than significant. This finding is not supported by substantial evidence when the Initial Study itself states that the site is designated as Farmland of Local Importance due to the high quality of soil at the site and the Project Description states that the land has actually been used for agricultural production within the last twenty (20) years. As such, mitigation for this loss of prime agricultural land is required. It is well documented that agricultural land is the largest part of Riverside’s economy. **The EIR prepared for the City of Moreno Valley General Plan recognizes that due to this loss of agricultural land, impacts are potentially significant and feasible mitigation measures would effectively lessen this significant impact.** (See Exhibit 4.) Therefore, the following mitigation measures must be adopted:

JS-5

1. Purchase conservation easements on existing agricultural land to ensure that the land is never converted to urban uses.
2. Donate funds to a regional or statewide program that promotes and implements the use of agricultural land conservation easements.

**Land Use and Planning:**

This Project will have a significant impact to Land Use and Planning which was not adequately evaluated in the DEIR. The Project involves a zone change from Business Park to Light Industrial as well as an amendment to the Municipal Code as a result of its proximity to residential areas. The effects of the zone change and the amendment to the Municipal Code are both potentially significant impacts which must be further evaluated and potentially mitigated in the DEIR.

JS-6

Additionally, as stated on page 2-4 of the Initial Study land south of the Project site contains a Primary Animal Keeping Overlay Zone (“PAKO Zone”) “in order to maintain animal keeping and the rural character of the area” yet this is not even mentioned in the DEIR. The Project’s effects on this zoned area and the extent that this Project will disrupt the ability of people to keep animals in this zone must be analyzed and potentially mitigated.

**Air Quality and Greenhouse Gas Emissions/Climate Change:**

Air Quality

JS-7

Air quality impacts will be significant and unavoidable during both the construction and operation phases.

Construction:

The air quality analysis is flawed and underestimates the impact on air quality during construction. The air quality analysis improperly assumes for Phase 2 Grading a value of zero Vehicle Miles Traveled (0 VMT) for on-road truck travel. This is improper as the analysis must account for the VMT by construction workers *to and from* the Project site.

JS-7  
(cont'd)

Even under the current analysis, without mitigation, construction of the project will result in levels of VOC, NOx, PM10, and PM2.5 exceeding SCAQMD Regional Thresholds, yet all feasible mitigation measures were not adopted to reduce construction related emissions, and the mitigation which was adopted does not sufficiently mitigate the impacts and is uncertain to occur. For example, MM 4.3.4 does not reduce VOC to the greatest extent feasible. MM 4.3.4 should be modified to require that all paints, coatings, and solvents are zero (0) VOC.

JS-8

MM 4.3.1 does not sufficiently mitigate for air quality impacts and is uncertain and unenforceable. In recommending this mitigation measure, the air quality analysis stated that traffic speeds should be reduced in order to reduce PM10 and PM2.5 fugitive dust haul road emissions *by approximately 44%*. Yet, MM 4.3.1 clearly leaves out this, or an even more stringent, performance standard, as required to make the mitigation measure enforceable. MM 4.3.1 should require that traffic speeds be reduced to a level which will reduce dust emissions by 44%. This measure should also be modified to include the specific measures which the contractor shall take to ensure that traffic speeds on unpaved roads are reduced to 15 miles per hour, such as the placement of signage or other speed controlling devices. Mitigation measures should also be required to include measures which mitigate for and ensure dust control at the dump site where the soil from the project site will be placed.

JS-9

MM 4.3.7 should not only require that electrical power sources “be provided” but also require that electrical construction equipment be *actually used* “whenever technically feasible.”

JS-10

Although the air quality analysis recommends that “[p]rior to issuance of a grading permit, the grading plans shall reference that a sign shall be posted on-site stating that construction workers need to shut off engines after five minutes of idling,” this mitigation measure was not included in the DEIR. This is unacceptable, particularly since the DEIR states that air quality emissions are significant and unavoidable, and this mitigation measure is plainly feasible and would reduce air quality emission. Moreover, this measure is required by CARB, in Title 13, Chapter 10, Section 2485, Division 3 of the California Code of Regulations. This mitigation measure must be included in the DEIR.

JS-11

The air quality analysis also states that in order to stabilize the soil and decrease impacts from fugitive dust due to fine and mass grading, a mitigation measure to replace ground cover in disturbed areas “quickly” should be adopted. Yet, the DEIR fails to include such a mitigation measure. Again, this is unacceptable particularly since the air quality emissions are significant and unavoidable and this mitigation would reduce both PM10 and PM2.5 by

JS-12

an additional 10%. Mitigation must be included requiring that landscaping or other vegetation be planted as soon as possible after disturbance.

↑ JS-12  
(con'd)

In analyzing air quality due to fine site grading activity, the air quality analysis assumes that a maximum of 13.66 acres per day will be disturbed by grading activity. In order to ensure that the effect on air quality from fugitive dust is not greater than that relied upon by the DEIR, a mitigation measure must be adopted that *limits* fine site grading activity to a level below 13.66 acres per day. In fact, an even lower maximum daily acreage should be required in order to further mitigate for these impacts.

JS-13

Even after applying mitigation measures, construction air quality impacts are expected to be significant and unavoidable and well above the thresholds of significance for criteria pollutants. For example, with implementation of the mitigation measures listed in the DEIR, emissions of PM10 during construction will amount to 39.51  $\mu\text{g}/\text{m}^3$  over 24-hours, almost four times the 10.4  $\mu\text{g}/\text{m}^3$  SCAQMD Localized Significance Threshold, while emissions of PM2.5 during construction will amount to 12.40  $\mu\text{g}/\text{m}^3$  over 24-hours, well over the 10.4  $\mu\text{g}/\text{m}^3$  SCAQMD Localized Significance Threshold. Additionally, VOC will reach 205.37 lbs/day, more than two and one half times the 75 lbs/day SCAQMD Regional Significance Threshold and NOx will reach 287.12 lbs/day, almost three times the 100 lbs/day SCQAMD Regional Significance Threshold. Yet, the DEIR suggests adoption of only nine (9) mitigation measures and simply concludes that the remaining unmitigated emission are unavoidable. This is insufficient. In order to further reduce construction air quality emissions, the following additional mitigation measures should be adopted:

1. Require the purchase of NOx credits from a qualified broker to off-set construction-related air quality impacts.
2. Install gravel pads at all access points to prevent tracking of mud onto public roads.
3. Install and maintain trackout control devices in effective condition at all access points where paved and unpaved access or travel routes intersect.
4. Complete all roadways, driveways, sidewalks, etc., as soon as possible. In addition, lay building pads as soon as possible after grading unless seeding or soil binders are used.
5. Pave all roads on construction sites as soon as technically possible.
6. Limit fugitive dust sources to 20 percent opacity.
7. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite.
8. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hours.
9. Require high pressure injectors on diesel construction equipment.\*
10. Restrict engine size of construction equipment to the minimum practical size.\*
11. Use Electric construction equipment where technically feasible.\*
12. Substitute gasoline-powered for diesel-powered construction equipment.\*
13. Require use of alternatively fueled construction equipment, using, e.g., compressed natural gas, liquefied natural gas, propane, or biodiesel.\*
14. Implement activity management techniques including a) development of a comprehensive construction management plan designed to minimize the number of

JS-14

large construction equipment operating during any given time period; b) scheduling of construction truck trips during non-peak hours to reduce peak hour emissions; c) limitation of the length of construction work-day period; and d) phasing of construction activities.\*

- 15. Install catalytic converters on gasoline-powered equipment.\*
- 16. Use electricity from power poles rather than temporary diesel power generators.\*
- 17. Alternative diesel fuels exist that achieve PM10 and NOx reductions. PuriNOx is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NOx and a 63% reduction in PM10 compared to CARB diesel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.
- 18. Prior to the issuance of a grading and building permit, the applicant shall submit verification that a ridesharing program for the construction crew has been encouraged and will be supported by the contractor via incentives or other inducements.\*
- 19. Minimize construction worker trips by requiring carpooling and providing for lunch onsite.\*
- 20. Provide shuttle service to food service establishments/commercial areas.\*
- 21. Provide shuttle service to transit stations/multimodal centers.\*
- 22. Utilize only CARB certified equipment for construction activities.\*
- 23. All forklifts shall be electric or natural gas powered.\*
- 24. Extend grading period sufficiently to reduce air quality impacts below a level of significance.

JS-14  
(cont'd)

Operational:

The Air Quality Analysis for operational emissions fails to note the variances from default values which are standard for the SCAQMD that were used when conducting the URBEMIS Analysis. **Further, the total number of trips analyzed in the air quality section (1,585.22) was over 54% less than the total number of trips estimated in the traffic analysis (2,930).** This renders the DEIR inadequate as an informational document as it does not allow one to accurately assess the Project impacts.

JS-15

The DEIR also inaccurately represents the values used in the LST Analysis. The Air Quality Analysis states that the average trip length used was 0.3 miles and the vehicle speed was 10 miles per hour. Yet, the DEIR incorrectly states that the average trip length used in the LST Analysis was 0.5 miles while the vehicle speed was 5 miles per hour. (DEIR, 4.3-68) Again, this failure in the DEIR to accurately reflect the values used in the LST Analysis renders the DEIR inadequate as an informational document.

JS-16

The DEIR and air quality analysis conclude that for long-term operational activities, even after mitigation, VOCs and NO<sub>x</sub> will exceed SCAQMD's Regional Significance Thresholds. Without mitigation, the regional emissions of VOCs and NO<sub>x</sub> are exceeded for both summer and winter, with NO<sub>x</sub> greatly exceeding the threshold of 55 lbs/day with 739.69 lbs/day in the summer and 819.10 lbs/day in the winter. With the mitigation measures, the emissions of

JS-17

NO<sub>x</sub> would be reduced by only a meager .03 lbs/day in summer and .17 lbs/day in winter and emissions of VOCs would be reduced by only .01 lbs/day. These reductions are clearly insignificant. **The mitigation measures do not actually mitigate for the significant operational impacts to NO<sub>x</sub> and VOC.**

JS-17  
(cont'd)

MM 4.3.11 requires that the project surpass California Title 24 Energy Efficiency performance standards by a minimum of 20 percent. This goal is to be met by using any combination of a number of listed design features. Particularly since NO<sub>x</sub> emissions are significant this mitigation measure should require that the project surpass California Title 24 Energy Efficiency standards by at least 30 percent. In fact, all design features listed should be required to be implemented as a way to mitigate the significant effects on air quality.

JS-18

Additionally, many more operational mitigation measures are feasible and may be implemented through contract requirements in the purchase, sale, or lease agreement. Such mitigation must be required unless the incorporation into the contract of a mitigation measures is shown to be *infeasible*, not merely inconvenient. The following mitigation measures should be required to reduce Project operational impacts:

1. Require the utilization of zero VOC paint, coatings, and solvents.
2. Require the purchase of NO<sub>x</sub> credits from a qualified broker to off-set construction-related air quality impacts.
3. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall become SmartWay Partner.\*
4. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers. Results, including backup data shall be reported to the Planning Department semi-annually.\*
5. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve a 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidator trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers. Results, including backup data shall be reported to the Planning Department semi-annually.\*
6. By the end of the year 2012 all fleet vehicles shall conform to 2010 air quality standards or better. Results, including backup data shall be reported to the Planning Department semi-annually.\*
7. Install catalytic converters on gasoline-powered equipment.\*
8. Alternative diesel fuels exist that achieve PM<sub>10</sub> and NO<sub>x</sub> reductions. PuriNO<sub>x</sub> is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NO<sub>x</sub> and a 63% reduction in PM<sub>10</sub> compared to CARB diesel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.

JS-19

9. Electrical powered equipment must be utilized in-lieu of gasoline-powered engines where technically feasible.\*
10. Require each user to establish a carpool/vanpool program.\*
11. Provide on-site child care or contribute to off-site child care within walking distance.\*
12. Provide preferential parking for carpool/vanpool vehicles.\*
13. Provide secure, weather-protected bicycle parking for employees.\*
14. Provide direct safe, direct bicycle access to adjacent bicycle routes.\*
15. Provide showers and lockers for employees bicycling or walking to work.\*
16. Short-term bicycle parking for retail customers and other non-commute trips.\*
17. Connect bicycle lanes/paths to city-wide network.\*
18. Design and locate buildings to facilitate transit access, e.g., locate building entrances near transit stops, eliminate building setbacks, etc.\*
19. Prohibit idling of trucks for periods exceeding three minutes.\*
20. Construct transit facilities such as bus turnouts/bus bulbs, benches, shelters, etc.\*
21. Provide shuttle service to food service establishments/commercial areas.\*
22. Provide shuttle service to transit stations/multimodal centers.\*
23. Implement parking fee for single-occupancy vehicle commuters.\*
24. Implement parking cash-out program for non-driving employees.\*
25. Provide direct, safe, attractive pedestrian access from project to transit stops and adjacent development.\*
26. Implement a compressed workweek schedule where feasible.\*
27. Provide electrical vehicle ("EV") and compressed natural gas ("CNG") vehicles in vehicle fleets.\*
28. Install EV charging facilities *for a minimum of 10% of all parking spaces*.\*
29. Install a CNG fueling facility.\*
30. Provide preferential parking locations for EVs and CNG vehicles.\*
31. Utilize electrical equipment for landscape maintenance.\*
32. Utilize only CARB certified equipment for construction activities.\*
33. All forklifts shall be electric or natural gas powered.\*
34. Provide subsidies or incentives to employees who use public transit or carpooling, including preferential parking.\*
35. Plant shade trees in parking lots to provide minimum 50% cover to reduce evaporative emissions from parked vehicles.\*
36. Utilize low pressure sodium fixtures for exterior lighting including parking lots.
37. Utilize electric yard trucks.\*
38. All buildings shall be constructed to LEED Platinum standards.\*
39. The operator shall meet SmartWay 1.25 ratings.\*
40. The operator shall use only freight companies that meet SmartWay 1.25 ratings.\*
41. The developer shall install photovoltaic solar systems sufficient to offset all electrical usage.\*
42. The developer shall install photovoltaic solar systems sufficient to offset all vehicular emissions.\*
43. The operator shall purchase only green power.\*

Climate Change/GHG emissions:

JS-19  
(cont'd)

According to the air quality analysis, this Project would generate GHG emissions that will have a significant effect on the environment. However, the DEIR concluded that GHG emissions are less than significant since the Project’s emissions will not exceed the thresholds of significance proposed by SCAQMD (stationary source GHG emissions ≥ 10,000 metric tons per year of CO<sub>2</sub>E) or CARB (7,000 metric tons per year of CO<sub>2</sub>E from non-transportation related GHG sources). Not only is this conclusion improper but the analysis used to determine GHG emissions is also flawed.

JS-20

The thresholds for significance for SCAQMD and CARB relate only to *non-transportation/stationary* sources. Therefore, the GHG emission analysis and conclusion of less than significance is deeply flawed as it fails to account for the majority of GHG emissions for the Project which are attributable to non-stationary/mobile sources. Of the total estimated 30,003.39 metric tons/year of CO<sub>2</sub>E, 27,858.08 metric tons/year come from mobile sources, whereas only 7% of CO<sub>2</sub>E is derived from stationary sources.

JS-21

Furthermore, the same reduced number of trips used in the air quality analysis was used for determining the impact on global climate change. For the same reasons previously discussed, this is inappropriate and does not adequately represent the negative impact this Project will have on global climate change. When the 2,930 traffic trips used in the traffic analysis is used rather than the 1,585.22 traffic trips as suggested, the GHG emission for transportation sources increases more than double from 27,858.08 CO<sub>2</sub>E to 51,490.77 CO<sub>2</sub>E. **Clearly, GHG emissions are far greater than that estimated in the DEIR.**

JS-22

The GHG emission analysis is also deeply flawed in assuming that no new mobile source of emissions will be created by this Project. Where the project consists of a new distribution center and truck parking, the vehicular emissions in fact create a “new” mobile source of emissions as they create new trucking jobs, and do not merely redistribute the existing traffic patterns as this analysis has assumed.

JS-23

The DEIR incorrectly concludes that even though GHG emissions from the Project would be significant, since the Project is consistent with the CARB Scoping Plan and the 2006 CAT Report, GHG emissions are not cumulatively considerable. Yet, this project is, in fact, inconsistent with the CARB Scoping Plan. For instance, Action T-7 recommends that trucks/trailers be retrofitted with BAT and/or CARB-approved technology, yet this Project does not require this retrofit. The DEIR also states that the Project is consistent with Action E-4 (Million Solar Roofs) which sets a target for the installation of 3,000 megawatts (MW) of new solar capacity by 2017, yet the Project does not include nor require installation of a photovoltaic solar electricity system. In order to actually work to achieve this goal of new solar capacity, the Project should require, as a mitigation measure, the installation of a photovoltaic solar electricity system. Such a system may be required through contract requirements in the purchase, sale, or lease agreement.

JS-24

The DEIR also states that the Project is in compliance with 2006 CAT Report GHG Emission Reduction Strategies. Yet, these determinations of compliance are not supported by any *mandatory requirements*, but rather based on mitigation measures which are not fully enforceable or feasible. For example, the DEIR states that vehicles accessing the site will be in compliance with CARB vehicle standards to the “maximum extent feasible,” but does not define this or implement any standard of performance. The DEIR also states that compliance

JS-25

with the State’s goal of achieving 50% Statewide Recycling will be met through including “provisions for tenants to recycle,” yet, there is no requirement that this goal be met. Recycling of at least 50% by the future tenant should be mandatory and required as a mitigation measure through contract requirements in the purchase, sale or lease agreement. In stating that the Project is compliant with the requirement for water use efficiency, the DEIR states that implementation of water conserving devices should be required “to the extent feasible.” This language is again vague and does not include any enforceable performance standards. Also, the Project does not require compliance with the California Solar Initiative, one of the strategies identified as critical for California to meet its greenhouse gas reduction targets. The Project merely *recommends* adoption of a requirement that “[a]ll buildings be designed to accommodate renewable energy sources, such as photovoltaic solar energy systems...” (DEIR, pg. 1-58) Again, this should be a *required*. Furthermore, the project is also inconsistent, and/or determined to not require compliance with several other CAT strategies, notably with respect to Alternative Fuels.

JS-25  
(cont'd)

The DEIR fails to analyze or provide evidence as to how any alleged compliance with the strategies in the 2006 CAT Report or the CARB Scoping Plan would reduce GHG emissions from this Project so that cumulative GHG impacts would not be significant. Furthermore, the DEIR fails to show how the Project is consistent with statewide goals in AB32 of reducing carbon emissions to 1990 levels 2020 and of Executive Order S-3-05 of reducing carbon emissions to 80% below 1990 levels by 2050, when this project only contributes to and increases these carbon emissions.

JS-26

The California Air Pollution Control Officer’s Association (“CAPCOA”) has analyzed several means of determining the significance of a project’s greenhouse gas impacts under CEQA in its CEQA & Climate Change White Paper. CAPCOA determined that a threshold of zero or a quantitative threshold designed to capture 90 percent or more of likely future discretionary projects (a 900-ton CO<sub>2</sub>E threshold) are highly effective at reducing emissions and highly consistent with the emission reduction targets set forth under AB 32 and Executive Order S-3-05. (See Exhibit 5.) The Bay Area Air Quality Management District (BAAQMD) has also drafted guidance on the determination of significance for greenhouse gas impacts. BAAQMD has recognized that there is a “gap” between state action to reduce emissions and the need to further reduce emissions from land-use driven sectors in order to reach AB 32 targets. (See Exhibit 6.) After a series of calculations, BAAQMD then determined that projects above 1,100 tons (accounting for approximately 92% of all GHG emissions from new land use development) would be considered significant, thereby requiring the adoption of all feasible mitigation measures and helping to get nearer to meeting AB 32 targets after statewide regulations are taken into account. Additionally, in the EIR for the Highland Fairview project, the City adopted a zero emissions threshold for the assessment of impacts of GHG on climate change. The Project clearly exceeds the zero threshold. Accordingly, all feasible mitigation measures must be implemented and thus all suggested design features in Mitigation Measure 4.3.11 must be required to be implemented in the Project design.

JS-27

The DEIR improperly concludes that due to the Project’s supposed consistency with the CARB Scoping Plan and the 2006 CAT Report “that the Project’s greenhouse gas emissions are not cumulatively considerable.” (DEIR, pg. 5-14) As discussed above, even if the Project were consistent with the CARB Scoping Plan and the 2006 CAT Report, GHG

JS-28



emissions from the Project are not less than significant. Additionally, the conclusion that GHG emissions are not cumulatively considerable just because the emissions are not individually considerable (although not actually true) completely ignores the concept of cumulative impacts. “Cumulatively considerable’ means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” Guidelines § 15064(h)(1). As the DEIR admits, climate change is a global issue as emissions from sources worldwide combine to create the most pressing environmental and social problem of our time resulting in increased flooding, decreased water supply, negative impacts to biological resources, as well as numerous other negative effects. These sources may “appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.” *Los Angeles Unified School Dist. v. City of Los Angeles*, 58 Cal.App.4th 1019, 1025 (1997). Here, the cumulative effects on GHG emissions were not adequately analyzed. GHG emissions, which are already estimated at over 30,000 metric tons of CO<sub>2</sub>E per year for just this Project, will have a large cumulative effect and this impact must be addressed in the DEIR and be properly mitigated. **Adoption of air quality mitigation measures marked with an asterisk and provided above will help further mitigate GHG emissions.**

JS-28 (cont'd)

After all measures have been implemented to reduce emissions, any remaining emissions that cannot be eliminated may be mitigated through off-site measures. The Final Statement of Reasons for CEQA GHG Guidelines specifically contemplates off-site mitigation such as “community energy conservation projects.” CAPCOA also found that a potential cost-effective offset and verifiable offset could include an energy-efficient retrofit of existing building stock in the Project area to offset the remainder of the Project’s emissions. (See Exhibit 5 at 80.) Offsetting GHG emissions in the project area could also effectively reduce criteria pollutants.

JS-29

**Noise:**

Construction:

Intermittent noise levels due to construction at the Project site are expected to reach 89 dBA at the nearest residential properties, well in excess of the daytime 60 dBA Leq allowable under the Moreno Valley Municipal Code. Even at the more distant residential neighborhoods one quarter mile away from the Project site, noise levels during construction are expected to reach 60 to 65 dBA Leq. The DEIR concludes that even after implementing four mitigation measures, that construction noise will be significant and unavoidable. Yet, the DEIR does *not* adopt all feasible mitigation measures. Also note that Mitigation Measure 4.4.3, which limits constructions activities to between 7:00 a.m. and 8:00 p.m. does *not* mitigate the fact that noise levels of 89 dBA will be in excess of the City’s noise ordinance during *daytime* hours. The fact that the ordinance establishes time frames does not eliminate or lessen the environmental impact it merely means that the impacts are not subject to criminal sanctions. The threshold of significance is therefore still exceeded during the day.

JS-30

Additionally, Mitigation Measure 4.4.4 merely requires that the Project plans include a statement that “for the duration of grading and site preparation activities, temporary construction noise curtains or similar line-of-sight noise reduction measures shall be

JS-31

installed along the Project’s southerly boundary” and should “provide maximum reduction for noise sensitive uses...” The term “maximum reduction” is vague and unenforceable. In order to ensure that this mitigation measure actually reduces the level of noise, the measure should require that these sound barriers, which should also include temporary sound walls, actually **reduce noise at sensitive receptors to no more than 60 dBA Leq.**

JS-31  
(cont'd)

The Noise Analysis recommends the following feasible mitigation measures which must be adopted:

1. Prepare and implement a noise mitigation program and designate whom is responsible for implementing the program, when such a program must be implemented and planned, and include such actions as noise monitoring at selected noise sensitive locations, monitoring complaints, and identification of the major sources of noise.
2. The construction contractor shall limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings.
3. Notify surrounding homeowners of expected, specific construction related noise impacts.

JS-32

In addition, the following mitigation measures, not mentioned in the Noise Analysis, should be adopted:

4. When technically feasible, electrical construction equipment should be utilized.
5. During project construction, the developer shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of 3 minutes.

JS-33

Additionally, the DEIR improperly adopts as a threshold of significance, an audible increase in noise levels of 3.0 dBA or greater. This is an improper and inaccurate assumption and is certainly not supported by Appendix G of the *CEQA Guidelines* as stated in the DEIR. The threshold of significance is whether the project would result in “exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance...” Here, 60 dBA is the standard for residential uses and noise levels will be in excess of this standard.

JS-34

In terms of ground-borne vibration, there is no evidence pointed to in the DEIR that shows that vibrations would be less than significant even though heavy equipment used during construction “could potentially generate groundborne vibration impacts.” Instead the DEIR makes the conclusory statement of insignificance without data or analysis to support such a determination. The DEIR also only mentions vibration impacts to *buildings* when it should also look at impacts to people. Therefore, the DEIR again fails as an informational document.

JS-35

Operational - Cumulative Impacts:

As previously discussed, the DEIR fails to look at all cumulatively related projects. This is improper.

JS-36

The DEIR finds that the cumulative effects on existing roadways will cause an increase in noise levels of up to 9.5 dB, yet, the DEIR improperly concludes that since the impact from the Project *on its own* is less than 3 dBA that the cumulative impact is not significant. Again, this analysis is completely improper. An increase of 3 dBA is not the threshold of significance adopted for the project. The threshold of significance is whether the project would result in “exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance ....” Again, that standard for residential uses is 60 dBA and noise levels will be in excess of this standard. For example, with the project, noise levels 100 feet from Redlands Boulevard south of the SR-60 eastbound off-ramp will reach 69.3 dBA and noise levels 100 feet from SR-60 will range from 82.1 to 83.9 dBA. Further, the project will cause noise levels to *increase over levels without the project* at numerous roadway segments. This is a significant impact for which all feasible mitigation must be required.

JS-37

Additionally, the Noise Analysis uses noise measurements previously taken at the G.I. Trucking facility in Pomona, California, although neither the Noise Analysis nor the DEIR provide information on this facility in order to show that the activity at the G.I. Trucking facility is comparable to that which would occur at this Project. Therefore the analysis is inadequate to determine the accuracy of potential noise impacts.

JS-38

The following feasible mitigation measures must be adopted as recommended in the Noise Analysis:

1. All trucks, tractors and forklifts shall be operated with proper operating and well maintained mufflers.
2. Maintain quality pavement conditions that are free of bumps to minimize truck noise.
3. Limit the number of idling trucks on the southeastern portion of the site.

JS-39

**Traffic and Circulation:**

Interstate 15 (“I-15”) and Interstate 215 (“I-215”) provide access to the Project area and will most certainly be used to access the Project site. Yet, the DEIR fails to assess the impacts this Project will have on I-15 and I-215 and fails to provide feasible mitigation for projected increased traffic congestion to I-15 and I-215. In order to mitigate for the substantial impacts to these Interstates, mitigation must be included which requires the Project to contribute a fair share to CALTRANS in order to support implementation of improvements to the I-15 and I-215.

JS-40

Numerous mitigation measures require that the project participate in fee programs, namely the TUMF and DIF Programs. While payment of fair share fees can be appropriate mitigation for cumulative traffic impacts, they are only adequate when there is an existing program, and that program is adequately funded. The DEIR does not provide any data to quantify roadway costs, projected revenues, or adequacy of funds for the improvements needed to mitigate traffic impacts for this project. The DEIR also fails to provide information as to the availability of existing fee programs and the financial capability of these programs to actually fund the required improvements for this project.

JS-41

The traffic impact mitigation relying on the DIF program is inadequate and is not certain to mitigate traffic impacts. The City announced several months ago that the DIF fees were inadequate to actually construct all required improvements. At that time, the DIF fees were underfunded by approximately 50%. In addition, at the August 18, 2009 City Council Hearing, the City further reduced DIF fees, further increasing the shortfall. There is absolutely no evidence in the record to show that the existing program is adequately funded.

JS-41  
(cont'd)

Additionally, these measures do not indicate when the fees will be paid. If required to be paid at the time of construction, the amount could be non-representative of the project's "fair share" in the future. Accordingly, there is absolutely nothing to indicate that the traffic mitigation needed can actually be completed, that mitigation will bring levels of service to acceptable levels, or that there will be adequate funding to install the improvements prior to their need.

Therefore, the following mitigation measures should also be adopted:

1. Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.\*
2. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.\*
3. Reroute construction trucks away from congested streets and sensitive receptor areas.\*
4. Configure construction parking to minimize traffic interference.\*
5. Prior to the issuance of a grading and building permit, the applicant shall submit verification that a ridesharing program for the construction crew has been encouraged and will be supported by the contractor via incentives or other inducements.\*
6. Minimize construction worker trips by requiring carpooling and providing for lunch onsite.\*
7. Provide shuttle service to food service establishments/commercial areas for the construction crew.\*
8. Provide shuttle service to transit stations/multimodal centers for the construction crew.\*
9. Improve traffic flow by traffic synchronization.

JS-42

Again, the cumulative analysis of traffic impacts is insufficient as it fails to consider numerous projects as previously discussed.

JS-43

**Water Supply/Sewer:**

The DEIR improperly looks to potable water demand of the project (44 acre feet per year) to determine less than significant impact on water supply, instead of total water demand. The DEIR states that the "EMWD has determined that it will be able to provide adequate water supply to meet the **potable** water demand for the project..." There is no analysis of the impact of any additional water for the Project on diminishing water supplies for other uses such as agricultural uses, despite the fact that agricultural users have been put on mandatory water reductions because of water shortages.

JS-44

The DEIR fails to examine impacts from global warming and climate change to water supplies. Specifically, the DEIR does not account for decreased snow pack, expected levee failure, and salinity intrusion into coastal water tables, especially with the State Water Project. Additionally, the state-wide drought and low availability of water throughout southern California will cause water supply to likely be much lower than projected, and the project may have a very significant impact.

JS-45

In order to mitigate for these significant impacts, the following mitigation measures should be adopted:

1. Install permeable pavement in car parking areas.
2. Implement concave pooling areas in the landscaping to allow for groundwater recharge.

JS-45  
(cont'd)

**Hydrology and Water Quality:**

As discussed in the Preliminary Hydrology Study, on page 6, in order to mitigate for impacts from runoff, the project should be required to “clean the sediment build up in the existing triple 60” pipes crossing under the 60 freeway as well as the existing 60” Pipe outleting into the Redlands Blvd. westerly drainage ditch. This mitigation measure must be included in the DEIR.

JS-46

The DEIR fails to analyze the impact at the southwesterly corner of the Project site if the future drainage improvements that are to eventually be constructed “by others in association with eventual bridged crossing of the Quincy Channel” are not constructed or construction is delayed. The DEIR fails to indicate when these drainage improvements are to be constructed and how they will be funded.

JS-47

**Cultural Resources:**

The DEIR fails to provide adequate information to evaluate whether prehistoric resources will be impacted as a below ground investigation was not conducted, merely a surface study, even though most prehistoric resources would be expected to be discovered underground and prehistoric resources have been identified at numerous sites within one mile of the Project site.

JS-48

Additionally, the mitigation measures provided to reduce cultural resources below a level of significance are insufficient and uncertain. CEQA prefers that underground cultural resources be preserved in situ whenever possible, yet this Project fails to account for this or require mitigation which requires that resources be preserved underground. MM 4.7.1 and 4.7.3 permit only temporary halts upon discovery of cultural resources, although longer halts and delays may be necessary to properly record and remove resources. These mitigation measures state that this delay is meant to “avoid construction delays.” Therefore, it is likely that the cultural resources located onsite will be unearthed, damaged, improperly recorded, etc. in order to not inconvenience construction.

JS-49

Further mitigation is feasible. The mitigation measures should give the cultural resources monitor the power to halt construction for as long as necessary in order to properly unearth and remove resources, not merely do a piecemeal salvage job. Further, some option to preserve the resources in situ should be provided in the event of the discovery of extensive cultural resources.

JS-50

**Biological Resources:**

The DEIR and biological survey conclude, without providing adequate evidence or analysis, that although common wildlife would potentially be impacted by loss of this rural agricultural land, that this impact would not be significant. This is a conclusory statement not supported by evidence in the DEIR. The development of farmland and open space results in a loss of habitat and in turn, wildlife. The impacts to biological resources must be accurately analyzed and mitigated.

JS-51

**Aesthetics:**

The Project is expected to change scenic vistas and cause a significant and unavoidable aesthetic impact and cumulatively result in a substantial adverse effect on scenic views in the Project area. In an attempt to mitigate these effects, the Project should be required to conduct off-site mitigation and preserve a separate off-site scenic area within Moreno Valley, or if not feasible, within Western Riverside County.

JS-52

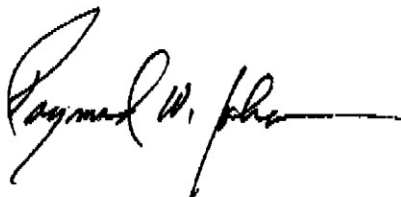
**Project Alternatives:**

**CEQA requires that an EIR consider a reasonable range of project alternatives that lessen significant project impacts and meet basic project objectives.** In this case, the DEIR fails to satisfy this mandate by not analyzing a “reasonable range” of alternatives because besides the no-project alternatives, the DEIR only actually considers the Reduced Intensity Alternative and Alternative Site 5. Further, Alternative Site 5 would not lessen significant project impacts. Although mentioned in the DEIR, Alternative Sites 1, 2, 3, and 4 were not actually considered as these sites are unavailable since other development is already planned for these sites. Further, any rejection of project alternatives has to be supported by findings supported by substantial evidence and this evidence does not appear in the record.

JS-53

Thank you for your consideration.

Sincerely,



Raymond W. Johnson, Esq. AICP  
JOHNSON & SEDLACK

Encl: Exh (11)

**EXHIBITS**

- (1) Moreno Valley New Project Maps with Commercial Development Activity, New Housing and Planned New Housing. (Accessed from the City of Moreno Valley website, December 2, 2010).
- (2) Moreno Valley Residential Development Projects. (Accessed from the City of Moreno Valley website, December 2, 2010).
- (3) Moreno Valley Commercial Development Projects. (Accessed from the City of Moreno Valley website, December 2, 2010).
- (4) Final Environmental Impact Report, Moreno Valley General Plan: 5.8, Agricultural Resources. (July 2006).
- (5) California Air Pollution Control Officers Association. (January 2008) *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*.
- (6) Bay Area Air Quality Management District. (December 7, 2009) *California Environmental Quality Act Guidelines Update, Proposed Thresholds of Significance*.
- (7) U.S. Department of Transportation, Federal Highway Administration. (August 2006) *Construction Noise Handbook, Chapter 4.0 Construction Noise Criteria and Descriptors*.
- (8) U.S. Department of Transportation, Federal Highway Administration. (August 2006) *Construction Noise Handbook, Chapter 9.0 Construction Equipment Noise Levels and Ranges*.
- (9) U.S. Department of Housing and Urban Development. (March 1985) *The Noise Guidebook*.
- (10) Suter, Dr. Alice H., Administrative Conference of the United States. (November 1991) *Noise and Its Effects*.
- (11) Federal Interagency Committee on Urban Noise. (June 1980) *Guidelines for Considering Noise in Land Use Planning and Control*.

JS-54

**RAYMOND W. JOHNSON, Esq., AICP**

**26785 Camino Seco  
Temecula, CA 92590  
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(951) 506-9725 Fax  
(951) 775-1912 Cellular**

**Johnson & Sedlack**, an Environmental Law firm representing plaintiff environmental groups in environmental law litigation, primarily CEQA.

**City Planning:**

Current Planning

- Two years principal planner, Lenexa, Kansas (consulting)
- Two and one half years principal planner, Lee's Summit, Missouri
- One year North Desert Regional Team, San Bernardino County
- Twenty-five years subdivision design: residential, commercial and industrial
- Twenty-five years as applicants representative in various jurisdictions in: Missouri, Texas, Florida, Georgia, Illinois, Wisconsin, Kansas and California
- Twelve years as applicants representative in the telecommunications field

General Plan

- Developed a policy oriented Comprehensive Plan for the City of Lenexa, Kansas.
- Updated Comprehensive Plan for the City of Lee's Summit, Missouri.
- Created innovative zoning ordinance for Lenexa, Kansas.
- Developed Draft Hillside Development Standards, San Bernardino County, CA.
- Developed Draft Grading Standards, San Bernardino County.
- Developed Draft Fiscal Impact Analysis, San Bernardino County

Environmental Analysis

- Two years, Environmental Team, San Bernardino County
  - Review and supervision of preparation of EIR's and joint EIR/EIS's
  - Preparation of Negative Declarations
  - Environmental review of proposed projects
- Eighteen years as an environmental consultant reviewing environmental documentation for plaintiffs in CEQA and NEPA litigation

JS-55



**Representation:**

- Represented various clients in litigation primarily in the fields of Environmental and Election law. Clients include:
  - Sierra Club
  - San Bernardino Valley Audubon Society
  - Sea & Sage Audubon Society
  - San Bernardino County Audubon Society
  - Center for Community Action and Environmental Justice
  - Endangered Habitats League
  - Rural Canyons Conservation Fund
  - California Native Plant Society
  - California Oak Foundation
  - Citizens for Responsible Growth in San Marcos
  - Union for a River Greenbelt Environment
  - Citizens to Enforce CEQA
  - Friends of Riverside’s Hills
  - De Luz 2000
  - Save Walker Basin
  - Elsinore Murrieta Anza Resource Conservation District

**Education:**

- B. A. Economics and Political Science, Kansas State University 1970
- Masters of Community and Regional Planning, Kansas State University, 1974
- Additional graduate studies in Economics at the University of Missouri at Kansas City
- J.D. University of La Verne. 1997 Member, Law Review, Deans List, Class Valedictorian, Member Law Review, Published, Journal of Juvenile Law

JS-55  
(cont'd)

**Professional Associations:**

- Member, American Planning Association
- Member, American Institute of Certified Planners
- Member, Association of Environmental Professionals

**Johnson & Sedlack, Attorneys at Law**

26785 Camino Seco  
Temecula, CA 92590  
(951) 506-9925

12/97- Present

Principal in the environmental law firm of Johnson & Sedlack. Primary areas of practice are environmental and election law. Have provided representation to the Sierra Club, Audubon Society, AT&T Wireless, Endangered Habitats League, Center for Community Action and Environmental Justice, California Native Plant Society and numerous local environmental groups. Primary practice is writ of mandate under the California Environmental Quality Act.

**Planning-Environmental Solutions**

26785 Camino Seco  
Temecula, CA 92590  
(909) 506-9825

8/94- Present

Served as applicant's representative for planning issues to the telecommunications industry. Secured government entitlements for cell sites. Provided applicant's representative services to private developers of residential projects. Provided design services for private residential development projects. Provided project management of all technical consultants on private developments including traffic, geotechnical, survey, engineering, environmental, hydrogeological, hydrologic, landscape architectural, golf course design and fire consultants.

**San Bernardino County Planning Department**

Environmental Team

6/91-8/94

385 N. Arrowhead

San Bernardino, CA 92415

(909) 387-4099

Responsible for coordination of production of EIR's and joint EIR/EIS's for numerous projects in the county. Prepared environmental documents for numerous projects within the county. Prepared environmental determinations and environmental review for projects within the county.

**San Bernardino County Planning Department**

General Plan Team

6/91-6/92

385 N. Arrowhead

San Bernardino, CA 92415

(909) 387-4099

Created draft grading ordinance, hillside development standards, water efficient landscaping ordinance, multi-family development standards, revised planned development section and fiscal impact analysis. Completed land use plans and general plan amendment for approximately 250 square miles. Prepared proposal for specific plan for the Oak Hills community.

JS-55  
(cont'd)

**San Bernardino County Planning Department**

North Desert Regional Planning Team

15505 Civic

6/90-6/91

Victorville, CA

(619) 243-8245

Worked on regional team. Reviewed general plan amendments, tentative tracts, parcel maps and conditional use permits. Prepared CEQA documents for projects.

**Broadmoor Associates/Johnson Consulting**

229 NW Blue Parkway

Lee's Summit, MO 64063

(816) 525-6640

2/86-6/90

Sold and leased commercial and industrial properties. Designed and developed an executive office park and an industrial park in Lee's Summit, Mo. Designed two additional industrial parks and residential subdivisions. Prepared study to determine target industries for the industrial parks. Prepared applications for tax increment financing district and grants under Economic Development Action Grant program. Prepared input/output analysis of proposed race track. Provided conceptual design of 800 acre mixed use development.

**Shepherd Realty Co.**

Lee's Summit, MO  
6/84-2-86

Sold and leased commercial and industrial properties. Performed investment analysis on properties. Provided planning consulting in subdivision design and rezoning.

**Contemporary Concepts Inc.**

Lee's Summit, MO  
9/78-5/84

Owner

Designed and developed residential subdivision in Lee's Summit, Mo. Supervised all construction trades involved in the development process and the building of homes.

**Environmental Design Association**

Lee's Summit, Mo.

Project Coordinator  
6/77-9/78

Was responsible for site design and preliminary building design for retirement villages in Missouri, Texas and Florida. Was responsible for preparing feasibility studies of possible conversion projects. Was in charge of working with local governments on zoning issues and any problems that might arise with projects. Coordinated work of local architects on projects. Worked with marketing staff regarding design changes needed or contemplated.

JS-55  
(cont'd)

**City of Lee's Summit, MO**

220 SW Main  
Lee's Summit, MO 64063  
Community Development Director

4/75-6/77

Supervised Community Development Dept. staff. Responsible for preparation of departmental budget and C.D.B.G. budget. Administered Community Development Block Grant program. Developed initial Downtown redevelopment plan with funding from block grant funds. Served as a member of the Lee's Summit Economic Development Committee and provided staff support to them. Prepared study of available industrial sites within the City of Lee's Summit. In charge of all planning and zoning matters for the city including comprehensive plan.

**Howard Needles Tammen & Bergendoff**

9200 Ward Parkway  
Kansas City, MO 64114  
(816) 333-4800  
Economist/Planner

5/73-4/75

Responsible for conducting economic and planning studies for Public and private sector clients. Consulting City Planner for Lenexa, KS.

Conducted environmental impact study on maintaining varying channel depth of the Columbia River including an input/output analysis. Environmental impact studies of dredging the Mississippi River. Worked on the Johnson County Industrial Airport industrial park master plan including a study on the demand for industrial land and the development of target industries based upon location analysis. Worked on various airport master plans. Developed policy oriented comprehensive plan for the City of Lenexa, KS. Developed innovative zoning ordinance heavily dependent upon performance standards for the City of Lenexa, KS.

↑  
JS-55  
(cont'd)

JOHNSON & SEDLACK

Letter Dated December 6, 2010

Response JS-1

The City disagrees with the commentor's generalized assertions regarding the adequacy of the Westridge Commerce Center Draft EIR. As detailed in the following responses, appropriate and enforceable mitigation of the Project's potentially significant individual and cumulative impacts has been identified within the Draft EIR. As appropriate, additional measures suggested by the commentor have been incorporated to further reduce impacts, but these changes do not alter the conclusions or analysis contained in the DEIR. These mitigation measures, as amended herein, have been carried forward into the Mitigation Monitoring Plan included as Section 4.0 within this Final EIR. Similarly, the commentor's contention that the Project is inconsistent with the City's General Plan is addressed in the following responses.

Response JS-2

This comment incorrectly identifies the "Project Sponsor" as ProLogis. As noted on Draft EIR Page 2-2, the Project proponent is actually Ridge Property Trust. Otherwise, the commentor has accurately summarized the general aspects of the proposed Project and its significant impacts.

Response JS-3

This comment incorrectly infers that the Draft EIR's analysis of cumulative impacts was limited to a limited geographical area surrounding the Project site. In addition to the eleven existing and planned development projects identified in Draft EIR Table 5.1-1 (please refer to Draft EIR Page 5-2), the Draft EIR notes that "the cumulative impacts analysis assumes development of the area in a manner consistent with the City of Moreno Valley General Plan, and reflecting the anticipated growth of the region. The analysis of cumulative impacts considers potentially significant impacts that could be

considered cumulatively considerable when viewed in the context of known related projects and generalized ambient growth of the City and region” (Draft EIR Page 5-4).

Affected Draft EIR discussions at Pages 5-1 through 5-25 are revised, as indicated below by **bold underlined text**, providing clarification of considered parameters and geographic scope for each cumulative impact topic.

### 5.1 CUMULATIVE IMPACT ANALYSIS

CEQA requires that an EIR identify any significant cumulative impacts associated with a project [Guidelines, Section 15130 (a)]. When potential cumulative impacts are not deemed significant, the document should explain the basis for that conclusion. “Cumulative impacts” are defined as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” [CEQA Guidelines, Section 15355 (a 1)]. Thus, a legally adequate cumulative impact analysis is an analysis of a particular project viewed over time and in conjunction with other related past, present and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. CEQA notes that the discussion of cumulative impacts should be guided by standards of practicality and reasonableness [Guidelines, Section 15130 (b)]. Only those projects whose impacts might compound or interrelate with those of the project under consideration require evaluation. CEQA does not require as much detail in the analysis of cumulative environmental impacts as must be provided for the project alone.

**The Guidelines identify two basic methods for satisfying the cumulative impacts analysis requirement: the list-of-projects methodology and the summary-of-projections methodology. Because each environmental resource is affected by its surroundings in different**

ways, either of the two methodologies, or a combination of both, may be applied to the analysis of cumulative impacts to each resource. For example, because the approval process and construction phase of development typically takes at least one to two years, the list-of-projects method is likely to provide a more accurate projection of growth in the near term. This method may overstate potential cumulative impacts because the considered list-of-projects may include proposals that will never be developed. Similarly, because development proposals are rarely publicly known until within five (5) years of the expected development, the summary-of-projections method provides a more accurate projection of growth over the long term. This method may not accurately predict growth in any given year, but aggregates various growth trends over the long term. Unless otherwise noted, potential cumulative impacts of the Project are considered in the context of known or probable development proposals (related projects) as well as anticipated ambient growth of the City and region.

As noted previously, the Guidelines identify “that only those projects whose impacts might compound or interrelate with those of the Project under consideration require evaluation.” In this regard, it is recognized that within the context of the cumulative impacts analysis, varied criteria are employed in determining the scope and type of “cumulative projects” to be considered. For example, the analysis of cumulative traffic impacts evaluates the Project’s traffic impacts in the context of other known or probable development proposals that would discernibly affect traffic conditions within the Traffic Impact Analysis Study Area, though such projects may not affect other environmental considerations.

The manner in which each resource may be affected also dictates the geographic scope of the cumulative impacts analysis. For example, cumulative traffic impacts will typically be localized to the vicinity of a given project site because after a relatively short distance, traffic patterns tend to normalize. Similar considerations factor in evaluating potential cumulative impacts for each of the EIR's environmental topics (Land Use and Planning, Traffic and Circulation, Air Quality, Noise, Water Supply, Hydrology and Water Quality, Cultural Resources, Biological Resources, and Aesthetics).

Unless otherwise noted herein, the cumulative impact analysis ultimately evaluates effects of the Project within the context of anticipated buildout of the City as envisioned under the General Plan and related regional plans. Specific cumulative projects have also been identified where this information may be different, more detailed than that provided within the General Plan or applicable regional plans, or where such specific information otherwise benefits the cumulative impact analyses.

Potential cumulative impacts of the Project are considered in the context of known or probable development proposals, as well as anticipated generalized ambient growth of the region. As identified at Table 5.1-1, and illustrated in Figure 5.1-1, a number of current or anticipated "related projects" have been identified within the cumulative scope of the Westridge Commerce Center Project. Related projects have been identified in consultation and coordination with the Lead Agency. . . .

. . . It should be noted that, with the exception of specific Project-related traffic, air quality, noise and aesthetic impacts, which are forecast to remain significant and unavoidable even after application of all feasible



mitigation, implementation of the mitigation measures identified in this Draft EIR (found in Table 1.10-1) would reduce impacts to a level that is considered less-than-significant.

### **5.1.1 DISCUSSION OF CUMULATIVE IMPACTS**

Potential cumulative impacts for each topic of environmental concern considered in this EIR and associated Initial Study are discussed below. Assessments of potential cumulative impacts are based on development scenarios and growth projections presented in the City's General Plan, related analyses of cumulative impacts presented in the General Plan EIR, as well as potential cumulative effects of the previously-identified related projects.

#### **5.1.1.1 Cumulative Impacts Related to Land Use and Planning**

**The cumulative impact area when considering potential cumulative land use and planning issues generally includes areas that are currently, or are anticipated to be, subject to provisions of the City General Plan and Zoning Ordinance. These areas include the currently incorporated areas of the City of Moreno Valley and unincorporated areas of the County of Riverside lying within the City's Sphere of Influence.**

Implementation of the Westridge Commerce Center Project would result in the introduction of a new industrial use in an area of the City that has, until recently, been largely undeveloped. It is acknowledged that development of the Project would result in a permanent change to the perceived rural character of the Project area. . . .

#### **5.1.1.2 Cumulative Impacts Related to Traffic and Circulation**

**The cumulative impact area for traffic circulation impacts is generally defined by the Traffic Impact Study Area as detailed within the Project**

Traffic Impact Analysis (EIR Appendix B). This Area includes, but is not limited to potentially affected roadways and intersections within the City of Moreno Valley, and also considers all potentially affected Caltrans and Congestion Management Program facilities.

### **Project-Specific Impacts Are Reduced To Levels That Are Less-Than-Significant**

Project-specific traffic impacts are addressed through implementation of on-site improvements and mitigation to be completed prior to issuance of the first Certificate of Occupancy for the Project. . . .

#### **5.1.1.3 Cumulative Impacts Related to Air Quality**

The cumulative impact area for air quality considerations is generally defined by the encompassing Air Basin and boundaries of jurisdictional air quality management agency, in this case, the South Coast Air Basin (SCAB) and the South Coast Air Quality Management District (SCAQMD) respectively. Project emissions within the context of SCAQMD's regional emissions thresholds provide an indicator of potential cumulative impacts within the jurisdictional Air Basin. Impacts to air quality from cumulative projects may occur within the entire Air Basin. Due to the defining geographic and meteorological characteristics of the Air Basin, criteria pollutant emissions that would potentially cumulatively impact air quality would be, for practical purposes, restricted to the Air Basin. Accordingly, the Basin geographic area is the appropriate limit for this cumulative Air Quality analysis. Cumulative localized impacts for pollutants are also considered, and reflect Project air pollutant emissions in the context of ambient air quality conditions more immediate to the Project site.

**Global Climate Change impacts are by definition, cumulative and global in scope.**

**Construction-Source Pollutant Emissions**

EIR Section 4.3, "Air Quality," and EIR Appendix C address potential air quality impacts of the Project. As discussed, even after compliance with all rules and regulations, Project-related construction activities will temporarily result in exceedances of applicable SCAQMD regional thresholds for VOC and NOx. . . .

**5.1.1.4 Cumulative Impacts Related to Noise**

The cumulative impact area for noise considerations is generally defined as surrounding properties that could receive Project-generated noise (either construction or operational), and would also include roadway corridors affected by Project-related traffic and associated vehicular noise (existing EIR discussion at Page 5-14).

**5.1.1.5 Cumulative Impacts Related to Water Supply**

**The cumulative impact area for water is the Eastern Municipal Water District (EMWD) service area and encompassing Metropolitan Water District (MWD) jurisdiction. Water supply issues germane to the Project including cumulative water supply impacts are comprehensively addressed within The Project Water Supply Assessment, (Eastern Municipal Water District) June 4, 2008. The Project Water Supply Assessment is presented at Draft EIR Appendix E.**

As discussed in Draft EIR Section 4.5, potential cumulative impacts attributable to water demands of the Project are adequately planned and provided for under local and regional water management plans. . . .

#### 5.1.1.6 Cumulative Impacts Related to Hydrology and Water Quality

The cumulative impact area for hydrology/water quality impact considerations is generally defined as the area encompassed by the jurisdictional Regional Water Quality Control Board (RWQCB), in this case the Santa Ana Regional Water Quality Control Board. Local oversight is also provided by the City of Moreno Valley and Riverside County.

Potential hydrology and water quality impacts of the Project are addressed in EIR Section 4.6, "Hydrology and Water Quality." As discussed in the EIR, Project-related storm water management will be realized through a system of on-site detention basins and controlled release of storm waters to existing and proposed drainage facilities. . . .

#### 5.1.1.7 Cumulative Impacts Related to Cultural Resources

The cumulative impact area for prehistoric, archaeological, and historic resources is the Perris Plain/Perris Valley area (including the Cities of Moreno Valley and Perris, and surrounding unincorporated communities). Impacts to any cultural resources within the Perris Plain/Perris Valley area would be site-specific. In the event that similar resources are encountered at any other project sites, specific mitigation measures would be applied before development could proceed.

As discussed in Draft EIR Section 4.7, potential impacts to cultural resources are determined to be less-than-significant as mitigated. . . .

#### 5.1.1.8 Cumulative Impacts Related to Biological Resources

The cumulative impact areas for biological resources are generally defined by available habitat, species' range(s), physical constraints, and other

limiting factors as discussed within the Project Biological Resources Assessment, Draft EIR Appendix G (existing discussion at EIR Page 5-20).

#### **5.1.1.9 Cumulative Impacts Related to Aesthetics**

**The cumulative impact area for aesthetic impact considerations is generally defined as the city of Moreno Valley General Plan Area. More specific to the Project, cumulative impacts of concern are impacts to views and viewsheds along SR-60 in the Project vicinity.**

As presented in EIR Section 4.9, "Aesthetics," new industrial uses proposed by the Project will substantially alter the existing visual sense of the subject property, which is currently a vacant site. . . .

Related development proposals that would potentially interact with Project traffic are summarized in the Draft EIR (Draft EIR at Page 4.2-16) and identified graphically at TIA Exhibit 5-11. The developments referenced by the commentor, including the Moreno Highlands Specific Plan (adopted in 1992), the Aqua Bella Specific Plan (adopted in 2005), and Centerpointe Business Park Project (approved in 2006) are reflected in the City's most recent General Plan Amendment, which was adopted in 2006. Traffic generated by these projects is modeled in traffic planning estimates and projections of the Moreno Valley General Plan buildout condition. As clarified previously in these responses, unless otherwise noted herein, the cumulative impact analysis ultimately evaluates effects of the Project within the context of anticipated buildout of the City as envisioned under the General Plan and related regional plans. Specific cumulative projects have also been identified where this information may be different, more detailed than that provided within the General Plan or applicable regional plans, or where such specific information otherwise benefits the cumulative impact analyses.

Response JS-4

The Draft EIR addresses the Project's consistency with applicable General Plan goals, objectives and policies for each topic of analysis (please refer to Draft EIR Land Use Table 4.1-1 on Pages 4.1-18 through 4.1-20; Traffic and Circulation Table 4.2-8 on Pages 4.2-23 and 4.2-24; Air Quality Table 4.3-4 on Page 4.3-18; Noise Table 4.4-3 on Pages 4.4-10 and 4.4-11; Water Supply Table 4.5-10 on Pages 4.5-24 and 4.5-25; Hydrology and Water Quality Table 4.6-2 on Pages 4.6-13 and 4.6.14; Cultural Resources Table 4.7-1 on Page 4.7-10; Biological Resources Table 4.8-1 on Pages 4.8-11 and 4.8-12; and Aesthetics Table 4.9-1 on Pages 4.9-5 through 4.9-7).

The commentor asserts that "the Project has numerous significant and unavoidable impacts to the safety, health, and well-being of residents throughout Moreno Valley." The Project's significant and unavoidable impacts have been identified as follows: cumulative traffic impacts affecting levels of service at certain intersections, roadway segments and freeway mainline segments; individual and cumulative short-term construction source exceedance of localized air quality thresholds for particulates (PM<sub>10</sub> and PM<sub>2.5</sub>); individual and cumulative long-term operational emissions exceedances for ozone precursors (VOC and NO<sub>x</sub>); individual and cumulative short-term construction noise impacts; and individual and cumulative aesthetic impacts related to changes to scenic vistas.

The Draft EIR acknowledges that increased air emissions could affect the health of area residents (please refer to Draft EIR Section 4.3, pages 4.3-4 through 4.3-10 *et al.*). The Draft EIR further acknowledges that the Project's temporary exceedance of the South Coast Air Quality Management District's Localized Significance Thresholds (LSTs) represents a potentially significant impact to sensitive receptors in the Project vicinity for the duration of Project construction. It is noted, however, that these exceedances would affect only one existing residence, located to the south of the Project site at 28855 Fir (future Eucalyptus) Avenue. Although parcels designated for residential land uses are present within the area of LST exceedance, they are largely undeveloped. All other

study area receptor locations (existing residences south of Eucalyptus (future Encilia) Avenue and north of SR-60, and area school sites) are well beyond the area of the Project's temporary LST exceedances for particulate matter. Additionally, the Draft EIR included a Health Risk Assessment which was prepared in order to specifically address potential health risks that could result from exposure to Project-generated Diesel Particulate Matter (DPM). No health risks related to DPM were identified, and potential impacts in this regard were found to be less-than-significant (please refer to Draft EIR pages 4.3-79 to 4.3-86).

Similarly, the potential for long-term increases in noise generation to lead to health impacts are acknowledged in the Draft EIR (please refer to Draft EIR pages 4.4-3 through 4.4-4, *et al.* However, the Draft EIR identified no long-term exceedances of existing noise standards due to Project operations (please refer to Draft EIR pages 4.4-21 through 4.4-26). The significant noise impacts identified in the Draft EIR were the result of Project construction activities, and as such, would be temporary and intermittent.

The Project will implement all feasible mitigation as summarized at revised Table 1.10-1. Notwithstanding, significant impacts are anticipated to occur from Project construction and/or operations. These significant impacts are summarized at EIR Table 1.8-1 (Draft EIR Pages 1.1-17 through 1.1-20). CEQA does not prohibit the Lead Agency from approving a project with significant impacts. As provided for under CEQA Section 15093 subd. (a):

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits,

of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

Should the Project be approved, the Lead Agency is required to adopt Findings of Fact and a Statement of Overriding Considerations acknowledging the Project’s significant environmental impacts, and substantiating that the Project benefits outweigh the unavoidable adverse environmental effects, such that the adverse environmental effects may be considered acceptable. General Plan goal, objective, and policies cited by the commentor are provided in their entirety in the following table, along with a discussion of the Project’s consistency with each of these provisions.



Goal/Objective/Policy	Project Consistency
<p>Goal 2.2: An organized, well-designed, high quality, and functional balance of urban and rural land uses that will meet the needs of a diverse population, and promote the optimum degree of health, safety, well-being, and beauty for all areas of the community, while maintaining a sound economic base.</p>	<p><b>Consistent.</b> The Project is permitted under the site’s current General Plan Land Use Designation, reflecting consistency with the City’s goal to establish an organized, well-designed, high quality, and functional balance of urban and rural land uses that will meet the needs of a diverse population. The Project establishes contemporary industrial facilities. As noted at EIR Page 3-5, “[f]inal designs of the Project building will be realized consistent with industrial design requirements and standards identified under Municipal Code Section 9.05.040, “Industrial Site Development Standards.” Site plan and design concepts are articulated at EIR Section 3.0, Project Description. Moreover, the Project is required to comply with Development Plan Review provisions established within City of Moreno Valley Municipal Code Section 9.02.030.</p> <p>The Project will contribute to a functional balance by affecting the City’s economic base through increased property tax revenues based on improvement of the vacant site. The Project proposes new industrial development within the City, and will create additional job opportunities (temporary construction jobs and as well as permanent warehouse staff and management positions) anticipated to be filled from local employment pools. At buildout, the Project is anticipated to generate up to approximately 900 permanent jobs.</p>
<p>Objective 2.13: Coordinate development activity with the provision of public infrastructure and services to eliminate possible gaps in service provision.</p>	<p><b>Consistent.</b> The Project will provide all necessary infrastructure improvements to ensure safe and efficient operations. As discussed in the Draft EIR (Pages 1-10 to 1-11), no possible gaps in public services or utilities have been identified in regard to Project implementation. Please refer also to the discussion of Project infrastructure presented at Draft EIR Pages 3-21 through 3-23. The Project will also be responsible for providing on-site and off-site roadway infrastructure improvements, prior to the issuance of occupancy permits, as presented at Draft EIR pages 3-7 and 3-8.</p>

Goal/Objective/Policy	Project Consistency
<p>Policy 2.10.14: Preserve or relocate existing mature trees and vegetation where practical. Mature trees shall be replaced when they cannot be preserved or relocated.</p>	<p><b>Consistent.</b> The Project design concept as well as programmed Caltrans improvements to adjacent SR-60 would require elimination of certain mature pine trees existing along the existing northerly boundary of the subject property. That is, these trees will be displaced by Project and Caltrans improvements, and cannot be maintained in place. As discussed at Draft EIR Page 4.9-19, the Project will replace the existing, mature pine trees along its northerly boundary (adjacent to SR-60) with a double-row of new trees, in order to visually screen the Project from the view of freeway travelers. Pursuant to the City’s criteria for the removal of mature trees, at least three new trees will be planted in the place of each mature tree that is removed. New trees will be drought-resistant, and will be planted and irrigated in coordination with Caltrans and City requirements.</p>
<p>Policy 2.13.1: Limit the amount of development to that which can be adequately served by public services and facilities, based upon current information concerning the capability of public services and facilities.</p>	<p><b>Consistent.</b> As discussed in the Draft EIR (Pages 1-10 to 1-11), no possible gaps in public services or utilities have been identified in regard to Project implementation. The Project’s potential to result in Projects-specific impacts due to insufficient roadway infrastructure have been addressed within the Draft EIR (Section 4.3, “Traffic and Circulation,” Mitigation Measures 4.2.1, 4.2.2), and are identifies as less-than-significant as mitigated.</p>
<p>Policy 2.13.3: It shall be the ultimate responsibility of the sponsor of a development project to assure that all necessary infrastructure improvements (including system wide improvements) needed to support project development are available at the time that they are needed.</p>	

It is acknowledged that not every provision of the General Plan was addressed within the Westridge Draft EIR; however, the Lead Agency disagrees with the commentor’s assertion that the Draft EIR is thus inconsistent with the General Plan. The results and conclusions of the Draft EIR are not affected.

Response JS-5

The commentor correctly notes that the Draft EIR identifies potential impacts regarding the conversion of farmland to non-agricultural uses to be a less-than-significant impact. However, the comment misconstrues the findings of the City’s General Plan in regard

to this issue. As referenced in the discussion of Agricultural Resources analysis from the Moreno Valley General Plan Final Program EIR, which was attached to the commentor's letter and identified by the commentor as "Exhibit 4," and has been included in Appendix A of this Final EIR), the potential loss of agricultural land due to General Plan implementation was acknowledged in the General Plan Final Program EIR (GPEIR) as significant and unavoidable. The GPEIR states that, "[s]ince the feasible mitigation measures that are available to reduce the impact to loss of farmland within the planning area are not consistent with the project objectives and land uses of the General Plan alternatives, no mitigation measure is proposed and the impact will be significant and unavoidable." Certification of the GPEIR required the City to adopt overriding considerations in regard to all impacts determined significant and unavoidable, including the potential for loss of agricultural lands. The Project land uses are consistent land uses reflected in the General Plan, and the Project would not result in impacts to farmlands differing substantively from those considered and evaluated in the GPEIR.

Moreover, relevant CEQA threshold considerations address lands defined as "Prime Farmland," "Unique Farmland," or "Farmland of Statewide Significance." In the case of the Project, the subject site does not qualify as any of these.<sup>8</sup> The mitigation measures identified by the commentor are unnecessary. The results and conclusions of the Draft EIR are not affected.

#### Response JS-6

This comment is unclear about the nature of the significant impact that will result should the Project's proposed zone change and Municipal Code amendment be

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<sup>8</sup>State of California Department of Conservation, Division of Land Resources Protection, Farmland Mapping and Monitoring Program Riverside County Important Farmland 2008 (Sheet 1 of 3) identifies the Project site as "Farmland of Local Importance."

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adopted. The proposed code amendment provides additional protection of residential uses in instances where industrial uses may be proposed within adjacent zone districts. The amendment would apply City-wide. The Code Amendment Application is on file with the City. The Draft EIR addresses the proposed zone change and Municipal Code amendment as part of the Land Use analysis (please refer to Draft EIR Pages 4.1-20 through 4.1-23. Specifically, the following discussion appears in regard to this topic.

The Project proposes a change of zone from Business Park to Light Industrial, and the City General Plan envisions and allows for extensive implementation of either or both types of land uses along the southerly edge of SR-60 as it traverses the City. While both types of uses (business park and/or light industrial, including distribution warehouse uses) are provided for under the General Plan, the site's current Business Park zoning designation does not permit these uses within single structures of more than 50,000 square feet. The Light Industrial zone designation requested by the Applicant does permit single structures of more than 50,000 square feet. The impetus of the zone change requested by the Project Applicant is to therefore to allow for construction of a single warehouse use greater than 50,000 square feet in size.

Key to compatibility of the Project's proposed Light Industrial zoning with adjacent residentially zoned land uses is design, implementation, and operation of the Project in a manner consistent with the high performance standards required of uses proposed within the City's Light Industrial zone district. Supporting the proposed zone change, and codifying design solutions proposed the Project, a Municipal Code Amendment is also proposed. The proposed Municipal Code Amendment requires a minimum separation of 250 feet between light industrial uses and residentially-zoned properties. This 250-foot minimum separation shall be increased as required to fully mitigate any

potentially significant health risks and/or potentially significant operational noise impacts at adjacent residential properties (Draft EIR Pages 4.1-22, 23).

The Draft EIR adequately and appropriately considers all potential land use and planning impacts, consistent with the methods set forth in the CEQA Guidelines. To these ends, the Draft EIR considers all pertinent land use plans, policies, regulations. There is no substantiation or indication that the Project would result in or cause potential interference with animal keeping on nearby properties. The Draft EIR acknowledges that “development of the Project would result in a permanent change to the perceived rural character of the Project area” (Draft EIR Page 5-5). Moreover, zone changes and amendments to the municipal code do not trigger any of the thresholds of significance under CEQA Guidelines Appendix G.

However, this change is consistent with the existing General Plan designation for the Project site. Further, potential effects on adjacent land uses are minimized by the 250-foot buffer area that would be provided by the Municipal Code amendment referenced above.

With approval of the Project’s requested zone change and requested Municipal Code amendment to establish objective standards for the development of Light Industrial uses adjacent to residentially-zoned property, the Project’s potential to result in significant land use impacts was determined to be less-than-significant. The results and conclusions of the Draft EIR are not affected.

Response JS-7

Despite the commentor’s assertions to the contrary, the Project’s air quality analysis does account for construction worker travel to and from the site. As noted in the Draft EIR (Page 4.3-56), “[c]onstruction emissions for construction worker vehicles traveling to and from the Project site, as well as vendor trips are also accounted for within the

Project construction emissions modeling.” Worker trips for all construction phases are clearly identified and accounted for in the air quality modeling (see URBEMIS construction emission modeling data in Draft EIR Appendix C. Specifically, please refer to Appendix A of the Project Air Quality Impact Analysis). No indication of zero VMT for construction workers is found. The results and conclusions of the EIR are not affected.

#### Response JS-8

The commentor states that “all feasible mitigation measures were not adopted . . . and the mitigation which was adopted does not sufficiently mitigate the impacts and is uncertain to occur.” The commentor requests Mitigation Measure 4.3.4 to specifically include zero VOC applications for all “paints, coatings, and solvents.”

Draft EIR Mitigation Measure 4.3.4 serves as a formal restatement a of SCAQMD rules. As noted in the Draft EIR (Page 4.3-61), “[i]n order to facilitate monitoring and compliance, applicable SCAQMD and CARB regulatory requirements are restated as mitigation measures, and shall be incorporated in all Project plans, specifications and contract documents.” Complementing SCAQMD rule compliance, the Draft EIR incorporates additional requirements as mitigation measures. “Additional mitigation required of the Project is identified below, and shall be incorporated in all Project plans, specifications and contract documents.” (Draft EIR Page 4.3-62) Mitigation Measure 4.3.8 currently requires Zero VOC paint applications. In response to the commentor’s suggestion, Mitigation Measure 4.3.7 is amended to read as follows:

~~Zero Volatile Organic Compounds paints (no more than 150 grams/liter of VOC) and/or High Pressure Low Volume (HPLV) applications~~ **“Zero-Volatile Organic Compounds” paints, coatings, and solvents with a VOC content lower than required under Rule 1113. The Project shall surpass Rule 1113 minimum requirements through specification that VOC content shall not exceed 150 grams/liter; 1.25 pounds/gallon. High Pressure Low Volume**

*(HPLV) applications of paints, coatings, and solvents shall be consistent with South Coast Air Quality Management District Rule 1113. Alternatively, the Applicant shall use materials that do not require painting or are pre-painted.*

This revision has been reflected in Final EIR Section 2.0, "Revisions and Errata," and incorporated in the Final EIR's Mitigation Monitoring Program, presented at Section 4.0. Other than suggested language modification of SCAQMD rules, the commentor offers no new or revised mitigation for consideration here. Absent specific suggestions or requested revisions, further response in this regard is not possible. The conclusions of the EIR are not affected.

#### Response JS-9

The commentor appears to misinterpret Air Quality modeling protocols and outputs, stating that ". . . [i]n recommending this mitigation measure, the air quality analysis stated that traffic speeds should be reduced in order to reduce PM<sub>10</sub> and PM<sub>2.5</sub> fugitive dust haul road emissions by approximately 44%. Yet, Mitigation Measure 4.3.1 clearly leaves out this, or an even more stringent, performance standard, as required to make the mitigation measure enforceable. Mitigation Measure 4.3.1 should require that traffic speeds be reduced to a level which will reduce dust emissions by 44%."

To clarify, Mitigation Measure 4.3.1 is a formal restatement of SCAQMD Rule 403 provisions. URBEMIS modeling of the Rule application yields a 44 percent reduction in PM<sub>10</sub> emissions. As suggested by the commentor, additional language specifying on-site speed controls is added to Mitigation Measure 4.3.1:

- *In support of Project plan specifications and contract document language; and as means of controlling on-site construction vehicle speeds, for the duration of Project construction activities, speed limit signs (15 mph maximum) shall be posted at entry points to the Project*

*site, and along any unpaved roads providing access to or within the Project site and/or any unpaved designated on-site travel routes.*

This revision has been reflected in Final EIR Section 2.0, "Revisions and Errata," and incorporated in the Final EIR's Mitigation Monitoring Program, presented at Section 4.0. Results and conclusions of the EIR are not affected.

Response JS-10

The commentor suggests explicit notation indicating required use of available electrical power during construction activities. In response to the commentor's suggestion, Mitigation Measure 4.3.6 is amended as follows:

*4.3.6 During Project construction, existing electrical power sources (e.g., power takeoffs from existing or temporary power poles) shall be ~~provided for~~ **utilized to** power electric construction tools including saws, drills and compressors, to minimize the need for diesel or gasoline powered electric generators.*

This revision has been reflected in Final EIR Section 2.0, "Revisions and Errata," and incorporated in the Final EIR's Mitigation Monitoring Program, presented at Section 4.0. Results and conclusions of the EIR are not affected.

Response JS-11

Please note that introductory language included prior to the introduction of construction-source emissions mitigation measures states: *"To facilitate monitoring and compliance, applicable SCAQMD and CARB regulatory requirements are restated as Mitigation Measures 4.3.1 through 4.3.4 below, and shall be incorporated in all Project plans, specifications and contract documents."*

Existing Mitigation Measure 4.3.2, which read, "[t]he contractor shall minimize pollutant emissions by maintaining equipment engines in good condition and in proper



tune according to manufacturer’s specifications and during smog season (May through October) by not allowing construction equipment to be left idling for more than five minutes (per California law)” is deleted and replaced with the following:

**4.3.2 The contractor shall minimize pollutant emissions by maintaining equipment engines in good condition and in proper tune according to manufacturer’s specifications and by not allowing construction equipment to be left idling for more than five minutes (per California law).**

Response JS-12

The commentor states that “[t]he air quality analysis also states that in order to stabilize the soil and decrease impacts from fugitive dust due to fine and mass grading, a mitigation measure to replace ground cover in disturbed areas ‘quickly’ should be adopted.” In fact, this statement does not appear to be included in the Project Air Quality Analysis. The mitigation input calling for the Project to replace ground cover in disturbed areas quickly is, however, a parameter reflected in the URBEMIS modeling output. Revised Mitigation Measure 4.3.1 is amended to reflect this specific parameter:

- **Ground cover shall be replaced, and/or non-toxic soil stabilizers shall be applied (according to manufacturers’ specifications) to any inactive construction areas (previously graded areas inactive for ten days or more);**

This revision has been reflected in Final EIR Section 2.0, “Revisions and Errata,” and incorporated in the Final EIR’s Mitigation Monitoring Program, presented at Section 4.0. Results and conclusions of the EIR are not affected.

Response JS-13

The commentor notes that an estimated disturbance area of 13.66 acres per day is reflected in the Air Quality modeling. The commentor suggests that a mitigation measure be included limiting site disturbance to less than 13.66 acres per day. The estimated disturbance of 13.66 acres per day (approximately one-quarter of the Project site) likely overstates actual disturbance and is employed for emissions modeling purposes and to develop mitigation addressing the likely maximum impact scenario. To assume or propose unrealistically limited grading of the site is contrary to CEQA disclosure mandates. Further, due to daily limits on grading, there would be incrementally increased impacts due to extended periods of fugitive dust, extended exposure to construction noise, and extended traffic disturbance. The commentor is referred to EIR Section 5.2.2.1, "Extended Construction Alternative Considered and Rejected," which specifically considers and rejects limited grading of the Project site. To ensure consistency with URBEMIS modeling assumptions, new Mitigation Measure 4.3.1 is revised to include the following specification:

- *Site disturbance during mass grading and fine grading activities shall not exceed 13.66 acres per day.*

This revision has been reflected in Final EIR Section 2.0, "Revisions and Errata," and incorporated in the Final EIR's Mitigation Monitoring Program, presented at Section 4.0. Results and conclusions of the EIR are not affected.

Response JS-14

The commentor proposes numerous additional measures (following) as means to reduce Project-related construction-source emissions air quality impacts. Each of these measures is evaluated in the table which follows. Measures offered by the commentor are not required in order to achieve the level(s) of mitigation identified in the Draft EIR. Moreover, the commentor provides no indication as to the efficacy of the proposed

measures in reducing Project impacts, nor is nexus provided between the proposed measures and their implied environmental benefit vis-à-vis Project impacts.

As detailed in the Table which follows, in certain instances, the measures proposed by the commentor would likely result in net increased detrimental environmental effects (e.g., suggested prolonging of construction activities, premature implementation of unproven technologies to address GHG emissions). Certain other suggested “mitigation measures” proposed by the commentor replicate existing policies/requirements/regulations, and are not mitigation. Please refer also to the following text from the Draft EIR:

. . . In some cases, these impacts may appear to be potentially significant. However, existing public policies, regulations, and procedures adequately address these potential effects, thereby reducing them to a less-than-significant level, without the need for additional mitigation (Draft EIR Page 4-2).

It is further noted that in some instances, the commentor proposes additional operational emission measures as means of further reducing environmental impacts that are already determined to be less-than-significant, or less-than-significant with application of measures already included in the Draft EIR. These measures proposed by the commentor are not included as mitigation, though the Lead Agency may, at its discretion, impose these additional requirements; typically through Project Conditions of Approval. Lastly, the Lead Agency’s experience with many of the measures suggested by the commentor indicates that while good in concept, the suggested measures prove to be ineffective, or otherwise inordinately cumbersome in their application; to the extent that the measures cannot be realistically or practically implemented. Accordingly, such measures are noted as recommendations, but are not required.

Suggested Measure	Response
1. Require the purchase of NOx credits from a qualified broker to offset construction-related air quality impacts.	<b>Infeasible.</b> NOx emissions credits are generally applied toward operational emissions at major source facilities (e.g., refineries, power plants, etc.). NOx emissions credits are not commonly used to address short-term construction emissions. It would be impractical to purchase offsets for the Project's construction impacts since the actual amount of construction emissions set forth in the Draft EIR represent an overestimation of actual emissions (i.e., the Air Quality Analysis assumes all construction equipment is operating eight hours per day as a "worst-case" scenario), and because the actual Project construction schedule (duration) is not known with a great deal of certainty and is subject to change based on availability of contractors, equipment, materials, etc. Further, any emission reduction credits would not result in any reduction to construction emissions on-site or in the immediate vicinity of the Project. The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.
2. Install gravel pads at all access points to prevent tracking of mud onto public roads.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
3. Install and maintain trackout control devices in effective condition at all access points where paved and unpaved access or travel routes intersect.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
4. Complete all roadways, driveways, sidewalks, etc. as soon as possible. In addition, lay building pads as soon as possible after grading unless seeding or soil binders are used.	<b>Incorporated</b> at revised Mitigation Measure 4.3.1, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
5. Pave all roads on construction sites as soon as technically possible.	<b>Infeasible.</b> It is infeasible and ineffective to pave roads within construction sites or at construction site access points. Such pavement is destroyed in the process of construction and/or is in perpetual state of disrepair. Paving temporary roads within construction areas unnecessarily increases VOC generation, with little or no discernible reduction in other air pollutant emissions. The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.
6. Limit fugitive dust sources to 20 percent opacity.	<b>Replicates existing requirements.</b> Please refer to SCAQMD Rule 403.
7. The contractor or builder shall designate a person or person(s) to monitor the dust control program and	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."

Suggested Measure	Response
to order increased watering, as necessary, to prevent transport of dust offsite.	
8. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. The person shall take corrective action within 24 hours.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
9. Require high pressure injectors on diesel construction equipment.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
10. Restrict engine size of construction equipment to the minimum practical size.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
11. Use electric construction equipment where technically feasible.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
12. Substitute gasoline-powered for diesel powered construction equipment.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
13. Require use of alternatively fueled construction equipment, using, e.g., compressed natural gas, liquefied natural gas, propane or biodiesel.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
14. Implement activity management techniques including: a) development of construction management plan to minimize the number of large construction equipment operating during any given time period; b) scheduling of construction truck trips during non-peak hours to reduce peak hour emissions; c) limitation of the length of construction work-day period; and d) phasing of construction activities.	<b>Not required, counterproductive.</b> Construction contractor(s) employ techniques and procedures so as to provide for the most efficient operation of their construction activities. No demonstrated or suggested nexus between the suggested measures and project impacts. The commentor indicates further that this measure would reduce greenhouse gas emissions; however, none of the measures would demonstrably reduce total greenhouse gas emissions. As also discussed in these responses, measures acting to prolong construction (e.g., restricted use of equipment, limitation of the length of construction work-day period; phasing of construction activities) tend to increase rather than decrease environmental impacts due to extended and periods of disturbance.
15. Install catalytic converters on gasoline-powered equipment.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
16. Use electricity from power poles rather than temporary diesel power generators.	<b>Replicates existing requirements.</b> This requirement is currently reflected at EIR Mitigation Measure 4.3.6, presented , in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
17. Alternative diesel fuels exist that achieve PM <sub>10</sub> and NO <sub>x</sub> reductions. PuriNO <sub>x</sub> is an alternative diesel	<b>Infeasible.</b> The Lead Agency has determined that Lubrizol, the producer of PuriNox ceased production of PuriNox in December 2006. Furthermore, conversations with South

Suggested Measure	Response
<p>formulation that was verified by ARB on January 31, 2001 as achieving a 14 percent reduction in NO<sub>x</sub> and a 63 percent reduction in PM<sub>10</sub> compared to CARD diesel fuel.</p> <p>It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines in existing storage, distribution, and vehicle fueling facilities. Operational experience indicates that little or no difference in performance and start-up time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.</p>	<p>Coast Air Quality Management (District representatives James Koizumi and Steve Smith) confirmed that PuriNox is not expected to be commercially available in the foreseeable future. The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.</p>
<p>18. Prior to the issuance of a grading and building permit, the applicant shall submit verification that a ride-sharing program for the construction crew has been encouraged and will be supported by contractor via incentives or other inducements.</p>	<p><b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."</p>
<p>19. Minimize construction worker trips by requiring carpooling and providing for lunch onsite.</p>	<p><b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."</p>
<p>20. Provide shuttle service to food service establishments/commercial areas.</p>	<p><b>Incorporated.</b> Shuttle services for construction workers provided pursuant to revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."</p>
<p>21. Provide shuttle service to transit stations/multimodal stations.</p>	<p><b>Incorporated.</b> Shuttle services for construction workers provided pursuant to revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."</p>
<p>22. Utilize only CARB certified equipment for construction activities.</p>	<p><b>Replicates existing requirements.</b> As a matter of California law, all construction equipment, whether or not it is used for this Project, is required to meet California Air Resources Board (CARB) emissions standards.</p>
<p>23. All forklifts shall be electric or natural gas powered.</p>	<p><b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."</p>

Suggested Measure	Response
<p>24. Extend grading period sufficiently to reduce air quality impacts below a level of significance.</p>	<p><b>Infeasible, counterproductive.</b> Extending the grading schedule would (1) increase the Project's grading costs; (2) hinder effective management, organizing, and scheduling of construction tasks; and (3) result in adverse environmental trade-offs as a result of prolonged disturbance in the Project area, including but not limited to: extended periods of increased noise levels; prolonged generation of fugitive dust and VOCs; increased erosion exposure and associated water quality issues; and additional traffic disturbances associated with on-site construction activities. The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.</p>

Response JS-15

The commentor states: “[t]he Air Quality Analysis for operational emissions fails to note the variances from default values which are standard for the SCAQMD that were used when conducting the URBEMIS Analysis. Further, the total number of trips analyzed in the air quality section (1,585.22) was over 54% less than the total number of trips estimated in the traffic analysis (2,930). This renders the DEIR inadequate as an informational document as it does not allow one to accurately assess the Project impacts.”

It appears that the commentor has incorrectly interpreted and applied default URBEMIS values. SCAQMD does not typically conduct project-level URBEMIS modeling for other than their own projects. Moreover, default values are just that, the “default” condition. Changes to default values are appropriate when specific Project attributes or operational characteristics are known, as is the case for the Project. In this regard, the Air Quality analysis specifically recognizes vehicle types and trip generation characteristics of the Project. Known vehicle trip generation characteristics provide a more accurate assessment of Project vehicular-source emissions impacts than does application of default URBEMIS values.

The commentor appears to misinterpret and misapply vehicle trip generation characteristics and their use in developing estimated air pollutant emissions impacts vis-à-vis use of trip generation estimates for the purposes of traffic modeling. More specifically, as noted in the Project Air Quality Analysis, Project operational (vehicular) impacts are dependent on both overall daily vehicle trip generation and the effect of the Project on peak hour traffic volumes and traffic operations in the vicinity of the Project. The Project related operational air quality impact centers primarily on the approximate 1,585 net vehicle trips generated by the Project (at project buildout). Trip characteristics available from the *Westridge Commerce Center Traffic Impact Analysis* (Urban Crossroads, Inc., October 8, 2009, included in Draft EIR Appendix B) were utilized in this analysis. It should be noted that the Project's traffic study presents the total Project vehicle trips in terms of Passenger Car Equivalents, or PCEs (the 2,930 PCE value cited by the commentor) in an effort to recognize and acknowledge the effects of heavy vehicles at the study area intersections. For purpose of the air quality study, emissions were calculated based on the type of vehicle (e.g., passenger cars and trucks) a more detailed discussion of how the actual number of vehicles were programmed into the model is presented in Draft EIR Appendix C. Specifically, page 37 of the Project Air Quality Analysis refers to its own Appendix B for review. Parallel information is provided in the Draft EIR, and reprinted below for ease of reference.

2,930 PCE trips = 1,585 net vehicle trips (the raw arithmetic number of truck and passenger vehicle trips) generated by the Project. It should be noted that because different classes of vehicles (e.g., passenger cars, light trucks, heavy duty trucks) exhibit differing emissions characteristics that for the purposes of quantifying and evaluating air quality impacts, vehicle trips are quantified and segregated by vehicle type. In comparison, the Project's traffic study evaluates the effects of traffic at intersections and roadways, and therefore presents the total vehicle trips in terms of Passenger Car Equivalents (PCEs), thereby recognizing and



acknowledging physical size differences in vehicles and related effects on roadways and at intersections (Draft EIR Page 4.2-19).

Project operational (vehicular) impacts are dependent on both overall daily vehicle trip generation and the effect of the Project on peak hour traffic volumes and traffic operations in the vicinity of the Project. Assessment of the Project's operational air quality impact centers primarily on the approximately 1,585 net vehicle trips generated by the Project (or, the arithmetic sum of truck and passenger vehicle trips). Trip generation characteristics for the Project are presented in Draft EIR Appendix B, the *Westridge Commerce Center Traffic Impact Analysis* (Urban Crossroads, Inc., October 8, 2009). The results and conclusions of the Draft EIR are not affected.

#### Response JS-16

The commentor notes discrepancies between the Draft EIR text and the Air Quality Study regarding vehicle trip length and vehicle speed employed in the LST analysis. Notwithstanding, the quantified LST emissions impacts reported in the Draft EIR (Table 4.3-12) are consistent with the LST values presented in the Air Quality Analysis (Table 4-5). The typographic error at Draft EIR Page 4.3-68 is corrected (below) consistent with the described trip length/vehicle speed reported in Air Quality Analysis.

Therefore, for purposes of the operational LST analysis the average trip length in URBEMIS was altered to ~~0.5~~0.3 miles which conservatively characterizes on-site vehicle travel. Additionally, the vehicle speed in URBEMIS was altered to ~~five-ten~~ miles per hour as a conservative measure to account for on-site vehicular travel.

These corrections have been incorporated in Final EIR Section 2.0, "Revisions and Errata." The results and conclusions of the Draft EIR are not affected.

Response JS-17

The commentor provides opinions regarding the efficacy of mitigation proposed as means of reducing Project operational NOx and VOC emissions. It is important to note that substantially all of the estimated NOx emissions are from mobile sources – principally vehicle exhaust, and vehicle tail pipe source emissions are regulated by CARB and USEPA. The Lead Agency cannot control emissions from the tailpipes of vehicles traveling to/from the facility.

In addition, the Project is compliant with the SCAQMD's attainment plans, as the use of the site for industrial purposes was included in the previous SCAQMD's ozone and PM attainment plans. The Project implements all feasible mitigation measures and complies with all applicable CARB and SCAQMD Rules directed toward reduction of NOx and VOC emissions. The Lead Agency will however, adopt and implement EIR mitigation measures that minimize vehicle emissions generated on-site and by employees, but those vehicle miles are minor compared with the total vehicle miles used in the studies; and further, URBEMIS does not account for any reductions for those measures.

The Draft EIR clearly states that even with application of proposed mitigation, Project operational NOx and VOC emissions will exceed applicable SCAQMD regional thresholds. Should the Project be approved, the Lead Agency is required to adopt a Statement of Overriding Considerations acknowledging Project exceedances for operational-source NOx and VOC emissions.

Response JS-18

The commentor arbitrarily suggests a 30 percent increase in energy efficiency beyond the requirements provided under Title 24 Building Energy Efficiency Standards, inferring a somehow substantial resultant decrease in NOx emissions. Consistent with the provisions of Executive Order, S-20-04 (CA 2004), which sets a goal of reducing energy use in public and private buildings by 20 percent by 2015 (as compared with

2003 levels), the Project will achieve a minimum 20 percent increase in building efficiencies beyond Title 24 requirements (please refer to Mitigation Measure 4.3.11).

As noted previously, the predominance of Project operational NO<sub>x</sub> emissions are vehicle-generated, and beyond the control of the Applicant or Lead Agency. Any reduction in NO<sub>x</sub> emissions resulting from increased building/facility energy efficiencies would be, at best, nominal. Even assuming “zero” NO<sub>x</sub> emissions from building/area sources, NO<sub>x</sub> emissions would be reduced by approximately 0.09 to 0.11 percent (0.0009 to 0.0011), and would still exceed applicable SCAQMD regional thresholds. No additional Title 24 enhancements are proposed, nor are any required. Results and conclusions of the EIR are not affected.

#### Response JS-19

The commentor proposes numerous additional measures as a means to reduce Project-related operational-source air quality impacts. Each of these measures is evaluated in the Table which follows. While the suggested measures may in part act to generally reduce Project impacts, none of the measures are required in order to achieve the levels of mitigation identified in the Draft EIR. Moreover, the commentor provides no indication as to the efficacy of the proposed measures in reducing Project impacts, nor is nexus provided between the proposed measures and their implied environmental benefit vis-à-vis Project impacts.

With specific regard to proposed measures targeting GHG emissions reductions, arguably, the proposed measures may prove of little net benefit, while imposing significant cost and economic burdens. Case studies have indicated that GHG measures implemented to date have yielded marginal benefits when compared to economic costs. Moreover, premature implementation of unproven measures would be detrimental by diverting resources that could be made available to other, more effective strategies. Please refer also to the attached: *The AB 32 Challenge: Reducing*

*California's Greenhouse Gas Emissions* (Gregory Freeman, Nancy D. Sidhu, PhD, Myasnik Poghosyan) January 2008.

As discussed in the Table which follows, in certain instances, the measures proposed by the commentor would likely result in net increased detrimental environmental effects (e.g., suggested prolonging of construction activities, premature implementation of unproven technologies to address GHG emissions). Certain other suggested "mitigation measures" proposed by the commentor replicate existing policies/requirements/regulations, and are not mitigation. Please refer also to Draft EIR Page 4-2:

. . . In some cases, these impacts may appear to be potentially significant. However, existing public policies, regulations, and procedures adequately address these potential effects, thereby reducing them to a less-than-significant level, without the need for additional mitigation. . . .

It is further noted that in some instances, the commentor proposes additional measures as means of further reducing environmental impacts that are already determined to be less-than-significant, or less-than-significant with application of measures already included in the Draft EIR. These measures proposed by the commentor are not included as mitigation, though the Lead Agency may, at its discretion, impose these additional requirements; typically through Project Conditions of Approval. Lastly, the Lead Agency's experience with many of the measures suggested by the commentor indicates that while good in concept, the suggested measures prove to be ineffective, or otherwise inordinately cumbersome in their application; to the extent, that the measures cannot be realistically or practically implemented. Accordingly, such measures are noted as recommendations, but are not required.

Suggested Measure	Response
1. Require the utilization of zero VOC paint, coatings and solvents.	<b>Incorporated.</b> This requirement is reflected at EIR Mitigation Measure 4.3.7, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan." Mitigation Measure language has been revised as suggested by SCAQMD.
2. Require the purchase of NOx credits from a qualified broker to off-set construction-related air quality impacts.	<b>Infeasible.</b> Please refer to Response JS-14, item No. 1.
3. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall become a SmartWay partner.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
4. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers. Results including backup data shall be reported to the Planning Department semi-annually.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
5. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve at least 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers. Results including backup data shall be reported to the Planning Department semi-annually.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
6. By the end of the year 2012 all fleet vehicles shall conform to 2010 air quality standards or better. Results, including backup data shall be reported to the Planning Department semi-annually.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
7. Install catalytic converters on gasoline-powered equipment.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."

Suggested Measure	Response
8. Alternative diesel fuels exist that achieve PM <sub>10</sub> and NO <sub>x</sub> reductions. PuriNO <sub>x</sub> is an alternative diesel formulation that was verified by ARB on January 31, 2001 as achieving a 14 percent reduction in NO <sub>x</sub> and a 63 percent reduction in PM <sub>10</sub> compared to CARD diesel fuel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines in existing storage, distribution, and vehicle fueling facilities. Operational experience indicates that little or no difference in performance and start-up time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.	<p><b>Infeasible.</b> The Lead Agency has determined that Lubrizol, the producer of PuriNO<sub>x</sub> ceased production of PuriNO<sub>x</sub> in December 2006. Furthermore, conversations with South Coast Air Quality Management District representatives James Koizumi and Steve Smith confirmed that PuriNO<sub>x</sub> is not expected to be commercially available in the foreseeable future.</p> <p>The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.</p>
9. Electrical powered equipment must be utilized in-lieu of gasoline-powered engines where technically feasible.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
10. Require each user to establish a carpool/vanpool program.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
11. Provide on-site child care or contribute to off-site child care within walking distance.	<b>Infeasible, counterproductive.</b> Childcare facilities are not compatible with the proposed industrial warehouse uses. Moreover, there is no demonstrated nexus with Project-related operational emissions impacts requiring or suggesting implementation of childcare facilities. The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.
12. Provide preferential parking for carpool/vanpool vehicles.	<b>Replicates existing requirements.</b> Preferential parking for carpools/vanpools is currently required pursuant to EIR Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
13. Provide secure, weather-protected bicycle parking for employees.	<b>Incorporated</b> at revised EIR Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
14. Provide direct, safe bicycle access to adjacent bicycle routes.	<b>Replicates existing requirements.</b> Direct, safe bicycle access is currently provided pursuant to Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
15. Provide showers and lockers for employees bicycling or walking to work.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."

Suggested Measure	Response
16. Short-term bicycle parking for retail customers and other non-commute trips.	<b>Replicates existing requirements.</b> The Project does not propose retail uses. Bicycle parking is currently provided pursuant to Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
17. Connect bicycle lanes/paths to city-wide network.	<b>Replicates existing requirements.</b> Bicycle path connections are currently provided pursuant to EIR Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
18. Design and locate buildings to facilitate transit access, e.g. locate building entrances near transit stops, eliminate building setbacks, etc.	<b>Infeasible, counterproductive.</b> No transit stops exist proximate to the Project site such that building orientation would have any material effect on use of, or access to transit. Elimination of building setbacks as suggested would increase potential air quality, noise and visual impacts when compared to the Project as proposed. The suggested measure is not germane to the Project, and is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.
19. Prohibit idling of trucks for periods extending three minutes.	<b>Replicates existing requirements.</b> EIR Mitigation Measure 4.3.11 currently prohibits the idling of trucks for more than three (3) minutes.
20. Construct transit facilities such as bus turnouts/bus bulbs, benches, shelters, etc.	<b>Not required per Responsible Agency.</b> Riverside Transit Agency (RTA) provides fixed-route bus service regionally along SR-60, and locally via Moreno Beach Drive, allowing for the possibility of future connections near the Project site. The Lead Agency has coordinated with RTA and determined that installation of a bus stop or turn-out will not be required of the Project.
21. Provide shuttle service to food service establishments/commercial areas.	<b>Replicates existing requirements.</b> EIR Mitigation Measure 4.3.13 currently includes provisions for shuttle services.
22. Provide shuttle service to transit stations/multimodal centers.	<b>Replicates existing requirements.</b> EIR Mitigation Measure 4.3.13 currently includes provisions for shuttle services.
23. Implement parking fee for single-occupancy vehicle commuters.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
24. Implement parking cash-out program for non-driving employees.	<b>Not applicable.</b> In that there is no current or proposed parking subsidy, there is no available parking "cash out" resource or mechanism. As noted herein, other tenable incentives are provided as means of reducing vehicle trips.

Suggested Measure	Response
25. Provide direct, safe, attractive pedestrian access from project to transit stops and adjacent development.	<b>Replicates existing requirements.</b> The site is not currently provided transit service, nor is pedestrian access to the nearest transit stop possible at this time. Pursuant to the requirements of the City’s Master Plan of Trails, the Project will dedicate and construct an 11-foot wide community trail segment along the southerly Project boundary, on the north side of Fir Avenue (future Eucalyptus Avenue). Upon development of the adjacent parcel(s), the trail is planned to continue off-site to the east and to the west, as part of the future Quincy Channel overcrossing.
26. Implement a compressed workweek schedule where feasible.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13.
27. Provide electrical vehicle (EV) and compressed natural gas (CN) vehicles in vehicle fleets.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13.
28. Install EV charging facilities for a minimum of 10% of all parking spaces.	<b>Infeasible.</b> The Project will provide, at minimum, two EV charging stations, as required by Mitigation Measure 4.3.13. There is no demonstrable evidence that installation of additional EV charging facilities would substantially reduce or eliminate the Project’s operational emissions because chargeable electric vehicles represent a small percentage of vehicles on the road. Moreover, on a regional basis, increased power demands at electrical outlets/EV charging stations tend to increase power plant emissions, acting to offset any potential emissions reductions from individual sources such as motor vehicles. Further, it is noted that next generation transportation technologies are in flux. It is premature, inefficient and counter-productive to assign substantial assets to predetermined transportation solutions. The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.



Suggested Measure	Response
29. Install a CNG fueling facility.	<b>Infeasible.</b> As noted above, next generation transportation technologies are in flux. It is premature, inefficient and counter-productive to assign substantial assets to predetermined transportation solutions. Further, for CNG fuel to be a reasonable alternative to diesel fuel for the logistics industry, a reasonable distribution network must be in place so that drivers can be assured that they can re-fuel when making deliveries across the region. No such distribution system is presently in place nor is one likely to be developed in the near future. The installation of a stand-alone CNG fueling facility at this location would provide no benefit because no reasonable distribution system is in place. CNG-fueled vehicles have been found to be most useful for limited range, closed-circuit usage such as municipal fleets (refuse collection, city vehicles, and buses), taxi fleets, and local delivery services. Lastly, as with the commentor's suggestion for EV facilities, the installation of a CNG fueling facility is unlikely to substantially reduce or eliminate the Project's operational emissions because CNG vehicles represent a small percentage of vehicles on the road. Furthermore, the Draft EIR has not evaluated the potential environmental impacts related to the construction and operation of a CNG fueling facility. A Lead Agency is under no obligation to impose Mitigation Measures that in and of themselves may constitute a new "project" for purposes of CEQA. (See e.g., <i>Concerned Citizens of South Central L.A. v. Los Angeles Unified School District</i> , 24 Cal.App.4th, 826 (1994)). The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.
30. Provide preferential parking locations for EVs and CNG vehicles.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
31. Utilize electrical equipment for landscape maintenance.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
32. Utilize only CARB-certified equipment for construction activities.	<b>Replicates existing requirements.</b> As a matter of California law, all construction equipment, whether or not it is used for this Project, is required to meet California Air Resources Board (CARB) emissions standards.
33. All forklifts shall be electric or natural gas powered.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
34. Provide subsidies or incentives to employees who use public transit or carpooling, including preferential parking.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."

Suggested Measure	Response
35. Plant shade trees in parking lots to provide minimum 50% cover to reduce evaporative emissions from parked vehicles.	<b>Replicates existing requirements.</b> Please refer to City of Moreno Valley Municipal Code 9.17.050 (D) (3).
36. Utilize low pressure sodium fixtures for exterior lighting, including parking lots.	<b>Replicates existing requirements.</b> As stated on Draft EIR Page 3-17, the Project site is located within a 45 mile radius of Mt. Palomar Observatory. Consequently, the Project must comply with County Ordinance 655 which requires that all outdoor lighting within the Project area will be provided by low-pressure sodium hooded lights.
37. Utilize electric yard trucks.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
38. All buildings shall be constructed to LEED Platinum standards.	<p><b>Not required, no nexus with significant impacts.</b> As discussed on Pages 3-18 and 5-79 of the Draft EIR, the Project, as a whole, will be developed as a LEED-certified facility. LEED certification is contingent, among other requirements, on demonstrated and documented conservation and efficient use of available resources. It is recognized that not all LEED performance standards are applicable or appropriate for the Project, and that different standards may be utilized by the Project's end user(s). Additionally, the LEED rating system is not the appropriate standard for determining building efficiency.</p> <p>The California Title 24 Building Energy Efficiency Standards are the appropriate baseline. As set forth in the Draft EIR, the Project will achieve a minimum of 20 percent in energy efficiencies beyond incumbent Title 24 Energy Efficiency standards, as well as compliance with other applicable state and federal energy standards. There is no requirement for LEED certification as mitigation of Project impacts. While LEED-certified facilities may tend to reduce various environmental effects, LEED certification is a voluntary exercise to be pursued by the Applicant outside of and independent of CEQA mandates.</p>
39. The operator shall meet SmartWay 1.25 ratings.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
40. The operator shall use only freight companies that meet SmartWay 1.25 ratings.	<b>Incorporated</b> at revised Mitigation Measure 4.3.13, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
41. The developer shall install photovoltaic solar systems sufficient to offset all electrical usage.	<b>Not required, no nexus with significant impacts.</b> As currently noted under EIR Mitigation Measure 4.3.11: "All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design." There is no requirement or demonstrated nexus requiring full offset of Project electrical consumption through use of photovoltaics.

Suggested Measure	Response
42. The developer shall install photovoltaic solar systems sufficient to offset all vehicular emissions.	<b>Not required, no nexus with significant impacts.</b> As currently noted under EIR Mitigation Measure 4.3.11: "All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design." There is no requirement or demonstrated nexus requiring full offset of Project vehicular emissions through use of photovoltaics.
43. The operator shall purchase only green power.	<b>Infeasible, not required, no nexus with significant impacts.</b> Power to the Project will be provided from the locally available electrical grid. The term "green power" is undefined, and moreover the Lead Agency has no practical way to require that power be provided from specified sources, "green" or otherwise. The suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible. There is no requirement or demonstrated nexus requiring the Project to "purchase only 'green power'."

Results and conclusion of the Draft EIR are not affected.

Response JS-20

The commentor appears to misinterpret analysis and conclusions provided in the Project GCC Analysis. More specifically, the commentor misstates that the analysis concludes that the Project *will [emphasis added]* have a significant effect on the environment.

To further clarify, germane suggested CEQA Guidelines topical questions include:

Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that *may [emphasis added]* have a significant impact on the environment?

In the absence of worldwide reduction commitments that are fully funded, any project level reduction measures cannot assure that significant effects on global temperatures and sea levels will be fully mitigated. That is, due to the potential global impacts

[beyond the control of the Project] significant GCC impacts may occur even with implementation of the measures set forth in CARB's AB 32 Scoping Plan (see *Climate Change Analysis*, Page 42).

The commentor states that the finding of "less-than-significant" Project GCC impacts is based on non-exceedance of (draft) CARB and SCAQMD GHG emissions thresholds. Though this is the case, the GCC Study clearly states that these thresholds are not applicable to the Project:

CARB's Draft Threshold Of Significance For Industrial Projects Has Not Been Finalized And Is Not Applicable To The Proposed Project (*Climate Change Analysis*, Page 40).

SCAQMD's Adopted GHG Threshold Applies Only To Projects Where It Is The Lead Agency And Is Not Applicable To The Proposed Project (*Climate Change Analysis*, Page 41).

As discussed in the *Climate Change Analysis*, there are no adopted quantitative GHG emissions thresholds applicable to the Project. Absent such quantified thresholds, the CARB and SCAQMD GHG emissions standards nonetheless provide an indication of current policies and strategic approaches employed in evaluating and addressing GHG emissions and potential GCC impacts, and may portend similar future statewide, regional, and/or local quantified thresholds. The clearly stated threshold considerations applicable to the Project are:

1. Would the proposed project generate GHG that may have a cumulatively significant impact on the environment; and
2. Would the proposed project conflict with GHG reduction measures identified in CARB's AB 32 Scoping Plan.

As concluded in the *Climate Change Analysis*, the answer to both of the preceding questions is “no,” yielding the conclusion that the Project GCC impacts are less-than-significant. Moreover, as also discussed in the *Climate Change Analysis*, Project GHG emissions would not exceed either CARB or SCAQMD GHG emissions thresholds, further supporting the conclusion that the Project GCC impacts are less-than-significant. As a matter of clarification, the abbreviated conclusion presented at Draft EIR Page 4.3-94 is expanded/revised as follows:

~~Nonetheless, the Project will not exceed the CARB or SCAQMD proposed quantitative thresholds. Therefore, Project GHG emissions impacts are considered less than significant.~~ **As noted in the preceding discussions, it is generally accepted that the magnitude of global climate change effects is so substantial and the contribution of an individual project to global climate change is so extremely minuscule that direct significant adverse impacts would be highly unlikely.**

**In evaluating the potential global climate change impacts of the Project, every attempt has been made to accurately and comprehensively quantify the greenhouse gas emissions associated with the Project. However, a number of inherent limitations are unavoidable in compiling or estimating project-level GHG emissions. Among these limitations, the use of models that measure overall emissions increases without accounting for existing emissions tend to substantially overstate the GHG emissions impacts of a new development projects. This makes an accurate analysis of GHG emissions substantially different from other air quality impacts, where the “addition” of redistributed emissions can make a substantial difference to overall air quality. Notably, not all the vehicular trips that result from the Project will be “new” vehicle trips, but that a majority of these trips already occur elsewhere, and currently generate GHG**

emissions within a global context. For example, the Project will not create entirely new truck trips (globally). However, implementation of the Project would establish a new destination point for trucks already utilizing the area roadway system. Within the scope of limitations and considerations noted herein, a Project GHG emissions inventory has been prepared as recommended under OPR's technical advisory.

The City of Moreno Valley has not adopted a numeric threshold of significance for emissions of greenhouse gases. However, guidance and an indication of the potential significance of the Project's GHG emission impacts is inferred by comparing Project GHG emissions levels against germane proposed or adopted GHG emissions impacts thresholds. To this end, Project GHG emissions have been compared to GHG emissions thresholds developed by state Responsible Agencies charged with oversight and regulation of air pollutant emissions, the SCAQMD and CARB. As indicated herein, Project GHG emissions would not exceed the thresholds developed by those agencies.

Based on the preceding discussions and supporting analysis provided in the Project Global Climate Change Analysis included at EIR Appendix C, the Project's potential to generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment is less-than-significant.

This revision has been reflected in Final EIR Section 2.0, "Revisions and Errata," and incorporated in the Final EIR's Mitigation Monitoring Program, presented at Section 4.0. Results and conclusions of the EIR are not affected.

Response JS-21

The commentor reiterates the Draft EIR discussion that the CARB and SCAQMD GHG emissions thresholds consider only non-transportation sources. To clarify, the thresholds address all stationary GHG sources, but do not include mobile sources. To a certain extent this limitation on threshold considerations reflect the previously noted limitations involved in attempting to estimate “new” emissions associated with vehicle trips to/from new facilities. Nonetheless, the thresholds and their interpretation and application are correct as stated in the EIR and Project *Climate Change Analysis* (included at EIR Appendix C).

Contrary to the commentor’s assertion, the *Climate Change Analysis* is not “deeply flawed” through an omission of mobile-source GHG emissions. Mobile-source emissions are clearly identified and quantified at *Climate Change Analysis*, Page 45, Table 2-4 (27,858.08metric tonsCO<sub>2</sub>E) and at Draft EIR Table 4.3-18 (Page 4.3-92). Mobile source emissions are not however, by CARB and SCAQMD-defined thresholds, utilized by those agencies in determining GHG emissions significance for their facilities. Project facilities emissions of GHG would not exceed GHG thresholds established by CARB and SCAQMD for their facilities. As noted above, this fact is considered within the entirety of the Climate Change Analysis, and in evaluating the Project’s potential GCC impact significance, which is, as correctly concluded in the EIR, less-than-significant.

Response JS-22

The commentor reiterates incorrect calculation and interpretation of Project vehicle trip generation. Please refer to Responses JS-15, JS-20, and JS-21. Results and conclusions of the EIR are not affected.

Response JS-23

The commentor states that “[t]he GHG emission analysis is also deeply flawed in assuming that no new mobile source of emissions will be created by this Project.” This

opinion, along with the commentor's related statements and conclusions, are addressed in preceding Responses JS-15, JS-20 and JS-21, which provide clarification regarding mobile-source GHG emissions evaluated and addressed in the EIR. The Draft EIR analyzes both the mobile and stationary GHG emissions associated with the Project. The EIR analysis conservatively does not assume mere redistribution of existing GHG emissions, particularly with regard to vehicle emissions when considered in a global context. Results and conclusions of the EIR are not affected.

#### Response JS-24

The commentor provides opinions on GHG emissions thresholds and GHG emissions reductions strategies. The commentor disagrees with finding that Project GHG emissions are not cumulatively considerable. Commentor opinions and statements are forwarded to the decision-makers for their consideration.

Contrary to commentor opinions and statements, in point of fact, an exhaustive and accurate assessment of the Project's GHG emissions impacts and related potential GCC impacts are presented in the Draft EIR (Pages 4.3-23 through 4.3-47, Pages 4.3-88 through Pages 4.3-111, at al.), and supporting technical Global Climate Change Analysis included at Draft EIR Appendix C. These discussions not only establish Project consistency with the CARB Scoping Plan (one component of the EIR analysis), but also provide detailed discussion of the sources and effects of GHG emissions, consider and evaluate the Project in the context of existing and proposed GHG emissions reductions strategies, and provides an analysis of Project GHG emissions vis-à-vis adopted and anticipated thresholds. Importantly, the analysis provided in the EIR is consistent with applicable CEQA directives:

Based on the direction provided in Section 15064.4 of the *Guidelines*, a lead agency should make a good-faith effort, based on available information, to describe, calculate, or estimate the amount of greenhouse gas emissions associated with a project. Because the methodologies for



performing this assessment are anticipated to evolve over time, a lead agency shall have discretion to determine, in the context of a particular project, whether to:

1. Use a model or methodology to quantify greenhouse gas emissions associated with a project and which of any available model or methodology to use. The lead agency has discretion to select the model it considers most appropriate provided it supports its decision with substantial evidence. The lead agency should also include a qualitative discussion or analysis regarding the limitations of the particular model or methodology selected for use.
2. Rely on qualitative or other performance based standards for estimating the significance of greenhouse gas emissions (Draft EIR Page 4.3-35).

Substantial evidence provided in the Draft EIR, as summarized above, supports the conclusion that the Project's greenhouse gas emissions are not cumulatively considerable.

The commentor notes *recommended* [emphasis added] CARB Scoping Plan Actions, and misinterprets these as Project requirements. The commentor cites specifically, **Action T-7: Sector-Transportation; Recommended Action-Heavy Duty Vehicle Greenhouse Gas Emission Reduction Measure - Aerodynamic Efficiency;** and **Action E-4: Sector-Electricity and Natural Gas-Recommended Action-Million Solar Roofs.** As noted in the Draft EIR (Pages 4.3-99, 4.3-100), the Project will not conflict with applicable recommended Actions. Consistent with other revisions proposed herein, Action T-7, Action E-4 applicability discussions at Page 4.3-102 are deleted and replaced with the following:

- Action T-7 recommends existing trucks/trailers to be retrofitted with the best available technology and/or CARB-approved technology. Implementation of such a standard is not within the purview of the Project. GHG emissions reductions would be achieved however through standards compliance by vehicles accessing the Project. Further, pursuant to EIR Mitigation Measure 4.3.13, tenants are encouraged to provide incentives to realize Smartway certification, and to use fleet vehicles conforming to CARB 2010 emissions standards or better, thereby reducing GHG emissions. The Project supports, and would not interfere with Action T-7.

Action E-4 promotes solar generated electricity. As discussed within this EIR, the Project design accommodates renewable energy sources, such as photovoltaic solar electricity systems. (Draft EIR Mitigation Measure 4.3.11 requires in part that: "All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design.") The Project supports, and would not interfere with Action E-4.

It is further noted that the AB-32 Scoping Plan merely sets forth concepts, the implementation of which will be refined during the rulemaking process contemplated under AB-32. Thus, merely because Action T-7 recommends that existing trucks/trailers be retrofitted with the best available technology and/or CARB-approved technology; and/or that Action E-4 promotes solar generated electricity does not mean that a given project must require best available technology retrofits; nor install PV solar panels on its roof in order to be consistent with the Scoping Plan.

Please refer also to the complete discussion of Project consistency with applicable recommended CARB Scoping Plan Actions presented at Draft EIR Pages 4.3-98 through 4.3-103. The results and conclusions of the EIR are not affected.

Response JS-25

The commentor reiterates opinions on GHG emissions thresholds and GHG emissions reductions strategies. The commentor disagrees with finding that Project GHG emissions are not cumulatively considerable, but provides no supporting analysis or evidence. In point of fact, as supported by the discussion in the EIR, the project will not result in significant GHG/GCC emissions impacts, and no mitigation is required. Measures included in the EIR, including those addressing recycling, water conservation, and solar energy systems, therefore further reduce GHG/GCC impacts that, even absent mitigation, are less-than-significant. Commentor's citation to EIR statements that: *"vehicles accessing the site will be in compliance with CARB vehicle standards to the maximum extent feasible"* are not found. Adopted applicable CARB standards are regulatory in nature, and required of all vehicles. Please refer also to the preceding Response JS-24.

Response JS-26

The commentor reiterates opinions on GHG emissions thresholds and GHG emissions reductions strategies. The commentor cites various 2006 CAT Report GHG Emission Reduction Strategies, contending the Project does not support applicable strategies. The commentor incorrectly interprets the strategies as requirements of the Project. Specific citations of the commentor include compliance with CARB vehicle standards, source reduction and recycling, California solar initiative recommendations, and the use of alternative fuels.

The approach suggested by the commentor is not required under the CEQA Guidelines, and is not the approach employed by the Lead Agency here. Comparison of this Project with the CAT strategies and AB-32 Scoping Plan concepts is made for the purpose of evaluating whether the project conflicts with an applicable plan, policy, or regulation adopted for the purposes of reducing emissions of greenhouse gases. That is the applicable threshold under the CEQA Guidelines. Upon determining that the Project does not conflict with these plans, the Lead Agency appropriately concluded

that the impacts are less than significant, and therefore, no mitigation is required. Project support of, and compliance with, applicable 2006 CAT Report GHG Emission Reduction Strategies is presented at Draft EIR Pages 4.3-103 through 4.3-110. With specific regard to Project compliance with CARB vehicle standards, search of the EIR text does not yield the phrase “maximum extent feasible” as suggested by the commentor. EIR discussions of strategies noted by the commentor as excerpted from Draft EIR Table 4.3-20, are presented below.

**Table 4.3-20**  
**Project Compliance with Applicable 2006 CAT Report**  
**Greenhouse Gas Emission Reduction Strategies**

Strategy	Applicability/Compliance
<b>California Air Resource Board</b>	
<i>Vehicle Climate Change Standards</i> AB 1493 (Pavley) required the state to develop and adopt regulations that achieve the maximum feasible and cost-effective reduction of climate change emissions emitted by passenger vehicles and light duty trucks. Regulations were adopted by the CARB in September 2004.	Enforcement of State regulation is beyond the scope of the Project. The Project will not interfere or conflict with AB 1493 (Pavley).
<i>Other Light Duty Vehicle Technology</i> New standards would be adopted to phase in beginning in the 2017 model.	Enforcement of State standards for Light Duty Vehicles is beyond the scope of the Project. The Project will not interfere or conflict with new standards adopted for Light Duty Vehicles.
<i>Heavy-Duty Vehicle Emission Reduction Measures</i> Increased efficiency in the design of heavy-duty vehicles and an education program for the heavy-duty vehicle sector.	Enforcement of State standards for Heavy Duty Vehicles is beyond the scope of the Project. The Project will not interfere or conflict with new standards adopted for Heavy Duty Vehicles.
<i>Diesel Anti-Idling</i> In July 2004, the CARB adopted a measure to limit diesel-fueled commercial motor vehicle idling.	Heavy-duty diesel trucks that access the Project site will be required to limit idling to no more than three (3) minutes (EIR Mitigation Measure 4.3.10).
<i>Alternative Fuels: Biodiesel Blends</i> CARB would develop regulations to require the use of 1 to 4 percent biodiesel displacement of California diesel fuel.	When CARB adopts regulations for the use of biodiesel fuel in heavy duty trucks, trucks supplying the commercial uses will comply with this measure.
<i>Hydrogen Highway</i> The California Hydrogen Highway Network (CA H2 Net) is a State initiative to promote the use of hydrogen as a means of diversifying the sources of transportation energy.	Not Applicable.

**Table 4.3-20  
Project Compliance with Applicable 2006 CAT Report  
Greenhouse Gas Emission Reduction Strategies**

<b>Strategy</b>	<b>Applicability/Compliance</b>
<b>Integrated Waste Management Board</b>	
<i>Achieve 50 percent Statewide Recycling Goal</i> Achieving California's 50 percent waste diversion mandate as established by the Integrated Waste Management Act of 1989, (AB 939, Sher, Chapter 1095, Statutes of 1989), will reduce climate change emissions associated with energy intensive material extraction and production as well as methane emission from landfills. A diversion rate of 48 percent has been achieved on a statewide basis. Therefore, a 2 percent additional reduction is needed.	In support of AB 939, the Project will comply with requirements of the City of Moreno valley Source reduction and Recycling Element (SRRE), to include additional waste reduction/waste recycling measures as may be implemented by the City. Project design will include provisions for tenants to recycle.
<i>Zero Waste - High Recycling</i> Additional recycling beyond the State's 50 percent recycling goal.	In support of AB 939, the Project will comply with requirements of the City of Moreno valley Source reduction and Recycling Element (SRRE), to include additional waste reduction/waste recycling measures as may be implemented by the City. Project design will include provisions for tenants to recycle.
<b>Department of Water Resources</b>	
<i>Water Use Efficiency</i> Approximately 19 percent of all electricity, 30 percent of all natural gas, and 88 million gallons of diesel are used to convey, treat, distribute and use water and wastewater. Increasing the efficiency of water transport and reducing water use would reduce GHG emissions.	In support of water Use Efficiency strategies, the Project will implement U.S. EPA Certified WaterSense labeled or equivalent faucets and high-efficiency toilets (HETs), and implement water-conserving shower heads to the extent feasible.
<b>California Energy Commission (CEC)</b>	
<i>Building Energy Efficiency Standards in Place and in Progress</i> Public Resources Code 25402 authorizes the CEC to adopt and periodically update its building energy efficiency standards (that apply to newly constructed buildings and additions to and alterations to existing buildings).	As required through the EIR air quality mitigation measures noted herein, and based on energy efficiency/sustainability attributes of the Project presented in the EIR Project Description (EIR Section 3.0), energy efficiencies achieved by the Project will surpass incumbent Title 24 Energy Efficiency Standards by at least 20 percent. Verification of increased energy efficiencies is documented in Title 24 Compliance Reports provided by the Applicant, and reviewed and approved by the City prior to the issuance of the first building permit. Energy efficient Project designs and operational programs will facilitate Applicant-initiated LEED Certification actions.

**Table 4.3-20  
Project Compliance with Applicable 2006 CAT Report  
Greenhouse Gas Emission Reduction Strategies**

<b>Strategy</b>	<b>Applicability/Compliance</b>
<p><i>California Solar Initiative</i> Installation of 1 million solar roofs or an equivalent 3,000 MW by 2017 on homes and businesses; increased use of solar thermal systems to offset the increasing demand for natural gas; use of advanced metering in solar applications; and creation of a funding source that can provide rebates over 10 years through a declining incentive schedule.</p>	<p>In support of the California Solar Initiative, the Project design accommodates potential future installation and use of renewable energy sources, such as photovoltaic solar energy systems. (See EIR Section 3.0, Project Description).</p>

Contrary to the commentor’s assertions, as indicated at Table 4.3-20, the Project complies with and supports applicable 2006 CAT Report Greenhouse Gas Emission Reduction Strategies. There is no mandate or specific requirement or singular methodology for strategy compliance as suggested by the commentor. The results and conclusions of the EIR are not affected.

Response JS-27

The commentor cites various recommended or adopted thresholds of other agencies addressing GHG emission and GCC impacts. The commentor erroneously states that “in the EIR for the Highland Fairview Project, the City adopted a zero emissions threshold for the assessment of impacts of GHG on climate change.”

Other agency approaches to evaluation and mitigation of GHG emissions impacts are noted. The commentor is referred to previous responses and CEQA directives allowing for each Lead Agency to evaluate and address GHG emissions impacts within the context of Section 15064.4 of the Guidelines. The EIR analysis of GHG emissions/GCC impacts is consistent with Section 15064.4 of the Guidelines. Please refer also to response JS-24.

No “zero emissions threshold” for GHG emissions neither appears, nor was applied, in the EIR for the Highland Fairview Project. The commentor is referred to *Draft*

*Environmental Impact Report Highland Fairview Corporate Park PA07-0088 (CZ), PA07-0089 (GPA), PA07-0090 (TPM 35629), and PA07-0091 (PP) City of Moreno Valley, Riverside County, California State Clearinghouse No. 2007101132 (Michael Brandman Associates) August 4, 2008, Page 5.16-5:*

AB 32 states that, “global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California.” Although it is unknown if AB 32 alone is enough to reduce California’s fair-share contribution to global greenhouse gas inventory, it is currently the only well-defined and widely accepted benchmark for greenhouse gas emissions in California. Therefore, for purposes of this analysis, the following significance thresholds have been used:

**Impact GCC-1** Does the project comply with the provisions of an adopted Greenhouse Gas Reduction Plan or Strategy? If no such Plan or Strategy is applicable, would the project significantly hinder or delay California's ability to meet the reduction targets contained in AB 32?

**Impact GCC-2** Would the impacts of climate change significantly impact the project?

The Highland Fairview Project EIR concluded that project had the potential to significantly hinder California’s ability to meet the reduction targets contained in AB 32, and therefore reached a conclusion of “potentially significant” GHG emissions impacts for that project.

Such is not the case for the proposed Westridge Commerce Center Project as supported by the analysis presented in the Westridge Commerce Center Project EIR and supporting Global Climate Change analysis.

Continuing at Page 5.16-6, the Highland Fairview EIR also importantly notes that:

*The thresholds and the analysis contained below may not be relevant to other projects. This analysis does not establish thresholds for the City or set precedents for the type of analysis in a climate change analysis, as this discipline is still evolving. [emphasis added]*

Clearly, whatever thresholds and analysis may have been employed in the Highland Fairview EIR were for that project only, and not intended or necessarily applicable to the proposed Westridge Commerce Center Project. The results and conclusions of the EIR are not affected.

#### Response JS-28

The commentor considers the term “cumulatively considerable” established under the *CEQA Guidelines* Section 15064, subd. (h)(1), and appears to misapply it in evaluating Project GHG emissions and potential Project-related Global Climate Change impacts. In total, *CEQA Guidelines* Section 15064, subd. (h)(1) cited by the commentor, and excerpted below, provides guidance as to whether an EIR is required based on the potential for a given project to cause or result in cumulatively considerable impacts.

(h)(1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.



The Lead Agency had previously determined through the Initial Study process that an EIR is required for the Project, to include an analysis of all potential cumulatively considerable impacts, including potential GHG/GCC impacts.

The EIR analysis supports the conclusion that Project-specific GHG/GCC impacts are individually less-than-significant and not cumulatively considerable (see EIR Section 3.0, Project Description, Pages 3-17 through 3-20; EIR Section 4.3, Air Quality, Pages 4.3-88 through 4.3-110; EIR Section 5.0, Other CEQA Considerations, Pages 5-13, 5-14; and Global Climate Change Analysis included at EIR Appendix C). To this end, not only are the Project's incremental GHG/GCC impacts substantiated to be less-than-significant. As noted in the Draft EIR, with regard to global climate change, it is generally accepted that the magnitude of global climate change effects is so substantial and the contribution of an individual project to global climate change is so extremely minuscule that direct significant adverse impacts would be highly unlikely.

Within the scope of limitations and considerations noted herein, a Project GHG emissions inventory has been prepared as recommended under OPR's technical advisory. The City of Moreno Valley has not adopted a numeric threshold of significance for emissions of greenhouse gases. However, guidance and an indication of the potential significance of the Project's GHG emission impacts is assessed by comparing Project GHG emissions levels against germane proposed or adopted GHG emissions impacts thresholds. To this end, Project GHG emissions have been compared to GHG emissions thresholds developed by state Responsible Agencies charged with oversight and regulation of air pollutant emissions, the SCAQMD and CARB. As indicated herein, Project GHG emissions would not exceed the thresholds developed by those agencies.

Additionally, as discussed in the Draft EIR . . . "to facilitate their monitored implementation throughout Project development and operations, design features and operational attributes of the Project are incorporated into this EIR as Mitigation

Measures 4.3.10 through 4.3.13 . . . These measures act to reduce Project-related operational source air pollutants and GHG emissions, and promote sustainability through conservation of energy and other natural resources” (Draft EIR at Page 4.3-94). As amended in these Responses, additional mitigation has been also been provided, further reducing already less-than-significant Project GHG emissions levels. Please refer also to previous discussions at Responses JS-20 through JS-27, substantiating less-than-significant Project GHG/GCC impacts.

As provided for under *CEQA Guidelines* Section 15064(h)(2), “[w]hen a project might contribute a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures . . . [the supporting analysis] shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.” Design features, operational programs, and mitigation measures included in the Draft EIR (see EIR Section 3.0, Project Description, Pages 3-17 through 3-20; EIR Section 4.3, Air Quality, Pages 4.3-88 through 4.3-110; EIR Section 5.0, Other CEQA Considerations, Pages 5-13, 5-14; and Global Climate Change Analysis included at EIR Appendix C) render the Project’s potential contribution to Global Climate Change impacts to levels that are less than cumulatively considerable.

As further provided under *CEQA Guidelines* Section 15064(h)(3), . . . “a lead agency may determine that a project’s incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plan, plans or regulations for the reduction of greenhouse gas emissions) that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make

specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable."

The general arena of GHG emissions regulations remains preliminary and still formative, and there are no plans (as yet) with the effect of law that would be applicable to the Project. Notwithstanding, the CARB Scoping Plan and 2006 CAT Report are considered indicative of likely future guidelines and requirements. The Project supports and is consistent with CAT strategies and other means suggested to reduce California's emissions to the levels proposed by Executive Order S-3-05 and AB 32. Qualitative assessment of the Project's impacts based upon consistency with the CARB Scoping Plan and the 2006 CAT Report (Draft EIR Pages 4.3-94 through 4.3-110) supports the conclusion that the Project's greenhouse gas emissions are not cumulatively considerable.

Continuing, *CEQA Guidelines* Section 15064(h) (4) importantly provides that . . . "[t]he mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable." The commentator's assertion that because cumulative GCC impacts exist or are likely to occur, the project's incremental impacts in this regard must be cumulatively considerable is not supported by CEQA.

It is further noted cumulative effects of Global Climate Change would be considered significant irrespective of any increment of GHG emissions generated by, or reduced through, implementation of the Project. Moreover, absent similar commitments worldwide, even full state-level reduction of GHGs as provided for under California

statute would not notably or discernibly affect a difference in global climate change. In this regard, the World Resources Institute estimates California GHG emissions comprised an estimated 1.3 percent of worldwide GHG emissions as of 2000.<sup>9</sup> Further, whereas California since 2000 continued to implement further energy efficient technologies and other means that directly or indirectly reduce GHG emissions and thereby reduce its proportionate impacts, these reductions have been more than offset by increasing growth and industrialization worldwide. This speaks to *CEQA Guidelines* Section 15064(h) (4) provisions, which provide that the mere existence of significant cumulative GCC impacts caused by other projects (worldwide growth and industrialization) alone does not constitute substantial evidence that the Westridge Commerce Center Project's incremental GCC effects are cumulatively considerable.

Based on the preceding the project will not result in or cause cumulatively considerable GCC impacts. Results and conclusions of the EIR are not affected.

Response JS-29

The commentor summarizes various provisions of the *Final Statement of Reasons for Regulatory Action* (California Natural Resources Agency) December 2009 which allow for off-site mitigation of GHG impacts.

As substantiated in the EIR and discussed in these Responses, Project-related GHG emissions impacts are less-than-significant and are not cumulatively considerable. Off-site mitigation is not proposed nor is it required. Results and conclusions of the EIR are not affected.

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<sup>9</sup> *The AB 32 Challenge: Reducing California's Greenhouse Gas Emissions* (Gregory Freeman, Nancy D. Sidhu, PhD, Myasnik Poghosyan) January 2008, Page 8.

Response JS-30

Temporary and intermittent significant construction-source noise impacts noted by the commentor are fully discussed and disclosed in the Draft EIR:

**Level of Significance after Mitigation:** Mitigation Measures 4.4.1 through 4.4.4 will qualitatively reduce construction-source noise and its perceived impacts to the extent feasible. The proposed use of noise curtains during the most noise intensive activities (grading/site preparation) may reduce received noise levels by 10-20 dBA at the nearest receptors. Nonetheless, it is anticipated that construction-source noise received at the nearest affected residential receptor adjacent may temporarily and periodically reach the maximum anticipated exterior noise level of 89 dBA Leq. This condition would occur in particular when heavy equipment is used for the construction of adjacent Fir (future Eucalyptus) Avenue. At more distant residential neighborhoods, the maximum received noise level is conservatively estimated at 60 to 65 dBA Leq. As such, even with the application of proposed mitigation, Project construction equipment activities would exceed the City's maximum permissible sound level for daytime hours as received at a residential land use (60 dBA Leq), and consequently would be considered a substantial temporary and periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project (Draft EIR Page 4.4-20).

Mitigation of construction-source noise impacts is addressed in the following responses JS-31 and JS-32. Results and conclusions of the Draft EIR are not affected.

Response JS-31

The commentor provides opinions on Draft EIR Mitigation Measure 4.4.4, which is presented in its entirety here:

4.4.4 *Prior to the issuance of any grading or building permit, the Project plans and specifications shall include a statement that for the duration of grading and site preparation activities, temporary construction noise curtains or similar line-of-sight noise reduction measures shall be installed along the Project's southerly boundary. Noise curtains shall be installed so as to provide maximum reduction for noise sensitive uses (at present a single residence located southerly of the Project site) and shown on the grading plans prepared for the Project.*

The commentor states that the mitigation language “[n]oise curtains shall be installed so as to provide maximum reduction for noise sensitive uses” is “unenforceable.” The commentor fails to note or recognize that construction activities by their nature are fluid and mitigation addressing such activities is similarly fluid. The stipulation that noise curtains be installed so as to achieve the maximum reduction in noise accommodates site and use-specific variations in construction activities and construction noise that may affect proximate sensitive receptors. As discussed at Draft EIR Page 4.4-18, “[t]he closest noise sensitive receptor that will be subject to potential construction noise impacts is the residence located at 28855 Fir Avenue (future Eucalyptus Avenue), approximately 150 feet southerly of the Project site’s southernmost boundary. Because roadway improvements along future Eucalyptus Avenue are also part of Project development, an overall grading noise level of 89 dBA at 50 feet has been used as the worst-case, maximum exterior noise level when heavy equipment is nearest this sensitive receptor. At the nearest residential neighborhood, located more than one-quarter mile from the Project site, received construction-related noise levels would be reduced by 30 decibels or more based on physical separation between these residences and the Project site.

As also noted in the Draft EIR, the noise curtains required pursuant to Mitigation Measure 4.4.4 would conservatively provide an estimated 10 to 20 dBA of noise

reduction acting to reduce noise at proximate receptors. Worst-case construction noise levels (estimated to be 89 dBA at 50 feet) would occur as roadway improvements occur along future Eucalyptus Avenue. To ensure that the single residential use would not be temporarily and intermittently exposed to construction noise levels exceeding 60 dBA would in effect require construction of a barrier along the southerly edge of the Fir (future Eucalyptus Avenue) right-of-way, extending at a minimum the length of the affected receptor property line (approximately 620 feet) providing line-of sight interruption of noise yielding a 29 dBA noise reduction. Alternatively, an encapsulating 620 foot by 620 foot, 29 dBA noise-reducing barrier could be constructed around the receptor property in question.

For construction equipment with a 12-foot high exhaust stack, and not accounting for grade differentials, line of-sight noise protection would require a minimum 15 foot high wall (noise source height plus three feet). Under laboratory conditions a 4-inch thick concrete wall (or equivalent @ 30 lbs./s.f.) would provide approximately 37 dB noise attenuation (one side of a barrier to the other); and under uncontrolled exterior conditions could hypothetically provide 29 dBA noise reduction in protected areas immediately adjacent to the wall, within the noise "shadow zone." However noise diffracted over the top of or sides of the wall would still affect more distant unprotected receptors. Moreover, a 4-inch thick concrete wall, 15 feet in height is not structurally stable without significant reinforcing (envision a 15-foot high freestanding brick wall); and in practical application would constitute a permanent structure with anchoring footings or caissons.

The commentor suggests that "temporary sound walls" be implemented. As indicated, such walls would not be temporary. Moreover, construction of the "temporary" walls themselves, as well as their demolition, would generate noise levels equaling or exceeding those resulting from the Project. That is, the noise barrier's own construction and its subsequent demolition, would occur at the southerly right of-way line, and would require use of construction equipment in addition to, and for periods of time

greater than, that otherwise required to implement the Project. This would arguably increase rather than decrease net adverse effects construction noise.

Response JS-32

Please refer to the following Response JS-33.

Response JS-33

The commentor’s suggested additional measures to reduce construction-source noise are addressed below.

Suggested Measure	Response
<p>1.Prepare and implement a noise mitigation program and designate whom is responsible for implementing the program, when such a program must be implemented and planned, and include such actions as noise monitoring at selected noise sensitive locations, monitoring complaints, and identification of the major sources of noise.</p>	<p><b>Not required, no nexus with significant impacts.</b> The Noise Impact Analysis states that this program is merely recommended not required. Nor are the recommended measures reflected in or required to attain the “mitigated condition” presented in the Draft EIR. The Lead Agency may, at its discretion, impose additional Conditions of Approval (such as recommendations within studies) supplementing the EIR Mitigation Measures.</p> <p>The Draft EIR contains comprehensive mitigation to address noise impacts of the Project. These measures are included as part of the Mitigation Monitoring Plan, presented in Section 4.0 of this Final EIR. The Mitigation Monitoring Plan: 1) assigns responsibility for, and ensures proper implementation of Mitigation Measures; 2) assigns responsibility for, and provides for monitoring and reporting of compliance with Mitigation Measures; and 3) provides the mechanism to identify areas of noncompliance and need for enforcement action before irreversible environmental damage occurs. The City will monitor and report on all mitigation activities.</p>
<p>2.The construction contractor shall limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings.</p>	<p><b>Incorporated</b> at revised EIR Mitigation Measure 4.4.3.</p>



Suggested Measure	Response
3.Notify surrounding homeowners of expected, specific construction-related noise impacts.	<b>Not required, no nexus with significant impacts.</b> Please refer to preceding discussion of recommendations vis-à-vis noise-related requirements. The public, including surrounding homeowners, has been notified of the Project via direct mailing and public notice, consistent with the provisions of the City of Moreno Valley Municipal Code. Copies of the Draft EIR are available upon request.
4.When technically feasible, electrical construction equipment should be utilized.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8.
5.During project construction, the developer shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of 3 minutes.	<b>Replicates existing requirements.</b> Mitigation Measure 4.3.10, as currently presented in the Draft EIR, prohibits the idling of trucks for more than three (3) minutes.

Response JS-34

The commentor appears to misinterpret and/or misapply noise limitations established under the City’s Noise Ordinance, noise standards provided for under the General Plan, and their application within the EIR. The commentor erroneously states “ . . . *the DEIR . . . adopts as a threshold of significance, an audible increase in noise levels of 3.0 dBA greater.*” The commentor suggests that the City Noise Ordinance threshold of 60 dBA Leq be universally applied irrespective of existing conditions, noise source, or noise duration.

To clarify, as noted in the Draft EIR . . . “[t]he City’s Noise Ordinance applies to ‘stationary source’ noise occurring on one property, which may affect a neighboring property (Draft EIR at Page 4.4-13). Mobile source (roadway noise) is not regulated under the City Noise Ordinance. The Noise Ordinance is directed toward discrete, identifiable stationary or area source noise. Noise thresholds established in the Ordinance are expressed in Leq, acknowledging noise levels occurring within a limited and defined time frame (in this case one-hour).

As described and discussed in the EIR, the Noise Ordinance's most restrictive threshold conditions of 60 dBA Leq daytime/55 dBA Leq nighttime for residential land uses are appropriately applied in evaluating discrete area/stationary source noise generated by the Project and received at proximate residential land uses. As discussed in the Draft EIR (Pages 4.4-23 through 4.4-26), at receiving residential land uses, Project operational stationary/area source noise will not exceed 60 dBA Leq daytime /55 dBA Leq nighttime.

The Noise Ordinance is not intended or constructed to address modeled areawide ambient noise levels increases, such as occur over time due to ambient increases in areawide traffic. Nor is it appropriate to evaluate or consider long term increases in ambient noise levels (such as increases in roadway corridor noise) in terms of Leq. It is the 24-hour average weighted noise level (CNEL) that accurately and appropriately describes the effective ambient noise condition, and indicates whether there would be a substantial permanent increase in noise levels due to the effects of a given project.

CNEL guidelines applicable to increases in ambient noise conditions, including noise generated by Project-related mobile sources (traffic) are established under the City General Plan Noise Element. As discussed in the Draft EIR:

The Safety Element of the City's General Plan discusses noise and future projected noise levels within the City. For planning purposes, the City employs a 65 CNEL standard for noise-sensitive outdoor areas (e.g., rear yards of single family homes), and an indoor noise standard of 45 CNEL for residential developments (Draft EIR Page 4.4-14).

As supported by analysis presented in the EIR (see EIR Section 4.0, Noise; EIR Appendix D, noise Impact Analysis) the Project will not result in or cause operational noise levels exceeding applicable standards established under the Noise Ordinance and/or General Plan. Results and conclusions of the EIR are not affected.

Response JS-35

The commentor states that “. . . the Draft EIR makes a conclusory statement of insignificance without data or analysis . . .” with regard to potential vibration impacts of the Project. The commentor also states that the Draft EIR only addresses vibration impacts to buildings, but fails to address such impacts to people.

For ease of reference, the EIR discussion of vibration impacts is excerpted below:

**Impact Analysis:** Groundborne vibration refers to groundborne noise and perceptible motion. Typical sources of groundborne vibration include the use of heavy-duty construction equipment to be employed at the Project site. Groundborne vibration is almost exclusively a concern inside buildings and is rarely perceived as a problem outdoors, where motion may be discernible but without the accompanying effects (e.g., the shaking of a building).

Vibration energy propagates from a source through intervening soil and rock layers to the foundations of nearby buildings. The vibration then propagates from the foundation throughout the remainder of the structure. Vibration-caused building damage is not a factor for normal projects, with the occasional exception of blasting and pile driving during foundation construction, neither of which is anticipated as part of construction of the Project considered here.

The City of Moreno Valley does not currently have adopted vibration regulations. Notwithstanding, germane vibration criteria has been established by the California Department of Transportation (Caltrans) and is employed in analyses presented here.

The Project does not propose activities or uses that would result in long-term substantial or even perceptible vibration levels. However, heavy equipment employed during Project construction could potentially generate groundborne vibration impacts at adjacent land uses. Construction activity can result in varying degrees of ground vibration, depending on the equipment and methods used, distance to the affected structures and soil type. Construction vibration is generally associated with pile driving and rock blasting. Occasionally, proximate operations of large bulldozers and loaded trucks can cause perceptible vibration levels, notwithstanding, according to the *Transportation and Construction-Induced Vibration Guidance Manual* prepared for Caltrans, groundborne vibration from construction activities and equipment such as such as D-8 and D-9 Caterpillar bulldozers, earthmovers and haul trucks at distances of 10 feet do not create vibration amplitudes that would cause structural damage to nearby structures. The proposed Project is not anticipated to employ any pile driving equipment, nor require blasting activities. Further, the nearest heavy equipment operations would occur at a distance of 40 to 50 feet from the nearest residential use (28855 Fir Avenue). Impacts from construction-source groundborne vibration are therefore anticipated to be less-than-significant (Draft EIR Pages 4.4-27 to 4.4-28).

As indicated above, the City has no adopted vibration thresholds, much less a threshold adopted to address speculative “vibration impacts to people” suggested by the commentor. Structural damage is a defined concern addressed by Caltrans, and would be considered to constitute excessive groundborne vibration or groundborne noise levels. This concern is likewise is considered in the EIR. Occasional perceptible vibration levels should they occur, do not constitute excessive groundborne vibration or groundborne noise levels. Any vibration impacts perceived at off-site locations would, as noted, be temporary and intermittent due to transient construction vehicles.

There are no sensitive historic structures or instruments located proximate to the Project that would somehow be affected by temporary and transient construction-source vibration.

As supported by the preceding and the analysis presented in the EIR, the Project will not result in or cause exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels. Results and conclusions of the EIR are not affected.

Response JS-36

Please refer to the following Response JS-37.

Response JS-37

The commentor again appears to misinterpret and/or misapply noise thresholds, now within a cumulative analysis context, and incorrectly states threshold considerations applicable to the Project.

In brief, the City Noise Ordinance regulates stationary/area source noise generated by the Project will not result in operational noise that would exceed Ordinance Standards (60 dBA Leq daytime/55 dBA Leq nighttime). Ambient noise increases, including traffic noise generated by the Project would not exceed the applicable 65 CNEL residential standard established by the General Plan. (The commentor misstates the threshold as 60 dBA Leq). Noise levels of less than 65 dBA CNEL are acceptable. In the instance noted by the commentor, vehicular noise levels due to cumulative growth (including noise generated by the Project traffic) would increase by 9.8 dBA CNEL over time, totaling an estimated 61.1 dBA CNEL at General Plan Buildout. Vehicular noise levels of 61.1 dBA CNEL are less than the threshold condition of 65 dBA CNEL, and impacts are therefore not cumulatively considerable. In instances where pre-existing noise levels exceed 65 dBA CNEL, or such traffic noise levels would occur due to cumulative growth absent the Project, the Project's incremental contribution would

range from 0.0 dBA to 0.4 dBA, and would not be discernible. In these instances, perceived noise conditions would be the same with, or without the Project. As noted previously in these responses, *CEQA Guidelines* Section 15064(h) (4) importantly provides that . . . “[t]he mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project’s incremental effects are cumulatively considerable.” The commentor’s assertion that because cumulative noise impacts exist or are likely to occur, the project’s incremental impacts in this regard must be cumulatively considerable is not supported by CEQA.

Project operational source noise would not exceed applicable standards established under the Noise Ordinance and/or General Plan. In no instance would Project noise cause a transition from acceptable ambient conditions to conditionally acceptable conditions or from conditionally acceptable conditions to unacceptable conditions.

As supported by the preceding and the analysis presented in the EIR, the Project will not result in or cause cumulatively considerable operational noise levels exceeding applicable standards established under the Noise Ordinance and/or General Plan. Results and conclusions of the EIR are not affected.

Response JS-38

The commentor notes that modeling of noise based on measurements taken at the G.I. trucking facility (Pomona CA) may not yield noise levels comparable to those that would be generated by the Project.

The G.I. trucking facility conducts logistics warehousing operations, including acceptance and dispatch of big-rig long-haul and consolidated freight trucks, similar to operations anticipated under the Project. The G.I. trucking facility noise measurements are not intended to precisely replicate noise generated by the Project operations site on any given day or at any given time. The empirical data collected does however provide a real world snapshot of anticipated noise sources and noise conditions typical of

heavy-duty, long-haul trucking operations conditions, and is considered superior to an assumed estimate of noise sources and noise levels. Results and conclusions of the EIR are not affected.

Response JS-39

The commentor’s suggested additional measures to reduce operational-source noise are addressed below.

Suggested Measure	Response
<ol style="list-style-type: none"> <li>1. All truck, tractors and forklifts shall be operated with proper operating and well-maintained mufflers.</li> <li>2. Maintain quality pavement conditions that are free of bumps to minimize truck noise.</li> <li>3. Limit the number of idling trucks on the southeastern portion of the site.</li> </ol>	<p><b>Not required, no nexus with significant impacts.</b> Please refer to preceding discussion of recommendations in Response JS-32 vis-à-vis noise-related requirements. As noted in the Noise Impact Analysis, all operational noise impacts are less-than-significant. No additional mitigation of operational noise impacts is required.</p>

Response JS-40

The commentor incorrectly states that “Interstate 15 (I-15) and Interstate 215 (I-215) provide access to the Project are and will most certainly be used to access the Project site.” It is noted that I-215 was constructed to run roughly parallel to I-15 between Murrieta (approximately 30 miles south of the Project site) and Devore (located approximately 25 miles to the north of the Project site). In the vicinity of Moreno Valley, while I-215 is acknowledged as providing access, I-15 is located approximately 20 miles to the west. At these distances, I-15 does not provide direct access to the Project site, and on this basis, was not considered as part of the Project’s traffic analysis.

With respect to commentor’s concerns regarding potential Project-related impacts to I-215, a basic freeway segment analysis has been conducted between Box Springs

Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the Project's Traffic Impact Analysis (TIA Appendix 7.8, included as part of Draft EIR Appendix B). As indicated in the Introduction to this Study (Page 7.8-3), "[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these impacts would be nominal, but rather to analyze the current and future projected operations within the segment based on freeway lane geometrics."

The study concludes that "[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen." It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As noted in the summary of mitigation on Draft EIR Page 1-51, "[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area." Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. Nor is there an established fair share fee program for potentially affected SR-60 freeway segments. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

#### Response JS-41

Despite the commentor's assertion that "[t]he Draft EIR does not provide any data to quantify roadway costs, projected revenues, or adequacy of funds for the improvements needed to mitigate traffic impacts for this project," the Project TIA (Draft EIR Appendix B) provides a summary of the Project's fee obligations in Table 8-



2. The application of fee-based mitigation is summarized at Draft EIR Pages 4.2-25 to 4.2-26; and discussed in greater detail at TIA Pages 200 through 206. The majority of the required improvements identified in the Draft EIR involve Caltrans facilities, improvement of which is outside the control of the Applicant or the City of Moreno Valley. The payment of TUMF and DIF is considered the appropriate mechanism for the Project to contribute to future off-site roadway improvements. The commentor’s concerns regarding the adequacy of these funding mechanisms will be forwarded to decision-makers for their consideration.

Response JS-42

The commentor’s suggested additional measures to reduce traffic-circulation impacts are addressed below. The results and conclusions of the Draft EIR are not affected.

Suggested Measure	Response
<p>1. Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.</p> <p>2. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.</p> <p>3. Reroute construction trucks away from congested streets and sensitive receptor areas.</p>	<p><b>Replicates existing requirements.</b> As discussed in the Draft EIR (Page 4.2-85), “[i]t is also recognized that temporary and short-term traffic detours and traffic disruption will result during Project construction activities. These impacts are adequately addressed through the preparation and submittal of a construction area traffic management plan as required by the City Engineer. The required construction area traffic management plan will identify traffic control for any street closure, detour, or other disruption to traffic circulation. The plan also identifies construction vehicle access routes, hours of construction traffic, traffic controls and detours.” No additional mitigation is required.</p>
<p>4. Configure construction parking to minimize traffic interference.</p>	<p><b>Replicates existing requirements.</b> Construction parking is one of many components considered in the required construction traffic management plan. No additional mitigation is required.</p>
<p>5. Prior to the issuance of a grading and building permit, the applicant shall submit verification that a ridesharing program for the construction crew has been encouraged and will be supported by the contractor via incentives or other inducements.</p>	<p><b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, “Mitigation Monitoring and Reporting Plan.”</p>
<p>6. Minimize construction worker trips by requiring carpooling and providing for lunch onsite.</p>	<p><b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, “Mitigation Monitoring and Reporting Plan.”</p>

Suggested Measure	Response
7. Provide shuttle service to food service establishments/commercial areas for the construction crew.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
8. Provide shuttle service to transit stations/multimodal centers for the construction crew.	<b>Incorporated</b> at revised Mitigation Measure 4.3.8, presented in Final EIR Table 4.2-1, "Mitigation Monitoring and Reporting Plan."
9. Improve traffic flow by traffic synchronization.	<b>Replicates existing requirements.</b> Signal synchronization is currently effected by the City, beyond control or purview of the Applicant. Modification of signal synchronization (if required) based on additional Project traffic will be accomplished by the City based on observed traffic conditions.

Response JS-43

Please refer to the preceding Response JS-3.

Response JS-44

Contrary to the commentor's assertion, the Project's total water demand is disclosed in the Draft EIR. As discussed in Draft EIR Section 4.5, "Water Supply," and supported by the Water Supply Assessment prepared for the Project by Eastern Municipal Water District (EMWD), the Project's estimated maximum water demand would be 44 acre-feet per year (please refer to Draft EIR Table 4.5-8 on Page 4.5-17). As noted in the Draft EIR, "[w]ater demand for this Project is calculated for planning purposes only, and reflects potential maximum demand conditions. Actual water use will be reduced through conservation, use of water efficient devices, and use of recycled water as it becomes available" (Draft EIR Page 4.5-17).

Response JS-45

The commentor's suggested additional measures to reduce hydrology/water resources/impacts are addressed below.

Suggested Measure	Response
<p>1. Install permeable pavement in car parking areas.</p> <p>2. Implement concave pooling areas in the landscaping to allow for groundwater recharge.</p>	<p><b>Not required, no nexus with significant impacts.</b> As discussed in the Draft EIR, potential water supply and hydrology/water quality impacts are less-than-significant as mitigated. No additional mitigation is required. The Lead Agency may, at its discretion, impose additional Conditions of Approval supplementing the EIR Mitigation Measures.</p>

Response JS-46

Maintenance of municipal storm drains is not customarily the responsibility of surrounding property owners. Sediment collected within the SR-60 culverts, which are located upstream from the Project site, is removed in the course of regular maintenance activities performed under the direction of the Riverside County Flood Control and Water Conservation District.

In the interest of accuracy, it may be noted that the Project’s Hydrology study actually states, “[t]he development may be conditioned to clean the existing sediment build up in the existing triple 60-inch pipes crossing under the 60 Freeway as well as the existing 60-inch pipe [discharging] into the Redlands Boulevard westerly drainage ditch.” City Engineering staff may, as part of pre-construction review, include this recommendation as a condition of Project approval. However, despite the assertions of the commentor, the removal of sediment in culverts upstream of the Project is not required “to mitigate for impacts from runoff.” Nor would any such requirement be rationally related to impacts by the Project. Potential Project-related drainage impacts are addressed in Draft EIR Section 4.6, Hydrology and Water Quality. No significant impacts requiring mitigation have been identified in regard to hydrology or storm water management.

Response JS-47

As noted on Pages 4.6-22 through 4.6-23 of the Draft EIR, the Project’s drainage plan was purposely designed to ensure that runoff from the site does not enter the Quincy Channel. Future drainage improvements associated with the Quincy Channel and its

proposed overcrossing will not affect, nor be affected by, implementation of the Project. The future improvements are noted in the Draft EIR merely as a point of reference.

Response JS-48

The Cultural Resources Investigation prepared for the Project included a records search and above-ground reconnaissance survey, which is customary for pre-development review. No underground investigation is required under the CEQA guidelines, or any federal, state, or local laws or regulations.

The Cultural Resource Investigation and the Draft EIR acknowledge the possibility of historic and/or prehistoric cultural resources being present on the site in a buried context, but no evidence exists to indicate the probability of any on-site archeological or paleontological resources or human remains. Mitigation is provided that requires the use of professional monitors during all Project-related excavation and grading activities. Relevant text from the Draft EIR (Pages 4.7-11 through 4.7-13) has been included below for ease of reference.

The Project Cultural Resources Investigation report notes that “there was early occupation in the area and evidence of this occupation may be present in a buried context – e.g., evidence of the water well in the center of the property, buried refuse deposits, privies, irrigation systems, foundations, etc. If evidence of such remains is uncovered during the grading of this property, the proponent should contact a qualified archaeologist to assess the find(s) and to make recommendations for a monitoring program to oversee the remainder of the grading program.” The report further notes that “the paleontological monitor [discussed below] can also serve to oversee archaeological monitoring and negate the need for two monitors.” The following mitigation measures will ensure that the recommendations of the Project Cultural Resources Investigation are implemented during Project development.

Mitigation Measures:

- 4.7.1 *A professional cultural resources monitor (Project Paleontological Monitor) shall conduct full-time monitoring throughout site excavation and grading activities. The monitor shall be equipped to salvage and record the location of historic and/or archaeological resources as they may be unearthed to avoid construction delays. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. One monitor for both archaeological and paleontological resources is sufficient if the monitor is qualified in both disciplines to the satisfaction of the City of Moreno Valley.*
- 4.7.2 *Should historic or prehistoric resources of potential significance be identified, a qualified archaeologist shall be contacted to assess the find(s) and make recommendations in regard to further monitoring. All recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by a qualified archaeologist, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.*

The results and conclusions of the Draft EIR are not affected.

Response JS-49

The commentor appears to misconstrue the intent of Mitigation Measure 4.7.1, the text of which is provided as part of the preceding Response GB-48. As stated in this measure, the monitor is to be adequately “equipped to salvage and record the location of historic and/or archaeological resources as they may be unearthed to avoid construction delays.” Further, no time limit or emphasis on urgency is placed on the “temporary” halt on construction activities. Rather, Measure 4.7.1 states, “[t]he monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification.” Mitigation Measure 4.7.3, included below for ease of reference, contains wording similar to that of Measure 4.7.1, specifically in regard to the potential occurrence of paleontological resources.

*4.7.3 Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the Project site, subject to the following certain constraints:*

- Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontologic resources by a qualified paleontologic monitor or his/her representative must take place;*
- A paleontological mitigation-monitoring plan shall be developed before grading begins;*
- Paleontological monitors shall be equipped to salvage fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates;*
- Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens; and*
- Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon*

*exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources.*

In order to ensure that, where appropriate, cultural resources are preserved in place, the following amendments to Mitigation Measures 4.7.1, 4.7.2, and 4.7.3 have been incorporated.

- 4.7.1 *A professional cultural resources monitor (Project Paleontological Monitor) shall conduct full-time monitoring throughout site excavation and grading activities. The monitor shall be equipped to salvage and record the location of historic and/or archaeological resources as they may be unearthed to avoid construction delays, consistent with the requirements of California Public Resources Code Section 21083.2. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. One monitor for both archaeological and paleontological resources is sufficient if the monitor is qualified in both disciplines to the satisfaction of the City of Moreno Valley.*
- 4.7.2 *Should historic or prehistoric resources of potential significance be identified, a qualified archaeologist shall be contacted to assess the find(s) and make recommendations in regard to further monitoring. Consistent with the requirements of Public Resources Code section 21083.2., resources shall be left in an undisturbed state. Where preservation in place is infeasible, aAll recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by a qualified archaeologist, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum*

*repository shall signify completion of the program to mitigate impacts to archaeological/historic resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.*

4.7.3 *Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the Project site, subject to the following certain constraints:*

- *Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontologic resources by a qualified paleontologic monitor or his/her representative must take place;*
- *A paleontological mitigation-monitoring plan shall be developed before grading begins;*
- *Paleontological monitors shall be equipped to salvage **and record the location of** fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates;*
- *Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens; and*
- *Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources.*

To ensure monitoring and enforcement, these revisions to Mitigation Measures are reflected in the Project Mitigation Monitoring Plan (Final EIR Section 4.0), and in Final EIR Section 2.0, Revisions and Errata.



### Response JS-50

As noted in the preceding response JS-49, despite the commentor's assertions to the contrary, Draft EIR Mitigation Measures 4.7.1 and 4.7.3 do not include restrictions or limitations on the time that would be allowed for adequate monitoring and recording of cultural resources. As further discussed in the preceding response JS-49, the wording of these measures has been amended to clarify that, if found, cultural resources would be preserved in place where appropriate.

### Response JS-51

Despite the commentor's assertions to the contrary, the Project's potential effects on common wildlife species have been addressed in *Report On Habitat Assessments and Biological Surveys for the West Ridge Project Site* (Harmsworth Associates) October 2008, presented at Draft EIR Appendix D. Relevant text is excerpted below for ease of reference.

## **5.8 Direct impacts to wildlife**

### **5.8.1 Common Wildlife**

The primary impacts of the project on common wildlife species/resources are the removal and disruption of habitat and the loss and displacement of wildlife, resulting in a potentially less diverse and less abundant local faunal population. Adverse significant impacts to wildlife are generally associated with the degree of habitat loss and fragmentation from the standpoint of physical character, quality, diversity, and abundance of vegetation. Implementation of the project would result in the loss of ruderal agricultural land. The removal of this habitat would potentially impact common wildlife species. These impacts would not be expected to reduce general wildlife populations below self-sustaining levels within the region, given the large blocks of contiguous preserved open space in Riverside County associated with the MSHCP. Impacts to common wildlife species would not represent a significant impact when evaluated

in the context of the substantial areas of open space preserved in Riverside County under the MSHCP (Report on Habitat Assessments, Page 36).

This same material discussion appears in the body of the Draft EIR.

### **Common Wildlife Species**

The primary impacts of the Project on common wildlife species/resources are the removal and disruption of habitat and the loss and displacement of wildlife, resulting in a potentially less diverse and less abundant local faunal population. Adverse significant impacts to wildlife are generally associated with the degree of habitat loss and fragmentation from the standpoint of physical character, quality, diversity, and abundance of vegetation. Implementation of the Project would result in the loss of ruderal agricultural land. The removal of this habitat would potentially impact common wildlife species. However, these impacts would not be expected to reduce general wildlife populations below self-sustaining levels within the region, given the large blocks of contiguous preserved open space in Riverside County associated with the MSHCP. Impacts to common wildlife species would not represent a significant impact when evaluated in the context of the substantial areas of open space preserved in Riverside County under the MSHCP (Draft EIR Page 4.8-25).

No potentially significant impacts have been identified, and no mitigation is required. The results and conclusions of the Draft EIR are not affected.

### Response JS-52

The commentor recommends additional measures to be implemented to reduce the Project's adverse effect on scenic views in the Project area. The Draft EIR acknowledges, in Section 4.9, "Aesthetics," that implementation of the Project would obstruct or alter views from major roadways and surrounding areas, and would therefore have a

substantial adverse effect on a scenic vista, which is a significant individual and cumulative impact.

No feasible mitigation measures were identified within the Draft EIR which would reduce this loss of viewshed. All other potential aesthetic impacts of the Project were determined less-than-significant.

The particular mitigation measure suggested by the commentor is presented and responded to below:

- 1) *Preserve a separate off-site scenic area within Moreno Valley, or if not feasible, within Western Riverside County.*

The City does not currently conduct a program that would allow for the purchase of off-site areas for “scenic preservation,” as suggested by the commentor, nor is it aware of other such programs offered by agencies or organizations within the Western Riverside County area. Moreover, preserving another existing scenic view elsewhere would not serve to mitigate the impacts of this Project. While the value of off-site mitigation for certain environmental impacts (e.g., biological habitat areas) has been demonstrated, the application of the proposed measure in regard to aesthetic impacts is considered infeasible.

#### Response JS-53

As noted in the Draft EIR (Pages 5-25 and 5-26), §15126.6 of the *CEQA Guidelines* states that an EIR must describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain the Project objectives, but would avoid or substantially lessen any of the significant environmental effects of the proposal. As further presented in the *CEQA Guidelines*, an EIR need not consider every conceivable alternative, but rather, the discussion of alternatives and their relative merits and impacts should be provided in a manner that fosters informed decision-making and public participation. To this end, the *CEQA Guidelines* indicate that the

range of alternatives selected for examination in an EIR should be governed by “rule of reason,” and requires the EIR to set forth only those alternatives necessary to permit an informed decision. Consistent with the provisions of the *CEQA Guidelines*, the Draft EIR’s analysis of a No Project/No Build Alternative, a No Project/Existing Zoning Alternative, and a Reduced Intensity Alternative present a “reasonable range” of alternatives to the Project that would potentially lessen its environmental effects while allowing for attainment of Project Objectives.

Despite the commentor’s assertions to the contrary, the Draft EIR does address, at length, the alternatives that were considered and rejected as part of the review of Project alternatives. The text on Draft EIR Pages 5-35 through 5-44 provides the basis upon which each of the considered alternatives was rejected from further consideration. The results and conclusions of the Draft EIR are not affected.

Response JS-54

The exhibits identified by the commentor and provided as part of these comments have been included in Appendix A of this Final EIR.

Response JS-55

The commentor attaches various professional references. No response is required.

**From:** Shelly Mesa [shellymesa@roadrunner.com]  
**Sent:** Monday, December 06, 2010 1:35 PM  
**To:** Jeffrey Bradshaw

**Subject:** Questions about Sketchers, Westridge Commerce Center and Pro Logis projects.

Dear Jeffrey,

Hello, I am a concerned homeowner my name is Shelly Mesa, we bought out here 5- years ago and have been enjoying our beautiful view of the Badlands as well San Bernadino Mountains. I am concerned about all the changes that are taking place around us! I have been active an obtaining signatures against this project, just to be disappointed in our City Officials who over rode the City"s Planning Commision Votes, because their back pockets were padded by Mr. Benzeevi, as well as The Sequoia Club being bought, who had an active interest as well about the Enviromental Impact this will have on our "Beautiful Land." I intended to be out here thru our "Retirement Years". But what is to become of the East end of Moreno Valley?

SM-1

1. How will the toxic diesel truck emmisions affect the people who will live on the south side of Fir when both the Warehouse and Pro Logis as well as Sketchers are at full operation?

SM-2

2. What measures could be implemented during the construction and operation of this warehouse which could lesson the impact on noise, air quality and global warming, but which you are not going to put in place?

SM-3

3. What will you do to protect the Warehouse Wokers from the effects of toxic diesel pollution?

SM-4

4. How many toxic diesel trucks do you calculate to use Redlands Blvd. to come north out of town when Sketchers, Westridge Commerce Center and Pro Logis are in full operation?

SM-5

I am concerned that if we don't take a stand we will have nothing but warehouses and low income apartments here in our community!

SM-6

Sincerely  
Shelly Mesa

SHELLY MESA

Email Dated December 6, 2010

Response SM-1

The commentor's concerns and opinions will be forwarded to decision-makers for their consideration.

Response SM-2

As discussed in Draft EIR Section 4.2, the Project's potential to expose sensitive receptors to substantial diesel emission-related pollutant concentrations were identified as less-than-significant with mitigation, on both an individual and cumulative basis (i.e., with the Project alone and with the development of the ProLogis and Highland Fairview project, as well as other anticipated cumulative growth). Please refer also to Responses LA-1, FNSJ-8, *et al.* addressing diesel emissions impacts.

Response SM-3

The commentor asks if there are additional mitigation measures not currently contained within the Draft EIR which would lessen noise, air quality, and global warming impacts of the Project. It should be noted that no significant Project-related impacts regarding global warming have been identified. All feasible mitigation measures have otherwise been employed within the Draft EIR to reduce any potentially significant impacts. As discussed at FEIR Section 2.0, additional/revised mitigation has been incorporated based on comments received on the Draft EIR. Inclusion of these measures does not however, materially or substantively affect analysis or conclusions of the DEIR. That is, impacts that were previously determined to be less-than-significant remain less-than-significant; and impacts that were previously determined to be significant remain significant.

As disclosed in the DEIR, even with the application of mitigation, the Project will result in certain significant and unavoidable air quality and noise impacts. A summary of significant impacts is presented at DEIR Pages 1-17 through 1-20.

#### Response SM-4

As discussed in the Draft EIR (Page 4.3-80), South Coast Air Quality Management District (SCAQMD) guidance does not require assessment of the potential health risk to on-site workers. Similarly, the following excerpt from the California Office of Health Hazard Assessment (OEHHA) document *Air Toxics Hot Spots Program Risk Assessment Guidelines-The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments* (OEHHA 2003), also indicate that it is not necessary to examine the health effects to on-site workers unless required by RCRA (Resource Conservation and Recovery Act)/CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) or the worker resides on-site.

On-site workers are protected by the California Division of Occupational Safety and Health (CAL/OSHA) and do not have to be evaluated under the Hot Spots program, unless the worker also lives on the facility site, or property. Occasionally, facilities like prisons, military bases, and universities have worker housing within the facility. In these situations the evaluation of on-site cancer risks, and/or acute and chronic non-cancer hazard indices is appropriate under the Hot Spots program.

Since none of these provisions apply to the Project, risk to on-site workers was not evaluated in the Draft EIR.

#### Response SM-5

Opening Year Cumulative Conditions for area roadway segments, including Redlands Boulevard, are identified in the Draft EIR at Table 4.2-13 (Pages 4.2-61 to 4.2-62). Section 4.2 of the Draft EIR further identifies the number of trucks that will be accessing the site

and vicinity projects on Page 4.2-18. This discussion is presented below for ease of reference.

As seen in [Draft EIR] Table 4.2-5, “passenger car equivalent” (PCE) factors, ranging from 1.5 to 3.0, have been applied to ensure that truck volumes are accurately accounted for in terms of their proportional contributions to traffic impacts. More specifically, the Project Trip Generation Forecast equates two-axle trucks to 1.5 passenger cars. Three-axle trucks are considered the equivalent of two (2) passenger cars; and trucks with four (4) or more axles are counted as the equivalent of three passenger cars. Employing these PCE factors, the Project is anticipated to generate 2,930 Passenger Car Equivalent (PCE) trips per day, with 191 PCE trips occurring during the AM peak hour, and 225 PCE trips occurring during the PM peak hour.

Estimated opening-year average daily Project-generated truck trips ingressing/egressing the Project site via Redlands Boulevard are as follows:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions are presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).

Cumulative opening year average daily traffic along Redlands Boulevard north of Fir (future Eucalyptus) Avenue is estimated at 30, 400 trips (see TIA Page 115, Exhibit 6-10), This is inclusive of all trips/all vehicle categories generated by existing, proposed or



anticipated development, and includes trips generated by the Westridge Project, Skechers, and Pro Logis cited by the commentor.

Redlands Boulevard is a designated truck route in the County and a direct route to San Timoteo Canyon Road through Redlands (also designated as a truck route). It is appropriate for Redlands Boulevard to convey Project-related and area truck traffic. To maintain the continuity between affected agencies, the truck route designation for Redlands Boulevard cannot be practically removed. Moreover, there is no feasible means to restrict Redlands Boulevard to local truck trips only, given its direct connection, with no alternative routes, to the previously mentioned roadways. Further, there is no suggested or demonstrated environmental benefit that would result from restricting use of Redlands Boulevard by Project traffic.

Notwithstanding the above-cited average daily truck/traffic volumes, the more germane issue with regard to potential truck traffic impacts is peak hour passenger car equivalent (PCE) intersection traffic volumes. As substantiated in the Draft EIR, all Project-specific traffic impacts, inclusive of truck traffic impacts, are reduced to levels that are less-than-significant. If the commentor's concerns are not really truck traffic volumes, but rather truck-generated diesel emissions, the Project Health Risk Assessment (HRA) summarized at EIR Section 4.4, "Air Quality," and discussed in detail in the Project HRA Study (included at EIR Appendix C) substantiates that with application of mitigation, Project-related diesel emissions will not result in significant adverse health risks.

#### Response SM-6

The commentor's concerns will be forwarded to decision-makers for their consideration.

**From:** ned newkirk [ned\_newkirk@verizon.net]

**Sent:** Monday, December 06, 2010 3:00 PM

**To:** Jeffrey Bradshaw

**Subject:** Proposed West Ridge Commerce Center

Name: Ned and Dawn Newkirk Phone: 951-242-3055 Address: 29080 Dracaea Avenue--  
MorenoValley, Ca. 92555

Email Address: ned\_newkirk@verizon.net

How does the the building of numerous warehouses in one area at the eastern end of Moreno Valley fit in with the Moreno Valley Beautification Plan?

NDN-1

As new warehouses such as Skechers and the proposed West Ridge Commerce Site are very near to residential areas, what measures will be required to reduce the size and starkness of the warehouses that are very close to these residential areas? If you do not require measures for warehouses to esthetically fit into the neighborhood, residential property values could be dramatically affected and reduced.

NDN-2

How will the toxic diesel truck emissions affect the people who will live on the south side of Fir when both this warehouse and Pro Logis as well as Skechers are at full operation?

NDN-3

What warehouses are under consideration for the Eastern end of the City of Moreno Valley consisting of the area from Moreno Beach to Gilman Springs Road and Ironwood Ave to south of Alessandro Blvd?

NDN-4

What measures could be implemented during the construction and operation of this warehouse which could lessen the impact on noise, air quality and global warming, but which you are not going to put into place?

NDN-5

What will you do to protect the warehouse workers from the effects of toxic diesel pollution?

NDN-6

What will you do to protect nearby residents from the effects of toxic diesel pollution?

NDN-7

I understand that you do not have a tenant for the building and do not plan to build until you do. Are there any large amounts toxic materials which you would allow to be warehoused at this location? This includes materials which become toxic when burning. If such tenants do occupy this warehouse what are you planning to do in order to protect the residents/workers from the smoke plumes and spills?

NDN-8

Why are you not making sure this almost 1,000,000 sq foot building is built to Leadership in Energy and Environmental Design (LEED) standards? The very minimum should be Silver. Please explain why your company will not build and advertise that this will be at least a LEED Silver project and reject any attempt by the tenant to prevent such building standards?

NDN-9

How will this project be growth inducing for similar projects?

NDN-10

How many toxic diesel trucks do you calculate to use Redlands Blvd to come/go north out of town that are either coming or going from your warehouse? How many large diesel trucks do you calculate will use Redlands Blvd to come/go north out of town when Skechers, WestRidgeCommerceCenter and Pro Logis are in full operation?

NDN-11

Since there is only one lane that allows drivers to continue west out of town-- the other forces you off at Central Ave-- how will this project impact the merger to this single lane? How many diesel trucks will come form your project, Skechers and Pro Logis combined during a typical 24 hour day? How will these trucks impact that single lane heading west? What Level of Service (LOS) presently exists  
OS be as a result of these three warehouses?

NDN-12

NED AND DAWN NEWKIRK

Email Dated December 6, 2010

Response NDN-1

The commentor inquires: “How does the building of numerous warehouses in one area at the eastern end of Moreno Valley fit in with the Moreno Valley Beautification Plan.”

The commentor’s inquiry is not specific to the Project or the EIR and absent further explanation, does not allow for on-point response. Moreover, there is no formal adopted “Moreno Valley Beautification Plan.” Notwithstanding, as discussed in the Draft EIR (Pages 4.1-17 to 4.1-20), uses proposed by the Project are consistent with applicable General Plan Land Use Policies. It is presumed that other projects proposed for development within the Project area (warehouses or other uses) will be subject to a similar consistency analysis.

Individually and cumulatively significant aesthetic impacts of the Project are also acknowledged in the Draft EIR.

**AESTHETICS    Project-Specific Significant Impacts**

**Change to Scenic Vistas**

Construction of the proposed Project would result in interrupted or obstructed views of off-site scenic areas. This is recognized as a significant and unavoidable aesthetic impact.

**Cumulatively Significant Impacts**

The Project will restrict or interrupt both near and distant views in the Project area, and in combination with other vicinity development, will cumulatively result in a substantial adverse effect on scenic views in the Project area. The cumulative effects of the Project in regard to scenic vistas are determined to be significant.

(Source: Draft EIR Table 1.8-1, Pages 1-19, 1-20)

Should the Project be approved, the Lead Agency is required to adopt Findings of Fact and a Statement of Overriding Considerations acknowledging the Project's significant environmental impacts, and substantiating that the Project benefits outweigh the unavoidable adverse environmental effects, such that the adverse environmental effects may be considered acceptable.

Response NDN-2

The Draft EIR's discussion of Aesthetics (Section 4.9) addresses the Project's potential to substantially degrade the existing visual character or quality of the site and its surroundings. The Draft EIR acknowledges that the proposed alteration of the Project site from its current undeveloped state to light industrial development will represent a noticeable change in baseline visual characteristics. However, the analysis concludes that no potentially significant impacts would occur in this regard. The relevant text from Draft EIR Page 4.9-22 is provided here for ease of reference.

Properties to the south of Fir (future Eucalyptus) Avenue are currently zoned for large lot residential uses. To provide a visual transition and buffer between southerly adjacent properties and the Project site, the Project incorporates a substantial landscaped setback along its southerly boundary (please refer to EIR Section 3.0, Project Description, Figure 3.5-1, Site Plan Concept). This setback area extends approximately 250 feet northerly from the southerly Project boundary, continuing to the 14-foot high masonry screenwall which defines the Project's southerly loading area boundary. This wall will be planted with vines on the public-facing sides to provide a landscape screen and deter graffiti.

As supported by the preceding discussions, and with implementation of the Project's design features, the Project's potential to substantially degrade the existing visual character or quality of the site and its surroundings is less-than-significant.

Response NDN-3

The commentor expresses concerns about the effect of diesel truck emissions on the sensitive receptors located on the South side of Fir Avenue.

A Health Risk Assessment of Diesel Particulate Emissions was prepared to address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The Health Risk Assessment was prepared in accordance with the document Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis (SCAQMD 2003). The Health Risk Assessment is summarized within the Draft EIR (see Page 4.3-80) and presented in its entirety as Appendix C to the Draft EIR.

As discussed in Section 4.3 of the Draft EIR, the SCREEN3 screening analysis prepared for the Project indicates that the maximally impacted modeled receptor would be exposed to a mitigated inhalation cancer risk of no more than 8.6 in 1 million, which is less than the SCAQMD exposure threshold of 10 in 1 million.

Regionally, the SCAQMD has conducted a cumulative analysis of the toxic air contaminants (including DPM emissions) and their resulting health risks for all of Southern California. This study, Multiple Air Toxics Exposure Study in the South Coast Air Basin, or MATES III, indicates the average excess cancer risk level from exposure to TACs is approximately 1,200 in one million basin-wide. These estimates were based on monitoring data collected at ten fixed sites within the South Coast Air Basin.

None of the fixed monitoring sites are within the immediate Project area. However, MATES III has extrapolated cancer risk levels throughout the Basin by using grid-specific modeling. In this regard, MATES III grid modeling predicted a cancer risk of 524 in one million for the Project area. DPM is included in this cancer risk along with all other TAC sources, and accounts for the predominance (83.6 percent) of the total risk

shown in MATES III. The Project will not contribute cumulatively to TACs other than DPM, and as noted above, the Project DPM emissions levels are not significant.

Though the Project DPM emissions would add to existing levels of DPM within the basin, the Project's contribution and associated MICR as mitigated is not individually significant and is not cumulatively considerable.<sup>10</sup>

#### Response NDN-4

As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, eleven existing and planned development projects were identified within the cumulative scope of the Westridge Commerce Center Project. These include the recently approved Highland Fairview Corporate Park, and the proposed ProLogis warehouse project. To date, no further inquiries, applications, or other proposals have been received by the City in regard to development of the types of land uses referenced by the commentor.

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<sup>10</sup> [T]he AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR. The only case where the significance thresholds for project specific and cumulative impacts differ is the Hazard Index (HI) significance threshold for toxic air contaminant (TAC) emissions. The project specific (project increment) significance threshold is  $HI > 1.0$  while the cumulative (facility-wide) is  $HI > 3.0$ . It should be noted that the HI is only one of three TAC emission significance thresholds considered (when applicable) in a CEQA analysis. The other two are the maximum individual cancer risk (MICR) and the cancer burden, both of which use the same significance thresholds (MICR of 10 in 1 million and cancer burden of 0.5) for project specific and cumulative impacts. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant (*South Coast Air Quality Management District White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution*, Appendix D, Page D-3).

It may be noted that a “Logistics Modified General Plan” development concept was included in the Highland Fairview Draft EIR (available for review at the City of Moreno Valley Planning Department, addressed on Pages 8-2 through 8-16). This development concept addressed the possible future development of a substantial number of warehouse facilities in the eastern end of the City.

For the purposes of the Westridge Commerce Center Draft EIR analysis, the City does not consider the “Logistics Modified General Plan” (LGMP) proposal included within the Highland Fairview Draft EIR to be a probable future project. On this basis, this development concept was not included among those identified as “related projects” for analysis in either the Highland Fairview Draft EIR or the Westridge Commerce Center Project Draft EIR. As stated in the Highland Fairview Draft EIR (Page 8-2), “[a]s no pre-application or application filing for such a concept has been made with the City, a LGMP is not included in Section 6, Cumulative Impacts, for comparative analysis with the Existing GP [General Plan]. The logistics modified concept does not represent a specific development proposal; however, it is included for public information as an alternative plan that may ultimately be proposed and processed as an amendment to the [Moreno Highlands Specific Plan] MHSP.”

#### Response NDN-5

The commentor asks if there are additional mitigation measures not currently contained within the Draft EIR which would lessen noise, air quality, and global warming impacts of the Project. It should be noted that no significant Project-related impacts regarding global warming have been identified. All feasible mitigation measures have been employed within the Draft EIR to reduce any potentially significant impacts. However, the Project will result in certain significant and unavoidable air quality and noise impacts.

Response NDN-6

As discussed in the Draft EIR (Page 4.3-80), South Coast Air Quality Management District (SCAQMD) guidance does not require assessment of the potential health risk to on-site workers. Similarly, the following excerpts from the California Office of Health Hazard Assessment (OEHHA) document *Air Toxics Hot Spots Program Risk Assessment Guidelines-The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments* (OEHHA 2003), also indicate that it is not necessary to examine the health effects to on-site workers unless required by RCRA (Resource Conservation and Recovery Act)/CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) or the worker resides on-site.

On-site workers are protected by the California Division of Occupational Safety and Health (CAL/OSHA) and do not have to be evaluated under the Hot Spots program, unless the worker also lives on the facility site, or property. Occasionally, facilities like prisons, military bases, and universities have worker housing within the facility. In these situations the evaluation of on-site cancer risks, and/or acute and chronic non-cancer hazard indices is appropriate under the Hot Spots program.

Since none of these provisions apply to the Project, risk to on-site workers was not evaluated in the Draft EIR.

Response NDN-7

As discussed in Draft EIR Section 4.2, the Project's potential to expose sensitive receptors to substantial diesel emission-related pollutant concentrations were identified as less-than-significant as mitigated.

Response NDN-8

The commentor is concerned about the future tenants of the proposed Project, and whether or not hazards materials would be housed at the site. As stated within the



Hazards and Hazardous Materials section of the Project Initial Study, presented as Appendix A to the Draft EIR:

“During construction activities, the Project will require limited transport of potentially hazardous materials (e.g., paints, solvents, fertilizer, etc.) to and from the Project site. Additionally, operation of the Project could involve the temporary storage and handling of potentially hazardous materials such as pesticides, fertilizers, or paint products that are pre-packaged for distribution and use. This type of storage, transfer, use and disposal of potentially hazardous materials is extensively regulated at the local, State and federal levels. It is not anticipated that the development of the Project would result in conditions that are not currently addressed by existing regulations...”

No potentially hazardous materials, beyond those described above, are anticipated to be handled at the site. Any such materials used/housed on-site will be subject to applicable local, State and federal laws.

Response NDN-9

Contrary to the commentor’s assertion that the Project will not be built to Leadership in Energy and Environmental Design (LEED) standards, the following discussion can be found on Page 3-16 of the Draft EIR:

“The Westridge Commerce Center Project reflects design and operational criteria established under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, a program developed by the United States Green Building Council. This program includes a rating system that can be applied to new construction as well as tenant improvement projects with performance goals in multiple environmental categories.

LEED certification is contingent, among other requirements, on demonstrated and documented conservation and efficient use of available resources. It is recognized that not all LEED performance standards are applicable or appropriate for the Project, and that different standards may be utilized by the Project's end user(s). However, the Project, as a whole, will be developed as a LEED-certified facility.

In support of LEED-certification, resources conservation, reduction in energy consumption and associated reductions in air pollutant emissions and greenhouse gases (GHGs), the Project will achieve a minimum of 20 percent in energy efficiencies beyond incumbent Title 24 Energy Efficiency standards, as well as compliance with other applicable state and federal energy standards."

The ultimate level of LEED certification cannot be determined at this time, while the tenant and therefore specific environmental strategies to be employed at the facility, are unknown. It is also important to note that no significant impacts have been identified in regard to the energy conservation attributes of the Project; nor would any of the identified significant impacts of the Project be reduced based on a certain level of LEED certification.

#### Response NDN-10

The commentor expresses concern regarding the growth inducing effects of the proposed Project. The California Environmental Quality Act (CEQA) requires a discussion of the ways in which a project could be growth-inducing. (Pub. Resources Code, § 21100, subd. (b)(5); CEQA Guidelines, §§ 15126, subd. (d), 15126.2, subd (d).) To this end, Section 5.3, "Growth-Inducing Impacts of the Proposed Action" of the Draft EIR, contains such a discussion.

As presented on Pages 5-67 through 5-68 of the Draft EIR, it is unlikely that the Project would directly result in any significant population growth. Moreover, the Project is consistent with the adopted General Plan, would not result in population growth for the City beyond that reflected in adopted growth forecasts.

Development of the Project as envisioned will entail upgrade of infrastructure in the immediate Project vicinity, including abutting roadways, the local water distribution and sewer collection systems, and storm drainage conveyance facilities. It is acknowledged within the Draft EIR that infrastructure improvements necessitated by the implementation of the Project may facilitate and encourage development of nearby properties. The City will review all proposed development to ensure compatibility with evolving City and regional land use plans acting to reduce or avoid potentially adverse effects of growth.

#### Response NDN-11

Estimated opening-year average daily Project-generated truck trips ingressing/egressing the Project site via Redlands Boulevard are as follows:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions are presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).

Cumulative opening year average daily traffic along Redlands Boulevard north of Fir (future Eucalyptus) Avenue is estimated at 30, 400 trips (see TIA Page 115, Exhibit 6-10), This is inclusive of all trips/all vehicle categories generated by existing, proposed or

anticipated development, and includes trips generated by the Westridge Project, Skechers, and Pro Logis cited by the commentor.

Redlands Boulevard is a designated truck route in the County and a direct route to San Timoteo Canyon Road through Redlands (also designated as a truck route). It is appropriate for Redlands Boulevard to convey Project-related and area truck traffic. To maintain the continuity between affected agencies, the truck route designation for Redlands Boulevard cannot be practically removed. Moreover, there is no feasible means to restrict Redlands Boulevard to local truck trips only, given its direct connection, with no alternative routes, to the previously mentioned roadways. Further, there is no suggested or demonstrated environmental benefit that would result from restricting use of Redlands Boulevard by Project traffic. The commentor's remarks are forwarded to the decision-makers for their consideration.

Notwithstanding the above-cited average daily truck/traffic volumes, the more germane issue with regard to potential truck traffic impacts is peak hour passenger car equivalent (PCE) intersection traffic volumes. As substantiated in the Draft EIR, all Project-specific traffic impacts, inclusive of truck traffic impacts, are reduced to levels that are less-than-significant. If the commentor's concerns are not really truck traffic volumes, but rather truck-generated diesel emissions, the Project Health Risk Assessment (HRA) summarized at EIR Section 4.4, "Air Quality," and discussed in detail in the Project HRA Study (included at EIR Appendix C) substantiates that with application of mitigation, Project-related diesel emissions will not result in significant adverse health risks.

Additionally, with regard to cumulative traffic impacts, Page 4.2-67 of the Draft EIR states:

As indicated at Table 4.2-13, with completion of the improvements recommended under Mitigation Measure 4.2.7, 4.2.18 and 4.2.19,

acceptable V/C and LOS conditions would be realized at all Study Area roadway segments under Opening Year Cumulative Conditions with the Project. Improvements necessary to mitigate potentially significant Opening Year Cumulative Condition roadway segment impacts would be accomplished in part by the Project, with the balance of required improvements realized under combined TUMF, DIF, and fair share fee traffic improvement programs. However, timely completion of the required improvements in total cannot be assured based on Project participation in mandated traffic impact fee programs (TUMF, DIF, and fair share). Further, roadway segment improvements at or affecting the SR-60 at Redlands Boulevard interchange improvements are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency. *The Project's incremental contributions to Opening Year Cumulative Traffic Impacts at, or affecting, the following roadway segments are therefore considered cumulatively significant and unavoidable:*

- Redlands Boulevard north of the SR-60 Westbound Ramps to Eucalyptus (future Encilia) Avenue;
- Quincy Street south of Fir (future Eucalyptus) Avenue (future street); and
- Fir (future Eucalyptus) Avenue west of Quincy Street to the westerly Project boundary (future street) and Fir (future Eucalyptus) Avenue east of Redlands Boulevard.

#### Response NDN-12

In response to the commentor's concerns regarding the levels of service on westbound State Route 60, the Project's Traffic Impact Analysis (TIA, included as Draft EIR

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Appendix B) examined performance on the SR-60 as part of Appendix 7.8. The City of Moreno Valley requested that a basic freeway segment analysis be conducted between Box Springs Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the TIA. As indicated in the Introduction to this Study (Page 7.8-3), “[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these impacts would be nominal, but rather to analyze the current and future projected operations within the segment based on freeway lane geometrics.”

The study concludes that “[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen.” It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As noted in the summary of mitigation on Draft EIR Page 1-51, “[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area.” Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

From: Late98765@aol.com  
Sent: Monday, December 06, 2010 5:16 PM  
To: Jeffrey Bradshaw; John Terell  
Subject: DEIR Comments for Ridge-1  
To: Jeff Bradshaw,

These are my comments and questions concerning the Westridge Commerce Center Project.

My biggest concern and questions are regarding the cumulative effects of the 35 million square feet of warehousing proposed for this area of the city. The law requires that the FEIR address the cumulative impacts of the entire known proposal. The Agency (the city of Moreno Valley) is well aware of the fact the developer that owns most the raw land in this area wants to turn this area into another Mira Loma type warehouse district encompassing 35 million square feet of warehousing. The city has an obligation to make sure that the impacts of all 35 million square feet are addressed in this document. It is not acceptable for the city to pretend it doesn't know about these other planned warehouses. The fact they have not submitted an application yet has no bearing on the known intended plan. I will include the Press-Enterprise article in which these 35 million square feet warehousing plan was detailed.

DR1-1

There is only one actual lane on the westbound 60 that leaves Moreno Valley and continues to Riverside. How are all these trucks going to affect the traffic going west on the 60? How is the truck traffic from the other 30 million square feet of warehouses going to affect the truck traffic? Is the city going to let this developer lie about the traffic the way they let Highland Fairview lie? Is this developer going to be allowed to show unrealistic videos of dream traffic or they going to be required to tell the truth? What is the impact of the additional truck traffic from this approximately one million square foot warehouse on the one actual lane that leaves Moreno Valley and continues to Riverside? What is the impact of the truck traffic from all 35 million square feet of warehousing on the one lane of the 60 that leaves Moreno Valley and continues to Riverside?

DR1-2

We know we are not going to meet our 2015 air quality targets. How are we going to meet them by adding warehousing that is not even required to meet LEED standards? Why would we add anything that is not required to meet LEED standards? How much farther over our target will we be with the addition of a one million square foot warehouse? How much farther will we be over our target with the entire 35 million square feet of warehousing proposed?

DR1-3

The City of Moreno Valley has some of the most beautiful vistas in the Inland Empire. Why does the consortium this developer belongs to think it is ok to rape the views of this city when other locations would serve the same function without doing so? Why does this consortium of developers think so little of the beauty of Moreno Valley that they would destroy it just to make a couple extra bucks? There are plenty of parcels in the flat area where warehousing was intended to go. I know because my home overlooks this area. Why is this consortium of developers destroying the vistas of people who have lived in their homes many over 20 years when they don't have to? Nobody that cared for our city would so callously destroy it! Why would we want to do business with developers who care nothing for our city?

DR1-4

Why is this consortium of developers building off the 60 when the 215 is a much better location? The 215 has millions of federal money spent and planned to be spent on it. The 60 has no plans to add more than the one and only west bound lane that leaves the city and continues into Riverside. March Global Port by the 215 has an airport and is nearer to the railroad. Why isn't this warehouse being proposed in the area of the city that was intended for a warehouse? Why not the March Global Port?

DR1-5

The Skechers project caused animosity that still has not been resolved. This developer knows that. Why does this developer and the consortium he is aligned with think it is ok to emotionally tear a city apart? Why doesn't this developer care about the quality of life of the residents most affected by this project?

Knowing how you feel and knowing what you want to say is much easier than typing it. I sincerely hope you will answer all my concerns about this project.

DR1-6

PS. I referenced newspaper articles that I will send separately

Sincerely,  
Deanna Reeder  
17351 Riva Ridge Dr  
Moreno Valley CA 92555

DEANNA REEDER, LETTER 1

Email Dated December 6, 2010

Response DR1-1

The commentor expresses concern regarding “the cumulative effects of the 35 million square feet of warehousing proposed . . . ,” citing an article from the *Press Enterprise* newspaper dated August 21, 2008 which references a “Logistics Modified General Plan” development concept included in the Highland Fairview Draft EIR (available for review at the City of Moreno Valley Planning Department, addressed on Pages 8-2 through 8-16).

The *CEQA Guidelines* (Section 15130, subd. (b)(1)(A)) state that “a list of past, present and probable future projects” may be used to provide an adequate discussion of significant cumulative impacts. No active application exists for Logistics Modified General Plan (LGMP) proposal. Nor does the City consider the LGMP proposal cited within the Highland Fairview Draft EIR to be a probable future project. On this basis, this development is not included as a “related project” for analysis in either the Highland Fairview Draft EIR or the Westridge Commerce Center Project Draft EIR. As stated in the Highland Fairview Draft EIR (Page 8-2), “[a]s no pre-application or application filing for such a concept has been made with the City, a LGMP is not included in Section 6, Cumulative Impacts, for comparative analysis with the Existing GP [General Plan]. The logistics modified concept does not represent a specific development proposal; however, it is included for public information as an alternative plan that may ultimately be proposed and processed as an amendment to the [Moreno Highlands Specific Plan] MHSP.”

To date, no further inquiries, applications, or other proposals have been received by the City in regard to the possible amendment of the General Plan or the Moreno Highlands Specific Plan to support the type of development referenced by the commentor. As



identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, eleven existing and planned development projects were identified within the cumulative scope of the Westridge Commerce Center Project. In addition, the Draft EIR notes that “the cumulative impacts analysis assumes development of the area in a manner consistent with the adopted City of Moreno Valley General Plan, and reflecting the anticipated growth of the region. The analysis of cumulative impacts considers potentially significant impacts that could be considered cumulatively considerable when viewed in the context of known related projects and generalized ambient growth of the City and region” (Draft EIR Page 5-4).

The commentor’s concerns and opinions regarding future development within the City are forwarded to the decision-makers for their consideration.

#### Response DR1-2

In regard to cumulative traffic impacts, please refer to the preceding Response DR1-1. In response to the commentor’s concerns regarding the levels of service on westbound State Route 60, the Project’s Traffic Impact Analysis (TIA, included as Draft EIR Appendix B) examined performance on the SR-60 as part of Appendix 7.8. The City of Moreno Valley requested that a basic freeway segment analysis be conducted between Box Springs Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the TIA. As indicated in the Introduction to this Study (Page 7.8-3), “[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these impacts would be nominal, but rather to analyze the current and future projected operations within the segment based on freeway lane geometrics.”

The study concludes that “[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen.” It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As

noted in the summary of mitigation on Draft EIR Page 1-51, “[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area.” Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

Response DR1-3

Contrary to the commentor’s assertion that the Project will not be built to Leadership in Energy and Environmental Design (LEED) standards, the following discussion can be found on Page 3-16 of the Draft EIR:

“The Westridge Commerce Center Project reflects design and operational criteria established under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, a program developed by the United States Green Building Council. This program includes a rating system that can be applied to new construction as well as tenant improvement projects with performance goals in multiple environmental categories.

LEED certification is contingent, among other requirements, on demonstrated and documented conservation and efficient use of available resources. It is recognized that not all LEED performance standards are applicable or appropriate for the Project, and that different standards may be utilized by the Project’s end user(s). However, the Project, as a whole, will be developed as a LEED-certified facility.

In support of LEED-certification, resources conservation, reduction in energy consumption and associated reductions in air pollutant emissions and greenhouse gases (GHGs), the Project will achieve a minimum of 20 percent in energy efficiencies beyond incumbent Title 24 Energy Efficiency standards, as well as compliance with other applicable state and federal energy standards.”

Although the ultimate level of LEED certification cannot be determined at this time, since the tenant and therefore specific environmental strategies to be employed at the facility, are unknown, it is important to note that no significant impacts have been identified in regard to the energy conservation attributes of the Project; nor would any of the identified significant impacts of the Project be reduced based on a certain level of LEED certification.

The commentor refers to “our 2015 air quality targets” but does not quantify or otherwise specify “our targets.” The Project is consistent with land uses plans, and emissions reductions programs, and emission control strategies outlined in the applicable Air Quality Management Plan (DEIR at Pages 4.3-49 through 4.3-52). The Project further incorporates all feasible measures to reduce its air quality impacts. Please refer also to the preceding Response DR1-1. The commentor’s statements are forwarded to the decision-makers.

#### Response DR1-4

The Draft EIR addresses the Project’s potential aesthetic impacts in Section 4.9, and acknowledges that implementation of the Project would have a substantial adverse effect on scenic vistas, which is considered a significant and unavoidable impact. The suggested relocation of the Project is addressed in the following Response DR1-5. The commentor’s statements and opinions regarding future development within the City are forwarded to the decision-makers for their consideration.

Response DR1-5

In regard to the commentor's suggestion that the Project be located in another area of the City, several alternative sites were analyzed as part of the Draft EIR (this discussion is found beginning on Draft EIR Page 5-37). As stated in the *CEQA Guidelines*, Section 15126.6 subd. (f)(1)(2)(A), the "key question and first step in [the] analysis [of alternative locations] is whether any of the significant effects of the project would be avoided or substantially lessened by putting the Project in another location."

An alternative site within the City would be considered generally viable if it were located along a regional freeway transportation corridor or at a regional transportation hub; was also locally accessible; was underutilized and currently available; could be developed and operated in a manner that was compatible with other proximate land uses; and was provided, or could feasibly be provided, adequate serving utilities infrastructure. Also supporting location of the Project elsewhere, an Alternative Site should have an appropriate size and configuration (approximately 50 acres and roughly rectangular); and either exhibit appropriate General Plan and Zoning designations or could be feasibly so-designated.

Only locations that would avoid or substantially lessen significant effects of the Project need be considered. To this end, four (4) possible alternative sites were located, as follows:

- Alternative Site 1: 70 acres located between Perris Boulevard and Grove View Road, and south of Indian Avenue to the southern City limits (APNs 316-210-071, -073, -075 and -076);
- Alternative Site 2: 92 acres located between Heacock Street and Indian Street, south of Cardinal Avenue and north of San Michele Road (APNs 316-180-010, 316-170-001, -002, -004, -006, -007, -008, -010, -013, and -014);

- Alternative Site 3: 72 acres located west of Indian Street between Iris Avenue and Krameria Avenue (APNs 316-020-002, -003, -004, -005, -012, -013, -014, -015, -016, -017, -018 and -019); and
- Alternative Site 4: Approximately 69 acres located at the southeast corner of Heacock Street and Iris Avenue (APNs 316-020-001, -006, -007, -028, and -010).

Each of the four (4) sites is currently vacant; is more than 50 acres in size and of a roughly rectangular configuration; is zoned for industrial use; and is adequately served by nearby utilities and infrastructure. Further, Alternative Sites 1 through 4 are proximate to the I-215 regional transportation corridor, and are also locally accessible. Notwithstanding, these sites are all currently unavailable. Alternative Site 1 currently has applications under review for a 1.6 million square foot warehouse distribution facility, while development plans have been submitted and approved for sites 2, 3 and 4.

Other potentially suitable and available properties are located easterly of the current Project site, along the SR-60 corridor. For the purposes of the Alternative Site analysis, the vacant property located southeasterly of the intersection of SR-60 at Theodore Street was selected for analysis, and is identified as Alternative Site 5 (shown in Figure 5.2-2 of the Draft EIR). This property exhibits an appropriate Business Park/Light Industrial General Plan Land Use designation; is of adequate size and is appropriately configured; and is provided access to regional and local roadways. Utilities and services are generally available to the site. The site appears to be available for purchase; however, it is not currently controlled by the Project Applicant, and a zone change from "Business Park" to "Light Industrial," would be required, similar to the change of zone requested by the Project.

Although development of the Project on Alternative Site 5 could achieve the Project's objectives, none of the Project's potentially significant impacts would be avoided or substantially reduced. Because Alternative Site 5 would not result in the avoidance or

substantive reduction of Project-related impacts, this Alternative Site was also rejected from further consideration within the Draft EIR.

Response DR1-6

The commentor's concerns and opinions are forwarded to decision-makers for their consideration.

**From:** Late98765@aol.com  
**Sent:** Monday, December 06, 2010 5:23 PM  
**To:** Jeffrey Bradshaw  
**Subject:** DEIR Comments Ridge-2  
To Jeff Bradshaw,

This is the article I referenced in the first email.

Sincerely,  
Deanna Reeder  
17351 Riva Ridge Dr  
Moreno valley CA 92555

DR2-1

## More distribution centers proposed for Moreno Valley's eastern side

[Download story podcast](#)

10:00 PM PDT on Thursday, August 21, 2008

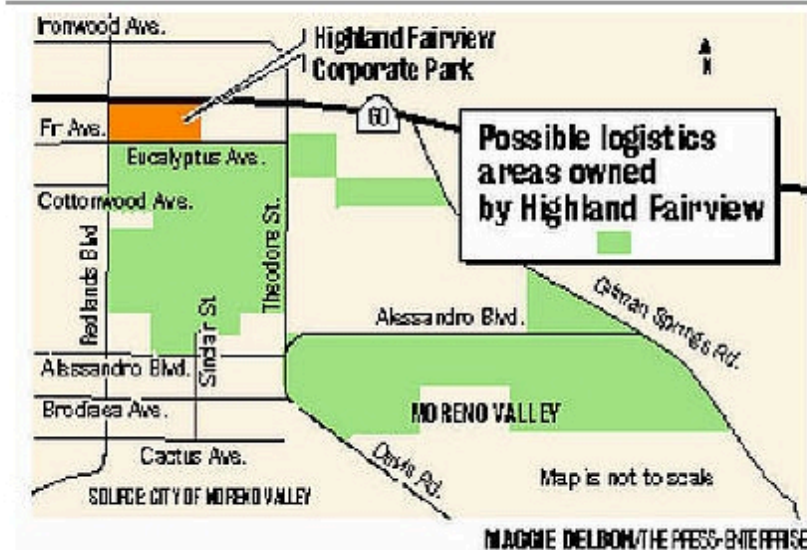
By **DAN LEE**  
The Press-Enterprise

**MORENO VALLEY** - Highland Fairview Properties, the developer of the Aquabella residential project and the Skechers logistics facility, is considering plans to build as much as 35 million square feet in distribution centers on the eastern side of town.

That potential scenario was included in the draft environmental impact report that the Michael Brandman Associates consulting firm prepared for the Skechers project. It would affect about 1,800 acres south of Highway 60 and between Redlands Boulevard and Gilman Springs Road, reducing the number of homes allowable in the Specific Plan in the area and increasing the land devoted to industrial uses.

Although the 1.8 million-square-foot Skechers building is a separate project, Highland Fairview President Iddo Benzeevi said the scenario was included in the report because residents had asked what might happen if that area, known as the Moreno Highlands, was developed into a business park. Highland Fairview has not formally submitted any proposal for logistic centers in the Moreno Highlands area.

Story continues below



"It is an alternative that will be evaluated," Benzeevi said by phone. "We're looking at every possibility."

Any such proposal would require revising the Moreno Highlands Specific Plan, which would require the city Planning Commission and the City Council to hold public hearings prior to approval, city Planning Official John Terrell said by phone.

### Jobs

The City Council had approved the Moreno Highlands plan in 1992. The 3,000-acre, master-planned community would include 7,700 homes, a 600-acre business park, schools, golf courses and 120 acres of city parks. It would add as many as 30,000 new residents to Moreno Valley and 21,000 jobs, according to city estimates at the time.

Environmental activists sued the city over the plan, claiming that traffic, air pollution and potential earthquake hazards were not adequately addressed. They also argued that the planned community threatened the nearby San Jacinto Wildlife Area.

Although the projects' developers decided not to shelve their construction plans in June 1993, citing the economic downturn at that time, a judge in May 1994 ruled that the city had approved the Moreno Highlands plan properly. The Moreno Highlands community remains unbuilt.

Benzeevi said it is critical that Moreno Valley develop more of an employment base: Only about 3 percent of Moreno Valley's land can generate jobs, compared with the 10-20 percent in most cities. Without sufficient local jobs, residents are forced to commute out of town for work, creating traffic and causing them to have less time with their families, he said.

"It is just not acceptable," Benzeevi said. "We need to build sustainable communities."

A big part of the original Highlands plan already was intended for industrial uses, the developer added. With the addition of distribution centers the Moreno Highlands area could generate more than 26,700 jobs, according to Michael Brandman Associates.

Jamil Dada, chairman of the Moreno Valley Chamber of Commerce, said he agrees that Moreno Valley needs jobs. Dada has supported the Skechers project and proposals by [ProLogis](#) and First Industrial Trust to build distribution centers nearby.

Dada added, however, that he would like to see city officials determine what Moreno Valley residents want on the eastern end. He also said he would like to know what the environmental impact of the proposed changes might be.

'Still a Mess'



A new grassroots group called Residents for a Livable Moreno Valley is expressing concern about the proposed distribution centers. Spokesman Bob Franz said he is not opposed to growth or creating more jobs, but building distribution centers in eastern Moreno Valley does not make sense, given the traffic and pollution.

"It's already still a mess heading west (on Highway 60)," Franz said by phone. "I don't think it's a good idea taking trucks east through the Badlands."

The addition of logistics buildings to the Moreno Highlands would result in less traffic and overall pollution emissions than the land uses under the existing plan, according to Michael Brandman Associates. However, it would result in increased diesel emissions, the consulting firm found in its report.

Benzeevi said any logistics or distribution centers built in the Moreno Highlands area would be built to the same standard as the Skechers building, which is seeking the highest rating under the Leadership in Energy and Environmental Design standards. The developer added that Highland Fairview would take the necessary steps to minimize the effects on air quality and traffic as much as possible.

The logistics proposal and the future of eastern Moreno Valley are expected to be issues in the Nov. 4 election for the 3rd Council District seat, which represents the area.

Incumbent Frank West has said his constituents are concerned about building distribution centers on the eastern end of Moreno Valley. But West has four challengers: Robin Hastings, Mike Rios, Ray Carbajal Jr. and Robert Burks.

Moreover, the Moreno Valley Taxpayers Association has spent about \$120,000 on a campaign to oust West and fellow incumbent Councilman [Charles White](#). Highland Fairview Properties has contributed \$60,000 to the effort, according to the most recent campaign finance reports that have been submitted.

Reach Dan Lee at 951-763-3457 or [dlee@PE.com](mailto:dlee@PE.com)

DEANNA REEDER, LETTER 2

Email Dated December 6, 2010

Response DR2-1

Receipt of the article referenced in the commentor's preceding correspondence (referenced in this document as "Deanna Reeder, Letter 1") is acknowledged. The preceding responses DR1-1 through DR1-6 are provided to address the commentor's specific concerns.

**From:** sgcricket@aol.com  
**Sent:** Friday, December 03, 2010 11:58 AM  
**To:** Jeffrey Bradshaw  
**Subject:** Public Comment on West Ridge Commerce Center

Comments: West Ridge Commerce Center Draft EIR  
From: Residents for a Livable Moreno Valley

Residents for a Livable Moreno Valley is concerned that the City of Moreno Valley is not moving in the direction as stated in the General Plan. The eastern end of the City has the potential to develop into something the residents can be proud to share. There are mountain views, Lake Perris Recreational Area, Riverside County Conservation Area land, San Jacinto Wildlife Area and San Timoteo State Park surrounding this portion of Moreno Valley. The pathway chosen by Council and reflected in past General Plan changes is a concern. The City must:

1. Increase employment
2. Improve high school and college graduation rates
3. Raise the median income of the City
4. Provide a variety of housing for the residents
5. Protect the health and safety of the residents

RLMV-1

Warehousing provides none of these benefits to the citizens. The number of employees per square foot of warehouse is minimal, the education requirements are marginal, the salary of a warehouse employee will not provide a middle/upper middle class life style, the location of warehouses will discourage construction of large, estate homes, the accumulated pollution will create health hazards for residents, and the dangerous conditions on SR 60 will not be addressed.

My questions to the developer (and Council, which has power to approve General Plan amendments):

1. Employment

How many permanent employees per square foot will be working on site after construction? How many employees per square foot are employed at a Business Park designation?  
If the public wants to know the number of employees, will the tenant's personnel offer to provide this?  
If Moreno Valley residents are expected to tolerate the pollution, traffic and noise associated with warehouses, what percentage of City residents will be hired for the facility and will personnel make proof of residency available?

2. Education

If the education needed for a warehouse position does not require a high school diploma or equivalency, how will this project improve the incentive for students to graduate?  
What percentage of positions will require post-high school education?  
What percentage of positions will require a 4 year college degree?  
What support will the employees receive to attend RCC or trade schools?

RLMV-2

3. Income

What will be the median and average salaries for the proposed warehouse employees?  
Will the median and average be above or below the median and average income for Moreno Valley?  
If the median and average is below that of the current City income, how will the warehouse help to raise that statistic?

4. Housing

Where in Moreno Valley will the "estate" housing be built?  
Warehousing presents a stigma for the development of upper end housing. How will this provide a positive direction for the City?  
For every apartment unit built for homeless and low income warehouse employees, why isn't a home built that is above the average home cost?  
How will warehousing stop the downward spiral of low cost housing that is not balanced with an increase in upper end homes?  
What will stop the median home cost from going down and making the City look less attractive to those with money to buy?

5. Health and Safety

Why is Caltrans not being tasked to provide safe improvements to Highway 60 BEFORE the increase in truck traffic?  
Why are overpass improvements considered sufficient to improve traffic flow?  
Why is the cumulative effect of future development not considered?

RLMV-3

Why are two lanes in each direction considered sufficient when they are immediately impacted by one truck passing another?

Why is the one lane merge from the 60 to the 215 considered a final solution when accidents occur daily and deaths occasionally? What amount of "backup" is considered tolerable?

What buffer is provided between residential zoning and the project? Business Park is considered a buffer between Light Industrial and residential. Does this mean that should the zoning be changed to Light Industrial to accommodate the project, the land south of the project will be rezoned as BP?

RLMV-3  
(cont'd)

RLMV-4

Sincerely,  
Residents for a Livable Moreno Valley  
3 December 2010

## RESIDENTS FOR A LIVEABLE MORENO VALLEY

Letter Dated December 3, 2010

### Response RLMV-1

The commentor's views in regard to the City's direction and potential, along with their concerns regarding warehouse development, are forwarded to decision-makers for their consideration.

### Response RLMV-2

The purpose of the California Environmental Quality Act (CEQA) is to identify and determine the significance of the environmental effects caused by a project. As noted in *CEQA Guidelines* Section 15064 subd. (e), "[e]conomic and social changes resulting from a project shall not be treated as significant effects on the environment."

No physical changes resulting from the Project's potential economic or social changes have been identified, and as such, the Project's potential economic effects were not addressed within the Draft EIR. While outside the scope of the Draft EIR, the commentor's questions regarding employment, education, income and housing are forwarded to decision-makers. It may be noted that no amendment to the General Plan is proposed as part of the Westridge Commerce Center Project, nor would a General Plan amendment be required in order to approve the Project.

### Response RLMV-3

The timing of roadway improvements on the SR-60, which are jurisdictionally controlled by Caltrans, is outside the control of the Applicant and the Lead Agency (the City of Moreno Valley). It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area.

The commentor's question in regard to overpass improvements appears to misconstrue the findings of the Draft EIR. The commentor is referred to Draft EIR Section 4.2, "Traffic and Circulation," which identifies a combination of Project improvements and mitigation measures mitigation to address the Project's potentially significant traffic impacts. While the overpass improvements identified in the Project's Traffic Impact Analysis (and summarized in Draft EIR Table 4.2-15) are expected to improve traffic flow, the Project was found to result in significant cumulative traffic impacts that cannot be sufficiently addressed by overpass improvements alone.

The Draft EIR considers, at some length, the cumulative effects of future development. As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, eleven existing and planned development projects were identified within the cumulative scope of the Westridge Commerce Center Project. A discussion of the Project's potential cumulative impact is included in each of the Draft EIR's topical analysis sections, and potential impacts are summarized in Section 5.1, "Cumulative Impact Analysis" (Pages 5-1 through 5-25).

The number of lanes required for local streets within the Project vicinity is determined by the City of Moreno Valley General Plan Circulation Element, which is available for review at the City's Planning Department, or online at the following website: [http://www.moreno-valley.ca.us/city\\_hall/general-plan/06gpfinal/gp/5-circu.pdf](http://www.moreno-valley.ca.us/city_hall/general-plan/06gpfinal/gp/5-circu.pdf).

In regard to the referenced "one lane merge from the 60 to the 215," the Project's Traffic Impact Analysis (TIA, included as Draft EIR Appendix B) examined performance on the SR-60 as part of Appendix 7.8. The City of Moreno Valley requested that a basic freeway segment analysis be conducted between Box Springs Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the TIA. As indicated in the Introduction to this Study (Page 7.8-3), "[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these impacts would be

nominal, but rather to analyze the current and future projected operations within the segment based on freeway lane geometrics.”

The study concludes that “[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen.” It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As noted in the summary of mitigation on Draft EIR Page 1-51, “[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area.” Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

Effects of cumulative development of concern to the commentor are addressed at DEIR Section 5.1, “Cumulative Impact Analysis.” Topical areas considered therein include:

- Cumulative Impacts Related to Land Use and Planning;
- Cumulative Impacts Related to Traffic and Circulation;
- Cumulative Impacts Related to Air Quality;
- Cumulative Impacts Related to Noise;
- Cumulative Impacts Related to Water Supply;
- Cumulative Impacts Related to Cultural Resources;
- Cumulative Impacts Related to Biological Resources; and
- Cumulative Impacts Related to Aesthetics.

Response RLMV-4

As presented in the Draft EIR (Page 4.9-22), “[t]o provide a visual transition and buffer between southerly adjacent properties and the Project site, the Project incorporates a substantial landscaped setback along its southerly boundary (please refer to EIR Section 3.0, Project Description, Figure 3.5-1, Site Plan Concept). The proposed buffer/setback incorporated in the Project design also provides physical separation between the Project’s operational activities and southerly adjacent land uses, acting to reduce potential environmental impacts (e.g. noise and air quality impacts) received at off-site land uses. This setback area extends approximately 250 feet northerly from the southerly Project boundary, continuing to the 14-foot high masonry screenwall which defines the Project’s southerly loading area boundary.”

Related to design and implementation of the Project setback described above, the Project includes a discretionary action (Amendment to Municipal Code Section 9.05.020 B (City Case # PA10-0017) [Light Industrial Districts]. The proposed code amendment requires buffering between Residential districts and industrial and warehouse structures greater than 50,000 square feet in building area (such as the Project). More specifically, as provided under proposed Code Section 9.05.040 Industrial Site Development Standards, Section B, 9. :

9. In the LI district, industrial and warehouse structures greater than 50,000 square feet in building area shall be separated from any Residential district as determined by an air quality and noise impact analysis. The minimum separation distance for such uses shall be 250 feet between the Residential district and the building, truck court or loading area.

The above requirements would apply to the Project and would act to ensure the protection of the health, safety and welfare of future residents. While it is acknowledged that the Project proposes a change of zone from Business Park to Light Industrial, no other zone changes are proposed.



**From:** George Hague [gbhague@gmail.com]  
**Sent:** Monday, December 06, 2010 4:52 PM  
**To:** Jeffrey Bradshaw  
**Subject:** Please confirm = II Additional Sierra Club comments to Westridge Commerce Center's DEIR

**From:** George Hague [mailto:gbhague@gmail.com]  
**Sent:** Monday, December 06, 2010 11:40 AM  
**To:** Jeffrey Bradshaw  
**Subject:** Additional Sierra Club comments to Westridge Commerce Center's DEIR

Good morning Mr Bradshaw,

Please use these comments instead of what I sent you at 11:40 am today.

Re: Comments to the Westridge Commerce Center Draft Environmental Impact Report (DEIR)

During Thursdays Informational meeting the Consultant said that Appendix B would show that the Moreno Highlands project would be included. Using cumulative development from Chpater 5 and appendix B one does not find the Moreno Highlands Project. You do not even include Moreno Highlands at build out, but instead use 2013 as some magical date. Based on this standard if Moreno Highlands is not build for another 20 years then we can just approve all other lands with projects which would use all of SR 60 capacity- without factoring Moreno Highlands into the equation. How can Moreno Valley allow what is shown on Exhibit 7-2 where the SR-60 westbound traffic is Four times the present level in 25 years? SR-60 can not handle the traffic we presently have. The Final EIR will be inadequate unless you can show the LOS at the point where SR-60 & I- 215 connect heading west with today's traffic, with this project added and 25 years from now with its ultimate improvement according to the RCTC. The same needs to be done heading east on SR-60 at the point it passes over Pigeon Pass/Frederick Street. The City then needs to explain how anyone will want to do business in a city that doesn't allow you to move through except at a crawl.

SC-1

SC-2

Whenever Skechers or the Highland Fairview project is mentioned you need to include both approved warehouses on their site as well as all the other commercial and land uses approved-- not just the single Skechers warehouse. This is true for not only for all Sierra Club comments, but all other comment letters on this project-- or your EIR will be inadequate.

SC-3

How many diesel truck trips are expected to/from this project site and during what times of the day? Please respond to all question submitted to this DEIR within the Final EIR and not redirecting the public to someplace in the DEIR.

SC-4

Building to LEED certification is good, but explain why the project will not try for at least Silver. There are many good ideas which could be designed/built into this huge warehouse to make it a environmentally superior and healthier project for Moreno Valley. The FEIR must list all those ideas which you will not incorporate into the project and fully explain why not. This must include those ideas which would lessen the projects impacts on Air Quality, Greenhouse Gas, and Global Warming. How will this project either help meet the goals of AB 32 or hinder our City's fair share in meeting its goals and standards?

SC-5

The Sierra Club believes the impacts to Agricultural resources are considerable and need to be thoroughly discussed in the FEIR. The Lands of Local importance can not be just dismissed. Your project is growth inducing and could lead to the destruction of one of the last citrus groves in our city with the approval of Pro Logis.

SC-6

How many diesel Trucks trips are calculated to use Redlands Blvd to enter/exit the city from your project? When combined with Skechers and ProLogis how many truck trips are calculated to use Redlands Blvd to enter/exit Moreno Valley. When you combine all three of these warehouses, operating a full capacity, with the existing background traffic, how many diesel trucks trips will use Redlands Blvd to enter/exit our city?

SC-7

Since all diesel trucks must use Fir Street to enter/exit the project, how can you say the project is a safe distance from the property zoned residential across the street from your project? How will all the diesel trucks impact these future residents during your 24-7 operation? How does the toxic diesel emissions change during acceleration/deceleration as the trucks enter/exit the project? Your analysis of impacts must take this into consideration. With your growth inducing impacts how many diesel trucks will be using the improved Fir Street, adjacent to your project and future residents, when both approved warehouses at the Highland Fairview project, and Pro Logis are in full operation?

SC-8

Please explain why reclaimed water will not be used? Between this project and Skechers you should be able to bring it north to serve both the needs of both sites.

SC-9

The Sierra Club believes the DEIR fails to fully explain all the direct, indirect, growth inducing and cumulative impacts. The cumulative development list is not complete. The alternatives need to be further developed--especially since this project will not be built for perhaps years and there are existing warehouses sitting unoccupied.

SC-10

The Sierra Club appreciates the opportunity to continue to add comments to this project's environmental documents. Please keep me informed of all future meetings and documents by using the address below.

SC-11

Sincerely,

George Hague  
Sierra Club  
Moreno Valley Group  
Conservation Chair

26711 Ironwood Ave  
Moreno Valley Ca. 92555

SIERRA CLUB (GEORGE HAGUE)

Email Dated December 6, 2010

Response SC-1

It is presumed that the commentor's references to the "Moreno Highlands project" are intended to mean the Moreno Highlands Specific Plan, which was approved in 1992. Because approval of this Specific Plan preceded the adoption of the City's existing General Plan, the land uses approved as part of the Specific Plan are reflected in the adopted General Plan land use designations, which were the basis for the Draft EIR's consideration of ambient growth.

The year 2013 is utilized within the Project's Traffic Impact Analysis (TIA) and identified in the Draft EIR as the Project's anticipated opening year. As noted on Draft EIR Page 4.2-15, "[t]he City requires development TIAs to analyze a horizon year that is a minimum of five (5) years from baseline existing (2008) conditions reflected in the TIA. Accordingly, the potential traffic impacts of the Project are determined for 2013 ("Opening Year") conditions. This includes the application of an assumed background growth factor, to which traffic generated by known or probable 'related projects' was added."

Response SC-2

In regard to the commentor's concerns regarding traffic growth on SR-60, the Project TIA (included as Draft EIR Appendix B) examined performance on the SR-60 as part of Appendix 7.8. The City of Moreno Valley requested that a basic freeway segment analysis be conducted between Box Springs Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the TIA. As indicated in the Introduction to this Study (Page 7.8-3), "[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these impacts would be nominal, but rather

to analyze the current and future projected operations within the segment based on freeway lane geometrics.”

The study concludes that “[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen.” It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As noted in the summary of mitigation on Draft EIR Page 1-51, “[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area.” Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

#### Response SC-3

As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, eleven existing and planned development projects were identified within the cumulative scope of the Westridge Commerce Center Project. Included for the Highland Fairview Corporate Park were the following anticipated land uses: Logistics (2,410,000 square feet); Retail/Outlet Center (10,000 square feet); and Community Commercial (200,000 square feet). A review of the Highland Fairview Draft EIR (available at the City of Moreno Valley Planning Department) indicates that this is the maximum development scenario for this recently approved project.

Response SC-4

Estimated opening-year average daily Project-generated truck trips ingressing/egressing the Project site via Redlands Boulevard are as follows:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions are presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).

Redlands Boulevard is a designated truck route in the County and a direct route to San Timoteo Canyon Road through Redlands (also designated as a truck route). It is appropriate for Redlands Boulevard to convey Project-related and area truck traffic. To maintain the continuity between affected agencies, the truck route designation for Redlands Boulevard cannot be practically removed. Moreover, there is no feasible means to restrict Redlands Boulevard to local truck trips only, given its direct connection, with no alternative routes, to the previously mention roadways.

Cumulative opening year average daily traffic along Redlands Boulevard north of Fir (future Eucalyptus) Avenue is estimated at 30, 400 trips (see TIA Page 115, Exhibit 6-10), This is inclusive of all trips/all vehicle categories generated by existing, proposed or anticipated development, and includes trips generated by the Westridge Project, Skechers, and Pro Logis cited by the commentor.

Total anticipated trip generation of the Project, including a quantification of the types of vehicles expected to access the site, is identified at Draft EIR Table 4.2-6 (Page 4.2-19). This Table has been reproduced below for ease of reference.

**Table 4.2-6  
Westridge Commerce Center Trip Generation**

Project Description	AM Peak Hour			PM Peak Hour			Daily PCE
	Enter	Exit	Total	Enter	Exit	Total	
<i>High Cube Warehouse (937.260 thousand square feet)</i>							
Passenger Cars	26	22	47	22	34	56	729
Truck Trips (PCE):							
2-axle	5	4	9	4	7	11	145
3-axle	16	13	29	13	21	34	440
4+axle	57	48	105	48	76	124	1,616
Net Truck Trips (PCE)	78	65	143	65	104	169	2,201
<b>Total Trips (PCE)</b>	<b>104</b>	<b>87</b>	<b>191</b>	<b>87</b>	<b>139</b>	<b>225</b>	<b>2,930<sup>1</sup></b>

**Source:** *Westridge Commerce Center Traffic Impact Analysis (Urban Crossroads) May 20, 2010 (Revised).*

<sup>1</sup> 2,930 PCE trips = 1,585 net vehicle trips (the raw arithmetic number of truck and passenger vehicle trips) generated by the Project. It should be noted that because different classes of vehicles (e.g., passenger cars, light trucks, heavy duty trucks) exhibit differing emissions characteristics that for the purposes of quantifying and evaluating air quality impacts, vehicle trips are quantified and segregated by vehicle type. In comparison, the Project's traffic study evaluates the effects of traffic at intersections and roadways, and therefore presents the total vehicle trips in terms of Passenger Car Equivalents (PCEs), thereby recognizing and acknowledging physical size differences in vehicles and related effects on roadways and at intersections.

The germane issue with regard to potential truck traffic impacts is peak hour passenger car equivalent (PCE) intersection traffic volumes. As substantiated in the Draft EIR, all Project-specific traffic impacts, inclusive of truck traffic impacts, are reduced to levels that are less-than-significant. If the commentor's concerns are not really truck traffic volumes, but rather truck-generated diesel emissions, the Project Health Risk Assessment (HRA) summarized at EIR Section 4.4, "Air Quality," and discussed in detail in the Project HRA Study (included at EIR Appendix C) substantiates that with application of mitigation, Project-related diesel emissions will not result in significant adverse health risks.

As noted in the Draft EIR (Page 3-4), "[f]or the purposes of the EIR analysis, the Project is assumed to be operational 24 hours per day, seven (7) days per week, except as may be otherwise limited by applicable codes or regulations."

Response SC-5

The ultimate level of LEED certification cannot be determined at this time, since the tenant(s) for the Project, and therefore specific environmental strategies to be employed at the facility, are unknown. It is also important to note that no significant impacts have been identified in regard to the energy conservation attributes of the Project; nor would any of the identified significant impacts of the Project be reduced based on a certain level of LEED certification.

As noted on Draft EIR Page 4.3-110, “the Project is consistent with, or otherwise not in conflict with the CARB Scoping Plan recommended measures and actions and the GHG emission reduction strategies set forth in the 2006 CAT Report. As such, a qualitative assessment of the Project impacts based upon consistency with the CARB Scoping Plan and the 2006 CAT Report, supports the conclusion that the Project GHG emissions are not cumulatively considerable. [Draft EIR] Table 4.3-21 identifies the various sources of guidance for determining the significance of impacts from GHG emissions, and the applicability of each source to this Project. Further, Project GHG emissions will be further reduced with implementation of the Project design features and mitigation measures.”

Contrary to the commentor’s assertion otherwise, the FEIR need not list and evaluate all mitigation measures offered. With specific regard to potential GHG/GCC impacts (and measures offered to reduce potential GHG/GCC impacts), the Project’s individual and cumulative impacts GHG/GCC impacts are substantiated to be less than-significant (DEIR Pages 4.3-88 through 4.3-11; DEIR Appendix C, Global Climate Change Study). Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

Additional mitigation has been incorporated through the Final EIR process, to ensure that the Project’s air quality and global climate change impacts are lessened to the extent feasible. These revisions are reflected in Final EIR Section 2.0, “Revisions and

Errata,” as well as in the Mitigation Monitoring Plan presented in Final EIR Section 4.0. Inclusion of these measures does not materially or substantively affect analysis or conclusions of the DEIR. That is, impacts that were previously determined to be less-than-significant remain less-than-significant; and impacts that were previously determined to be significant remain significant.

#### Response SC-6

Despite the commentor’s assertions, the Draft EIR does not “just dismiss” potential impacts to agricultural resources. As discussed in the Draft EIR (Pages 1-7 to 1-8), potential impacts regarding the conversion of farmland to non-agricultural uses were considered as part of the Draft EIR and found not to be potentially significant. The potential loss of agricultural land throughout the City attributable to General Plan implementation was acknowledged in the General Plan Final Program EIR (GPEIR, available for review at the City of Moreno Valley Planning Department) as significant and unavoidable. The GPEIR (Page 5.8-10) states that, “[s]ince the feasible mitigation measures that are available to reduce the impact to loss of farmland within the planning area are not consistent with the project objectives and land uses of the General Plan alternatives, no mitigation measure is proposed and the impact will be significant and unavoidable.” Certification of the GPEIR required the City to adopt overriding considerations in regard to all impacts determined significant and unavoidable, including the potential for loss of agricultural lands. On this basis, the Project’s Initial Study correctly concluded that the Project would not have the potential to result in significant impacts beyond those already addressed in the City’s GPEIR. Because the Project’s potential impacts are less-than-significant in this regard, no mitigation is required.

The commentor’s opinions in regard to the potential impacts of the proposed ProLogis project are forwarded to decision-makers for their consideration.



Response SC-7

Estimated opening-year average daily Project-generated truck traffic ingressing/egressing the Project site via Redlands Boulevard includes:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions are presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).

Redlands Boulevard is a designated truck route in the County and a direct route to San Timoteo Canyon Road through Redlands (also designated as a truck route). It is appropriate for Redlands Boulevard to convey Project-related and area truck traffic. To maintain the continuity between affected agencies, the truck route designation for Redlands Boulevard cannot be practically removed. Moreover, there is no feasible means to restrict Redlands Boulevard to local truck trips only, given its direct connection, with no alternative routes, to the previously mention roadways.

Exhibit 5-4 in the Project TIA (Draft EIR Appendix B) identifies the truck trip distribution anticipated at General Plan Buildout, which includes traffic generated by the Project, the Projects referenced by the commentor, and all other known and probable development that is anticipated to occur at the SR-60/Redlands Boulevard Interchange.

Response SC-8

The commentor expresses concerns regarding diesel emissions from vehicles traveling along Fir (future Eucalyptus Avenue) and their potential impacts at adjacent residential uses. A Health Risk Assessment of Diesel Particulate Emissions was prepared to

address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The Health Risk Assessment (HRA) was prepared in accordance with the document Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis (SCAQMD 2003). The Health Risk Assessment is summarized within the Draft EIR (see Page 4.3-80) and presented in its entirety as Appendix C to the Draft EIR.

The Project HRA considers and evaluates maximum potential exposure to maximum DPM concentrations consistent with established SCAQMD methodologies. The methodology considers not only DPM source emissions (the highest concentrations of which would occur on the Project site) but also considers other exposure/risk determinants including but not limited to: relative distance to and location of receptors, wind patterns, and topography.

With specific regard to DPM emissions air quality impacts generated by Project traffic along area roads, the Project HRA arguably consider potential worst case cancer risk exposure by evaluating pollutant concentrations at the Project site, which include pollutant emissions generated by all vehicles within the site in combination with emissions generated by on-site stationary sources. It is further noted that the cancer risk exposure scenario is in and of itself a conservative assessment of potential cancer risks arising from DPM exposure. That is, pursuant to the adopted SCAQMD/EPA methodologies, calculated DPM-source cancer risks are predicated on extended 70-year/30-year exposure scenarios. Both the 70-year and 30-year cancer risk assessments considered in the Draft EIR represent estimates of theoretic DPM-source cancer risks, and are based on the assumption that a person is exposed to the emission source 24 hours a day for 365 days a year for the entire length of the assumed exposure period. Individuals are typically not stationary at any given outdoor location, and a portion of each 24-hour cycle is spent indoors. In addition, individuals and families at a given location for 70 or even 30 years would be considered the exception rather than the norm. The California OEHHA has indicated that based on EPA studies, the EPA

recommends a central tendency estimate of 9 years for residency at a given location, and a high-end estimate of 30 years for residency time. Thus, the methodologies used to determine cancer risk (e.g., the assumption of a 24- hour exposure for a 30 or 70 year period) represent a maximum theoretic cancer risk, and is not intended to account for or represent DPM exposures based on residency and occupancy tendencies. As discussed in the Draft EIR, with application of mitigation, applicable cancer risk thresholds are not exceeded. Draft EIR Table 4.3-17 (Page 4.3-86) summarizes maximum mitigated potential cancer risk exposures.

In comparison, DPM emission concentrations generated by Project vehicles traveling along area roads would be substantively reduced in that they reflect only a portion of transient vehicle traffic/emissions, and these emissions are dispersed through vehicle movements and localized winds.

In response to the commentor's specific concerns regarding potential cumulative effects of DPM emissions, regionally, the SCAQMD has conducted a cumulative analysis of the toxic air contaminants (including DPM emissions) and their resulting health risks for all of Southern California. This study, Multiple Air Toxics Exposure Study in the South Coast Air Basin, or MATES III, indicates the average excess cancer risk level from exposure to TACs is approximately 1,200 in one million basin-wide. These estimates were based on monitoring data collected at ten fixed sites within the South Coast Air Basin.

None of the fixed monitoring sites are within the immediate Project area. However, MATES III has extrapolated cancer risk levels throughout the Basin by using grid-specific modeling. In this regard, MATES III grid modeling predicted a cancer risk of 524 in one million for the Project area. DPM is included in this cancer risk along with all other TAC sources, and accounts for the predominance (83.6 percent) of the total risk shown in MATES III. The Project will not contribute cumulatively to TACs other than DPM, however, the Project DPM emissions levels are not significant. That is, as

discussed in Section 4.3 of the Draft EIR, the SCREEN3 screening analysis prepared for the Project indicates that the maximally impacted modeled receptor would be exposed to a mitigated inhalation cancer risk of no more than 8.6 in 1 million, which is less than the SCAQMD exposure threshold of 10 in 1 million.

Though the Project DPM emissions would add to existing levels of DPM within the basin, the Project's contribution and associated MICR as mitigated is not individually significant and is not cumulatively considerable.<sup>11</sup> Please refer also to Response SC-4.

#### Response SC-9

Developments within the Project area are reliant on the Eastern Municipal Water District (EMWD) for the provision of reclaimed water, as well as potable water. Ultimate timing and provision of recycled water to the Project will be determined by EMWD, not the Applicant or the Lead Agency. To assert or assume otherwise is speculative. As noted on Draft EIR Page 4.5-25, "[t]he Project will use non-potable water for irrigation to the extent that such water sources are available to the Project. In

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11 [T]he AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or EIR. The only case where the significance thresholds for project specific and cumulative impacts differ is the Hazard Index (HI) significance threshold for toxic air contaminant (TAC) emissions. The project specific (project increment) significance threshold is  $HI > 1.0$  while the cumulative (facility-wide) is  $HI > 3.0$ . It should be noted that the HI is only one of three TAC emission significance thresholds considered (when applicable) in a CEQA analysis. The other two are the maximum individual cancer risk (MICR) and the cancer burden, both of which use the same significance thresholds (MICR of 10 in 1 million and cancer burden of 0.5) for project specific and cumulative impacts. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant (*South Coast Air Quality Management District White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution*, Appendix D, Page D-3).

anticipation of reclaimed/recycled water availability, the Project will design and implement all irrigation systems per EMWD recycled water facilities standards.”

Response SC-10

The commentor’s opinions in regard to the Draft EIR’s adequacy are forwarded to decision-makers for their consideration during deliberations on the Project. The cumulative project list was compiled in consultation with City staff, and includes Projects that are consistent with those of other EIRs that have been prepared by the City for development proposals in the vicinity of the Project. The commentor is also directed to Draft EIR Section 5.2, which includes a comprehensive discussion of the potential for other approved warehouse projects to serve as an alternative to the proposed Project site.

Response SC-11

As requested, the commentor will be included on the City’s distribution list for future noticing related to Project review and public hearings.

**Thomas Thornsley**  
**29177 Stevens Street**  
**Moreno Valley, CA 92555**

December 5, 2010

Mr. Jeff Bradshaw  
City of Moreno Valley  
14177 Frederick Street/P.O. Box 88005  
Moreno Valley, California 92552

Via e-mail: [JeffreyB@moval.org](mailto:JeffreyB@moval.org)

Dear Mr. Bradshaw:

**Re: Draft Environmental Impact Report (DEIR) Westridge Commerce Center, SCH#: 2009101008**

As a concerned residents on the east end I have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Westridge Commerce Center. I can not agree with some of the conclusions because it appears that some impacts are being written off because the City simply has not taken a progressive stand on potential development impacts or adopted stricter criteria for development (i.e.: enhanced development standard and limited design guidelines, or full improvements with future restitution.). As with most projects requirinig EIRs this project has some significant impacts that, quite simply, are being written off because the impact can not be completely mitigated to below a level of significance. However, several impacts could be lessened with further mitigated than what is proposed; most notable with regard to Traffic Impacts. In these instances it would be prudent to impose mitigation(s) to further lessen those impacts, thereby, leaving a smaller intensity of impacts that to be overridden by the City Council.

TT-1

Project Description – So much of this document reads like “boilerplate text” and it fails to provide complete account of the entire project in any one location. The full project description is hard to quantify without looking in several places in two separate chapters. Even then the proposed Amendment to the Municipal Code related to providing “objective standards for the development of Light Industrial uses adjacent to residentially zoned property,” fails to be detailed anywhere in the text and I am unable to determine what changes are being made. So therefore I ask:

TT-2

- Why are you not providing a detailed description of the code amendment?
- What are the details of the proposed amendment? (Provide current text and proposed text.)

**Aesthetics**

Loss of Scenic Vista – The DEIR states that there is no feasible way to reduce impact (lost view of the surrounding hills) below a level of significance which may be true, but man-made enhancements along the 60-Freeway can offer a new pleasurable scenic vista thus mitigating a substantial amount of the loss. As such this issue should be addressed in greater detail to enhance what is lost for the community.

TT-3

Thomas Thornsley  
 Letter date 12/06/10

Comment to DEIR for Westridge Commerce Center

- Why is this project not offering to better enhance and screen the view from 60-Freeways with more extensive architectural relief, landscaping and a screen wall?

TT-3  
 cont'd.

The photo simulations in the DEIR fails to depict the actual view from the roadways or what the view would be like for passing motorist after freeway expansion. Each simulation is a straight ahead view from each particular roadway/highway. Since the 60-Freeway is a General Plan designated Scenic Corridor true views are 360 degrees (and primarily southward as shown in Figure 4.9-1) and as such this document needs to be amended to show the impacted views from the 60 Freeway looking south across the project site to show how the building and loading docks will be buffered and compliment by landscaping and the screen wall as required by the development code.

TT-4

- Why doesn't this document show a true view southward across the site as it would be viewed from the 60-Freeway by passing motorist?
- Why doesn't this document show the screening method of the building and loading docks?
- Why isn't there a visualization of the site screening method at full build-out of the Freeway?

Under the current zoning, building sizes are limited to 50,000 s.f. thus offering the opportunity for smaller buildings, greater elevation variations, and views through and between buildings if built and scattered across the same project area. So far the warehouse projects approved and proposed along the 60-Freeway corridor far exceed the original zoning building size limitations and as proposed are creating what will appear to be a mile long wall blocking almost all vistas to the south.

TT-5

- Why is it not feasible to create smaller buildings for what is a speculative project at this time in a down economy?

Recommendation: Mitigation measures should be added to this project to require a sufficient landscape area and screen wall along the 60-Freeway to effectively screen the building and the loading dock and to act as an alternate aesthetic feature in place of the lost Scenic Vista.

TT-6

Building – It is hard to understand the need for such a tall building unless it contains multiple internal stories which would then conflict with the floor area ratio (another issue). Under the existing zoning it was much more likely that the site would develop with smaller buildings and thus lower building profiles. One method to better preserve the scenic vistas would be limiting the overall building height to 25-30 feet. This would permit the building to go almost unnoticed if is truly built 20 plus feet below grade. As such a mitigation measure reducing the height of the structure to preserve some of the scenic vistas should be imposed. Thus, mitigating the impact to scenic vistas may not require the City to override this impact as proposed. Additionally, building relief (offsets) appears to be non existent on all elevations with limited compliance with General Plan Policy 2.10.3. Mitigation measures should be included requiring greater wall offsets relative to the expanse (1,300 foot length) of the building elevation.

TT-7

- Building function is not necessarily compromised by building plane variations so why are there not more telling offsets to the building exterior? This applies to all four sides.

Light and Glare – The east end of Moreno Valley as enjoyed a rural atmosphere for decades and as such would be significantly impacted if project site lighting is not controlled. Additionally, this area falls just within the Mount Palomar Observatory Dark Skies area and should comply with their limitation to prevent light pollution. The International Dark-Sky Association web site at: [www.darksky.org](http://www.darksky.org) lists lighting fixtures and methods to meet dark sky specifications. Add a Mitigation Measure (beyond city policy) to assure that site lighting is compatible with “Dark-Sky” specifications or limit lighting to only the use of low pressure sodium lights, full shielding above a horizontal plain and no building or pole mounted lighting fixtures that project light outward horizontally beyond the property boundary to

TT-8

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eliminate the potential for nighttime light glare to motorist. This last request is especially relevant to freeway motorist.

- Why is there not a mitigation measure include with this project that assures full compliance and extra measure beyond the basic restrictions listed in the city?

TT-8,  
cont'd

Screen Walls – Page 3-9 makes mention of an 8-foot screen wall along the 60-Freeway yet there is no mention of this wall in Section 3.5.12. Neither the site plan nor the cross sections in this document list any screen wall along the 60-Freeway frontage. Since the City’s General Plan Policies (2.10.2, 2.10.4, 2.10.5) and Development Code requires the screening of loading areas a **Mitigation Measure** needs to be added that will assure a wall of sufficient height will be installed along the project’s north property line to screen the view down into the loading dock from the 60-Freeway and the eastbound off-ramp. Additionally, due to the massive length of this wall the screen wall should have significant vertical wall plain offsets and other variations (texture, style, height) to avoid visual monotony along the freeway.

- What type of adequate full screening method will be provide along the north property boundary adjacent to the 60-Freeway in compliance with city code?

Landscaping – Extensive landscaping is provided along the southern boundary of the project as a buffer for visibility of the project. The same level of treatment should be provided along the north property line in compensation for the lost Scenic Vista. The northern most landscaping provided on site is on what appears to be a 2:1 slope dropping immediately from the freeway right-of-way down to the parking and loading area. Since all of this landscaping is below freeway grade it will provide little complimentary relief to the massive building. Additionally, city code requires screening of parking and loading areas with a minimum 10-foot landscape buffer utilizing walls and burms to screen these elements.

TT-9

- Why is there not a sufficient landscape buffer and screen wall along the northern most project boundary along the freeway right-of-way?
- How does this project proposes to meet the 10-foot landscape requirement for buffering if all of this area is below grade?

**Traffic**

The DEIR states that “the Project cannot feasibly construct the required improvements and/or Payment of fees will not assure their timely completion” and “Pending completion of required improvements the Project’s incremental contributions to Opening Year Cumulative traffic impacts at or affecting (certain) intersections are considered cumulatively significant and unavoidable.” Since most of the studied intersection are not currently impacted this project will be the ultimate source causing them to be impacted and as such this project should be held responsible to further eliminate those impacts beyond just “paying the TUMF” and letting the improvement happen when they may. The following passage, “The Project will pay required TUMF, thereby satisfying its proportional fee responsibilities for improvements required to mitigate Opening Year Cumulative traffic impacts,” is utilized time and again in MMs 4.2.3 through 4.2.9 in what appears to be the project proponents out for making some simple fixes such as stripping for right-turn lanes. These types of simple fixes should be the responsibility of the development.

TT-10

Since it appear that it could be quite some time before full improvement are made to connect Fir Avenue through from Redlands Boulevard to the terminus of Eucalyptus Avenue the added traffic burden to Redlands Boulevard will greatly impact travel and completely diminish the level of service currently available The project proponent needs to provide a supplemental or alternative analysis in the form of a



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tiered level of improvements that can be made that diminishes the impacts at Opening Year. Additionally, the cost burden undertaken by the developer should be determined for reimbursement.

- What additional improvements can be made prior to building occupancy that will address the immediate impact at Redlands Boulevard and the 60-Freeway in exchange for fees paid for improvements elsewhere?
- Since the city will reimburse developers for improvement costs beyond those associated with their project why is this project not proposing to make the extra improvements to lessen the impacts and better serve its future users and the neighboring community?

TT-10  
 (cont'd)

If these improvements are not made by the time the project is in its Opening Year what will be the timelines for making these improvements and what criteria (money, Caltrans approval, other projects...) have to be met before the mitigation measure are carried out?

- How will Air Quality suffer by not actually completing the necessary traffic improvements which will lead to traffic congestion and excessive idling for prolongs time periods?

**Air Quality**

There is no doubt that any urban development on the project site will generate long-term operational emissions that will exceed the South Coast Air Quality District's regional thresholds. However, the types of pollutants vary by the activities associated with different land uses, some of which may not be as hazardous to the health of those in the surrounding community. Since most of the cancer risk from air pollution is from diesel exhaust it would be best to rethink the land uses of a community as a whole and limit those that pose the greatest risk to health. Maintaining the existing zoning would prevent uses such as this distribution center which requires extensive use of trucks burning diesel fuel. Under the current zoning the range of business permitted are likely to generate more vehicle trips but fewer emissions by trips from diesel fueled vehicles.

This type of project would also be best suited for a location where it could utilizes rail transport for the massive daily volume of trips associated with warehouses or logistic centers. For this reason alone, the City should not approve the zone change and this project should locate to a site with more efficient transportation infrastructure better suited to meet speculative users' needs with fewer environmental impacts.

TT-11

It is unrealistic for the City of Moreno Valley and the project proponent to disregard the cumulative impacts this project will have on this area when utilizing a scenario where much of the surrounding area is converted to industrial and warehouse uses. This analysis should be undertaken so as to find what level of incremental increase this project will have on the overall community.

- Why in there now effort made to look at the real possibility of cumulative impacts from this project and the likely land use changes surrounding this project site?

However, because I believe that the City will approve this project; additional tougher mitigation should be added to offset local and regional impacts to the fullest extent possible before overriding what can not be achieved. If these mean reducing the size of the project to reduce environment impacts, as a suggested in the alternatives, then it should be seriously considered. Also, there should be mitigation measures requiring a percentage of the fleet vehicle (diesel trucks) of future tenants to be low to zero emission vehicles. Also, diesel trucks delivering to the site shall include soot filters or the latest technological equipment available.

Thomas Thornsley  
Letter date 12/06/10

Comment to DEIR for Westridge Commerce Center

Additionally, MM 4.3.11 addresses improvements to the project that will allow the project to exceed Title 24 standards by 20 percent. This is a nice thing but more should be offered. The final item on the list of improvements states that the building should be structurally designed to handle the installation of roof mounted solar panels. This should be mitigation measure unto its own along with requiring the project proponent to work with energy providers and vendors to install such equipment to offset fuels used to generate electricity. There are numerous vendors and utilities interested in joint projects to install these systems, and they are always looking for places to install systems, and this should be made a part of this project. This measure also works well to mitigate the issues associated with greenhouse gases.

- o Why can't this project be required to have all buildings designed forthwith to accommodate renewable energy sources such as photovoltaic solar electricity systems appropriate to their architectural design?
- o Why is there no mention of the project proponent working to insure the opportunity to utilize this structure is know in the industry?

TT-11  
(cont'd)

As stated in the Traffic section may intersection improvements will not be undertaken by the project but will instead only be mitigated through the payment of improvement fees. If this is true the project will create traffic impacts that do not currently exist.

- o Therefore, how will Air Quality suffer by not actually completing the necessary traffic improvements which will lead to traffic congestion and excessive idling for prolongs time periods?

**Climate Change and Greenhouse Gases**

Since the state has enacted legislation to lower greenhouse gas emissions any and all possible measures to lower emissions that could be undertaken by this project should be listed, discussed and analyzed for their effectiveness, not just a list of improvements that will exceed Title 24 by 20 percent. The City should then include mitigation measures that significantly reduce (though they may not entirely mitigate impacts) associated impacts prior to any consideration to override them as the DEIR suggests.

TT-12

- o Why is the project not being designed to meet some of the highest LEEDS standards and only offering to exceed Title 24 by 20 percent?

Thank you for the opportunity to comment on the Draft EIR for this project. I request to be informed of all meetings and public hearings related to this project or other consideration in east end of Moreno Valley. Please let me know if it is possible to review a copy of the project plans so that I may provide constructive comments related to the development proposal prior to its next appearance before the Planning Commission or City Council. I would also like to request copies of any follow-up documents related to this project (2<sup>nd</sup> DEIR and/or Final EIR). Feel free to contact me if you have any questions regarding my comments.

TT-13

Sincerely,

Thomas Thornsley  
909-797-1397  
e-mail: tomthornsley@msn.com

THOMAS THORNSLEY

Letter Dated December 6, 2010

Response TT-1

The City disagrees with the commentor's assertion that potentially significant impacts of the Project are being "written off." As required by CEQA, the Draft EIR identifies the feasible and enforceable mitigation measures that have been determined necessary to reduce the Project's potentially significant environmental impacts. The commentor's references to additional traffic mitigation are addressed more specifically in the subsequent Response TT-10. The commentor's opinions in regard to the Draft EIR's adequacy are forwarded to decision-makers for their consideration.

Response TT-2

The commentor's opinions in regard to the Draft EIR's organization are forwarded to decision-makers for their consideration. The actual wording of the proposed Municipal Code Amendment was not available at the time the Draft EIR was completed. The proposed amendment will be crafted by City staff and made available prior to its consideration by Planning Commission or City Council, consistent with the City's standard procedures for the adoption of Municipal Code Amendments.

For the purposes of the Draft EIR's analysis, the code section to be amended is identified (Section 9.05.020 B, City Case # PA10-0017) on Draft EIR Page 3-24. Further, the intent of the proposed code amendment is summarized as follows.

The proposed Code Amendment would mandate minimum separation/buffer requirements (250 feet) between proposed light industrial use and residentially-zoned properties. As further required under the proposed Code Amendment, this setback/buffer area shall be increased should the minimum 250-foot separation/buffer prove insufficient to eliminate

significant health risks or project operational noise impacts as reflected in project-specific air quality and noise analysis (Draft EIR Page 4.1-19, *et al.*).

The proposed code amendment provides additional protection of residential uses in instances where industrial uses may be proposed within adjacent zone districts. The amendment would apply City-wide. The Code Amendment Application is on file with the City.

### Response TT-3

As acknowledged in the Draft EIR's analysis of the Project's potential aesthetic impacts, "[d]eterminations of visual character and quality are inherently subjective by nature." The commentor's suggestion that "man-made enhancements along the 60-Freeway" be utilized to mitigate the Project's adverse effect on scenic vistas could be perceived as exacerbating the potential change to existing views. It is further noted that land adjacent to SR-60 is within a Caltrans easement, and is reserved for future freeway improvements that are outside the jurisdictional authority of the Applicant or the City of Moreno Valley. The Project has nonetheless proposed a wall of trees at the property line along the top of the slope to further soften views of the Project from the adjacent SR-60. The trees will be configured and planted in a double row the northwestern portion of the site, and in a single row along the future off-ramp.

The Project's potentially significant visual impacts are attributable to potential view obstruction, not architectural design or appearance of the Project (please refer to the summary of significant aesthetic impacts presented at DEIR Pages 1-19, 1-20). Architectural revisions or additional screening suggested by the commentor do not act to review the project's identified view obstruction. Moreover, as described on Draft EIR Page 4.9-21, "[i]n order to ensure visually acceptable and compatible development, and subject to the proposed change of zone from Business Park to Light Industrial, the Project will be designed and constructed consistent with applicable Light Industrial design and performance standards articulated at Municipal Code Chapter 9.05,

Industrial Districts. To these ends, the Project site plan, landscaping, and architectural concepts provided at EIR Section 3.0, Project Description demonstrate consistency with Municipal Code Section 9.05.040, B., Special Site Development Standards.”

Response TT-4

The Draft EIR acknowledges the designation of SR-60 as a scenic route, and the Project’s location within a scenic view corridor (Draft EIR Page 4.9-10). Despite the commentor’s assertions to the contrary, the Draft EIR’s view simulations provide actual pre-development views from the SR-60, with post-development photo simulations reflecting the facilities and landscape screening of the Project. A direct southerly view of the Project from Ironwood Avenue, located approximately 2,500 feet north of the freeway, is provided in Draft EIR Figure 4.9-8. The Project’s landscape screening has been conceptually illustrated in Draft EIR Figures 3.5-4 and 3.5-5, and is reflected in the previously referenced Draft EIR’s Post-Development View Simulations (Draft EIR Figures 4.9-4 through 4.9-8). It may be noted that because the Project’s facilities will be located approximately 25 feet below the grade of the SR-60, the loading docks will not be visible from the SR-60, or from other properties not located at a considerably higher elevation than SR-60. (Draft EIR Figures 4.9-2, 4.9-3)

In regard to the commentor’s concerns regarding views in the Project vicinity following freeway expansion, it is noted that although the Project has been designed to accommodate future interchange improvements planned by Caltrans, these improvements will be constructed by Caltrans, and are not a part of the proposed Project. Improvements adjacent to the Project site have been neither programmed nor funded at this time. The preparation of view simulations incorporating these improvements would be speculative, and as such, were not undertaken as part of the Draft EIR.

Response TT-5

As discussed in the Draft EIR's analysis of alternatives (Pages 5-36 to 5-37), the possibility of limiting the Project's building size was considered, but rejected as infeasible. The relevant discussion is presented below for ease of reference.

In order to potentially avoid or reduce view obstruction/view interruption resulting from the large consolidated warehouse structure proposed under the Project, an alternative site design employing multiple smaller structures of 50,000 square feet (per the site's current Business Park zoning requirements) was considered. However, the intent of the Project is to achieve full utility of the available site while providing region-serving logistic warehouse facilities. Feasibility and function of the proposed regional warehouse is dependent on its size and configuration, allowing for centralized and consolidated storage and transfer of large (numerically and dimensionally) inventories serving smaller local and end-use facilities. Division of the proposed building into substantively smaller components (50,000 square feet maximum buildings) is not practically or economically feasible.

Moreover, such division of the Project would act to unnecessarily duplicate or expand serving utilities, would result in multiple and redundant internal operations (e.g., intersite transfer of inventories), would restrict flexibility of warehouse operations and use of warehouse space; and may necessitate additional access to adjacent roadways in order to serve the individual buildings, with potentially increased circulation/access impacts. Lastly, it is noted that the Project design is typical of other regional distribution warehouses implemented within the City, surrounding Riverside County, and throughout southern California. Empirical evidence indicates that the Project design is an established functional and efficient format for regional distribution warehouse

facilities. For these reasons, an alternative based on a compartmentalized building design scenario resulting in multiple smaller buildings was not further considered.

The commentor's concerns in regard to the Project's feasibility in the current economic climate are forwarded to decision-makers for their consideration.

Response TT-6

Please refer to the preceding Response TT-3. The commentor's opinions in regard to the provision of an 'alternate aesthetic feature' are forwarded to decision-makers for their consideration.

Response TT-7

The commentor requests explanation of the proposed building design, and specifically the proposed building height.

The high-cube warehouse building height concept defines the viability of its internal operations, which are realized through closely-consolidated and easily-accessible warehoused goods, and use of efficient, high-lift material handling equipment. While multiple stories are not proposed, the high-cube building design typically requires internal clear heights of 30 feet or more. In another context, in order to accommodate the same volume of warehoused goods and logistics traffic, the floor area of a 45-foot high warehouse would have to be increased by a minimum of 80 percent if reconfigured as a 25-foot high structure. In the case of the Westridge Project, the currently proposed approximately 940,000-square-foot building would have to be at least 1.7 million square feet in size in order to accommodate comparable volume of warehoused goods. This increase in area does not even account for necessary additional internal aisle ways, utilities, service areas, vestibules, etc. Moreover, if constructed as a substantively larger but lower building footprint there would be the additional construction costs, expanded areas of disturbance, increased infrastructure costs, and decreased operational/energy

efficiencies associated with such a large building footprint. The suggestion that architectural “offsets” be required is forwarded to decision-makers for their consideration.

#### Response TT-8

The Project’s potential to create a new source of substantial light or glare which would adversely affect day or nighttime views in the area is addressed in Draft EIR Section 4.9. As noted on Draft EIR Page 4.9-22, “[o]n-site lighting, including parking lot and loading dock lighting, will be required to comply with all applicable sections of the City’s zoning ordinance,” which are detailed within this discussion. As further noted on Draft EIR Page 3-17, “[t]he Project lies within 45 miles of the Mt. Palomar Observatory, and would comply with applicable provisions of County of Riverside Ordinance 655 which addresses protection of the night sky from light pollution that would interfere with astronomical observations.” Additional mitigation suggested by the commentor has not been included because no potential impacts relative to the Project’s potential to create light or glare have been identified. Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

It is further noted that the City is considering a “Dark Sky” ordinance that would act to prevent or reduce light pollution.

#### Response TT-9

Consistent with the commentor’s observation, the text at DEIR Section 3.5.12, Page 3-17 (excerpt following) is amended to also include screening discussed previously at DEIR Page 3-9:

##### **3.5.12 Screening**

Screening within the Project site will be provided for under Zoning Code Section 9.08.150, “Screening Requirements,” and Section 9.10.160, “Outdoor Storage, Trash Areas, and Service Areas.” As required under



these portions of the Code, the Project final site plan and building designs shall incorporate screening of mechanical equipment and trash areas. Southerly facing loading docks and adjacent truckyard areas will be screened from off-site views by an approximately 14-foot high screenwall spanning approximately 1,200 feet, across the length of southerly-facing truckyard areas. *Project loading areas will be screened from view on the north and the northernmost portion of the east side by 8-foot high masonry screenwalls . . . .*

Results and conclusions of the DEIR are not affected.

As noted on Draft EIR Page 4.9-21, “the Project will be designed and constructed consistent with applicable Light Industrial design and performance standards articulated at Municipal Code Chapter 9.05, Industrial Districts.” The landscape buffer proposed along the Project’s northernmost boundary, adjacent to SR-60, is, as noted by the commentor, a landscaped slope, with a depth of approximately 41 feet, or more than four times the required ten-foot landscape buffer. Additionally, as noted in the preceding Response TT-3, the Project also includes the planting of a double row of trees along the site’s northwestern property line. As demonstrated in the line of sight illustration provided as Draft EIR Figure 4.9-3, loading areas on the north side of the Project will not be visible from SR-60. The commentor’s opinions in regard to the adequacy of the Project’s proposed landscape screening are forwarded to decision-makers for their consideration.

#### Response TT-10

It appears that the commentor is unclear in regard to which potential traffic-related impacts are considered significant due to the Project, and those that are forecast to occur as a result of cumulative growth. As discussed in the Draft EIR (Pages 4.2-15 to 4.2-16), , the Project’s Traffic Impact Analysis (TIA) identifies ambient growth using a standard annual growth factor of two percent per year to account for non-specific development

within the Study Area, as well as anticipated growth in traffic volumes generated by projects outside the Study Area. The ambient growth factor of two percent per year was applied to existing Year 2008 traffic volumes, yielding a ten percent (10%) growth in existing volumes over the five intervening years until the Project Opening Year, 2013. As discussed in the Draft EIR (Pages 4.2-34 to 4.2-35), under the "Opening Year Ambient Condition" defined above, only two intersections would be affected by Project-related traffic. Mitigation for impacts at these two intersections is provided in Draft EIR Mitigation Measures 4.2.1 and 4.2.2, which are provided below for ease of reference.

*4.2.1 Redlands Boulevard at SR-60 Westbound Ramps Improvements:*

- *Install a traffic signal.*

*This improvement is currently approved, programmed, and permitted by Caltrans. If not otherwise completed prior to Project opening, the required traffic signal shall be constructed by the Applicant prior to issuance of the first Certificate of Occupancy.*

*4.2.2 Redlands Boulevard at Fir (future Eucalyptus) Avenue Improvements - Prior to issuance of the first Certificate of Occupancy, the Applicant shall construct the following improvements:*

- *Install a traffic signal;*
- *Construct a southbound right turn auxiliary lane which extends the full length of the segment of Redlands Boulevard between the SR-60 Eastbound Ramps and Fir (future Eucalyptus) Avenue for a southbound lane configuration of one shared left-through lane and one right turn lane; and*
- *Construct an eastbound left-turn lane with 300 feet of storage for an eastbound lane configuration of one left-turn lane and one shared through-or-right-turn-lane.*

With implementation of these mitigation measures, the Project's potential impacts are identified as less-than-significant. All other traffic-related impacts identified in the Draft EIR occur in the cumulative condition, which is defined (on Draft EIR Page 4.2-16) as including other known or probable related projects assumed to be occupied and operational by the Project's opening in 2013. A map of the approved and pending projects is included in EIR Section 5.1 (Cumulative Impacts Analysis). Additional detail regarding the trip generation of these related projects is also presented in the Project TIA (EIR Appendix B).

Despite the commentor's assertion that "simple fixes should be the responsibility of the development," it is noted that the majority of the required improvements are within Caltrans facilities, which are outside the control of the Applicant or the City of Moreno Valley. The payment of TUMF and DIF is considered the appropriate mechanism for the Project to contribute to future off-site roadway improvements. The application of fee-based mitigation is discussed further in the Draft EIR on Pages 4.2-25 to 4.2-26. The commentor's opinions regarding "alternative analysis in the form of a tiered level of improvements" will be forwarded to decision-makers for their consideration.

The Draft EIR's air quality analysis (Section 4.3) is based on the Project TIA, and as such, comprehensively addresses the Project's potential traffic-related impacts, along with other potential effects on air quality. The commentor speculates that required traffic improvements will not be completed. Please refer to the discussion of improvements programs and the implementation of improvements required pursuant to those programs presented in detail in the Project TIA at TIA Pages 205-208. As noted therein, the TUMF program was implemented to ensure timely completion of region-serving transportation improvements. Locally, the City has an established, proven track record with respect to implementing the City's DIF Program. Many of the roadway segments and intersections included within the study area for this Traffic Impact Analysis are at various stages of widening and improvement based on the City's collection of DIF fees. Under this Program, as a result of the City's continual monitoring of the local

circulation system, the City insures that DIF improvements are construction prior to when the level of service would otherwise fall below the City's established performance criteria. The commentor's statements are forwarded to the decision-makers.

#### Response TT-11

The commentor's opinions related to the best use of the Project site in regard to air quality considerations will be forwarded to decision-makers for their consideration. With regard to statements concerning diesel emissions, please refer to response FNSJ-8, et al. presented herein.

With regard to comments addressing air quality, alternatives, and maintaining the site's existing zoning designation, the Draft EIR includes a "No Project Alternative" analysis which assumes development of the subject site consistent with the existing Zoning Designation of "Business Park." A comparative analysis of operational air quality emissions under each of the Project's alternatives is provided on Draft EIR Page 5-53 – acknowledges that "the vehicle mix under the No Project Alternative would likely reflect incrementally decreased heavy truck traffic, with related decreases in diesel particulate emissions when compared to the Project." However, as also noted on Draft EIR Page 5-53, the Project's significant operational air quality impacts consist of exceedances of SCAQMD regional thresholds for VOC and NOx emissions. As noted on Draft EIR Page 4.3-84, potential environmental impacts from Project-related diesel particulate emissions were determined to be less-than-significant with mitigation. On this basis, the suggested continuance of the site's existing Business Park zoning would not necessarily result in a lessening of environmental impacts.

Evaluation of Alternative Sites (also of concern to the commentor) is presented in the DEIR (DEIR at Pages 5-38 through 5-34). As substantiated in the DEIR four (4) of the considered Alternative Sites (Sites 1-4) were ultimately determined infeasible. Alternative Site 5 would not result in the avoidance or substantive reduction of Project related impacts, this Alternative Site was also rejected from further consideration.

The commentor incorrectly states that cumulative impacts are disregarded. Please refer to DEIR Section 5.1, Cumulative Impact Analysis, DEIR Pages 5-1 through 5-25. With specific regard to energy consumption and potential GHG/GCC impacts (and measures offered to reduce potential energy/GHG/GCC impacts), the Project's individual and cumulative impacts are substantiated to be less than-significant (DEIR Section 5.6 Energy Conservation; DEIR Pages 4.3-88 through 4.3-11 (GHG/GCC impacts); and DEIR Appendix C, Global Climate Change Study). Mitigation measures are not required for effects which are not found to be significant. CEQA Guidelines § 15126.4, subd. (a) (3).

Additional mitigation has been incorporated through the Final EIR process, to ensure that the Project's air quality and global climate change impacts are lessened to the extent feasible. These revisions are reflected in Final EIR Section 2.0, "Revisions and Errata," as well as in the Mitigation Monitoring Plan presented in Final EIR Section 4.0. Inclusion of these measures does not materially or substantively affect analysis or conclusions of the DEIR. That is, impacts that were previously determined to be less-than-significant remain less-than-significant; and impacts that were previously determined to be significant remain significant.

In regard to the use of photovoltaics, as currently noted under EIR Mitigation Measure 4.3.11: "All buildings shall be designed to accommodate renewable energy sources, such as photovoltaic solar electricity systems, appropriate to their architectural design." As such, the Project supports, and would not interfere with use of solar energy. The commentor's opinions regarding "joint projects" will be forwarded to decision-makers for their considerations.

Traffic concerns have been addressed in the preceding Response TT-10.

#### Response TT-12

The commentor's opinions in regard to further lowering the Project's greenhouse gas emissions are forwarded to decision-makers for their consideration. It may be noted that

because the Project's Global Climate Change Analysis identified no significant impact on the environment, overriding considerations in regard to greenhouse gas emissions would not be required. Further, mitigation measures 4.3.11 through 4.3.13 were provided as part of the Draft EIR in order to reduce Project related operational source air pollutants and greenhouse gas emissions to the extent feasible, and to promote sustainability through conservation of energy and other natural resources, rather than to reduce potentially significant impacts.

In regard to the commentor's concerns regarding Leadership in Energy and Environmental Design (LEED) standards, the following discussion can be found on Page 3-16 of the Draft EIR:

"The Westridge Commerce Center Project reflects design and operational criteria established under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, a program developed by the United States Green Building Council. This program includes a rating system that can be applied to new construction as well as tenant improvement projects with performance goals in multiple environmental categories.

LEED certification is contingent, among other requirements, on demonstrated and documented conservation and efficient use of available resources. It is recognized that not all LEED performance standards are applicable or appropriate for the Project, and that different standards may be utilized by the Project's end user(s). However, the Project, as a whole, will be developed as a LEED-certified facility.

In support of LEED-certification, resources conservation, reduction in energy consumption and associated reductions in air pollutant emissions and greenhouse gases (GHGs), the Project will achieve a minimum of 20

percent in energy efficiencies beyond incumbent Title 24 Energy Efficiency standards, as well as compliance with other applicable state and federal energy standards.”

The ultimate level of LEED certification cannot be determined at this time, while the tenant and therefore specific environmental strategies to be employed at the facility, are unknown. It is also important to note that no significant impacts have been identified in regard to the energy conservation attributes of the Project; nor would any of the identified significant impacts of the Project be reduced based on a certain level of LEED certification.

Response TT-13

As requested, the commentor will be included on the City’s distribution list for future noticing related to Project review and public hearings. As requested, noticing of other projects in the area will also be provided. Project plans are available for review at the City of Moreno Valley Planning Department.

**City of Moreno Valley**  
**Public Information Meeting for West Ridge Commerce Center Project**  
**Draft Environmental Impact Report (DEIR)**

**PUBLIC COMMENT CARD**

Thank you for your interest in the proposed West Ridge Commerce Center project for a warehouse distribution building of 937,260 square feet located on the south side of State Route (SR) 60 and 650 west of Redlands Boulevard on the north side of Eucalyptus Avenue. The applicant for this project is Ridge Rancho Belago, LLC. Please provide your comments below and submit this card during the public information meeting or mail/fax to the numbers listed below by 5:30 p.m. on Monday, December 6, 2010. This will conclude the required 45 day comment period for the project's Draft Environmental Impact Report. Please attach additional pages, if necessary. Your participation and comments are appreciated.

\*Name (Required): AMORA JOHNSON Phone: \_\_\_\_\_

\*Address (Required): 13301 McGehee Dr. Moreno Valley 92555 E-Mail: \_\_\_\_\_

\*Note: Your name and contact information will become part of the public record for this project.

Yes, I would like to be added to your project mailing list to receive information on the EIR notice of availability and future public hearings.

AJ-C-1

**Please provide your comments below:**

Date: 12-6-2010

my main concern would be the effect on the wildlife in the area, with more vehicles - especially the diesel trucks' output, - the wildlife's preservation attempts thus far will be undermined by the construction activities and the afterward affect will be detrimental to what good work the preservation has in humans' quality of life, too.

Being able to enjoy those migrating birds and all the other animals that most of us can't see within the cities, anywhere, will give younger generation appreciation of the existence of some rare animals, birds, creatures, bugs and other micro organism. Taking children to enjoy our open spaces, clean, clear air and to watch those rare creatures are much more important than seeing these block buildings that can be seen everywhere else whereas the San Jacinto wildlife area can be made into a destination for younger generation.

AJ-C-2

City of Moreno Valley needs to see the future, not just the \$ for the present by ignoring the future of the next generations. -



**Thank you for your comments. Please submit this form by 5:30 p.m. on Monday, December 6, 2010 to:**

City of Moreno Valley  
 Community Development Department/Planning Division  
 ATTN: Jeff Bradshaw  
 14177 Frederick Street  
 P.O. Box 88005  
 Moreno Valley, CA 92552-0805  
 Jeffreyb@moval.org  
 Fax: (951) 413-3210



AMORA JOHNSON

Via Public Comment Card

Response AJ-C-1

The commentor requests to receive future information regarding the Project, and as such, has been added to the Project distribution list.

Response AJ-C-2

The commentor expresses concern regarding the effects of the Project on wildlife in the area.

The biological assessment for the Project consisted of the following surveys and analysis, conducted throughout the Project area:

- General biological assessment of Project site and nearby off-site areas that could be affected by utility and circulation system improvements;
- General plant and wildlife surveys;
- Habitat assessment to examine potential for special status plant species;
- Habitat assessment to examine potential for special status wildlife species;
- Habitat assessment for burrowing owl (*Athene cunicularia*), following the recommendations of the California Department of Fish and Game, the burrowing owl survey protocol (CBOC 1993), and the Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP) Section 5.3.2 and MSHCP burrowing owl survey instructions; and
- Jurisdictional delineation.

As supported by the analysis presented in Section 4.8, “Biological Resources” of the Draft EIR, with application of proposed mitigation measures, the Project’s potential impacts to biological resources are less-than-significant.

Additionally, the commentor references the San Jacinto Wildlife Area. It is noted that this area is located approximately 3.5 miles to the southeast of Project site, and will not be affected by the Project.

**City of Moreno Valley**  
**Public Information Meeting for West Ridge Commerce Center Project**  
**Draft Environmental Impact Report (DEIR)**  
**PUBLIC COMMENT CARD**

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\*Name (Required): Richard Johnson Phone: 951-243-0804  
 \*Address (Required): 13301 McGEHEE Dr. MV 92555 E-Mail: \_\_\_\_\_

\*Note: Your name and contact information will become part of the public record for this project.

Yes, I would like to be added to your project mailing list to receive information on the EIR notice of availability and future public hearings.

*Please provide your comments below:*

Date: 12/8/2010

I believe the project will overburden the present areas infrastructure, from the streets to the 60 Fwy and beyond the 215 as well. The estimates along with future planning seems to set no limit for continued development of the area and it will be a very dangerous roadway system to be driving in this area. Future warehouse building will make it a very difficult place to drive a car. The vision of this area has now been lost. These buildings and the businesses may turn out to be a continued trend for dumbing down the area overall.

RJ-C-1



Thank you for your comments. Please submit this form by 5:30 p.m. on Monday, December 6, 2010 to:

City of Moreno Valley  
 Community Development Department/Planning Division  
 ATTN: Jeff Bradshaw  
 14177 Frederick Street  
 P.O. Box 88005  
 Moreno Valley, CA 92552-0805  
 Jeffreyb@moval.org  
 Fax: (951) 413-3210

**RECEIVED**  
 DEC - 6 2010  
 CITY OF MORENO VALLEY

RICHARD JOHNSON

Via Public Comment Card

Response RJ-C-1

The commentor's concerns regarding the effects of the Project on regional traffic safety and opinions regarding development trends within the City are forwarded to decision-makers for their consideration.

**City of Moreno Valley**  
**Public Information Meeting for West Ridge Commerce Center Project**  
**Draft Environmental Impact Report (DEIR)**

**PUBLIC COMMENT CARD**

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\*Name (Required): Deanna Reeder Phone: \_\_\_\_\_  
\*Address (Required): 17351 Riva Ridge Rd E-Mail: late98765@aol.com

\*Note: Your name and contact information will become part of the public record for this project.

Yes, I would like to be added to your project mailing list to receive information on the EIR notice of availability and future public hearings.

DR-C-1

Please provide your comments below:

Date: 12/2/2010

I want to know the cumulative impacts of this and all proposed projects as well as the entire 35 million sq ft of warehouses that are proposed for this area.

DR-C-2

This report must include all the impacts of all 35 million sq ft in order to be of actual value to the community.



Thank you for your comments. Please submit this form by 5:30 p.m. on Monday, December 6, 2010 to:

City of Moreno Valley  
Community Development Department/Planning Division  
ATTN: Jeff Bradshaw  
14177 Frederick Street  
P.O. Box 88005  
Moreno Valley, CA 92552-0805  
Jeffreyb@moval.org  
Fax: (951) 413-3210

DEANNA REEDER

Via Public Comment Card

Response DR-C-1

Commentor's contact information is noted and will be added to the Project mailing list to receive any subsequent environmental documentation for this Project and/or notification of any future public hearing(s) to consider the Project and EIR.

Response DR-C-2

The commentor expresses concern regarding the cumulative impacts of the Project and all proposed projects in the vicinity. As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, eleven existing and planned development projects were identified within the cumulative scope of the Westridge Commerce Center Project. In addition, the Draft EIR notes that "the cumulative impacts analysis assumes development of the area in a manner consistent with the City of Moreno Valley General Plan, and reflecting the anticipated growth of the region. The analysis of cumulative impacts considers potentially significant impacts that could be considered cumulatively considerable when viewed in the context of known related projects and generalized ambient growth of the City and region." Please also refer to the preceding Response DR1-1 (Draft EIR Page 5-4).

The commentor's statements and opinions regarding the Project are forwarded to the decision-makers for their consideration.

**City of Moreno Valley**  
**Public Information Meeting for West Ridge Commerce Center Project**  
**Draft Environmental Impact Report (DEIR)**

**PUBLIC COMMENT CARD**

Thank you for your interest in the proposed West Ridge Commerce Center project for a warehouse distribution building of 937,260 square feet located on the south side of State Route (SR) 60 and 650 west of Redlands Boulevard on the north side of Eucalyptus Avenue. The applicant for this project is Ridge Rancho Belago, LLC. Please provide your comments below and submit this card during the public information meeting or mail/fax to the numbers listed below by 5:30 p.m. on Monday, December 6, 2010. This will conclude the required 45 day comment period for the project's Draft Environmental Impact Report. Please attach additional pages, if necessary. Your participation and comments are appreciated.

\*Name (Required): George B. Neague (Sierra Club) Phone: \_\_\_\_\_  
 \*Address (Required): 26711 Ironwood Ave MV 92555 E-Mail: \_\_\_\_\_

\*Note: Your name and contact information will become part of the public record for this project.

Yes, I would like to be added to your project mailing list to receive information on the EIR notice of availability and future public hearings.

SC-C-1

Please provide your comments below:

Date: 12-2-10

*Comments to DEIR*

*land zoned for  
 Comment of 250' buffer to housing is not enough  
 because the trucks will use Fir and therefore impact  
 the homes to be built. USC + UCLA studies show that  
 250' would not be enough.*

SC-C-2

*your Traffic study needs to show the amount of  
 Truck Traffic that will use Redlands Blvd.*

SC-C-3

*R&T  
 Hwy 60/215 ultimate improvements will allow only  
 two lanes heading west and the traffic analysis needs  
 to show this. Right now we have only one lane that  
 continues west - the other lane forces you off at Central Ave.*

SC-C-4



**Thank you for your comments. Please submit this form  
 by 5:30 p.m. on Monday, December 6, 2010 to:**

City of Moreno Valley  
 Community Development Department/Planning Division  
 ATTN: Jeff Bradshaw  
 14177 Frederick Street  
 P.O. Box 88005  
 Moreno Valley, CA 92552-0805  
 Jeffreyb@moval.org  
 Fax: (951) 413-3210

SIERRA CLUB

Via Public Comment Card

Response SC-C-1

The commentor requests to receive future information regarding the Project, and as such, has been added to the Project distribution list.

Response SC-C-2

The commentor offers information from unknown, unvetted “USC & UCLA studies” however, the commentor does not provide adequate citation to allow meaningful response to the contention that the Project setback of 250 feet [from the ultimate northerly right-of-way for Fir/future Eucalyptus Avenue] “would not be enough.”

This 250 foot setback is designed to provide adequate separation between the Project’s highest activity areas (the most intense “worst case” sources of DPM emissions) and adjacent residential properties, so that with incorporation of mitigation, diesel emissions impacts are reduced to levels that are less-than-significant.

Moreover, as discussed in the DEIR:

Key to compatibility of the Project’s proposed Light Industrial zoning with adjacent residentially zoned land uses is design, implementation, and operation of the Project in a manner consistent with the high performance standards required of uses proposed within the City’s Light Industrial zone district. Supporting the proposed zone change, and codifying design solutions proposed the Project, a Municipal Code Amendment is also proposed. The proposed Municipal Code Amendment requires a minimum separation of 250 feet between light industrial uses and residentially-zoned properties.



This 250 foot minimum separation shall be increased as required to fully mitigate any potentially significant health risks and/or potentially significant operational noise impacts at adjacent residential properties. In addition to reducing potential air quality and noise impacts, this required setback would tend to diminish visual impacts of the Project as seen from southerly vantages and while increasing the extent of potential viewsheds (DEIR, Page 5-24).

In order to evaluate the potential effects of Project diesel emissions (of noted concern to the commentor) a Health Risk Assessment (HRA) was prepared to address Diesel Particulate Matter (DPM) generated by diesel trucks and the operation of heavy duty equipment. The Health Risk Assessment was prepared in accordance with the document Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis (SCAQMD 2003). The Health Risk Assessment is summarized within the Draft EIR (see Page 4.3-80) and presented in its entirety as Appendix C to the Draft EIR.

As discussed in Section 4.3 of the Draft EIR, the HRA prepared for the Project indicates that the maximally impacted modeled receptor would be exposed to a mitigated inhalation cancer risk of no more than 8.6 in 1 million, which is less than the SCAQMD exposure threshold of 10 in 1 million. The Project HRA considers and evaluates maximum potential exposure to maximum DPM concentrations consistent with established SCAQMD methodologies. The methodology considers not only DPM source emissions (the highest concentrations of which would occur on the Project site) but also considers other exposure/risk determinants including but not limited to: relative distance to and location of receptors, wind patterns, and topography.

With specific regard to DPM emissions air quality impacts generated by Project traffic along area roads, the Project HRA considers potential worst case cancer risk exposures by evaluating pollutant concentrations at the Project site, which include pollutant

emissions generated by all vehicles within the site in combination with emissions generated by on-site stationary sources. It is further noted that the cancer risk exposure scenario is in and of itself a conservative assessment of potential cancer risks arising from DPM exposure. That is, pursuant to the adopted SCAQMD/EPA methodologies, calculated DPM-source cancer risks are predicated on extended 70-year/30-year exposure scenarios. Both the 70-year and 30-year cancer risk assessments considered in the Draft EIR represent estimates of theoretic DPM-source cancer risks, and are based on the assumption that a person is exposed to the emission source 24 hours a day for 365 days a year for the entire length of the assumed exposure period. Individuals are typically not stationary at any given outdoor location, spending a portion of each 24-hour cycle indoors. In addition, individuals and families remaining at a given location for 70 or even 30 years would be considered the exception rather than the norm.

The California OEHHA has indicated that based on EPA studies, the EPA recommends a central tendency estimate of 9 years for residency at a given location, and a high-end estimate of 30 years for residency time. Thus, the methodologies used to determine cancer risk (e.g., the assumption of a 24-hour exposure for a 30 or 70 year period) represent a maximum theoretic cancer risk, and is not intended to account for or represent DPM exposures based on residency and occupancy tendencies. As discussed in the Draft EIR, with application of mitigation, applicable cancer risk thresholds are not exceeded. Draft EIR Table 4.3-17 (Page 4.3-86) summarizes maximum mitigated potential cancer risk exposures.

In comparison, DPM emission concentrations generated by Project vehicles traveling along area roads (such as Fir Avenue noted by the commentor) would be substantively reduced in that they reflect only a portion of transient vehicle traffic/emissions, and these emissions are dispersed through vehicle movements and localized winds.

Response SC-C-3

Estimated opening-year average daily Project-generated truck traffic ingressing/egressing the Project site via Redlands Boulevard includes:

- 97 two-axle trucks;
- 220 three-axle trucks; and
- 539 four-axle trucks.

Please refer also to detailed trip generation and trip distribution analyses and supporting discussions are presented in the Project TIA (EIR Appendix B, TIA Pages 51-76).

Redlands Boulevard is a designated truck route in the County and a direct route to San Timoteo Canyon Road through Redlands (also designated as a truck route). It is appropriate for Redlands Boulevard to convey Project-related and area truck traffic. To maintain the continuity between affected agencies, the truck route designation for Redlands Boulevard cannot be practically removed. Moreover, there is no feasible means to restrict Redlands Boulevard to local truck trips only, given its direct connection, with no alternative routes, to the previously mention roadways.

Response SC-C-4

In response to the commentor's concerns regarding traffic at the intersection of SR-60 and I-215, the Project's Traffic Impact Analysis (TIA, included as Draft EIR Appendix B) examined performance on the SR-60 as part of Appendix 7.8. The City of Moreno Valley requested that a basic freeway segment analysis be conducted between Box Springs Road/Fair Isle Drive and the I-215 Freeway along the SR-60 Freeway, and included in the TIA. As indicated in the Introduction to this Study (Page 7.8-3), "[i]t should be noted that this analysis was not requested due to potential impacts from the project itself, as these impacts would be nominal, but rather to analyze the current and future projected operations within the segment based on freeway lane geometrics."

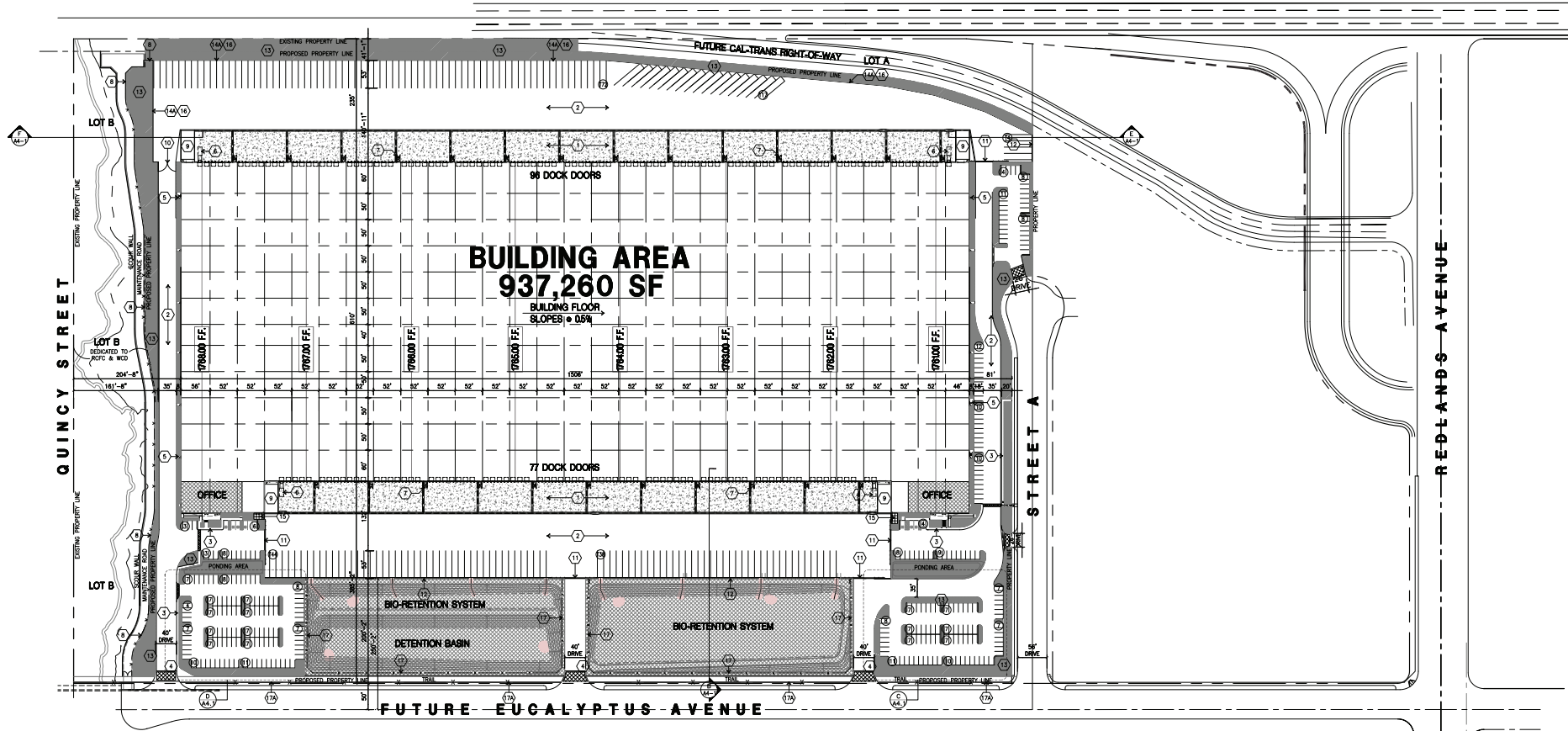
The study concludes that “[a]s vehicular traffic increases on the freeway mainline under each of the future analysis scenarios, the densities on each basic freeway segment are anticipated to increase and peak hour level of service operations are anticipated to progressively worsen.” It is in part on this basis that the Draft EIR acknowledges significant cumulative traffic impacts affecting freeway segments in the Project area. As noted in the summary of mitigation on Draft EIR Page 1-51, “[u]nder Opening Year Cumulative Conditions and General Plan Buildout Conditions, cumulative LOS impacts of traffic generated by the project in combination with traffic generated by ambient growth and other development projects will result in potentially significant cumulative traffic impacts affecting SR-60 freeway segments within the Study Area.” Because freeway mainline improvements such as widening are jurisdictionally controlled by Caltrans and cannot be autonomously initiated by the Applicant or the Lead Agency, no mitigation was identified that could be feasibly implemented. As such, the Draft EIR found that the Project would have a significant and unavoidable impact in regard to exceedance of LOS thresholds on certain study area freeway segments.

## **APPENDICES**

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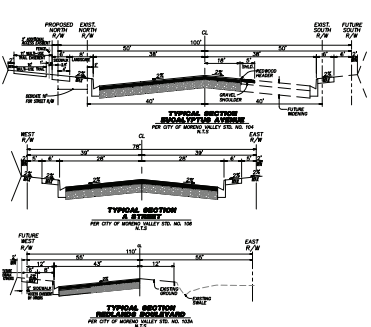
**Please refer to accompanying CD-ROM**

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**OVERALL SITE PLAN**  
Scale: 1"=80'-0"

**TYPICAL STREET SECTIONS**



**PROJECT TABULATIONS**

TABULATION	Bldg 1	Channel	Grand Total
Gross site area (in sq.ft.)	111,865	2,380,905	
Gross site area (in acres)	2.57	54.68	
Net site area (in sq.ft.)	2,269,040	2,251,064	
Net site area (in acres)	52.00	51.62	
Warehouse area	923,260		
Office area	14,000		
Total building area	937,260		
Coverage (Gross)		42%	
Coverage (Net)		228,504	
Landscape required (10%)		305,028	
Landscape provided		13%	
% of landscape provided		20	
Parking required		10	
1st. 20k @ 111,000 s.f.		221	
2nd. 20k @ 112,000 s.f.		56	
above 40k @ 114,000 s.f.		397	
office @ 1250		307	
Total parking required		173	
Parking provided			
Standard			
Trailers			

**KEYNOTES - SITE PLAN**

1. HEAVY BROOM FINISH CONC. PAVEMENT, SEE "C" & "D" DWGS.
2. ASPHALT CONCRETE (AC) PAVING, SEE "C" DWGS.
3. CONCRETE WALKWAY, SEE "L" DRAWINGS.
4. DRIVEWAY APPROX. TO BE CONSTRUCTED PER CITY STANDARD 118C. NO DECORATIVE PAVING WITHIN RIGHT-OF-WAY. SEE "L" DWGS.
5. 4" x 4" x 1/4" MIN. THICK CONCRETE OUTSIDE LANDING AND TOP AT ALL EXTERIOR WALK DOORS TO LANDSCAPED AREAS. FINISH TO BE MEDIUM BROOM FINISH. SLOPE TO BE 1/4" - 1/2" MAX. PROVIDE BULK TO PUBLIC WAY OR DRIVE WAY W/ 1:20 MAX. AS REQ. BY CITY INSPECTOR.
6. 2" SIZE X 15' LONG TRASH COMPACTOR W/ 8" WIDE X 22' LONG CURBUSE CONCRETE STAR.
7. EXTERIOR CONC. STAR.
8. 6" H. COATED CHAIN-LINK FENCE OR OTHER AS APPROVED BY THE COMMUNITY DEVELOPMENT DIRECTOR.
9. CONCRETE RAMP.
10. 8" H. METAL SWING GATE.
11. 8" H. METAL SLIDING GATE.
12. 14' H. CONCRETE SCREENBALL, PAINTED.
13. LANDSCAPE. SEE "L" DWGS. LANDSCAPE AREAS INDICATED BY SHADING PATTERNS.
14. 4" H. WROUGHT IRON FENCE.
15. 14' H. WROUGHT IRON FENCE.
16. COURTYARD PATIO AREA.
17. RETAINING WALL, SEE "C" DWGS.
18. 4" H. THREE RAIL FENCE.
19. 4" H. THREE RAIL FENCE AS PER COMMUNITY DEVELOPMENT DIRECTOR.

**GENERAL NOTES - FLOOR PLAN**

- A. THE SOILS REPORT PREPARED BY ASSOCIATED SOILS ENGINEERING SHOULD BE A PART OF THESE CONTRACT DOCUMENTS.
- B. F. SOILS ARE EXPANSIVE IN NATURE, USE STEEL REINFORING FOR ALL SITE CONCRETE.
- C. ALL DIMENSIONS ARE TO THE FACE OF CONCRETE WALL, FACE OF CONCRETE CURB OR GRID LINE U.N.D.
- D. SEE "C" PLANS FOR ALL CONCRETE CURBS, OUTERS AND SMILES.
- E. THE ENTIRE PROJECT SHALL BE PERMANENTLY MAINTAINED WITH AN AUTOMATIC IRRIGATION SYSTEM.
- F. SEE "C" DRAWINGS FOR POINT OF CONNECTIONS TO OFF-SITE UTILITIES. CONTRACTOR SHALL VERIFY ACTUAL UTILITY CONTRACTOR SHALL VERIFY ACTUAL UTILITY LOCATIONS.
- G. PROVIDE POSITIVE DRAINAGE AWAY FROM BLDG. SEE "C" DRAWINGS.
- H. CONTRACTOR TO REFER TO "C" DRAWINGS FOR ALL HOISTWAYS. CONTROL DIMENSIONS. SITE PLANS ARE FOR GUIDANCE AND STARTING LAYOUT POINTS.
- I. SEE "C" DRAWINGS FOR FINISH GRADE ELEVATIONS.
- J. CONCRETE SIDEWALKS TO BE A MINIMUM OF 4" THICK W/ TOGGLED JOINTS AT 8' O.C. EXPANSION/CONSTRUCTION JOINTS SHALL BE A MAXIMUM 12' EA. WAY W/ 1:20 MAX. SLOPE. EXPANSION JOINTS TO HAVE COMPRESSIVE EXPANSION FILLER MATERIAL OF 1/4" SEE "L" DRAWINGS FOR FINISH.
- K. PAINT CURBS AND PROVIDE SIGNS TO INFORM OF FIRE LANES AS REQUIRED BY FIRE DEPARTMENT.
- L. CONSTRUCTION DOCUMENTS PERTAINING TO THE LANDSCAPE AND IRRIGATION OF THE ENTIRE PROJECT SITE SHALL BE SUBMITTED TO THE BUILDING DEPARTMENT AND APPROVED BY PUBLIC FACILITIES.
- M. PRIOR TO FINAL CITY INSPECTION, THE LANDSCAPE ARCHITECT SHALL SUBMIT A CERTIFICATE OF COMPLETION TO PUBLIC FACILITIES.
- N. ALL LANDSCAPE AND IRRIGATION DESIGNS SHALL MEET CURRENT CITY STANDARDS AS SET FORTH IN ORDINANCES OR AS DERIVED FROM PUBLIC DEVELOPMENT.
- O. LANDSCAPED AREAS SHALL BE DELINEATED WITH A MINIMUM SIX INCHES (6") HIGH CURB.
- P. APPROVED CONCEPTUAL LANDSCAPE PLAN PRIOR TO GRADING PERMIT.

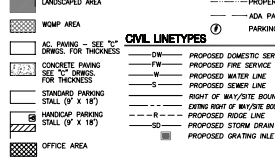
**CONTRACT INFORMATION**

**Owner / Applicant**  
 HPA BARDEN REDLANDS, LLC  
 2500 IRVING BLVD., SUITE 100  
 IRVING, CA 92614  
 TEL: (949) 884-3300  
 FAX: (949) 884-3300  
 CONTACT: DAVID MULLIGAN

**Architect**  
 WESTRIDGE ARCHITECTS, INC.  
 1840 SPRING GARDENWAY, SUITE 100  
 IRVING, CA 92614  
 TEL: (949) 884-3300  
 FAX: (949) 884-3300  
 CONTACT: DAVID MULLIGAN

**Applicant's Representative**  
 HPA BARDEN REDLANDS, LLC  
 2500 IRVING BLVD., SUITE 100  
 IRVING, CA 92614  
 TEL: (949) 884-3300  
 FAX: (949) 884-3300  
 CONTACT: DAVID MULLIGAN

**SITE LEGEND**



**Legal Description**

ALL OF LOTS 34-36 BLK 10 AND A PORTION OF LOTS 2 AND 3 OF LOTS 1-12 WITHIN MAP #41 17' 8" BLDG. VALLEY AND ALLEGEDLY CONVEYED TO THE COUNTY OF IRVING, STATE OF CALIF. BY THE MAP RECORDED IN BOOK 17, PG. 95 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY.

**Zoning**

ZONING: EXISTING - BP  
 PROPOSED - U-1  
 CITY OF IRVING  
 2715 IRVING BLVD.  
 IRVING, CA 92614  
 PHONE: (949) 748-4639  
 CONTACT: DAVID MULLIGAN

**Assessors Parcel Number**

APN 488-330-003  
 APN 488-330-004  
 APN 488-330-005  
 APN 488-330-006  
 APN 488-330-008

**Civil Engineer**

HARRY BOULDER  
 1840 SPRING GARDENWAY, SUITE 100  
 IRVING, CA 92614  
 TEL: (949) 884-3300  
 CONTACT: DAVID MULLIGAN

**UTILITY INFORMATION**

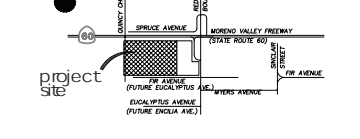
**TELEPHONE**  
 1840 SPRING GARDENWAY, SUITE 100  
 IRVING, CA 92614  
 PHONE: (949) 748-4639  
 CONTACT: DAVID MULLIGAN

**ELECTRIC**  
 SOUTHERN CALIFORNIA GAS CO.  
 2700 TRAMBLE ROAD, SUITE 100  
 IRVING, CA 92614  
 PHONE: (949) 328-3777  
 CONTACT: DAVID MULLIGAN

**SEWER**  
 SOUTHERN CALIFORNIA GAS CO.  
 2700 TRAMBLE ROAD, SUITE 100  
 IRVING, CA 92614  
 PHONE: (949) 328-3777  
 CONTACT: DAVID MULLIGAN

**CABLE**  
 SOUTHERN CALIFORNIA GAS CO.  
 2700 TRAMBLE ROAD, SUITE 100  
 IRVING, CA 92614  
 PHONE: (949) 328-3777  
 CONTACT: DAVID MULLIGAN

**VICINITY MAP**



**WestRidge Commerce Center**  
 MORENO VALLEY, CALIFORNIA

**RIDGE PROPERTY TRUST**  
 EXCEPTIONAL RESULTS, WITHOUT EXCEPTION

**HPA 6342**

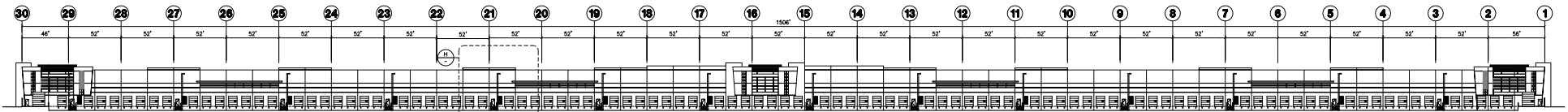
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 18431 BARDEN AVENUE, IRVINE, CA 92612

**NOVEMBER 5, 2010**

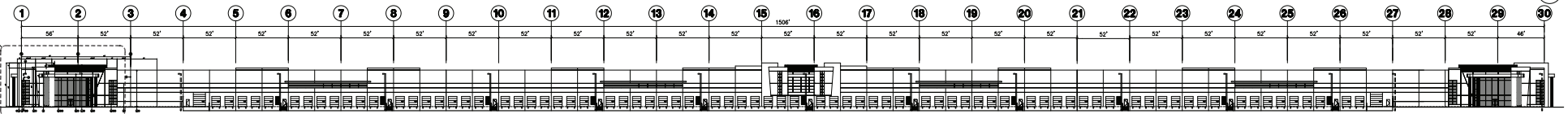
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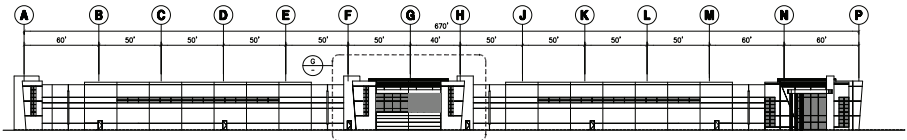




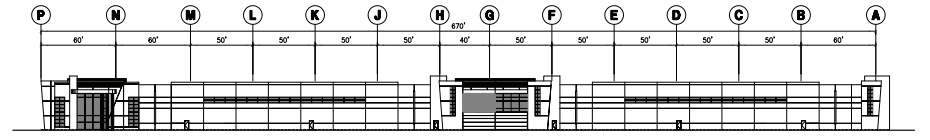
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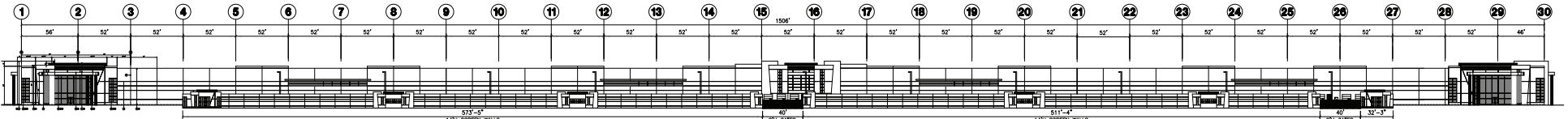
**SOUTH ELEVATION**  
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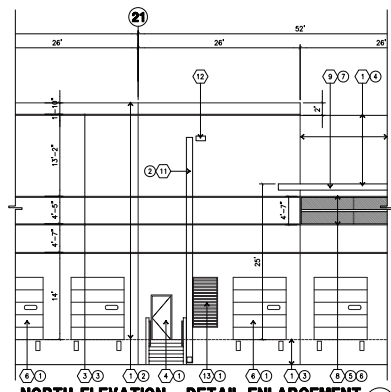
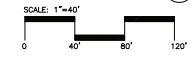
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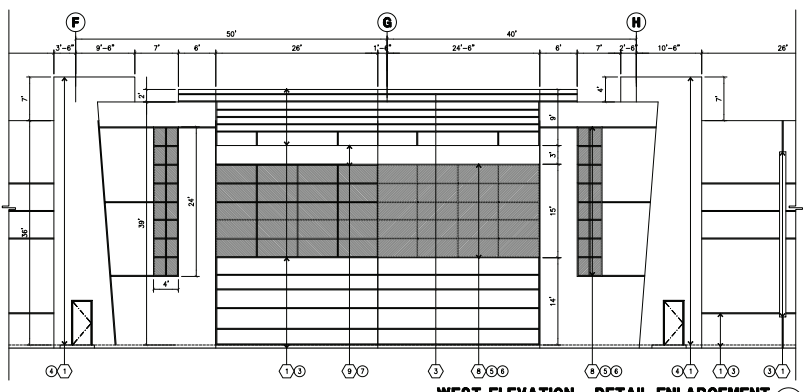
**EAST ELEVATION**  
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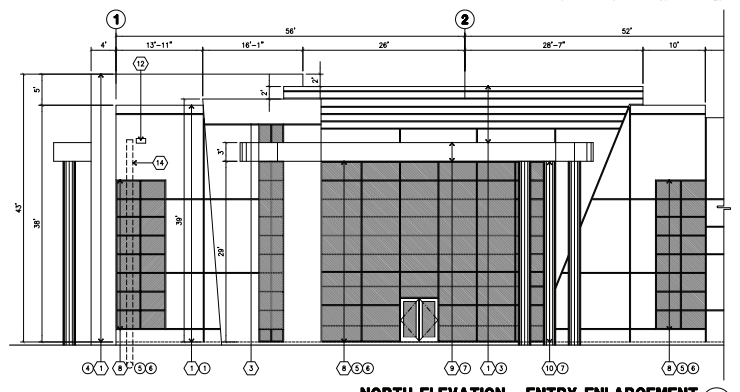
**SOUTH ELEVATION with SCREEN WALLS**  
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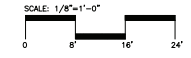
**NORTH ELEVATION - DETAIL ENLARGEMENT**  
scale: 1/8 = 1' = 0'



**WEST ELEVATION - DETAIL ENLARGEMENT**  
scale: 1/8 = 1' = 0'



**NORTH ELEVATION - ENTRY ENLARGEMENT**  
scale: 1/8 = 1' = 0'



**KEYNOTES - ELEVATION**

- 1 CONCRETE TILT-UP PANEL (PAINTED).
- 2 PANEL JOINT.
- 3 PANEL REVEAL.
- 4 HOLLOW METAL DOORS.
- 5 OVERHEAD DOOR @ DRIVE THRU.
- 6 OVERHEAD DOOR @ DOCK HIGH.
- 7 CONCRETE STAIR, LANDING AND GUARDRAIL W/ METAL PIPE HANDRAIL.
- 8 ALUMINUM STOREFRONT FRAMING WITH TEMPERED GLAZING AT ALL DOORS. SILLSETS ADJACENT TO DOORS AND GLAZING WITH BOTTOMS LESS THAN 12" ABOVE FINISH FLOOR ELEVATION.
- 9 DECORATIVE CANOPY.
- 10 DECORATIVE COLUMN SUPPORT FOR CANOPY.
- 11 EXTERIOR METAL DOWNSPOUT AND OVERFLOW SCUPPER. PAINT TO MATCH BUILDING COLOR.
- 12 9" X 18" OPENING METAL SCUPPER @ 2" ABOVE FINISHED ROOF.
- 13 4"W. X 8"H. METAL LOUVER. PAINT TO MATCH BUILDING COLOR.
- 14 INTERIOR METAL DOWNSPOUT AND OVERFLOW SCUPPER.

**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 FINISH FLOOR ELEVATION.
- D. STOREFRONT CONSTRUCTION: GLASS, METAL ATTACHMENTS AND LINTELS SHALL BE DESIGNED TO RESIST 100 MPH. EXPOSURE TO WINDS. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS PRIOR TO INSTALLATION.
- E. CONTRACTOR SHALL FULLY PRIME ONE CONCRETE PANEL PER SELECTED COLORS. ARCHITECT AND OWNER SHALL APPROVE PRIOR TO PAINTING REMAINDER OF BUILDING.
- F. BACK SIDE OF PANELS TO HAVE SMOOTH FINISH AND BE PAINTED WITH ELASTOMERIC PAINT.
- G. FOR SPANDREL GLAZING, ALLOW SPACE BEHIND SPANDREL TO BREATHE.
- H. USE ADHESIVE BACK WOOD STRIPS FOR ALL RECAL FORMS.
- I. THE FIRST COAT OF PAINT TO BE ROLLED-ON AND THE SECOND COAT TO BE SPATULATED-ON.

**COLOR SCHEDULES - ELEVATIONS**

- 1 CONCRETE PANEL PAINT BRAND: EPOXY 001 WHITE.
- 2 CONCRETE PANEL PAINT BRAND: EPOXY CL3121W SILVER LINING.
- 3 CONCRETE PANEL PAINT BRAND: EPOXY CL3123M EXCALIBUR.
- 4 CONCRETE PANEL PAINT BRAND: EPOXY CL2366A DEVICE.
- 5 MULLIONS ALUMINUM CLEAR ANODIZED.
- 6 GLAZING COLOR: BLUE REFLECTIVE.
- 7 CANOPY PAINT BRAND: FRAZER PRECISION COATINGS INC. SILVER MIST METALLIC FLAT.

**GLAZING LEGEND**

- 1 SPANDREL GLASS
- 2 VISION GLASS
- 3 TEMPERED SPANDREL GLASS
- 4 TEMPERED VISION GLASS

**ELEVATIONS**  
CASE NUMBER: PA08-0097/0098  
MARCH 24, 2009

**WestRidge**  
Commerce Center  
MORENO VALLEY, CALIFORNIA



**HPA, INC.**  
18831 BARDEEN AVENUE, IRVINE, CA 92612

NOVEMBER 5, 2010  
**A3.1**  
(949) 863-1770

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HPA

18831 Bordeen Ave. - Suite #100  
Irvine, CA 92612  
(949)863-1770  
www.hparch.com

# WestRidge Commerce Center

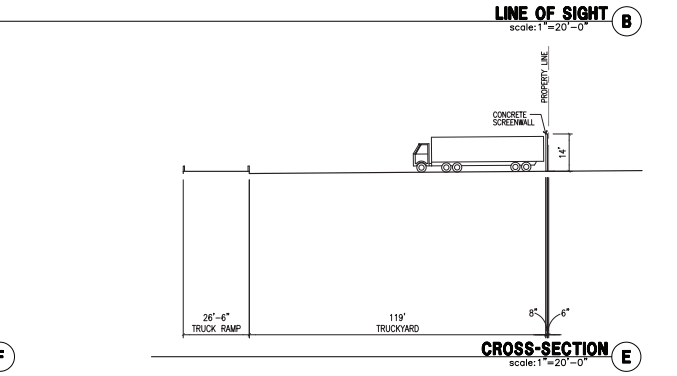
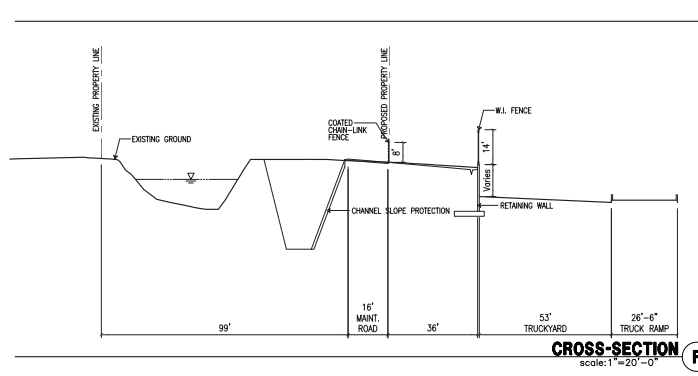
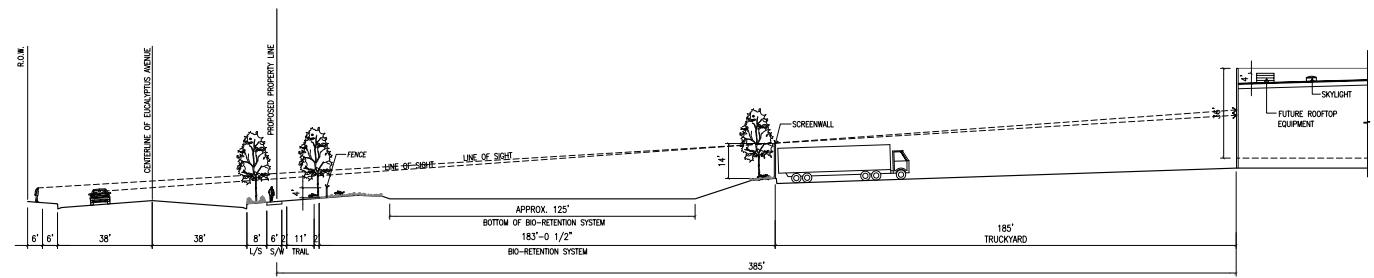
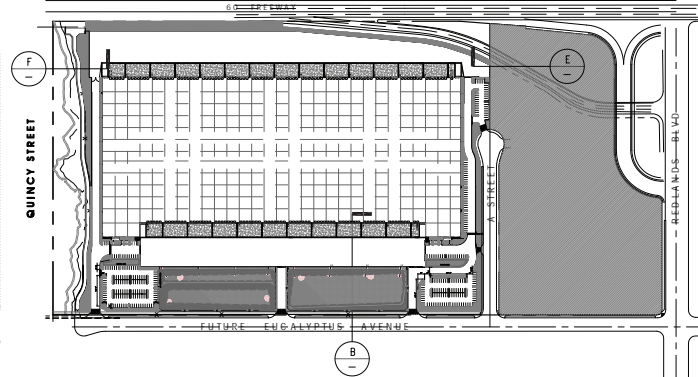
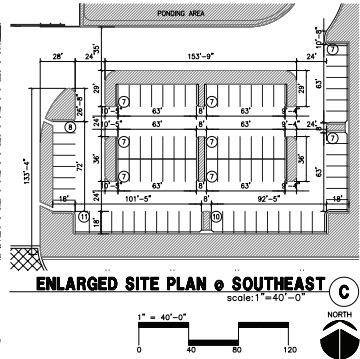
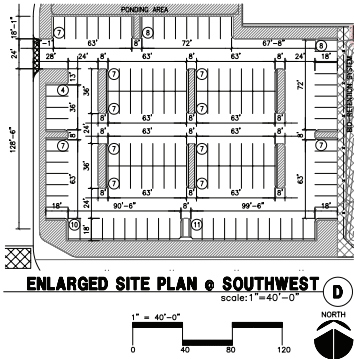
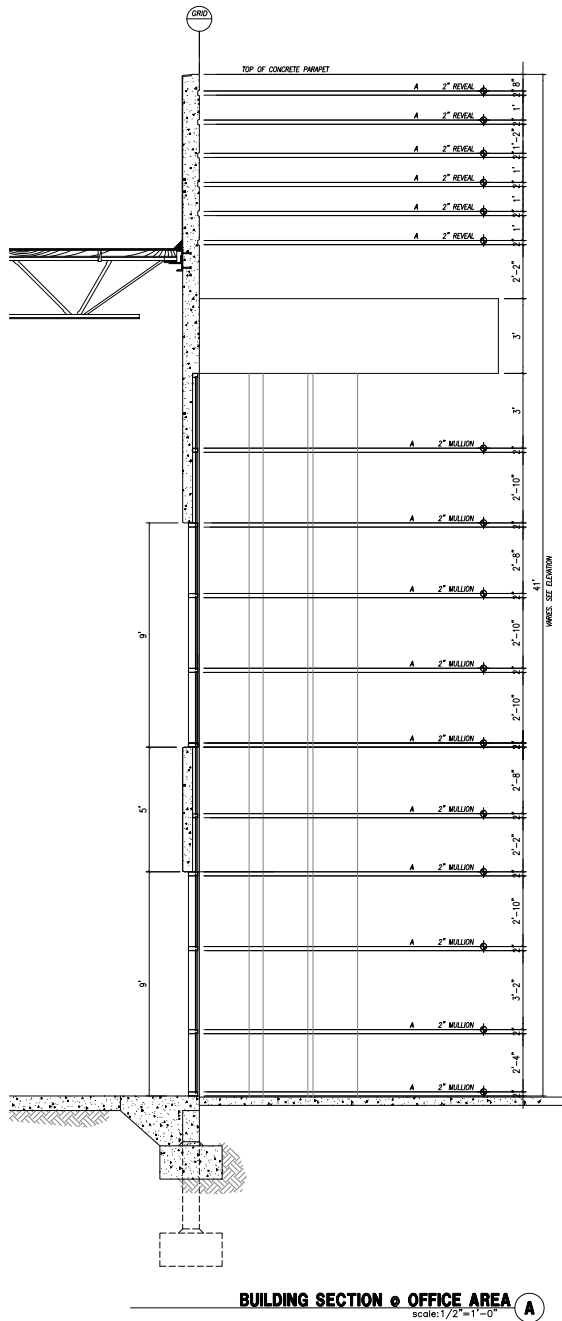
Moreno Valley, California

 **RIDGE** PROPERTY TRUST

August 9, 2010/Job#8418

ATTACHMENT 13

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**WestRidge**  
**Commerce Center**  
 MORENO VALLEY, CALIFORNIA  
 HPA, INC.  
 18831 BARDEEN AVENUE, IRVINE, CA 92612

**RIDGE PROPERTY TRUST**  
 EXCEPTIONAL RESULTS...WITHOUT EXCEPTION

NOVEMBER 5, 2010  
**A4.1**  
 (949) 863-1770

SITE ANALYSIS  
 CASE NUMBER: PA08-0097/0098  
 MARCH 24, 2009

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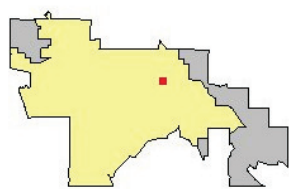
# West Ridge Commerce Center Project

## Legend

-  Highways
-  Parcels
-  Roads
-  March Installation Area
-  Waterbodies
-  Sphere of Influence
-  Ortho Photography
-  City Boundaries
-  Calimesa
-  Moreno Valley
-  Perris
-  Riverside



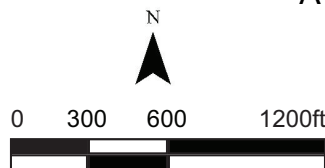
Powered By GeoSmart.net



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 17



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**Item No. E.3**

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## Chapter 9.05 INDUSTRIAL DISTRICTS

### 9.05.010 Purpose and intent.

A. The primary purpose of the industrial districts is to provide a sound and diversified economic base and ample employment opportunities for the citizens of Moreno Valley. It is the further intent of this chapter to accomplish this through the establishment of a specific, well-defined pattern of industrial activities which is compatible with residential, commercial, institutional and open space uses located elsewhere in the community; has good access to the regional transportation system; accommodates the personal needs of workers and business visitors; and which meets the service needs of local businesses.

B. In addition to the above, it is the further intent of the industrial districts:

1. To reserve appropriately located areas for industrial use and protect these areas from inharmonious uses;

2. To protect residential, commercial and nuisance-free nonhazardous industrial uses from noise, odor, dust, smoke, truck traffic and other objectional influences and from fire, explosion, radiation and other hazards potentially related to certain industrial uses;

3. To provide sufficient open space around industrial structures to protect them and surrounding areas from hazard and to minimize the impact of industrial plants on nearby residential or commercial districts; and

4. To minimize traffic congestion and to avoid the overloading of utilities by restricting the construction of buildings and structures of excessive size in relation to the size of the buildable parcel. (Ord. 359 (part), 1992)

### 9.05.020 Industrial districts.

A. Business Park District (BP). The primary purpose of the business park (BP) district is to provide for light industrial, research and development, office-based firms and limited supportive commercial in an attractive and pleasant working environment and a prestigious location. This district is intended to provide a transition between residential and other sensitive uses and more intense industrial and warehousing uses.

B. Light Industrial District (LI). The primary purpose of the light industrial (LI) district is to provide for light manufacturing, light industrial, research and development, warehousing and distribution and multitenant industrial uses, as well as certain supporting administrative and professional offices and commercial uses on a limited basis. This district is intended as an area for light industrial uses that can meet high performance standards. This district requires buffering between residential districts and industrial and warehouse structures greater than 50,000 square feet in building area within the LI district. Please refer to the Special Site Development Standards in Section 9.05.040.B.9.

C. Industrial (I). The primary purpose of the industrial (I) district is to provide for manufacturing, research and development, warehousing and distribution and multitenant industrial uses, as well as certain supporting administrative and professional offices and commercial uses on a limited basis. This district is intended as an area for industrial uses that can meet high performance standards but that frequently do not meet site development standards appropriate to planned research and development parks.

D. Business Park-Mixed Use (BPX). The purpose of the business park-mixed use (BPX) district is to provide locations for limited convenience commercial and business support services within close proximity to industrial and business park uses. (Ord. 693 § 2 (part) (Exh. B), 2005; Ord. 590 § 2 (part), 2001; Ord. 359 (part), 1992)

**9.05.030 Permitted uses for industrial districts.**

For the industrial district, unless otherwise expressly provided in this title, permitted uses are limited to those described in the Permitted Uses Table 9.02.020-1 in Section 9.02.020 of this title. (Ord. 359 (part), 1992)

**9.05.040 Industrial site development standards.**

A. General Requirements.

1. The following table sets forth minimum property development standards for all land, buildings and structures constructed within the specified industrial districts. All sites shall conform to the dimensions set forth in this section. A development or center may, however, be a combination of many parcels totaling at least the required site size, but its design must be integrated and unified.

2. In addition, projects must comply with the special requirements enumerated in Section 9.05.040(B), the performance standards included in Chapter 9.10 and any other applicable city ordinances, policies and programs.

**Table 9.05.040-8**

**Industrial Site Development**

**Minimum Standards**

Requirement	BP <b>LI</b>	BPX	I
1. Minimum site area (in acres)	1	1	5
2. Minimum site width (in feet)	200	200	300
3. Minimum site depth (in feet)	200	200	300
4. Minimum front building setback area (in feet)	20	20	20
5. Minimum interior side building setback area (in feet)*	*(see note below)	*(see note below)	—
6. Minimum street side building setback area (in feet)	20	20	20
7. Minimum rear building setback area (in feet)*	*(see note below)	*(see note below)	—

**See Special Site Development Standards 9.05.040.B.9 for unique separation requirements for structures greater than 50,000 square feet in building area.**

\*Structures shall be constructed on the property line or a minimum of three feet from the property line.

**B. Special Site Development Standards.**

1. When any industrial district abuts a property in any residential district, a minimum building setback equal to the building height, but not less than of twenty (20) feet shall be required from such residential district. Further, the ten (10) feet of such setback nearest the district boundary line shall be landscaped.

2. Where off-street parking areas industrial districts are visible from any street, screening in the form of a landscaped earthen berm, shrubs, or decorative wall three feet in height shall be erected between the required landscape area and the parking area.

3. In all industrial districts, required front building setback areas shall be landscaped. The landscaping shall consist predominantly of plant materials except for necessary walks and drives.

4. Except as otherwise permitted, a street side building setback area in any industrial district shall be used only for landscaping, pedestrian walkways, driveways or off-street parking. Where off-street parking in any industrial district is located within building setback areas, a minimum landscaped area ten (10) feet in depth shall be provided between the property line and parking area, with an additional minimum landscaped area ten (10) feet in depth required between the parking area and the building.

5. Except as otherwise permitted, required rear and interior side building setback areas in any industrial district shall be used only for landscaping, pedestrian walkways, driveways, off-street parking or loading, recreational activities or facilities, and similar accessory activities.

6. Parking for each use shall comply with the requirements of Chapter 9.11 and this section.

7. The land uses planned for each development shall be specified on the approved site plans. No use shall be established unless the development where it is located has adequate parking facilities to accommodate such use and any planned uses that share parking facilities with such use.

8. In the BP, **LI** and I districts, the retail sales of goods produced or warehoused in connection with a manufacturing, assembly or warehouse use may be conducted, provided that no more than fifteen (15) percent of the gross floor area of the space occupied by such use is devoted to retail sales. Any merchandise storage or display areas to which the public has access shall be considered as committed to the percentage of building area used for retail purposes.

**9. In the LI district, industrial and warehouse structures greater than 50,000 square feet in building area shall be separated from any Residential district as determined by an air quality and noise impact analysis. The minimum separation distance for such uses shall be 250 feet between the Residential district and the building, truck court or loading area.**

**910.** The parcelization of a business complex for marketing, financing or other purpose shall not establish separate privileges with respect to the maximum percentage of floor area specified in this section with respect to the BPX district. (Ord. 643 § 2.2, 2003; Ord. 616 § 2.2.5, 2005; Ord. 590 § 2 (part), 2001; Ord. 497 §§ 1.1, 1.2, 1.3, 1996; Ord. 464 §§ 1.2, 1.3, 1995; Ord. 405 §§ 1.1, 1.2, 1993; Ord. 359 (part), 1992)





## South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182  
(909) 396-2000 • www.aqmd.gov

E-Mailed: December 10, 2010  
jeffreyb@moval.org

December 10, 2010

Mr. Jeff Bradshaw  
City of Moreno Valley  
Community Development Department  
14177 Frederick Street  
Moreno Valley, CA 92553

### **Review of the Draft Environmental Impact Report (Draft EIR) for the Proposed West Ridge Commerce Center Project**

The South Coast Air Quality Management District (AQMD) appreciates the opportunity to comment on the above-mentioned document, including with an extended review period. The following comments are meant as guidance for the lead agency and should be incorporated into the final Environmental Impact Report (final EIR) as appropriate.

Based on a review of the draft EIR the AQMD staff is concerned about the significant regional and localized air quality impacts from the proposed project. In addition, AQMD staff is concerned that the health risks are underestimated in the draft EIR due to calculation errors and the use of low trip generation rates. Given the project's close proximity to sensitive land uses and the significant air quality impacts demonstrated in the air quality analysis, the AQMD staff strongly recommends that the lead agency provide additional mitigation measures to minimize the air quality impacts from the proposed project.

AQMD staff is available to work with the lead agency to address these air quality issues and any other questions that may arise. Please contact Dan Garcia, Air Quality Specialist CEQA Section, at (909) 396-3304, if you have any questions regarding the enclosed comments.

AQMD-1

ATTACHMENT 19

Mr. Jeff Bradshaw

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December 10, 2010

Sincerely,



Ian MacMillan  
Program Supervisor, CEQA Inter-Governmental Review  
Planning, Rule Development & Area Sources

Attachment

IM:DG

SBC101021-01  
Control Number

1. Health Risk Assessment Emission Calculations

The Health Risk Assessment (HRA) prepared in the Draft EIR relies on emission rates calculated for each roadway segment serving the project. These emission rates are based on heavy duty diesel truck emission factors derived from EMFAC software and are input into the dispersion model after adjusting for the number of trucks using each roadway link. However, the emission calculations provided in the Draft EIR use a unitary truck traffic rate of one vehicle per hour for each roadway link serving the project site. This unitary trip rate does not appear to be adjusted upward prior to deriving the health risk values. As several hundred heavy duty diesel trucks will use each roadway link, the health risk values appear to be substantially underestimated, perhaps by more than one order of magnitude.

AQMD-2

In addition, the emission rate calculated for the idling area sources onsite appear to be miscalculated. For example, the idling mitigated emission rate of 6.459 E-6 grams per second does not include the total number of trucks idling per day, it does not include the emissions from onsite truck travel, and it includes one too many conversions of seconds to hours. If the calculation is corrected, the idling emission rate should be approximately 30 times higher at 1.952 E-4 grams per second (assuming half of the trucks use each area source). AQMD staff strongly recommends that the lead agency revisit the emissions calculations and rerun the dispersion model to derive more accurate health risk estimates. If health risks are found to be significant after revising the analysis, mitigation measures should be pursued that would reduce any health risk to a less than significant level (see comment #3 below).

AQMD-3

2. Warehouse Trip Rates

As stated on page 51 of the Traffic Impact Analysis prepared for the Draft EIR, the trip generation rates are “hybrid rates” based on two recent traffic studies of high-cube warehouses conducted in the Inland Empire region. The final rate used in the Draft EIR is 1.69 trips per thousand square feet of warehouse space. AQMD staff has recently researched the referenced trip generation studies and others and has concluded that the average trip rates presented in these studies may be underestimated due to the inclusion of potentially vacant warehouses, warehouses served by rail, and the use of average trip rates. In order to provide a reasonable worst case analysis of potential air quality impacts, AQMD staff calculated and recommends that lead agencies utilize a 95<sup>th</sup> percentile trip generation rate of 2.59 trips per thousand square feet for individual warehouse projects that are not directly serviced by rail lines. The fleet mix described in the Fontana Truck Trip Generation Study is appropriate to determine the proportion of heavy duty vehicles servicing the project.

AQMD-4

3. Regional and Localized Operational Air Quality Impacts

Given the project’s significant regional and localized operational air quality impacts from VOC, NOX, PM10 and PM 2.5 emissions the AQMD staff strongly recommends adding

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the following mitigation measures to minimize potentially significant air quality impacts from the operational phase of the project, if feasible:

- Restrict operation to “clean” trucks by implementing a program requiring the use of 2010 and newer diesel haul trucks,<sup>1</sup>
- If trucks older than 2007 model year will be used at the facility, within one year of signing a lease, require tenants of the project to apply in good faith for diesel truck replacement/retrofit grant programs such as those offered by AQMD or ARB and to use those funds if awarded,
- Prohibit siting any new sensitive land uses within 1,000 feet of the warehouse/distribution center,
- Design the warehouse/distribution center such that entrances and exits discourage trucks from traversing past neighbors or other sensitive receptors,
- Develop, adopt and enforce truck routes both in an out of city and in and out of facilities,
- Have truck routes clearly marked with trailblazer signs, so trucks will not enter residential areas,
- Identify or develop secure locations outside of residential neighborhoods where truckers that live in the community can park their truck, such as a Park & Ride,
- Re-route truck traffic by adding direct off-ramps for the truck or by restricting truck traffic on certain sensitive routes,
- Require or provide incentives for particulate traps that meet CARB certified level 3 requirements,
- Electrify all service equipment at the facility, and
- Improve traffic flow by signal synchronization.

#### 4. Regional and Localized Construction Air Quality Impacts

Given that the lead agency’s construction air quality analysis demonstrates significant air quality impacts from VOC, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> emissions the AQMD staff recommends that the lead agency provide additional mitigation pursuant to CEQA Guidelines §15370. Specifically, AQMD staff recommends that the lead agency minimize or eliminate significant adverse air quality impacts by adding the mitigation measures provided below.

- Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow,
- Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM<sub>10</sub> generation,
- Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site,

<sup>1</sup> An example clean truck program for a similar project approved by another lead agency can be found here (beginning on page 183 of 254):

<http://www.ci.banning.ca.us/archives/30/July%2013,%202010%20City%20Council%20Agenda.pdf>

AQMD-5  
cont'd.

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- Reroute construction trucks away from congested streets or sensitive receptor areas, and
- Require the use of 2010 and newer diesel haul trucks (e.g., material delivery trucks, soil export).

Further, AQMD staff recommends that the lead agency revise Mitigation Measure 4.3.5 as follows:

- All off-road construction equipment shall be electrified. In the event that the use of electric off-road equipment is not feasible the operator shall ensure that any diesel powered off-road equipment meets EPA Tier 2 or higher emissions standards according to the following:
  - ✓ *April 1, 2010, to December 31, 2011:* All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 2 offroad emissions standards. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
  - ✓ *January 1, 2012, to December 31, 2014:* All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 3 offroad emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
  - ✓ *Post-January 1, 2015:* All offroad diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.

A copy of each unit’s certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.

Also, the lead agency should consider encouraging construction contractors to apply for SCAQMD “SOON funds. Incentives could be provided for those construction contractors who apply for SCAQMD “SOON” funds. The “SOON” program accelerates clean up of off-road diesel vehicles, such as heavy duty construction

AQMD-5  
cont'd.

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equipment. More information on this program can be found at the following website:  
<http://www.aqmd.gov/tao/Implementation/SOONProgram.htm>

↑  
AQMD-6  
cont'd.

## SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Letter Dated December 10, 2010

### Response AQMD-1

The commentor provides introductory agency remarks, and expresses concern about significant Project-related localized and regional air quality impacts, and potential (DPM-source) health risks. The commentor alleges errors in the EIR's air quality modeling, which are further detailed in the District's specific comments on the following pages. Responses to specific issues are addressed below at Responses AQMD-2 to AQMD-7. AQMD suggests that additional mitigation be incorporated in the EIR as means of reducing significant air quality impacts.

The comments provided by AQMD were submitted after the close of comments period, and while the Lead Agency may elect to respond to late comments, no response is required, pursuant to Pub. Resources Code Section 21091, subd. (d)(2)(A); *CEQA Guidelines* § 15088, subd. (a). Notwithstanding, in order to provide clarification of baseline issues and assumptions; and in consideration of disclosure and ultimate mitigation of potentially significant impacts, responses to AQMD's comments are provided herein. Feasible mitigation offered by AQMD has been incorporated.

### Response AQMD-2

This comment appears to incorrectly interpret the Project's Health Risk Assessment (HRA) data and modeling (DEIR Appendix C, Project HRA), with resulting erroneous conclusions. The Unitary truck traffic rate cited by the commentor was used only in deriving the model input value in grams per second per truck (per day). As reflected in the ISCST3 model output summary sheets, the ISCST3's Model Scalar Option was enabled and hourly truck rates were adjusted upward accordingly (DEIR Appendix C, Project HRA, Attachment A). Additionally, the "Hourly Trucks.xls" file that was previously provided to AQMD by Urban Crossroads, preparer of the Project's Air

Quality Analysis, provides a breakdown of the hourly trucks as they are input in the model's scalar option. The EIR conclusions and results are not affected.

### Response AQMD-3

This comment appears to incorrectly interpret the Project emission rate calculations and modeling, with resulting erroneous conclusions. As noted in the preceding Response AQMD-2, the ISCST3's Model Scalar Option was enabled, and hourly truck values were entered accordingly. The emissions from on-site truck travel are included as multiple volume sources in the model and therefore do not need to be included in the area source algorithm.

Additionally, the "Model Emission Rate" provided as 6.459E-06 is representative of grams per second per truck (per day), and is input into the model as a unitized rate. The unitized rate is then adjusted upward based on the model's scalar option. Based on a thorough review, as detailed here, this calculation does not need to be corrected. The vehicle idling time is presented in seconds and the idling rate from EMFAC is in grams per hour. Therefore, the first conversion is to identify the grams per hour a given truck would emit during idle events. This is achieved by first converting the idling time from seconds to hours. In this case, for mitigated emissions, 180 seconds is divided by 3,600 seconds (60 minutes per hour x 60 seconds per minute). The next step is to multiply the resulting value by the EMFAC grams per hour rate, which provides an emission factor in grams per hour for a given truck per day. In order to input this value into the model as a unitized rate, this value is then converted from grams per hour for a given truck per day to grams per second for a given truck per day. This is achieved by taking the grams per hour rate and dividing by 3,600 seconds per hour, which yields the resulting 6.459E-06 grams per second rate that is modeled. Please refer also the DEIR Appendix C, Project HRA, Attachment A-ISCST3 Summary Output, Attachment B-Emissions Rate and Risk Calculations. The EIR conclusions and results are not affected.



Response AQMD-4

AQMD offers alternative trip generation rates for use in the Draft EIR. AQMD cites its own research and conclusions.

Notwithstanding AQMD suggested trip generation rates, trip generation rates and vehicle mix employed in the Draft EIR are supported by definitive studies of high-cube warehouse trip generation characteristics (*City of Fontana Truck Trip Generation Study*, and *San Bernardino/Riverside County Warehouse/Distribution Center Vehicle Trip Generation Study*). Both of these studies are available through Lead Agency (a copy of each is available at the Planning Department). The trip generation rates and ranges from these studies were used to define the trip rate employed in the DEIR. This same rate is employed in analyses for similar projects in the City, and is considered by the Lead Agency to be appropriate and accurate. Relevant discussion from the Draft EIR is excerpted below:

Trip generation characteristics of the Project were derived from studies which reflect the trip generation rates of warehouse facilities storing and transporting international goods imported into the country from the Ports of Los Angeles and Long Beach. These include the *City of Fontana Truck Trip Generation Study* commissioned in 2003 (Fontana Study), and the updated 2007 *National Association of Industrial and Office Properties (NAIOP) Trip Generation Study*. The NAIOP Study included data collected from 13 locations within Riverside County, and provides trip generation rates that are use-specific to warehouse distribution projects such as that proposed by the Project. The recent date and geographic orientation of the Study contribute further to its utility and applicability in estimating the likely trip generation characteristics of the Westridge Commerce Center Project. Using data from the NAIOP Study, the City's Transportation Department approved the use of "hybrid" trip generation rates for the Project's trip generation forecast . . . (Draft EIR Page 4.2-17).

The trip generation rates provided by AQMD are noted; however, no revisions to the trip generation rates employed in the Draft EIR are proposed, nor are any required.

Response AQMD-5

AQMD states, “given the project’s significant regional and localized operational air quality impacts from VOC, NOX, PM<sub>10</sub> and PM<sub>2.5</sub> emissions the AQMD staff strongly recommends adding the following mitigation measures to minimize potentially significant air quality impacts from the operational phase of the project, if feasible . . .”

Each of the measures suggested by AQMD are addressed in the following table, and have either been incorporated, or determined infeasible, not applicable, and/or replicate existing requirements, as indicated in the remarks below. The State Legislature has defined “feasible,” for purposes of CEQA review, as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” [Public Resources Code Division 13, Chapter 2.5. Definitions, Subd. 21061.1.] In those instances where additional mitigation has been incorporated or mitigation has been revised, incremental reduction in impacts may be realized. However, results and conclusions of the EIR are not affected. That is, impacts that were previously determined to be less-than-significant remain less-than-significant; and impacts that were previously determined to be significant remain significant.

AQMD-Suggested Measures	Remarks
<b>Operational-source Emissions</b>	
<p>Restrict operation to “clean” trucks by implementing a program requiring the use of 2010 and newer diesel haul trucks (AQMD offers citation of an example clean truck program at [the following website]:  <a href="http://www.ci.banning.ca.us/archives/30/July%202013,%202010%20City%20Council%20Agenda.pdf">http://www.ci.banning.ca.us/archives/30/July%202013,%202010%20City%20Council%20Agenda.pdf</a>.</p> <p>If trucks older than 2007 model year will be used at the facility, within one year of signing a lease, require tenants of the project to apply in good faith for diesel truck replacement/retrofit grant programs such as those offered by AQMD or ARB and to use those funds if awarded.</p>	<p><b>Incorporated.</b> Mitigation Measure 4.3.13 has been revised to incorporate the following requirement (please refer to Final EIR Section 4.0).</p> <ul style="list-style-type: none"> <li>• <i>Lease/purchase documents shall identify that tenants are encouraged to provide incentives to use of fleet vehicles conforming to 2010 air quality standards or better.</i></li> <li>• <i>If trucks older than 2007 model year will be used at the facility, within one year of signing a lease, tenants of the project shall apply in good faith for diesel truck replacement/retrofit grant programs such as those offered by AQMD or ARB, and shall use those funds if awarded.</i></li> </ul>
<p>Prohibit siting any new sensitive land uses within 1,000 feet of the warehouse/distribution center.</p>	<p><b>Infeasible.</b> Development of the Project is consistent with City General Plan Land Use designations, and the General Plan currently includes residential land uses within 1,000 feet (0.19 miles) of the Project site. Moreover, as supported by the EIR analysis, the 250-foot setback separating Project warehouse activity areas from the nearest residential property reduces localized operational emissions impacts to levels that are less-than-significant. The measure suggested by AQMD is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental and technological factors and is therefore infeasible.</p>
<p>Design the warehouse/distribution center such that entrances and exits discourage trucks from traversing past neighbors or other sensitive receptors.</p>	<p><b>Not Required.</b> There are no significant and/or unmitigable operational air pollutant emissions impacts related to or resulting from the site plan configuration. As noted above, the 250-foot setback separating Project warehouse activity areas from the nearest residential property reduces localized operational emissions impacts to levels that are less-than-significant. It is further noted that the access concept proposed by the Project has been reviewed and preliminarily approved by the Lead Agency. The measure suggested by AQMD is not necessary.</p>

AQMD-Suggested Measures	Remarks
Develop, adopt and enforce truck routes both in an[d] out of city and in and out of facilities.	<b>Replicates existing requirements.</b> Designated truck routes exist within the City. As noted in the City’s General Plan, “Chapter 12.36 of the City Municipal Code regulates the travel and access of trucks on the City road system, and designates official truck routes. Designated truck routes change over time as new arterials are built, and commercial and industrial projects are completed.” [City of Moreno Valley General Plan Circulation Element, Page 5-4.] The Applicant will comply with all designated truck route regulations and ordinances, both in and out of the City. Compliance with existing regulations and ordinances does not constitute mitigation.
Have truck routes clearly marked with trailblazer signs, so trucks will not enter residential areas,	<b>Replicates existing requirements.</b> Truck routes are marked by the City consistent with City sign regulations. The Applicant will comply with all City sign regulations and ordinances. Compliance with existing regulations and ordinances does not constitute mitigation.
Identify or develop secure locations outside of residential neighborhoods where truckers that live in the community can park their truck, such as a Park & Ride.	<b>Replicates existing Project design.</b> Adequate, secure parking areas are provided onsite for the use of Project-related trucks. No off-site parking is required or proposed.
Re-route truck traffic by adding direct off-ramps for the truck or by restricting truck traffic on certain sensitive routes.	<b>Infeasible.</b> Current location of the Project adjacent to the SR-60 minimizes non-freeway truck travel, and minimizes travel along residential streets. Addition of direct SR-60 off-ramps for trucks access the Project site is contrary to reasoned freeway design which by its nature limits freeway access and exit points. Within the State, Caltrans ultimately determines freeway access and exit locations and related ramp designs. The proposed measure would result in potentially significant and increased jurisdictional, traffic/circulation, and land use impacts when compared to the Project. Further, the suggested measure is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors, and is therefore infeasible. The Applicant will comply with designated truck routes reducing truck traffic along sensitive routes.
Require or provide incentives for particulate traps that meet CARB certified level 3 requirements.	<b>Replicates existing requirements.</b> As a matter of California law, all on-road vehicles, whether or not they are used for the Project, are required to meet California Air Resources Board (CARB) emissions standards. Moreover, future tenancy of the Project is not yet known, and that trucks using the facility may include independent truckers. There is no feasible enforcement mechanism by which the operator of the facility could meaningfully enforce pollution control equipment requirements above and beyond state law requirements.

AQMD-Suggested Measures	Remarks
<p>Electrify all service equipment at the facility.</p>	<p><b>Incorporated.</b> Mitigation Measure 4.3.8 has been revised to incorporate the following requirement:</p> <ul style="list-style-type: none"> <li>• <i>All service equipment used during construction and in subsequent operation of the Project shall be electric or natural gas powered.</i></li> </ul> <p>Similar to use of electrical equipment, use of natural gas equipment alternatively allowed under this mitigation measure acts to generally reduce localized criteria pollutant emissions. Natural gas equipment may in some cases be the only available alternative to diesel/gasoline powered equipment.</p> <p>Further, Mitigation Measure 4.3.13 has been revised to incorporate the following requirements (please refer to Final EIR Section 4.0).</p> <p><i>Lease/purchase documents shall identify that tenants are encouraged to provide incentives to realize the following:</i></p> <ul style="list-style-type: none"> <li>• <i>Use of electrical equipment (instead of gasoline-powered equipment) for landscape maintenance; and</i></li> <li>• <i>Use of electric (instead of diesel or gasoline-powered) yard trucks.</i></li> </ul>
<p>Improve traffic flow by signal synchronization.</p>	<p><b>Replicates existing requirements.</b> Signal synchronization is currently administered by the City. Modification of signal synchronization (if required) based on additional Project traffic will be accomplished by the City based on observed traffic conditions.</p>
<p><b>Construction-source Emissions</b></p>	
<p>Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.</p>	<p><b>Replicates existing requirements.</b> Construction traffic management is a standing City requirement as discussed in the Draft EIR. "It is also recognized that temporary and short-term traffic detours and traffic disruption will result during Project construction activities. These impacts are adequately addressed through the preparation and submittal of a construction area traffic management plan as required by the City Engineer. The required construction area traffic management plan will identify traffic control for any street closure, detour, or other disruption to traffic circulation. The plan also identifies construction vehicle access routes, hours of construction traffic, traffic controls and detours" (Draft EIR Page 4.2-85).</p>

AQMD-Suggested Measures	Remarks
<p>Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM<sub>10</sub> generation.</p>	<p><b>Incorporated.</b> The following new mitigation measure has been created, and will be included in the Mitigation Monitoring Plan (please refer to Final EIR Section 4.0).</p> <p><i>4.3.9 Throughout Project construction, a construction relations officer/community liaison, appointed by the Applicant, shall be retained on-site. In coordination and cooperation with the City, the construction relations officer/community liaison shall respond to any concerns related to PM<sub>10</sub> (fugitive dust) generation or other construction-related air quality issues.</i></p>
<p>Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.</p>	<p><b>Replicates existing requirements.</b> Construction traffic management is a standing City requirement as discussed in the Draft EIR. The City, as one element of the required construction area traffic management plan will determine if and where dedicated turn lanes for construction equipment and trucks are required. Please refer to the preceding construction traffic management remarks.</p>
<p>Reroute construction trucks away from congested streets or sensitive receptor areas.</p>	<p><b>Replicates existing requirements.</b> Construction traffic management is a standing City requirement as discussed in the Draft EIR. The City, as one element of the required construction area traffic management plan will determine appropriate construction truck routes. Please refer to the preceding construction traffic management remarks.</p>
<p>Require the use of 2010 and newer diesel haul trucks (e.g., material delivery trucks, soil export).</p>	<p><b>Otherwise Addressed.</b> Contractors will employ available equipment to include any 2010 and newer vehicles. Restricting the pool of suitable diesel haul trucks solely to model years 2010 or newer unreasonably limits the pool of available contractors and equipment. Moreover, there is no demonstrated nexus between construction model-year requirements and potential reductions in air quality impacts. Arguably, meaningful reductions in air pollutant emissions are achieved as much or more through efficient and appropriate operation of equipment as required herein (see for example Mitigation Measure 4.3.2: <i>The contractor shall minimize pollutant emissions by maintaining equipment engines in good condition and in proper tune according to manufacturer's specifications and during smog season (May through October) by not allowing construction equipment to be left idling for more than five minutes (per California law).</i> Further, all equipment (regardless of model-year) is required to comply with applicable CARB emissions standards, the appropriate gauge for emissions levels.</p>

AQMD-Suggested Measures	Remarks
<p>All off-road construction equipment shall be electrified. In the event that the use of electric off-road equipment is not feasible the operator shall ensure that any diesel powered off-road equipment meets EPA Tier 2 or higher emissions standards.</p>	<p><b>Incorporated.</b> Electric construction equipment is not commonly or widely available or used in Southern California. Requiring sole use of electric construction equipment would effectively preclude participation by most, if not all, locally-based construction contractors. This would act to unnecessarily exclude otherwise qualified contractors, restrict the pool of available construction resources, increase costs through diminished competition. Mitigation Measure 4.3.8 has been revised to incorporate the following requirement(please refer to Final EIR Section 4.0):</p> <ul style="list-style-type: none"> <li>• <i>Use electric construction equipment where feasible.</i></li> </ul>

Response AQMD-6

AQMD suggests that the Lead Agency consider encouraging construction contractors to apply for SCAQMD Surplus Off-Road Opt-In for NOx (SOON) program funds.

- The following notation (incorporated at Mitigation Measure 4.3.9), shall appear on all construction document and plans:

*Contractors are encouraged to apply for funding/assistance under the AQMD SOON program.*

*See also [www.aqmd.gov/tao/Implementation/SOONProgram.htm](http://www.aqmd.gov/tao/Implementation/SOONProgram.htm)*

AQMD contact information is noted.

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From: Tom Hyatt [cdfatom@aol.com]  
Sent: Friday, December 10, 2010 9:18 PM  
To: Jeffrey Bradshaw  
Cc: Deanna Reeder  
Subject: Warehouse

My neighbors and I oppose this project. After having the Mega Sketchers warehouse shoved down our throats by a corrupt developer and a city council that will flip their skirt up for him without question we are vehemently against more unchecked commercial development. The City Council went to the trouble to re-name this end of the city "Rancho Belago", claiming it would be the upscale end of town yet they approve these ugly polluting warehouses when the zoning should be for 1/2 to 1 acre lots and upscale retail etc... How about a nice softball and swimming sports complex??? why don't you go lease/purchase some of the vacant warehouse space that can't even be filled in the south end of town?? How many diesel truck trips will this project generate on top of the Super Walmart and Sketchers projects already do??? Can't wait to see the cumulative air pollution totals!

Signed,

Tom H.  
Moreno Valley Citizen

ATTACHMENT 20

TOM HYATT

Email Dated December 10, 2010

Response TH-1

The commentor states his opposition to the Project, presents his opinion regarding recent unrelated project approvals in the area, and suggests a “nice softball and swimming sports complex” be developed on-site. These opinions are acknowledged.

The basis for the commentor’s statement that “the zoning should be for ½ to 1 acre lots and upscale retail, etc.” is unclear. The existing zoning for the site is Business Park, which allows the types of uses proposed by the Project; however, would not allow for buildings of the size proposed by the Project. For this reason, the Project has requested a change of zone to Light Industrial. The Draft EIR addresses the proposed zone change and Municipal Code amendment as part of the Land Use analysis (please refer to Draft EIR Pages 4.1-20 through 4.1-23). Specifically, the following discussion appears in regard to this topic.

The Project proposes a change of zone from Business Park to Light Industrial, and the City General Plan envisions and allows for extensive implementation of either or both types of land uses along the southerly edge of SR-60 as it traverses the City. While both types of uses (business park and/or light industrial, including distribution warehouse uses) are provided for under the General Plan, the site’s current Business Park zoning designation does not permit these uses within single structures of more than 50,000 square feet. The Light Industrial zone designation requested by the Applicant does permit single structures of more than 50,000 square feet. The impetus of the zone change requested by the Project Applicant is to therefore to allow for construction of a single warehouse use greater than 50,000 square feet in size.

The commentor suggests locating the Project in another area of the City. Several alternatives were analyzed as part of the Draft EIR, including, beginning on Draft EIR Page 5-37, alternative sites. As stated in Guidelines Section 15126.6, subd. (f)(1)(2)(A), the “key question and first step in [the] analysis [of alternative locations] is whether any of the significant effects of the project would be avoided or substantially lessened by putting the Project in another location.”

An alternative site within the City would be considered generally viable if it were located along a regional freeway transportation corridor or at a regional transportation hub; was also locally accessible; was underutilized and currently available; could be developed and operated in a manner that was compatible with other proximate land uses; and was provided, or could feasibly be provided, adequate serving utilities infrastructure. Also supporting location of the Project elsewhere, an Alternative Site should have an appropriate size and configuration (approximately 50 acres and roughly rectangular); and either exhibit appropriate General Plan and Zoning designations or could be feasibly so-designated.

Only locations that would avoid or substantially lessen significant effects of the Project need be considered. To this end, four (4) possible alternative sites were located, as follows:

- Alternative Site 1: 70 acres located between Perris Boulevard and Grove View Road, and south of Indian Avenue to the southern City limits (APNs 316-210-071, -073, -075 and -076);
- Alternative Site 2: 92 acres located between Heacock Street and Indian Street, south of Cardinal Avenue and north of San Michele Road (APNs 316-180-010, 316-170-001, -002, -004, -006, -007, -008, -010, -013, and -014);

- Alternative Site 3: 72 acres located west of Indian Street between Iris Avenue and Krameria Avenue (APNs 316-020-002, -003, -004, -005, -012, -013, -014, -015, -016, -017, -018 and -019); and
- Alternative Site 4: Approximately 69 acres located at the southeast corner of Heacock Street and Iris Avenue (APNs 316-020-001, -006, -007, -028, and -010).

Each of the four (4) sites is currently vacant; is more than 50 acres in size and of a roughly rectangular configuration; is zoned for industrial use; and is served adequately by nearby utilities and infrastructure. Further, Alternative Sites 1 through 4 are proximate to the I-215 regional transportation corridor, and are also locally accessible. Notwithstanding, these sites are all currently unavailable. Alternative Site 1 currently has applications under review for a 1.6 million s.f. warehouse distribution facility, while development plans have been submitted and approved for sites 2, 3 and 4.

Other potentially suitable and available properties are located easterly of the current Project site, along the SR-60 corridor. For the purposes of the Alternative Site analysis, the vacant property located southeasterly of the intersection of SR-60 at Theodore Street was selected for analysis, and is identified as Alternative Site 5 (shown in Figure 5.2-2 of the Draft EIR). This property exhibits an appropriate Business Park/Light Industrial General Plan Land Use designation; is of adequate size and is appropriately configured; and is provided access to regional and local roadways. Utilities and services are generally available to the site. The site appears to be available for purchase; however, it is not currently controlled by the Project Applicant, and a zone change from "Business Park" to "Light Industrial," would be required, similar to the change of zone requested by the Project.

Although development of the Project on Alternative Site 5 could achieve the Project's objectives, none of the Project's potentially significant impacts would be avoided or substantially reduced. Because Alternative Site 5 would not result in the avoidance or substantive reduction of Project-related impacts, this Alternative Site was also rejected from further consideration within the Draft EIR.

The commentor expresses concern regarding the cumulative traffic and air quality impacts of the Project when combined with other vicinity projects. As identified at Draft EIR Table 5.1-1, and illustrated in Figure 5.1-1, a number of current or anticipated "related projects" were identified within the cumulative scope of the Westridge Commerce Center Project. In total, 11 related projects were included within the Draft EIR cumulative analysis, including both projects referenced by the commentor ("Super Walmart and Sketchers[sic]").

In addition to the identified related projects, the cumulative impacts analysis assumed development of the area in a manner consistent with the City of Moreno Valley General Plan, and reflecting the anticipated growth of the region. The analysis of cumulative impacts considered potentially significant impacts that could be considered cumulatively considerable when viewed in the context of known related projects and generalized ambient growth of the City and region.

The commentor is referred to Table 4.2-6 of the Draft EIR for the specific trip generation of the Project. Additionally, Draft EIR Section 5.0 presents a detailed discussion of the cumulative impacts of the Project. Specifically, cumulative impacts related to traffic and circulation are discussed at Draft EIR Pages 5-7 through 5-12. Cumulative impacts related to air quality are discussed on Draft EIR Pages 5-12 through 5-14. Results and conclusions of the Draft EIR are not affected.

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**PLANNING COMMISSION RESOLUTION NO. 2011-13**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORENO VALLEY DENYING A CHANGE OF ZONE (PA08-0098) FROM BP (BUSINESS PARK) TO LI (LIGHT INDUSTRIAL) FOR AN APPROXIMATE 55 ACRE SITE, LOCATED WITHIN ASSESSOR'S PARCEL NUMBERS 488-330-003 THROUGH -006 AND -026.**

**WHEREAS**, the applicant, Ridge Rancho Belago, LLC, has filed an application for the approval of a change of zone (PA08-0098) from BP (Business Park) to LI (Light Industrial) for an approximately 55 acre site located on the south side of State Route 60, on the north side of Fir Avenue/Future Eucalyptus Avenue and approximately 650 feet west of Redlands Boulevard.

**WHEREAS**, on May 12, 2011, the Planning Commission of the City of Moreno Valley held a meeting to consider the Zone Change application.

**WHEREAS**, on May 12, 2011, the Planning Commission passed a motion by a vote of 3 to 2 to deny the proposed Change in Zone.

**WHEREAS**, the project also includes applications for an Environmental Impact Report (EIR) (P08-133), a Municipal Code Amendment (PA10-0017), a Plot Plan (PA08-0097) and Tentative Parcel Map No. 36207 (PA09-0022). Since the Planning Commission voted to deny the Change of Zone, no action on the related project applications is required, since the applications are moot.

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, BE IT HEREBY FOUND, DETERMINED AND RESOLVED** by the Planning Commission of the City of Moreno Valley as follows:

- A. This Planning Commission 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 Planning Commission during the above-referenced meeting on May 12, 2011, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:
  - 1. The Moreno Valley General Plan designates State Route 60 (SR-60) as a local scenic road (Policy 7.7.3). In addition, Figure 5.11-1, "Major Scenic Resources," illustrates that the Project site is located within a view corridor. The proposed Change of Zone may not be consistent with the General Plan's policy regarding protection of scenic resources.

ATTACHMENT 21


The proposed project includes a 937,260 square foot warehouse industrial building which far exceeds the maximum building area of 50,000 square feet as permitted by the current zoning designation of Business Park. A business park comprised of smaller buildings (50,000 square feet or less) might afford opportunities for view corridors between the structures.

The proposed architectural design of the facility is not consistent with that of other approved warehouse facilities in the vicinity. A change of zone to LI would allow for buildings greater than 50,000 square feet in size. Adequately designing a building elevation(s) that is visible along a scenic corridor might prove difficult due to the scale and massing of a single large warehouse building.

2. The proposed warehouse industrial buildings would dramatically increase the amount of heavy truck traffic both onsite as well as on adjacent Redlands Boulevard leading from the project to Highway 60. Potential conflicts may be created with the mixing of heavy trucks and residential and business park traffic. The increase in heavy truck traffic may be inconsistent with the lower intensity business park uses and residential uses identified on the General Plan Land Use Element for this area. The proposed warehouse industrial building may be better suited to areas in the City that provide better access to the freeway system through upgraded roadways and freeway interchanges.

**BE IT FURTHER RESOLVED** that the Planning Commission **HEREBY APPROVES** Resolution No. 2011-13, **DENYING** a Change of Zone (PA08-0098) for an approximate 55 acre site from BP (Business Park) to LI (Light Industrial).


**APPROVED** this 12<sup>th</sup> day of May, 2011.

  
Ray L. Baker  
Vice-Chair, Planning Commission

ATTEST:

  
John C. Terrell, Planning Official  
Secretary to the Planning Commission

APPROVED AS TO FORM:

  
Suzanne Bryant  
Deputy City Attorney



# RIDGE PROPERTY TRUST

201 Covina Avenue, Suite 8 | Long Beach, CA 90803  
T: (562) 856-3819 | F: (562) 856-3820  
www.rptrust.com

City of Moreno Valley City Council Members  
c/o City of Moreno Valley Planning Division  
14177 Frederick Street  
Moreno Valley, CA 92553

Re: P08-133, PA08-0097, 0098, 0022 and PA08-0017

Dear Council Members Stewart, Batey, Hastings, Molina and Co:

Please accept this letter as our formal appeal of the City of Moreno Valley Planning Commission denial of the proposed Westridge Commerce Center Project (the "Project") at the Planning Commission Meeting held on May 12, 2011. Specifics of the Project are as follows:

**Case Description:**

Plot Plan for a 937,260 square foot warehouse facility on 55 acres, Tentative Parcel Map No. 36027, Zone Change from BP to LI, a Municipal Code Amendment and an Environmental Impact Report.

Pursuant to the denial, there were many questions and discussions centered on the following:

- 1) Aesthetics (the Architecture of the building).
- 2) The uncertainty of a known lessee at this time.
- 3) Traffic

Our position and basis for our appeal relating to the above are:

1) We have constructed buildings in Centerpointe Business Park (across Frederick Street from City Hall) that are similar to what we are proposing at WestRidge Commerce Center and we have received many compliments from past planning commissions and city councils. This issue is totally personal, subjective, and without merit. We worked hard with staff to make this building appealing and to the level of standards Moreno Valley can be very proud of. In fact, the WestRidge Commerce Center architect, HPA, is the same architect for the Skechers building.

2) It is a very rare situation to have a lessee sign a lease for a building without the entitlements in place. The fact that Skechers signed a lease without entitlements is rare. Considering Skechers is a partner in the building with Highland Fairview and the fact there are very few, if any, sites available in the Inland Empire of a size to accommodate the large Skechers building.

ATTACHMENT 22

3) Intersections and roadway improvements were clearly identified in the traffic analysis as being necessary to maintain or improve operational levels of service for this Project and General Plan. This Project will build all required improvements in the immediate vicinity as well as other off-site infrastructure required by the development. Furthermore, Redlands Blvd is a city designated truck route and the planning commission stated they did not want trucks mixing with automobiles.

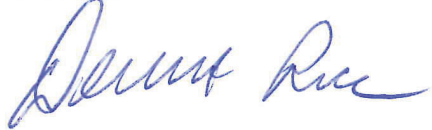
**Applicant:**

Ridge Rancho Belago, LLC

**Owner:**

Ridge Rancho Belago, LLC

Sincerely,

A handwritten signature in blue ink that reads "Dennis Rice". The signature is written in a cursive style.

**Dennis Rice, President**

**Ridge Rancho Belago, LLC**

**By: Ridge Property Trust II, a Maryland real estate investment trust**



Community & Economic Development Department  
 Planning Division  
 14177 Frederick Street  
 P.O. Box 88005  
 Moreno Valley, CA 92552-0805  
 (951) 413-3206  
 (951) 413-3210 FAX

# PROJECT APPLICATION

No.:

Application must be completely filled out to be accepted.

## TYPE OF APPLICATION

(One Application Form Required for Each Type of Application)

<input type="checkbox"/> Administrative Plot Plan	<input type="checkbox"/> Development Agreement	<input type="checkbox"/> Specific Plan
<input type="checkbox"/> Administrative Variance	<input type="checkbox"/> Development Code Amendment	<input type="checkbox"/> Specific Plan Amendment
<input type="checkbox"/> Amended Conditional Use Permit	<input type="checkbox"/> Extension of Time	<input type="checkbox"/> Tentative Parcel Map
<input type="checkbox"/> Amended Plot Plan	<input type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Tentative Tract Map
<input type="checkbox"/> Change of Zone	<input type="checkbox"/> Plot Plan	<input type="checkbox"/> Variance
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Pre-Application Review	<input checked="" type="checkbox"/> Other <u>Appeal</u>

## APPLICATION INFORMATION

Project/Business Name (if any): West Ridge Commerce Center

Project Description: The project proposes the development of a 937,260 SF warehouse facility on 55 acres. This application is to appeal the Planning Commission denial of the project on May 12, 2011.

Property Address/Location: South of SR60 on the north side of Eucalyptus Ave and

Assessor's Parcel Number(s): 488-330-003 Through-006 and -026 approximately 650 feet west of Redlands Blvd.

Gross Area: \_\_\_\_\_ Net Area: \_\_\_\_\_ Proposed # of Lots/Parcels: \_\_\_\_\_ Proposed # of Residential Units: \_\_\_\_\_

Related Application(s): \_\_\_\_\_ Specific Plan Name/No. : \_\_\_\_\_

## CONTACT PERSONS

**APPLICANT** Name: Ridge Rancho Belago LLC Telephone: (562) 856-3819

Address: 201 Covina Ave, Suite 8 Fax No. (562) 856-3820

City: Long Beach State: CA Zip: 90803 E-mail Address: dtrice@rptrust.com

Contact Person: Dennis Rice

**OWNER** Name: same as above Telephone: ( )

Address: \_\_\_\_\_ Fax No. ( )

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

**REPRESENTATIVE** Name: Inland Empire Development Services Telephone: (951) 845-1003

Address: 931 Monarch Court Fax No. (951) 845-9775

City: Beaumont State: CA Zip: 92223 E-mail Address: gilsaenz@msn.com

Contact Person: \_\_\_\_\_

APPLICATION CONTINUES ON REVERSE

**PROJECT INFORMATION**

Existing Zoning and General Plan Designations	
Proposed Zoning and General Plan Designations (if applicable)	
Existing Uses and/or Structures on Site	
Surrounding Uses:	North _____
	South _____
	East _____
	West _____
Lot Size(s) (Sq. Ft.) (Smallest/Largest)	Graded Area (sq. ft.)
Total Building Size (Sq. Ft.)	Impervious area (sq. ft.)
Setbacks: Front	Flood Zone
Side (interior)	
Side (street side)	
Rear	
Maximum Building Height	
Total No. of Parking Stalls:	
Standard	
Handicapped	

**APPLICATION PROCESSING**

**Each application must be submitted with the required processing fee and all applicable submittal requirements. Additional information or materials may be needed before an application is accepted as complete. An incomplete application may be closed if it remains inactive for 180 days or more.**

**OWNER'S SIGNATURE**

I, Ridge Rancho Belago am the owner of the property described in this application and hereby authorize

Print Name \_\_\_\_\_

Deniz S. Rice to act on my behalf on matters pertaining to this application.

Applicant/Representative Name \_\_\_\_\_

Property Owner's Signature Deniz S. Rice Date 5-18-2011

**Note:** If more than one owner, a separate page must be attached, listing the names and addresses of all persons (if a corporation, list officers and principals) having interest in the property ownership.

**APPLICANT'S SIGNATURE**

I certify under penalty of perjury that all the foregoing information is true and correct, and recognize that any false or misleading information shall be grounds for denial of this application. I also acknowledge that I am aware of and agree to indemnify the City in any legal proceedings pertaining to this request for discretionary land use approval. Section 9.02.310 of the Moreno Valley Municipal Code.

Applicant's Signature Deniz S. Rice Date 5-18-2011

**RIDGE RANCHO BELAGO, LLC**

CTYMORENO

CITY OF MORENO VALLEY

DATE	INVOICE NO	DESCRIPTION	INVOICE AMOUNT
5-16-11	51611	APPEAL PROCESS APP FEE	750.00

CHECK DATE	5-17-11	CHECK NUMBER	1194	TOTAL >	750.00
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PLEASE DETACH AND RETAIN FOR YOUR RECORDS

**RIDGE RANCHO BELAGO, LLC**

CTYMORENO

CITY OF MORENO VALLEY

DATE	INVOICE NO	DESCRIPTION	INVOICE AMOUNT
5-16-11	51611	APPEAL PROCESS APP FEE	750.00

CHECK DATE	5-17-11	CHECK NUMBER	1194	TOTAL >	750.00
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PLEASE DETACH AND RETAIN FOR YOUR RECORDS

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

**RIDGE RANCHO BELAGO, LLC**

8430 WEST BRYN MAWR AVE  
SUITE 400  
CHICAGO, IL 60631  
773-695-1250

JP MORGAN CHASE BANK, N.A.  
CHICAGO, IL 60603

2-1710

DATE	CHECK NO.	AMOUNT
May 17, 2011	1194	*****\$750.00

Pay:\*\*\*\*\*Seven hundred fifty dollars and no cents

PAY TO THE ORDER OF  
CITY OF MORENO VALLEY  
14177 Frederick Street  
PO Box 88005  
Moreno Valley, CA 92552

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK—HOLD AT AN ANGLE TO VIEW

000001194 07100001-1301-549123

**Item No. E.3**

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From: george Hague  
Sent: Thursday, May 05, 2011 2:55 PM  
To: John Terell  
Cc: Jeffrey Bradshaw  
Subject: Please send my letter to all the Planning Commissioners today (5-5-11) concerning the West Ridge Commerce Center FEIR

Good afternoon Planning Commissioner,

I hope the planning department has helped those of you who are not use to reading Final Environmental Impact Reports (FEIR). I am sure it would help with the West Ridge Commerce Center FEIR.

In 2009 some Moreno Valley residents responded to a Notice of Preparation (NOP) for this project. These comments were to let those who prepare the document know what we wanted studied and answered in the Draft Environmental Impact Report (DEIR). You should realize that those who do the studies are paid for by the developer and realize that if they want a good reputation among the development community that their report must be favorable to the project. It would be better if we would go back to Moreno Valley's previous system where the report from consultants goes directly to the Moreno Valley Planning department instead of first passing through the hands of the developer where it many times gets massaged.

Last Fall The DEIR was made available which you should read. Different agencies/groups/individuals used the 45 days they were given to read and make comments on the adequacies of the West Ridge Commerce Center's DEIR. They turned in their comments during the first part of last December.

Section three of the FEIR has these commenters original letters which you will notice have been blocked off. You should make an effort to read each of these letters and only then read the responses which immediately follow the original letters. Many of those who write letters believe the responses do not do justice to their concerns and questions. On projects like this it is good to study what the Department of Transportation(DOT) and the South Coast Air Quality Management District (SCAQMD) wanted from this project and the responses they received. These and other agencies are to help protect us and guide us towards better planning. It is sad when responses to their letters are not serious, but just pass the buck.

In section two of the FEIR you will see what I call weasel words which require nothing. Words like "where feasible", "shall encourage", and "greatest extent practical" are just a few examples. These may sound good, but usually result in little, if any, mitigation. Words like "shall" and "will" instead of "should" are more binding and therefor avoided.

Section four has the Mitigation Monitoring Plan which should also be read in order that they are mitigating those items which are brought up in the comment letters.

Usually they bury at the end of some document that which they call "Overriding Considerations". These are the impacts to Moreno Valley which could not be mitigated. This could be such things as toxic diesel air pollution (pm 10 and pm 2.5) which cause significant health effects. It is very sad when projects make the air more toxic to breath-- especially for children and the elderly.

ATTACHMENT 23

Appendix A points out some of these air pollution problems and they should be read by decision makers.

Since I am sure most of you have regular jobs, I find it very sad that you have not been given time to do justice to this FEIR. It must be especially difficult when a couple of our weekends prior to your meeting have holidays that many people enjoy to celebrate. You should ask the planning department for more time to educate yourself by reading the document.

Your responsibility is to "protect the health, safety and welfare" of the residents of Moreno Valley. Only after you have read this document can you fulfill your responsibility.

Take care,

George Hague  
Sierra Club  
Moreno Valley Group  
Conservation Chair



**From:** george hague  
**Date:** May 9, 2011 11:03:09 AM PDT  
**To:** John Terell <JohnT@moval.org>  
**Cc:** Jeffrey Bradshaw <JeffreyB@moval.org>, gracee@moval.org  
**Subject:** **West Ridge Commerce Center Experts & Editorial on Tortoises & Solar threat | Press-Enterprise Editorials | PE.com | Southern California News | News for Inland Southern California**

Good afternoon/evening Planning Commissioner,

Last week I sent you an email about reading the environmental documents for the West Ridge Commerce Center warehouse. I mentioned in that email how developer consultants/experts sometimes supply reports which benefit the proposed project---even when they are selected from an "approved" list. The last line of the second paragraph of this past Saturday's Editorial does a nice job of pointing this out where it reads "studies commissioned by the developer". I hope you will read this editorial and realize this happens on many projects. It is only when agencies like the Department of Transportation, South Coast Air Quality Management District and as well as others who job it is to help you plan for our city respond to DEIRs that you get a much more unbiased/independent view. I hope you will remember this when West Ridge Commerce Center and other developers respond in their FEIRs to these agencies letters.

Take care,

George Hague  
Sierra Club  
Moreno Valley Group  
Conservation Chair

## **Solar threat**

**08:24 PM PDT on Friday, May 6, 2011**

The discovery of far more desert tortoises than expected near a planned solar power plant in the Mojave Desert should prompt federal officials to rethink the project. And the incident should spur federal officials to require independent environmental studies before bulldozers roll on future solar projects.

Last week, a U.S. Bureau of Land Management assessment found the \$2.1 billion BrightSource Energy Co. project near Primm, Nev., would disturb up to 3,000 tortoises and kill as many as 700 young ones. That far exceeds an estimate of 32 of the threatened species at the site -- a number derived from studies commissioned by the developer.

ATTACHMENT 24

After biologists relocated 39 tortoises -- the maximum allowed -- BLM officials last month ordered BrightSource to stop work on two-thirds of the 5.6-square-mile site. U.S. Fish and Wildlife Service officials will decide soon if completing the second and third phases of the Ivanpah Solar Electric Generating System -- which would nearly double the amount of solar electricity produced in the country -- would jeopardize the species.

The clean energy generated by this project is no excuse for federal officials to allow shoddy surveys that underestimate the tortoise population. A developer rushing to qualify for hundreds of millions in federal "stimulus" funding is hardly an objective source about issues that could obstruct construction. Federal officials should have required an independent biological survey before grading and construction work began in October. And that approach should be standard for the numerous solar projects now proposed for desert land.

In this case, the sheer number of the animals that would be killed or disturbed by the solar plant justifies a significant downsizing -- eliminating one or both of the last two phases. Federal officials could have avoided such backtracking had they had the right information before BrightSource broke ground.

Wildlife officials are likely under political pressure to let the developer proceed with much of the project. But even a compromise such as relocating large numbers of the animals would be highly risky. In 2008, the U.S. Army suspended a tortoise relocation effort at Fort Irwin after about 90 of the 556 tortoises moved died, mostly killed by coyotes.

The Mojave Desert, with endless sunny days, is not a bad place for solar power plants. But federal officials need to do a better job of surveying the native wildlife before construction starts. Green projects should not, ironically, degrade the very environment they are meant to help sustain.

**From:** george hague  
**Sent:** Wednesday, May 11, 2011 10:29 PM  
**To:** John Terell  
**Cc:** Jeffrey Bradshaw; Grace Espino-Salcedo  
**Subject:** PLEASE READ re West Ridge Commerce Center Final Environmental Impact Report (FEIR)  
Good evening Planning Commissioners,

YOU NEED TO ASK TONIGHT NOT WHAT THE OPENING-YEAR TRUCK TRAFFIC WILL BE, BUT WHAT IS THE PROJECT DESIGNED FOR AND WHAT WILL THE TRUCK TRAFFIC BE WHEN THE PROJECT IS USED TO ITS FULLEST CAPACITY AND NOT LIMITED TO JUST REDLANDS BLVD IN FUTURE YEARS.

"Estimated opening-year average daily Project-generated truck traffic ingressing/egressing the Project site via Redlands Boulevard includes:

97 two-axel trucks;

220 three-axel trucks; and

539 four-axel trucks." (FEIR p 3-58 & p 3-88 & p 3-163 & other pages)

THESE NUMBERS ARE A DISSERVICE TO YOU AND THE PUBLIC. THE FULL IMPACTS ON TRAFFIC AND AIR QUALITY ARE NOT FULLING EXPLAINED AS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND THEREFORE THE FEIR IS INADEQUATE. THEY ARE REQUIRED TO BE EASILY UNDERSTOOD BY THE PULIC AND MITIGATED BEYOND WHAT WEST RIDGE COMMERCE CENTER TRULLY HAS COMMITTED TO IMPLEMENT.

You should not vote on this or any other project unless you have read the documents. You should never just rely on Staff Reports. The Planning Commission should represent all the many varied interests/concerns of the residents of Moreno Valley. I believe if you read all the letters from the agencies as well as the public and groups you will see that many of their legitimate CEQA concerns were not answered or the buck was passed.

Thank you,

George Hague  
Sierra Club  
Moreno Valley Group  
Conservation Chair

ATTCHMENT 25

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May 12, 2011

Planning Commission  
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

**VIA US MAIL AND FACSIMILE**

***RE: Final Environmental Impact Report for Westridge Commerce Center, State Clearinghouse No. 2009101008.***

Greetings:

This firm submits the following comments on behalf of Residents for a Livable Moreno Valley, the Moreno Valley Group of the Sierra Club, and area residents after reviewing the Final Environmental Impact Report (FEIR) for the Westridge Commerce Center.

The California Environmental Quality Act (CEQA) was adopted as a disclosure and transparency document. The theory is that by providing a document that adequately describes the environmental consequences of a project to decision makers and the public, the decision makers will make a rational decision based upon the true environmental consequences of the project and if they do not, the electorate can hold them accountable for their decisions. The core of this statutory structure is the adequacy of the EIR as an informational document.

Unfortunately, the FEIR for this Project fails as an informational document. The EIR misleads decision makers and the public as to the extent and severity of the Project's environmental impacts. The FEIR is also internally inconsistent, with statements and conclusions made from one section to another in conflict with one another.

On top of these inadequacies, the FEIR is almost constantly conclusory, and does not provide the analysis or examination required by CEQA to inform the public and decision makers of the analytical pathway taken from facts to conclusions.

CEQA also requires that *where feasible mitigation exists which can substantially lessen the environmental impacts of a project, all feasible mitigation must be adopted.* In this way CEQA goes beyond its informational role to require that projects substantively lessen their negative effects on the environment. It is critical to proper drafting of an EIR that all feasible mitigation measures be required of a project. For this project, the FEIR concludes that *unavoidable* adverse impacts will result to/from the following: aesthetics, air quality, noise, and transportation/traffic.

Feasible mitigation measures exist which would reduce these impacts, and *which have not been required of this project*. This is contrary to the requirements of CEQA, and the additional feasible mitigation provided in the comments must be required of this project.

Moreover, all mitigation measures required in the FEIR *must be fully enforceable and certain to occur*. This Project fails to ensure that all feasible mitigation will occur with this Project and instead provides vague, uncertain, and unenforceable mitigation measures. While it appears that substantial mitigation was incorporated into the project, *very little mitigation is actually enforceable and required*. Also, some mitigation measures are included in the text revisions section, yet have not been incorporated into the Mitigation Monitoring Plan. This is unacceptable.

The FEIR fails to make findings supported by substantial evidence in the record. CEQA requires that an agency must make specific findings, based on substantial evidence in the record, where a project has been determined to have significant environmental effects. Here, the findings are nothing more than conclusory statements, and there is no attempt to trace the path from evidence to the conclusions reached. The findings made are not supported by substantial evidence in the record as discussed herein and in our previous comments on the DEIR.

The FEIR lastly fails to adequately respond to the significant environmental points raised in public comments pursuant to CEQA Guidelines. Particularly, Guidelines § 15088 (c) requires that a response to comments evince a “good faith, reasoned analysis.” “Conclusory statements unsupported by factual information will not suffice.” (Guidelines § 15088 (c).) The FEIR fails to properly respond to comments and often ignores comments altogether. Also, the responses tend to generalize specific comments made by the commenter. For instance, a comment regarding cumulative air pollution impacts which asks: “Has this been taken into consideration, and wouldn’t it be advisable to restrict commercial land use to less concentrated populations of heavy polluters, such as diesel trucks?” is responded to generally: “The commenter expresses concerns regarding the cumulative effects (air pollution) of this Project when combined with other vicinity projects.” (Comment and response for SCR-2) These generalizations tend to result in responses which do not respond to the comments and questions presented. This is contrary to the policies of CEQA.

In additional to the general comments above, the below specific inadequacies were discovered upon review of the FEIR:

**Text Revisions:**

- Revision to 3.5.12 Screening: It is unclear why the sentence ends in an ellipsis. Was more intended to be included here?
- The language of Air Quality Mitigation 4.3.8 is uncertain and vague.
  - The introductory statement is unclear and should be omitted, as discussed below.
  - Where the mitigation measures state that a measure shall be used “where feasible,” this language must be omitted or changed to read “technologically feasible” so that the mitigation measures are certain and enforceable.

- At Mitigation Measure 4.3.13 for GHG's, lease/ purchase documents must require, not merely encourage lessors or purchasers to comply with the measures provided.
- Mitigation Measure 4.7.2 states that artifacts will be curated where preservation in place is infeasible. This measure should require that this determination of infeasibility be made by a qualified archaeologist and approved by the City.
- At Mitigation Measure 4.7.3: the paleontological mitigation-monitoring plan must be developed prior to project approval so it may be determined that such mitigation is sufficient to reduce paleontological impacts. As is, the paleontological mitigation-monitoring plan is impermissibly deferred per CEQA and case law. Also at the third bullet, the word "salvage" should be changed to something which implies that fossils are being properly cared for. Likewise, "to avoid construction delays" should be removed: the purpose is to mitigate for potentially significant paleontological impacts, *not* to remove all impediments to construction as quickly and haphazardly as possible.
- Mitigation Measure 4.8.5 should require that all habitat replacement, revegetation and mitigation for impacts to riparian habitat be implemented by an approved biological monitor. The measure should also require that, if in 3 years the success criterion of 80% has not yet been achieved, revegetation and other mitigation shall continue until such criterion is achieved.

#### **Responses to Comments:**

##### Responses to Johnson & Sedlack Comments:

Response to JS-5 does not evidence a good faith, reasoned response. First, the response states that despite a finding of significant and unavoidable impacts to agriculture in the GPEIR, the agricultural impacts of this project are less than significant. To the contrary, a reasoned outlook would find project impacts to be significant and unavoidable as detailed and considered in the GPEIR, and for which a statement of overriding consideration was necessary. Second, the response ignores the fact that, where an EIR tiers off of a broader EIR, CEQA requires that effects of later projects should be evaluated if they are *susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, the imposition of conditions, etc.* (Guidelines § 15152) Here, Johnson & Sedlack has provided two possible mitigation measures, namely conservation easements or donation of funds, which would reduce the project's impacts to agriculture and therefore must be considered.

Response to JS-6 does not provide a reason for failing disclose that the project is located in a PAKO zone. The response also states, without substantiation, that there is no indication that the project would interfere with animal keeping, where the project would plainly alter the rural nature of the area. (DEIR p. 5-5)

Response to JS-7 is incorrect. Specifically, the comment stated that the assumption of zero VMT for on road truck travel was erroneously assumed in the Air Study. At Appendix A, page 1 Phase: Fine Grading 7/1/2009-7/15/2009 (Phase 2 Grading), the air study plainly states On Road Truck Travel as zero. The air quality analysis remains flawed and understates impacts from fine grading.

Response to JS-14 and other comments apply a too strict standard for evaluating mitigation measures proposed by commenters on a DEIR. A commenter need not demonstrate the quantitative efficacy of a measure nor a nexus between each mitigation measure presented and its benefit. This demonstration of need and nexus is a requirement of the measure itself to be determined by the lead agency. (Guidelines 15126.4(a)(4) and (5).) Rather, a commenter need only suggest specific alternatives and/or mitigation measures that would avoid or mitigate a significant effect. (Guidelines § 15204(a).) The comment states that measures proposed will reduce construction air quality emissions.

Moreover, the mitigation measures deemed “incorporated” per JS-14 are not actually incorporated as project mitigation at MM 4.3.8. Namely, the “mitigation” does not apply to the project itself, but instead must be notated in “Grading plans, construction specifications and bid documents...” The measures may not be implemented for construction of the project itself while still complying with the terms of MM4.3.8, namely by adding a notation within the construction documents. Hence, this supposed incorporation of mitigation measures does not actually occur, and not all feasible mitigation has been required of this project. MM4.3.8 is uncertain and unenforceable.

JS-14 number 20 is not included in MM 4.3.13 in the Mitigation Monitoring Plan, despite the statement to the contrary. Moreover, MM4.3.13 generally applies to operational impacts and not construction impacts, as evidenced by the timing of monitoring, “Before issuance of first Certificate of Occupancy,” and thus will not mitigate for construction emissions. Number 21 is included, but with the limit that “a shuttle will be provided during any one hour period where more than 20 employees or construction workers utilize public transit.” This is a severe limitation on the measure recommended and such limitation is not disclosed in the response to comments. The mitigation measure *as recommended* must be adopted.

Response to JS-15 is unresponsive to the comment made regarding the need to note variances from URBEMIS defaults for informational purposes. The comment does not state that variances from defaults are improper, as the response asserts, but merely that they must be disclosed.

Response to JS-17 alleges that, “The Lead Agency cannot control emissions from the tailpipes of vehicles traveling to/from the facility.” This is simply untrue. The lead agency may adopt mitigation measures, such as those recommended by the commenter requiring that lessees/purchasers become SmartWay partners, meet 2010 air quality standards or better, etc.

Response to JS-19 has the same problems as the response to JS-14, *namely that almost all of the mitigation measures deemed “incorporated” at MM4.3.13 are not actually incorporated as certain and enforceable mitigation measures of the project.* Instead, MM4.3.13, bullet 7, merely requires that, “Lease/purchase documents shall identify that tenants are *encouraged* to provide incentives to realize the following...” [emphasis added]. Hence all that is required is a *written provision* in the lease/purchase documents *encouraging* the use of incentives, not any actual requirement that mitigation be implemented. These repeated untruths in the response to comments cause the FEIR to fail as an informational document and are completely contrary to CEQA policy that mitigation be certain and enforceable.



Likewise, JS-19 number 19 is not incorporated into mitigation as stated in the Response and is vague and uncertain. In 4.3.10 (not 4.3.11 as stated), the mitigation required is that “All entrances shall be *posted with signs* which state: ...Diesel delivery trucks servicing the Project shall not idle for more than three (3) minutes...” [emphasis added] The mitigation does not prohibit the idling of trucks in excess of three minutes, but instead merely requires the posting of signs to that effect prior to the first Certificate of Occupancy.

Response to JS-30 is unresponsive to the comment made regarding insufficient project noise mitigation. Response to JS-31 provides no reason for failing to incorporate the performance standard of noise barriers which will reduce noise at sensitive receptors to no more than 60dBA Leq, particularly.

Response to JS-33 (1) refuses to incorporate mitigation measures which would reduce significant construction noise impacts without finding that such mitigation is infeasible. Instead, the response merely states that such mitigation is not required, but is only recommended, by the Noise Impact Analysis. CEQA provides that agencies may not approve projects for which feasible mitigation measures exist which would reduce a project’s significant environmental effects. Here, the comment suggested feasible mitigation to reduce construction noise impacts which were, in turn, recommended in the Noise Impact Analysis. Such mitigation is not shown to be infeasible, and therefore must be incorporated in the project. At (4), the mitigation at 4.3.8 is inadequate and unenforceable. At (5), MM 4.3.10 does not prohibit the idling of trucks in excess of three minutes, but instead merely requires the posting of signs to that effect prior to the first Certificate of Occupancy.

Response to JS-34 incorrectly insinuates that, in determining a project’s noise impacts, the noise from transportation/trucks should be omitted. While ambient noise may not be included to determine a project’s noise impacts, impacts directly related to the project’s operations must be included in the EIR’s determination, as they are incorporated into the whole of the project. This response is also greatly unresponsive to the comment made.

Response to JS-35 merely restates the EIR and does not evidence a good faith response to the comment made. Specifically, the comment notes that the EIR does not provide data regarding groundbourne vibration levels nor evaluate potential impacts to people. The response repeats these issues, but fails to address them in the EIR, or alternatively to provide a reason for failing to correct the EIR.

Response to JS-39 does not evidence a good faith, reasoned response to the comment made and does not adopt feasible mitigation to reduce project noise impacts.

Response to JS-40 is unresponsive to the comment made regarding impacts to 1-215. The response instead dissolves into a discussion of SR-60.

Response to JS-42 (5) and (6) are included at MM 4.3.8, but in a manner which is unenforceable and requires zero actual mitigation to occur, as discussed above regarding JS-14. Numbers (7)

and (8) are not included at MM 4.3.8 at all, despite the statement to the contrary in the response to comments.

Response to JS-53 is conclusory and does not evidence a good faith, reasoned response to the comments made.

#### Other Responses to Comments

Please note that many responses to comments are repeated throughout the FEIR. The evaluation of inadequate responses below will often refer only to the first time the response is given, where such responses are repeated. Moreover, such inadequacies are likely discussed with regards to responses to Johnson & Sedlack's comments above.

- Response to CDFG-10 does not provide a good faith reason for failing to require a 3:1 replacement ratio of riparian habitat as recommended by CDFG. Specifically, CDFG stated that, "The Department recommends avoiding the stream and riparian habitat to the greatest extent possible. Any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat either on-site or offsite at a minimum 3:1 replacement-to-impact ratio..." The response cites no reason based on substantial evidence in the record for failing to incorporate this mitigation.
- Response to EMWD-2 is inadequate and conclusory. The commenter noted that impacts from construction will likely create impacts to service which must be evaluated in the EIR. However, the response states, based on no evidence in the record, that the conclusions of the Draft EIR are not affected by the inclusion of this potential impact in the EIR's analysis. Such analysis must first be conducted in order for this conclusion to be made.
- Response to RCFC-3 does not respond to the comment made. The commenter stated that the Project must *demonstrate consistency* with the MSHCP, not that the project must comply with the MSHCP requirements. A project may comply with the MSHCP requirements and still be inconsistent.
- Response to MA-4 is conclusory and not based on reasoning or evidence in the record.
- Response to MA-7 is unresponsive to the comment made regarding impacts to freeways, overpasses, and roads which will not receive the fees paid by this project for improvements and for which improvements are uncertain. The response also seems to suggest that the project will be gifting massive sums of money to the state and region for improvements. This response fails to state, however, that the fees to be paid by this project are for the purpose of mitigating this project's environmental impacts.
- Response to MA-10 is contradictory and does not respond to the comment made. The response states that project traffic will not pass through residential neighborhoods, while noting that properties adjacent to the access road to the site are designated residential. Moreover, the comment made stated that trucks often pass through "or near residential areas." Also, the comment clearly states that, for truck impacts *to roadway surfaces*, 1 truck = 1,000 cars. The referenced portion of the EIR instead discusses traffic/ truck volume impacts, not necessarily impacts to roadway surfaces.

- Response to LA-2 does not respond to the comment made which inquires which mitigation measures were found to be infeasible and will not be required of this project.
- Response to LA-3 is unresponsive to the comment made. The comment inquires what protection measures against Diesel PM will be implemented for the warehouse workers, and the response merely states that the impacts to on-site workers are not analyzed in the EIR. Nonetheless, mitigation measures, conditions, and project design may implement *protection* measures. Also CAL/OHSA may require additional worker protection measures. The FEIR is thus unresponsive to the comment made.
- Response LA-4 is conclusory and states, without reference to any evidence in the record that, “No potentially hazardous materials, beyond those described [paint, solvents, fertilizers, etc.] are anticipated to be handled at the site.” There is simply no basis for this conclusion. The remainder of the commenter’s concerns regarding spills and smoke plumes are unaddressed.
- Response to LA-5 states that the level of LEED certification cannot be determined as the tenants and uses are unknown. However, it would be feasible to require at least LEED silver certification by contract specification. If a higher LEED certification was deemed possible, there is no bar from achieving that higher level.
- Response to GB-2 is unresponsive to the comment made. Namely, the commenter merely asked what “environmental aspects” of the site are missing from the Geotechnical investigation. This question remains unanswered in the response.
- Responses to GB-5, GB-7, and GB-9 neither make needed changes to the EIR nor provide good faith, reasoned responses for determining not to make those changes. Specifically, the commenter asked why the Casa Loma fault was not included in the EIR when it is proximate to the project. The responses ignore the EIR’s role as an informational document and determined that, since the project would nonetheless comply with the California Building Code, such information could be omitted. This is contrary to the information disclosure requirements of CEQA. Likewise, the response at GB-5 notes that the Casa Loma fault was likely not included in the UBCSEIS database. None of these three responses, however, support a determination that the project will not be impacted by this fault.
- Response to GB-8 is unresponsive to the comment made.
- Response to GB-10 neither makes needed changes to the EIR nor provides good faith, reasoned responses for determining not to make those changes. The commenter points out scenic resources which were unincorporated into the EIR and the DEIR description, and the response seems to concur that these scenic resources are significant and were omitted. Beyond such concurrence, however, no changes are made to the EIR or explanation given for determining not to make those changes.
- Response to CCA-1 is unresponsive to the comment made. The commenter specifically asks what mitigation will occur for cumulative traffic and diesel impacts. No response to this inquiry is given.
- Response to CCA-2 is likewise unresponsive to the inquiries made regarding noise impacts and mitigation for cumulative impacts.
- Response to CCA-3 does not evidence that the project adopted all feasible mitigation. Comment CCA-3 recommended additional and certain mitigation which was not discussed in the response and not determined to be infeasible. Such measures as retrofit

all trucks and phase them in over a period of time must be included to reduce the project's air quality impacts.

- Response to FNSJ-3 is unresponsive to the comment made. The commenter stated that agricultural impacts for this project were deemed potentially significant and should be mitigated through the purchase of conservation easements. The response ignores the fact that, where an EIR tiers off of a broader EIR, CEQA requires that effects of later projects should be evaluated if they are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, the imposition of conditions, etc. (Guidelines § 15152) Here, the commenter plainly states that such potentially significant impacts could be reduced through purchase of conservation easements, and the comment should be given substantial consideration.
- Response to FNSJ-4 does not find that it is infeasible to require that off-road heavy construction to meet CARB Tier III or better certification. Such mitigation is feasible and would significantly reduce the project's air quality impacts. The measure must be required.
- Response to FNSJ-7 combines many comments and provides conclusory, unreasoned, and unresponsive responses. The response ignores the comment calling for a discussion of air quality impacts to health risks and impacts to biological resources.
- Response to FNSJ-8 combines the response to at least four comments into one, and goes on to ignore several of the comments made. For instance, there is not response made to the comment that growth inducing impacts on air quality were not evaluated.
- Response to FNSJ-12 does not evince a good faith, reasoned response to the comments made that impacts from global warming on the project must be analyzed; potentially exacerbated project impacts as a result of climate change must be analyzed; and global warming impacts on water supply and flooding must be analyzed.
- Response to FNSJ-16 does not respond to the question raised regarding onsite eating facilities.
- Responses to FNSJ regarding mitigation measures (FNSJ-18-20) seem to state that the *commenter* need to demonstrate that mitigation is either required or a nexus such that mitigation is necessary. This is not a showing required of a commenter in proposing mitigation; this is a requirement of the measure itself to be determined by the lead agency, as discussed above. (Guidelines 15126.4(a)(4) and (5).)
- Response to FNSJ-22 notes that four of the alternative sites considered are not available, yet irrationally concludes that by considering four unavailable and impossible alternative sites, a reasonable range of alternatives was considered. None of these "alternatives" may be included in the range of alternatives considered when, in fact, only Alternative Site 5 was considered. The response also does not address the issue of quantification of impacts raised by the commenter.
- Response to SG-1 is unresponsive to the comment made. The commenter notes the potential for blight in the area due to unoccupied buildings, aesthetic impacts, and long term growth inducing impacts from the zone change. No response is made to these issues.
- Response to SG-8 does not respond to the issue raised of reinforcing the roof and installing solar panels.

- Response to HF-1 is unresponsive to the comments made and fails to demonstrate a good faith, reasoned response.
- Response to SM-3 is conclusory and fails to provide reasoning. Likewise, NDN-5. The project fails to incorporate feasible mitigation recommended previously by Johnson & Sedlack, discussed above, including mitigation recommended in the Noise Impact Study.
- Response to DR1-6 is unresponsive to the comment made suggesting an alternative site by March Global Port.
- Response to SC-4 does not respond to what time of day truck trips are expected, merely that the project is assumed to be operation 24/7. This is unresponsive to the comment made and fails to provide any hourly expectations, particularly during peak hours.
- Response to TT-7 does not find it infeasible to require additional wall offsets in order to mitigate for aesthetic impacts. Instead, the response purports to defer this potential mitigation to a later time. This is improper and this mitigation measure must be required of the project.
- Response to TT-11 does not incorporate or find infeasible the mitigation recommended including requiring that a percentage of the fleet vehicles of tenants be low or zero emission and requiring soot filters or the latest available technology.
- Response to RJ-C-1 is unresponsive to the comment made.

#### **Mitigation Monitoring Plan:**

The following comments on the MMP are in addition to comments made previously in the “Text Revisions” section.

#### **Traffic:**

Many of the traffic mitigation measures state that the improvement will be funded through participation in the TUMF, DIF, or other fair share program. It is unclear in the MMP, however, whether the applicant need only pay into the program prior to issuance of the first building permit, or whether the improvements must be completed prior to issuance of the first building permit in order to mitigate for the traffic impacts listed. This should be clarified so that mitigation is certain and enforceable in the monitoring program.

#### **Air Quality:**

Not all feasible mitigation has been adopted to reduce air quality impacts from the project.

MM 4.3.2 in the MMP does not make the alterations stated in the responses to comments and text revision section (removing “during smog season”, etc.) Moreover, trucks should be limited from idling beyond 3 minutes.

MM4.3.4 requires that contractors for the project will use CARB Tier 2 equipment or better. It is feasible to require at least Tier 3 certified or better.

For MM 4.3.6, it is feasible to require that only existing electrical power sources may be used; no diesel or gasoline powered generators shall not be utilized for project construction.

For MM 4.3.8, the language creates uncertain and unenforceable. Measures must only be included in plans and bid documents which may be subsequently altered and are not required of the project itself as written. The language must be changed to delete the introductory statement such that the mitigation measures apply directly to the project. Also, at bullets 6, 8, 9, and 10 which state that a measure shall be used “where feasible,” this language must omitted or changed to read where “technologically possible.” Likewise, at bullet 12, the “greatest extent practical” language must be deleted. As currently written, such mitigation measures are unenforceable and contrary to CEQA. Finally, bullet 14 states that all forklifts used in the operation of the Project shall be electric or natural gas powered, where MM 4.3.8 applies only to construction and construction contracts. This measure should be repeated elsewhere to reduce operation air quality impacts of the project.

MM 4.3.10 represents only one half of the mitigation measure- the posting of signs. An additional mitigation measure and/or monitoring program must be adopted for the second half of the mitigation measure-enforcement of the measures by the on-site facilities manager (or equivalent.) As written, this mitigation measure is uncertain and unenforceable.

MM 4.3.11 requires less mitigation than stated in the EIR. Namely, the EIR and responses to comments have repeatedly stated that the project will surpass Title 24 standards by 20%, yet the mitigation measure actually requires this surpassing of Title 24 by 20% only for “water heating and space heating and cooling.” This limitation must be removed from the language of the mitigation measure. It is feasible to require that the project surpass Title 24 by 20% for the project as a whole, and in fact, feasible to surpass Title 24 by 30%.

MM 4.3.13 bullet 7 is completely uncertain and unenforceable. The measure provides that lease/purchase documents shall *note* that tenants are “encouraged” to provide incentives to realize mitigation measures. This introductory language must be removed and the mitigation measures required of the *project itself* through lease/purchase contracts. Moreover, most of the mitigation measures included in MM4.3.13 bullet 7 would reduce air quality emissions, namely Diesel PM, not merely GHGs as stated.

**Noise:**

Mitigation measures adopted for noise require that “Project plans and specifications shall include a statement that...” Again, no mitigation or monitoring is actually required of the project itself, only the written documents. No mitigation of project impacts is certain to occur.

MM4.4.2 is unenforceable, as the language of the measure requires that equipment be staged in areas that will create the “greatest distance” between noise and off-site receptors. A minimum distance or performance standard must be required to ensure that the distance chosen mitigates noise impacts.

MM 4.4.3 is uncertain, as it requires that haul routes not pass sensitive land uses or residences “[t]o the extent feasible.” This feasibility language must be removed so that this measure is certain and enforceable.

MM4.4.4 is unenforceable as it provides for the “maximum reduction for noise sensitive uses.” Some performance standard or specific type of noise curtain must be specified to ensure that the maximum reduction for noise sensitive uses actually occurs.

**Water Supply:**

There is no monitoring plan for MM 4.5.4.

**Cultural Resources:**

The mitigation and monitoring for MM 4.7.2 must occur throughout excavation and grading activities, not “Prior to issuance of first Certificate of Occupancy.”

**Alternatives:**

A substantial number of comments concern the consideration of an inadequate range of alternatives, namely the *consideration of only one viable alternative site*. Alternative Sites Nos.1-4 are unavailable and were presumably included in the EIR in order to deceive the public and decision-makers into believing that an adequate range of alternatives was considered. The responses to comments concur that only Alternative Site No.5 was a viable alternative. (*See, Response to FNSJ-22*) Additional alternative sites must be considered for this project in order for there to have been consideration of a reasonable range of alternatives.

**Statement of Overriding Considerations:**

A statement of overriding considerations is improper with this project as the project will have extensive environmental impacts, as discussed above, yet only minimal project benefits. The project will have adverse impacts to/from the following: aesthetics, air quality, noise, and transportation/traffic. This includes substantial concerns for human health, including health risks from air pollutant emissions and health risks from excessive noise. These are major environmental risks which must be deemed offset by the economic, legal, social, technological, or other benefits of the project. (Guidelines § 15093(a).) This project will generally only benefit the developer of the warehouse. Yes, the project could create some new jobs in the area and generate some annual taxable sales, yet as noted by many commenters, warehouses already developed in the area remain vacant. These speculative benefits are comparatively insubstantial when compared to project risks. A statement of overriding considerations cannot be adopted for this project.

Thank you for your consideration of the above comments.

Sincerely,



Raymond W. Johnson  
JOHNSON & SEDLACK

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South Coast  
Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182  
(909) 396-2000 • www.aqmd.gov

E-Mailed: May 12, 2011  
jeffreyb@moval.org

May 12, 2011

Mr. Jeff Bradshaw  
City of Moreno Valley  
Community Development Department  
14177 Frederick Street  
Moreno Valley, CA 92553

**Review of the Final Environmental Impact Report (Final EIR) for the  
Proposed West Ridge Commerce Center Project**

The South Coast Air Quality Management District (AQMD) appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the lead agency and should be considered prior to certifying the Final Environmental Impact Report (Final EIR) as appropriate.

The proposed project will result in at least 856 trucks per day serving a warehouse that is approximately one million square feet. As a result, the AQMD staff is concerned about the significant air quality impacts and elevated cancer risk impacts to sensitive receptors (i.e., residences adjacent to the project site) from the high volume of diesel truck traffic generated by the proposed project. On December 10, 2010 the AQMD staff provided comments on the draft EIR regarding these impacts and expressed specific concern about the project's air quality analysis and health risk assessment (HRA). Further, AQMD staff suggested a list of mitigation measures to reduce the project's significant air quality impacts.

On May 2, 2011 the AQMD staff received the response to comments in the most recent staff report. Upon review of this document we continue to have concerns regarding the project's significant air quality impacts, potential deficiencies in the health risk assessment, mitigation measures and land use compatibility. Specifically, the AQMD staff recommends that the lead agency revisit the operational profile in the HRA to ensure that it is consistent with the traffic study. Also, given that the proposed warehouse project will require a significant number of trucks that travel adjacent to residential land uses the AQMD staff recommends that the lead agency provide additional mitigation to

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reduce the project's significant truck emissions and revisit the size of the proposed setback between the trucks serving the project and future and current residential uses. Details regarding these concerns are enclosed.

AQMD staff is available to work with the lead agency to address these air quality issues and any other questions that may arise. Please contact Dan Garcia, Air Quality Specialist CEQA Section, at (909) 396-3304, if you have any questions regarding the enclosed comments.

Sincerely,



Ian MacMillan  
Program Supervisor, CEQA Inter-Governmental Review  
Planning, Rule Development & Area Sources

Attachment

IM:DG

SBC110428-02  
Control Number

## 1. Health Risk Assessment Methodology

AQMD staff originally commented on potential methodological deficiencies in the HRA presented in the Draft EIR. We appreciate the response to those comments, and have the following comments based on those responses. AQMD staff is still concerned that the HRA methodology in the Draft EIR may underestimate potential health risks to nearby sensitive receptors based on the following points.

- The HRA source geometry does not reflect the layout of the proposed building as detailed in Figure 3.5-4 of the Draft EIR and Exhibit 5-4 of the Transportation Impact Analysis (TIA) appendix. The primary difference between the modeled approach and the project description in the EIR is the location of truck entrances to the facility. The project description and TIA indicate that up to 80% of the truck traffic serving this facility will travel along the future Eucalyptus Avenue, just south of the site. However the HRA assumes that the majority of truck traffic enters the facility through eastern and western entrances, and that Eucalyptus Avenue only accommodates 29.7% of all truck traffic. This discrepancy yields an underestimation of approximately 430 truck trips per day travelling along Eucalyptus Avenue. Without considering the diesel emissions from these trips, the risk reported for the residential receptors located closest to the facility just south of Eucalyptus Avenue will be underestimated.
- The HRA underestimates the amount of trucking activity that will occur onsite by not including onsite traveling emissions. Given the significant size of the project, each truck can be expected to travel approximately ¼ mile in the southern truck entrances and loading areas onsite and nearly ¾ mile in the northern loading areas and western entrance. With 856 truck trips per day, this omission yields an underestimate of approximately 200 miles of onsite trucking activity per day. Without including the diesel emissions from this activity, the health risk reported in the Final EIR is underestimated.
- The proposed mitigation measure of reducing idling to a total of 3 minutes onsite for each truck may not be achievable given the description included in the EIR. For example, it is unclear how the project proponent will enforce the measure with 856 trucks per day (equal to approximately two truck trips onsite each minute of a 24 hour day) on a 50+ acre site with 173 docks and 175 truck parking stalls. The lead agency should either include specific provisions that establish how this measure will be enforced (e.g., onsite staff dedicated solely to monitoring diesel activities), or revise the HRA to include a more realistic composite onsite idling time of 15 minutes per truck (5 minutes entering, 5 minutes onsite, 5 minutes exiting).

## 2. Land Use Compatibility Mitigation

AQMD staff appreciates the inclusion of the proposed amendment of Municipal Code 9.05 as a part of this project. This amendment requires that industrial and warehouse projects greater than 50,000 square feet in size be separated from any residential district

by a distance established by an air quality or noise analysis, with a minimum of a 250-foot setback. This is a forward-thinking measure; however, its overall effect may be substantially reduced by not including a cumulative analysis of the primary truck route serving the facility in the distance measurement. For example, in the current project over 680 truck trips per day serving this facility will pass adjacent to a residential district south of the future Eucalyptus Avenue. This significant trucking activity may produce emissions that surpass those produced in the southern loading area. However, as written the setback area is measured from the loading area, not the truck route. AQMD staff recommends that the lead agency include truck routes within this amendment.

### 3. Regional and Localized Air Quality Mitigation

AQMD staff appreciates the addition of a mitigation measure in the Final EIR to address diesel emissions from trucks. However, given the project's significant regional and localized operational air quality impacts from VOC, NOX, PM10 and PM 2.5 emissions the AQMD staff recommends that the lead agency revise Mitigation Measure 4.3.13 to ensure that these impacts are minimized. Specifically, the lead agency should revise the aforementioned measure to extend this requirement to any fleet owners/operators that serve the proposed project; therefore, the measure should be revised as follows:

- Lease/purchase documents shall identify that tenants are encouraged to provide incentives to use of fleet vehicles conforming to 2010 air quality standards or better.
- If trucks older than 2007 model year will be used at the facility, within one year of signing a lease, tenants of the project and/or fleet owners and/or operators that serve the proposed project shall apply in good faith for diesel truck replacement/retrofit grant programs such as those offered by AQMD or ARB, and shall use those funds if awarded.

Information about various funding programs can be found the following websites:

- <http://www.aqmd.gov/tao/Implementation/index.htm> and
- [http://www.arb.ca.gov/msprog/truckstop/azregs/fa\\_resources.php](http://www.arb.ca.gov/msprog/truckstop/azregs/fa_resources.php)

**From:** Paul Claxton  
**Sent:** Wednesday, May 11, 2011 5:42 PM  
**To:** Jeffrey Bradshaw; John Terell; Grace Espino-Salcedo  
**Subject:** West Ridge Commerce Center  
Mr. Bradshaw, Mr. Terell, and Ms Espino-Salcedo,

I am writing to express my concern about plans to put in another nearly one million square foot warehouse.

I bought my home ten years ago in a very different Moreno Valley. I work at March Air Force Base and when we moved here from Washington state my family looked at a number of towns in the area – Corona, Riverside, and Moreno Valley among others. What struck me about Moreno Valley was the beautiful east end of ranches and open land. The city struck me as a pleasant bedroom community to raise my family, grow old, and retire in. That's no longer the case. The city seems hell bent into becoming another Ontario or San Bernadino full of warehouses, lower wage jobs, traffic, noise, pollution, crime, and high taxes. Sorry, I am at a point in my career that I can afford to pull out and move if I have to and it is very apparent to this frog that the pot is on the range top and the water is getting warmer. The crime rate is already soaring with the violence brought here by the gangs and the drugs they freely peddle on our streets without having to drive out more tax payers for additional renters and section 8 housing.

I live just a couple short miles away from this second stake into the heart of the valley. The Sketcher's warehouse has yet to open and I can hardly wait for 200 semi-trucks an hour to roll down the 60 freeway, Ironwood and other side streets creating noise and pollution. This warehouse hasn't created another job in the city yet, I find it hard to imagine that people would sell their homes in Ontario and move here to be 15 miles closer to work, unlikely.

Paul Claxton  
Moreno Valley

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

## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Barry Foster, Community & Economic Development Director

**AGENDA DATE:** July 12, 2011

**TITLE:** A PUBLIC HEARING FOR CONSIDERATION OF THE REVISION OF TITLE 9, CHAPTER 9.08, SECTION 9.08.100, "LIGHTING", SECTION 9.08.190, "STREET LIGHTING", CHAPTER 9.16, ARTICLE IV, "APPLICATIONS FOR HILLSIDE DEVELOPMENT, SECTION 9.16.235 "HILLSIDE DESIGN GUIDELINES" ARTICLE VI, APPLICATIONS FOR LIGHTING, SECTION 9.16.280 "GENERAL REQUIREMENTS, AND CHAPTER 9.15 SECTION 9.15.030, "DEFINITIONS" RELATING TO DARK SKY PROVISIONS FOR GENERAL ON-SITE, STREET AND ATHLETIC FIELD/PARK LIGHTING CITYWIDE. THE APPLICANT IS THE CITY OF MORENO VALLEY.

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### RECOMMENDED ACTION

Staff recommends that the City Council conduct a public hearing on the proposed lighting standards. Should the City Council choose not to adopt the new standards, no action is required. Should the City Council choose to adopt the new standards, the following actions are required:

1. **RECOGNIZE** that the proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061 of the CEQA Guidelines; and
2. **ADOPT** Ordinance No. 2011-831, approving revisions to Title 9, Chapter 9.08, Section 9.08.100, "Lighting", Section 9.08.190, "Street Lighting", Chapter 9.16 Article IV "Applications for Hillside Development", Section 9.16.235 "Hillside Design Guidelines", Article VI, Applications for Lighting, Section 9.16.280 "General Requirements", and Chapter 9.15 Section 9.15.030, "Definitions" relating to dark sky provisions for general on-site, athletic field/park and street lighting citywide.

## **ADVISORY BOARD RECOMMENDATIONS**

On April 14, 2011, the Planning Commission conducted a public hearing to review proposed revisions related to lighting for general site, street and athletic field/park lighting citywide. At the conclusion of the public hearing and Commissioner debate, the Commission unanimously recommended that the City Council not amend lighting provisions within the Municipal Code to include a dark sky emphasis for general site, street and athletic field/park lighting.

The Planning Commission stated a number of reasons for their recommendation for denial including, but not limited to, their belief that the proposed dark sky ordinance revisions to existing Municipal Code lighting standards would be intrusive to both residential homeowners and commercial/industrial projects, curfew lighting having the potential to create reduced lighting conditions and the potential for reduced lighting within parking lot peripheries. The Commissioners mentioned that the reduction of lighting in the later night hours may lead to potential public safety issues and that some provisions such as the night lighting curfew and light wattage requirements may be difficult to enforce.

## **BACKGROUND**

On October 20, 2009, the City Council provided direction for staff to review existing lighting standards and provide proposed dark sky provisions for consideration. The review of existing lighting ordinance standards is a direct result of the settlement agreement reached on January 7, 2010, between the Sierra Club, Highland Fairview and the City regarding approval of the Highland Fairview Corporate Park Project and the Skechers warehouse building.

The current City of Moreno Valley Municipal Code lighting requirements include provisions to curb on-site lighting such as the current limit for lighting at property lines to a maximum of 0.5 foot candle and residential lighting fixture limit of twelve feet in height. Some of the current lighting standards however, do not facilitate a dark sky approach or assist in promoting energy efficiency. For example, the City currently requires that parking lots and other public spaces be lit "from dusk to dawn" which exceeds the hours of operation for most retail and non-retail properties, especially office and religious establishments.

Research conducted by the Planning Division found that only a few cities had adopted dark sky ordinances. Surrounding cities such as Riverside, Perris and Redlands have not adopted dark sky ordinances. Although the settlement agreement suggested utilizing standards from the City of Palm Desert, a combination of ordinances from the cities of Palm Desert, Beaumont, Palm Springs, Encinitas, San Diego and other cities were reviewed. Standards within these ordinances and draft guidance standards by the International Dark-Sky Association were the basis for the revised lighting provisions.



The primary purposes of changing current lighting practices and drafting a dark sky ordinance include:

- Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night;
- Curtail and reverse any degradation of the nighttime visual environment and the night sky;
- Minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary;
- Conserve energy and resources to the greatest extent possible;
- Help protect the natural environment from the negative effects of night lighting.

## **DISCUSSION**

Pursuant to the direction provided by the City Council, staff developed revised onsite and parking lot lighting, lighting required on streets and right of ways and lighting provided for sports activities within parks and athletic fields for City Council consideration. Based on provisions within the settlement agreement, staff was to report back to City Council with draft lighting requirements and recommendations for consideration without commitment to adopt an ordinance.

Some of the major modifications proposed to the existing lighting standards include:

- Revised development and performance standards including maximum wattage of light bulbs for single-family residential, multiple-family residential (100 watts) and non-residential (commercial and industrial) properties (250 watts);
- All lighting to include full cutoffs to prevent excess trespass for residential-multiple family and all non-residential properties.
- A further reduction of permitted light trespass or spillover lighting on adjacent properties for all non-residential and multi-family residential properties to not exceed 0.25 foot candle minimum maintained lighting measured from within five (5) feet of any property line consistent with language in the Palm Desert ordinance. This compares with the existing ordinance standard to not exceed 0.50 foot candle at the property line.
- The inclusion of height limits for hillside residential lighting of 8 feet, with all other residential areas not to exceed 12 feet; and non-residential lighting height limits of 30 feet, except within 100 feet of a residential use, where the maximum height would be 20 feet and walkway/courtyard lighting with a maximum of 12 feet in height.

- The addition of lighting curfews for outdoor lighting for non-residential uses requiring all lighting to be reduced by 50 percent beginning at 10:00 p.m. or the close of business, whichever is later, until dawn or the start of business, whichever is earlier.
- The addition of athletic field lighting standards to include horizontal cutoffs to reduce vertical lighting above the fixture for new lighting and retrofit fixtures and a maximum lighting value for lighting recreational athletic fields to be an average maintained 50 foot-candles.
- The modification of existing street light standards to indicate that the installation of street lighting is solely for the purpose of illuminating the public right of way in conformance to the city street lighting standards, which include the provision that the developer will pay all costs related to the installation of street lighting and establish a method for the payment of maintenance and operations.

In the process of updating current lighting standards, staff established a subcommittee with members from the departments involved with lighting, including Land Development, Transportation, Police, Special Districts, Moreno Valley Utility and Parks and Community Services. All department representatives of the subcommittee assisted in drafting revised lighting language, reviewed draft dark sky lighting standards, and have agreed to the proposed modifications as presented and attached to this report in cross-out/underline and clean copy formats.

### **ALTERNATIVES**

1. Based on the recommendation of the Planning Commission, reject the proposed draft dark sky lighting modifications and not take action on the ordinance.
2. Approve the proposed draft dark sky lighting ordinance as written.
3. Approve the proposed draft dark sky lighting ordinance with modifications. The Council could elect to remove or modify items such as the lighting curfew, provisions modifying additional spill-over lighting adjacent to adjoining properties or restricting wattage of lighting for residential and/or non-residential properties.
4. Return the proposed dark sky lighting ordinance back to the Planning Commission with further direction.

### **NOTIFICATION**

Public notice of the proposed Municipal Code Amendment was published in the local newspaper as a 1/8 page display ad on June 24, 2011, and was mailed to the Sierra Club.

**ATTACHMENTS**

1. Public hearing notice
2. City Council Ordinance, including clean copies of the Ordinance amendment
3. Strikeout/underline version of Chapter 9, Section 9.08.100 "Lighting" of the Municipal Code
4. Strikeout/underline version of Chapter 9, Section 9.08.190, "Street Lighting" of the Municipal Code
5. Strikeout/underline version of Chapter 9.16, Article IV, "Applications for Hillside Development", Section 9.16.235 "Hillside Design Guidelines" of the Municipal Code
6. Strikeout/underline version of Chapter 9.16, "Applications for Lighting" Section 9.16.280 "General Requirements" of the Municipal Code.
7. Strikeout/underline version of Chapter 9.15, Section 9.15.030 "Definitions" of the Municipal Code.
8. Planning Commission Report dated April 14, 2011, excluding attachments
9. Planning Commission Minutes of April 14, 2011

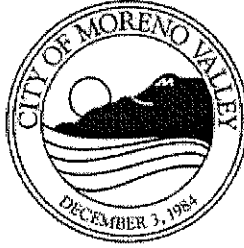
Prepared By:  
Mark Gross, AICP,  
Senior Planner

Department Head Approval:  
Barry Foster  
Community & Economic 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 CITY COUNCIL PUBLIC HEARING**

THE CITY COUNCIL WILL CONSIDER A CITYWIDE AMENDMENT (PA10-0022) TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, TITLE 9 OF THE MORENO VALLEY MUNICIPAL CODE, CHAPTER 9.08, SECTION 9.08.100 "LIGHTING" AND SECTION 9.08.190 "STREET LIGHTING", CHAPTER 9.16, ARTICLE IV "APPLICATIONS FOR HILLSIDE DEVELOPMENT", SECTION 9.16.235 "HILLSIDE DESIGN GUIDELINES", ARTICLE VI "APPLICATIONS FOR LIGHTING", SECTION 9.16.280, "GENERAL REQUIREMENTS", AND CHAPTER 9.15, SECTION 9.15.030 "DEFINITIONS" RELATING TO MODIFICATIONS OF GENERAL SITE, STREET AND ATHLETIC FIELD/PARK LIGHTING WITH AN EMPHASIS ON DARK SKY STANDARDS CITYWIDE

The amendment would modify current lighting provisions including, but not limited to the refinement of existing code standards for general site, athletic field and street lighting to provide a further reduction of light spillover onto adjacent properties and a dark sky approach citywide.

The City Council may consider any appropriate modifications or alternatives to the amendment or environmental determination. The amendment is exempt under California Environmental Quality Act Guidelines Section 15061 in that there is no possibility that the proposed activity may have potential for a significant impact upon the environment.

Any person interested in the proposed project may contact Mark Gross at (951) 413-3215 or at the Community & Economic Development Department at 14177 Frederick Street, Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday – Thursday).

If you challenge any of these items in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the City Clerk or City Council on or before the following meeting date:

**Tuesday, July 12, 2011**

**6:30 P.M.**

**City Council Chamber**

**14177 Frederick Street.**

**Moreno Valley, CA 92552-0805**

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ORDINANCE NO. 831

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA APPROVING PA10-0022 TO AMEND TITLE 9 OF THE MORENO VALLEY MUNICIPAL CODE, CHAPTER 9.08, SECTION 9.08.100 "LIGHTING" AND SECTION 9.08.190 "STREET LIGHTING", CHAPTER 9.16, ARTICLE IV APPLICATIONS FOR HILLSIDE DEVELOPMENT SECTION 9.16.235 "HILLSIDE DESIGN GUIDELINES", ARTICLE VI APPLICATIONS FOR LIGHTING AND SECTION 9.16.280, "GENERAL REQUIREMENTS" AND CHAPTER 9.15, SECTION 9.15.030 "DEFINITIONS" RELATING TO MODIFICATIONS OF GENERAL SITE, STREET AND ATHLETIC FIELD/PARK LIGHTING WITH AN EMPHASIS ON DARK SKY STANDARDS CITYWIDE

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

SECTION 1: RECITALS

- 1.1 Pursuant to the provisions of law, public hearings were held before the City of Moreno Valley Planning Commission and the City Council.
- 1.2 The matter was fully discussed and the public and other agencies presented testimony and documentation.
- 1.3 The ordinance amendment is attached hereto and incorporated herein as Exhibit A.

SECTION 2: FINDINGS

2.1 Based upon substantial evidence presented to this City Council during the above-referenced meeting on July 12, 2011, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:

1. **Conformance with General Plan Policies** – The proposed modifications to the Municipal Code are consistent with the General Plan, and its goals, objectives, policies and programs.

**FACT:** The citywide project consists of modifications to existing lighting standards established in the City of Moreno Valley Municipal Code. Numerous sections of the Code will be modified regarding lighting for general site, athletic field and street lighting to provide a further reduction of light spillover onto adjacent properties, a dark sky approach and a reduction of overall energy/electricity use.

ATTACHMENT 2

All of the proposed clarifications and modifications included within the Municipal Code amendment are consistent with, and do not conflict with the goals, objectives, policies, and programs established within the General Plan. Particularly, Objective 2.10.7 of the General Plan indicates that on-site lighting should not cause nuisance levels of light or glare on adjacent properties.

2. **Conformance with Zoning Regulations** – The proposed modifications to the Municipal Code comply with all applicable zoning and other regulations.

**FACT:** The primary purpose of modifying current lighting ordinance practices is to permit reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night, curtail and reverse any degradation of the nighttime visual environment and the night sky, minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary and conserve energy. The amendments to the Municipal Code are consistent with applicable zoning standards and all other regulations within the Code. The newly established language within the amendment are internally consistent and compatible with the purpose and intent of Title 9, and will refine the language within the existing lighting and design standards within the various sections of the Code. The amendments are also internally compatible with other regulations established within the Moreno Valley Development Code.

3. **Health, Safety and Welfare** – The proposed modifications to the Municipal Code will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

**FACT:** The modification and enhancement of existing Municipal Code general and design standards for on-site and street lighting with an emphasis on maintaining dark night skies creates a positive environment for the development of Moreno Valley's future and allows for the preservation of night skies and reduction of glare and light in more environmental sensitive land use areas such as residential hillside and open space areas. Pursuant to Section 15061 of the CEQA Guidelines, the project meets requirements for project exemption as there is no possibility that the modification of existing light standards to further prevent light spillover into adjacent properties and into the night sky may have a significant effect on the environmental, while the activity is not subject to CEQA requirements. The proposed amendment also does not have the potential to



adversely affect the public health, safety or welfare of the population residing in the City of Moreno Valley or surrounding jurisdictions.

SECTION 3: ADOPTION

Based on the foregoing recitals and findings, the City Council of the City of Moreno Valley does hereby adopt and approve the ordinance amendment attached hereto as Exhibit A.

SECTION 4: EFFECT OF ENACTMENT:

Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 5: NOTICE OF ADOPTION:

Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 6: EFFECTIVE DATE:

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

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

**ORDINANCE JURAT**

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE ) ss.

CITY OF MORENO VALLEY )

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. \_\_\_\_\_ had its first reading on \_\_\_\_\_, \_\_\_\_\_ and had its second reading on \_\_\_\_\_, \_\_\_\_\_, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

\_\_\_\_\_  
CITY CLERK

(SEAL)

### 9.08.100 Lighting.

A. Purpose and Intent. The purpose of this section is to establish regulations and standards for outdoor lighting which will reduce light pollution and trespass generated by residential and non-residential lighting fixtures and devices, while maintaining dark skies. It is also the intent of this section to encourage, through the regulation of the types, construction, installation and uses of outdoor illuminating devices, lighting practices and systems to conserve energy without decreasing safety, security and productivity.

B. Applicability. Lighting standards included in this chapter shall apply to:

1. All new development

2. Any existing development or parking area providing five or more spaces, which is enlarged, reconstructed, altered or changed from its previous configuration shall be subject to illumination requirements included in this chapter.

3. Existing land uses are exempt from specific lighting requirements included in this chapter, except that they are subject either to general lighting intensity standards (i.e. foot candle requirements) in place prior to the effective date of this ordinance or standards of a prior point by point or photometric lighting plan approved by the City. Any general modifications to existing on-site lighting structures or fixtures and/or intensity of lighting may be subject to the regulations provided in the entirety of this chapter as determined by the submittal and review of a new or revised photometric lighting plan.

C. Minimum Development and Performance Standards. All exterior lighting shall meet the following requirements:

1. Single Family Residential Uses.

a. In all single family residential areas, light should be shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter.

b. The maximum wattage for residential lighting shall be 100 watts incandescent and 26 watts compact fluorescent, except for recreational courts.

c. Lighting standards for recreational courts are subject to Section 9.09.190 "Swimming pools, spas and recreational courts", while approval of all recreational court lighting is subject to a point by point photometric lighting plan submittal.

EXHIBIT A

2. Multiple Family Residential Uses.

a. All outdoor lighting associated with residential uses shall be fully shielded and directed away from adjacent residential properties. Such lighting shall not exceed one-quarter (0.25) foot candle minimum maintained lighting measured from within five (5) feet of any property line, and shall not blink, flash, oscillate or be of unusually high intensity or brightness.

b. All lighting installations shall be designed and installed with full cutoff and be fully shielded to reduce glare and light trespass.

c. The maximum wattage for residential lighting shall be 100 watts incandescent and 26 watts compact fluorescent, except as allowed for parking lot lighting and recreational courts.

d. Parking lot lighting for designated multiple family residential parking areas shall meet the requirements included in item (4) (a-c) below.

3. Non-Residential Uses.

a. All outdoor lighting associated with nonresidential uses shall be fully shielded and directed away from surrounding residential uses. Such lighting shall not exceed one quarter (0.25) foot candle minimum maintained lighting measured from within five feet of any property line, and shall not blink, flash, oscillate or be of unusually high intensity or brightness;

b. All lighting installations shall be designed and installed with full cutoff and be fully shielded to reduce glare and light trespass;

c. The maximum wattage for non residential uses shall be 250 watts of high intensity discharge (HID) lighting.

4. Off-Street Parking.

a. All parking lots or structures providing more than five spaces for use by the general public and their pedestrian links shall be provided with a minimum coverage of one (1) foot candle of light with a maximum of eight (8) foot candles on the parking or walkway surface, unless otherwise approved, for visibility and security. Such lighting shall not exceed one quarter (0.25) foot candle minimum maintained lighting measured from within five (5) feet of any property line, and shall not blink, flash, oscillate or be of unusually high intensity or brightness. All wiring shall be underground;

b. All lighting installations shall be designed and installed with full cutoff and be fully shielded to reduce glare and light trespass;

c. The maximum wattage for parking lot lighting shall be 250 watts of high intensity discharge (HID) lighting;

5. Public Parks, Trails and Athletic Field Lighting.

a. The illumination of outdoor public recreational (sports) facilities, unless a specific recreational activity requiring the lighting is already in progress is prohibited between midnight and dawn. Lighting shall be provided as specified in this chapter. All lighting shall be designed and installed in compliance with the Parks and Community Services document titled "LIGHTING STANDARDS FOR PARKS AND RELATED PUBLIC FACILITIES".

b. Public Parks: New lighting designs and retrofit fixtures shall contain horizontal cutoff to reduce vertical lighting above the fixture. New lighting for parks and related facilities should have a maximum of twenty-five one-hundredths (.25) foot-candles at five (5) feet from property line\*. Due to geographic difficulties or areas that require higher lighting levels for security, a maximum output of five-tenths (0.5) foot-candles of light at ground level at property line may be utilized.

c. Trails: New lighting designs and retrofit fixtures shall contain horizontal cutoff to reduce vertical lighting above the fixture. Lighted trails not incorporated in the roadway shall be illuminated with a minimum maintained twenty-five one-hundredths (0.25) foot-candles of light at ground level during the hours of darkness. New lighting for trails should have a maximum of twenty-five one-hundredths (.25) foot-candles at five (5) feet from property line\*. Due to geographic difficulties or areas that require higher lighting levels for security, a maximum output of five-tenths (0.5) foot-candles of light at ground level at property line may be utilized.

d. Athletic Field Lighting: New lighting designs and retrofit fixtures shall contain horizontal cutoff to reduce vertical lighting above the fixture. The maximum lighting value that shall be used in lighting recreational athletic fields shall be an average maintained 50 foot candles. Minimum lighting values shall be per Parks and Community Services Standards. New lighting for athletic fields should have a maximum of twenty-five one-hundredths (.25) foot-candles at five (5) feet from property line\*. Due to geographic difficulties or areas that require higher lighting levels for security, a maximum output of five-tenths (0.5) foot-candles of light at ground level at property line may be utilized.

\*Where the adjacent property line is another City facility, the foot-candles may exceed the maximum requirements.

6. Street Lighting

a. Purpose. The purpose of this section is to establish a set of guidelines with which to regulate the installation, operation and maintenance of overhead street lighting in the City. The City seeks to make provisions for street lighting that will be

beneficial to City residents, and to provide for this lighting in an orderly, efficient and equitable manner. This section serves to establish a uniform standard for location of lights and illumination levels within the City, and clarifies responsibilities for payment of the various costs involved.

b. General Requirements. Unless otherwise waived by the public works director/city engineer for developments within the OS, HR, RR and R1 districts, the provision of streetlights shall be a requirement of all development proposals. Prior to acceptance and approval of a final map, a developer shall construct or enter into an agreement to construct a street lighting system. The following specifications apply to all street lighting in the City, on all public and private roadways. The City has adopted the Southern California Edison (SCE) scheduled rates LS-1, LS-2 and LS-3 or comparable Moreno Valley Utility (MVU) rate standards. Prior to any planning, design, or installation of street lighting, the developer shall confirm the applicable rate schedule with the City. Installation of street lighting shall comply with the provisions of Chapter 9.14 for underground utility installation and shall be in accordance with the specifications of and plans approved by either SCE or MVU and the public works director/city engineer. (Ord. 359 (part), 1992). The developer will pay all costs related to the installation of the street lighting and establish a method for the payment of maintenance and operations. All street lighting installed shall be solely for the purpose of illuminating the public way and shall conform to the city street lighting standards.

c. Luminaire and Lamp Requirements.

1. All street lighting in residential areas shall not exceed 9,500 lumen (one hundred watt), high pressure sodium vapor (HPS) lamps, or equivalent, unless otherwise approved by the public works director/city engineer.

2. All street lighting in nonresidential areas shall not exceed 9,500 lumen (one hundred watt), high pressure sodium vapor (HPS) lamps, or equivalent, unless otherwise approved by the public works director/city engineer.

3. All street lighting for arterial roadways shall not exceed 22,000 lumen (two hundred watt), high pressure sodium vapor (HPS) lamps, or equivalent, unless otherwise approved by the public works director/city engineer.

4. All street lighting shall utilize full-cutoff luminaries and be fully shielded.

5. All street lighting shall meet the current City street lighting standards, unless otherwise approved by the public works director/city engineer.

d. Specific Warrants for Lighting Locations.

The City street lighting standards shall be used to determine locations for all street lighting, unless otherwise approved by the public works director/city engineer.

D. Lighting Height Limits

1. Hillside Residential Areas – Outdoor on-site lighting on hillside residential properties, except for street lighting, shall be mounted on a post with full cutoff not to exceed eight (8) feet above finished grade, or on a building wall or structure not to exceed eight (8) feet above finished grade and fully shielded. Such lighting shall be designed to project downward and shall not create glare on adjacent properties. Lighting attached to a single family residential structure shall not exceed the height of the roof eave.

2. All Other Residential Areas – Outdoor on-site lighting within all other residential areas, except for street lighting, shall be on poles or other supports not exceeding twelve (12) feet in height and fully shielded. Such lighting shall be designed to project downward and shall not create glare on adjacent properties. Lighting attached to all residential structures shall not exceed the height of the roof eave.

3. Non-Residential Areas – Outdoor on-site lighting on commercial and industrial properties, except for street lighting, shall be mounted on a post and fully shielded not to exceed a maximum height of thirty (30) feet, except within 100 feet of a residential use, where the post shall not exceed a maximum height of twenty (20) feet. Posts shall be appropriately scaled for small buildings and lots. All lighting fixtures shall be in scale with the proposed building height. Lighting attached to a building shall not exceed the height of the roof eave or twenty feet, whichever is less.

4. Walkway and Courtyard Lighting - Outdoor on-site lighting for all residential and non-residential walkway and courtyard lighting shall be directed downward and mounted on a post or adjacent structure not to exceed a maximum height of twelve (12) feet or the height of the eaves, whichever is less.

E. Light Trespass Standards. Light trespass shall be minimized by complying with the following standards:

1. Light spillover or trespass for all multiple family residential and non-residential properties shall not exceed one-quarter (0.25) foot candle minimum maintained of illumination measured from within five (5) feet of any property line.

2. All exterior lighting shall be full-cutoff type and fully shielded to prevent spillover onto adjacent properties.

3. All wall pack lighting shall be full-cutoff type and non-adjustable, with light directed away from surrounding properties. Wall packs shall incorporate internal house (wall) side shields, baffles or reflectors to minimize wall brightness.

F. General Guidelines

1. All exterior commercial doors during the hours of darkness shall be illuminated with one (1) to a maximum of three (3) foot candles of maintained lighting.

2. Aisles and passageways related to and within a building complex, during the hours of darkness, shall be illuminated with a maximum of one-half (0.50) to one (1) foot candles of maintained lighting.

3. All lighting shall be enclosed in vandal-resistant fixtures.

4. Lighting shall be adequate to help ensure a safe environment, but not to cause excessive glare or intense light.

5. For safety, identification and convenience, the entrances of building and parking areas shall be illuminated.

6. In multifamily developments, laundry rooms shall be well-lit at all times as they are intended for tenant use. Lights shall be placed on photo cell or automatic timers, and no switches shall be available to tenants to turn the lights off.

#### G. Lighting Curfew

1. Except as specified elsewhere in this Section, outdoor lighting systems in non-residential areas shall be turned off or reduced by at least fifty percent (50%) beginning at 10:00 p.m. or the close of business, whichever is later, until dawn or the start of business, whichever is earlier. The reduction of lighting shall be determined as an overall average for the parcel. When possible, the lighting system shall be turned off rather than reduced in lighting levels. Lighting shall be equipped with controls for photocell on and timer off.

2. All walkway, security and street lighting may remain on all night.

#### H. Lighting Prohibitions

1. Overhead roof lighting is prohibited.

2. The installation of mercury vapor outdoor lighting fixtures is prohibited.

3. Adjustable outdoor lighting fixture mounts are prohibited. All fixtures shall be permanently installed so as to maintain shielding requirements, except that landscape and ornamental lighting may use flexible or adjustable mounting systems.

4. Lighting fixtures mounted in such a way as to aim only towards a property line are prohibited.

5. Lighting which interferes with the safe operation of a motor vehicle as determined by the Police Chief or City Engineer is prohibited.

6. Billboard lighting which is pointed upward is prohibited.



- I. Lighting Exemptions. The following lighting is exempt from this Chapter:
1. Swimming pool lighting
  2. Lighting for exit signs and other illumination required by the building code
  3. Lighting for exterior stairs and ramps, as required by the building code
  4. Decorative lighting, as approved by the Community and Economic Development Director
  5. Holiday and temporary lighting
  6. Low voltage landscape lighting
  7. Lights used for the illumination of flags as required by law.
  8. Portable temporary lighting used by law enforcement or emergency services personnel to protect life or property.
  9. Motion detector lighting fixtures are exempt provided that there is no light trespass onto adjacent residential properties.
  10. Exposed string outdoor lighting is exempt provided that:
    - a. Lighting shall consist exclusively of white light with a clear bulb;
    - b. Installation of such lighting shall be limited to the lighting of living landscape features (shrubs and trees) in outside dining areas or within parking areas of a commercial center or plaza.

J. Lighting plans and evidence of lighting compliance. The application for any required city approval involving residential and non-residential nonexempt outdoor light fixtures shall include evidence that the proposed work will comply with this chapter. The submission shall contain the following:

1. The location of the site where the outdoor light fixtures will be installed;
2. Plans showing the location and type of all fixtures, both existing and proposed, on the premises, including point by point photometric lighting levels;
3. A description of the outdoor light fixtures including, but not limited to manufacturer's catalog cuts, photometric reports with candela distribution, drawings, and shielding information;

4. Submittal drawings shall be signed by a licensed professional engineer or by the licensed electrical contractor that is performing the work. This engineer or contractor shall be held responsible for the content and accuracy of the submittal design. Submittals must contain the name of the company that prepared the drawings and the name, title, and telephone number of the person that performed the design work.

5. All plans resubmitted for approval shall include a written description of all changes and comments attached to the plan check comments.

**9.16.235 Hillside design standards.**

A. Site Plan Design. Each structure shall be located in the most accessible, least visually prominent, most geologically stable portion or portions of the site, and at the lowest feasible elevation. Structures shall also be aligned with the natural contours of the site. Locating structures in the least prominent locations is particularly important on open hillsides where the high visibility of construction should be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features. In addition, the following standards shall apply:

1. Significantly visible rock outcroppings should be preserved and incorporated into the site plan.
2. All pads and driveways shall, to the fullest extent practicable, follow and utilize the natural contours of the land to minimize disturbance and shall not be located on the crest of a natural ridgeline.
3. Clustering of development on flatter areas of the site is strongly encouraged.
4. Dwelling units and structures shall be sited in a manner that will:
  - a. Retain outward views from each unit;
  - b. Preserve or enhance vistas and ridgelines, particularly those seen from public places and rights-of-way in the valley below;
  - c. Preserve natural hydrology, native plant materials and areas of historic significance.
5. In areas adjacent to a ridgeline or in moderate slope areas, dwelling units and structures shall be sited to:
  - a. Use the natural ridgeline as a backdrop for structures;
  - b. Use landscape plant materials as a backdrop;
  - c. Use the structure to conceal cut slopes;
  - d. Retain major natural skyline profiles;
  - e. The topmost point of a proposed structure and all site grading shall be at least thirty (30) feet below the top of the nearest ridge or knoll.
6. Encourage smaller pad to lot size ratios for all dwelling units.

7. Streets, both public and private, shall be developed below the crest of a natural ridgeline.

B. Architectural Design. The following architectural design standards shall apply:

1. Building development color palettes, including roofing, fencing and exterior building materials, shall be “earth tones” compatible with the natural color of the terrain and vegetation, and shall be approved by the community development director.

2. The design of the structure should give consideration to the lot’s size and configuration in order to avoid the appearance of overbuilding and to minimize the blocking of views.

3. Large expanses of a single material on walls, roofs or paving areas should be avoided. Create interesting small scale patterns by breaking up building mass, varying building materials, etc. Building plans and elevations should be varied throughout a development to avoid a monotonous “cookie-cutter” look.

4. Horizontal and vertical architecture detailing of building articulation, such as overhangs, projections, alcoves, varied roof-planes, building offsets, etc. should be used to avoid large expanses of a wall in a single plain and to create light and shadow.

5. Brightly colored structures and roofs and reflective glass or building materials are expressly prohibited. Materials and colors shall blend with the natural hillside environment to the greatest degree feasible. Specific materials that are encouraged are those with natural colors and textures, including stone, wood, textured stucco and brick.

6. Where it will not result in increased grading and landform alteration, the limitation of structures to a single story is strongly encouraged.

7. The use of undulating walls that follow the land form are highly encouraged.

8. Detaching the garage shall be encouraged, while retaining walls shall be integrated into the garage walls on sloping lots to reduce grading and minimize visibility of walls.

9. Include architectural enrichments and variations in roof massing. Roofs should have low profiles to minimize their visual impact. On sloping land, the roof pitch should follow the slope of the hillside, instead of being perpendicular to the hillside or opposing hillside slope. Upper stories should not be cantilevered out of the opposite direction of the hillside slope.

C. Lighting Design. The intent of lighting standards for designated hillside properties is to preserve the low light level conditions that are inherently characteristic of hillside areas. The following lighting design standards shall apply:

1. Lights shall not be located on the portion(s) of the site that has not been disturbed.
2. Lights mounted on dwellings, buildings or structures shall be fully shielded and directed away from adjacent developments.
3. All light fixtures should be directed downward and properly aimed on the targeted areas to maximize their effectiveness and minimize the total number of light fixtures.
4. All lighting shall be low scale and low intensity and directed downward and away from the view of others.
5. Road, driveway and walkway lights should be located on the “downhill” side and aimed toward the “uphill” side and should be fully shielded from below and only light the driveway surface.
6. Lighting fixtures on properties should be mounted on a post not to exceed a height of eight (8) feet above finished grade, or on a building wall not to exceed a height of eight (8) feet above finished grade and fully shielded, or on a structure not to exceed a height of eight (8) feet above finished grade and fully shielded for security lighting.
7. Street lighting shall be limited to the greatest degree feasible to maintain a “dark sky” environment. Typically, streetlights should be limited to street intersections or other locations where safety concerns predicate the need for illumination. (Ord. 773 § 3, 2008)

#### 9.16.280 General requirements.

A. Purpose and Intent Lighting shall serve both safety and aesthetic purposes, while reducing unnecessary light pollution and maintaining dark skies. Effective lighting will highlight building features, and add emphasis to important spaces and entryways, while limiting glare and light trespass onto adjacent properties. The intent of these guidelines is to encourage effective and innovative lighting as an integral design component of a project.

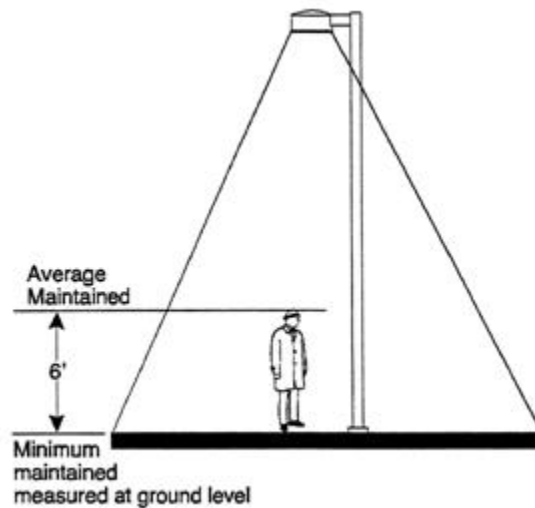
#### B. General Guidelines.

1. Exterior lighting should relate to the design of the project, highlighting architectural elements and details without deflecting unnecessary light and glare onto surrounding properties.
2. Lighting should improve the visual identification of residences and businesses.
3. Energy efficient lighting of buildings is encouraged.
4. High-intensity security lighting fixtures should be concealed by landscaping or building architectural elements.
5. The location, color and intensity of private lighting should relate to and complement public lighting.
6. Lighting fixture design should complement the overall design theme of the project in which they are located.
7. At hazardous locations such as changes of grade, low level supplemental lighting units should be used.
8. Where low level lighting (below five feet) is used, fixtures should be placed so that they do not produce glare.

“Land use ordinance” means the city of Moreno Valley development code as amended.

Lighting (Minimum Maintained). “Minimum maintained lighting” means a method of measuring light at the ground level.

9.15.030



**Figure 9.15.030-10**

**Lighting (Minimum Maintained)**

“Light Trespass” means any artificial light or glare from a light fixture onto neighboring property that interferes with viewing of the night sky, or eliminates the ability to have darkness on the adjacent property, or shines into neighboring windows, properties or structures.

“Livestock” means and includes cows, bulls, calves and heifers, except pigs.

“Live/work unit” means a residential dwelling unit where there is one or more rooms containing working space located within, adjacent to, or near the residential unit, and one or more individuals living in the residential unit regularly use the working space to earn their livelihood, usually in professional or design related activities.

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**9.08.100 Lighting.**

A. Purpose and Intent. The purpose of this section is to establish regulations and standards for outdoor lighting which will reduce light pollution and trespass generated by residential and non-residential lighting fixtures and devices, while maintaining dark skies. It is also the intent of this section to encourage, through the regulation of the types, construction, installation and uses of outdoor illuminating devices, lighting practices and systems to conserve energy without decreasing safety, security and productivity.

B. Applicability. Lighting standards included in this chapter shall apply to:

1. All new development
2. ~~Each~~ Any existing development or parking area providing five or more spaces, which is enlarged, reconstructed, altered or changed from its previous configuration shall be subject to these illumination requirements included in this chapter.

3. Existing land uses are exempt from specific lighting requirements included in this chapter, except that they are subject either to general lighting intensity standards (i.e. foot candle requirements) in place prior to the effective date of this ordinance or standards of a prior point by point or photometric lighting plan approved by the City. Any general modifications to existing on-site lighting structures or fixtures and/or intensity of lighting may be subject to the regulations provided in the entirety of this chapter as determined by the submittal and review of a new or revised photometric lighting plan.

C. Minimum Development and Performance Standards. All exterior lighting shall meet the following requirements:

1. Single Family Residential Uses.
  - a. In all single family residential areas, light should be shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter.
  - b. The maximum wattage for residential lighting shall be 100 watts incandescent and 26 watts compact fluorescent, except for recreational courts.
  - c. Lighting standards for recreational courts are subject to Section 9.09.190 "Swimming pools, spas and recreational courts", while approval of all recreational court lighting is subject to a point by point photometric lighting plan submittal.

2. Multiple Family Residential Uses.

a. All outdoor lighting associated with residential uses shall be fully shielded and directed away from adjacent residential properties. Such lighting shall not exceed one-quarter (0.25) foot candle minimum maintained lighting measured from within five (5) feet of any property line, and shall not blink, flash, oscillate or be of unusually high intensity or brightness.

b. All lighting installations shall be designed and installed with full cutoff and be fully shielded to reduce glare and light trespass.

c. The maximum wattage for residential lighting shall be 100 watts incandescent and 26 watts compact fluorescent, except as allowed for parking lot lighting and recreational courts.

d. Parking lot lighting for designated multiple family residential parking areas shall meet the requirements included in item (4) (a-c) below.

3. Non-Residential Uses.

~~A.~~ a. All outdoor lighting associated with nonresidential uses shall be fully shielded and directed away from surrounding residential uses. Such lighting shall not exceed ~~one-half (0.50)~~ one quarter (0.25) foot candle minimum maintained lighting beyond the property containing the nonresidential use measured from within five feet of any property line, and shall not blink, flash, oscillate or be of unusually high intensity or brightness;

b. All lighting installations shall be designed and installed with full cutoff and be fully shielded to reduce glare and light trespass;

c. The maximum wattage for non residential uses shall be 250 watts of high intensity discharge (HID) lighting.

4. Off-Street Parking.

~~B.~~ a. All parking lots or structures providing more than five spaces for use by the general public and their pedestrian links shall be provided with a minimum coverage of one (1) foot candle of light with a maximum of eight (8) foot candles on the parking or walkway surface from dusk until dawn, unless otherwise approved, for visibility and security over the entire parking surface. Wiring shall be underground unless existing overhead lines can serve the need without any additional overhead lines. Each parking area of five or more spaces existing prior to the effective date of the ordinance codified in this chapter which is enlarged, constructed, altered, or changed from its previous configuration shall be subject to these illumination requirements. Such lighting shall not exceed ~~one-half (0.50)~~ one quarter (0.25) foot candle minimum maintained lighting beyond the property containing the non-residential use measured from within

five (5) feet of any property line, and shall not blink, flash, oscillate or be of unusually high intensity or brightness. All wiring shall be underground;

b. All lighting installations shall be designed and installed with full cutoff and be fully shielded to reduce glare and light trespass;

c. The maximum wattage for parking lot lighting shall be 250 watts of high intensity discharge (HID) lighting;

5. Public Parks, Trails and Athletic Field Lighting.

a. The illumination of outdoor public recreational (sports) facilities, unless a specific recreational activity requiring the lighting is already in progress is prohibited between midnight and dawn. Lighting shall be provided as specified in this chapter. All lighting shall be designed and installed in compliance with the Parks and Community Services document titled "LIGHTING STANDARDS FOR PARKS AND RELATED PUBLIC FACILITIES".

b. Public Parks: New lighting designs and retrofit fixtures shall contain horizontal cutoff to reduce vertical lighting above the fixture. New lighting for parks and related facilities should have a maximum of twenty-five one-hundredths (.25) foot-candles at five (5) feet from property line\*. Due to geographic difficulties or areas that require higher lighting levels for security, a maximum output of five-tenths (0.5) foot-candles of light at ground level at property line may be utilized.

c. Trails: New lighting designs and retrofit fixtures shall contain horizontal cutoff to reduce vertical lighting above the fixture. Lighted trails not incorporated in the roadway shall be illuminated with a minimum maintained twenty-five one-hundredths (0.25) foot-candles of light at ground level during the hours of darkness. New lighting for trails should have a maximum of twenty-five one-hundredths (.25) foot-candles at five (5) feet from property line\*. Due to geographic difficulties or areas that require higher lighting levels for security, a maximum output of five-tenths (0.5) foot-candles of light at ground level at property line may be utilized.

d. Athletic Field Lighting: New lighting designs and retrofit fixtures shall contain horizontal cutoff to reduce vertical lighting above the fixture. The maximum lighting value that shall be used in lighting recreational athletic fields shall be an average maintained 50 foot candles. Minimum lighting values shall be per Parks and Community Services Standards. New lighting for athletic fields should have a maximum of twenty-five one-hundredths (.25) foot-candles at five (5) feet from property line\*. Due to geographic difficulties or areas that require higher lighting levels for security, a maximum output of five-tenths (0.5) foot-candles of light at ground level at property line may be utilized.

\*Where the adjacent property line is another City facility, the foot-candles may exceed the maximum requirements.

## 6. Street Lighting

a. Purpose. The purpose of this section is to establish a set of guidelines with which to regulate the installation, operation and maintenance of overhead street lighting in the City. The City seeks to make provisions for street lighting that will be beneficial to City residents, and to provide for this lighting in an orderly, efficient and equitable manner. This section serves to establish a uniform standard for location of lights and illumination levels within the City, and clarifies responsibilities for payment of the various costs involved.

b. General Requirements. Unless otherwise waived by the public works director/city engineer for developments within the OS, HR, RR and R1 districts, the provision of streetlights shall be a requirement of all development proposals. Prior to acceptance and approval of a final map, a developer shall construct or enter into an agreement to construct a street lighting system. The following specifications apply to all street lighting in the City, on all public and private roadways. The City has adopted the Southern California Edison (SCE) scheduled rates LS-1, LS-2 and LS-3 or comparable Moreno Valley Utility (MVU) rate standards. Prior to any planning, design, or installation of street lighting, the developer shall confirm the applicable rate schedule with the City. Installation of street lighting shall comply with the provisions of Chapter 9.14 for underground utility installation and shall be in accordance with the specifications of and plans approved by either SCE or MVU and the public works director/city engineer. (Ord. 359 (part), 1992). The developer will pay all costs related to the installation of the street lighting and establish a method for the payment of maintenance and operations. All street lighting installed shall be solely for the purpose of illuminating the public way and shall conform to the city street lighting standards.

### c. Luminaire and Lamp Requirements.

1. All street lighting in residential areas shall not exceed 9,500 lumen (one hundred watt), high pressure sodium vapor (HPS) lamps, or equivalent, unless otherwise approved by the public works director/city engineer.

2. All street lighting in nonresidential areas shall not exceed 9,500 lumen (one hundred watt), high pressure sodium vapor (HPS) lamps, or equivalent, unless otherwise approved by the public works director/city engineer.

3. All street lighting for arterial roadways shall not exceed 22,000 lumen (two hundred watt), high pressure sodium vapor (HPS) lamps, or equivalent, unless otherwise approved by the public works director/city engineer.

4. All street lighting shall utilize full-cutoff luminaires and be fully shielded.

5. All street lighting shall meet the current City street lighting standards, unless otherwise approved by the public works director/city engineer.

### d. Specific Warrants for Lighting Locations.

The City street lighting standards shall be used to determine locations for all street lighting, unless otherwise approved by the public works director/city engineer.

D. Lighting Height Limits

1. Hillside Residential Areas – Outdoor on-site lighting on hillside residential properties, except for street lighting, shall be mounted on a post with full cutoff not to exceed eight (8) feet above finished grade, or on a building wall or structure not to exceed eight (8) feet above finished grade and fully shielded. Such lighting shall be designed to project downward and shall not create glare on adjacent properties. Lighting attached to a single family residential structure shall not exceed the height of the roof eave.

2. All Other Residential Areas – Outdoor on-site lighting within all other residential areas, except for street lighting, shall be on poles or other supports not exceeding twelve (12) feet in height and fully shielded. Such lighting shall be designed to project downward and shall not create glare on adjacent properties. Lighting attached to all residential structures shall not exceed the height of the roof eave.

3. Non-Residential Areas – Outdoor on-site lighting on commercial and industrial properties, except for street lighting, shall be mounted on a post and fully shielded not to exceed a maximum height of thirty (30) feet, except within 100 feet of a residential use, where the post shall not exceed a maximum height of twenty (20) feet. Posts shall be appropriately scaled for small buildings and lots. All lighting fixtures shall be in scale with the proposed building height. Lighting attached to a building shall not exceed the height of the roof eave or twenty feet, whichever is less.

4. Walkway and Courtyard Lighting - Outdoor on-site lighting for all residential and non-residential walkway and courtyard lighting shall be directed downward and mounted on a post or adjacent structure not to exceed a maximum height of twelve (12) feet or the height of the eaves, whichever is less.

E. Light Trespass Standards. Light trespass shall be minimized by complying with the following standards:

1. Light spillover or trespass for all multiple family residential and non-residential properties shall not exceed one-quarter (0.25) foot candle minimum maintained of illumination measured from within five (5) feet of any property line.

2. All exterior lighting shall be full-cutoff type and fully shielded to prevent spillover onto adjacent properties.

3. All wall pack lighting shall be full-cutoff type and non-adjustable, with light directed away from surrounding properties. Wall packs shall incorporate internal house (wall) side shields, baffles or reflectors to minimize wall brightness.

#### F. General Guidelines

1. All exterior commercial doors during the hours of darkness shall be illuminated with one (1) to a maximum of three (3) foot candles of ~~minimum~~ maintained lighting.

2. Aisles and passageways ~~and recesses~~ related to and within a building complex, during the hours of darkness, shall be illuminated ~~to~~ with a maximum of one-half (0.50) to one (1) foot candles of ~~minimum~~ maintained lighting.

3. All lighting shall be enclosed in vandal-resistant fixtures.

4. Lighting shall be adequate to help ensure a safe environment, but not to cause excessive glare or intense light.

5. For safety, identification and convenience, the entrances of building and parking areas shall be illuminated.

6. In multifamily developments, laundry rooms shall be well-lit at all times as they are intended for tenant use. Lights shall be placed on photo cell or automatic timers, and no switches shall be available to tenants to turn the lights off.

~~7. All residential dwellings shall display street numbers in a prominent location on the street side of the residence in such a position that the numbers are easily visible to approaching emergency vehicles. The numbers shall be consistently located on each dwelling throughout the development. The numerals shall be no less than four inches in height and shall be of low voltage lighted address fixtures. (Ord. 698 § 3.1(d), 2005; Ord. 359 (part), 1992)~~

#### G. Lighting Curfew

1. Except as specified elsewhere in this Section, outdoor lighting systems in non-residential areas shall be turned off or reduced by at least fifty percent (50%) beginning at 10:00 p.m. or the close of business, whichever is later, until dawn or the start of business, whichever is earlier. The reduction of lighting shall be determined as an overall average for the parcel. When possible, the lighting system shall be turned off rather than reduced in lighting levels. Lighting shall be equipped with controls for photocell on and timer off.

2. All walkway, security and street lighting may remain on all night.

#### H. Lighting Prohibitions

1. Overhead roof lighting is prohibited.

2. The installation of mercury vapor outdoor lighting fixtures is prohibited.

3. Adjustable outdoor lighting fixture mounts are prohibited. All fixtures shall be permanently installed so as to maintain shielding requirements, except that landscape and ornamental lighting may use flexible or adjustable mounting systems.

4. Lighting fixtures mounted in such a way as to aim only towards a property line are prohibited.

5. Lighting which interferes with the safe operation of a motor vehicle as determined by the Police Chief or City Engineer is prohibited.

6. Billboard lighting which is pointed upward is prohibited.

I. Lighting Exemptions. The following lighting is exempt from this Chapter:

1. Swimming pool lighting

2. Lighting for exit signs and other illumination required by the building code

3. Lighting for exterior stairs and ramps, as required by the building code

4. Decorative lighting, as approved by the Community and Economic Development Director

5. Holiday and temporary lighting

6. Low voltage landscape lighting

7. Lights used for the illumination of flags as required by law.

8. Portable temporary lighting used by law enforcement or emergency services personnel to protect life or property.

9. Motion detector lighting fixtures are exempt provided that there is no light trespass onto adjacent residential properties.

10. Exposed string outdoor lighting is exempt provided that:

a. Lighting shall consist exclusively of white light with a clear bulb;

b. Installation of such lighting shall be limited to the lighting of living landscape features (shrubs and trees) in outside dining areas or within parking areas of a commercial center or plaza.

J. Lighting plans and evidence of lighting compliance. The application for any required city approval involving residential and non-residential nonexempt outdoor

light fixtures shall include evidence that the proposed work will comply with this chapter. The submission shall contain the following:

1. The location of the site where the outdoor light fixtures will be installed;
2. Plans showing the location and type of all fixtures, both existing and proposed, on the premises, including point by point photometric lighting levels;
3. A description of the outdoor light fixtures including, but not limited to manufacturer's catalog cuts, photometric reports with candela distribution, drawings, and shielding information;
4. Submittal drawings shall be signed by a licensed professional engineer or by the licensed electrical contractor that is performing the work. This engineer or contractor shall be held responsible for the content and accuracy of the submittal design. Submittals must contain the name of the company that prepared the drawings and the name, title, and telephone number of the person that performed the design work.
5. All plans resubmitted for approval shall include a written description of all changes and comments attached to the plan check comments.

~~C. Use of the following forms of outdoor lighting shall be prohibited between midnight and dawn:~~

- ~~1. The operation of searchlights for advertising purposes; and~~
- ~~2. The illumination of outdoor public recreational facilities, unless a specific recreational activity requiring the lighting is already in progress. Security lighting shall be provided.~~

~~D. Overhead roof lighting is prohibited.~~

~~E. Outdoor lighting within residential areas, except for street lighting, shall be on poles or other supports not exceeding twelve (12) feet in height. Such lighting shall be designed to project downward and shall not create glare on adjacent properties.~~

~~F. All exterior commercial doors during the hours of darkness shall be illuminated with one footcandle, minimum maintained of light on the surface.~~

~~G. Aisles, passageways and recesses related to and within a building complex, during the hours of darkness, shall be illuminated to one half footcandle, minimum maintained on the surface.~~

~~H. All lighting shall be enclosed in vandal-resistant fixtures.~~

~~I. General Guidelines.~~



~~1. — Lighting shall be adequate to help ensure a safe environment, but not to cause excessive glare or intense light.~~

~~2. — For safety, identification and convenience, the entrances of building and parking areas shall be illuminated. All illumination of streets, parking areas and other project areas shall provide a variety of light quality and intensity, emphasizing areas of high vehicular and pedestrian activity with increased light intensity.~~

~~3. — All exterior lighting shall be shielded to prevent spillover onto adjacent properties.~~

~~4. — Industrial and manufacturing developments shall provide adequate lighting for safe and secure on-site parking, loading, storage, receiving and pedestrian areas.~~

~~5. — All exterior doors on commercial structures shall be illuminated with a “minimum maintained” of one footcandle of light on the door surface during hours of darkness.~~

~~6. — Aisles, passageways and recesses within a building complex shall be illuminated with a “minimum maintained” of one half footcandle of light during hours of darkness.~~

~~7. — All lighting shall be enclosed in vandal resistant fixtures.~~

~~8. — In multifamily developments, laundry rooms shall be well lit at all times they are intended for tenant use. Lights shall be placed on photo cell or automatic timers, and no switches shall be available to tenants to turn the lights off.~~

~~9. — All residential dwellings shall display street numbers in a prominent location on the street side of the residence in such a position that the numbers are easily visible to approaching emergency vehicles. The numbers shall be consistently located on each dwelling throughout the development. The numerals shall be no less than four inches in height and shall be of low voltage lighted address fixtures. (Ord. 698 § 3.1(d), 2005; Ord. 359 (part), 1992)~~

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**9.08.190 Street lighting.**

~~\_\_\_\_\_ A. \_\_\_\_\_ Unless otherwise waived by the public works director for developments within the OS, HR, RR and R1 districts, the provision of street lights shall be a requirement of all development proposals.~~

~~\_\_\_\_\_ B. \_\_\_\_\_ Prior to acceptance and approval of a final map, a developer shall construct or enter into an agreement to construct a street lighting system of either:~~

~~\_\_\_\_\_ 1. \_\_\_\_\_ A utility owned ornamental system consisting of standard ornamental electroliers customarily furnished by the utility or other design approved by the utility and the public works director; or~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ A municipally owned ornamental system consisting of reinforced concrete or steel standards with underground wiring or other design approved by the public works director.~~

~~\_\_\_\_\_ C. \_\_\_\_\_ If a utility owned ornamental system is installed, the developer shall be liable for and shall pay all charges attributable to such installation.~~

~~\_\_\_\_\_ D. \_\_\_\_\_ If a municipally owned underground ornamental system is installed, the developer shall be liable for and shall pay all costs incurred in installing the entire system.~~

~~\_\_\_\_\_ E. \_\_\_\_\_ Installation of street lighting shall comply with the provisions of Chapter 9.14 for underground utility installation and shall be in accordance with the specifications of and plans approved by the utility owned system and the public works director. (Ord. 359 (part), 1992)~~

ATTACHMENT 4

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#### **9.16.235 Hillside design standards.**

A. Site Plan Design. Each structure shall be located in the most accessible, least visually prominent, most geologically stable portion or portions of the site, and at the lowest feasible elevation. Structures shall also be aligned with the natural contours of the site. Locating structures in the least prominent locations is particularly important on open hillsides where the high visibility of construction should be minimized by placing structures so that they will be screened by existing vegetation, depressions in topography, or other natural features. In addition, the following standards shall apply:

1. Significantly visible rock outcroppings should be preserved and incorporated into the site plan.
2. All pads and driveways shall, to the fullest extent practicable, follow and utilize the natural contours of the land to minimize disturbance and shall not be located on the crest of a natural ridgeline.
3. Clustering of development on flatter areas of the site is strongly encouraged.
4. Dwelling units and structures shall be sited in a manner that will:
  - a. Retain outward views from each unit;
  - b. Preserve or enhance vistas and ridgelines, particularly those seen from public places and rights-of-way in the valley below;
  - c. Preserve natural hydrology, native plant materials and areas of historic significance.
5. In areas adjacent to a ridgeline or in moderate slope areas, dwelling units and structures shall be sited to:
  - a. Use the natural ridgeline as a backdrop for structures;
  - b. Use landscape plant materials as a backdrop;
  - c. Use the structure to conceal cut slopes;
  - d. Retain major natural skyline profiles;
  - e. The topmost point of a proposed structure and all site grading shall be at least thirty (30) feet below the top of the nearest ridge or knoll.

ATTACHMENT 5

6. Encourage smaller pad to lot size ratios for all dwelling units.
  7. Streets, both public and private, shall be developed below the crest of a natural ridgeline.
- B. Architectural Design. The following architectural design standards shall apply:
1. Building development color palettes, including roofing, fencing and exterior building materials, shall be “earth tones” compatible with the natural color of the terrain and vegetation, and shall be approved by the community development director.
  2. The design of the structure should give consideration to the lot’s size and configuration in order to avoid the appearance of overbuilding and to minimize the blocking of views.
  3. Large expanses of a single material on walls, roofs or paving areas should be avoided. Create interesting small scale patterns by breaking up building mass, varying building materials, etc. Building plans and elevations should be varied throughout a development to avoid a monotonous “cookie-cutter” look.
  4. Horizontal and vertical architecture detailing of building articulation, such as overhangs, projections, alcoves, varied roof-planes, building offsets, etc. should be used to avoid large expanses of a wall in a single plain and to create light and shadow.
  5. Brightly colored structures and roofs and reflective glass or building materials are expressly prohibited. Materials and colors shall blend with the natural hillside environment to the greatest degree feasible. Specific materials that are encouraged are those with natural colors and textures, including stone, wood, textured stucco and brick.
  6. Where it will not result in increased grading and landform alteration, the limitation of structures to a single story is strongly encouraged.
  7. The use of undulating walls that follow the land form are highly encouraged.
  8. Detaching the garage shall be encouraged, while retaining walls shall be integrated into the garage walls on sloping lots to reduce grading and minimize visibility of walls.
  9. Include architectural enrichments and variations in roof massing. Roofs should have low profiles to minimize their visual impact. On sloping land, the roof pitch should follow the slope of the hillside, instead of being perpendicular to the hillside or opposing hillside slope. Upper stories should not be cantilevered out of the opposite direction of the hillside slope.

C. Lighting Design. The intent of lighting standards for designated hillside properties is to preserve the low light level conditions that are inherently characteristic of hillside areas. The following lighting design standards shall apply:

1. Lights shall not be located on the portion(s) of the site that has not been disturbed.
2. Lights mounted on dwellings, buildings or structures shall be fully shielded and directed away from adjacent developments.
3. All light fixtures should be directed downward and properly aimed on the targeted areas to maximize their effectiveness and minimize the total number of light fixtures.
4. All lighting shall be low scale and low intensity and directed downward and away from the view of others.
5. Road, driveway and walkway lights should be located on the “downhill” side and aimed toward the “uphill” side and should be fully shielded from below and only light the driveway surface.
6. Lighting fixtures on properties should be mounted on a post not to exceed a height of eight (8) feet above finished grade, or on a building wall not to exceed a height of eight (8) feet above finished grade and fully shielded, or on a structure ~~of not more than~~ not to exceed a height of ~~twelve (12) eight (8) feet above finished grade and fully shielded~~ for security lighting.
7. Street lighting shall be limited to the greatest degree feasible to maintain a “dark sky” environment. Typically, streetlights should be limited to street intersections or other locations where safety concerns predicate the need for illumination. (Ord. 773 § 3, 2008)

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**9.16.280 General requirements.**

A. Purpose and Intent Lighting shall serves both safety and aesthetic purposes, while reducing unnecessary light pollution and maintaining dark skies. Effective lighting will highlight building features, and add emphasis to important spaces and entryways, while limiting glare and light trespass onto adjacent properties. The intent of these guidelines is to encourage effective and innovative lighting as an integral design component of a project.

B. General Guidelines.

1. Exterior lighting should relate to the design the project, highlighting architectural elements and details without deflecting unnecessary light and glare onto surrounding properties.

2. Parking lot and walkway lighting fixture height and brightness should conform to the following table:

**Table 9.16.280A**

**Site Lighting**

-

**Lamp Types and Characteristics**

<b>Type</b>	<b>Characteristics</b>
Low Level	Heights below eye level
-	Very finite patterns with hour wattage capabilities
-	Incandescent, fluorescent
-	Lowest maintenance requirements, but highly susceptible to vandals
Mall and Walkway	10'—15' heights average
-	Multi-use because of extreme variety of fixtures and light pattern
-	Incandescent, high pressure sodium
-	Susceptible to vandalism
Special Purpose	20'—30' heights average
-	Recreational, commercial, residential, industrial
-	Metal halide, high or low pressure sodium
-	Fixtures monitored by sentry

~~3. 2.~~ Lighting should improve the visual identification of residences and businesses. ~~Within commercial areas, lighting should help to create a festive atmosphere by encouraging nighttime pedestrian use.~~

~~4. 3.~~ Energy efficient lighting of buildings is encouraged.

~~5. 4.~~ High-intensity security lighting fixtures should be concealed by landscaping or building architectural elements. ~~and should be designed either to uplight structures from the ground or to downlight structures from projecting or detached architectural elements.~~

~~6. 5.~~ The location, color and intensity of private lighting should relate to and complement public lighting.

~~7. 6.~~ Lighting fixture design should complement the overall design theme of the project in which they are located.

~~8. —~~ Fixtures should be placed so that light patterns overlap at a height of seven feet, which is sufficiently high to illuminate a person's body vertically. This is a particularly important consideration now that lighting fixture manufacturers are designing luminaries with highly controlled light patterns.

~~9-7.~~ At hazardous locations such as changes of grade, low level supplemental lighting units should be used.

~~10 8.~~ Where low level lighting (below five feet) is used, fixtures should be placed so that they do not produce glare. ~~Most eye levels occur between three feet eight inches (for wheelchair users) and six feet for standing adults.~~

~~11. —~~ When walkway lighting is provided primarily by low fixtures, there should be sufficient peripheral lighting to illuminate the immediate surroundings. Peripheral lighting provides for a better feeling of security for individuals because they can see into their surroundings to determine whether passage through an area is safe. Such lighting should be approached from one of two ways:

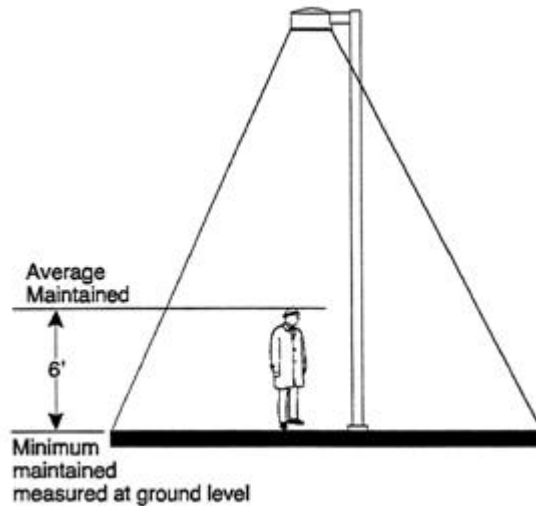
~~—— a. —~~ By lighting the area so that an object or person may be seen directly; or

~~—— b. —~~ By lighting the area to place an object or a person in silhouette. (Ord. 698 § 3.1(g), 2005; Ord. 359 (Attach. 2 (part)), 1992)

“Land use ordinance” means the city of Moreno Valley development code as amended.

Lighting (Minimum Maintained). “Minimum maintained lighting” means a method of measuring light at the ground level.

9.15.030



**Figure 9.15.030-10**

**Lighting (Minimum Maintained)**

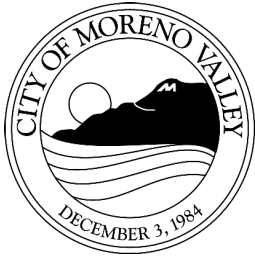
“Light Trespass” means any artificial light or glare from a light fixture onto neighboring property that interferes with viewing of the night sky, or eliminates the ability to have darkness on the adjacent property, or shines into neighboring windows, properties or structures.

“Livestock” means and includes cows, bulls, calves and heifers, except pigs.

“Live/work unit” means a residential dwelling unit where there is one or more rooms containing working space located within, adjacent to, or near the residential unit, and one or more individuals living in the residential unit regularly use the working space to earn their livelihood, usually in professional or design related activities.

ATTACHMENT 7

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**PLANNING COMMISSION  
STAFF REPORT**

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Case: PA10-0022

Date: April 14, 2011

Applicant: City of Moreno Valley

Representative: Same as above

Location: Citywide

Proposal: Revision of Title 9, Chapter 9.08, Section 9.08.100, "Lighting", Section 9.08.190, "Street Lighting", Chapter 9.16 Article IV "Applications for Hillside Development", Section 9.16.235 "Hillside Design Guidelines", Article VI, Applications for Lighting, Section 9.16.280 "General Requirements", and Chapter 9.15 Section 9.15.030, "Definitions" relating to dark sky provisions for general site, street and athletic field/park lighting citywide.

Redevelopment Area: N/A

Recommendation: Recommend ordinance amendment to City Council

**SUMMARY**

The Planning Division of the City of Moreno Valley proposes modifications to various sections of Title 9 of the Municipal code to refine existing lighting standards to provide for better viewing of the night sky ("dark sky"). The amendment proposes modifications to onsite, athletic field/park and street lighting to minimize light pollution and trespass. All newly establish developments citywide will be subject to the proposed revisions to the code.

ATTACHMENT 8

**BACKGROUND**

At the October 20, 2009, Study Session, the City Council provided direction to review the City's lighting standards based on the International Dark-Sky Association (IDA) recommendations and dark sky ordinances from other communities. This review was identified in the Settlement Agreement between the Sierra Club, Highland Fairview and the City regarding approval of the Highland Fairview Corporate Park Project. The review also reflects previous development review projects located within the rural and hillside residential areas within the north and east portions of the City.

The underlying principles of the proposed lighting standards/dark sky ordinance are to:

- Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night sky;
- Curtail and reverse degradation of the nighttime visual environment and the night sky;
- Minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary;
- Conserve energy and resources to the greatest extent possible;
- Help protect the natural environment from the damaging effects of night lighting.

Based on information from the IDA, the assumption that more light always results in better safety and security is not supported. Only the right amount of light, in the right place, at the right time should be necessary. In most instances, providing more light or creating bright areas often leads to glare and reduced visibility as well as wasted light and energy. The IDA recommendations call for the use of the lowest feasible wattage lamp. The maximum wattage recommended for most commercial applications is 250 watts of high intensity discharge lighting.

The current City Municipal Code includes provisions to curb on-site lighting. The Municipal Code requires that "lighting shall be adequate to help ensure a safe environment, but not cause excessive glare or intense light." All non-residential lighting is required to be shielded to avoid glare and prevent light spillage over property lines or into the public right of way. The lighting at property lines is limited to a maximum of 0.5 foot candle. The minimum lighting required in parking lots, pedestrian walkways and other areas accessible to the general public is 1 foot-candle and the maximum is 8 foot-candle to provide adequate nighttime visibility without creating excessive glare. Lighting standards are verified by a review of a point by point lighting plan showing the foot-candle lighting for closely spaced points across a site based on the fixtures proposed for the on-site use. Residential lighting is limited to twelve feet in height, below the typical eave line for a house. Finally, the stated intent of lighting standards for designated hillside properties is to preserve the low light level conditions that are an inherently characteristic of hillside areas.

## **PROJECT ANALYSIS**

In order to comply with the direction provided by the City Council at their October 20, 2009 Study Session meeting and the Settlement Agreement between the Sierra Club, Highland Fairview and the City of Moreno Valley, staff is presenting the Planning Commission with revised Municipal Code standards for lighting. Staff has included specific updated standards relating to onsite and parking lot lighting, lighting required on streets and right of ways and lighting provided for sports activities within parks and athletic fields.

Research conducted by the Planning Division found that very few cities had adopted dark sky ordinances. For example, surrounding cities such as Riverside, Perris and Redlands did not have adopted dark sky ordinances. The majority of the cities who have adopted dark sky ordinances were found to be more rural, desert and tourist areas where climate conditions more easily allow the viewing of the stars and night sky. While the Settlement Agreement specifically identified consideration of standards from the City of Palm Desert, staff also reviewed ordinances from the cities of Palm Desert, Beaumont, Palm Springs, Encinitas and San Diego and other cities, and the IDA recommendations.

Based on the review of existing Municipal Code standards and other communities dark sky ordinances, staff has proposed updated standards in Attachment 3 of this report. Many of the standards in the existing ordinance were used; however a number of items from IDA recommendations and ordinances such as Palm Desert's were utilized to incorporate dark sky practices. The major modifications to the existing lighting ordinance include:

- Revised development and performance standards to include maximum wattage for light bulbs on single-family residential, multiple-family residential (100 watts) and non-residential (commercial and industrial) properties (250 watts);
- All lighting designed with full cutoffs to fully shield light fixtures on residential-multiple family and all non-residential properties.
- A further reduction of permitted light trespass or spillover lighting onto adjacent properties for all non-residential (commercial and industrial) and multi-family residential properties to a maximum of 0.25 foot candle maintained lighting measured from within five (5) feet of any property line. The existing City standard is 0.50 foot candle. The revised standard is consistent with language provided within the Palm Desert Ordinance.
- The inclusion of lighting height limits on hillside residential lighting of 8 feet, with all other residential areas not to exceed 12 feet. Non-residential lighting height limits shall be a maximum of 30 feet, except within 100 feet of a residential use, where lighting shall be reduced to a height of 20 feet and walkway/courtyard lighting to a maximum of 12 feet in height.

- The addition of lighting curfews for outdoor lighting systems in non-residential areas requiring all lighting to be reduced by 50 percent beginning at 10:00 p.m. or the close of business, whichever is later, until dawn or the start of business, whichever is earlier.
- The addition of athletic field lighting standards to include horizontal cutoffs to reduce lighting above the fixture for new and retrofit lighting designs and a maximum lighting value used in lighting recreational athletic fields of an average maintained 50 foot-candles.
- The modification of existing street light standards to include the installation of street lighting solely for the purpose of illuminating the public right of way and conformance to the city street lighting standards, including the provision that the developer will pay all costs related to the installation of street lighting and establish a method for the payment of maintenance and operations.

The dark sky standards would apply to all new development and to existing development/parking areas that are enlarged or altered. Any general modifications to existing on-site lighting structures or fixtures and/or intensity of lighting may be subject to review of a new or revised point by point photometric lighting plan.

Specific language of the above sections of the Municipal Code can be found in Attachment 3 of this report, which includes a strikeout/underline version of the language added and subtracted.

### **REVIEW PROCESS**

Staff originally presented the item to the City Council at the October 20, 2009, Study Session meeting as in conjunction an overall review of City efforts included in the Highland Fairview Corporate Park Settlement Agreement. During the study session meeting, existing and proposed standards were discussed, with the City Council recommending that staff bring back proposals to incorporate guidelines of the International Dark Sky Association and exterior lighting standards of jurisdictions such as Palm Desert which have created dark sky ordinances.

Subsequently, staff established a subcommittee of members from various internal departments involved with lighting, including Land Development, Transportation, Police, Special Districts, Moreno Valley Utilities and Parks and Community Services. Collectively, all internal departments and representatives of the subcommittee have drafted revised lighting language and/or reviewed draft dark sky lighting standards. All members of the subcommittee have agreed to modify the ordinance as is presented and attached to this report.

The next step in the process is to have the Planning Commission review the proposed amended lighting standards and recommend to the City Council for final review and action.



## **ENVIRONMENTAL**

The proposed Municipal Code Amendment (PA10-0022) is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines in that there is no possibility that the proposed activity and the modification of existing light standards to further prevent light spillover into adjacent properties and the night sky would create the potential for a significant impact upon the environment.

## **NOTIFICATION**

A 1/8 page public hearing notice for this development code amendment was published in the local newspaper. The Sierra Club was also notified of the meeting.

## **REVIEW COMMENTS**

Staff sent out the final draft of the modified lighting ordinance to eleven (11) lighting designers and experts in the field that have previously submitted photometric lighting plans to the City, inviting any comments on the draft language to be provided. Staff did not receive any comments during or since the 30 day transmittal period.

## **STAFF RECOMMENDATION**

**APPROVE** Planning Commission Resolution No. 2011-10 and thereby **RECOMMEND** that the City Council:

1. **RECOGNIZE** that the proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061 of the CEQA Guidelines; and
2. **APPROVE** revisions to Title 9, Chapter 9.08, Section 9.08.100, "Lighting", Section 9.08.190, "Street Lighting", Chapter 9.16 Article IV "Applications for Hillside Development", Section 9.16.235 "Hillside Design Guidelines", Article VI, Applications for Lighting, Section 9.16.280 "General Requirements", and Chapter 9.15 Section 9.15.030, "Definitions" relating to dark sky provisions for general on-site, athletic field/park and street lighting citywide.

Prepared by:

Mark Gross, AICP  
Senior Planner

Approved by:

John C. Terell, AICP  
Planning Official

ATTACHMENTS:

1. Public Hearing Notice
2. Planning Commission Resolution No. 2011-10
3. Strikeout/underline version of Chapter 9, Section 9.08.100 "Lighting" of the Municipal Code.
4. Strikeout/underline version of Chapter 9, Section 9.08.190, "Street Lighting" of the Municipal Code
5. Strikeout/underline version of Chapter 9.16, Article IV, "Applications for Hillside Development", Section 9.16.235 "Hillside Design Guidelines" of the Municipal Code
6. Strikeout/underline version of Chapter 9.16, "Applications for Lighting" Section 9.16.280 "General Requirements" of the Municipal Code.
7. Strikeout/underline version of Chapter 9.15, Section 9.15.030 "Definitions" of the Municipal Code.

1 **2. Case Number: PA10-0022 Modifications to Title 9 of the**  
2 **Municipal Code for Dark Sky**

3  
4 **Case Planner: Mark Gross, Senior Planner**

5  
6  
7 **ASSOCIATE PLANNER GROSS** – Good evening Vice Chair Baker and  
8 members of the Planning Commission. I'm Mark Gross, Senior Planner. Staff is  
9 presenting the proposed amendment to current lighting standards found in five  
10 sections of the Municipal Code. The amendments relate to additions of dark sky,  
11 provisions for the general site street and recreational lighting Citywide. Now you  
12 may ask why we're actually going through the provisions of updating our Code.  
13 There are a number of reasons actually why we are doing this at this particular  
14 time.

15  
16 First of all, the lighting standard modifications are a direct result of a settlement  
17 agreement reached in January 2010 between the Sierra Club, Highland Fairview  
18 and the City of Moreno Valley regarding the approval of the Highland Corporate  
19 Park Project and so we had to actually come back and look at the current lighting  
20 standards and see what we can do to make it a little more dark sky in this  
21 particular instance. It is also the result of review of concerns of various  
22 development projects located in more hillside residential areas in the north and  
23 east portions of the City.

24  
25 Now the addition of the modification of existing lighting standards in this case is  
26 going to, for the most part, curtail and revise any degradation of the night time  
27 visual environment; the night sky. It is going to minimize or help to minimize  
28 glare and obtrusive light by eliminating outdoor lighting that is either misdirected  
29 or excessive or in some instances unnecessary. It will also conserve energy and  
30 resources to the greatest extent possible and it is also going to help protect the  
31 natural environment from the damaging effects of night lighting.

32  
33 Staff has in this process reviewed existing standards and local jurisdiction and  
34 dark sky ordinances and there were a few out there; not a lot of dark sky  
35 ordinances out there, but what we did is we focused on a couple of items. First  
36 of all, the international dark sky ordinance, and there were sample ordinances  
37 that the settlement agreement looked at which wanted us to look at Palm Desert,  
38 and there were other cities out east of us that actually had dark sky ordinances,  
39 but again few and far between. What I would like to do at this point in time is just  
40 to highlight some of the changes that you are going to see with this particular  
41 lighting ordinance amendment.

42  
43 Now the first item that it is going to provide is it is going to revise the  
44 development and performance standards to include maximum wattage of light  
45 bulbs for single family residential and multiple family residential and that would  
46 be 100 watts of incandescent lighting and 26 watts of fluorescent and also for

ATTACHMENT 9

1 non-residential; the commercial and industrial properties there will be a maximum  
2 lighting standard of 250 watts of high intensity discharge lighting. The design of  
3 all the lighting will be with full cutoffs; so you are going have any lighting with  
4 projects that would have full cutoffs and would be fully shielded for residential,  
5 multiple family and non-residential properties; so that would be industrial and  
6 commercial type properties.

7  
8 There will be further reduction of light trespass from one property to another so  
9 you'll get again a reduction of spill-over lighting from adjacent properties for all  
10 non-residential, commercial and industrial and multiple family residential, which is  
11 currently measured from within five feet of the property line, and it is now going to  
12 be at a quarter foot candle minimum maintained lighting for that area.

13  
14 Now this does differ from the standard that we have currently, which the  
15 measurement is actually at the property line and it is a half a foot candle, so it is  
16 reducing the lighting. It is also going to include height limits on hillside residential  
17 lighting and not exceeding eight feet with all other residential areas; excuse me  
18 that would be hillside residential areas and then all other residential areas not to  
19 exceed twelve feet. Non residential lighting height limits shall be a maximum of  
20 thirty feet except within 100 feet of the residential use where lighting shall be  
21 reduced to a height of 20 feet and there will be a reduction of courtyard and  
22 walkway lighting, which would be a maximum of twelve feet in height.

23  
24 Now in addition, there are going to be a couple of modifications into the general  
25 lighting section of the code and two additions you are going to have for lighting  
26 for parks, athletic field and trails and it is pretty much taking the standards of  
27 what we have and it is minimizing the spillover of lights and it is also going to be  
28 providing fully shielded lighting and horizontal cutoffs that would be required and  
29 you also have the street lighting section that is actually moving over from one  
30 section in 9.08.190 to actually this section, which will again include installation of  
31 street lighting solely for the purpose of illuminating public right-of-way and  
32 conformance to the City street lighting standards.

33  
34 Now there will be provisions in this particular code for the addition of lighting  
35 curfews for outdoor lighting systems in non-residential areas requiring all lighting  
36 to be reduced by 50 percent beginning at 10 pm or the close of business,  
37 whichever is later and until dawn or the start of business, whichever is earlier and  
38 I did want to stress with these particular standards that we are looking at, the  
39 standards in this ordinance is applying only to new projects and existing projects  
40 that are either modified, enlarged, reconstructed or changed from previous  
41 configurations. So again, existing standards or existing development will not  
42 have to meet these particular standards, they will meet what is in place currently  
43 before this standard would go into effect.

44 Now tonight the Planning Commission would be required to review and provide a  
45 recommendation to City Council on the proposed lighting development code  
46 amendment. I did want to mention that based on the environmental review of the

1 proposed amendment, the item is exempt from California Environmental Quality  
2 Act, CEQA Guidelines, pursuant to Section 15061 in that there is no possibility  
3 that the proposed activity may have the potential for a significant impact upon the  
4 environment.

5  
6 Noticing was provided for this amendment as a 1/8<sup>th</sup> page display ad in the local  
7 newspaper. A copy of the notice was also mailed to Sierra Club and George  
8 Hague who was involved in the initial law suit and subsequent settlement  
9 agreement and we did tonight or today I should say, receive a couple of... we  
10 actually had one call and we had two emails and I believe you would have gotten  
11 a couple of those emails. One actually is from the Sierra Club that pretty much is  
12 recommending support of the ordinance amendment as recommended by Staff  
13 and presented this evening. That concludes Staff's Report and I'll be happy to  
14 answer any questions.

15  
16 **COMMISSIONER OWINGS** – Mr. Chairman, may I address some questions?

17  
18 **VICE CHAIR BAKER** – Yes, surely

19  
20 **COMMISSIONER OWINGS** – Mr. Gross, just some background information for  
21 this; for my behalf and maybe possibly for the other Commissioners just to clarify.  
22 Out of the lawsuit, it was agreed with the City or in the settlement agreement that  
23 we would just look at these standards. I notice in your Staff Report that you  
24 made a survey of several cities; surrounding cities; Redlands, Riverside I believe  
25 do not have a similar ordinance. In your survey of those cities was there any  
26 information from the staff of those cities why they do not have this?

27  
28 **SENIOR PLANNER GROSS** – Well that is correct, that the surrounding cities did  
29 not have a dark sky ordinance. They were some provisions like Riverside I think  
30 have some very minor provisions in their Code, but I did not see anything or any  
31 specific dark sky requirements for the other two cities.

32  
33 **COMMISSIONER OWINGS** – Were any of those concerns possibly potentially  
34 public safety concerns or economic impact and development concerns that cities  
35 do not have these because who is against dark skies, so there must be some  
36 reason why the cities around us have chosen not to adopt these standards.

37  
38 **SENIOR PLANNER GROSS** – Well, I think you are seeing more and more  
39 opportunity to provide these types of standards. I think in my review of what I  
40 looked at as far as a survey, the majority of the cities that I looked at other than  
41 Beaumont which is very close to us, there was a full dark sky ordinance involved  
42 with that city. Of course Palm Desert and some of the desert communities had it.  
43 From what I see the majority of the areas that actually provided these standards  
44 were more rural in nature and they were more of a kind of I guess recreational-  
45 type community. John may want to add to that.

46

1 **PLANNING OFFICIAL TEREILL** – Yes, if I can interject...we're calling this a dark  
2 sky ordinance. If you've been to some place like Prescott, Arizona or Sedona,  
3 Arizona, this is not that type of a dark sky ordinance. The minimum and  
4 maximum foot candle in the proposed ordinance is exactly the same thing as the  
5 proposed ordinance, so we're not reducing any amount of light but basically  
6 directing and shielding it. There is a proposal in here which actually matches  
7 what we do in City parks currently which is a reduction of 50 percent of the  
8 lighting after a business is closed. That is exactly what happens in the city parks  
9 today.

10  
11 **COMMISSIONER OWINGS** – Mr. Terrell has there been any estimation about  
12 the additional cost to the City in terms of enforcement. In yours and my tours of  
13 the City, it seems like the City is so strapped in terms of enforcement that it can't  
14 even enforce the City sign ordinances, so every block you go to you see a  
15 violation of the City's current sign ordinances, so has there been any estimation  
16 about the additional cost placed on the City for enforcement and also has there  
17 been any study done in terms of public safety. I mean this is a community that is  
18 much different than Prescott, Arizona...

19  
20 **PLANNING OFFICIAL TEREILL** – Yes and that's why I was pointing out that it  
21 was different. The Police Department was part and Mark didn't say this but it  
22 was I think in his report, we had an inter-staff committee that included members  
23 from the Police Department, our street lighting folks, public works; all the folks  
24 that are involved and some parks and recreation and so this was vetted through  
25 them. There was not a particular concern from the Police Department that this  
26 was going to cause issues as long as there was still lighting over doorways and  
27 entrance ways and that is not required to reduce by 50 percent at night.

28  
29 **COMMISSIONER OWINGS** – Was there any survey or study done that would  
30 give us some indication as to the possible or the potential cost to the new  
31 developers to the community who are thinking about developing here? If you can  
32 go to Redlands and not meet these standards or you can go here and have to  
33 meet the standards. Was there any type of discussion along those lines?

34  
35 **PLANNING OFFICIAL TEREILL** – We did not. The other thing that is in Mark's  
36 report was we did send this out to all the lighting companies that have done  
37 business in the City in the last three years with a copy of the ordinance  
38 requesting their input and unfortunately none of them chose to provide any input,  
39 which you can say they were too busy or you can say they didn't have a major  
40 concern, so we can't interpret why they didn't respond, but we did make that  
41 outreach. I would pause it that since we're reducing the lighting requirements  
42 potentially, that it is not increasing the costs. There is a cost for shielding the  
43 lights. We already require shielding of lights so this is just putting it in the code  
44 something that is pretty much required on every development already, so I  
45 understand your concern. If I had to pause at a reason why say the City of  
46 Redlands doesn't have this, it is probably because they require these things

1 through some other venue or they have a very old code. I don't believe that  
2 there is anything in Redlands or Riverside where you drive through  
3 neighborhoods and there are glaring light problems there, so this is not meant to  
4 be revolutionary. I was at and you are correct though, this is the study; this  
5 Staff's recommendation based on looking at these other communities, it our  
6 recommendation on reducing lighting levels to potentially create a better  
7 aesthetic and not affect public safety, because that was very important and that's  
8 why we included the Police Department in the review of this ordinance.

9  
10 **COMMISSIONER OWINGS** – Well thank you very much, I appreciate it.

11  
12 **COMMISSIONER DOZIER** – I didn't understand full cutoff? Could you explain  
13 what that means by full cutoff? I assumed it just meant cutting the light off but  
14 you know...

15  
16 **COMMISSIONER OWINGS** – It has to do with cutting the lighting off and  
17 shielding yes.

18  
19 **COMMISSIONER DOZIER** – Okay, so full cutoff versus what half cutoff.... I  
20 mean...

21  
22 **PLANNING OFFICIAL TERRELL** – It means that and if you look at most lighting  
23 fixtures in newer developments or even in older developments like Town Gate  
24 Project, it means that there is a shield that goes around the four sides of the light.  
25 There certainly are lights where they are cutoff; ball field lighting is a good  
26 example where it doesn't have full cutoffs because they are trying to cover a  
27 much wider area and full cutoff is like this; ball field lights or some other lights  
28 you might find something like this. The opposite of that is the kind of lights that  
29 people have that tilt up and shine directly out and that's not a full cutoff, so the  
30 idea is that all four sides of the light focus the light down towards the ground  
31 where you are trying to provide visibility.

32  
33 **COMMISSIONER DOZIER** – I think I understand that. Now if you are taking a  
34 light bulb that is 250 watts and you are putting full cutoff and you are directing the  
35 looms down to the ground you are getting less lighting out around that, so if I'm in  
36 a parking lot the light is coming down but it's not necessarily going out in that  
37 direction. I understand the desire to want to cut and diffuse lights so that we can  
38 see the sky; I guess that's the Sierra Club's position. In some of our newer  
39 shopping centers I think we've used this full cutoff lighting and I get a little  
40 concerned because in a parking lot where people have to go some distance to  
41 their car, it does cut down on the visibility within that parking lot.

42 In some parking lots and I'm going to use an example; I'm going to use Fresh N  
43 Easy on Iris and Perris. I've been in that shopping center in the evenings and it  
44 is very dimly lit once you leave the light even around the store. Even around the  
45 store there is not a lot of lighting, so I find it a little hard to accept that there  
46 wouldn't be a problem with Police enforcement because it's just not as lit and I

1 even have concerns about my wife if she is parked too far away from the front of  
2 that Fresh N Easy getting to her car because the looms are different and the  
3 lighting is different from other shopping centers that don't have those.

4  
5 So I kind of would feel a lot more comfortable if someone would categorically say  
6 to me that cutting in a public shopping center, the ability to light that parking  
7 center parking lot that that is not increasing the potential for more crime or illegal  
8 activity. Everybody would like to see the sky but we would also like to be safe  
9 when we go out at night. A lot of the communities that we used as an example  
10 are more rural and they are out in the desert, they have clear skies and they see  
11 more stars than we might ever see, so it might be little unfair to use those cities  
12 who are trying to get that view, especially if you got out to Arizona or places in  
13 the desert. I just feel more comfortable if I thought that the overall policy wasn't  
14 going to cause situations that would put the public perhaps in more peril because  
15 of the lack of light at night. I don't get that based on what I read in your report. I  
16 understand the reason for it and I understand why the Sierra Club is pushing for  
17 it, but I'm not so convinced that the safety factor is there.

18  
19 **COMMISSIONER OWINGS** – Mr. Chairman, I follow your remarks. It's not only  
20 in the urban areas or in the developed areas because there is plenty of examples  
21 of what you are talking about; the new Target on Nason. There are parts of that  
22 area out there you know, you could probably steal the bank and no one would  
23 know, but talking that a step further to your own personal residence, shouldn't  
24 you be the judge of what wattage or lighting is necessary for your home to be  
25 protected and be safe and this ordinance seems to take or these changes to the  
26 proposed ordinance seem to take those discretions away from the homeowner  
27 and the property owner. Now I was a 23 year resident of Redlands; you're a  
28 resident of Redlands now, there are plenty of areas in Redlands that have just as  
29 many problems as this City has and those are people with the main deterrent of  
30 crime in those areas is well lit properties and you can into those areas of  
31 Redlands and you will see they are lit and I'm sure it's the same in Moreno  
32 Valley, so I think it's more broad than just a question of the developed areas. It is  
33 the personal safety of the people in their own homes.

34  
35 **PLANNING OFFICIAL TERELL** – But again to respond I guess, is that we did  
36 have the Police Department review this proposal. They did not express any  
37 particular concerns. Their main concern was lighting as far as crime, lighting  
38 over doorways. The minimum lighting standard isn't changing based on this  
39 ordinance.

40  
41 **COMMISSIONER OWINGS** – But Mr. Chair it does have a minimum on the  
42 property owner for I think you said it was 100 watt.

43  
44 **PLANNING OFFICIAL TERELL** – Well the minimum lighting that is required is  
45 one foot candle in a commercial center, so I think that was Commissioner  
46 Dozier's concern in a commercial center. The minimum lighting standard is not



1 changing. As far as yes on single family residential, there is a maximum  
2 wattage. You asked about compliance and the cost of doing that, like any  
3 ordinance that we have; voluntary compliance is 99 percent of what occurs. This  
4 would only most likely come into play; this would only come into play for  
5 obviously industrial and commercial where we would actually review the lighting  
6 the plans and make sure they meet the standards and that is not changing, but  
7 on single family residential, we don't have lighting plans for single family  
8 residential unless they are building something like a lighted tennis court and then  
9 in fact the code has always had a requirement plan where people are putting in a  
10 lighted tennis court.

11  
12 **COMMISSIONER OWINGS** – So to clarify, is this portion just a revision,  
13 redundant, unnecessary or all of the above.

14  
15 **PLANNING OFFICIAL TERELL** – Redundant... it provides an opportunity for  
16 people that are bothered by high light levels to have a fixed standard so that  
17 when there is a complaint, we actually have something; a specific standard to...

18  
19 **COMMISSIONER OWINGS** – And that comes to my next point, because if you  
20 are not willing to take care and enforce the thing across the board to all people  
21 concerned, then I really have a problem with ordinances and laws that go  
22 unenforced. I don't believe we really need a law that isn't enforced. Your  
23 comments to me about the sign ordinance; why have one if we don't enforce it. I  
24 think there are a lot of priorities in the City that should come first before this  
25 priority and I intend to vote no on this and I appreciate the Staff's work on it and  
26 your honest portrayal of it. Thank you.

27  
28 **VICE CHAIR BAKER** – Okay who is up next?

29  
30 **COMMISSIONER VAN NATTA** – I kind of see some truth in what he is saying  
31 there. I was listening to this and you know you are saying eliminate unnecessary  
32 lighting and you're talking about residential lighting and I'm like who decides what  
33 is unnecessary. If we're going to put something in place that enables my  
34 neighbor to call in for enforcement because they feel that my porch light is a little  
35 too bright, you know it is getting a little bit too intrusive and I didn't write down  
36 what you said was the maximum watts allowed in residential, but what was it;  
37 110 or 120...

38  
39 **PLANNING OFFICIAL TERELL** – 100 per light bulb.

40  
41 **COMMISSIONER VAN NATTA** – 100 watts?

42  
43 **PLANNING OFFICIAL TERELL** – Yes 100 watt light bulb

44  
45 **COMMISSIONER VAN NATTA** – I don't like that. I mean if I want a really bright  
46 light in my house I should be able to have it without having some sort of rule

1 saying that I'm not going to, but if you are going to tell me that and you're not  
2 going to enforce it anyway, why even put it in. That doesn't make sense. The  
3 other question that I had is how is this going to affect somebody who is going to  
4 bring a business in and then they are told or by the way you may feel it is  
5 necessary to leave the exterior of your building well lit at night to cut down on  
6 vandalism and graffiti and trespassing and all that kind of stuff, but we're going to  
7 tell you that at 10 o'clock you are going cut that way down. The same was  
8 mentioned about the parking lot lights. Maybe we don't have numbers that say  
9 that a less well lit parking lot is going to reduce crime, but if I'm walking through a  
10 parking lot, I like to be able to see where I'm going and not worrying about  
11 tripping and can I see what I'm doing when I'm putting my groceries in my trunk  
12 and things like that. It's all very well and good to say that as a City when we are  
13 installing the City lights; the street lights; the exterior lights and everything; those  
14 be shielded, but is it really necessary to put all of these restrictions that might  
15 affect the willingness of somebody to bring more business to the City.

16  
17 **PLANNING OFFICIAL TERELL** – Yes I agree. This is from our research, I  
18 anticipated that requiring the reduction of the lights after 10 o'clock might be one  
19 of the more controversial elements of this and it is certainly within the purview of  
20 the Planning Commission to make that voluntary rather than mandatory or to say  
21 we're not going to do it at all, but the current standard requires people to have  
22 their lights on all night long even if their business is closed, so this is kind of  
23 saying going the other way that we're going to require that you lower the light  
24 levels for energy conservation, but certainly the Planning Commission if you so  
25 chose could say don't do it at all or make it voluntary. You're the advisory board  
26 and we're just making the recommendation.

27  
28 **COMMISSIONER VAN NATTA** – Well then if it is not necessary to have the  
29 lights on all night long, why can't you just make that simply optional; you can  
30 have your lights at night or you can turn them off. It is your choice as a business  
31 owner how well you want to have your building lit and how much you want to pay  
32 for your electricity.

33  
34 **COMMISSIONER OWINGS** – Well I think as a business owner; speaking as a  
35 business owner, we have the ability to make those decisions on our own without  
36 the City telling us and as having the distinction of having the single largest one  
37 day loss in the history of American road insurance; 625 thousand dollars for 23  
38 vehicles stolen, lighting is certainly proven to be... it was the silliest conservation  
39 thing we've ever done was to cut the lighting off at midnight and suffer a 625  
40 hundred thousand dollar catastrophic loss of which the insurance covered it, but  
41 the deductible was several hundred thousand dollars and so I think each  
42 businessman has to make that consideration.

43  
44 The second thing is this, a new business coming into town, you said you'd  
45 grandfather certain businesses; well lighting for fast food and things of that  
46 nature is certainly a plus for a new business would be at a disadvantage to an old

1 business as a result of the fact that one business across the street would be able  
2 to brightly light himself through all his hours of operation and a guy across the  
3 street might not. So those are all considerations and it is a little bit like getting  
4 closing the barn door after the cows are gone. This is a City of 150 to whatever  
5 estimate you believe thousand and to start making these now you know in  
6 anticipation of us doubling or tripling I think is unrealistic.

7  
8 **COMMISSIONER CROTHERS** – I definitely like the idea of the dark sky for  
9 communities where you go to expect to see the dark sky. Communities such as  
10 Palm Desert, Palm Springs, Beaumont, Encinitas and San Diego; those are all  
11 cities where you go specifically to see the dark sky; to see the ocean; to see the  
12 views; to see Tempe, Arizona where you see all the rocks around you and those  
13 formations. This City is not like those cities. This City is very well populated and  
14 there are businesses all over our City and I think my main concern is safety and  
15 security. I don't want the light in the parking lot facing down and shining on my  
16 feet. That is not where the person's face is that may potentially attack me. I  
17 want that face well lit so that you know if anything happens there is a camera  
18 around and that face can be caught on camera. I don't think that me being a  
19 single female you know, working and shopping in our City, I don't think it is safe  
20 to cut off the lights. I can't get over that and I can't vote for this project knowing  
21 that I could be putting people at risk and I think that the lighting standards that we  
22 have already in place are doing just fine. I don't think that I've ever been  
23 somewhere and thought to myself oh my gosh it is just so bright and I wish they  
24 would cut these lights off at 10 pm. In fact in a lot of places at 10 pm I'm thinking  
25 to myself I wish there were a lot more lights around here because I don't feel safe  
26 getting out of my car or driving around the neighborhood.

27  
28 **PLANNING OFFICIAL TERELL** – I'm sorry I didn't mean to interrupt but we're  
29 not in the deliberation stage of it yet, we're in the question stage, but understood,  
30 but I will remind everybody that the cutoffs are a current standard. They're not a  
31 new standard and the lights are at 20 or 30 feet in a shopping center, so the idea  
32 is the coverage is I believe it is a one foot candle at a certain distance above the  
33 pavement. It is not at the pavement, so just to clarify, but we are still in the  
34 question/answering stage and I believe you may have a Speaker Slip so we need  
35 to kind of avoid deliberation yet.

36  
37 **COMMISSIONER CROTHERS** – Okay I think I have one more question.

38  
39 **VICE CHAIR BAKER** – Okay one more question here.

40  
41 **COMMISSIONER VAN NATTA** – So a couple of things you say we already have  
42 this in place and we already have that in place, can you maybe very simply tell us  
43 exactly what is changing with this rather than just reading the whole thing  
44 because now you are saying we already have a cutoff at 10 o'clock or whatever.  
45 What is different; what part is different?

46

1 **PLANNING OFFICIAL TERELL** – I think Mark identified those and I'll reiterate  
2 them. The first change is limiting specifically the wattage of the bulbs that can be  
3 used in residential and commercial. So that is a change. Currently we rely on  
4 the minimum and maximum foot candle, so the minimum and maximum foot  
5 candle aren't changing but the type of fixture you can have is limited by this  
6 proposal. So that's a proposed change.

7  
8 The second is this concept right now we allow a half foot candle at the property  
9 line. This would reduce that to a quarter foot candle five feet back from the  
10 property line. That is usually the landscaping, so that is a standard that is more  
11 stringent than the current code.

12  
13 The third I believe has to do with the height of the fixtures. In a hillside area I  
14 believe it is currently 12 feet and we're suggesting 8 feet as the maximum height  
15 of a light fixture in a hillside area. The residential limit of 12 feet isn't changing.  
16 The maximum in a shopping center of 30 feet isn't changing. The stepping it  
17 down to 20 feet closer to the property line is a change and for courtyards; we  
18 usually refer to this as pedestrian level lighting in the courtyard of an apartment  
19 building, that would be a maximum of 12 feet and the current standard is 15 feet.

20  
21 Reducing the lighting by 50 percent at 10pm or when the business closes,  
22 whichever is later, that is a change. The current standard actually requires the  
23 lights to be on all night long, so the property owner doesn't have the option of  
24 turning them off or reducing them under the current code. Adding in specific  
25 standards for public parks; we have standards for public parks but they are in the  
26 Public Works Code but this adds it into the code to kind of provide consistency  
27 and so the public can go and say what is the standard for that and it will be in the  
28 code, so that's not a change, but we're putting it in the code. The street lighting  
29 is not changing at all. That is a section of the code that we're moving from one  
30 area of the code to another. The wording is changed slightly but again street  
31 lighting is a public works standard and...

32  
33 **COMMISSIONER OWINGS** – Mr. Terrell, not to interrupt your thoughts...

34  
35 **PLANNING OFFICIAL TERELL** – No, those are all of them

36  
37 **COMMISSIONER OWINGS** – But how would this affect future development in  
38 the Moreno Valley Auto Mall?

39  
40 **PLANNING OFFICIAL TERELL** – The Auto Mall is exempt because it is in a  
41 Specific Plan that has its own lighting standards, but the lighting standards  
42 currently in the Auto Mall don't meet the City standards. They were unique  
43 standards specifically because of the use that is there, so they are exempt from  
44 this.

1 **COMMISSIONER VAN NATTA** – So basically we could make all these changes  
2 and because existing things are exempt and certain specific areas are exempt, it  
3 really wouldn't make much change at all except for in a few places.

4  
5 **PLANNING OFFICIAL TERELL** – The changes I would say are relatively minor  
6 but there a few of those points that you all have had some significant discussion  
7 on, so we're starting to get into deliberations so I'm trying to stop short of that,  
8 but I just wanted to point out what the specific changes are and as Mark said  
9 they do only affect new development. There a few areas that are exempt and the  
10 Auto Mall is specifically one that is exempt and it is primarily for new  
11 development but those areas that I mentioned, those are the areas that are  
12 changing. The other thing we tried to do here is really integrate the whole  
13 lighting standard so they are all in one place just to make easier for people to find  
14 them. That has nothing to do with dark sky; it has to do with making it a more  
15 accessible code section.

16  
17 **COMMISSIONER VAN NATTA** – Okay so the full cutoff and the full shielding  
18 and stuff you were talking about, that isn't a change that is already in place?

19  
20 **PLANNING OFFICIAL TERELL** – Correct

21  
22 **COMMISSIONER VAN NATTA** – Okay so if you have full cutoff for full shielding,  
23 what is the difference between an 8 foot light and a 12 foot light as far as the  
24 dark sky is concerned?

25  
26 **PLANNING OFFICIAL TERELL** – Well obviously the closer you have the light to  
27 the ground the less spillage you have because the light is still going to spill out,  
28 but it doesn't make a big difference. Having a lower standard on a hillside is...  
29 when you are a hillside and our hillside ordinance is very stringent; the idea is  
30 that if you look up at the hill you will more likely see the lights of the houses as  
31 opposed to street lights or lights sticking up above them. That is not a significant  
32 change, but it is meant to reduce the light levels in the hillside areas only.

33  
34 **COMMISSIONER VAN NATTA** – But doesn't that bring the light down to where  
35 like you know maybe a vehicle passing under them can hit them or I mean I can  
36 reach 8 feet myself and touch a light. Wouldn't that be more prone to damage or  
37 something if it was shorter?

38  
39 **PLANNING OFFICIAL TERELL** – Well it doesn't refer to street lighting, so street  
40 lighting standards are different, but the private lighting; yes even a 12 foot light...  
41 there are vehicles that certainly could hit those but the intent is that most lighting  
42 in a residential area neighborhood is either on a post that it is on the front yard or  
43 along the side of the driveway or it is on the building itself and it just lowers it a  
44 little bit. The 12 foot standard for single family has always been in the code and  
45 that's typically right over the garage door would be about 12 feet.

46

1 **COMMISSIONER VAN NATTA** – But then if you lower that to 8 feet then they  
2 wouldn't be able to put it in the eave of a house to eliminate the backyard...

3  
4 **PLANNING OFFICIAL TERELL** – That is correct. In the hillside area that would  
5 be restricted so that's certainly something that you may want to consider.

6  
7 **VICE CHAIR BAKER** – Are there any other questions? Okay we're going to  
8 open this item up to our Public Comments. The first one will be Michael Geller.

9  
10 **SPEAKER GELLER** – Good evening. You know this is a time when you just say  
11 no. This kind of garbage; this is extortion by the environmentalists who don't  
12 care about anybody but themselves. The light is out of the bottle. Who is kidding  
13 who? You're not going to see the sky in this City. Anyone who thinks they are,  
14 are living in fantasy land. You can pass all these new ordinances to just make it  
15 harder for anyone to develop; create a double standard or so called double  
16 standard; create an enforcement nightmare and you're still not going to see any  
17 stars. You know get out and look.

18  
19 I was here 26 years ago when you used to be able to see the stars. It's gone.  
20 It's done. I regret it to some extent although we didn't have any street lights;  
21 that's why we could see the stars. There were no street lights and the street was  
22 pitch black. We've chosen public safety over some things and that's the way it  
23 goes, but you know this extortion by these environmentalists to force the cities to  
24 do things that aren't necessary; aren't needed; don't need to be here; just adding  
25 new enforcement mechanisms and new little games to play and more ways to  
26 challenge developments is not a positive way to move things along.

27  
28 We need to tell people if you want to get an ordinance passed then fine lobby  
29 and get it passed, but hold a gun to someone's head to try to get an ordinance  
30 passed and that's exactly what happened here. The Sierra Club held a gun to try  
31 and prevent development in the City. Enough is enough. Tell them no. The City  
32 did their part. All the Settlement Agreement said was you had to look at it; you've  
33 looked at it; say no; recommend to City Council and turn it down in full and be  
34 done with it and you know let's show that the residents in the City; not the three  
35 members of Sierra Club are going to run the City and tell the City what to do and  
36 you know we have rights too. You know all the rest of the residents; our Sierra  
37 Club members also have rights; people that own land have rights and enough is  
38 enough. You know there is nothing wrong with saying no.

39  
40 You have a lot of legitimate concerns, but the biggest thing is that it is unneeded;  
41 it is unnecessary. It is not going to serve one iota of good. We're not going to  
42 see any stars. You know if they want to see the stars they are going to have to  
43 go out to the desert. It is an unfortunate truth. It's just the way it is, but this isn't  
44 going to change it and why do get into these fantasies that we're going to fix  
45 problems that can't be fixed by all these band aid ordinances. All it does is to  
46 make... instead of 400 conditions, they'll be 500 conditions of approval to get a

1 stupid project approved and you know you can say enough. The City has done  
2 its part and I would hope that you'll just tell the City Council no and if they want to  
3 pass it then they'll pass it, it's ultimately their choice, but you know it is your  
4 choice to tell them we don't think it's needed. Anyway thank you and I have to go  
5 pick my wife up from the airport.

6  
7 **VICE CHAIR BAKER** – Thank you Michael. Our next speaker is Steve Jiannino.  
8 If you just state your name and address so we can have that on the record.

9  
10 **SPEAKER JIANNINO** – Okay I'm Steve Jiannino and my address is 24701  
11 Valley Ranch Road, Moreno Valley and I have to disagree with Mr. Geller. I can  
12 see the stars. I live in the hillside. I live off of Ritchie Vista. I can see the stars  
13 and I would like to continue to see the stars. It's a wonderful thing, so I want you  
14 to recommend approval of this to the City Council. Thank you.

15  
16 **VICE CHAIR BAKER** – Okay, thank you. Okay we have no more Speaker Slips,  
17 so I'll close Public Testimony and now we are going to go into Commissioner  
18 Debate.

19  
20 **COMMISSIONER CROTHERS** – I won't take up too much time saying what I've  
21 already said at the wrong time in the meeting, however my standing is that in  
22 cities such as Palm Springs, Encinitas and San Diego; those are the cities where  
23 you really go to see the dark sky; you go to see... you know if you went to the  
24 desert and didn't see the stars, you would be sorely disappointed in your visit in  
25 the desert. That is just one of the attractions to it. I think that Moreno Valley as a  
26 whole has a good lighting position already in place and I don't think that this will  
27 serve to provide any more dark sky to the people who already live here. For Mr.  
28 Jinnino I envy you, I wish I could see the stars from my house, however you  
29 know I live in the middle of a development and I'm not lucky enough to live on the  
30 outskirts or in the hills; maybe someday, if I'm here that long. But you know, I do  
31 have to say that we've looked it; I've read it and I'm going to have to say no.

32  
33 **COMMISSIONER RAMIREZ** – Thank you. In the wake of the most recent  
34 events that have taken place in our community, I'm very concerned that  
35 eliminating or reducing any kind of lighting is going to help our community as far  
36 as security goes. Having served in the Marines and having served in combat I  
37 know that strategically in order to operate efficiently it is easier to do it in the dark  
38 where you can't be seen. That's where you can operate and get away with  
39 things, so reducing lighting is not only going to promote crime but I believe it is  
40 going to make it more difficult for people to witness crimes as well, so I  
41 understand all sides and I can hear all sides of the discussion, but as a whole  
42 and for the utmost security of our community and given the wake of things that  
43 have happened and transpired in the last six months, I don't believe that reducing  
44 any lighting is going to help us here, so that's all I have to say and therefore I will  
45 be voting no against this. Thank you.

46

1 **COMMISSIONER DOZIER** – Well the first condition or the first change was  
2 limiting the bulb wattage for residences. I think that’s kind of intrusive. I think I  
3 agree with my fellow Commissioner Mr. Thomas Owings that that is intrusive and  
4 I don’t like that. I just feel like for my own personal safety and the safety of my  
5 family that I should be able to decide how much light I need in my front or my  
6 back, so I don’t agree with the first change right there and you know if you pass  
7 an ordinance like this, the Home Depot and all of the different stores are going to  
8 know that ordinance exists and they are going to change their stock and they are  
9 going to make it more difficult for me to light my house the way I want to light it. I  
10 just don’t see; I just couldn’t go along with that I’m going to vote it down even just  
11 for that one reason. I don’t hold any avarice against a Sierra Club for trying to  
12 save the natural world so to speak; that’s their mission; that’s what they do; but  
13 there are some limitations. There are some limitations when they are forcing  
14 some of us who aren’t quite as passionate about some of those issues as they  
15 are and they certainly have tried to impose some of those on us that I think in this  
16 case affect our personal liberties and some of our choices and I don’t appreciate  
17 that. I think you can be over-zealous and you can love something with so much  
18 of a passion that you infringe on the rights of others to make those decisions for  
19 them and that’s unfortunate. I think that is happening in this case and I will vote  
20 against it as well.

21

22 **VICE CHAIR BAKER** – Thank you

23

24 **COMMISSIONER VAN NATTA** – I think I already said it too. I think we’ll begin  
25 learning when to ask questions and when to debate, but this is our first night so  
26 we’re granted a little bit of leeway I think. Yes just going through the points  
27 where changes are being made, I don’t see any need; any reason for these  
28 changes. I don’t personally have any 100 watt bulbs in my house, but I reserve  
29 to put one in if I want to or 150 watt or whatever I can find if I decide for some  
30 reason I want more light. I think when you start cutting down the amount of  
31 lighting that the business owner can have around the perimeter; around their  
32 building or restricting the owners decision about when to have lights on and not  
33 to have lights on around their business, that should be the business owner’s  
34 decision. I don’t like the current requirement that they keep them on all night  
35 long either; you know let the business owner decide how much light they need for  
36 protection of their premises and as for the hillsides; if I have a two story house or  
37 even a one story house on a hillside and I want to put a light where I can  
38 illuminate my landscaping or my patio area or whatever and I’m restricted to  
39 putting it at 8 feet which is just a couple feet above the top of my head, you know  
40 it is very restrictive. I’d have to put in twice as many lights to get the coverage for  
41 my landscaped backyard or whatever for those patio parties and all that, so I just  
42 don’t need to say anything more about it. I don’t like it.

43

44 **VICE CHAIR BAKER** – Thank you

45



1 **COMMISSIONER SALAS** – Yes I’ll be short. I just don’t... I’m not behind  
2 approving an ordinance that I think it is impossible to enforce. How are we going  
3 to enforce this? We don’t have enough code enforcement and for a lot of other  
4 stuff that is a lot more important than this, so I’m not for it either.

5  
6 **COMMISSIONER OWINGS** – I just would like to address the City Staff that lifted  
7 an eyebrow when they thought that my comments were slipping and away from  
8 questioning and into deliberation. Those were rhetorical remarks and meant to  
9 be rhetorical questions. You know one thing you said when you were talking to  
10 me in the questioning period when the real questioning period was, that there  
11 was some consolidation and Staff felt comfortable about those consolidations of  
12 getting all these type of lighting type issues into one area. You know I would  
13 really recommend and support a move to do that because anything that makes it  
14 easier and clarifies those things for developers and citizens makes sense, so I  
15 would hope that we wouldn’t have to come to one of these type of ordinances in  
16 order to do those kind of consolidations and would recommend that Staff do that  
17 whenever possible and bring those to the Planning Commission and the City  
18 Council on their own volition when those changes need to be addressed. I’ve  
19 already made myself clear as to how I’m going to vote against recommending  
20 this to City Council and thank you very much for your good work.

21  
22 **VICE CHAIR BAKER** – Okay on this lighting ordinance I’m of the position that  
23 more light is better than less for our security issue and with things that happen.  
24 We need the lighting level. I can appreciate maybe consolidating some of that  
25 together. I don’t know how we do that without rearranging our ordinance or  
26 something. How is that done? I can see if you move something over from public  
27 works into the lighting deals but do you have to change the whole ordinance to  
28 do it?

29  
30 **PLANNING OFFICIAL TERELL** – Yes well based on your discussion and this is  
31 the kind of discussion that we are supposed to have at Planning Commission, so  
32 what I would recommend for your consideration is that you approve the  
33 ordinance excluding of the provisions that increase the regulation; so those  
34 specific changes that I mentioned. You can approve the consolidation aspect  
35 and the wordsmithing; what I call wordsmithing and fortunately based on staffing  
36 levels this is when we have the opportunity to suggest some of these things  
37 because there is urgency to do something so we can... when we look at an  
38 ordinance, we don’t sit back and say they want a recommendation on dark sky  
39 and that’s all we’re going to do; we kind of look at where we can fix what is not  
40 necessarily broken but might not be as clear as it could be, so I mean I would  
41 suggest that you might want to approve the consolidation aspect of the ordinance  
42 and delete those items that are changes that increase the regulation on the  
43 lighting levels and based on that the Council can agree or disagree, but then  
44 what we would do is we would go back and revise the ordinance and this is  
45 maybe what we might want to do now, is we could take your input into  
46 consideration; revise this ordinance; bring it back to you and then you could

1 recommend that ordinance to the City Council. They would also see the original  
2 proposal and they could decide Plan A or Plan B.

3  
4 **VICE CHAIR BAKER** – I think that makes a lot of sense.

5  
6 **COMMISSIONER OWINGS** – I think that makes more sense because I would  
7 not want to be in a situation where we are sending mixed messages to the  
8 Council. The message this Planning Commission should send to the Council is  
9 this. We don't want the Dark Sky Ordinance period but we do recognize that  
10 Staff needs to have some consolidations of these. It is unfortunate that you  
11 chose this as the vehicle to do that in my opinion. I appreciate your situation...

12  
13 **VICE CHAIR BAKER** – Part of it we were mandated by the Sierra Club right, so  
14 that was part of it.

15  
16 **COMMISSIONER OWINGS** – But it was our choice to try to and consolidate  
17 ordinances using it as a vehicle. It was an opportunity that presented itself to you  
18 guys to do something that needed to be done and for that you should be  
19 applauded. But I just really wouldn't want to put the same message out to the  
20 City Council that we liked it in any way shape or form.

21  
22 **PLANNING OFFICIAL TERELL** – And again as I said you choose to, you could  
23 ask Staff take your comments into consideration and come back with a revised  
24 ordinance that incorporates those comments and then you get to review it again  
25 and you could recommend that there is no urgency for it go...

26  
27 **COMMISSIONER OWINGS** – Speaking for myself, I would prefer not to do that.  
28 I would prefer to vote the recommendation down with the recommendation that  
29 the Staff come back with those consolidation efforts in a second ordinance.

30  
31 **PLANNING OFFICIAL TERELL** – The only reason I'm suggesting doing it this  
32 way is because we've got to go Council anyway, so we're going to Council and  
33 then theoretically they would generally, I think support...

34  
35 **COMMISSIONER OWINGS** - I know you guys think is form over substance but  
36 really the message has to be clear from the Planning Commission that it doesn't  
37 in my opinion; that it does not want this ordinance and mixed messages in any  
38 way shape or form. It just needs to make a clear statement that that is what we  
39 stand for and if you guys want to consolidate those types of ordinances we can  
40 do those separately. I realize that it is more efficient your way but I think it sends  
41 the wrong message.

42  
43 **VICE CHAIR BAKER** – We're not under the hammer to move on. I mean we  
44 can deny this tonight and then at a later date if you want to bring that back like  
45 Tom says to consolidate, we can look at that at a different time. We can get this  
46 thing off the board here.

1 **PLANNING OFFICIAL TERELL** – Yes you can do that but you’re making a  
2 recommendation of denial so for us is potentially...  
3  
4 **VICE CHAIR BAKER** – We’re going to need some help here whoever makes this  
5 because if we move to approve then we move against the approval.  
6  
7 **PLANNING OFFICIAL TERELL** – No, we’ll work on that in a minute  
8  
9 **VICE CHAIR BAKER** – It gets a little hairy in these deals  
10  
11 **PLANNING OFFICIAL TERELL** – You can take whatever action you like to  
12 send, but the message you’re sending... you’re recommendation is going to City  
13 Council and...  
14  
15 **VICE CHAIR BAKER** – They can override that too  
16  
17 **PLANNING OFFICIAL TERELL** – They can override that or change that, yes  
18  
19 **VICE CHAIR BAKER** – And they have before  
20  
21 **COMMISSIONER VAN NATTA** – The only thing that I wanted to say that I didn’t;  
22 that I would like to see that is kind of hinted to in this is that the lighting being  
23 reduced after the business closes and you’re saying the current code requires  
24 them to stay open to stay lit all night long; that they have the option of reducing  
25 their lighting after closing or after 10 pm, whichever is later or whichever is  
26 earlier; sorry.  
27  
28 **PLANNING OFFICIAL TERELL** – Okay and as you know and any... we do  
29 verbatim minutes of the meeting, so whatever you said tonight will be in the  
30 packet for the City Council, so we’ll see all your discussion.  
31  
32 **COMMISSIONER OWINGS** – We have to hope that they read that though  
33  
34 **PLANNING OFFICIAL TERELL** – And certainly to the extent and Mark is an  
35 expert at this; what we would do as part of the Staff Report is we would highlight  
36 the concerns and certainly that one or more Commissioners mentioned this or  
37 that. We try to characterize that in there, so it’s very helpful to note that there is  
38 something there that is maybe a current change from the code that you might  
39 want to recommend.  
40  
41 **COMMISSIONER VAN NATTA** – If everyone else feels the same way as I do  
42 about it.  
43  
44 **COMMISSIONER OWINGS** – So some housekeeping here a little bit... when the  
45 Planning Commission as a group wishes the Staff to take a look at these types of

1 inconsistencies in the ordinances and to try to correct those is there a  
2 mechanism that you suggest we do in terms of do we pass a resolution; do we...

3  
4 **PLANNING OFFICIAL TERELL** – No pretty much what we do is when we have  
5 discussions like this; I have a list in my office. I write things on my list and  
6 someday when we get to them. Literally that is what happens because we try to  
7 do what I call a cleanup ordinance. We used to be able to do them every year  
8 and now it is like every other year, so we add these kind of clarifications in with  
9 that, so it will go on the list regardless, so you don't need to take a formal action.

10  
11 **COMMISSIONER OWINGS** – So then in terms of just a matter of procedure for  
12 my knowledge, when you have a negative, I noticed the previous minutes there is  
13 just this tremendous agonizing over how to vote yes when you are meaning no  
14 and can a simple motion to deny; couldn't someone make a simple motion here  
15 to recommend that the City Council not approve this ordinance pure and simple?

16  
17 **PLANNING OFFICIAL TERELL** – Yes you can and what you'll need to do based  
18 on that is we'll bring back a resolution for validation at your next meeting that is I  
19 guess...

20  
21 **COMMISSIONER OWINGS** – That would be more reflective of our thoughts

22  
23 **PLANNING OFFICIAL TERELL** – ... that you're not recommending and so your  
24 action tonight if I understand and I think I pretty well understand and the  
25 consensus here is that you would deny the proposed... so it's really deny... well  
26 don't deny the resolution; basically recommend; take number 2 there and change  
27 approve to deny and that's what you do and then based on that we'll bring back a  
28 resolution that reflects that action. You'll adopt that resolution of recommending  
29 denial and then we'll bring that forward to City Council.

30  
31 **COMMISSIONER SALAS** – So we approve to deny

32  
33 **PLANNING OFFICIAL TERELL** – No you would just read number 2 and your'  
34 action would be to deny the revisions and so it's that number 2 and then based  
35 on that we'll bring back a resolution that reflects your viewpoint and then you'll  
36 approve that resolution.

37  
38 **COMMISSIONER RAMIREZ** – In essence that motion then would not read the  
39 preamble and the number 1, you would just move to and then start reading  
40 number 2 with the word deny to accomplish what you are asking.

41  
42 **VICE CHAIR BAKER** – Okay so are we ready for a motion to move forward on  
43 that?

44  
45 **COMMISSIONER SALAS** – So I'm going to read 2, right?  
46

1 **VICE CHAIR BAKER** – Change Approve to deny

2  
3 **COMMISSIONER SALAS** – Okay... **DENY** revisions to Title 9, Chapter 9.08,  
4 Section 9.08.100, “Lighting”, Section 9.08.190, “Street Lighting”, Chapter 9.16  
5 Article IV “Applications for Hillside Development”, Section 9.16.235 “Hillside  
6 Design Guidelines”, Article VI, Applications for Lighting, Section 9.16.280  
7 “General Requirements”, and Chapter 9.15 Section 9.15.030, “Definitions”  
8 relating to dark sky provisions for general on-site, athletic field/park and street  
9 lighting citywide.

10  
11 **VICE CHAIR BAKER** – Very good; do we have a second?

12  
13 **COMMISSIONER OWINGS** – Second

14  
15 **VICE CHAIR BAKER** – Okay, do a wrap up vote; all in favor?

16  
17 Opposed – 0

18  
19 **Motion carries 7 – 0**

20  
21 **VICE CHAIR BAKER** – Staff wrap-up...

22  
23 **PLANNING OFFICIAL TERELL** – Okay I have a question and I just want to just  
24 kind of a... on Commissioner Van Natta’s suggestion, is there general support for  
25 doing that or allowing flexibility in having a property owner able to reduce their  
26 lighting after they close their business or is that not a consensus?

27  
28 **COMMISSIONER OWINGS** – I need to ask a question of you? The purpose of  
29 that ordinance is that for public safety; was that the intent of it to cause  
30 businesses to keep their lights on so that it would aid in law enforcement?

31  
32 **PLANNING OFFICIAL TERELL** – We’re not sure because when we posed that  
33 question to the representative of the Police Department, they said it wasn’t their  
34 requirement, so it may have been someone’s intent to do that but...

35  
36 **COMMISSIONER OWINGS** – Well would it have been their recommendation I  
37 guess would have been the appropriate response from them would have been,  
38 it’s not their requirement but we would like to see it. Guessing would it be their...

39  
40 **PLANNING OFFICIAL TERELL** – No, actually in talking with the Police  
41 Department the amount of lighting wasn’t the key, it was that it was the type of  
42 lighting. They were very concerned about the type of fixtures so that you know it  
43 was a white light that actually...

44  
45 **COMMISSIONER OWINGS** – Right, as opposed to the amber...

1 **PLANNING OFFICIAL TERELL** - ... amber and the most critical was when  
2 businesses are closed, the most critical was the lighting over the doorways and  
3 that's what they were very concerned about. They weren't concerned about...

4  
5 **COMMISSIONER OWINGS** – But they would like to see that on 24 hrs. a day if  
6 they could or at least at night time.

7  
8 **PLANNING OFFICIAL TERELL** – Well the idea is this doesn't recommend that  
9 the lights be turned off, it just allows them to reduce to 50 percent. If you want to  
10 go further and say you know you can turn the lights off...

11  
12 **COMMISSIONER OWINGS** – I think it requires further... I like the spirit of the  
13 Commissioners, but I think we really need to look into that.

14  
15 **PLANNING OFFICIAL TERELL** – Yes, so if the consensus is just to kind of  
16 leave that as kind of a suggestion and not as recommendation. I just wanted to  
17 clarify that.

18  
19 **COMMISSIONER VAN NATTA** – Well I think what you had said earlier when you  
20 were speaking to the representatives from the Police Department; they said their  
21 only concern was that the doorways be lit, that I think that could be something we  
22 could say give the business owner the option after closing or after 10 o'clock to  
23 reduce the lighting as long as the doorways remain lit.

24  
25 **COMMISSIONER OWINGS** – That's closer to being agreeable.

26  
27 **PLANNING OFFICIAL TERELL** – Okay, yes. Does that seem like a general  
28 consensus? Just nod.

29  
30 **COMMISSIONER OWINGS** – But you probably should put the provision on it that  
31 you do have this discussion with the Police Department and make sure that is the  
32 way.

33  
34 **PLANNING OFFICIAL TERELL** – Right and any final recommendation; any final  
35 ordinance should be reviewed, because that is somewhat of a change from what  
36 we suggested, so we would still want to review that with the Police Department  
37 before anything was actually adopted. So with that, what we'll do is this item will  
38 be coming back to you at your next meeting with a resolution that reflects your  
39 action tonight and then based on that then we'll go forward to City Council.

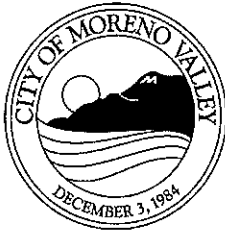
40  
41 **VICE CHAIR BAKER** – Okay, thank you.

## **CITY COUNCIL REPORTS ON REGIONAL ACTIVITIES**

- a. Mayor Richard A. Stewart report on  
March Joint Powers Commission (MJPC)**

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

## Report to City Council

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**TO:** Mayor and City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District

**FROM:** Michael McCarty, Director of Parks and Community Services

**AGENDA DATE:** July 12, 2011

**TITLE:** Approval of Concessionaire Agreement with Pacifica University, Inc., for the Cottonwood Golf Center

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### RECOMMENDED ACTION

Staff recommends that the City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District, approve a long-term Concessionaire Agreement between the Moreno Valley Community Services District and Pacifica University, Inc., to maintain and operate the City's Cottonwood Golf Center and adjacent banquet facility.

### BACKGROUND

The City has owned the Cottonwood Golf Center since incorporation. During this time, the City has contracted with two concessionaires to operate the clubhouse/pro shop portion of the course. Whether operated by contract or in-house the golf course has always shown an annual deficit. At one time the operational deficit at the Center was more than \$350,000 per year. While the deficit has been reduced significantly, it is anticipated that the deficit will be approximately \$199,000 for the current fiscal year.

The City has been operating Cottonwood for the last nine years and has been able to somewhat reduce the deficit; however, we have been unable to make the course cost effective. The proposed contract with Pacifica University indicates their interest in being the concessionaire at Cottonwood including the operation and maintenance of the golf course and the management and operation of the adjacent banquet facility. The proposal, if approved, will immediately reduce the deficit by approximately \$70,000 and will completely create a self sufficient golf course within four to five years.

## DISCUSSION

At the City Council Study Session in April 2010, staff was directed to retain the maintenance and operation of the Cottonwood Golf Center, while trying to reduce the deficit it incurs. For fiscal year 2009/10, expenditures at the golf course were \$336,726 while revenues came in around \$71,000 for an annual deficit of \$265,726. With some aggressive maintenance changes, staff immediately reduced the fiscal year 2010/11 expenditure budget to approximately \$289,886. This reduced the overall annual deficit to \$199,886.

Staff met regularly with a newly established Golf Course Committee, comprised of residents that utilize the golf course. Working with this committee, the City adjusted the fee schedule, improved marketing to increase play, and brainstormed as to what would be best for the Cottonwood Golf Center. Along with this staff repaired a massive drainage problem, originally projected to cost more than \$300,000, but was completed for approximately \$20,000.

On February 23, 2011 staff advertised a request for proposal, subsequently receiving four inquiries. Staff and elected members from the Golf Course Committee conducted in person interviews with all interested parties which resulted in a unanimous decision to begin negotiations with Pacifica University.

Pacifica University is a newly formed athletic and sports management institution currently based in Riverside. Staff has a positive working relationship with the college as their men's basketball and baseball teams have been renting the gymnasium at the Conference and Recreation Center as well as Sunnymead Park's Salas Field. Pacifica University is in the midst of forming women's basketball, soccer, and volleyball along with men's soccer and rugby with more teams on the horizon. The proposal from Pacifica University involves the college golf team assuming responsibility for the maintenance and operation of the golf course as well as responsibility for the adjacent banquet area.

There are many advantages to this unique opportunity including the following:

1. Pacifica University will relocate to Moreno Valley with the name Pacifica University of Moreno Valley.
2. Upon expansion the college will be leasing other facilities within the City for their classrooms.
3. Pacifica University has other money backing this endeavor (tuition and investors) which gives the City an opportunity to have a golf course out of debt.
4. Staff at the course (golf team) will have knowledge of this sport which will be great for the players that frequent Cottonwood.
5. Pacifica University is enthusiastic about immediately helping the CSD in constructing a practice hitting area and eventually improving the kitchen to serve prepared food.

6. The University golf team will be promoting the course in the community especially amongst our youth, providing tournaments and leagues in hopes of increasing play at Cottonwood.
7. Lastly the university students and staff will be frequenting Moreno Valley restaurants, stores, and gas stations which obviously help the City's economy.

The details of the proposed agreement are attached but in short allows the University to retain all revenues for the first three years while freeing up staff expenditures, contractual services, and supply expenses currently incurred by City.

It will be necessary for staff to address certain building deficiencies to get this facility up to code and operating efficiently, while the University will be constructing improvements that will make Cottonwood a more inviting place to visit.

### **ALTERNATIVES**

1. Approve the Concessionaire Agreement with Pacifica University, Inc., to maintain and operate Cottonwood Golf Center for a period of five (5) years with a renewal opportunity for 20 additional years.
2. Not approve the Concessionaire Agreement and direct staff to identify alternatives to reduce funding deficit.

### **FISCAL IMPACT**

By approving staff's recommendation, Cottonwood Golf Center will reduce annual expenses by approximately \$70,000 this fiscal year, while eventually eliminating the deficit at the course for the first time in the history of its existence.

### **SUMMARY**

Staff and the Golf Course Committee believe the City has a unique and creative opportunity that benefits the entire community and will help the Cottonwood Golf Center become a successful, more attractive area for residents and non-residents to spend their leisure time. Pacifica University is excited about not only operating the course but also becoming part of Moreno Valley.

### **NOTIFICATION**

Posting of the agenda.

### **ATTACHMENTS/EXHIBITS**

Attachment A: Proposed Concessionaire Agreement with Pacifica University

Prepared By:  
Michael McCarty  
Director of Parks and Community Services

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:

**ATTACHMENT A**

**CONCESSION SERVICES AGREEMENT  
BETWEEN THE MORENO VALLEY COMMUNITY SERVICES DISTRICT AND  
PACIFICA UNIVERSITY, INC.  
(Cottonwood Golf Center)**

THIS AGREEMENT is made and entered into this 1<sup>st</sup> day of August, 2011, by and between the Moreno Valley Community Services District, a Municipal corporation (hereinafter called the "CSD") and Pacifica University, Inc. (hereinafter called the "Concessionaire") whereby said parties agreed upon the following terms and conditions:

**RECITALS.**

CSD owns a golf course facility and recreation center and related facilities and property located at 13671 Frederick Street in the City of Moreno Valley, County of Riverside, State of California, known as Cottonwood Golf Center ("Golf Course"). The Golf Course includes a 9-hole golf course consisting of fairways, roughs, sand traps, driving range, water areas, maintenance yard, fencing, lawn, restroom facilities, a golf clubhouse, a pro shop, a parking lot, and the adjacent banquet room. Concessionaire will not have use or be permitted into the two rooms north of the banquet room, and the restrooms in this area can only be utilized until outside restrooms at the Golf Course are repaired. Upon repair the restrooms located inside banquet facility will be closed or reconstructed as monies allow.

Concessionaire represents that it is qualified in the management, operation, supervision, and maintenance of all aspects of golf course properties and their related facilities, and that Concessionaire is qualified to manage, operate, supervise, and maintain the Golf Course.

CSD desires Concessionaire to manage, operate, supervise, and maintain the Golf Course on behalf of the CSD, and Concessionaire desires to and has agreed to do so upon the terms and conditions hereinafter set forth.

## AGREEMENT.

### **1.1 Agreement to Manage and Operate Golf Course.**

CSD hereby appoints Concessionaire, and Concessionaire hereby accepts such appointment as the operator of the Golf Course during the Term, with full power and authority to carry out all the duties and responsibilities specified herein, upon the terms and subject to conditions hereinafter set forth.

### **1.2 Standards of Performance; Fiduciary Duty.**

Concessionaire acknowledges that there is a relationship of trust and confidence between Concessionaire and CSD, and that Concessionaire has a fiduciary duty to CSD pursuant to this Agreement. Concessionaire shall use Concessionaire's best skill and judgment in performing its duties and obligations hereunder, and shall at all times provide such management, operating, supervision, and maintenance services in a manner which maintains the good name of the CSD; perform its duties and obligations under this Agreement in an efficient, expeditious, prudent, and economical manner, consistent with the best interest of the CSD, in accordance with generally approved practices and standards followed by similarly situated public golf courses in California.

### **2.1 General Duties and Obligations.**

A. Throughout the term, subject to any restrictions or limitations set forth elsewhere in this Agreement and subject to CSD's approval, Concessionaire shall, at a minimum, do the following:

(1) Fully comply, and cause the Golf Course and all Equipment and Supplies and operation thereof to fully comply with all legal requirements including all laws, statutes, ordinances, codes, orders, rules, regulations, permits, licenses, authorizations, entitlements, and conditions imposed by all federal, state, and local governmental

regulatory agencies and authorities which are applicable as of the date hereof and hereafter become applicable to the Golf Course, the Equipment and Supplies, or the operation thereof, including without limitation, environmental laws.

(2) Apply for, obtain, and maintain in full force and effect, at Concessionaire's expense, all permits, licenses, and authorizations required, whether by CSD, City of Moreno Valley, or by any other governmental agency, that are necessary or appropriate for the management, operation and maintenance of the Golf Course.

(3) Obtain and maintain in full force and effect all insurance required to be maintained by Concessionaire pursuant to this Agreement.

(4) Concessionaire shall diligently and faithfully perform the following services (among others) during the term of this Agreement:

(a) Promote the sport of golf in such a manner that will encourage, and thereby cause, the public to engage in such sport at the Golf Course.

(b) Promote, manage, and arrange for golf tournaments and recreation programs related to the sport of golf at Golf Course.

(c) Manage and conduct the play of golf at Golf Course in such a manner that will permit the public to play in an orderly and non-obtrusive fashion at said golf course.

(d) Operate a pro shop and practice hitting/driving area including, but not limited to, sale and/or rental of golf equipment, non-motorized golf carts, motorized golf carts, and golf-related apparel items.

(e) Maintain an adequate stock of golf merchandise, supplies, and equipment necessary for the operation of a golf shop and in keeping with the demand.

(f) All golf merchandise, supplies, and equipment used in the pro shop operation and practice hitting/driving area shall be the responsibility of the

Concessionaire.

(g) Be responsible for selection, training, and supervision of all pro shop personnel described herein. All payroll related costs, including workers compensation insurance, sick leave, and vacation pay shall be the sole responsibility of the Concessionaire.

(h) Provide close liaison between pro shop management and CSD management in order to aggressively develop methods to improve golf service and build a high level of customer satisfaction.

(i) Generate sufficient revenue to cover expenses of the pro shop operation with a pricing structure partially established by CSD resolution with respect to greens fees, with related prices to be justified by current local market conditions comparable from facility to facility within the county, as per City Council.

(j) Charge and collect from all members of the public who desire to use and play upon said golf course, greens, practice hitting/driving area, and/or lesson fees as from time to time may be established by resolution of the City Council. Fees established by the City Council shall be the maximum fee charged to use and play upon said golf course. Concessionaire may from time to time, with the approval of the Director of Parks and Community Services or his/her representative, provide "discount" and/or "special" rates as a marketing tool to attract additional play. Concessionaire shall not permit, or cause to be permitted, any members of the public to play upon said golf course unless such established greens fees have been collected in advance from such persons.

(k) Concessionaire to maintain a "tee sheet" listing type of fee paid and player's name. Concessionaire shall provide each customer with a receipt for their transaction.

(l) Provide for the sale of food and beverages including beer and



wine in the pro shop located at the Golf Course. Drinking of beer and wine shall be limited to the pro shop/restaurant and not be permitted on the course.

- 2.2. Throughout the Term, Concessionaire shall, subject to any restrictions or limitations set forth elsewhere in this Agreement, perform or cause to be performed all tasks necessary or appropriate in connection with the ongoing operation, management, supervision, maintenance, repair, and upkeep of the Golf Course. In performing such tasks Concessionaire shall, at a minimum, do each of the following:

Golf Course

A. Be responsible for and control the play at the Golf Course, including making reservations, starting players, supervision of all of Concessionaire's personnel on the Golf Course, and all other aspects involving use of the Golf Course by members of the public.

B. Provide and supervise all personnel necessary to properly fulfill Concessionaire's requirements under this Agreement, including but not limited to golfing instructors, pro shop staff, driving range staff, putting green staff, and any other persons necessary for the successful and efficient operation of the Golf Course. Concessionaire shall take care to ensure that all staff persons are qualified for their positions and have the ability to relate to the public in the context of a municipal golf course.

C. Concessionaire shall also perform the following services under the direction and supervision of CSD staff as needed:

- (1) Water greens, tees, fairways, practice range and landscaped areas.
- (2) Change cup locations daily.
- (3) Rake traps and repair divots daily.
- (4) Edge all sand traps twice monthly.

(5) Verticut all greens not less than four times per year, and more frequently if required.

(6) Aerate greens twice annually, or more if required.

(7) Top dress all greens twice per year.

(8) Mow greens at least four times per week in the months of March through October, and at least twice per week in the months of November through February, or more if required.

(9) Fertilize greens and heavy traffic areas every eight weeks.

(10) Repair tees, including divots, and move tee markers daily.

(11) Spray greens as needed.

(12) Mow fairways twice weekly during the months of March through October, and at least once a week during the months of November through February, or more if required.

(13) Operate the Golf Course and all related facilities during all daylight hours, seven days per week, on all days when the Golf Course is playable. The course may be closed or hours adjusted as per authorization from Director of Parks and Community Services or his/her representative.

Golf Course General Maintenance and Repair.

A. Maintain the clubhouse, pro shop, golf cart storage building, banquet facility, and all other facilities related to the Golf Course in a safe, neat, and orderly condition.

B. Maintain all restroom facilities to ensure that they are constantly and fully equipped and in a clean, sanitary, safe, and orderly condition. Concessionaire shall provide all supplies and materials reasonably necessary for the proper maintenance of

restroom facilities by Concessionaire.

C. Maintain and perform minor repairs to the premises, including but not limited to greens, fairways, tees, roughs, driving range, water areas, maintenance yard, irrigation systems, landscaping, shrubs, trees, planter areas, fencing, lawns, restroom facilities, golf clubhouse, pro shop, parking lot, all personal property related thereto, and all other portions of the grounds and related facilities in accordance with industry standards and established minimum maintenance levels for the Golf Course.

#### Pro Shop

Concessionaire shall manage and operate the pro shop consistent with the following requirements:

A. At all times maintain a reasonable and adequate inventory of new and used golfing equipment in order to provide Golf Course patrons with a reasonable variety of golfing equipment for purchase or rent. All of the inventory in the pro shop shall be purchased by Concessionaire at Concessionaire's sole cost and expense, and shall be owned by Concessionaire.

B. Maintain the pro shop in neat, clean, safe, and orderly condition

C. Provide golf instruction and other services typically provided to a golf course.

D. Maintain adequate, qualified, and competent supervision of the Golf Course

and all related facilities at all times.

### **2.3 Equipment and Supplies.**

A. Equipment.

(1) Definition of Equipment. An inventory of the minimum equipment necessary for the performance of this Agreement by Concessionaire (hereafter

"Equipment") pertains to the following list: one of each, Gang Mower 5 Reel Ground master, Sidewinder 3 Reel Toro, Greens Mower 3250 3 Reel Green master, Tee Mower 3200 Green master, Cushman 01-770, Reel Sharpener. Said inventory may be updated from time to time by written agreement between Concessionaire and the CSD.

(2) Maintenance and Repair. CSD and Concessionaire agree that the inventory of Equipment currently located at the Golf Center is all the equipment and parts necessary for the performance of this Agreement by Concessionaire. Concessionaire shall keep all such Equipment in good maintenance and repair throughout its useful life. Equipment and parts damaged by the Concessionaire shall be repaired or replaced by Concessionaire, at Concessionaire's sole expense.

(3) Maintenance Buildings. Concessionaire is hereby permitted to utilize the maintenance buildings on the Golf Course to store Equipment and Supplies for the maintenance and repair of the Golf Course and related facilities, and Concessionaire shall keep these buildings in neat, safe, clean, and orderly conditions. Concessionaire shall maintain and repair these maintenance buildings, and all damage to said buildings shall be repaired by Concessionaire at Concessionaire's sole expense.

B. Supplies.

Concessionaire shall, at Concessionaire's sole expense, purchase all of the supplies, including but not limited to: gas, oil, grease, all small tools, shovels, rakes, hoes, brooms, fertilizers, weed control products, chemicals, grass seed, cups, flags, flagpoles, tee markers, trash receptacles, sand, special tools to maintain Equipment, and all top dress materials. Concessionaire may purchase such supplies from CSD inventory, if available.

## **2.4 Additional Repairs and Improvements.**

Notwithstanding anything to the contrary in this Agreement, in the event Concessionaire is engaged to perform improvements that are outside the scope of this Agreement, such as installation of kitchen improvements and banquet facility enhancement. CSD and Concessionaire shall agree to the terms of such engagement.

CSD shall be responsible for and bear the cost of all major improvements including but not limited to parking lot improvements, exterior restroom improvements, building access improvements from public right away installation of driving range area, and completion of roof improvements. Concessionaire shall be responsible to provide labor for all minor Equipment repairs, tune-ups, grinding, belt and chain replacements, and all scheduled or manufacturer recommended servicing of Equipment.

Concessionaire and CSD will work together on adding patio cover in back area of golf course, trim scraping, and building paint as needed.

## **2.5 Utilities.**

The Concessionaire shall pay for all utilities and services necessary to carry out Concessionaire's obligations of this Agreement, including but not limited to pest control and janitorial services. Furthermore, internet service, television cable or satellite service, and similar non-essential utilities shall be furnished at the sole cost and expense of Concessionaire.

## **2.6 Alterations and Fixtures.**

A. Concessionaire shall have the right to install and maintain in the pro shop display cases and all other fixtures reasonably necessary for proper operation of the pro shop. Before installing any such fixtures or making any alteration to the pro shop,

Concessionaire shall submit plans and designs for the installation to the CSD for its approval which shall not be unreasonably withheld. Concessionaire shall maintain an up-to-date list of all fixtures, alterations, and improvements installed at the pro shop and shall furnish a copy to the CSD each time Concessionaire removes a fixture or improvement so that both parties have a current list of all alterations and fixtures installed by Concessionaire. At the end of the Term, at CSD's sole discretion, Concessionaire shall restore the pro shop to the same condition as before the alterations and fixtures, as required by the CSD, and Concessionaire will indemnify and defend CSD for all liens, stop notices, claims, or damages caused by the alterations, improvements, fixtures, additions, and removal thereof from the pro shop. In the event Concessionaire fails to remove all of Concessionaire's fixtures and alterations as requested by CSD within five (5) business days of the end of the Term, and restore the pro shop to its original condition, all such fixtures, alterations, and improvements shall become the property of the CSD.

B. Concessionaire shall design to CSD's reasonable satisfaction and approval a fully enclosed practice hitting/driving area. Such improvements, and any other improvements, alterations, and installation of fixtures, to be undertaken by Concessionaire, shall have the prior written approval of the CSD after Concessionaire has submitted to the CSD proposed construction plans and specifications therefore, in writing. Such approval by the CSD shall not be unreasonably withheld. Upon such approval, Concessionaire shall complete such improvements in strict compliance with said plans and specifications.

(1) Following completion of such improvements, Concessionaire shall submit to the CSD:

(a) Itemized statements showing the entire cost of such

improvements, alterations, and fixtures, and

(b) A complete set of "as-built" drawings showing every detail, latent or otherwise, of such improvements, alterations, and fixtures, including, but not limited to, electrical circuitry and plumbing.

(c) All such improvements, alterations, and fixtures (except trade fixtures as that term is used in Section 1019 of the Civil Code) shall be the property of the CSD; provided, however, that Concessionaire may remove, at its expense, such trade fixtures at or prior to the expiration of this Agreement and restore the premises to its original shape and condition as nearly as practicable. In the event Concessionaire does not so remove such trade fixtures, they shall become the property of the CSD for no further consideration of any kind, and Concessionaire shall execute any documents that may be required or necessitated in conveying their interest in such improvements, alterations, and fixtures to the CSD.

## **2.7 Revenue and Compensation.**

A. For the first three (3) years of this agreement, the Concessionaire shall keep all revenues generated at Golf Course including all green fees, hitting area revenue, sale of food and beverages, sale of golf products, and all rentals.

B. In years four (4) and five (5), Concessionaire shall remit to the CSD the following amounts.

(1) Ten percent (10%) of all revenues generated from green fees, sale of food, beverages, golf related products, and by rentals.

(2) Fifty percent (50%) of all revenues generated from City installed driving range area.

C. The CSD shall have no responsibility for collection of any monies due the Concessionaire as a result of pro shop operations. The Concessionaire may offer promotional programs and other financial incentives in order to generate additional participation and/or sales including promotional green fees.

**2.8 Taxes, Licenses, Permits and Fees.**

The Concessionaire shall be responsible for payment of any taxes, duties, fees, or other governmental charges levied or assessed on the food service operation or property. The Concessionaire shall also be required to purchase any applicable permits and licenses (including City business license and any licenses required for alcohol).

**2.9 Prohibited Activities.**

Concessionaire shall not do, nor cause nor permit to be done, any of the following:

A. Lease, sell, transfer, assign, convey, pledge, encumber or otherwise dispose of the Golf Course, related facilities, Equipment, or Supplies.

B. Violate any of the legal requirements or engage in or permit, suffer, or allow the occurrence of, any storage, holding, release, emission, discharge, generation, abatement, disposition, handling, or transportation of any hazardous substance.

C. Make any deletion, modification, alteration, or improvement to the Golf Course or related facilities other than expressly authorized.

D. Except for fertilizers, pesticides, and fuel and motor oil reasonably necessary for operation and maintenance of the Golf Course, and except for any other substances and materials reasonably necessary for the operation and maintenance of the Golf Course (all of which shall be used, installed, kept, and maintained in compliance with all applicable legal requirements), place or cause to be placed in, on, under or around the Golf Course or



any related facilities any hazardous substance. Concessionaire hereby agrees to indemnify, defend (through counsel reasonably satisfactory to the CSD), and hold CSD harmless from any cost, expense, loss, damage, or other liability, including all costs of testing, monitoring, and remediation incurred by CSD as a result of any breach of Concessionaire of its obligations under this section.

### **3.1 Books and Reports.**

A. Throughout the Term, Concessionaire shall maintain in accordance with generally accepted accounting principles, consistently applied, full and separate books and records for the Golf Course with entries supported by documentation sufficient to allow CSD to ascertain the accuracy of such books and records. Concessionaire shall provide legible, complete copies of such books and records to CSD at such times at CSD request. Concessionaire shall ensure the necessary control over accounting and financial transactions as is necessary to protect CSD's assets from theft, error or fraudulent activity by Concessionaire's staff.

B. Concessionaire shall prepare and submit to CSD, no later than ninety (90) days after the end of each fiscal year, an Annual Operating Report for the immediately preceding fiscal year which shall be in such form and contain such information as CSD may require.

### **3.2 CSD's Right to Audit.**

All books, records, and supporting documentation maintained by Concessionaire pursuant to this Agreement and/or relating to the Concessionaire's operation of the Golf Course, shall be the sole and exclusive property of the CSD, and shall be made available to CSD at CSD's request at reasonable times during normal business hours. CSD may

examine all books, records, and supporting documentation maintained by Concessionaire relating to the Golf Course.

### **3.3. Annual Meeting.**

During each fiscal year, Concessionaire and CSD shall meet a minimum of one time to establish such things as the contract details relating to maintenance and operation and fee structure.

### **4. Indemnity.**

To the maximum extent permitted by law, Concessionaire and Concessionaire's Parties ("Concessionaire's Parties" mean Concessionaire and Concessionaire's officers, shareholders, partners, trustees, members, agents, employees and independent contractors, as well as all persons and entities claiming through any of these persons or entities) and hold CSD (including CSD's officers, employees, agents, representatives, and their respective successors and assigns) harmless from, and CSD shall not be liable from any and all liability, loss, cost, expense or damage (including but not limited to damage to CSD's property, third party claims, and CSD's attorneys' fees and expenses) resulting from or arising out of (a) the negligent acts or omissions or willful misconduct in the performance by the Concessionaire or Concessionaire's staff or agents hereunder, or (b) any acts by Concessionaire or Concessionaire's staff or agents which are beyond the scope of authority which Concessionaire reasonably believes it has been granted pursuant to this Agreement in connection or relating to Concessionaire's performance of its obligations under this Agreement. Concessionaire shall be obligated to indemnify CSD as described in this paragraph, whether or not there is concurrent negligence on the part of the CSD, but shall not be so obligated to the extent that a court of competent jurisdiction

has established that said liability was caused by CSD's sole active gross negligence or willful misconduct.

**5. EXEMPTION OF CSD FROM LIABILITY.**

To the fullest extent permitted by law, Concessionaire, and on its behalf and on behalf of all Concessionaire Parties, as a material part of the consideration to CSD, hereby waives all claims (in law, equity, or otherwise) against CSD arising out of, knowingly and voluntarily assumes the risk of, and agrees that CSD shall not be liable to Concessionaire or Concessionaire Parties for (i) injury to or death of any person; or (ii) loss of, injury or damage to, or destruction of any tangible or intangible property, including the resulting loss of use, economic losses, and consequential or resulting damage of any kind from any cause, including without limitation for injury to CSD property or vehicles, or other property or vehicles of the public, and to Concessionaire or Concessionaire's Parties business, or any loss of income there from, or for damage to the goods, wares, merchandise, or other property of Concessionaire or Concessionaire's Parties, or any other person in or about the Golf Course, whether such damage or injury is caused by or results from theft, fire, steam, electricity, gas, earthquake, water or rain, or from the breakage, leaking, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising on or around the Golf Course or from other sources or places, or from construction or repair, alteration or improvement of any part of the Golf Course or any related structures, or of the equipment, fixtures or appurtenances applicable thereto, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Concessionaire or Concessionaire's Parties. CSD shall not be liable for

any damages arising from any act or neglect of any occupant or user of the Golf Course, nor from the failure of Concessionaire or Concessionaire's Parties to comply with the provisions of this Agreement. CSD shall not be liable regardless of whether liability results from any active or passive act, error, omission or negligence of CSD or any of its officers, employees or agents. The foregoing exculpation shall (a) not apply to claims against CSD to the extent that a final judgment of a court of competent jurisdiction establishes that the injury, loss, damage, or destruction was proximately caused by fraud, willful injury to person or property or violation of law by CSD, or (b) not be interpreted or construed as an attempt by CSD to be relieved of liability arising out of a non-delegable duty on the part of the CSD.

#### **6.1 Commercial General Liability Insurance.**

Concessionaire shall, at no expense to CSD, maintain commercial general liability insurance, including products liability and completed operation, and contractual liability coverage, in the amount of Three Million Dollars (\$3,000,000) per occurrence on account of bodily or personal injuries, including death, or on account of property damage, arising from or related to the Golf Course, or directly or indirectly, by Concessionaire's acts or omissions in the performance of this Agreement. This insurance shall be a per occurrence policy. The policy shall also cover Operations, Independent Contractors, Products and Completed Operations, Contractual Liability covering Concessionaire's indemnity obligations contained in this Agreement, severability, and cross liability clauses. The limits of liability of the insurance coverage specified in this paragraph may be provided by any combination of primary and excess liability policies carried by Concessionaire.

**6.2 Automobile Liability Insurance.**

Concessionaire shall, at no expense to the CSD, maintain business automobile insurance in the amount of One Million Dollars (\$1,000,000) per occurrence on account of bodily or personal injuries, including death, or on account of property damage arising from or caused, directly or indirectly, by Concessionaire's acts or omissions in the performance of this Agreement and covering the use of all automobiles, trucks and other motor vehicles utilized by Concessionaire or Concessionaire's Parties in connection with this Agreement. This insurance shall be a per occurrence policy.

**6.3 Additional Insured Endorsement.**

Under the public liability, property damage, and automobile liability insurance required in this Agreement, the CSD and the City of Moreno Valley, their officers, agents, and employees shall be named as additional insured by endorsement and as to such additional insured, the insurance shall be primary and the policies shall contain by endorsement a cross liability clause.

**6.4 Workers' Compensation and Employer's Liability Insurance.**

Concessionaire shall, at no expense to the CSD, maintain workers' compensation insurance, as required by law, and employer's liability insurance (at a minimum limit of One Million Dollars (\$1,000,000) for all Concessionaire's officers, agents, employees, and staff.

**6.5 Comprehensive Dishonesty, Destruction, and Disappearance Coverage.**

Concessionaire shall, at no expense to the CSD, maintain coverage for comprehensive dishonesty, destruction, and disappearance or the equivalent crime or other coverage, in an amount not less than Twenty-five Thousand Dollars (\$25,000), covering, at a minimum, depositor's forgery and theft and dishonesty by all

Concessionaire's employees or agents or staff who may handle funds or property in connection with the Agreement.

**6.6 Deductible Self-Insurance Retention.**

Any deductible or self-insurance retention shall be certified on a certificate of insurance and approved by the CSD. CSD may require Concessionaire either (1) reduce or eliminate such deductible or self-insurance retention as it applies to the CSD, or (2) procure a bond guaranteeing payment of losses and all costs associated with investigation, administration and defense of claims and/or lawsuits. The bond shall be in a form acceptable to the CSD.

**6.7 Certificates.**

The insurance required above shall be evidenced by certificate(s) submitted to the CSD which shall be executed by the insurance company or companies involved and which shall state that this insurance may not be terminated without 30 days prior written notice being received by CSD. The certificates shall be submitted to CSD before or at the time Concessionaire executes this Agreement.

**6.8 No Representation of Adequate Coverage.**

CSD makes no representation that the limits or forms of coverage of insurance specified in this Agreement are adequate to cover Concessionaire's obligation under this Agreement.

**7.1 Term of Agreement.**

The term of this Lease Agreement will be August 1, 2011 through July 31, 2016. Options to extend this agreement are available upon both parties agreeing on terms for up to 20 additional years.

## **7.2 Early Termination Without Cause.**

Either party may terminate this Agreement upon one hundred eighty (180) days advance written notice to the other party, without penalty or cause.

## **7.3 Termination Upon Default by Concessionaire.**

Upon the occurrence of an Event of Default by Concessionaire, as described herein, CSD may, at its option, and in addition to any and all other rights to which it may be entitled under this Agreement or applicable law, elect to terminate this Agreement. Any such termination shall be effective on the date specified by the CSD in such election; provided, however, in no event shall such date be later than thirty (30) days following the date CSD elects to terminate this Agreement.

The following shall constitute an Event of Default with respect to Concessionaire under this Agreement:

A. Any failure by Concessionaire to perform any of the terms, conditions, or covenants of this Agreement to be observed or performed by Concessionaire within thirty (30) days after written notice from CSD.

B If Concessionaire shall become insolvent or files any debtor proceedings, or any adjudication of bankruptcy is rendered against Concessionaire, or if Concessionaire takes or there is taken against Concessionaire in any court pursuant to any statute of the United States or of any state a petition in bankruptcy or insolvency, or for reorganization or for the appointment of a receiver or trustee of all or a portion of Concessionaire's property, and if the foregoing proceedings are not discharged within sixty (60) days thereof.

C. If Concessionaire makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement of its debts, or if Concessionaire shall permit or

suffer this Agreement to be taken under any writ of attachment or execution, and the same is not discharged within thirty (30) days thereafter;

D. If Concessionaire assigns this Agreement in violation thereof.

#### **7.4 Actions Following Termination.**

A. Immediately following any termination of this Agreement for any reason whatsoever, Concessionaire shall assign, convey, transfer, and deliver to CSD, pursuant to an assignment in form and content satisfactory to CSD, all of Concessionaire's right, title, and interest in and to all Operating Contracts then in effect and in Concessionaire's name with respect to the Golf Course as requested by CSD, and Concessionaire shall transfer to CSD possession of all Equipment and Supplies owned by, purchased by or supplied by CSD.

B. Upon any termination of this Agreement for any reason whatsoever, Concessionaire shall, for a period of two (2) months following such termination, assist, and cooperate with CSD to the extent deemed necessary by CSD to ensure an orderly and efficient transfer of the operations of the Golf Course by Concessionaire to CSD or to CSD's designee. This covenant of Concessionaire contained herein shall survive and remain in full force and effect following any such termination of this Agreement.

C. Upon termination of this Agreement for any reason whatsoever, Concessionaire shall surrender the Golf Course and all related structures, improvements, and alterations, in good condition, and in accordance with all other provisions of this Agreement regarding fixtures, alteration, and improvements.

#### **8. Transfer and Assignment.**

Concessionaire may not, voluntarily or involuntarily, sell, convey, assign, transfer,



hypothecate, pledge, or otherwise dispose of (or agree to do any of the foregoing) all or any part of its interest, if any, in this Agreement, or any contractual rights or obligations related hereto without the prior written consent of CSD, which may be granted or withheld in CSD's sole discretion. Any assignment by Concessionaire without CSD's consent shall be considered any Event of Default and the assignment shall be of no force or effect.

**9. Prohibition of Advertising and Certain Displays.**

Concessionaire shall not display, nor shall Concessionaire permit the displaying of any advertising or any other postings at the Golf Course that are unrelated to golfing activities, without the prior written consent of CSD, in CSD's sole discretion.

**10. Warranties and Representations.**

Concessionaire hereby represents and warrants that in entering into this Agreement, Concessionaire has not relied on any statements from CSD or any representative thereof, and has conducted such due diligence and investigations as Concessionaire deems appropriate before entering into this Agreement.

**11. Independent Contractor.**

Concessionaire and CSD hereby acknowledge and agree that Concessionaire, in performing this Agreement, will be and will at all times act as an independent contractor in the performance of its duties and responsibilities set forth herein, and that Concessionaire will have control of its work and the manner in which it is performed. Concessionaire shall not be considered as an agent or employee of the CSD or the City of Moreno Valley. None of the provisions of this Agreement are intended to nor shall they be interpreted to create a partnership or joint venture between Concessionaire and CSD with respect to the Golf Course or otherwise, and neither party shall have the power to bind or obligate the other

party, except as expressly set forth in this Agreement. Concessionaire shall timely pay all taxes and impositions and for all other benefits required by law and relating to Concessionaire's staff.

**12. Right to Inspection.**

The CSD shall have the right to enter and inspect the Golf Course and the buildings and the premises as well as any Concessionaire-operated equipment, at any time during business hours.

**13. Applicable Law.**

This Agreement and all provisions hereof, irrespective of the place of execution or performance, shall be construed and enforced in accordance with the laws of the State of California. The sole and exclusive venue for any legal action under this Agreement or in any way related to the Golf Course shall be the Superior Court in and for the County of Riverside, and CSD and Concessionaire agree to submit to the jurisdiction of such court.

**14. Savings Clause.**

Any Provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder, or substantially increase the burden on any party hereto, shall be held to be invalid or unenforceable to any extent, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

**15. Attorneys' Fees and Expenses.**

In the event of any dispute or litigation concerning the enforcement, validity, or interpretation of this Agreement, or any part thereof, the losing party shall pay all costs, charges, fees, and expenses (including reasonable attorneys' fees and costs) paid or

incurred by the prevailing party, regardless of whether any such litigation is prosecuted to judgment.

**16. Non- Waiver.**

The waiver by the CSD of any breach of any term, covenant, or consideration herein contained shall not be deemed to be a waiver of such term, covenant, or consideration or any subsequent breach of the same or any other term, covenant, or condition therein contained. No covenant, term, or condition of this Agreement shall be deemed to have been waived by CSD or Concessionaire, unless such waiver is in writing signed by the party against whom such waiver is asserted.

**17. Compliance with Applicable Laws.**

In the performance of services hereunder, Concessionaire shall comply with all applicable local, state, and federal statutes, regulations, ordinances, and orders now in force or which may be hereafter in force, to include public health sanitation requirements.

**18. Equal Employment/Discrimination.**

A. Concessionaire shall not discriminate in its recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, physical handicap, medical condition, or marital status with respect to the services to be performed hereunder, and Concessionaire shall comply with the provisions of the California Fair Employment Practice Act (commencing with Section 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-352), and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), as amended, and all Administrative Rules and Regulations issues pursuant to said Acts and Orders.

B. Concessionaire shall not discriminate against or cause the segregation of any person or group of persons on account of race, color, creed, national origin, or ancestry with respect to the services to be performed hereunder, nor shall the Concessionaire or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the services to be performed hereunder.

**19. Food and Beverage Laws.**

With respect to any food or beverage sales or distribution operation conducted by Concessionaire as a golf play related service, Concessionaire shall keep the pro shop premises in a neat and sanitary condition and shall comply with the California Restaurant Act (Section 28529, et. seq. of the Health and Safety Code) and all applicable laws regarding the sale or distribution of intoxicating liquors. Health grade shall not be lower than an "A" rating.

**20. Notices.**

Any notices required or desired to be served by either party upon the other shall be addressed to the respective parties, or to such other addresses as from time to time shall be designated by the respective parties, as set forth as follows:

**CSD:**

City of Moreno Valley  
Parks and Community Services Department  
14075 Frederick Street  
Post Office Box 88005  
Moreno Valley, Ca 92552-0805

**CONCESSIONAIRE:**

Pacifica University, Inc.  
Attention: William Meyers  
2764 Ridgeline Dr #101  
Corona, Ca 92882

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement on the 1<sup>st</sup> day of August, 2011.

MORENO VALLEY  
COMMUNITY SERVICES DISTRICT  
Municipal Corporation

PACIFICA UNIVERSITY, INC.

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST:

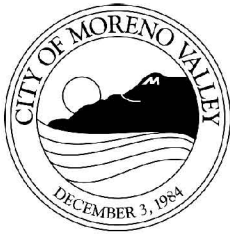
\_\_\_\_\_  
City Clerk, in the capacity of Secretary to  
the Board of Directors of the Moreno Valley  
Community Services District

Approved as to form this

\_\_\_ day of

City Attorney, in the capacity of general  
legal counsel to the Moreno Valley  
Community Services District

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RF</i>
CITY MANAGER	<i>MFO</i>

## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Barry Foster, Community & Economic Development Director

**AGENDA DATE:** July 12, 2011

**TITLE:** "BEST PLACE TO DO BUSINESS" ACTION STEPS

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### **RECOMMENDED ACTION**

Staff recommends that the City Council approve the Action Steps formulated to help establish a foundation for making Moreno Valley a "Best Place to do Business".

### **ADVISORY BOARD RECOMMENDATION**

On June 8, 2011 the Economic Development Subcommittee approved the recommended "Best Place to do Business" Action Steps.

### **BACKGROUND**

The City of Moreno Valley is moving to improve the economic condition of the community through a variety of methods.

On March 22, 2011, the City Council reviewed and provided input for an Economic Development Plan- Areas of Opportunity brought forth by the Community & Economic Development Department. The twelve specific Areas of Opportunity provide a broad roadmap for the City of Moreno Valley to become a major business development area by creating major employment hubs, successful retail centers and pursuing redevelopment opportunities.

Continuing the process of refining and developing a short-term Economic Development Plan, on April 26, 2011 the City Council adopted a 2-year Economic Development Action Plan containing five initiatives focusing economic development efforts on the Areas of Opportunity that include TownGate, Centerpointe Business Park, South Industrial Area, East Moreno Valley-Rancho Belago, and City Center. Included in the adoption of the 2-year Action Plan was the re-sequencing of specified Capital

Improvement Program projects bolstering the economic impacts within the five key initiatives.

Prior to, and in conjunction with the adoption of the Economic Development Action Plan, many economic development activities were in motion including:

- Reformation of the City Council Economic Development Subcommittee
- Updating of the City's Housing Element
- Conduct a Developer's Workshop
- Collaboration with key Developers to advance development projects
- Study of best practices to make Moreno Valley a "Best Place to do Business"

## **DISCUSSION**

The study of best practices to make Moreno Valley a "Best Place to do Business" was undertaken to identify attributes of successful U.S. cities and some of the methods used to create that success. The results of the study led to the formation of recommendations that are identified for use as the foundation for establishing a broad array of program and/or process changes or new program developments. The recommendations (Attachment A) will be further developed for more specific application to the City of Moreno Valley ensuring they align with the established priorities and goals established by the City Council.

The following searches were used to identify the communities that were reviewed and the practices that were identified:

- Economic Development best practices
- Economic Development award winners
- Cities recognized for being a best place to do business

Of the hundreds of cities considered in the search, thirty communities across the U.S. were selected based on similar populations and/or those within California. They were representative of top U.S. communities utilizing best practices or receiving awards and/or recognition for being a "Best Place to do Business". Of the thirty communities studied, the Economic Development Subcommittee evaluated 5 cities including Austin, TX; Chico, CA; Raleigh, NC; Santa Clarita, CA; and Seattle WA. Examples of the program ideas shared by these cities include: e-permitting, user-friendly (yet content rich) websites, social media, targeted and effective marketing programs, incentive programs, workforce training, fast-track development services, local vendor preference programs, industry groups, and methods to improve overall quality of life creating a "sense of place".

The recommendations listed on Attachment A are based on the evaluations of the programs and characteristics of those five cities and direction from the Economic Development Subcommittee.



## **ALTERNATIVES**

- 1) Approve the Action Steps to make Moreno Valley a “Best Place to do Business”. *Staff recommends this alternative.*
- 2) Do not approve the Action Steps to make Moreno Valley a “Best Place to do Business”. *Staff does not recommend this alternative.*

## **FISCAL IMPACT**

The implementation of the Action Steps to make Moreno Valley a “Best Place to do Business” will create a positive environment whereby businesses can thrive and quality development can occur, thus improving the potential for a stronger local economy. Specific actions including implementing program changes related to the Action Steps shall be further analyzed on a case by case basis consistent with appropriate funding sources.

## **CITY COUNCIL GOALS**

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

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

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

## **SUMMARY**

As part of the effort to improve the City’s efforts with economic development, the Community & Economic Development Department studied best practices to make Moreno Valley a “Best Place to do Business”. The study identified attributes of successful U.S. cities and some of the methods used to create that success. The results of the study led to the formation of recommendations, with the help of the Economic Development Subcommittee, that are recommended shall be used as the foundation for establishing a broad array of program and/or process changes or new program developments. The recommendations (Attachment A) will be further developed for more specific application to the City of Moreno Valley ensuring they align with the established priorities and goals established by the City Council.

**ATTACHMENTS/EXHIBITS**

Attachment A: Recommendations for Action Steps to make Moreno Valley a “Best Place to do Business”.

Prepared By:  
Shanna Palau  
Management Analyst

Department Head Approval:  
Barry Foster  
Community & Economic Development  
Director

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

Recommendations for Action Steps  
to Make Moreno Valley a “Best Place to do Business”

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Development Services

- Implement the use of “E-permitting” to accelerate the process of doing business in Moreno Valley
- Expand and strengthen business and development ombudsperson program to include new or expanding small businesses.
- Host quarterly workshops with contractors and developers aimed at improving development processes in Moreno Valley.
- Improve Pre-Project Review Staff Committee (PRSC) and PRSC process to include project management services to small business.
- Create consistent explanation (website and handouts) of codes and processes, and to provide clarity and coordination of development services processes.

Business Attraction

- Identify and form key industry leadership groups to create industry specific synergy in the community helping to mitigate any obstacles to business attraction and help develop strategies to attract industry related business and workforce, improve city processes, and evaluate policies that may require updating to support the objectives outlined in the Economic Development Action Plan.
- Explore policy development for the creation of a tiered Moreno Valley Electric Utility “Economic Development” rate structure and incentive program.

Business Retention and Expansion

- Develop ways to expand the Shop MoVal campaign to provide more exposure for local business and encourage increased business-to-business relationships.
- Pursue ways to increase local vendor preference, including expanding existing procurement policy.
- Implement a new meeting program with local businesses to discuss business opportunities. The Program would be held once a year in each Council District and include the opportunity to talk to the Councilmember, City Manager, and Community & Economic Development Director. The Program will compliment the existing Business Roundtable.
- Enhance the Business Resource Guide.

### Marketing and Communication

- Perform an audit of the City's website to ensure that it is user friendly and data rich, and identify areas where processes can be clarified.
- Develop a re-tooled marketing plan to incorporate the following:
  - Cooperative marketing opportunities with targeted area developers to attract tenants
  - Identifying the City as a medical community
  - Brand the City as a job center
- Create an e-newsletter or explore other communication methods to improve residents' and business' knowledge about what's happening in the City.
- Increase use of social media.
- Create and maintain a community calendar to include business networking and education opportunities as well as community events and meetings.
- Explore use of Smartphone apps for improved communication and connectivity.
- Encourage on going feedback (How are we doing?) by posting regular surveys on the city's website.

### Community Vitality

The best places to do business also reflect characteristics of the best places to live. These places tend to exude a "sense of place" reflected in aspects of quality of life including activity, arts and culture, and beauty in the environment.

- Explore additional community events- things to do.
- Explore idea of annual corporate sponsorship programs to create marketing value for local business and provide funding for community events.
- Enhance neighborhood groups by implementing community update meetings.



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

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## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** July 12, 2011

**TITLE:** Appointment of City Council Ad Hoc Subcommittee for the Purpose of Reestablishing July 4<sup>th</sup> Events for 2012

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### **RECOMMENDED ACTION**

Staff recommends that the City Council appoint an Ad Hoc Subcommittee for the temporary purpose of reestablishing July 4<sup>th</sup> events for 2012.

### **BACKGROUND**

City Resolution 2003-17 enacted the *Rules of Procedure for Council Meetings and Related Functions and Activities*. Section 9.3 Other Committees states "The City Council may by resolution create other standing committees and by motion or resolution may appoint ad hoc committees for particular temporary purposes."

### **DISCUSSION**

During the development of the Fiscal Year 2010/11 budget, the City Council removed funding for the annual July 4<sup>th</sup> parade and Family Fun Fest due to a significant budget deficit. The budget for the annual July 4<sup>th</sup> activities in previous years has exceeded \$100,000. At the June 14th Council meeting the Mayor and City Council directed City staff to bring back for their consideration options to form a planning and fund raising committee in hopes of resuming the July 4<sup>th</sup> activities in 2012. Staff recommends the City Council appoint two of its members to an Ad Hoc Subcommittee for the purpose of reestablishing July 4<sup>th</sup> events for 2012. By definition Ad Hoc Subcommittees are appointed for particular temporary purposes. The proposed Ad Hoc Subcommittee would seek donations to fund the July 4<sup>th</sup> events and work with Parks and Community Services staff in planning the events.

**ALTERNATIVES**

- 1) Appoint an Ad Hoc Subcommittee for the temporary purpose of reestablishing July 4th events for 2012. *Staff recommends this alternative as the proposed Ad Hoc Subcommittee would provide fund raising and planning to reestablish the City's annual July 4<sup>th</sup> community activities.*
  
- 2) Not appoint an Ad Hoc Subcommittee for the temporary purpose of reestablishing July 4th events for 2012. *Staff does not recommend this alternative as the City's annual July 4<sup>th</sup> community activities are important to the City's image and promoting community spirit.*

**FISCAL IMPACT**

Appointing an Ad Hoc Subcommittee will have no fiscal impact to the City.

**SUMMARY**

During the development of the Fiscal Year 2010/11 budget, the City Council removed funding for the annual July 4<sup>th</sup> parade and Family Fun Fest due to budget challenges. At the June 14th Council meeting the Mayor and City Council directed City staff to bring back for their consideration options to form a planning and fund raising committee in hopes of resuming the July 4<sup>th</sup> activities in 2012. Staff recommends the City Council appoint two of its members to an Ad Hoc Subcommittee for the purpose of reestablishing July 4<sup>th</sup> events for 2012.

**COUNCIL GOALS**

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

Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

Prepared By:  
Michelle Dawson  
Assistant City Manager

Concurred By:  
Mike McCarty  
Parks and Community Services Director

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

# CITY MANAGER'S REPORT

**(Informational Oral Presentation only –  
not for Council action)**

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