

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

May 10, 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

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.

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

Richard A. Stewart, Mayor

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

AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
May 10, 2011

CALL TO ORDER

SPECIAL PRESENTATIONS

1. Recognition of the 2011 William H. Batey II Annual Reading Contest Winners
2. Recognition of Riverside Transit Agency (RTA) and Moreno Valley/Perris Transportation NOW Air Aware Contest Winners
3. "Spotlight on Moreno Valley Business"

**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
MAY 10, 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

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 APRIL 26, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

A.3 MINUTES - SPECIAL MEETING OF APRIL 19, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

A.4 MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Continued from April 26, 2011) (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

A.5 CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES (Report of: City Clerk Department)

Recommendation:

Receive and file the Reports on Reimbursable Activities for the period of April 20 - May 3, 2011.

A.6 PA07-0021 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING THE PORTION OF SUNNYMEAD BOULEVARD ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM - DEVELOPER: WESTERN STATES CONSTRUCTION, INC., ANAHEIM, CA 92807 (Report of: Public Works Department)

Recommendation:

1. Adopt Resolution No. 2011-37 authorizing the acceptance of the public improvements within PA07-0021 as complete and accepting the portion of Sunnymead Boulevard associated with the project into

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the City's maintained street system; and

Resolution No. 2011-37

A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Public Improvements as Complete within PA07-0021, and Accepting the Portion of Sunnymead Boulevard 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.7 NOTICE OF COMPLETION AND ACCEPTANCE OF SUNNYMEAD BOULEVARD BEAUTIFICATION AND ENHANCEMENT FROM FREDERICK STREET TO PERRIS BOULEVARD PROJECT - PROJECT NO. 04-89280221-2 (Report of: Public Works Department)

Recommendation:

1. Accept the work as complete for the Sunnymead Boulevard Beautification and Enhancement from Frederick Street to Perris Boulevard constructed by PALP Inc. dba Excel Paving Company (Excel), 2230 Lemon Avenue, Long Beach, CA 90806;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code;
3. Authorize the Financial and Administrative Services Director to assess liquidated damages and withhold further payment to Contractor; and
4. Accept the improvements into the City's maintained system.

A.8 AUTHORIZATION TO AWARD THE CONSTRUCTION CONTRACT FOR WIDENING OF PERRIS BOULEVARD SOUTHBOUND AT STATE ROUTE 60 WESTBOUND RAMP PROJECT NO. 08-12566627 (Report of: Public Works Department)

Recommendation:

1. Grant LSC Construction's request for relief of bid proposal due to a mistake made in filling out the bid;

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2. Award the construction contract for Widening of Perris Boulevard Southbound at State Route 60 Westbound Ramp to Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92878, the lowest responsible bidder;
3. Authorize the City Manager to execute a contract with Hillcrest Contracting, Inc.;
4. Authorize the issuance of a Purchase Order to Hillcrest Contracting, Inc. in the amount of \$297,060.00 (\$247,550.00 for the bid amount plus 20% contingency) when the contract has been signed by all parties; and
5. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, Inc., up to, but not exceeding, the total contingency amount of \$49,510.00, subject to the approval of the City Attorney.

A.9 PA09-0043 (PM 36262) – COMMERCIAL – ACCEPT FINAL MAP, AGREEMENT, AND BONDS FOR PUBLIC IMPROVEMENTS, SOUTHWEST CORNER OF ALESSANDRO BOULEVARD AND MORENO BEACH DRIVE; DEVELOPER: FRANK POZGAJ & MARIA POZGAJ FAMILY TRUST, RANCHO MIRAGE, CA AND MORENO BEACH STATION, LLC, MORENO VALLEY, CA. (Report of: Public Works Department)

Recommendation:

1. Approve PA09-0043, authorize the City Clerk to sign the map and transmit said map to the County Recorder's Office for recordation;
2. Accept the Agreement and Bonds for Public Improvements;
3. Authorize the Mayor to execute the Agreement;
4. Direct the City Clerk to forward the signed Agreement to the County Recorder's Office for recordation; and
5. Authorize the City Engineer to execute any future time extension amendments to the agreement, subject to City Attorney approval, if the required public improvements are not completed within said timeframe.

A.10 PERSONNEL RULES AND REGULATIONS REVISION (Report of: Human Resources Department)

Recommendation:

Approve the Personnel Rules and Regulations.

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 APRIL 26, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

B.3 MINUTES - SPECIAL MEETING OF APRIL 19, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

B.4 MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Continued from April 26, 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 APRIL 26, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

C.3 MINUTES - SPECIAL MEETING OF APRIL 19, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

C.4 MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Continued from April 26, 2011) (Report of: City Clerk Department)

Recommendation:

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Approve as submitted.

C.5 REVISIONS TO THE RDA HOMEBUYER ASSISTANCE PROGRAM
(Report of: Community & Economic Development Department)

Recommendation:

Approve amendments to the Homebuyer's Assistance Program (HAP) to allow the loan term to be reduced to 20 years and allow the loan to be forgiven upon the expiration of the loan term.

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 APRIL 26, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

D.3 MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Continued from April 26, 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 PUBLIC HEARING TO ADOPT THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIP (HOME) PROGRAM ANNUAL ACTION PLAN FOR FISCAL YEAR 2011/12
(Report of: Community & Economic Development Department)

Recommendation: That the City Council:

1. Conduct a Public Hearing for the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Program to provide the public with an opportunity to comment on the proposed 2011/12 Annual Action Plan; and
2. Approve the proposed 2011/12 Annual Action Plan.

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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) (Continued from April 26, 2011)

- G.2 RESOLUTION REGARDING THE LIBERTY QUARRY (Continued from April 12, 2011) (Report of: City Manager's Office)

Recommendation: That the City Council:

Discuss and consider adopting Resolution No. 2011-31 regarding the Liberty Quarry.

Resolution No. 2011-31

A Resolution of the City Council of the City of Moreno Valley, California, in Support of the Need for and Benefits of Liberty Quarry

- G.3 APPROVAL OF ERP SYSTEM REPLACEMENT PROJECT BUDGET AND FUNDING PLAN; AND AUTHORIZATION FOR CITY MANAGER TO EXECUTE CONTRACT WITH NEW WORLD SYSTEMS (Report of: Financial & Administrative Services Department)

Recommendation: That the City Council:

1. Approve the ERP System Replacement Project Budget and Funding Plan in the amount of \$1,999,060; and
2. Authorize the City Manager to execute a contract and purchase order with New World Systems (NWS) for a one-time project cost not-to-exceed \$1,322,490 and annual maintenance according to the not-to-exceed schedule below:

Year 1 maintenance	No Charge
Year 2 maintenance	\$164,640
Year 3 maintenance	\$174,930
Year 4 maintenance	\$185,220
Year 5 maintenance	\$195,510
Year 6 maintenance	\$205,800

- G.4 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 1.10.080 AND 11.80.060

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OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO
CIVIL CITATIONS AND NOISE ENFORCEMENT (Report of: City Attorney)

Recommendation: That the City Council:

1. Consider the following alternatives:

Adopt the proposed changes to Moreno Valley Municipal Code Sections 1.10.080 and 11.80.060; and introduce Ordinance No. 824;
or

Ordinance No. 824

An Ordinance of the City Council of the City of Moreno Valley, California, Amending Sections 1.10.080 and 11.80.060 of the City of Moreno Valley Municipal Code, Relating to Civil Citations and Noise Enforcement

2. Direct staff to make changes to the ordinance and return to a City Council meeting or study session on a later date with a revised Ordinance; or

3. Take no action. The existing Ordinances will remain in effect.

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

H. LEGISLATIVE ACTIONS

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

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

H.3 ORDINANCES - URGENCY ORDINANCES - NONE

H.4 RESOLUTIONS - NONE

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

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

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

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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

- a) Property: SR-60/Moreno Beach Dr. Interchange Project
City Negotiator: Chris A. Vogt
Under Negotiation: Price and terms of payment

APN/Caltrans

Parcel No.	Owner	Site Address	Site Location
21463	Moreno H & S	12611 Moreno Beach Dr.	Southwest corner of Moreno and Eucalyptus Ave.
21884	Robert Getz, Anita May Rosenstein, Gloria May	None	South side of SR-60, east of Moreno Beach Dr. between

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Offerman – Trustees of the David May II – Dorothy Duffy May Trust, David May II, Trustee of the David May II Revocable Trust, et al.

Eucalyptus Ave. and SR-60 (between Auto Mall and SR-60)

21460

Prologis

None

Northern top portion of parcel, east of Fire Station 58 and south of SR-60.

4 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

ADJOURNMENT

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MINUTES
CITY COUNCIL OF THE CITY OF MORENO VALLEY
April 26, 2011

CALL TO ORDER

SPECIAL PRESENTATIONS

1. Proclamation Recognizing National Public Works Week
2. Proclamation Recognizing Mental Health Month
3. Presentation of Boy Scouts of America District Award of Merit to Council Member Robin N. Hastings
4. Proclamation Recognizing Child Abuse Prevention Month
5. Letter of Commendation Recognizing Sarah King

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

**REGULAR MEETING – 6:30 PM
April 26, 2011**

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 6:35 p.m. by Mayor Stewart in the Council Chamber located at 14177 Frederick Street.

PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was led by Council Member Hastings

INVOCATION - Mayor Stewart

ROLL CALL

Council:

Richard A. Stewart	Mayor
Jesse L. Molina	Mayor Pro Tem
William H. Batey II	Council Member
Marcelo Co	Council Member (left 8:58 p.m.)
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	Acting Assistant City Manager
John Anderson	Police Chief
Abdul Ahmad	Battalion Chief
Chris Vogt	Public Works Director
Barry Foster	Community and Economic Development Director
Sonny Morkus	Human Resources Director
Paula Smus	Acting Library Services Division Manager
Mike McCarty	Parks & Community Services Director

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April 26, 2011

AGENDA ORDER

REPORTS

G.2 ECONOMIC DEVELOPMENT ACTION PLAN (Report of: Community & Economic Development Department)

Recommendation: That the City Council:

1. Review and provide direction on an Economic Development Action Plan; and
2. Consider the sequencing and funding of Capital Improvement Program projects.

Mayor Stewart opened the agenda item for public comments, which were received from Glenn Moss, Radene Ramos Hiers, Chris Carlson, Christopher Baca, Doug Whitney, Deanna Reeder, Victoria Baca, Jim Jernigan, Kenny Bell, Oscar Valdepena, Steven Figueroa, Librada Murillo, Pete Bleckert, Alicia Espinoza, Raul Wilson, Louise Palomarez, Mark Knorrington, Anthony Fabelo, Marcia Amino, Frank Wright, Tom Jerele Sr, Joe Zmudosky, Ray Baker, and Adolf Kruger.

Motion to Approve Economic Development Action Plan and resequence the funding of Capital Improvement Program projects by m/Mayor Pro Tem Jesse L. Molina, s/Council Member Marcelo Co Approved by a vote of 5-0.

Recess;
Reconvened

AGENDA ORDER

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

Tom Jerele, Sr.

1. Public debate - healthy democratic process
2. Skechers project

Chris Baca

1. Nason Street overpass

Courtney Davis (representing Moreno Valley College)

1. Hands Across Moreno Valley College - advocating for education and asking the City to contribute to scholarship fund

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Marcia Amino

1. Deficit reduction plan
2. Car allowances
3. Planning Commission stipends

Cesar Torres

1. Hands Across California - Raising funds for college scholarship

Kenny Bell

1. Wider broadcast of council meetings

Deanna Reeder

1. Budget; deficit reduction plan

Radene Hiers

1. Developers need to pay their share of cost
2. Contamination with chemicals/clean up; concerned about safety of residents

Louise Palomarez

1. Red light cameras on Day Street

AGENDA ORDER

- G.3 REGIONAL ENERGY EFFICIENCY AND WATER CONSERVATION PROGRAM (RICK BISHOP, WRCOG EXECUTIVE DIRECTOR AND BARBARA SPOONHOUR, PROGRAM MANAGER) (PowerPoint Presentation - (Informational Oral Presentation - not for Council action)

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

No action required.

- G.4 ENTER INTO A CONTRACT WITH THINK TOGETHER, INC., TO OPERATE DAY-TO-DAY ACTIVITIES AND FUNCTIONS INVOLVING THE PROPOSITION 49 ASES GRANT AFTER SCHOOL PROGRAM (Report of Parks and Community Services Department)

Recommendation: That the CSD:

Authorize the City Manager to enter into a contract with THINK Together Inc., to operate day-to-day activities and functions of the City's Proposition 49 state-funded ASES after school grant program, as outlined within the document.

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Mayor Stewart opened the agenda item for public comments, which were received from Shannon Morehouse, and Courtney Davis.

Motion to authorize the City Manager acting in his capacity as the executive director of the CSD to enter into a contract by m/Vice President Jesse L. Molina, s/Board Member Robin N. Hastings Approved by a vote of 3-1-1, Board Member William H. Batey II opposed, Board Member Marcelo Co absent.

- G.5 COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED JUNE 30, 2010 (Report of: Financial & Administrative Services Department)

Recommendation: That the City Council:

Receive and file the Comprehensive Annual Financial Report for the fiscal year that ended June 30, 2010.

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

Motion to receive and file 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 Marcelo Co absent.

AGENDA ORDER

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 Deanna Reeder (Item A2: deficit reduction plan) and Stephen Rogers (representing Anti-Corruption Team; Item A7).

A. CONSENT CALENDAR-CITY COUNCIL

- A.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

- A.2 MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Report of: City Clerk Department)

Recommendation:
Approve as submitted.

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April 26, 2011

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 April 6-19, 2011.

A.4 APPROVAL OF CHECK REGISTER FOR FEBRUARY, 2011 (Report of: Financial & Administrative Services Department)

Recommendation:

Adopt Resolution No. 2011-34, approving the Check Register for the month of February, 2011 in the amount of \$10,858,661.77.

Resolution No. 2011-34

A Resolution of the City Council of the City of Moreno Valley, California, Approving the Check Register for the Month of February, 2011

A.5 APPROVE COOPERATIVE AGREEMENT WITH RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT FOR THE SUNNYMEAD BOULEVARD MASTER DRAINAGE PLAN LINES H, H-1A, AND H-5 IN CONNECTION WITH THE INDIAN DETENTION BASIN DRAINAGE IMPROVEMENTS - PROJECT NO 09-89791726 (Report of: Public Works Department)

Recommendation:

1. Approve the "Cooperative Agreement" with Riverside County Flood Control and Water Conservation District (the District) for the Sunnymead Boulevard Master Drainage Plan Lines H, H-1A, and H-5 in connection with the Indian Detention Basin Drainage Improvements;
2. Authorize the City Manager to execute the "Cooperative Agreement" upon concurrence by the District;
3. Authorize the City Manager to approve any minor changes that may be requested by the District subject to the approval of the City Attorney; and
4. Authorize the City Manager to execute any future amendments subject to the approval of the City Attorney.

A.6 ART LOAN POLICY (Report of: City Manager's Office)

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Recommendation:

Adopt the Art Loan Policy.

- A.7 AUTHORIZATION TO AWARD AGREEMENT FOR DESIGN PROFESSIONAL CONSULTANT SERVICES FOR HMGP FUNDED PROJECT: STORM DRAIN AND MISCELLANEOUS STREET IMPROVEMENTS BETWEEN ALESSANDRO BOULEVARD AND DRAINAGE FACILITY LINE F - PROJECT NO. 11-12566730 (Report of: Public Works Department)

Recommendation:

1. Accept an additional grant award amount of \$322,000 in the federal funds under the Hazard Mitigation Grant Program (HMGP) to construct a storm drain and miscellaneous street improvements between Alessandro Boulevard and drainage facility Line F east of Redlands Boulevard;
 2. Authorize the appropriation of \$430,000 from unencumbered Measure "A" (Fund 125) fund balance to account for the additional federal funding and required local funding match in accordance with the HMGP requirements;
 3. Approve the Agreement for Design Professional Consultant Services with DMC Design Group, 140 N. Maple Street, Suite 104, Corona, CA 92880 to provide design services for the storm drain and miscellaneous street improvements;
 4. Authorize the City Manager to execute said Agreement for Design Professional Consultant Services with DMC Group; and
 5. Authorize the issuance of a Purchase Order to DMC Design Group in the amount of \$172,016 from Account 125.66730 when the agreement has been signed by all parties.
- A.8 APPROVE THE CITY OF MORENO VALLEY'S FIVE-YEAR MEASURE "A" LOCAL STREETS AND ROADS CAPITAL IMPROVEMENT PLAN (CIP) AND MAINTENANCE OF EFFORT (MOE) CERTIFICATION STATEMENT FOR THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION (RCTC) MEASURE "A" LOCAL FUNDS PROGRAM, FISCAL YEAR (FY) 2012-2016 (Report of: Public Works Department)

Recommendation:

1. Approve the City of Moreno Valley's Five-Year Measure "A" Local Streets and Roads CIP and MOE for the RCTC Measure "A" Local Funds Program, FY 2012-2016;

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2. Authorize submittal of the RCTC Measure "A" Local Streets and Roads CIP and MOE for the RCTC Measure "A" Local Funds Program, FY 2012-2016; and
3. Authorize staff to submit an amended five-year plan to RCTC if changes are made by City Council to the listed Measure "A" projects as part of the upcoming FY 2011/12 budget approval process.

A.9 RESOLUTION NO. 2011-35 A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA AND THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA REGARDING THE REDISTRICTING OF THE RIVERSIDE COUNTY SUPERVISORIAL DISTRICTS (Report of: City Manager's Office)

Recommendation:

Adopt Resolution No. 2011-35, a joint resolution of the City Council of the City of Moreno Valley, California and the City Council of the City of Perris, California regarding the redistricting of the Riverside County Supervisorial Districts.

Resolution No. 2011-35

A Joint Resolution of the City Council of the City of Moreno Valley, California, and the City Council of the City of Perris, California Regarding the Redistricting of the Riverside County Supervisorial Districts

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 APRIL 12, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

B.3 RESOLUTION TO AMEND MORENO VALLEY COMMUNITY SERVICES DISTRICT ZONE D (PARKWAY LANDSCAPE MAINTENANCE) SERVICE PLAN POLICY (Report of: Public Works Department)

Recommendation:

Approve and adopt Resolution No. CSD 2011-06 to amend General

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Management Policy #2.30, Moreno Valley Community Services District Zone D (Parkway Landscape Maintenance) Service Plan Policy.

Resolution No. CSD 2011-06

A Resolution of the Moreno Valley Community Services District Board of Directors of the City of Moreno Valley, California, to Approve and Adopt the Amended Moreno Valley Community Services District Zone D (Parkway Landscape Maintenance) Service Plan Policy to Provide Revised Language Regarding the Service Level Guidelines and Correct Minor Grammatical Errors

B.4 RESOLUTION TO AMEND MORENO VALLEY COMMUNITY SERVICES DISTRICT ZONE E (EXTENSIVE LANDSCAPE MAINTENANCE) SERVICE PLAN POLICY (Report of: Public Works Department)

Recommendation:

Approve and adopt Resolution No. CSD 2011-07 to amend General Management Policy #2.41, Moreno Valley Community Services District Zone E (Extensive Landscape Maintenance) Service Plan Policy.

Resolution No. CSD 2011-07

A Resolution of the Moreno Valley Community Services District Board of Directors of the City of Moreno Valley, California, to Approve and Adopt the Amended Moreno Valley Community Services District Zone E (Extensive Landscape Maintenance) Service Plan Policy to Provide Revised Language Regarding the Service Level Guidelines and Correct Minor Grammatical Errors

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 APRIL 12, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES

D.1 ORDINANCES - READING BY TITLE ONLY

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Recommendation: Waive reading of all Ordinances.

D.2 MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Report of: City Clerk Department)

Recommendation:
Approve as submitted.

Motion to Continue Items A2, B2, C2 and D2 to the next Council meeting 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 Marcelo Co absent.

Motion to Approve Joint Consent Calendar Items A1 through D2, as amended (Item A7 - the correct number on the agreement is \$172,016, which is consistent with the staff report) 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 Marcelo Co absent.

E. PUBLIC HEARINGS

E.1 PUBLIC HEARING TO CONSIDER FEE SCHEDULE FOR FISCAL YEAR 2011-12 (Report of: Financial & Administrative Services Department)

Recommendation: That the City Council:

1. Conduct a Public Hearing to receive public input on the proposed Fee Schedule for Fiscal Year (FY) 2011-12; and
2. Adopt Resolution No. 2011-36, approving the Fee Schedule for FY 2011-12.

Resolution No. 2011-36

A Resolution of the City Council of the City of Moreno Valley, California, Establishing Specified Fees for Various Services for Fiscal Year 2011-12 and Repealing Prior Resolutions that may be in Conflict

Mayor Stewart opened the public testimony portion of the public hearing; there being none, public testimony was closed.

Motion to Approve as amended to include dog license fees by m/Council Member Robin N. Hastings, s/Council Member William H. Batey II

Approved by a vote of 4-0-1, Council Member Marcelo Co absent.

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E.2 PUBLIC HEARING REGARDING THE MAIL BALLOT PROCEEDINGS FOR POZGAJ FRANK & MARIA FAMILY TRUST—APN 486-240-009 BALLOTING FOR NPDES AND CSD ZONE M AND RIDGE MORENO VALLEY—APNS 297-170-005 AND 297-170-066 BALLOTING FOR NPDES (Report of: Public Works Department)

Mayor Stewart opened the public testimony portion of the public hearing; there being none, public testimony was closed.

Recommendation: That the City Council:

1. 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 Pozgaj Frank & Maria Family Trust—Assessor Parcel Number (APN) 486-240-009 and Ridge Moreno Valley—APNs 297-170-005 and 297-170-066;

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 Marcelo Co absent.

The City Clerk announced the results:

APN 486-240-009, NPDES - "Yes" ;passes
APN 297-170-005, NPDES - "Yes"; passes
APN 297-170-066, NPDES - "Yes"; passes

- b. Verify and accept the result of the mail ballot proceedings 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 APNs 486-240-009, 297-170-005, and 297-170-066.

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 Marcelo Co absent.

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

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a. Direct the Secretary of the CSD Board (City Clerk) to tabulate the CSD Zone M ballot for Pozgaj Frank & Maria Family Trust—APN 486-240-009;

Motion to Approve by m/Board Member William H. Batey II, s/Vice President Jesse L. Molina
Approved by a vote of 4-0-1, Board Member Marcelo Co absent.

The City Clerk announced the results:

APN 486-240-009, Zone M - “Yes”; passes

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

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

d. If approved, authorize and impose the annual CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance) charge to APN 486-240-009.

Motion to Approve by m/Board Member William H. Batey II, s/Vice President Jesse L. Molina
Approved by a vote of 4-0-1, Board Member Marcelo Co absent.

F. ITEMS REMOVED FROM CONSENT CALENDARS FOR DISCUSSION OR SEPARATE ACTION - none

AGENDA ORDER

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)

Continued

- G.6 CITY MANAGER'S REPORT (Informational Oral Presentation - not for Council action) - none

H. LEGISLATIVE ACTIONS

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

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

H.3 ORDINANCES - URGENCY ORDINANCES - NONE

H.4 RESOLUTIONS - NONE

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

Council Member Batey

1. Council and staff have to make some tough budget decisions. Instead of criticizing the council for the decisions, speakers should talk to the Council and offer suggestions to solve deficit problem
2. Reading Contest is completed - Five classes were taken to Harkins Theatre to see movie "Rios"; thanked Harkins for their hospitality; The top twenty readers, top two readers and persons helping with the program will be honored on May 10; congratulated all the kids who participated for the great job

Mayor Pro Tem Molina

1. Last Saturday participated in Relay for Life with Chief; encouraged everybody to participate; this kind of event brings the community together

Council Member Hastings

1. Thanked Chief Whittemore, von Lucas and Dean Palmer for the award presented on behalf of the Boy Scouts; it is an honor to be associated with such an organization as Boy Scouts of America; they are a fine group of people who donate a lot of time, energy and commitment to further this program
2. Congratulated Mark Sambito who was honored as the Reserve Deputy of the Year by the Riverside County Sheriff's Department; Moreno Valley police officers have been recognized very frequently, and this is reflected in the lowest crime statistics we have ever had in the City; the Council did an outstanding job to reduce crime; thanked the Police Department on behalf of Moreno Valley residents

Mayor Stewart

1. Responded to speaker's comments - clarified that the fire engine didn't belong to him, and he paid money to run the fire engine in the parades and events; eventually he bought it and donated it to the Fire Museum
2. Everyone has right to criticize and disagree with others, but need to show respect and civility; use of bad language will not be tolerated
3. Last week, was in Michigan to attend his mother-in-law's funeral; it was very stressful

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Motion to continue the meeting past 11:00 p.m. 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 Marcelo Co absent.

There being no further business to conduct, the meeting was adjourned at 10:59 p.m. to Closed Session by unanimous informal consent.

CLOSED SESSION

The City Attorney announced that the City was served on April 26, 2011 with the lawsuit – A&J Organic, Inc, the California Corporation dba Green Cross Care Group vs. City of Moreno Valley, Riverside Superior Court, Case # RRC1105634. Because this is a civil complaint, directions from the City Council regarding the cross-complaint are needed.

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

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

Number of Cases: 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

None

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ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 11:05 p.m. by unanimous informal consent.

Submitted by:

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

Approved by:

Richard 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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MINUTES

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

SPECIAL MEETING – 6:00 PM
April 19, 2011

CALL TO ORDER

Special 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 was called to order at 6:16 p.m. by Mayor Stewart in the Council Chamber located at 14177 Frederick Street.

PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was led by Council Member Co

INVOCATION – Mayor Stewart

ROLL CALL

Council:

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

Staff:

Jane Halstead	City Clerk
Cindy Miller	Executive Assistant to the Mayor/City Council
Henry T. Garcia	City Manager
Richard Teichert	Financial and Administrative Services Director
Robert Hansen	City Attorney
Michelle Dawson	Acting Assistant City Manager
John Anderson	Police Chief
Steve Curley	Fire Chief
Chris Vogt	Public Works Director
Barry Foster	Community and Economic Development Director
Sonny Morkus	Human Resources Director
Paula Smus	Acting Library Services Division Manager
Mike McCarty	Parks & Community Services Director

G. REPORTS

G.1 APPROVE THE THREE-YEAR DEFICIT ELIMINATION PLAN FOR FISCAL YEARS 2011/12 - 2013/14 AND DIRECT STAFF TO IMPLEMENT THE FIRST TWO YEARS OF THE PLAN IN A TWO-YEAR BUDGET FOR FISCAL YEARS 2011/12 AND 2012/13 (Continued from April 12, 2011) (Report of: City Manager's Office)

Mayor Stewart opened the agenda item for public comments, which were received from Deanna Reeder, Pete Bleckert, and Daryl Terrell.

Recommendation: That the City Council:

1. Approve the Three-Year Deficit Elimination Plan for Fiscal Years 2011/12 through 2013/14; and
2. Direct staff to incorporate the first two years of the plan in a proposed two-year budget for Fiscal Years 2011/12 and 2012/13 for Council consideration.

Motion to Approve by m/Council Member Batey, s/Council Member Hastings the Three-Year Deficit Elimination Plan for Fiscal Years 2011/12 through 2013/14 as adjusted to include Group A; and directed staff to incorporate the first two years of the plan in a proposed two-year budget for Fiscal Years 2011/12 and 2012/13 for Council consideration.
Approved by a 3-0-2 vote, Council Member Co and Mayor Pro Tem Molina abstained.

There being no further business to conduct, the meeting was adjourned to the Regular Study Session at 8:40 p.m., by unanimous informal consent.

Submitted by:

Approved by:

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

Richard A. Stewart, Mayor
President, Moreno Valley Community
Services District
Chairperson, Community Redevelopment
Agency of the City of Moreno Valley

MINUTES
CITY COUNCIL OF THE CITY OF MORENO VALLEY
April 12, 2011

CALL TO ORDER

SPECIAL PRESENTATIONS

1. Presentation of Award for Excellence in Information Technology Practices to the City's Technology Services Division
2. Proclamation Recognizing National Library Week
3. Proclamation Recognizing Sexual Assault Awareness Month
4. "Spotlight on Moreno Valley Business"

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

**REGULAR MEETING – 6:30 PM
April 12, 2011**

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 6:33 p.m. by Mayor Pro Tem Molina in the Council Chamber located at 14177 Frederick Street.

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

INVOCATION – Council Member Co

Council:

Jesse L. Molina	Mayor Pro Tem
William H. Batey II	Council Member
Marcelo Co	Council Member

Absent:

Richard A. Stewart	Mayor
Robin N. Hastings	Council Member

Staff:

Jane Halstead	City Clerk
Julienne Clay	Administrative Assistant
Henry T. Garcia	City Manager
Richard Teichert	Financial and Administrative Services Director
Robert Hansen	City Attorney
Michelle Dawson	Acting Assistant City Manager
John Anderson	Police Chief
Steve Curley	Fire Chief
Chris Vogt	Public Works Director
Barry Foster	Community and Economic Development 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 Pro Tem Molina opened the agenda items for the Consent Calendars for public comments, which were received from Hossein Tajiki (Item A6), Doug Whitney (Item A6), Larry Lange (Item A6) and Tilak Chopra (Item A6).

A. CONSENT CALENDAR-CITY COUNCIL

A.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

A.2 MINUTES - REGULAR MEETING OF MARCH 22, 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 March 16 – April 5, 2011.

A.4 APPROVAL OF THE 2011/2012 FISCAL YEAR STORM WATER PROTECTION PROGRAM BUDGET FOR COUNTY SERVICE AREA (CSA) 152 (Report of: Public Works Department)

Recommendation:

1. Approve the County Service Area (CSA) 152 Budget for FY 2011/2012 in the amount of \$537,553; and
2. Authorize the levy of CSA 152 Assessment at \$8.15 per Benefit Assessment Unit (BAU) for FY 2011/2012.

A.5 REPLACEMENT OF PLAY STRUCTURES AND PLAYGROUND SURFACING AT JOHN F. KENNEDY VETERANS MEMORIAL PARK AND WOODLAND PARK (ALSO LISTED AS ITEM B.3) (Report of: Parks and Community Services)

Recommendation:

1. Award to Miracle Recreation Equipment Company, 878 E Hwy 60, Monett, MO 65708 for material and labor to replace play

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structures and playground surfacing at John F. Kennedy Veterans Memorial Park and Woodland Park; and

2. Authorize the Purchasing Manager to execute a purchase order in an amount not to exceed \$ 241,976.03 as appropriated in FY10/11, in account code 461.65329.7500.

A.6 RESOLUTION FOR THE ABATEMENT OF PUBLIC NUISANCES (Report of: Fire Department)

Recommendation:

Adopt Resolution No. 2011-30 of the City of Moreno Valley, California, confirming assessments on certain real properties as outlined in the Property Assessment List in the staff report for the abatement of nuisances.

Resolution No. 2011-30

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

A.7 REPORT OF PARTIAL REDUCTIONS PROCESSED DURING THE MONTHS OF FEBRUARY AND MARCH 2011 (Report of: Public Works Department)

Recommendation:

No action required.

A.8 PA07-0090 - REDLANDS ELECTRICAL IMPROVEMENTS – UTILITY ELECTRICAL INFRASTRUCTURE – REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE UTILITY ELECTRICAL 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 Resolution No. 2011-33 authorizing the acceptance of the Utility Electrical Infrastructure for PA07-0090 - Redlands Electrical Improvements as complete and accepting the Utility

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Electrical Infrastructure into the City's maintained system; and

Resolution No. 2011-33

A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Utility Electrical Infrastructure for the Redlands 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 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.9 APPROVAL OF THE FRANCHISE TAX BOARD AGREEMENT TO SHARE TAX INFORMATION (Report of: Financial & Administrative Services Department)

Recommendation:

Authorize the City Manager or his designee to sign a Franchise Tax Board Agreement that will allow both entities to share tax information confidentially.

A.10 RESOLUTION REGARDING THE LIBERTY QUARRY (Report of: City Manager's Office)

Recommendation:

Discuss and consider Resolution No. 2011-31 regarding the Liberty Quarry.

Resolution No. 2011-31

A Resolution of the City Council of the City of Moreno Valley, California, in Support of the Need for and Benefits of Liberty Quarry

Motion to continue Item A10 to May 10, 2011 by m/Council Member Marcelo Co, s/Council Member William H. Batey II

Approved by a vote of 3-0-2, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

A.12 TRACTS 22709, 22709-1, 31128, 31129, & 35760 – MAINTENANCE OF PUBLIC IMPROVEMENTS - ACCEPT AGREEMENT AND IRREVOCABLE LETTER OF CREDIT FOR MAINTENANCE OF THE MORENO BEACH CHANNEL (CHANNEL F) PUBLIC IMPROVEMENTS - DEVELOPER:

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WESTERN PACIFIC HOUSING - CORONA, CA 92880 (Report of: Public Works Department)

Recommendation:

1. Accept the Agreement and Irrevocable Letters of Credit for Public Improvements for Tracts 22709, 22709-1, 31128, 31129, & 35760;
2. Authorize the Mayor to execute the agreement;
3. Direct the City Clerk to forward the signed agreement to the County Recorder's office for recordation; and
4. Authorize the City Engineer to execute any future time extension amendments to the agreement, subject to City Attorney approval, if the required public improvements are not completed within said timeframe.

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 MARCH 22, 2011 (Report of: City Clerk Department)

Recommendation:

Approve as submitted.

B.3 REPLACEMENT OF PLAY STRUCTURES AND PLAYGROUND SURFACING AT JOHN F. KENNEDY VETERANS MEMORIAL PARK AND WOODLAND PARK (ALSO LISTED AS ITEM A.5) (Report of Parks and Community Services)

Recommendation:

1. Award to Miracle Recreation Equipment Company, 878 E Hwy 60, Monett, MO 65708 for material and labor to replace play structures and playground surfacing at John F. Kennedy Veterans Memorial Park and Woodland Park; and
2. Authorize the Purchasing Manager to execute a purchase order in an amount not to exceed \$ 241,976.03 as appropriated in FY10/11, in account code 461.65329.7500.

C. CONSENT CALENDAR - COMMUNITY REDEVELOPMENT AGENCY

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

C.2 MINUTES - REGULAR MEETING OF MARCH 22, 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 MARCH 22, 2011 (Report of: City Clerk Department)

Recommendation:
Approve as submitted.

Motion to Approve Joint Calendar Items A1 – D2, except Items A10, which was continued to May 10, 2011 and Item A11, which was pulled for separate discussion/action. Motion by m/Council Member William H.Batey II, s/Council Member Marcelo Co Approved by a vote of 3-0-2, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

E. PUBLIC HEARINGS

AGENDA ORDER

E.2 PUBLIC HEARING REGARDING ISSUANCE OF MULTI-FAMILY HOUSING REVENUE BONDS AND THE ADOPTION OF A RESOLUTION APPROVING THE ISSUANCE BY THE CALIFORNIA STATEWIDE COMMUNITIES OF MULTI-FAMILY HOUSING REVENUE BONDS FOR HEMLOCK FAMILY APARTMENTS (Report of: Community & Economic Development Department)

Mayor Pro Tem Molina opened the public testimony portion of the public hearing; there being none, public testimony was closed.

Recommendation: That the City Council:

1. Conduct a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, at which it will hear and consider information concerning the issuance by the California Statewide Communities Development Authority of

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multifamily housing revenue bonds to finance the acquisition, construction and development of a 77-unit multifamily rental housing project known as Hemlock Family Apartments; and

2. Adopt Resolution No. 2011-32, pursuant to Section 147(f) of the Internal Revenue Code of 1986 approving the issuance of bonds by the California Statewide Communities Development Authority of Multifamily Housing Revenue Bonds for the Hemlock Family Apartments.

Resolution No. 2011-32

A Resolution of the City Council of the City of Moreno Valley, California, Approving the Issuance by the California Statewide Communities Development Authority of Multifamily Housing Revenue Bonds for the Hemlock Family Apartments

Motion to Approve by m/Council Member Marcelo Co, s/Council Member William H. Batey II
Approved by a vote of 3-0-2, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

- E.1 PUBLIC HEARING REGARDING THE MAIL BALLOT PROCEEDINGS FOR SOUTHEASTERN CALIF CONF SEV DAY ADVENTIST CHURCH—APN 484-030-015 AND BUDDHADHAMMO TEMPLE—APN 488-210-014 BALLOTING FOR NPDES AND CSD ZONE M (Report of: Public Works Department)

Mayor Pro Tem Molina opened the public testimony portion of the public hearing; there being none, public testimony was closed.

Recommendation: That the City Council:

After conducting the Public Hearing and accepting public testimony:

- a. Direct the City Clerk to tabulate the National Pollutant Discharge Elimination System (NPDES) ballots for Southeaster Calif Conf Sev Day Adventist—Assessor Parcel Number (APN) 484-030-015 and Buddhaddhammo Temple—APN 488-210-014;

Motion to continue APN 488-210-014 to May 26, 2011 by m/Council Member William H. Batey II, s/Council Member Marcelo Co
Approved by a vote of 3-0-2, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

Motion to direct the City Clerk to tabulate ballots for APN 484-030-015 by m/Mayor Pro Tem Jesse L. Molina, s/Council Member William H. Batey II

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Approved by a vote of 3-0-2, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

The City Clerk announced the results as follows:

APN 484-030-015 (NPDES) – “Yes”

- b. Verify and accept the result of the mail ballot proceedings as identified on the Official Tally Sheet and APN listing.
- c. Receive and file with the City Clerk’s office the accepted Official Tally Sheet and APN listing; and
- d. If approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate to APN–030–015.

Motion to approve by m/Council Member William H. Batey II and s/Council Member Marcelo Co

Approved by a 3-0-2 vote, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

The above motion was to accept results and impose the CSD charges.

Motion to rescind previous motion by m/Council Member William H. Batey II, s/Council Member Marcelo Co

Approved by a 3-0-2 vote, Mayor Richard A. Stewart, Council Member Robin N. Hastings, absent.

Motion to approve by m/Council Member William. H. Batey, s/Council Member Marcelo Co

Approved by a 3-0-2 vote, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

Recommendation: That the CSD:

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 ballots for Southeastern Calif Conf Sev Day Adventist–APN 484-030-015 and Buddhadhammo Temple–APN 488-210-014;

Motion to direct the Secretary to tabulate the CSD Zone M ballot for APN 484-030-015 by m/Board Member William H. Batey II, s/Board Member Marcelo Co

Approved by a vote of 3-0-2, President Richard A. Stewart, Board

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Member Robin N. Hastings absent.

The City Clerk announced the results as follows:
APN 484-030-015, CSD Zone M – “Yes”

- b. Verify and accept the result of the mail ballot proceedings 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) charges to APNs 484-030-015.

Motion to approve APN 484-030-015 by m/Board Member William H. Batey II, s/Board Member Marcelo Co
Approved by a vote of 3-0-2, President Richard A. Stewart, Board Member Robin N. Hastings absent.

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

Mayor Pro Tem Molina opened the agenda item for public comments, which were received from Erica Hopkins, Kama Burton and Dr. Charles Gibson (Breakthrough CDC).

- A.11 CONSIDERATION OF A REQUEST FROM BREAKTHROUGH COMMUNITY DEVELOPMENT CORPORATION (BCDC) TO SPONSOR ITS HOPE FOR OUR YOUTH CAMPAIGN (Report of: City Clerk’s Department)

Recommendation:

That the City Council consider the request of Breakthrough Community Corporation (BCDC) to sponsor its Hope for Our Youth Campaign (HYC), in the amount of \$2,040.

Motion to Approve by m/Council Member William H. Batey II, s/Mayor Pro Tem Jesse L. Molina
Approved by a vote of 3-0-2, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

G. REPORTS

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

MINUTES
April 12, 2011

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

None

- G.2 PUBLIC MEETING REGARDING THE MAIL BALLOT PROCEEDINGS FOR POZGAJ FRANK & MARIA FAMILY TRUST—APN 486-240-009 BALLOTING FOR NPDES AND CSD ZONE M AND RIDGE MORENO VALLEY—APNS 297-170-005 AND 297-170-066 BALLOTING FOR NPDES (Report of: Public Works Department)

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

Recommendation: That the City Council:

Accept public comments regarding the mail ballot proceedings for Pozgaj Frank & Maria Family Trust—Assessor Parcel Number (APN) 486-240-009 and Ridge Moreno Valley—APNs 297-170-005 and 297-170-066 for approval of the National Pollutant Discharge Elimination System (NPDES) maximum commercial/industrial regulatory rate; and

Recommendation: That the CSD:

Acting in their capacity as President and Members of the Board of Directors of the CSD (“CSD Board”) accept public comments regarding the mail ballot proceeding for Pozgaj Frank & Maria Family Trust—APN 486-240-009 for inclusion into and approval of the annual charge for CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance).

No action required.

- G.3 APPROVE THE THREE-YEAR DEFICIT ELIMINATION PLAN FOR FISCAL YEARS 2011/12 - 2013/14 AND DIRECT STAFF TO IMPLEMENT THE FIRST TWO YEARS OF THE PLAN IN A TWO-YEAR BUDGET FOR FISCAL YEARS 2011/12 AND 2012/13 (Report of: City Manager's Office)

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

Recommendation: That the City Council:

1. Approve the Three-Year Deficit Elimination Plan for Fiscal Years 2011/12 through 2013/14; and
2. Direct staff to incorporate the first two years of the plan in a proposed two-year budget for Fiscal Years 2011/12 and 2012/13 for Council consideration.

MINUTES
April 12, 2011

Motion to continue Item G3 to a Special Meeting on April 19, 2011, approved by m/Council Member William H. Batey II, s/Council Member Marcelo Co
Approved by a vote of 3-0-2, Mayor Richard A. Stewart, Council Member Robin N. Hastings absent.

G.4 CITY MANAGER'S REPORT (Informational Oral Presentation - not for Council action)

No reports.

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

Deanna Reader

1. Budget

Ronald Marks

1. Council comments from a previous meeting
2. Fire Flow

Pete Bleckert

1. Agenda packet

Louise Palomar

1. Skechers project

Daryl Terrell

1. Competing on the world stage

Tom Jerele, Sr.

1. Toured Administrative Center of Eastern Municipal Water District
2. Toured Skechers facility

CLOSING COMMENTS AND/OR REPORTS OF THE CITY COUNCIL,

MINUTES
April 12, 2011

COMMUNITY SERVICES DISTRICT, OR COMMUNITY REDEVELOPMENT AGENCY

Council Member William H. Batey II

1. Next week the top reading classes will get to see the movie Rio. The top 20 readers will be recognized in May.
2. Made a motion to close tonight's meeting in honor of Mayor Stewart's mother-in-law, Agnes R. Beyer, and condolences to the family.

Council Member Marcelo Co

1. Citizens need to come to the City Council meetings. City leaders must be made aware of what is happening in the city.
2. The cuts being implemented must be even handed.
3. Chief Curley will check on contractors taking pictures of weed abatement and charging the City.
4. People are coming to see the new Skechers building.
5. Progress and jobs are needed. There will be change, and jobs will come to the city.
6. Please support the businesses in Moreno Valley.

Mayor Pro Tem Jesse L. Molina

1. The City needs to come together.
2. The public needs to come to the City Council meetings and make their voices heard.
3. Constituents that call receive attention.
4. Adjourned the meeting in honor of Mayor Stewart's mother-in-law, Agnes R. Beyer.

CLOSED SESSION - Canceled

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 7:56 p.m. in honor of Mayor Stewart's mother-in-law, Agnes R. Beyer, by unanimous informal consent.

Submitted by:

Jane Halstead, City Clerk, CMC
Secretary, Moreno Valley Community Services District

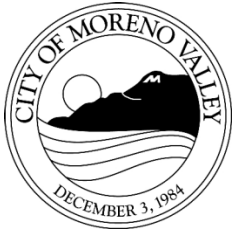
MINUTES
April 12, 2011

Secretary, Community Redevelopment Agency of the City of Moreno Valley
Secretary, Board of Library Trustees

Approved by:

Jesse L. Molina, Mayor Pro Tem
President, Moreno Valley Community Services District
Chairperson, Community Redevelopment Agency of the City of Moreno Valley
Chairperson, Board of Library Trustees

MINUTES
April 12, 2011



Report to City Council

TO: Mayor and City Council

FROM: Jane Halstead, City Clerk

AGENDA DATE: May 10, 2011

TITLE: CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES

RECOMMENDED ACTION

Staff recommends that the City Council receive and file the Reports on Reimbursable Activities for the period of April 20 – May 3, 2011.

<i>Reports on Reimbursable Activities</i> April 20 – May 3, 2011		
Council Member	Date	Meeting
William H. Batey II		None
Marcelo Co		None
Robin N. Hastings	4/27/11	Moreno Valley Chamber of Commerce Wake-Up
Jesse L. Molina		None
Richard A. Stewart	5/3/11	Moreno Valley Hispanic Chamber of Commerce Adelante

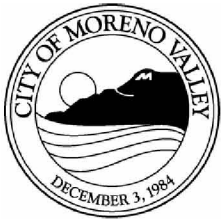
Prepared By:
Cindy Miller
Executive Assistant to the Mayor/City Council

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>Ret</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: May 10, 2011

TITLE: PA07-0021 – REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING THE PORTION OF SUNNYMEAD BOULEVARD ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM

DEVELOPER – WESTERN STATES CONSTRUCTION, INC.
4887 E. LA PALMA AVENUE, SUITE 707
ANAHEIM, CA 92807

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Adopt Resolution No. 2011-37 authorizing the acceptance of the public improvements within PA07-0021 as complete and accepting the portion of Sunnymead Boulevard 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

PA07-0021 is a commercial development consisting of a retail building, auto repair building, and a carwash located on the north side of Sunnymead Boulevard, east of Graham Street that was conditionally approved requiring construction of certain public improvements. The public improvements included asphalt paving, curb, gutter, sidewalk, driveway approaches, striping, storm drain, and water facilities. Those improvements received on-going inspection during the construction process. Upon completion of the improvements, Public Works/Land Development performed an inspection, and a punch list was generated. The required corrective actions have been completed, and the improvements are now eligible for acceptance into the City's maintained street system.

DISCUSSION

The completed improvements have received a final inspection, and the improvements were completed in accordance with the approved plans and the standards of the City of Moreno Valley. In accordance with the Streets and Highway Code, the method for acceptance of improvements, per Section 1806, (a), and (b), is by action of the governing body, by resolution. It is therefore appropriate to accept those improvements into the City's maintained street system and to provide a 90% reduction to the Faithful Performance Bond of \$97,000 issued by SureTec Insurance Company. Ninety days after City Council approves the Faithful Performance Bond reduction, the Material and Labor Bond will be exonerated by the City Engineer provided there are no stop notices or liens on file with the City Clerk. The remaining 10% of the bond will be held for the one-year guarantee and warranty period. At the end of the guarantee and warranty period the bond will be released by the City Engineer subject to completion of any defective work that may have appeared during this period.

ALTERNATIVES

1. Adopt the proposed Resolution authorizing the acceptance of the public improvements within PA07-0021 as complete and accepting the portion of Sunnymead Boulevard 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 PA07-0021 as complete and accepting the portion of Sunnymead Boulevard 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

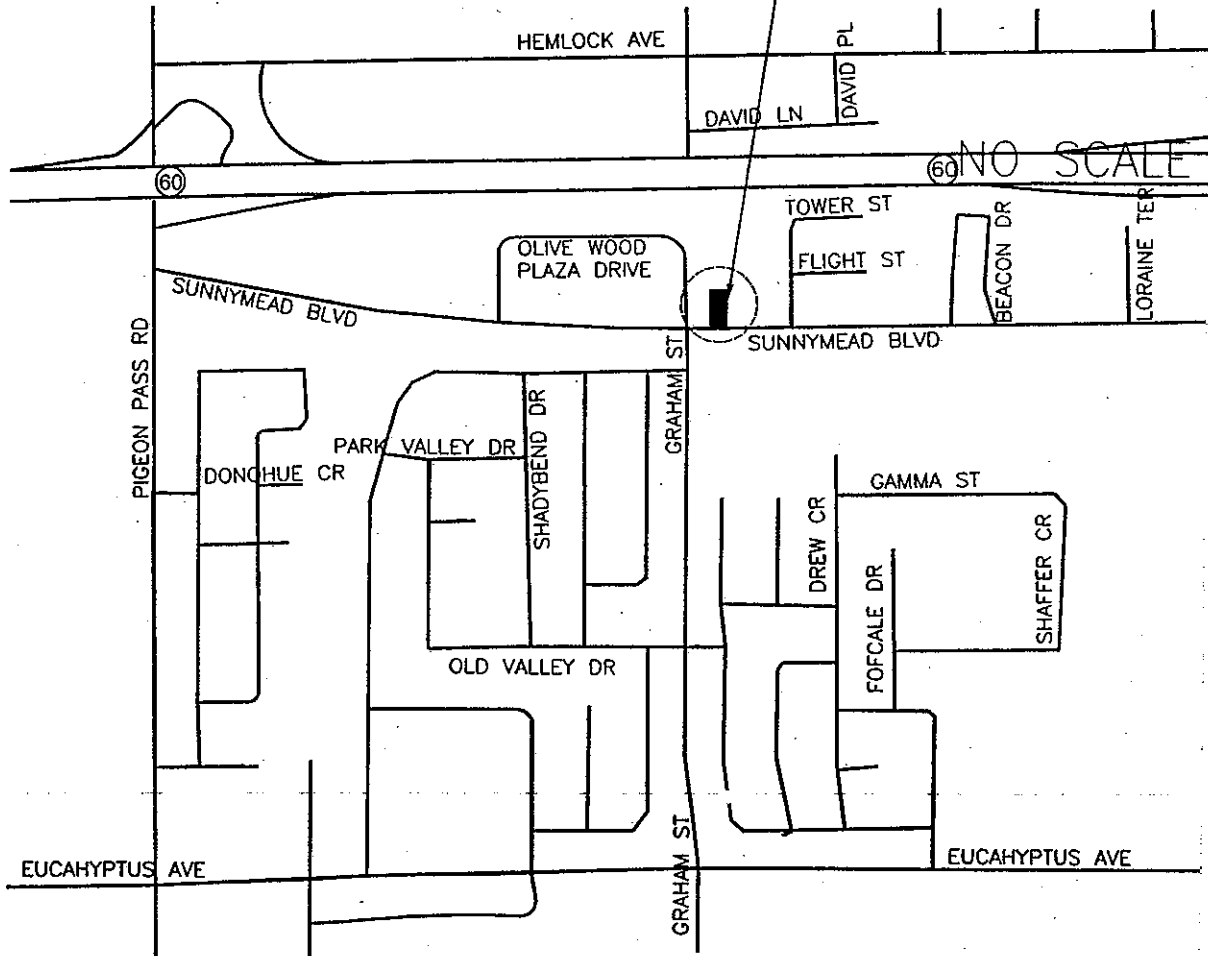
Department Head Approval
Chris A. Vogt, P.E.
Public Works Director/City Engineer

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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SITE LOCATION



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

**PA07-0021
VICINITY MAP**

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RESOLUTION NO. 2011-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AUTHORIZING THE ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE WITHIN PA07-0021, AND ACCEPTING THE PORTION OF SUNNYMEAD BOULEVARD ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM

WHEREAS, the City Engineer has determined that the public improvements constructed by Western States Construction, Inc. on the portion of Sunnymead Boulevard 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 PA07-0021, and accept the portion of Sunnymead Boulevard 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: THE PUBLIC IMPROVEMENTS WITHIN PA07-0021 ARE COMPLETE AND THE PORTION OF SUNNYMEAD BOULEVARD ASSOCIATED WITH THE PROJECT ARE ACCEPTED INTO THE CITY'S MAINTAINED STREET SYSTEM.

APPROVED AND ADOPTED this 10th day of May, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT "B"

1

Resolution No. 2011-37
Date Adopted: May 10, 2011

RESOLUTION JURAT

[Clerk's office will prepare]

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



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RH</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: May 10, 2011

TITLE: NOTICE OF COMPLETION AND ACCEPTANCE OF SUNNYMEAD BOULEVARD BEAUTIFICATION AND ENHANCEMENT FROM FREDERICK STREET TO PERRIS BOULEVARD PROJECT
PROJECT NO. 04-89280221-2

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Accept the work as complete for the Sunnymead Boulevard Beautification and Enhancement from Frederick Street to Perris Boulevard constructed by PALP Inc. dba Excel Paving Company (Excel), 2230 Lemon Avenue, Long Beach, CA 90806.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code.
3. Authorize the Financial and Administrative Services Director to assess liquidated damages and withhold further payment to Contractor.
4. Accept the improvements into the City's maintained system.

BACKGROUND

On February 26, 2008, the City Council approved a construction contract with Environmental Construction, Inc., for Stage 1, of the Sunnymead Boulevard Revitalization project, which provided improvements for the infrastructure and aesthetic enhancements, which included a gateway entry arch, bus shelters, sign monuments,

parkway landscaping, curbs, gutters, and color sidewalks. Along with this construction, Eastern Municipal Water District (EMWD) installed an 18-inch pipeline from east of Frederick Street to Perris Boulevard.

On November 25, 2008, the City Council awarded the Sunnymead Boulevard Beautification and Enhancement project (Stage 2) construction contract and authorized the issuance of a Purchase Order in the amount of \$2,702,636.90 (the bid amount plus 10% contingency) to PALP Inc. dba Excel Paving Company (Excel). The Excel contract included a lighted median sign near Perris Boulevard, median installation along with landscaping and color Portland Cement Concrete (PCC) center turn lanes and intersections.

On July 13, 2010, the City Council approved the Change Order to increase the Purchase Order with Excel in the amount of \$50,000 as a contingency to ensure timely payment to the Contractor in accordance with the Public Contract Code in the event the claims are resolved in the Contractor's favor.

DISCUSSION

Excel completed construction of the beautification and enhancement improvements on February 14, 2011 at a total disputed construction cost of \$2,670,000 inclusive of Contract Change Order Nos. 1, 2, 3, and 4 (disputed final), which is less than the Purchase Order amount of \$2,752,636.90. The original contract completion date was set for August 2, 2010. The Contractor was issued a time extension of 14 rain/weather work days which sets the revised completion date at August 20, 2010. The Contractor's liquidated damages are assessed for a total of 178 calendar days between August 20, 2010 and February 14, 2011 at \$2,500 per day for a total of \$445,000.

The Contractor did not sign draft Contract Change CCO No. 4 (disputed final) because the Contractor disputes the total compensation amount, due to unresolved claims. Since all the work has now been completed, the City Attorney has recommended to proceed with accepting the project as complete and filing the Notice of Completion with the County. The Contractor filed a claim with the City Clerk's Office on March 4, 2011. The Contractor is claiming additional compensation for construction related work due to costs and expenses incurred on the job that cannot be verified or justified by the City at this time. The Risk Management Division has denied the claim and staff is currently working with the City Attorney's office to mediate a settlement with the Contractor.

The Contractor is claiming \$302,912 for disputed extra work, \$353,893 for disputed contract balance and unspecified sums for subcontractor claims, delay costs, overhead, interest, and attorneys' fees. The Contractor is disputing the applicability of the contractually specified minimum coefficient of friction for the surface of the concrete pavement at four intersections. The concrete installed by the Contractor did not comply with the specifications. The Contractor is seeking additional compensation associated with remediating the non-conforming surface finish, traffic control activities during construction, and additional landscaping. The City considers all of this disputed work to

be the Contractor's responsibility pursuant to the Contract. Because of the assessment of liquidated damages, there are no undisputed funds due to the Contractor.

ALTERNATIVES

1. Accept the work as complete for the Sunnymead Boulevard Beautification and Enhancement from Frederick Street to Perris Boulevard constructed by PALP Inc. dba Excel Paving Company (Excel), 2230 Lemon Avenue, Long Beach, CA 90806, direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code, authorize the Financial and Administrative Services Director to assess liquidated damages and withhold further payment to Contractor, and accept the improvements into the City's maintained system. *This alternative will result in acceptance of the improvements into the City's maintained system.*

2. Do not accept the work as complete for the Sunnymead Boulevard Beautification and Enhancement from Frederick Street to Perris Boulevard constructed by PALP Inc. dba Excel Paving Company (Excel), 2230 Lemon Avenue, Long Beach, CA 90806, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code, do not authorize the Financial and Administrative Services Director to assess liquidated damages and withhold further payment to Contractor, and do not accept the improvements into the City's maintained system. *This alternative will result in delaying acceptance of the improvements into the City's maintained system, and incurring extra cost to the City.*

FISCAL IMPACT

The Sunnymead Boulevard Beautification and Enhancement project (Stage 2) constructed by Excel was funded with Lease Revenue Bond funds (fund 501), Transportation Enhancement (TE) Federal Grant funds through Measure A funds (fund 125), and Redevelopment Agency (RDA) funds (fund 892) as budgeted in Fiscal Year 2010/2011. There is no impact to the General Fund.

OVERALL PROJECT FINANCIAL STATUS AS OF MARCH 2011:

Total Budget Appropriation Fiscal Year 2001/2002 to	
Fiscal Year 2010/2011 (Funds 892, 501, and 125).....	\$12,138,000
Total Estimated Planning, Design, Right of Way, and Legal Related Costs..	(\$1,735,000)
Miscellaneous Utilities, Banner Installation, Project Coordination	(\$227,000)
Total Estimated Construction Related Costs for	
Sidewalk/Parkway (Stage 1)	(\$5,990,000)
Total Estimated Construction Related Costs for	
Median/Intersection (Stage 2)	(\$3,368,000)

Breakdown of Stage 2 Construction Related Actual Expenses as of March 2011:

Disputed Construction Contract Cost.....	\$2,670,000
Consultant Construction Management/Inspection Services	\$381,000
Geotechnical Services	\$29,000
Survey Services	\$68,000
Project Administration & Miscellaneous Service Costs.....	\$220,000
Total Amount for Stage 2 Construction	\$3,368,000

Remaining Project Encumbrances	(\$718,000)
Remaining Project Balance	\$100,000

ANTICIPATED PROJECT SCHEDULE:

Completion of Stage 1 Construction.....	June 2011
Completion of Stage 2 Construction.....	February 2011

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

Excel has completed the Stage 2 construction for the Sunnymead Boulevard Beautification and Enhancement project from Frederick Street to Perris Boulevard. The City Council is requested to accept the work as complete, direct the City Clerk to record the Notice of Completion, assess liquidated damages against Excel and accept the improvements into the City’s maintained system.

ATTACHMENTS

Attachment “A” – Location Map

Prepared By:
 Christopher L. Wiberg
 Senior Engineer, P.E.

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

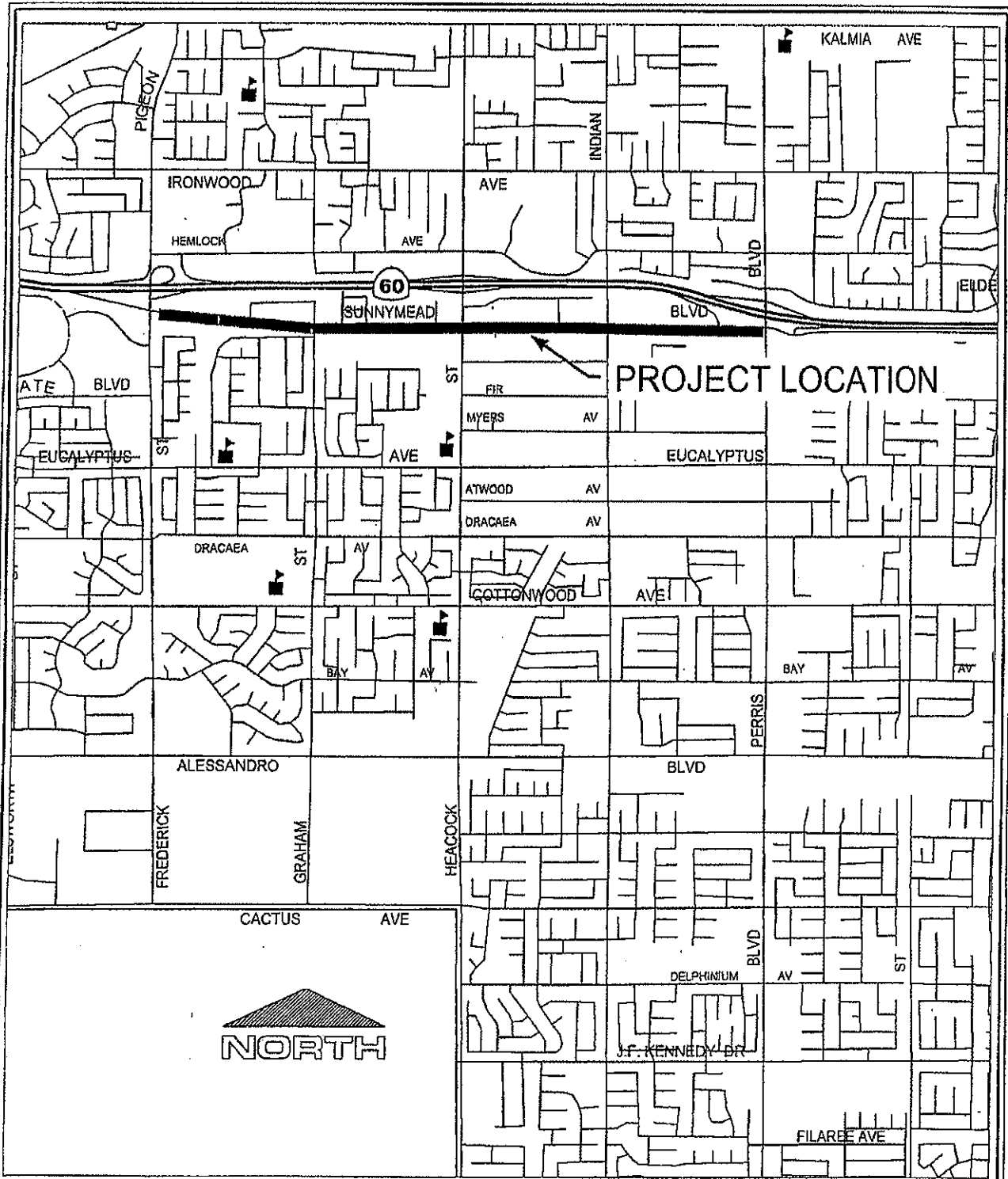
Concurred By:
 Prem Kumar, P.E.
 Deputy Public Works Director/Assistant City Engineer

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



Public Works Department
Capital Projects Division

ATTACHMENT "A"

SUNNYMEAD BLVD. BEAUTIFICATION
AND ENHANCEMENT
PROJECT NO. 04-89280221-2

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

Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: May 10, 2011

TITLE: AUTHORIZATION TO AWARD THE CONSTRUCTION CONTRACT FOR WIDENING OF PERRIS BOULEVARD SOUTHBOUND AT STATE ROUTE 60 WESTBOUND RAMP PROJECT NO. 08-1256627

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Grant LSC Construction's request for relief of bid proposal due to a mistake made in filling out the bid.
2. Award the construction contract for Widening of Perris Boulevard Southbound at State Route 60 Westbound Ramp to Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92878, the lowest responsible bidder.
3. Authorize the City Manager to execute a contract with Hillcrest Contracting, Inc. in the form attached hereto.
4. Authorize the issuance of a Purchase Order to Hillcrest Contracting, Inc. in the amount of \$297,060.00 (\$247,550.00 for the bid amount plus 20% contingency) when the contract has been signed by all parties.
5. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, Inc., up to, but not exceeding, the total contingency amount of \$49,510.00, subject to the approval of the City Attorney.

BACKGROUND

An agreement with KOA Corporation was signed by the City Manager on June 5, 2008 to provide Phase I, preliminary design (35%) services for the widening of southbound Perris Boulevard at State Route 60 westbound on-ramp. On November 12, 2008, the City Council approved the First Amendment to KOA’s Agreement to provide Phase II, 100% design, and Phase III, advertising, bid, and construction support services for the widening of southbound Perris Boulevard at State Route 60 westbound on-ramp.

In December 2010, the project was advertised for construction bids.

DISCUSSION

This project will result in the construction of a right-turn lane by widening southbound Perris Boulevard from Elder Avenue to the westbound on-ramp of State Route 60. The project also includes modifications to the City traffic signal at Elder Avenue and the Caltrans traffic signal at the westbound on-ramp. Project benefits include reduced congestion around the westbound on-ramp due to the southbound turn lane addition and traffic signal improvements as well as enhanced pedestrian mobility due to the reconstruction of the curb ramps.

In December 2008, the Planning Division found that the project is exempt from CEQA as it is classified as a Class 1 Categorical Exemption (under Section 15301(c)), and therefore, environmental documents are not required.

Formal Bidding procedures have been followed in conformance with the Public Contract Code (PCC) and the City Clerk opened bids at 2:00 p.m., March 24, 2011, for the subject project. Seven (7) bids were received as follows:

1. Hillcrest Contracting, Inc.	\$247,550.00
2. Elite Companies US, Inc.	\$249,981.00
3. Unique Performance Construction	\$267,050.00
4. KORMX, Inc.	\$281,650.00
5. DBX, Inc.	\$303,438.00
6. All American Asphalt	\$360,206.00
7. LSC Construction	Withdrawn
 Engineer’s Estimate	 \$276,550.00

Staff has reviewed the lowest bid received by Hillcrest Contracting, Inc. and finds it to be the lowest responsible bidder. Hillcrest Contracting, Inc. possesses a valid California Contractor License in good standing and has provided a bid bond as its required bid security. No outstanding problems were identified through review of the references submitted by Hillcrest Contracting, Inc.

LSC Construction submitted a letter to the City requesting withdrawal of its Bidders Proposal due to a mistake that was made in filling out the bid and not due to error in judgment in accordance with Public Contract Code sections 5101 and 5103. Upon review of the letter, staff concurs that a mistake was made and recommends that the City Council grant the request to withdraw the Bidder's Proposal of LSC Construction.

ALTERNATIVES

1. Grant LSC Construction's request for relief of bid proposal due to a mistake made in filling out the bid, award the construction contract for Widening of Perris Boulevard Southbound at State Route 60 Westbound Ramp to Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92878, the lowest responsible bidder, authorize the City Manager to execute a contract with Hillcrest Contracting, Inc. in the form attached hereto, authorize the issuance of a Purchase Order to Hillcrest Contracting, Inc. in the amount of \$297,060.00 (\$247,550.00 for the bid amount plus 20% contingency) when the contract has been signed by all parties, and authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, Inc., up to, but not exceeding, the total contingency amount of \$49,510.00, subject to the approval of the City Attorney. *This alternative will allow for much needed improvements.*

2. Do not grant LSC Construction's request for relief of bid proposal due to a mistake made in filling out the bid, do not award the construction contract for Widening of Perris Boulevard Southbound at State Route 60 Westbound Ramp to Hillcrest Contracting, Inc., 1467 Circle City Drive, Corona, CA 92878, the lowest responsible bidder, do not authorize the City Manager to execute a contract with Hillcrest Contracting, Inc. in the form attached hereto, do not authorize the issuance of a Purchase Order to Hillcrest Contracting, Inc. in the amount of \$297,060.00 (\$247,550.00 for the bid amount plus 20% contingency) when the contract has been signed by all parties, do not authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, Inc., up to, but not exceeding, the total contingency amount of \$49,510.00, subject to the approval of the City Attorney. *This alternative will delay the completion of much needed improvements.*

FISCAL IMPACT

The Construction phase of this project is included in the Fiscal Year 2010/2011 Capital Improvements Project Budget and will be financed by Measure A (Fund 125). There is no impact to the General Fund.

BUDGETED FUNDS:

Fiscal Year 2010/2011 Funds (Account No. 125.66627).....	\$482,000
Design and Administrative Costs FY10-11	(\$43,000)
Total Available Funds.....	\$439,000

ESTIMATED CONSTRUCTION RELATED COSTS:

Construction (includes 20% contingency)	\$297,000
Construction Surveying Costs	\$15,000
Construction Geotechnical Costs	\$15,000
Project Administration and Inspection Services*	<u>\$40,000</u>
Total Estimated Construction Related Costs.....	\$367,000

*City staff will provide Project Administration and Inspection Services

ANTICIPATED PROJECT SCHEDULE:

Start Construction.....	June 2011
Complete Construction.....	September 2011

CITY COUNCIL GOALS

PUBLIC SAFETY:

Provides 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 improvement are constructed and maintained.

POSITIVE ENVIRONMENT:

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

SUMMARY

This project will result in the construction of a right-turn lane by widening southbound Perris Boulevard from Elder Avenue to the westbound on-ramp of State Route 60, which will reduce traffic congestion and enhance pedestrian mobility in that location. The City Council is requested to approve the award of the construction contract to Hillcrest Contracting, Inc.

ATTACHMENTS/EXHIBITS

- Attachment “A” – Location Map
- Attachment “B” – Agreement with Hillcrest Contracting, Inc.

Prepared By:
 Michael Lloyd
 Senior Engineer, P.E.

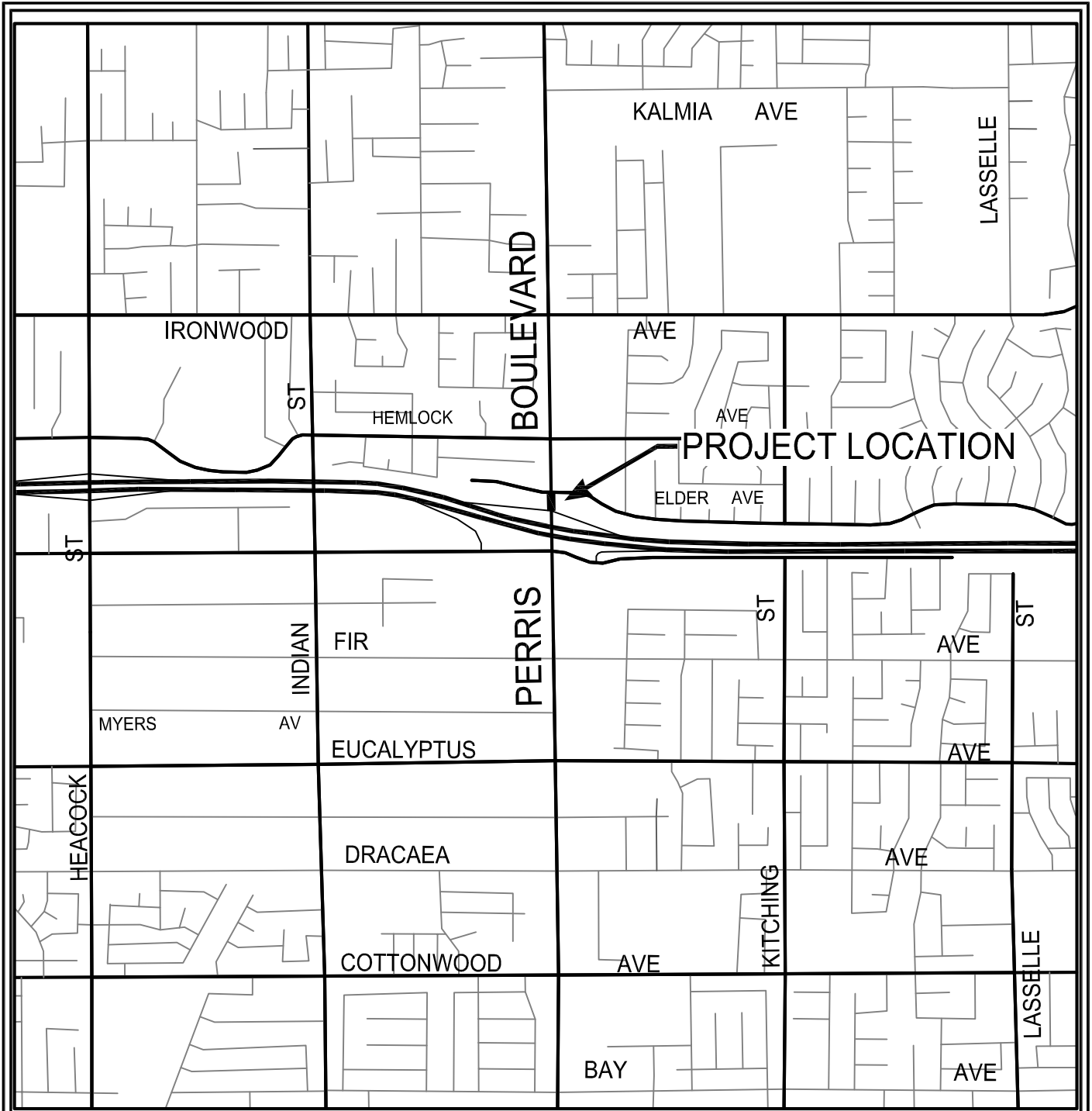
Department Head Approval:
 Chris A. Vogt, P.E.
 Public Works Director/City Engineer

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:

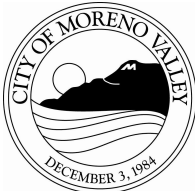
W:\CapProj\CapProj\PROJECTS\Michael 08-12566627 - Perris Blvd SB Lane to SR60 WB On Ramp\CC Reports\Notice of Award\NOA Staff Report (CC 051011).doc

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Public Works Department
Capital Projects Division

LOCATION MAP



Scale: None

Attachment "A"

PROJECT NO. 08-12566627
TRAFFIC SIGNAL IMPROVEMENTS ON
PERRIS BLVD SOUTHBOUND LANE INTO
RTE 60 WESTBOUND ON-RAMP

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AGREEMENT

PROJECT NO. 08-12566627

**WIDENING OF PERRIS BOULEVARD SOUTHBOUND AT STATE ROUTE 60
WESTBOUND ON-RAMP**

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

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

1. The written Agreement includes all of the following:
 - a. Any and all Contract Change Orders issued after execution of this Agreement
 - b. Addenda Nos. 1 through 3, inclusive, issued prior to the opening of the Bids
 - c. The bound Bid Documents
 - d. The Special Provisions which include the General Provisions and Technical Provisions, all of which are parts of this Agreement
 - e. The project Plans
 - f. The Standard Plans
 - g. The Standard Specifications
 - h. Reference Specifications, all of which are essential parts of this Agreement
 - i. The Bidder's Proposal which includes the Bidder's Bond and Noncollusion Affidavit

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

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

3. The City will pay the Contractor and the Contractor agrees to receive and accept the prices set forth in the Bid Schedule as full compensation for the work required under the bid items awarded by the City, to wit, the Base Bid Item(s) in the sum total amount of **\$247,550.00**, subject to additions or reductions of the quantities of the various bid items at the unit prices bid, for furnishing all materials and for doing all the work contemplated and embraced under this Agreement; for all loss or damages arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work, until the work is accepted by the City Council; for all expenses incurred by or in consequence of the suspension or discontinuance of work; and for well and faithfully completing the work, the whole thereof, in the manner and in accordance with the Bid Documents therefore and the requirements of the Engineer under them.

4. The Contractor hereby agrees to order materials pursuant to this Agreement within 7 calendar days after the date of authorization specified in the "Notice to Proceed with Order of Materials." The Contractor hereby agrees to commence work pursuant to this Agreement within 15 calendar days after the date of authorization specified in the "Notice to Proceed with Construction." The Contractor agrees to diligently prosecute the contracted work, including corrective items of work, day to day thereafter, to completion within **sixty (60) working days** working days after said date in the "Notice to Proceed with Construction," except as adjusted by subsequent Contract Change Order(s).

**AGREEMENT
PROJECT NO. 08-12566627**

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

It is, therefore, agreed that such damages shall be presumed to be in the amount of \$450.00 per calendar day, and that the Contractor will pay to the City, or City may retain from amounts otherwise payable to Contractor, said amount for each calendar day by which the Contractor fails to complete the work, including corrective items of work, under this Agreement within the time hereinabove specified and as adjusted by Contract Change Order(s). The Contractor will not be assessed liquidated damages for delay(s) occasioned by the failure of the City or of the owner of a utility to provide for the removal or relocation of utility facilities.

6. The Contractor shall procure and maintain, at its sole expense, and throughout the term of this Agreement, any extension thereof, and for a one (1) year warranty period, General Liability, Automobile Liability, and Workers' Compensation Insurance with such coverage limits as described in this Agreement.

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

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

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

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

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

**AGREEMENT
PROJECT NO. 08-12566627**

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

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

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

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

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

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

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

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

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

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

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

**AGREEMENT
PROJECT NO. 08-12566627**

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

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

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

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

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

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

**AGREEMENT
PROJECT NO. 08-12566627**

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

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

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

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

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

(SIGNATURE PAGE FOLLOWS)

**AGREEMENT
PROJECT NO. 08-12566627**

CITY OF MORENO VALLEY, Municipal Corporation

Hillcrest Contracting, Inc.

BY: _____
City Manager

License No./
Classification: _____

DATE: _____

Expiration Date: _____

COMMUNITY REDEVELOPMENT AGENCY,
Municipal Corporation [for RDA agreements]

Federal I.D. No.: _____

BY:

<u>INTERNAL USE ONLY</u>
ATTEST:
_____ City Clerk <i>(only needed if Mayor signs)</i>
APPROVED AS TO LEGAL FORM:
_____ City Attorney
_____ Date
RECOMMENDED FOR APPROVAL:
_____ Public Works Director/City Engineer <i>(if contract exceeds \$15,000)</i>
_____ Date

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

SIGNING INSTRUCTION TO THE CONTRACTOR:

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

Attach Notary Certificates following this page.

General Partners must sign on behalf of the partnership.

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

W:\CapProj\CapProj\PROJECTS\Michael 08-12566627 - Perris Blvd SB Lane to SR60 WB On Ramp\Construction\Contractor\Agreement2 Agreement - Perris Blvd @ SR60 WB on-ramp.DOC

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

SAMPLE

State of California

County of _____

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

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

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

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

DESCRIPTION OF THE ATTACHED DOCUMENT

AGREEMENT SIGNATURE PAGE
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

CAPACITY CLAIMED BY THE SIGNER

Individual(s)
 Corporate Officer

(Title)

Partner (s)
 Attorney-in-Fact
 Other _____

BOND NO. _____

PREMIUM \$ _____

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

PROJECT NO. 08-12566627

**WIDENING OF PERRIS BOULEVARD SOUTHBOUND AT STATE ROUTE 60
WESTBOUND ON-RAMP**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS:

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City," has awarded to Hillcrest Contracting, Inc., as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager, and identified as Project No. 08-12566627, is hereby referred to and made a part hereof; and

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

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

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

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

(SIGNATURE PAGE FOLLOWS)

**FAITHFUL PERFORMANCE BOND
PROJECT NO. 08-12566627**

BOND NO. _____

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

CONTRACTOR (Principal)

SURETY

Contractor Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____
Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____ 20____

City Attorney
City of Moreno Valley

NOTE:

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

Corporate Seal may be affixed hereto.

**CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT**

SAMPLE

State of California

County of _____

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

personally appeared _____,

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

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

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

DESCRIPTION OF THE ATTACHED DOCUMENT

FAITHFUL PERFORMANCE BOND SIGNATURE PAGE

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
- Corporate Officer

(Title)

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

BOND NO. _____

PREMIUM \$ _____

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

PROJECT NO. 08-12566627

**WIDENING OF PERRIS BOULEVARD SOUTHBOUND AT STATE ROUTE 60
WESTBOUND ON-RAMP**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City", has awarded to Hillcrest Contracting, Inc., as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager, and identified as Project No. 08-12566627, is hereby referred to and made a part hereof; and

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

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

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

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

(SIGNATURE PAGE FOLLOWS)

**LABOR AND MATERIALS PAYMENT BOND
PROJECT NO. 08-12566627**

BOND NO. _____

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

CONTRACTOR (Principal)

SURETY

Contractor Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____
Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____ 20____

City Attorney
City of Moreno Valley

NOTE:

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

Corporate Seal may be affixed hereto

**CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT**

SAMPLE

State of California

County of _____

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

personally appeared _____,

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

<p>DESCRIPTION OF THE ATTACHED DOCUMENT</p> <p><u>LABOR AND MATERIALS PAYMENT BOND</u> <u>SIGNATURE PAGE</u> (Title or description of attached document)</p> <p>_____ (Title or description of attached document continued)</p> <p>Number of Pages _____</p> <p>Document Date _____</p> <p>_____ Additional Information</p>

<p>CAPACITY CLAIMED BY THE SIGNER</p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Corporate Officer _____ (Title)</p> <p><input type="checkbox"/> Partner (s) <input type="checkbox"/> Attorney-in-Fact <input type="checkbox"/> Other _____</p>

- ADDITIONAL OPTIONAL INFORMATION**
INSTRUCTIONS FOR COMPLETING THIS FORM
- Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.*
- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
 - Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
 - The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
 - Print the name(s) of document signer(s) who personally appear at the time of notarization.
 - Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they~~, is/~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
 - The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
 - Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
 - Securely attach this document to the signed document.

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RL</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: May 10, 2011

TITLE: PA09-0043 (PM 36262) – COMMERCIAL – ACCEPT FINAL MAP, AGREEMENT, AND BONDS FOR PUBLIC IMPROVEMENTS

SOUTHWEST CORNER OF ALESSANDRO BOULEVARD AND MORENO BEACH DRIVE

Developer: Frank Pozgaj & Maria Pozgaj Family Trust
10 Collegiate Circle
Rancho Mirage, CA 92270
&
Moreno Beach Station, LLC
11545 Rockspur Ct
Moreno Valley, CA 92555

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve PA09-0043, authorize the City Clerk to sign the map and transmit said map to the County Recorder's Office for recordation.
2. Accept the Agreement and Bonds for Public Improvements.
3. Authorize the Mayor to execute the Agreement in the form attached hereto.
4. Direct the City Clerk to forward the signed Agreement to the County Recorder's Office for recordation.

5. Authorize the City Engineer to execute any future time extension amendments to the agreement, subject to City Attorney approval, if the required public improvements are not completed within said timeframe.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

BACKGROUND

On March 11, 2011, the Planning Commission of the City of Moreno Valley approved the plot plan for PA09-0025 and Tentative Parcel Map 36262 also known as PA09-0043. The plot plan is a proposal for a fueling station and convenience store with an attached automated car wash. The parcel map was required to subdivide the land for the fueling station.

DISCUSSION

Final Map 36262 is in substantial conformance with the tentative map, and the developer has requested that the map be approved for recordation. The Conditions of Approval for this project require that the developer provide surety for the required improvements.

The developer has completed and submitted an Agreement for Public Improvements. The developer agrees to perform and complete all of the required street improvements within twenty-four (24) months of the date the agreement is executed. The City Engineer may execute any future amendments to the agreement, subject to City Attorney approval, if the required street improvements are not completed within said timeframe. The public street improvements include but are not limited to asphalt pavement, curb, gutter, sidewalk, driveway approaches, street lights, sewer, and water. Accompanying the agreement are a Faithful Performance Bond in the amount of \$400,000 and a Material and Labor Bond in the amount of \$200,000 issued by Suretec Insurance Company.

ALTERNATIVES

Not applicable.

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
- Exhibit "B" - Agreement for Public Improvements
- Exhibit "C" - Faithful Performance Bond
- Exhibit "D" - Material and Labor Bond

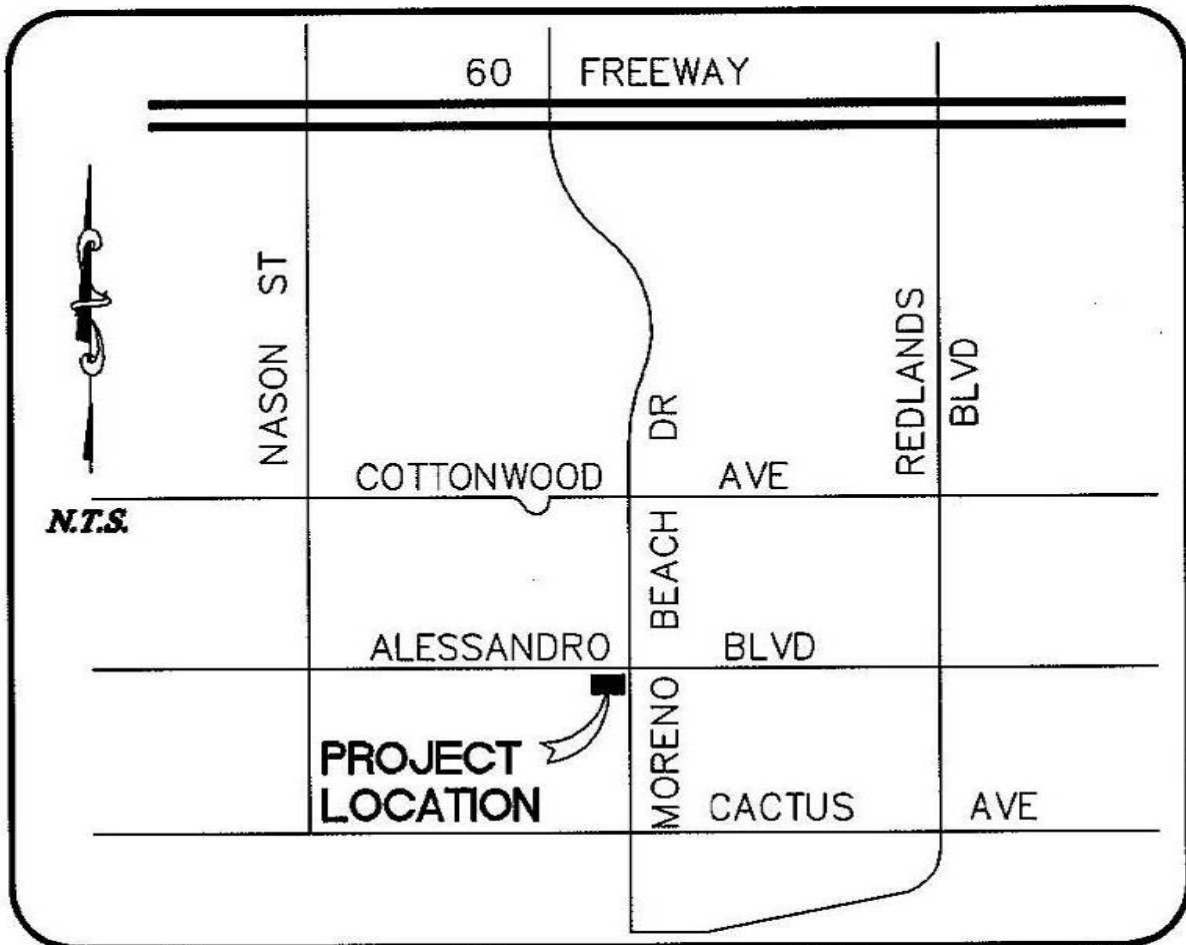
Prepared By
Liz Plazola
Sr. Administrative Assistant

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\5-10-11 PA09-0043 (PM 36262) - Orig Agmt & Bonds .doc



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

**PA009-0043
PM 36262
LOCATION MAP**

W:\LandDev\MANAGEMENT ASSISTANT\Staff Reports\2011\5-10-11 PA09-0043 (PM 36262) - Exhibit A.doc

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RECORDING REQUESTED BY:
City of Moreno Valley

WHEN RECORDED, RETURN TO:

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

No recording fee per Government Code, Section 6103

This space for Recorder's use only.

**AGREEMENT FOR PUBLIC IMPROVEMENTS
FOR STORM DRAIN IMPROVEMENTS
PROJECT NO. PA09-0043 (TENTATIVE PARCEL MAP 36262)**

This Agreement, made and entered into by and between the City of Moreno Valley, State of California, hereinafter called City, and **Frank Pozgaj and Maria Pozgaj Family Trust and Moreno Beach Station, LLC**, herein after called Developer, on the date the City signs this agreement.

WITNESSETH:

FIRST: Developer, for and in consideration of the approval by the City of the final map of that certain land division, or that certain other land development project, known as **PA09-0043 (Tentative Parcel Map 36262)** agrees, at Developer's own expense, to furnish all labor, equipment and material necessary, and within **TWENTY-FOUR (24)** months from the date this Agreement is executed, to perform and complete in a good and workmanlike manner, all of the required improvements in accordance with those improvement plans for said project which have been approved by the City Engineer, and are on file in the office of the City Engineer, and to do all work incidental thereto in accordance with the standards set forth in City ordinances and regulations, and pay all costs of engineering necessary in connection therewith, which are expressly made a part of this Agreement. All of the above required work shall be done under the inspection of and to the satisfaction of the City Engineer, and shall not be deemed complete until approved and accepted as complete by the City. Developer further agrees to guarantee the required improvements for a period of one year following acceptance by the City and during this one year period to repair and replace, to the satisfaction of the City Engineer, any defective work or labor done or defective materials furnished. Developer shall complete the improvements described in this paragraph pursuant to Section 66462, Government Code. Developer shall also complete any offsite improvements required as a condition of approval and with plans approved by the City Engineer at such time as the City acquires an interest in the land which will permit the improvements to be made, and the Developer waives the 120 day time limitation set forth in Section 66462.5, Government Code.

Security to guarantee the performance of this agreement shall be in the following amounts:

Faithful Performance security shall be in the sum of **FOUR HUNDRED THOUSAND AND NO/100 Dollars (**\$400,000**)**. The estimated cost of said work and improvements, pursuant to the Preliminary Estimate of Cost, is outlined in the worksheet labeled Exhibit A attached hereto.

Labor and Material security shall be in the sum of **TWO HUNDRED THOUSAND AND NO/100 Dollars (**\$200,000**)**. The estimated cost securing payment of labor and materials is fifty (50) percent of the total cost estimate of the improvements.

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

EXHIBIT "B"

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

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

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

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

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

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

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

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

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

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

Developers:
Frank Pozgaj and Maria Pozgaj Family Trust
10 Collegiate Circle
Rancho Mirage, California 92270

Moreno Beach Station, LLC
P.O Box 525
Moreno Valley, CA 92556

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

Date approved by the City: _____

Frank Pozgaj and Maria Pozgaj Family Trust:
Developer Aymerica Pozgaj Trust
BY: Frank Pozgaj Trustee
Signature

Moreno Beach Station, LLC:
BY: Abdo Alberre
Signature

FRANK & MARIA POZGAJ
Print/Type Name

ABDO ALBERRE
Print/Type Name

President
Title

_____ Title

ATTEST:
CITY CLERK
OF THE CITY OF MORENO VALLEY

CITY OF MORENO VALLEY

By: _____
City Clerk

By: _____
Mayor

(SEAL)

APPROVED AS TO FORM:
CITY ATTORNEY

Date: _____

By: _____
City Attorney

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

SIGNATURES OF DEVELOPER MUST BE EXECUTED IN QUADRUPPLICATE AND THE EXECUTION OF THE ORIGINAL COPY MUST BE ACKNOWLEDGED BEFORE A NOTARY
ORIGINAL - CITY CLERK; PINK - DEVELOPER; GREEN - SURETY; BLUE - PROJECT FILE

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of RIVERSIDE

On December 21, 2010 before me, JEFF R. KALLMANN, NOTARY PUBLIC
(Here insert name and title of the officer)

personally appeared Frank Pozgaj & Maria Pozgaj

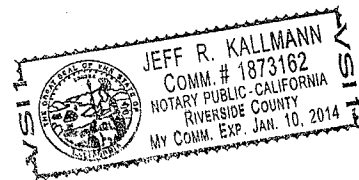
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that he/~~she~~ they executed the same in his/~~her~~ their authorized capacity(ies), and that by his/~~her~~ their signature(s) on the instrument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

Jeff R. Kallmann
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

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

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

DESCRIPTION OF THE ATTACHED DOCUMENT

Agreement for Improvements
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date 12-21-2010

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

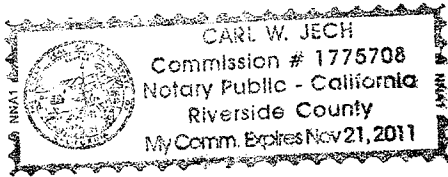
State of California

County of RIVERSIDE }

On JAN 29 2011 before me, CARL W JECH Notary Public
Date Here Insert Name and Title of the Officer

personally appeared ABDO ALBERTE
Name(s) of Signer(s)

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



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

WITNESS my hand and official seal.

Signature: Carl W Jech
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: AGREEMENT FOR IMPROVEMENT

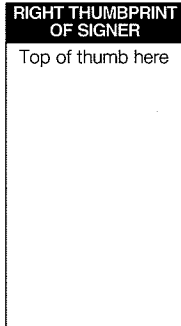
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

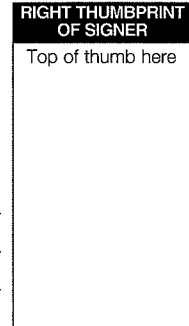
- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____

EXHIBIT "A"
ENGINEER'S ESTIMATE

Sheet 1 of 8

J.F.
09-08-10

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)
PUBLIC PAVEMENT SECTIONS

DATE: 09/08/10
PREPARED BY: JLM

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Street Work - Non DIF Non TUMF				
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II -	1.17	Thickness (ft.)		
Alessandro	11795	S.F.	33.00	33,000
A.C. - Alessandro	0.5	Thickness (ft.)		
	11795	S.F.	427 Ton	34,160
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II -	1.17	Thickness (ft.)		
Moreno Beach	3405	S.F.	33.00	9,504
A.C. - Moreno Beach	0.5	Thickness (ft.)		
	3405	S.F.	123 Ton	9,840
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 3	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 3	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 4	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 4	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Street Work - DIF				
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 1	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 1	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 2	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 2	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 3	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 3	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 4	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 4	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Street Work - TUMF				
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 1	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 1	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 2	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 2	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 3	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 3	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
Roadway Excavation		0 C.Y.	29.00	0
A.B. Class II - Street 4	0	Thickness (ft.)		
	0	S.F.	0 Ton	0
A.C. - Street 4	0	Thickness (ft.)		
	0	S.F.	0 Ton	0

SUBTOTAL: 86,504

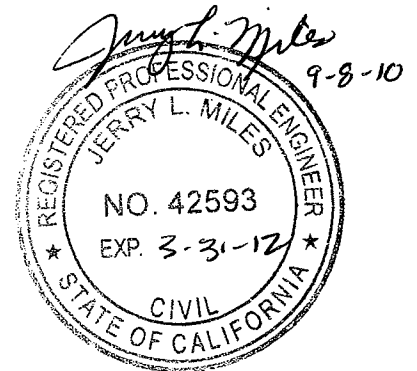


EXHIBIT "A"
ENGINEER'S ESTIMATE

Sheet 2 of 8

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)
PUBLIC STREET WORK

DATE: **09/08/10**
PREPARED BY: **JLM**

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Offsite Street Work				
Pavement				
Grind & Pave 0.15'	1968	S.F.	3.25	6,396
A.C. Cap/Overlay	0	Ton	65.00	0
Slurry Seal (Based on \$150/Ton Type II)	0	S.Y.	2.25	0
Paving Fabric	0	S.Y.	1.15	0
Sawcut	555	L.F.	3.00	1,665
Utility Trench	62	L.F.	17.00	1,054
Trench Repaving	186	S.F.	12.00	2,232
Redwood Header	0	L.F.	6.00	0
Curb Only - 6"	0	L.F.	10.00	0
Curb Only - 8"	174	L.F.	15.00	2,610
Adjust M.H. to Grade	0	EA.	800.00	0
Adjust Water Valve to Grade	0	EA.	400.00	0
Remove & Dispose Existing Pavement & Base	0	SF	28.00	0
Remove Existing Curb & Gutter	266	L.F.	12.00	3,192
Concrete				
P.C.C. Paving - 6"	0	S.F.	14.00	0
P.C.C. Paving - 8"	0	S.F.	16.00	0
Curb and Gutter - 6"	0	L.F.	25.00	0
Curb and Gutter - 8"	277	L.F.	30.00	8,310
Curb and Gutter - 8" (DIF Street Name)	0	L.F.	30.00	0
Curb and Gutter - 8" (TUMF Street Name)	0	L.F.	30.00	0
Curb Only - 6"	0	L.F.	20.00	0
Curb Only - 8"	287	L.F.	25.00	7,175
Curb Only - 8" (DIF Street Name)	0	L.F.	25.00	0
Curb Only - 8" (TUMF Street Name)	0	L.F.	25.00	0
A.C. Curb 6"	0	L.F.	12.00	0
A.C. Curb 8"	0	L.F.	15.00	0
Cross Gutter and Spandrel	0	S.F.	12.00	0
Sidewalk	3230	S.F.	7.00	22,610
Sidewalk (DIF Street Name)	0	S.F.	7.00	0
Sidewalk (TUMF Street Name)	0	S.F.	7.00	0
Median Stamped Concrete	0	S.F.	14.00	0
Driveway Approach - 6"	0	S.F.	14.00	0
Driveway Approach - 8"	1460	S.F.	16.00	23,360
Wheelchair Ramp	2	EA.	2,400.00	4,800
Alley Approach - 8"	0	S.F.	16.00	0
1/2 Alley Apron	0	S.F.	16.00	0
Barricade	0	L.F.	100.00	0
Bus Bay	1	EA.	20,000.00	20,000
Miscellaneous				
Relocate Power Poles	2	EA.	30,000.00	60,000
Relocate Power Poles (DIF Street Name)	0	EA.	30,000.00	0
Cluster Mail Boxes	0	EA.	5,000.00	0
Erosion Control	0	AC	100.00	0
Walls - Masonry: 6' Maximum	0	L.F.	150.00	0
Walls - Retaining: 6' Maximum	0	L.F.	150.00	0
				0
			SUBTOTAL	163,404
Traffic Improvements (Plan Checked by Trans. Eng'rg.staff/Inspected by LDD staff)				
Traffic Striping/raised pavement markers	1	L.S.	--	5,000
Traffic Striping (DIF Street -Perris Blvd)	0	L.S.	--	0
Street Name Sign	0	EA.	300.00	0
Stop Sign	0	EA.	200.00	0
Signs and Posts	0	EA.	200.00	0
Signs and Posts (DIF Street -Perris Blvd)	0	EA.	200.00	0
Street Sweeping Sign	0	EA.	200.00	0
Warning Markers - Type L, Type N	0	EA.	100.00	0
Traffic Control	0	L.S.	0	0
Traffic Control (DIF Street Name)	0	L.S.	10000	0
Traffic Signal PB-Adjust to Grade	0	EA.	250.00	0
Metal Guard Rail (Removal)	276	L.F.	40.00	11,040
			SUBTOTAL:	16,040
Bondable Street Work Only (not plan checked)				
Undergrounding of Utilities	0	L.F.	196.00	0
Cluster Mail Boxes	0	EA.	4,500.00	0
Relocate Mailbox	0	EA.	350.00	0
Relocate Cluster Mailbox	0	EA.	1,200.00	0
Monuments	0	EA.	300.00	0
Remove Trees	20	EA.	2,500.00	50,000
			SUBTOTAL:	50,000

EXHIBIT "A"
ENGINEER'S ESTIMATE

Sheet 3 of 8

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)

DATE: 09/08/10
PREPARED BY: JLM

PUBLIC STREET WORK (CONTINUED)

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Special Districts				
Landscaping - Medians	0	S.F.	6.00	0
Landscaping - Parkways	0	S.F.	6.00	0
Street Lights (9500 lumen)	0	EA.	4,000.00	0
Street Lights (22000 lumen)	2	EA.	5,000.00	10,000
SPECIAL DISTRICTS SUBTOTAL:				10,000
Moreno Valley Utilities				
Electrical Utility Infrastructure	0	L.S.	0.00	0
MVU SUBTOTAL:				0
Water Quality Basin				
Landscaping	0	S.F.	6.00	0
Filtration Devices	0	EA.	0	0
Access Ramp PCC	0	S.F.	0	0
Low-Flow Pipe System	0	L.F.	0	0
Headwalls	0	EA.	0	0
Outlets	0	EA.	0	0
Risers	0	EA.	0	0
Forebay PCC	0	S.F.	0	0
Toe of slope protection PCC	0	S.F.	20.00	0
WQB SUBTOTAL:				0
Transportation Engineering				
Traffic Signal New (Interconnect, Controller, Software, Initial Coordinator)	0	EA.	272,000.00	0
Traffic Signal Modification	0	L.S.	0	0
Traffic Signal Interconnect (Existing Signals Only)	0	L.F.	30.00	0
TRANSPORTATION SUBTOTAL:				0

**EXHIBIT "A"
ENGINEER'S ESTIMATE**

Sheet 4 of 8

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)

DATE: **09/08/10**
PREPARED BY: **JLM**

PUBLIC STORM DRAIN SYSTEM

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Pipe				
12" Reinforced Concrete Pipe	0	L.F.	130.00	0
18" Reinforced Concrete Pipe	0	L.F.	140.00	0
24" Reinforced Concrete Pipe	0	L.F.	160.00	0
24" Reinforced Concrete Pipe (DIF Street Name)	0	L.F.	160.00	0
30" Reinforced Concrete Pipe	0	L.F.	180.00	0
36" Reinforced Concrete Pipe	0	L.F.	190.00	0
39" Reinforced Concrete Pipe	0	L.F.	200.00	0
42" Reinforced Concrete Pipe	0	L.F.	210.00	0
48" Reinforced Concrete Pipe	0	L.F.	250.00	0
54" Reinforced Concrete Pipe	0	L.F.	300.00	0
60" Reinforced Concrete Pipe	0	L.F.	350.00	0
66" Reinforced Concrete Pipe	0	L.F.	375.00	0
72" Reinforced Concrete Pipe	0	L.F.	414.00	0
78" Reinforced Concrete Pipe	0	L.F.	459.00	0
84" Reinforced Concrete Pipe	0	L.F.	505.00	0
90" Reinforced Concrete Pipe	0	L.F.	557.00	0
96" Reinforced Concrete Pipe	0	L.F.	613.00	0
102" Reinforced Concrete Pipe	0	L.F.	671.00	0
108" Reinforced Concrete Pipe	0	L.F.	724.00	0
114" Reinforced Concrete Pipe	0	L.F.	785.00	0
12" HDPE	0	L.F.	45.00	0
18" HDPE	0	L.F.	50.00	0
24" HDPE	0	L.F.	55.00	0
30" HDPE	0	L.F.	60.00	0
36" HDPE	0	L.F.	70.00	0
42" HDPE	0	L.F.	80.00	0
48" HDPE	0	L.F.	90.00	0
54" HDPE	0	L.F.	125.00	0
60" HDPE	0	L.F.	140.00	0
4" PVC SCH. 40	0	L.F.	25.00	0
4" PVC SCH. 80	0	L.F.	30.00	0
6" PVC SCH. 40	0	L.F.	30.00	0
6" PVC SCH. 80	0	L.F.	35.00	0
8" PVC SCH. 40	0	L.F.	40.00	0
8" PVC SCH. 80	0	L.F.	48.00	0
Reinforced Concrete Structure	0	C.Y.	500.00	0
8' X 10' Reinforced Concrete Box	0	C.Y.	1200.00	0
8' X 12' Reinforced Concrete Box	0	C.Y.	1400.00	0
2 - 72" Reinforced Concrete Pipe	0	L.F.	840.00	0
3 - 4' X 2' Reinforced Concrete Pipe	0	L.F.	461.00	0
	0		0.00	0
Manholes				
Manhole No. 1	0	EA.	5000.00	0
Manhole No. 2	0	EA.	7200.00	0
Manhole No. 3	0	EA.	8500.00	0
Manhole No. 4	0	EA.	10000.00	0
	0		0.00	0
Catch Basins				
Catch Basin (3.5')	0	EA.	3100.00	0
Catch Basin (7')	0	EA.	5500.00	0
Catch Basin (10')	0	EA.	6700.00	0
Catch Basin (14')	0	EA.	8000.00	0
Catch Basin (21') (Dif St-Perris Blvd)	0	EA.	12500.00	0
Local Depressions	0	EA.	535.00	0
Catch Basin (3.5') (DIF Street Name)	0	EA.	3100.00	0
Catch Basin (7') (DIF Street Name)	0	EA.	5500.00	0
Catch Basin (14') (DIF Street Name)	0	EA.	8000.00	0
Catch Basin (21') (DIF Street Name)	0	EA.	12500.00	0
Local Depressions (DIF Street Name)	0	EA.	535.00	0
24" X 24" Grate basin	0	EA.	2500.00	0
18" X 18" Grate Basin	0	EA.	2100.00	0
6" Wide Strip Basin	0	EA.	3000.00	0
Removal/Relocation- Catch Basin	0	EA.	5000.00	0
Grated Catch Basin	0	EA.	6000.00	0
Headwall	0	EA.	5500.00	0

EXHIBIT "A"
ENGINEER'S ESTIMATE

Sheet 5 of 8

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)

DATE: 09/08/10
PREPARED BY: JLM

PUBLIC STORM DRAIN SYSTEM (CONTINUED)

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Structures				
Transition Structure	0	EA.	5500.00	0
Junction Structure	0	EA.	6500.00	0
Type IX Inlet Structure	0	EA.	2500.00	0
Inlet Structure (drop)	0	EA.	4000.00	0
Outlet Structure	0	EA.	8000.00	0
Concrete Collar (to 48")	0	EA.	3000.00	0
Headwall	0	EA.	5500.00	0
Concrete Collar (Grater than 48")	0	EA.	5000.00	0
Modified Junction Structure	0	EA.	15000.00	0
End Cap	0	EA.	1000.00	0
Drains				
Terrace Drain	0	S.F.	10.00	0
Down Drain	0	S.F.	10.00	0
Parkway Drain	0	EA.	3500.00	0
Under Sidewalk	0	EA.	600.00	0
Curb Outlet	0	EA.	250.00	0
"V" Gutter	0	S.F.	10.00	0
	0		0	0
Miscellaneous				
Rip Rap	0	TON	60.00	0
Concrete Pipe Slope Anchor	0	EA.	2500.00	0
Manhole Shaft	0		6000.00	0
Access Opening	0		15000.00	0
			SUBTOTAL:	0

EXHIBIT "A"
ENGINEER'S ESTIMATE

Sheet 6 of 8

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)

DATE: 09/08/10
PREPARED BY: JLM

PUBLIC WATER SYSTEMS

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Pipes - Water System				
4" PVC C-900	0	L.F.	25.00	0
6" PVC C-900	0	L.F.	30.00	0
8" PVC C-900	0	L.F.	35.00	0
10" PVC C-900	0	L.F.	40.00	0
12" PVC C-900	0	L.F.	55.00	0
16" PVC C-900	0	L.F.	90.00	0
18" PVC C-900	0	L.F.	135.00	0
20" PVC C-900	0	L.F.	180.00	0
	0	L.F.	0	0
Valves - Water System				
4" Gate Valve	0	EA.	715.00	0
6" Gate Valve	0	EA.	830.00	0
8" Gate Valve	0	EA.	1,340.00	0
10" Gate Valve	0	EA.	1,500.00	0
12" Gate Valve	0	EA.	2,300.00	0
16" Gate Valve	0	EA.	6,270.00	0
18" Gate Valve	0	EA.	14,300.00	0
4" Butterfly Valve	0	EA.	330.00	0
6" Butterfly Valve	0	EA.	520.00	0
8" Butterfly Valve	0	EA.	990.00	0
10" Butterfly Valve	0	EA.	1,200.00	0
12" Butterfly Valve	0	EA.	1,800.00	0
16" Butterfly Valve	0	EA.	2,700.00	0
18" Butterfly Valve	0	EA.	2,800.00	0
20" Butterfly Valve	0	EA.	4,200.00	0
24" Butterfly Valve	0	EA.	5,200.00	0
1" Air Vac Release	0	EA.	2,400.00	0
2" Air Vac Release	0	EA.	4,000.00	0
2" Backflow Preventor, Pad & Cover	0	EA.	4,300.00	0
4" Blow Off	0	EA.	3,500.00	0
6" Blow Off	0	EA.	4,000.00	0
	0		0.00	0
Fire Hydrants - Water System				
6" Standard Fire Hydrants	0	EA.	4,000.00	0
6" Super Fire Hydrants	0	EA.	4,500.00	0
	0		0.00	0
Services Connections				
1" Service	1	EA.	800.00	800
1" Service w 5/8" meter	0	EA.	2,000.00	0
1 1/2" Service	0	EA.	1,100.00	0
2" Service	0	EA.	1,600.00	0
	0		0.00	0
Fittings - Water System				
Misc. Fittings 4"	0		120.00	0
Misc. Fittings 6"	0		160.00	0
Misc. Fittings 8"	0		200.00	0
Misc. Fittings 10"	0		240.00	0
Misc. Fittings 12"	0		750.00	0
	0		0.00	0
Water Meters - Water System				
5/8" Meter	0		230.00	0
1" Meter	0		320.00	0
1 1/2" Meter	0		420.00	0
2" Meter	0		525.00	0
Adjust Water Meter Box	0		235.00	0
	0		0.00	0
Hot Tap Connections - Water System				
6" Hot Tap	0	EA.	1,750.00	0
8" Hot Tap	0	EA.	2,200.00	0
12" Hot Tap	0	EA.	3,150.00	0
Hot Tap Service Clamp	1	EA.	330.00	330
Water Service	0	EA.	330.00	0
Miscellaneous - Water System				
Thrust Block	0	CY	150.00	0
Jack & Bore	0	L.F.	300.00	0
Joint at Existing 8"	0	EA.	650.00	0
Adjust Water Meter Box to Grade	0	EA.	150.00	0
	0		0.00	0
SUBTOTAL:				1,130

EXHIBIT "A"
ENGINEER'S ESTIMATE

Sheet 7 of 8

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)

DATE: 09/08/10
PREPARED BY: JLM

PUBLIC SEWER SYSTEMS

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Pipes - Sewer System				
4" V.C. Pipe	0	L.F.	25.00	0
6" V.C. Pipe	100	L.F.	40.00	4,000
8" V.C. Pipe	0	L.F.	55.00	0
10" V.C. Pipe	0	L.F.	60.00	0
12" V.C. Pipe	0	L.F.	70.00	0
15" V.C. Pipe	0	L.F.	80.00	0
18" V.C. Pipe	0	L.F.	160.00	0
21" V.C. Pipe	0	L.F.	180.00	0
24" V.C. Pipe	0	L.F.	195.00	0
27" V.C. Pipe	0	L.F.	215.00	0
30" V.C. Pipe	0	L.F.	235.00	0
33" V.C. Pipe	0	L.F.	280.00	0
36" V.C. Pipe	0	L.F.	300.00	0
4" SDR - 35	0	L.F.	25.00	0
6" SDR - 35	0	L.F.	30.00	0
8" SDR - 35	0	L.F.	35.00	0
10" SDR - 35	0	L.F.	45.00	0
12" SDR - 35	0	L.F.	54.00	0
15" SDR - 35	0	L.F.	90.00	0
Concrete Encasement	0	L.F.	20.00	0
	0		0.00	0
Cleans Outs - Sewer System				
Clean-outs	0	EA.	730.00	0
Clean Out Lateral	0	EA.	200.00	0
	0		0.00	0
Manholes - Sewer System				
Standard Manhole 48"	0	EA.	3,140.00	0
Standard Manhole 48" Extra Depth	0	EA.	3,500.00	0
Standard Manhole 60"	0	EA.	4,500.00	0
Shallow Manhole	0	EA.	3,300.00	0
Adjust Manhole to Grade	0	EA.	630.00	0
Tie Into Existing Manhole	0	EA.	2,100.00	0
Rechanel Existing Manhole	1	EA.	1,500.00	1,500
Join Existing 8" Pipe	0	EA.	1,500.00	0
Join Existing 12" Pipe	0	EA.	2,000.00	0
	0		0.00	0
Miscellaneous - Sewer System				
Wyes	1	EA.	90.00	90
TV Sewer	0	L.F.	1.20	0
Trench Paving	0	S.F.	5.00	0
Pavement Replacement	0	S.F.	3.00	0
			SUBTOTAL:	5,590

EXHIBIT "A"
ENGINEER'S ESTIMATE

Sheet 8 of 8

CITY OF MORENO VALLEY
PUBLIC WORKS DEPARTMENT - LAND DEVELOPMENT DIVISION
BOND COMPUTATION SHEET

PROJECT: MORENO BEACH STATION, LLC (PA09-0043; PM NO. 36262)

DATE: 09/08/10
PREPARED BY: JLM

IMPROVEMENT TYPE:

PAVEMENT SECTION WORK	:	\$86,504
OFFSITE STREET WORK	:	\$163,404
SPECIAL DISTRICTS	:	\$10,000
MORENO VALLEY UTILITIES	:	\$0
WATER QUALITY BASIN	:	\$0
TRANSPORTATION ENGINEERING	:	\$0
STORM DRAIN SYSTEM	:	\$0
WATER SYSTEM	:	\$1,130
SEWER SYSTEM	:	\$5,590
TRAFFIC IMPROVEMENTS	:	\$16,040
BONDABLE WORK (not plan checked)	:	\$50,000
TOTAL COST (VALUE) OF IMPROVEMENTS:		\$332,668
+20% CONTINGENCY:		\$66,534
<u>GRAND TOTAL:</u>		\$399,202

BOND AMOUNT: \$400,000

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FAITHFUL PERFORMANCE BOND

**City of Moreno Valley
County of Riverside
State of California
(Government Code Section 66499.1)**

Public Improvements	<u>\$400,000</u>	Project No.	<u>PA09-0043</u>
Bond No.	<u>4382237</u>	Premium	<u>\$8,500.00</u>
Surety	<u>SURETEC INSURANCE COMPANY</u> <i>AV 11</i>	Principal	<u>Frank Pozgaj and Maria Pozgaj Family Trust and Moreno Beach Station, LLC</u>
Address	<u>3033 5TH AVENUE, SUITE 300</u>	Address	<u>10 Collegiate Circle</u>
City/Zip	<u>SAN DIEGO, CA 92103</u>	City/Zip	<u>Rancho Mirage, CA 92270</u>

WHEREAS, the City Council of the City of Moreno Valley, County of Riverside, State of California, and **Frank Pozgaj and Maria Pozgaj Family Trust, and Moreno Beach Station, LLC**, (hereinafter designated as "Principal") have entered into, or are about to enter into the attached agreement whereby Principal agrees to install and complete the above-designated public improvements, relating to **PA09-0043**, which agreement is hereby referred to and made a part hereof; and,

WHEREAS, said principal is required under the terms of said agreement to furnish bond for the faithful performance of said agreement;

NOW, THEREFORE, we the Principal, and SURETEC INSURANCE COMPANY, as Surety, are held and firmly bound to the City of Moreno Valley in the penal sum of **FOUR HUNDRED THOUSAND AND NO/100** Dollars (*****\$400,000.00*****), lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, successors, executors and administrator, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bonded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of Moreno Valley, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

EXHIBIT "C"

FAITHFUL PERFORMANCE BOND (Page 2 of 2)
PROJECT NO. PA09-0043

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on FEBRUARY 18, 20 11.

NAME OF PRINCIPAL: Frank Pozgaj and Maria Pozgaj Family Trust, and Moreno Beach Station, LLC
Company Name

AUTHORIZED SIGNATURE(S): By

<u>Frank Pozgaj</u>	<u>Frank</u>
Name	Title
<u>[Signature]</u>	<u>Manager</u>
Name	Title

NAME OF SURETY: SURETEC INSURANCE COMPANY
Company Name

AUTHORIZED SIGNATURE: [Signature]
KING T. MULLICK ITS ATTORNEY-IN-FACT

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

Approved as to form:
Date: _____

City Attorney
City of Moreno Valley

W:\LandDev\MANAGEMENT ASSISTANT\Agreement Bond Packets\PA09-0043 - Faithful Performance Bond.DOC

RISK MANAGEMENT
Approved

M. [Signature] 3-8-11
By Date

ACKNOWLEDGMENT

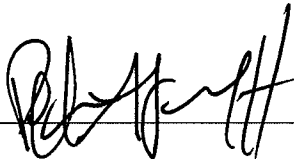
State of California
County of Orange)

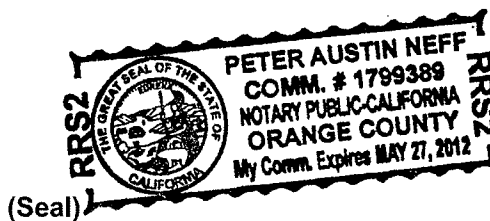
On February 18, 2011 before me, Peter Austin Neff, Notary Public
(insert name and title of the officer)

personally appeared Yung T. Mullick,
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 



CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of RIVERSIDE

On February 22, 2011 before me, JEFF R. KALLMANN, NOTARY PUBLIC
(Here insert name and title of the officer)

personally appeared Frank Pozgaj

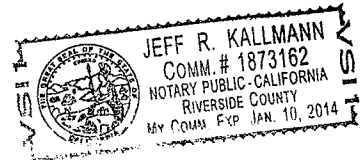
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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 of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

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

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

DESCRIPTION OF THE ATTACHED DOCUMENT

Performance Bond

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

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

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

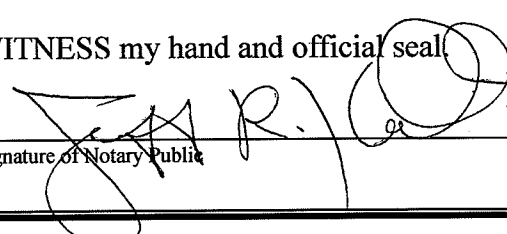
County of RIVERSIDE

On February 22, 2011 before me, JEFF R. KALLMANN, NOTARY PUBLIC
(Here insert name and title of the officer)

personally appeared Bryan Abdo Alberre

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 of Notary Public _____ (Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

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

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 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

Performance Bond
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date _____
(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Jennifer C. Giboney, James W. Moilanen, Yung T. Mullick

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety for:

Five Million and 00/100 Dollars (\$5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney-in-Fact may do in the premises. Said appointment shall continue in force until 10/31/2012 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

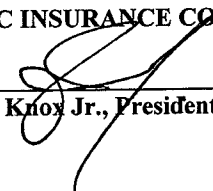
Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Adopted at a meeting held on 20th of April, 1999.)

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 3rd day of September, A.D. 2010.

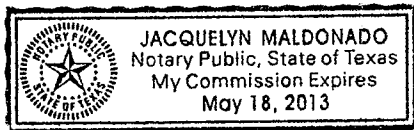
SURETEC INSURANCE COMPANY

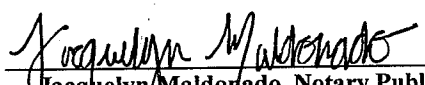
By: 
John Knox Jr., President

State of Texas ss:
County of Harris



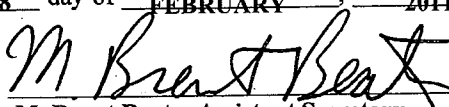
On this 3rd day of September, A.D. 2010 before me personally came John Knox Jr., to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.




Jacquelyn Maldonado, Notary Public
My commission expires May 18, 2013

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 18 day of FEBRUARY, 2011, A.D.


M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:00 am and 5:00 pm CST.

MATERIAL AND LABOR BOND

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

Public Improvements \$200,000

Project No. PA09-0043

Bond No. 4382237

Premium INCLUDED IN PERFORMANCE BOND

Surety SURETEC INSURANCE COMPANY *AV 11*

Frank Pozgaj and Maria Pozgaj Family Trust
Principal and Moreno Beach Station, LLC

Address 3033 5TH AVENUE, SUITE 300

Address 10 Collegiate Circle

City/Zip SAN DIEGO, CA 92103

City/Zip Rancho Mirage, CA 92270

WHEREAS, the City Council of the City of Moreno Valley, County of Riverside, State of California, and **Frank Pozgaj and Maria Pozgaj Family Trust, and Moreno Beach Station, LLC**, (hereinafter designated as "Principal") have entered into, or are about to enter into the attached agreement whereby Principal agrees to install and complete the above-designated public improvements, relating to **PA09-0043**, which agreement is hereby referred to and made a part hereof; and,

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

NOW, THEREFORE, we the Principal, and the undersigned as corporate Surety, are held and firmly bound unto the City of Moreno Valley and all contractors, subcontractors, laborers, material persons and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code in the sum of **TWO HUNDRED THOUSAND AND NO/100 Dollars (***\$200,000.00***)**, lawful money of the United States, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, also in case suit is brought upon this bond, will pay, in addition to the face amount hereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgement therein rendered.

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

EXHIBIT "D"

MATERIAL AND LABOR BOND (Page 2 of 2)
PROJECT NO. PA09-0043

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

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

In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on FEBRUARY 18, 2011.

NAME OF PRINCIPAL: Frank Pozgaj and Maria Pozgaj Family Trust, and Moreno Beach Station, LLC
Company Name

AUTHORIZED SIGNATURE(S): By:

<u>Frank Pozgaj</u>	<u>President</u>
Name	Title
<u>[Signature]</u>	<u>Manager</u>
Name	Title

NAME OF SURETY: SURETEC INSURANCE COMPANY
Company Name

AUTHORIZED SIGNATURE: [Signature]
YUNG T. MULICK, ITS ATTORNEY-IN-FACT

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

Approved as to form:
Date: _____

City Attorney
City of Moreno Valley

W:\LandDev\MANAGEMENT ASSISTANT\Agreement Bond Packets\PA09-0043 - Material Labor Bond.DOC

RISK MANAGEMENT
Approved

[Signature] 3-8-11
By Date

ACKNOWLEDGMENT

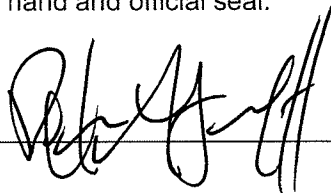
State of California
County of Orange)

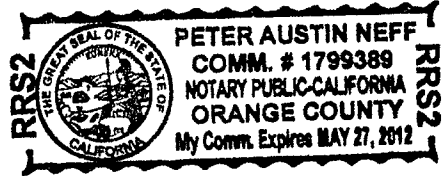
On February 18, 2011 before me, Peter Austin Neff, Notary Public
(insert name and title of the officer)

personally appeared Yung T. Mullick,
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  (Seal)



CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of RIVERSIDE

On February 22, 2011 before me, JEFF R. KALLMANN, NOTARY PUBLIC
(Here insert name and title of the officer)

personally appeared Frank Pozgaj

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 of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

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DESCRIPTION OF THE ATTACHED DOCUMENT

Material & Labor Bond

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

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

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

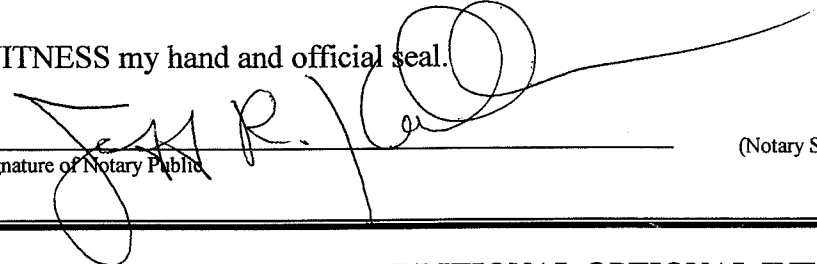
County of RIVERSIDE

On February 22, 2011 before me, JEFF R. KALLMANN, NOTARY PUBLIC,
(Here insert name and title of the officer)

personally appeared Bryan Abdo Alberre

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 of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

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- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT
Material of Labor Bond
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)
 Corporate Officer

(Title)

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

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Jennifer C. Giboney, James W. Moilanen, Yung T. Mullick

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety for:

Five Million and 00/100 Dollars (\$5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney-in-Fact may do in the premises. Said appointment shall continue in force until 10/31/2012 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

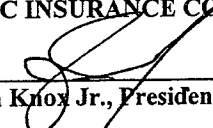
Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Adopted at a meeting held on 20th of April, 1999.)

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 3rd day of September, A.D. 2010.

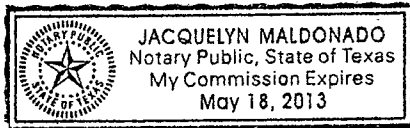
SURETEC INSURANCE COMPANY

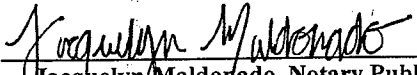
By: 
John Knox Jr., President



State of Texas ss:
County of Harris

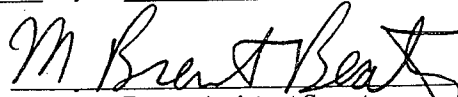
On this 3rd day of September, A.D. 2010 before me personally came John Knox Jr., to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.




Jacquelyn Maldonado, Notary Public
My commission expires May 18, 2013

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 18 day of FEBRUARY, 2011, A.D.


M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:00 am and 5:00 pm CST.



CITY CLERK'S OFFICE

MEMORANDUM

To: Mayor and City Council

From: Sonny Morkus, Human Resource Director

Date: May 5, 2011.

Subject: CITY COUNCIL REGULAR MEETING AGENDA OF MAY 10, 2011
ITEM A.10 - PERSONNEL RULES AND REGULATIONS REVISION
(Report of: Human Resources Department)

cc: Agenda packet distribution list

Attached are corrections on Attachment B, pages 172, 339, and 346 of the above-mentioned subject item.

Document page numbers are Pages 45, 81 & 88.

C. Professional / Administrative shall earn ~~13.08~~ **9.70** hours of annual leave per pay period of service (~~340~~ **252** hours per year). This accrual shall extend to ~~44.62~~ **11.24** hours per pay period (approximately ~~380~~**292** hours per year) at the beginning of the sixth year and extend to ~~45.54~~**12.16** hours per pay period (approximately ~~404~~ **316** hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to ~~2,080~~**1,664** hours of annual leave. This ~~2,080~~**1,664** hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

PAM Employees hired prior to 9/22/92, shall accrue annual leave at the rate of ~~46.15~~**12.77** hours per pay period (approximately ~~420~~ **332** hours per year), and may accrue up to ~~2,080~~**1,664** hours of annual leave.

PAM Confidential employees receive an additional 0.62 hours per pay period (approximately 16 hours per year) of annual leave per year.

D. Non-Exempt Employees shall earn ~~10.77~~ **7.39** hours of annual leave per pay period of service (approximately ~~280~~ **192** hours per year). This accrual shall extend to ~~42.34~~ **8.93** hours per pay period (approximately ~~320~~ **232** hours per year) at the beginning of the sixth year and extend to ~~43.23~~ **9.85** hours per pay period (approximately ~~344~~ **256** hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the annual leave accrual rate as a recruitment tool. Employees in these categories may accrue up to ~~2,080~~**1,664** hours of annual leave. This ~~2,080~~**1,664** hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Non-Exempt Employees hired prior to 9/22/92, shall accrue annual leave at the rate of ~~43.85~~ **10.47** hours of annual leave per pay period (~~360~~ **272** hours per year), and may accrue up to ~~2,080~~**1,664** hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

E. Seasonal Employees/Crossing Guards with Leave Accruals shall accrue annual leave at a rate determined by their program agreement or contract. Temporary Employees shall not normally accrue paid annual leave, but may take leave without pay as approved by their supervisors.

7.15 GRANDFATHERED LEAVE BALANCES

Prior Sick Time Accruals: Employees shall retain all existing sick leave hours accrued prior to the enactment of this policy on **December 14, 2007**. **Such accrued sick leave hours shall be referred to as Grandfathered sick leave balance and are considered Frozen Sick Leave hours.** Although sick leave will no longer continue to accrue for employees, an employee's frozen sick leave balance will be available for use in the event of a serious illness or injury which qualifies for disability. **Employees are eligible to use Grandfathered Sick Leave when they are off of work ill for 3 days or more, and provide a doctor's note.** These frozen sick leave hours can ~~not~~ **only** be used for baby bonding or family member's illnesses or injuries, **if the employee is on approved FMLA leave.**

This Grandfathered sick leave balance shall be available for cash out upon separation at a rate of 40% of the accrued balance for full time employees and 20% for part time employees. The remaining balance will be converted to PERS service credit for retiring employees. Separating employees will forfeit the remaining balance.

Employees may at their option contribute a portion of their compensation to the annuity subject to IRS restrictions through payroll deductions.

2. Contributions for the management bargaining unit are being paid into a Voluntary Employee Beneficiary Trust (VEBA), which manages the investment and distribution of the funds.

B. City Paid Retiree Medical Benefit: Effective January 1, 2001, upon retiring, the City shall pay a minimum of the monthly fee required by PERS for enrollment of retirees. Employees who retire **under the CalPERS retirement benefits system with a minimum of after at least two years of service with the City** shall be eligible to receive a benefit which is the lesser of the cost of medical coverage for the retiree and spouse, or the amount stipulated in the following table:

EFFECTIVE DATE MAXIMUM EMPLOYER CONTRIBUTIONS

January 1, 2007 up to \$168.73 per month

January 11, 2008 up to \$243.73 per month

January 2, 2009 up to \$318.73 per month

To receive the Retiree Medical Benefit, the retiree must submit documentation of payment for medical insurance coverage. Documentation for those enrolled with PERS Health is provided by PERS. In the event of the retiree's death, the surviving spouse continues to be eligible to receive the benefit.

14.20 PERS MEDICAL COVERAGE FOR RETIREES

The City shall contribute a monthly employer fee for retiree medical coverage with the Public Employees Retirement System (PERS), per negotiated contract language as approved by City Council. Retirees must convert to Medicare at age 65.

14.25 CITY RETIREMENT PLAN

The City provides retirement benefits for all employees through the Public Employees Retirement System (PERS). The City pays both the employee's and employer's contributions into the plan **for employees hired prior to July 1, 2009. Employees hired on or after July 1, 2009 pay their own employee's contribution into the plan, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions. This does not apply to promotional hires, whose original hire date was prior to July 1, 2009.** At its option, the City may change its retirement system provider upon adoption by the City Council. Prior to any changes in retirement benefits, those eligible for retirement must be notified at least 30 days in advance. Current retirement benefits are available as follows:

A. Career Full-time Employees **hired prior to July 1, 2009** receive fully-paid PERS retirement benefits. **Career Full-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution.**

B. Career Part-time Employees **hired prior to July 1, 2009** receive fully paid PERS retirement benefits after 1,000 hours. Before that point, the employee will have the employee's portion deducted from salary. **Career Part-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(h)(2) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution.**

C. Part-time/Seasonal, Temporary Employees, and Crossing Guards who are not eligible for PERS, are required to contribute 7.5% of earnings to a PST "457" deferred compensation program. Contributions to this plan will be made through

16.30 TUITION REIMBURSEMENT

Subject to the **pre-approval** of the Department Head, Human Resources Director, and City Manager (or designee), employees may be reimbursed for the cost of pre-approved, job-related, **accredited**, educational and other training courses based upon proof of successful completion **up to a maximum annual limit of \$1,500.00 per fiscal year (i.e. July 1 through June 30)**. This proof includes a grade "C" or better of the course(s), **"Pass/Fail" grading option for classes**, and must be part of a **recognized associate's degree, bachelor's degree, or master's degree program, and the program must be part of a school, college or university that is accredited by a U.S. Department of Education authorized accrediting organization, e.g. Western Association of Schools and Colleges (WASC) leading to an Associate's degree,** ~~undergraduate or graduate degree~~. Further, employees may be reimbursed for certain pre-approved, job related training courses based on the approvals as stated above.

Classes taken which are offered as part of the City's official training program do not count against tuition reimbursement.

Any educational or training course that is a requirement for continuation of employment or is an identified part of a job evaluation shall be paid for by the City. Any other educational course that is job-related may, if prior approval for reimbursement is given by the City Manager (or designee), be reimbursed at 100% or less after successful completion. All college or other graded classes shall require a minimum grade of a "C" in order to receive such reimbursement. Books or other materials shall only be paid if some defined benefit can be shown to the City (i.e. books become part of City reference library).

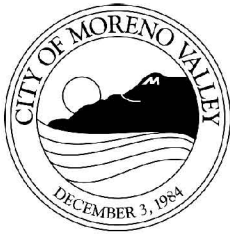
In general, training time during working hours shall be considered part of the job. Unless the City directs an employee to attend a specific training course, and the course is not available during work hours, training after hours shall be considered voluntary, and no additional pay, overtime or compensatory time shall be given by the City, unless advance special written approval is granted. Study time shall be considered completely voluntary.

Although the City encourages employees to pursue additional education, the City shall not pay for educational degrees or for education in general, but will only reimburse employees for required or job-related classes and training. No reimbursement shall occur if an educational class does not provide a benefit to the City. There is no mileage reimbursement for travel to and from educational classes. Required forms must be completed and necessary documentation (receipts and grades) must be provided, in order to receive reimbursement. Final and conclusive determinations of the reimbursement amount shall be made by the City Manager after review of the request and recommendations by the Department Head and the Human Resources Director.

16.35 TRAINING AND TRAVEL REIMBURSEMENT

Non-exempt employees shall receive training and travel reimbursement as provided in this Section.

Time spent in attending lectures, meeting, training programs, and similar activities during work time shall be counted as time worked only if authorized in advance and in writing by the employee's Department Head. No such authorization shall be given unless the lecture, meeting, program, or other activity is directly related to improving the employee's ability to perform his or her job.



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

Report to City Council

TO: Mayor and City Council

FROM: Sonny Morkus, Human Resources Director

AGENDA DATE: May 10, 2011

TITLE: Personnel Rules and Regulations Revision

RECOMMENDED ACTION

Staff recommends that City Council take action to approve the attached Personnel Rules and Regulations (Attachment A).

ADVISORY BOARD/COMMISSION RECOMMENDATION

“Not applicable.”

BACKGROUND

During the 2009 and 2010 labor negotiations, the City approved Memorandums of Understanding (MOU's) for each of the three employee associations: Moreno Valley Management Association (MVMA), Moreno Valley Confidential Management Employees (MVCME), and Moreno Valley City Employees Association (MVCEA). Due to the changes in policies that were agreed to in the MOU's, the City is required to revise the Personnel Rules and Regulations and reflect these changes. The Personnel Rules and Regulations were previously revised in February 2009.

During the period of February 2011 through April 2011, the Human Resources Director met with the three employee associations, in order to discuss and gain agreement on the actual wording for the needed changes to the Personnel Rules and Regulations.

DISCUSSION

The proposed changes are highlighted in the attached Personnel Rules and Regulations (Attachment B). Attachment B includes an index of the changes, as well as the actual changes noted by either strikethrough ~~WORDS~~ for deleted wording,

or bold **FONT**S for newly added wording. The index shows the section that was changed and the page number of the section changed for easy reference.

There is no additional direct cost to the City of Moreno Valley that will result from the City Council taking action to approve the attached Personnel Rules and Regulations revision. The changes to the Personnel Rules and Regulations are reflecting changes that were approved by City Council in the MOU's for FY 2009/10 and FY 2010/11.

ALTERNATIVES

The action of the City Council to approve the attached resolution will fulfill the City's agreement with the three employee associations: Moreno Valley City Employees Association; Moreno Valley Management Association; and Moreno Valley Confidential Management Employees.

FISCAL IMPACT

There will be no added impact on the City budget.

CITY COUNCIL GOALS

The action of the City Council to approve the attached resolution will contribute to one of the City Council's goals, i.e. "Positive Environment: Create a positive environment for the development of Moreno Valley's future."

NOTIFICATION

The three employee associations have been notified of the staff report and staff recommendation for City Council to approve the attached Personnel Rules and Regulations revision. Copies of this staff report and attached resolution were sent to the employee associations, and they concur with the recommended City Council action.

ATTACHMENTS/EXHIBITS

Attachment A is the Personnel Rules and Regulations with the changes made.
Attachment B is the marked-up Personnel Rules and Regulations showing the changes.

Prepared and Approved By:

Sonny Morkus
Human Resources Director

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

**CITY OF MORENO VALLEY
PERSONNEL RULES & REGULATIONS**

REVISED MAY 2011

Please complete this form and return to Human Resources. If you have any questions regarding the Personnel Rules & Regulations, please contact the Human Resources Department at extension 3045.

On _____, I received a copy of the City of Moreno Valley's, May 2011, Revised Personnel Rules & Regulations, and I have had an opportunity to ask questions and discuss the information. I understand that a copy of this acknowledgement form will be placed in my central official employee personnel file, located in the Human Resources Department.

Employee Name **(Please Print)** _____

Employee Signature _____

Department/Division _____

.....
.....

Human Resources Department Use Only

Date Returned _____

CITY OF MORENO VALLEY
PERSONNEL RULES AND REGULATIONS

REVISED May 2011

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DRUG AND ALCOHOL FREE WORKPLACE POLICY

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**CITY OF MORENO VALLEY
PERSONNEL RULES AND REGULATIONS
REVISED May 2011**

SECTION 1: GENERAL PROVISIONS

1.05. AUTHORITY

The City Council of the City of Moreno Valley is authorized and directed under the Municipal Code and the provisions of Section 1.40 of these Rules to adopt rules for the administration of the City's personnel system.

1.10 OBJECTIVES

The objectives of these Personnel Rules are to facilitate efficient and effective services to meet public needs as well as provide for an equitable system of personnel management in municipal government.

These Rules shall set forth in detail procedures which insure fair and equitable treatment for those who compete for original employment and promotion within City employment and define many of the obligations, rights, privileges and prohibitions which are placed upon all employees in the competitive service of the City.

1.15 INTERPRETATION

Within the limits of administrative feasibility, the City Manager shall be responsible for the interpretation of these Rules in cases where the proper application of a rule or any portion thereof is not clearly ascertainable. When such interpretation is required, the result shall be in harmony with the objectives set forth above.

1.20 DEFINITION OF TERMS

All words and terms used in these Rules and in any ordinance or any resolution dealing with Personnel Rules and Regulations shall be defined as they are normally and generally defined in the field of personnel administration. For the purpose of convenience, the following words and terms most commonly used are defined.

Appointing Authority: The City Manager or designee who, in his or her individual capacity, has the final authority to appoint a person to a position of employment.

Anniversary Date: The date when the employee last completed probation. If an at-will employee, the date the employee was hired to the most recent position.

Except as specifically provided in these Rules, any non-probationary employee who takes an authorized leave of absence without pay shall have his or her anniversary date extended the same amount of time as his or her period of leave.

Appointment: The designation of a person to fill a position of employment.

At-Will Employee: A probationary employee, or contract employee, who does not hold career status.

Career Employee: A permanent employee hired for an indefinite term into a budgeted position, who is regularly scheduled to work no less than one thousand (1,000) hours per year, has successfully completed his or her probationary period, and has been retained as provided in these Rules.

City: The City of Moreno Valley.

City Manager: The City's Chief Executive Officer.

Classification: A certain group of job positions with the same title, salary range, and benefit package.

Classification Manual: A document containing the class specifications for all City positions as approved by the City Manager or designated official.

Classification Plan: A listing of the duties and responsibilities of all City positions, as determined by the City Manager and adopted by the City Council.

Classification Roster: A listing of all City positions including the title and benefit category contained in the annual fiscal year budget, as determined by the City Manager and adopted by City Council.

Compensatory Time: Time accrued or taken off from work with pay, in lieu of paid overtime compensation.

Competitive Service: The merit system whereby City employees are hired and promoted through a competitive process based upon objective standards of merit to assure fair consideration in all aspects of employment/promotion.

Contractual Employee: An employee hired and paid pursuant to the terms and conditions of a specified written contract between such an employee and the City.

Days: Calendar days unless otherwise stated.

Demotion: The voluntary or involuntary transfer of an employee from one classification to another classification with a lower salary or to a lower step in a classification or hierarchy of positions.

Department Head: One who functions directly under the authority of the City Manager, has direct responsibility for a particular department, and manages its staff, policies and budget.

Dependent: A covered person who relies on another person for support; or obtains health coverage through a spouse, domestic partner, parent, grandparent, or legal guardian. For the purpose of insurance eligibility, an eligible dependent is defined as: spouse, registered domestic partner, child, economically dependent child, and adult children up to age 26.

Disciplinary Action: The discharge, demotion, reduction of pay, suspension, placing on probation, or the issuance of a last chance employment agreement, written reprimand, or formal warning, or any other action for punitive, corrective, or disciplinary reasons.

Disciplinary Suspension: A disciplinary action that temporarily separates an employee from City service without pay.

Dismissal: The discharge of an employee by the City from City employment.

Division Manager: Division Heads and those who qualify for executive exemption under FLSA and for a certain benefits package.

Domestic Partner: As defined by state law and registered accordingly.

Eligibility List: A list of all persons eligible for appointment to a particular classification after final testing/interviews as determined by the Human Resources Director.

Emergency Appointment: An appointment made to meet immediate requirements of an emergency condition, such as fire, flood or earthquake, which threatens life or property, where such employment is not anticipated to endure beyond the duration of such an emergency period.

Employee: An elected or appointed person occupying a position in the City employment, including City Councilmembers, providing personal services to the City or its residents. This excludes independent and outside contractors, commissioners, members of advisory boards, and volunteers.

Employee Assistance Program (EAP): A health and wellness benefit which allows an employee or a member of his or her family to receive personal counseling at City expense, subject to certain limits and available funds.

Employee Relations Officer: The City Manager-designated officer who administers the City's employee relations as defined in Employee Relations Resolution #92-110. The designated Employee Relations Officer functions under the authority of the City Manager.

Executive Management: Department Heads and those who qualify for executive exemption under FLSA and for a certain benefits package.

Fair Labor Standards Act (FLSA): The Federal Law, which guarantees employees certain minimum wages and time and one-half overtime standards.

Fiscal Year: A twelve-month period from July 1 to June 30 in which the City plans, budgets, appropriates, and expends its funds.

Flexible Work Schedule: A City Manager-approved variation from the standard daily work hour schedule of 8:00 a.m. to 5:00 p.m.

Full-time Employee: An employee who is regularly scheduled and expected to work forty (40) hours or more during a workweek.

Furlough: A Management-dictated, mandatory, reduced working period implemented to save City funds during difficult economic times.

General Non-Exempt Employee: An employee who is not exempt from the pay and overtime provisions of FLSA and who qualifies for a certain benefits package.

Human Resources Officer: The City Manager-designated officer, known as the Human Resources Director, who administers the City's personnel system. The designated Human Resources Officer functions under the authority of the City Manager.

In-House Competitive Examination: A type of examination open only to City employees meeting the minimum qualifications for a particular classification.

Immediate Family Member: Mother, father, spouse, domestic partner, natural/step children, children of domestic partner, mother-in-law, father-in-law, brother, or sister, grandparent and grandchild. Step-parents may be included depending on the current situation.

Insubordination: This occurs when an employee refuses a lawful order from a supervisor. Three elements should exist: (a) the employee understood the instructions and consequences of failing to follow the order; (b) the order was in line with the employee's duties; and (c) there was no safety reason for the employee to refuse the order.

Interim Employee: An employee who is appointed to a career classification on an acting or temporary basis pending completion of the recruitment process, issuance of an eligibility list, and filling the classification.

Last Chance Employment Agreement: Is an agreement between the City, an affected employee and a bargaining unit representative. This written employment agreement gives the employee who has committed serious misconduct one last chance to keep the employee's job. The agreement provides details about the employment misconduct, sets forth the City's expectations for continued job performance, and defines the employment consequences for failure to meet those expectations – usually termination of employment, with a condition that the employee waive any future rights of appeal of the termination.

Lead Worker: A working daily supervisor who typically schedules, assigns, trains, monitors, and evaluates the work of a crew or group of employees. Additionally, a lead worker performs the more difficult and responsible tasks assigned to classifications within that classification series.

Leave of Absence Without Pay: A period of time during which an employee may take time off without receiving compensation or benefits, unless otherwise stated in these Rules.

Limited Term: An employee hired for a definite term based on the funding available and/or workload requirements.

Merit Salary Increases: The increase of an employee's salary within the salary range established for the classification the employee occupies, resulting from satisfactory job performance, which is based on performance or merit, not solely on longevity.

Misconduct: Any act or unsatisfactory job performance which may be subject to disciplinary action.

Modified Work Schedule: Any work pattern schedule other than a usual 8 to 5 schedule as approved by the City Manager.

Open Competitive Examination: A type of examination open to applicants meeting the minimum qualifications for a particular position.

Overtime: The time which an employee is required or permitted to work beyond the number of hours prescribed for a full-time employee in that classification. Overtime compensation, taken as paid time or as compensatory time, shall be authorized as provided in Section 6.05.

Part-time Employees: The City has three (3) types of part-time employees; career part-time, seasonal or temporary, and crossing guards.

- A. Career Part-Time Employee: An employee who works a minimum of twenty (20) scheduled hours per week on a permanent basis.
- B. Temporary or Seasonal Employee: An employee, other than a contract employee, who is scheduled to work no more than 1,000 hours in a calendar year, no more than twelve continuous months, or one for whom there is no Council-authorized position and no employee benefits.
- C. Crossing Guard: An employee hired as a regular or an alternate crossing guard. A regular crossing guard shall have a usual post near a school site. An alternate or substitute guard shall relieve any regular crossing guard in the case of absence.

Performance Assessment Review (PAR): This is the performance evaluation tool for the City's career employees, wherein performance is evaluated and rendered at three (3) months and six (6) months while on probation, and annually thereafter on the employee's anniversary date.

Permanent Disability: A medical disability which will indefinitely prevent the employee from performing his/her essential job duties without creating unreasonable endangerment to health and safety or inefficiency of the employee or others.

Personnel Ordinance: Chapter 2.30 of the City's Municipal Code, authorizing the establishment of a personnel system for the City.

Position: A specific job assigned to a job classification.

Probationary Employee: An employee who is serving his or her probationary period.

Probationary Period: A working test period which is part of the selection process, during which an employee is required to demonstrate his or her fitness for the position to which assigned. Before an employee may promote, they must successfully complete original probation.

Professional/Administrative/Management Employee: An employee who qualifies for the executive (Professional/Administrative/Management) exemption under FLSA and for a certain benefits package.

Promotion: The advancement of an employee from one classification to another classification having a higher salary range.

Reclassification: The reassignment from one classification description, or status to a different classification description, or status in accordance with a re-evaluation of the minimum qualifications, duties, and responsibilities of the position in question. Simple title changes are not reclassifications.

Reduction in Force (RIF): A layoff in the work force.

Resignation: The voluntary separation by an employee from City employment.

Rules: These Personnel Rules, as they may be amended periodically.

Salary Schedule: The listing of the salary ranges and steps for all defined City classifications.

Salary Range: The range of pay an employee can earn while employed in a particular classification.

Seniority: The length of an employee's continuous service in a City career position.

Staffing Plan: The classification titles, salaries and number of allocated positions in a department or division for a designated fiscal year, as determined by the City Manager and adopted by City Council in the annual budget document.

Standards of Conduct: Those rules which are intended to govern the actions of City employees during their course of employment with the City with respect to the employee's job performance.

Supervisor: Performs full scope of supervisory duties including hiring, training, planning, scheduling, disciplining, and evaluating the work of several crews and/or work units of staff.

Temporary Employee: *(See Part-time Employees)*

Termination: The separation of an employee from City service because of retirement, resignation, permanent disability, death or dismissal.

Transfer: The change of an employee from one department or division to another department or division without changing the employee's salary and usually within the same classification.

Workweek: A regularly recurring period of seven (7) consecutive twenty-four (24) hour days beginning at 12:01 p.m. on Friday and concluding at 12:00 noon the following Friday.

Y-Rate of Pay: The Y-rate of pay shall exist when an employee's salary is frozen at the then current level until such time as the commencing salary at the Y-rate, taken together with subsequent general salary increases, equals or exceeds the employee's salary at the Y-rate. This may occur in situations where an employee is reclassified, voluntarily demoted, or as otherwise stated in these Rules. Typically, benefits will not be Y-rated.

1.25 ADMINISTRATION OF THE PERSONNEL SYSTEM

The City Manager shall administer the City personnel system and may delegate any of the powers and duties related thereto to any other officer or employee of the City or may recommend that such powers and duties be performed under contract as provided in Section 1.30 of these Rules. The City Manager shall:

- A. Act as the appointing authority for all City employees except those officers and employees directly appointed by the City Council.
- B. Administer all of the provisions of these Personnel Rules except as specifically reserved to the City Council.
- C. Prepare and recommend to the City Council any appropriate Personnel Rules and revisions to such Rules.
- D. Prepare or cause to be prepared, and revise as appropriate, a position classification schedule, including class specifications.
- E. Have the authority to discipline City employees in accordance with these Personnel Rules.
- F. Provide for the publishing or posting of notices of examinations for positions in the competitive service; the flexibility to waive certain job stated qualifications for good cause when it is in the best interests of the City; the receiving of applications therefore; the conducting and grading of examinations; the establishment of a list of all persons eligible for appointment to the appropriate position in the competitive service; and the performance of any other duty which may be desirable or required for the effective implementation of these Rules.
- G. Appoint employees on a temporary or seasonal basis without competitive examination.
- H. Determine standardized daily work hours and schedules and approve variations to the standard schedule.

1.30 CONTRACTS FOR SPECIAL SERVICES

The City Manager may contract for the performance of technical services in connection with the establishment or operation of the personnel system. In addition, the City Manager may determine the circumstances under which it is in the best interests of the City to contract for such services, and to enter into contracts for such services with City Council approval. The contract may be with any qualified person or public or private agency for the performance of any or all of the following:

- A. The preparation of Personnel Rules and subsequent revisions and amendments.
- B. The preparation of a position classification plan, and subsequent revisions and amendments.
- C. The preparation, conduct, and grading of qualifying tests.

- D. The conduct of employee training programs.
- E. Special and technical services of advisory or informational character on matters relating to personnel administration.
- F. Professional services.

1.35 APPLICATION AND EXCEPTIONS

- A. These Rules shall apply to all offices, positions, and employments in the service of the City, as defined in Section 1.20 of these Rules, with the exception of the following:
 - 1. Members of the City Council and other elected officials.
 - 2. Members of commissions and advisory bodies appointed by the City Council or City Manager.
 - 3. Direct appointees of the City Council, including the City Manager, City Clerk, City Treasurer, City Attorney, and any assistant or deputies to the City Attorney. An employee who also holds the position of City Treasurer shall not be excluded from the Rules, unless he or she has entered into an employment agreement pursuant to sub-section "F" herein.
 - 4. Volunteer personnel, such as volunteer fire protection personnel, and others who provide services to the City without receiving compensation (although such persons may receive reimbursement for actual expenses incurred in the service of the City).
 - 5. Outside and independent contractors, engaged to provide expert, professional, technical, or other services.
 - 6. Employees who have entered into an employment agreement with the City, unless otherwise specified in an employment agreement.
- B. These Rules, with the exception of Sections 8-12 inclusive, shall apply to the following employees, who serve at the pleasure of their respective appointing authorities and are considered "at will" employees:
 - 1. Emergency employees, such as those hired to meet immediate needs of an emergency condition (i.e., fire, flood or earthquake) which threatens life or property.
 - 2. Employees who are considered temporary or seasonal.
 - 3. Other non-career employees who are not specifically mentioned in Section 1.35 of these Personnel Rules.
 - 4. Alternate Crossing Guards.

5. Volunteers and Interns.

- C. The crossing guard manual contains specific personnel policies for crossing guards. It is an extension of these rules. Violations of those written policies are also considered violations of these rules as well.

1.40 ADOPTION AND AMENDMENT OF RULES

Pursuant to the Personnel Ordinance, the City Council may adopt Personnel Rules to provide for the implementation of a personnel system for City employees. Recognized employee organization-proposed amendments to these Rules shall be submitted to that organization for review and recommendation prior to submittal to the City Council. Advance notice and an opportunity to meet and confer shall be given to recognized employee organizations concerning any amendments which affect matters subject to meet and confer such as, wages, hours, and other terms and conditions of employment. Upon request, the Human Resources Director shall provide the opportunity for review and comment and consult with any recognized employee organization so requesting prior to consideration by the City Council.

As provided in Section 3500 et seq. of the California Government Code, in cases of emergency, when the City Council determines that amendment(s) to these Rules must be adopted immediately without prior notice or meeting with a recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practical time following the adoption of the amendment(s). Amendments shall become effective upon adoption by the City Council or at such other time as the adopting resolution may provide.

With the written approval of the City Manager, Department Heads may promulgate rules not in conflict with these Rules for the effective and efficient operation of their departments.

1.45 VALIDITY OF RULES (SEVERABILITY)

If any section, subsection, sentence, clause, phrase or portion of these rules is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these rules. The City Council of Moreno Valley hereby declare that it would have adopted these rules and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

1.50 VIOLATION OF RULES

Violation of these Rules may be grounds for disciplinary action, subject to the applicable appeals procedure provided herein.

1.55 CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES

City employees should serve the needs and respond to the wishes of all citizens equally without regard to their personal gain. City employees should perform their duties in an

impartial manner, free from bias caused by their own financial interests or the financial interests of other persons. Therefore, it is the policy of the City of Moreno Valley that all City employees shall avoid situations which might be interpreted as involving or creating a conflict of interest between the employee's duties and responsibilities as a public employee, and the employee's personal and private interest.

Employees should not take part in the consideration of any application, proceeding or other matter involving their own personal property, real estate, investment or other interest, or that of any relative or close personal acquaintance. In all such situations, the employee should disclose the nature of the relationship to his or her immediate supervisor and request to be relieved of any responsibility or involvement in such matter.

The acceptance of gifts, favors, or any form of compensation or gratuity may be viewed as influencing or compromising or attempting to influence or compromise the judgment of an employee. To prevent such a conflict, employees shall discourage any offer of a gift, favor or any form of compensation or gratuity. Gifts that can and will be shared with office staff, such as boxes of candy, flowers, and food, may be viewed as exceptions. Being hosted by a City contractor or potential City contractor is not a conflict of interest, provided that all financial disclosure laws and regulations are complied with.

Employees who receive or are offered an unanticipated gift, favor or gratuity, should consult their Department Head to determine an appropriate response to the donor.

City employees shall not solicit or accept donations for City sponsored events unless waived for specific events by express written authorization of the City Manager.

1.60 INCOMPATIBLE EMPLOYEE ACTIVITIES

During an employee's work day, the employee is expected to devote his or her full time, attention and efforts to the performance of his or her assigned duties as a City employee. At no time shall any outside employment or activity be conducted on City time. No employee shall engage in any employment, outside activity, or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his or her ability to perform the duties, functions, or responsibilities of his or her position as a City employee, nor shall he or she engage in any outside activity which may directly or indirectly contribute to the lessening of his or her effectiveness as a City employee. Employees who undertake outside employment shall notify their immediate supervisors in writing of the nature, duties, and hours of that employment before undertaking such employment, including military service in the Reserves or Guard.

No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly permitted by the City Manager, Federal or State law, Memorandum of Understanding, or City Council directive.

1.65 POLITICAL ACTIVITIES

No restrictions shall be placed on the political activities of any employee of the City of Moreno Valley other than the following.

- A. No person who holds, or who is seeking election or appointment to, any office or employment with the City shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position within the City, upon consideration or condition that the vote or political influence or action of such a person or another shall be given or used on behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration (Government Code 3204).
- B. No employee shall directly or indirectly solicit political funds or contributions from other employees of the City. Employees, however, are not prohibited from requesting political funds or contributions to a significant segment of the public which may include officers or employees of the City (Government Code 3205).
- C. No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer or arrange for any increase in compensation or salary for an employee of a state or local agency in exchange for, or a promise of, a contribution or loan to any committee controlled, directly or indirectly, by the person who holds, or is seeking election or appointment to office. (Government Code 3205.5)
- D. No employee shall participate in any political activities while in uniform (Government Code 3206)
- E. No employee shall engage in political activity during working hours or on City premises (Government Code 3207).
- F. No employee shall engage, during his or her working hours, in the solicitation or receipt of political funds or contributions to promote the passage or defeat of any ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of the employees of the City; nor shall entry be permitted on City premises during working hours for such purposes (Government Code 3209).

1.70 SAFETY AND HEALTH

Each employee shall comply with all applicable safety laws, rules, and regulations. All employees shall follow safety practices, use personal protective equipment as required, render every possible aid to safe operations, and report to proper authority all unsafe conditions or practices.

- A. Management may request a fitness-for-duty examination and repeat examinations as necessary to safeguard the employee and co-workers when there is a concern about an employee's ability to perform his or her job, based on the observations of a supervisor, manager, or physician. Specific reasons for the fitness-for-duty request must be stated.

1.75 DRUG AND ALCOHOL FREE WORKPLACE

Because drug and alcohol use can detrimentally affect job performance and employee safety, the City is committed to achieving and maintaining a drug and alcohol free workplace. While the City has no intention of intruding into the private lives of its employees, it will be firm in identifying and disciplining those employees whose impaired mental or physical condition, as a result of drug or alcohol use, may endanger the health or safety of fellow employees and the public at large, or interfere with the operations of the City.

This policy applies to all City employees (including part-time, temporary and hourly employees) and to all applicants for positions with the City.

While on paid duty time, the employee shall not be under the influence of any substances, drugs, medications, legal or illegal which could impair an employee's ability to effectively and safely perform the functions of the job. The use of prescription drugs which would not alter an employee's work performance is acceptable if prescribed by a qualified physician.

The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The unlawful manufacture, distribution, dispensing, possession, or use of any illegal drug or "controlled substance" is prohibited on the job, in the City's workplace, or while subject to duty (i.e., stand-by).

For the purposes of this Section, the following shall be defined as:

- A. "Controlled Substance" denotes any substance which could potentially impair the employee's ability to effectively and safely perform the functions of his or her duties, including, but not limited to: alcohol, coca leaves, cocaine, marijuana, opium and opiates, amphetamines, methamphetamines, lysergic acid (L.S.D.), etc. As outlined below, certain prescription drugs and medications shall also be classified as controlled substances.
- B. "Conviction" is a finding of guilt (including a plea of no contest), an imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
- C. "Criminal Drug Statute" is a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any illegal drug or controlled substance.

Please refer to the City of Moreno Valley's Personnel Rules & Regulations, Appendix A-D, for a detailed description of the City's Drug and Alcohol Free Workplace Policy.

1.80 EQUAL EMPLOYMENT POLICY

It is the policy of the City of Moreno Valley to offer equal opportunity in all matters of employment. Employment with the City is based solely upon the qualifications of the individual applicant, regardless of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability, unless sex, mental, or physical ability is a bona fide occupational qualification.

All employees are to be treated with respect and dignity. The City of Moreno Valley prohibits any harassment of employees in the workplace. Activities and occurrences which may constitute harassment, whether written or oral, include, but are not limited to disparaging comments on the basis of one's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or mental or physical disability. Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.

The City shall not unlawfully discriminate against a qualified individual with a disability in job applications, hiring, advancement, compensation, training, discharge, and other terms, conditions, or privileges of employment. A disabled person is one who has mental or physical impairment that limits at least one major life activity, who has a record of impairment, or who is regarded as having impairment. A qualified individual with a disability is a person, who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Violation of this policy will result in appropriate disciplinary action pursuant to Section 8 of these Rules.

1.85 DISCRIMINATION AND ANTI-HARASSMENT POLICY

The City of Moreno Valley is committed to providing a work environment that is free of discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting any form of harassment, including sexual harassment, of all employees. Furthermore, the City prohibits harassment in any form, including verbal, physical, visual, or sexual harassment or retaliation against an employee for filing a harassment and/or discrimination complaint.

Harassment of an employee by a co-worker, supervisor, management employee, or other agent of the City, or a customer, on the basis of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability will not be tolerated. **Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.**

Harassment includes, but is not limited to:

- A. Verbal Harassment- For example, epithets, derogatory comments or slurs on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity, age, or denial of family and medical care leave and denial of pregnancy disability leave.
- B. Physical Harassment- For example, assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.
- C. Visual Forms of Harassment- For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.
- D. Sexual Harassment- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employee benefit, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or an offensive work environment.

The City shall ensure that each employee has a copy of the City's anti-harassment policy which will include information on its internal complaint procedure.

Any employee who believes he or she has been harassed by a co-worker, a supervisor, a management employee, any other agent of the City, or customer should promptly report the facts of the incident or incidents and names of persons involved to his or her supervisor and/or the division manager/department head, and/or the Human Resources Director. If the offending party is a department head or higher, the complaint should be addressed to the offending party's supervisor. Any supervisor, division manager, or department head is obligated to immediately report any complaints and/or incidents of harassment to the Human Resources Director. Failure to make such a report when required by this Section may provide grounds for disciplinary action.

Upon receiving notification of a harassment complaint, the Human Resources Director shall:

- A. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with:
 - 1. the complainant;
 - 2. the accused harasser; and
 - 3. any other persons the Human Resources Director has reason to believe have relevant knowledge concerning the complaint. This may include victims of similar conduct.

- B. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual, or sexual conduct, and the context in which the alleged incidents occurred.
- C. Report the results of the investigation, and the determination as to whether harassment occurred, to appropriate persons, including the complainant, the alleged harasser, the supervisor, the department head, and the City Manager. If discipline is imposed, the discipline will not be communicated to the complainant.
- D. If the harassment occurred, take and/or recommend to the appointing authority prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense.
- E. Take reasonable steps to protect the complainant from further harassment.
- F. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- G. If appropriate, take action to remedy the victim's loss, if any, which resulted from the harassment.

If the employee is not satisfied with the action taken, the employee shall have the right to file a formal grievance in accordance with Section 12.55. If the allegation of harassment implicates any person rendering a decision at any Step in the Grievance Procedure, the employee may omit that particular Step and proceed to the next Step in the Grievance Procedure.

Dissemination of Policy

All employees, shall receive a copy of this Discrimination and Anti-Harassment Policy when they are hired and regularly thereafter. All supervisors hired after January 1, 2005, shall receive harassment training within six (6) months of hire. All supervisors shall receive interactive anti-harassment training at least every two years.

1.90 WORKPLACE VIOLENCE POLICY

This organization does not tolerate workplace violence. We define workplace violence as actions or words that endanger or harm another employee or result in other employees having a reasonable belief that they are in danger. Such actions include:

- Verbal or physical threats, or intimidation;
- Assaults or other violence; and
- Any other behavior that causes others to feel unsafe (e.g., bullying, sexual harassment).

City policy requires an immediate response to all reports of violence. All threatening incidents will be investigated and documented. Counseling may be provided.

The following disciplinary actions may also be taken:

- Oral reprimand;
- Written reprimand;
- Suspension; or
- Termination.

Employees are expected to behave in a professional manner. It is the responsibility of all employees to report all threatening behavior to management immediately. The goal of this policy is to promote the safety and well-being of all people in our workplace.

1.95 SMOKING POLICY

In compliance with all CALOSHA regulations, smoking is prohibited in all City facilities and in all City vehicles and rolling stock. Consistent with CAL OSHA regulations no one may smoke less than 20 feet from doorways.

SECTION 2: CLASSIFICATION AND SALARY PLAN

2.05 PREPARATION, ADOPTION, AND AMENDMENT OF CLASSIFICATION PLAN

The City Manager shall determine the duties and responsibilities of all City positions for inclusion in the Classification Plan. The Classification Plan shall be so developed and maintained to ensure that all positions which are substantially similar with respect to duties, responsibilities, authority and character of work, are included within the same classification, and the same schedules of compensation shall apply to all positions in the same classification. Classification specifications are explanatory, but not restrictive. The listing of particular tasks shall not preclude the assignment of other related kinds of tasks or related jobs requiring lesser skills. The Classification Plan may be amended or revised, as required, in the same manner as originally established and described herein and is subject to adoption by the City Council.

2.10 ALLOCATED POSITIONS

The City Manager shall approve the appointment of employees to positions in the Classification Plan.

Only allocated positions which have been approved by City Council may be filled, provided that the following positions can be approved by the City Manager without prior City Council approval: 1) temporary; and 2) emergency.

2.15 NEW POSITIONS

When a new position is created, no person shall be appointed or employed to fill the position prior to the position's assignment to a classification, unless otherwise provided by these Rules. The City Manager shall amend the Classification Plan to establish and assign an appropriate classification for the new positions approved by the City Council.

2.20 CLASSIFICATION MANUAL

This manual shall contain a job description, as well as knowledge, skills, abilities, education, experience, sample duties, and other minimum qualifications for all classifications listed in the Classification Plan. This manual is developed by staff and approved by the City Manager.

2.25 PREPARATION OF SALARY SCHEDULE

The City Manager shall prepare a salary schedule that establishes the salary ranges and steps for all City classifications. The Salary Schedule shall be amended or revised, as required.

2.30 APPROPRIATE SALARY LEVEL

Employees occupying a City position shall be paid a salary range and step established for that position's classification under the adopted Classification and Salary Schedule.

2.35 BENEFIT PLAN:

The City Council shall, at its discretion, adopt a Benefit Plan that establishes the benefits for all City employees. This Benefit Plan is described in the Employee Benefits Section of the City's Compensation and Leave Policies.

SECTION 3: TYPES OF APPOINTMENTS

3.05 TYPES OF APPOINTMENTS

Except for temporary vacancies, all vacancies shall be filled by transfer, promotion, demotion, or from candidates on an appropriate eligibility list, if one is available. In the absence of eligible candidates in one of the above categories, temporary appointments may be made in accordance with these Rules.

3.10 EMERGENCY APPOINTMENTS

To meet immediate requirements of an emergency condition which threatens life or property, the City Manager may create positions and employ such persons as temporary employees as may be needed for the duration of the emergency. If not determined otherwise by an applicable provision or by an Emergency Operations Plan approved by the City Council, the method of hiring for emergency appointments shall be subject to the discretion of the City Manager. All such appointments shall be reported to the City Council as soon as possible, and shall be compensated at an appropriate hourly rate as approved by the Human Resources Director.

3.20 ACTING PAY

When an employee is assigned to perform the significant duties and responsibilities of a higher level position on a full-time basis for more than thirty (30) calendar days, a temporary salary adjustment shall be made to reflect the increase in responsibility until the employee ceases to perform such out-of-class work. All acting assignments must be pre-approved by appropriate management staff, the HR Director and the City Manager in advance unless there is an emergency situation.

An employee who is approved to be working at a higher level in an acting capacity shall be compensated at the rate in the new salary range, which comes nearest to, but not less than, five percent (5%) higher than the rate he or she held in the previous salary range. The higher salary rate payable shall be retroactive to the first day of the acting assignment as approved by City management.

Individuals appointed to work out-of-class must meet minimum qualifications of the higher classification, and must be capable of handling major duties of the higher level classification without any more supervision than another would in the same job.

The mere performance of certain portions of the higher position, or only performing the less demanding responsibilities until the position is filled, does not constitute working out-of-class.

If the higher classification is in a different bargaining unit than the employee's regular classification, the employee would only receive the salary change, not a change in benefits or unit.

At the end of such assignment, the employee performing the temporary assignment shall be returned to his/her original position and salary rate with any merit or salary adjustments, as appropriate. At any time during the out-of-class assignment, an employee may be removed from that appointment without right of appeal or hearing.

Nothing herein shall be construed as limiting management's authority to assign City employees temporarily to different or additional work duties and responsibilities for the purpose of responding to emergencies. While working in an out-of-class assignment, an employee shall continue to accrue, and have recorded, normal step increases in the employee's regular position. Should this assignment continue for 12 months or more, without a merit increase, the employee shall be entitled to a merit increase on the anniversary of the 12th consecutive month (based on performance), which is the lesser of a five (5) percent increase over the salary he or she received in the lower position, or the top of the salary schedule for the new position, if there is room within the range, upon approval of the City Manager. The City shall not rotate employees in and out of higher position classification assignments in order to avoid paying out-of-class compensation.

3.25 TRANSFER

An employee may transfer from his or her present position to a vacant position, in the same classification, or a comparable classification, within the same department or to another department. For purposes of this Section, a comparable classification is defined as one with the same salary range which involves the performance of similar duties that require substantially the same general qualifications. A transferred employee shall retain his or her rate of pay and his or her anniversary date for purposes of merit pay increases. No employee shall be transferred to a position for which he or she does not possess the minimum qualifications. A transfer shall not be used to effect a promotion, demotion, advancement or reduction in pay. An employee who voluntarily transfers to a lower position may be Y-rated. The employee who desires to transfer can obtain the appropriate form from the Human Resource Director. The Human Resource Department is under no obligation to notify employees of each potential transfer opportunity. Once the transfer request is received by the Human Resources Department, the Human Resource Director shall inform the Department Head of the request. The employee may be required to compete in an open selection process.

Unless otherwise provided for in these Rules, an employee must be employed with the City for at least six (6) months, or until the employee has completed his or her probationary period, before applying for a transfer. An employee may be requested to defer his or her transfer until his or her current position has been filled, but typically, two-weeks notice will be given to the employee's current department.

A request for transfer to a vacant position may be initiated by an employee or the employee's Department Head. The City Manager may order a transfer for the purposes of economy, efficiency, or for reasons related to the best interest of the City. Such a determination by the City Manager shall not require the consent of the employee, either Department Head, or the Human Resources Director.

3.30 PROMOTION

When it has been determined that a vacant position will be filled by promotional appointment, the Human Resources Director shall authorize a competitive promotional examination in order to fill the position, as stated in these Rules.

When an employee is appointed to a promotional position, that employee shall be paid at a level within the higher salary range which is the lesser of a five (5) percent increase over the salary he or she received in the lower position, or the top of the salary range for the new position. In accordance with the provisions in Section 5.15, any employee who is promoted within City service shall be required to successfully complete a probationary period in the new position. (*Refer to Section 4.75*)

3.35 DEMOTION

An employee may be demoted because his or her ability to perform the required duties of his or her position falls below standard, for disciplinary purposes, or for any other reasons as outlined in these Rules. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications. The position which has been made vacant by demotion shall then become subject to the provisions of these Rules which govern appointments.

An employee shall not be required to serve a probationary period in the position to which he or she is demoted unless he or she has not completed the probationary period in the higher position. In such cases, the employee shall be required to complete his or her unfinished probationary period in the lower position. The employee shall retain the anniversary date he or she had in the higher position.

- A. Involuntary Demotion: An involuntarily demoted employee, who is placed in a position at a lower salary than the position he or she formerly occupied, shall be placed at a pay level within the lower salary range which is closest to, but lower than, the employee's salary rate in his or her former position. A demotion which is effected for disciplinary reasons, pursuant to Section 9.35, shall be subject to the disciplinary appeals process.
- B. Voluntary Demotion: A voluntary demotion to a lower position and lower salary may be requested by an employee for any reason. Such a voluntary demotion shall require the approval of the Human Resources Director, the employee's present Department Head, and the Department Head under whom the employee will serve, if applicable.

The voluntarily demoted employee shall be placed at a pay level within the lower salary range which is closest to, but lower than, the employee's salary rate in his or her former position. In lieu of a reduction in salary, the City Manager may approve a Y-rated salary for a voluntarily demoted employee.

3.40 RECLASSIFICATION

Existing positions, where the duties have changed materially so as to necessitate reclassification, shall be reclassified by the City Manager to a more appropriate classification, whether new or existing, with the exception of reclassification from training

or internship positions. Except for training or internship positions that are reclassified, the selection of a candidate to fill a reclassified position must be made competitively, unless the incumbent from the reclassified position has been performing the duties for more than one year or unless specifically waived by the City Manager. Such determination must be approved by the City Manager. Regardless of the circumstances, the City Manager may require a competitive examination, and no incumbent shall have a right to be appointed to a reclassified position. No person shall be appointed or employed to fill a reclassified position unless the said reclassified position has been incorporated in the Classification Roster as provided by these Rules. A simple title change is not a reclassification and requires only City Manager approval.

The employee or Department Head may submit a request for a job audit to the Human Resources Director who shall determine if the reclassification is justified and provide a recommendation to the City Manager for approval. The City Manager has the authority to reclassify any employee whose reclassification is justified so long as the position is listed in the existing Classification Roster. If the position is not listed, the City Council must approve the reclassification. Since there is no money budgeted for that specific reclassification increase (normally 5%), the department shall fund for the City Manager-approved reclassification from its general personnel account for the balance of the current fiscal year. The department shall place and fund the reclassified position in the following year's personnel budget. Reclassifications are normally done with the adoption of the fiscal year budget, but may be done at other times.

Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions, promotions, or unit modifications. The Human Resources Director may conduct objective, non-competitive examinations to establish qualifications for the position.

The salary of an employee in a position that is reclassified shall be determined as follows:

- A. Classification with Same Salary Range: If the position is reclassified to a classification with the same salary range as the previous classification, and if the incumbent is appointed to the reclassified position, the salary rate and the anniversary date of the employee shall not change. The provision shall also apply to the change of classification title, provided there is no change in the basic duties of the classification.
- B. Classification with Higher Salary Range: If the position is reclassified to a classification with a higher salary range than the previous classification, and if the incumbent is appointed to the reclassified position, he or she shall be compensated a pay level within the new salary range which is the lesser of five (5) percent higher than his or her previous salary level or the top of the salary range for the new position. The incumbent's anniversary date shall not change.
- C. Classification with Lower Salary Range: If the position is reclassified to a classification with a lower salary range than the previous classification, and if the incumbent is appointed to the reclassified position, the City Manager may approve a Y-rate salary for the employee if the employee's old salary is above the top of the salary range for the new position. Otherwise, the employee's new salary shall be placed at a pay level which yields a salary closest to, but not less

than, the current salary. The incumbent's anniversary date shall not change. Normally, benefits will not be Y-rated, unless specifically approved by the City Manager.

The effective date of reclassification shall coincide with the first working day of a pay period after the reclassification is approved by the City Manager. Any completely new classification, one not listed in the Classification Roster, must be adopted by the City Council before it is approved.

3.45 LAYOFFS/REDUCTION-IN-FORCE/RECALL

The City Manager may lay off permanent and probationary workers at any time for lack of work, budgetary reasons, technological changes, or other City actions that necessitate a reduction in the work force. At least four weeks notice shall be given to any employee who is to be laid off. At the City Manager's discretion, a demotion or transfer to another department or classification may be made to prevent a layoff provided the employee is qualified by education and/or experience and is capable of performing the duties of the classification. The Department Heads, in consultation with the Human Resources Director, and as approved by the City Manager, will effect the layoffs.

Reduction in Force

When it becomes necessary to reduce the work force in the City, the City Manager shall designate the job classification, division, department, or other organizational unit in order to effect a reduction in the work force. Contract, temporary, seasonal, or initial probationary employees in the same job classification as ones proposed to be reduced within the City shall be laid off first. Probationary promotional employees who are laid off shall be returned to their former classification. Employees who accept lower positions or transfers in lieu of lay-off shall be placed at a pay level within the salary range of the new position, which yields a salary closest to current salary.

Order of Layoff

The order of layoff of career employees shall be made in accordance with a system which favors retention of the more meritorious employees, based upon evaluation of the following factors in the listed order of implementation:

- A. An overall rating of "unsatisfactory" or "needs improvement" on the most recent performance evaluation once finalized and filed in Human Resources except when an employee has less than one year seniority with the City. In that case, only seniority will be used.
- B. Documented disciplinary actions during the preceding twelve (12) months.
- C. Seniority (length of service in a career position):
 1. in the city
 2. in the classification
 3. in the department

For employees who are equal in performance and seniority, as established in A-C above, preference will be given to those with proof of honorable military discharge.

Seniority:

Seniority is determined from the day of official appointment to a City department as a career employee, provided that any career employee, who, as a result of promotion, transfer, or voluntary demotion, is appointed to a career position in another department, shall for purposes of layoff, carry seniority previously acquired over to the new department.

Seniority shall continue to accrue during periods of Annual Leave, layoff not exceeding two (2) years, any authorized leave of absence of less than three (3) months, or any call to military service for the duration of the call to duty. Seniority shall not accrue during any other break in continuous service.

Other Policies:

The City may call back as a temporary employee, within the first year after layoff, any laid off employee who is on the recall list when the employee is qualified to fill a vacancy of a full-time position.

Any employee who receives an involuntary transfer shall have the option to be reinstated to a vacated position in the classification said employee was involuntarily transferred from for up to six (6) months from the effective date of the involuntary transfer in the event of layoff.

An employee who chooses to terminate and have his/her name placed on the Reinstatement List under this section shall notify the department in writing of his/her decision at least three (3) working days prior to the effective date of reassignment. Such termination shall be on the same date as the reassignment would have been effective.

Recall List:

The name of every career employee who is laid off, transfers, or elects to demote to a formerly held classification in the same department for longer than one pay period due to a Reduction-in-Force, shall be placed on the Recall List except that the names of those employees laid off under Sections A & B under "order of lay off" above, shall not be placed on the recall list. Vacancies to be filled within a department shall be offered, to individuals named on the Recall List who at the time of the Reduction-in-Force, held a position in the same job classification within the department as the vacancy to be filled. Order of recall shall be same as order of layoff.

Individual names may be removed from the Recall List for any of the following reasons:

- A. The expiration of two (2) years from the date of placement on the list.
- B. Re-employment with the City in a career full-time position in a department other than that from which the employee was laid off.

- C. Failure to respond within 14 calendar days of mailing a certified letter regarding availability for employment.
- D. Failure to report to work within 14 calendar days of mailing of a certified letter containing a notice of reinstatement to a position, absent mitigating circumstances.
- E. Request in writing to be removed from the list.

Status on Re-employment:

A career employee who has been laid off or terminates in lieu of reassignment and is re-employed in a career position within two (2) years from the date of his layoff or termination shall be entitled to:

- A. Buy back and thereby restore all or a portion of Annual Leave credited to the employees' account on the date of layoff or termination and at the same rate as it was sold originally. This restoration must be requested in writing within 30 days of returning to work and must be fully paid back within six (6) months of the return to work.
- B. Restoration of seniority accrued prior to and accrued during layoff.
- C. Credit for all service prior to layoff for the purpose of determining the rate of accrual of Annual Leave.
- D. Placement in the salary range as if the employee had been on a leave of absence without pay if he/she is reinstated to the same job classification in the same department from which he/she was laid off or terminated.

In the event of a vacancy, if there are no individuals on the recall list who formerly occupied the vacant classification, those individuals on the recall list who possess the necessary qualifications for the vacant classification shall be eligible for recall to the vacancy. Eligibility order shall be the same as the order of lay-off.

No person from outside City employment shall be hired in a career position in the deleted classification until all those displaced due to layoffs or transfers are recalled to their former classification or one classification lower in the same career ladder as the one in which the employee was laid off.

Continuation of Benefits:

Those who are laid off shall have their medical insurance benefits continued to the end of the second month following the date of their layoff in the event that they are not covered by another medical plan at that time.

SECTION 4: RECRUITMENT AND SELECTION

4.05 EQUAL EMPLOYMENT GOALS AND POLICIES

In adopting these Rules, it is the goal of the City to employ the most qualified individuals and to achieve excellence in serving the needs of the community. Employment and promotions in the City shall be based upon merit and qualifications and shall be free from political influence and discrimination based upon religion, age, sex, marital status, race, color, national origin, ancestry, pregnancy, medical condition, mental/physical disability, sexual orientation, including gender identity, or political affiliation, unless sex or physical ability is a bona fide occupational qualification.

Although not expressed in the classification specifications or job announcements, all persons applying for or holding any position in the City shall be required to meet the following general qualifications to a reasonable degree: integrity, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume and fulfill the responsibilities of the employment, good health, and physical and mental abilities compatible with the work assignment. Where the position requires the driving of a motor vehicle, the applicant or employee must have a valid California Driver's license and is expected to drive the motor vehicle safely. The foregoing general qualifications shall be deemed to be part of the minimum qualifications of each classification specification or job announcement and need not be specifically set forth therein.

No residency requirements shall be enforced by the City of Moreno Valley. Extensive efforts shall be undertaken to make local residents aware of personnel openings, encouraging them to apply for any positions for which they qualify, and providing them with full due consideration. It is the City's intention to create an environment wherein employees will want to live and work in this community.

4.10 PERSONNEL REQUESTS

To initiate the filling of an authorized vacant position, the responsible Department Head shall submit to the Human Resources Director a completed Personnel Request Form containing at least the following information:

- A. The classification (job) title;
- B. The justification for filling the position, including its budgeted cost code; and
- C. The duties, responsibilities and qualifications of the position in accordance with the Classification Plan.

Each request shall be reviewed and approved by the Human Resources Director and the City Manager or designee.

4.15 JOB ANNOUNCEMENTS

Job announcements providing information about the position, its title and pay, its major responsibilities and duties, minimum and other qualifications, where and when to apply, and the last day on which applications will be accepted shall be prepared and distributed

by the Human Resources Department. All positions to be filled will be publicized by posting announcements on the City's official bulletin boards and in such other places deemed advisable by the Human Resources Director. Employees may suggest additional locations.

Notice of open competitive examinations shall generally be posted a minimum of ten (10) working days before the filing deadline for applications unless it is in the best interests of the City to do a shorter recruitment, as approved by the City Manager. Notice of promotional openings shall be posted a minimum of five (5) working days before the filing deadline for applications.

4.20 PERSONNEL APPLICATIONS

Applications for employment, transfer, or promotion with the City shall be made on forms provided by the Human Resources Department. All information required by the application shall be provided and the applicant shall certify as to the truth thereof. Any material false statement or omission on the application shall, absent mitigation, disqualify the application and may be cause for termination or other disciplinary action if the applicant is or subsequently becomes an employee of the City regardless of when the error is discovered. Resumes and other supplementary information may be submitted and attached to the application for consideration, but may not be used as a substitute for the application.

In order to be considered, an application must be received by 4:00 p.m. on the final day of the advertised recruitment period. A late application shall be accepted from a qualified current City employee only under the following circumstances:

- A. The employee must submit a written letter to the Human Resources Director accompanied with a completed application for the position at least two working days prior to the first interview or testing phase; and
- B. The employee must provide documentation establishing that he or she was absent from work on an authorized leave continuously from the date the position was first posted to the date the application period closed.

4.25 RECRUITMENT

It shall be the City's policy to recruit and hire the best-qualified persons available regardless of religion, age, sex, marital status, race, color, national origin, ancestry, pregnancy, medical/physical condition, sexual orientation, including gender identity, mental/physical disability, or political affiliation, unless sex or physical ability is a bona fide occupational qualification. While recognizing the need for introduction of persons from outside City employment at all levels, the policy of the City is to transfer or promote persons already employed by the City when their qualifications, training, work performance, and work experience are determined to be comparable to applicants from other sources. The Human Resources Director shall recommend to the City Manager whether the recruitment shall be open or promotional, on the basis of assuring an adequate number of candidates with appropriate skills to constitute a competitive merit process.

Except as specifically provided otherwise in these Rules, selection for a position in City employment shall be by one of the following types of examinations.

- A. Open Competitive: Examinations which are open to all persons who possess the indicated minimum qualifications as set forth in the job announcement. Applicants for open competitive examinations may, but are not required to, be employees of the City.
- B. In-House Competitive: Examinations which are open only to City employees who possess the indicated minimum qualifications as set forth in the job announcement.
- C. Temporary Position: Employees may be hired on a temporary basis through either a temporary agency or by the City itself. The City Manager approves these positions. These persons may be hired without competitive examination.

Any variations to these procedures shall be reviewed by the Human Resources Director and approved in writing by the City Manager. The City Manager may select a candidate for Department Head solely based on a review of the applicant's application and/or resume from among those screened by the Human Resources Director as finalists.

4.30 EVALUATION OF APPLICATIONS

Each application shall be reviewed to determine if the applicant satisfies minimum educational experience, type and years of job related experience, certificates or licenses and any other requirements.

Selection techniques shall be impartial and relate to those areas which will adequately and fairly indicate the relative capacity of the applicants to perform the duties and responsibilities of the position to which they seek appointment.

The selection procedure may consist of personal interviews, performance tests, evaluation of work performed, work samples, assessment centers, physical agility tests, other written tests, review and investigation of personal background and references, medical examination, psychiatric examination, or any combination thereof. The Human Resources Director may at his or her discretion include as a part of the examination process, tests which determine whether applicants meet minimum qualifications.

In all examinations the minimum grade or standing for which eligibility may be earned may be based upon all factors in the examination, including educational requirements, experience, and other qualifying elements as shown in the application of the candidate or other verified information. Failure in one part of the examination may be grounds for declaring the applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination.

4.35 CANDIDATES' EXAMINATION INSPECTION

If a selection procedure consists of a written examination, the applicant shall be given written notice of his or her tests results. By appointment with the Human Resources Department, an applicant shall have the right to review his or her own written test within ten (10) working days after the examination results are mailed out. However, no

applicant shall be allowed to examine the test key as part of his or her examination inspection.

Any error in rating or grading shall be corrected if it is called to the attention of the Human Resources Director at the time the applicant reviews his or her examination. Any applicant whose corrected score meets or exceeds the examination's established passing score will be placed on the applicable eligibility list for the position, if one exists. Any correction shall not invalidate an appointment or offer of employment that has been made previously.

4.40 VETERANS POINTS

The final score of a veteran who requests employment preference and submits proof of active duty (such as a DD214) shall receive five (5) additional percentage points, provided that he or she has already met minimum qualifications pursuant to Section 4.30, and attained a passing grade in the examination, if applicable. To be eligible for veterans' preference, the candidate must have received an honorable discharge from the Armed Forces of the United States and served on active duty during a period of war or tension as determined by the Veterans Administration. A disabled veteran, who is currently rated by the United States Veterans Administration as ten (10) percent or more disabled as a result of a service-connected disability incurred on active duty in federalized service during a period of war or tension as determined by the Veterans Administration, who requests employment preference and submits proof of such disability shall receive five (5) additional percentage points, for a total of ten (10) additional percentage points. Such percentage points may be awarded to widows or widowers of veterans upon request for such preference and submission of proof of eligibility.

The provisions hereof, relating to veterans' preference, shall not apply to any promotional examination.

4.45 NEPOTISM POLICY

An applicant for a position who has a relative employed by the City may not be denied the right to file an application for employment and compete in the examination process. Following examination, if the applicant is successfully certified as eligible, he or she may be employed in a department, division, or office in which a member of his or her immediate family is employed. Such employment shall be denied if the Human Resources Director determines that such employment would potentially create a conflict of interest or have a potentially adverse impact on supervision, safety, security, or morale, or if the employee would be in a position where he or she would directly supervise, or be supervised by, a member of his or her immediate family.

For the purposes of this policy, a "relative" or "immediate family member" shall be defined to include the following: mother, father, sister, brother, spouse, domestic partner, children of domestic partner, daughter, son, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandmother, grandfather, granddaughter, grandson, aunt, uncle, first cousin, niece, and nephew. Step-parents may be included if they are members of the immediate family, depending on the current situation.

When the eligible candidate is refused appointment by virtue of this section, the name of the candidate shall remain on the eligibility list for openings in the same classification, as otherwise provided in these Rules, where no member of the employee's immediate family is employed, supervised by, or supervising the vacant position. In no case may an employee participate directly or indirectly in the recruitment or selection process for a position for which the employee's relative has filed an employment application.

Where two relatives are working in the same department, division, or office at the time these Rules are adopted, or if an event occurs in which a familial relationship is established between two employees who work in the same division or office (i.e. if a marriage results in a spousal or in-law relationship), the relationship shall not be deemed a "prohibited relationship" unless the employees' mutual employment creates a potential conflict of interest or has a potentially adverse impact on supervision, safety, security, or morale, and so long as neither employee is in a supervisory capacity over a member of his or her immediate family.

If, as stated above, a familial relationship exists or is established, the employees may continue in their positions so long as the conditions of a prohibited relationship are not met. If, in the determination of the Department Head, such a prohibited relationship does or would exist, the Department Head shall submit the reasons for his or her determination to the Human Resources Director for review. The Human Resources Director shall have one week to investigate the Department Head's findings and determine if a "prohibited relationship" does exist.

If the Human Resources Director's review confirms that a prohibited relationship exists, he or she shall submit his or her results to the Department Head. At this time, the Department Head shall promptly inform the employees of the City's intention to transfer one of the employees to a vacant position of comparable pay and duties in another City division or office, provided that such a vacant position exists, the transferee is qualified therefore, and no offer of employment to fill the vacant position has been made to another eligible candidate. If a position of comparable pay and duties is not open, but one in a lower classification is vacant, either of the employees may elect to voluntarily demote to the lower position, provided that the vacant position is in another department, division, or office, the employee is qualified to fill the position, and the position has not been offered to another candidate. Any voluntary demotion which occurs as a result of this section shall be in accordance with the provisions set forth in Section 3.35. In the event that a transfer or voluntary demotion is not feasible within the time limit set herein, the affected employees shall decide which of them will resign from City employment.

If a transfer or voluntary demotion is not feasible and neither employee has submitted a letter of resignation three weeks after the determination that a prohibited relationship exists, the Human Resources Director and Department Head shall determine which of the employees shall be terminated in good standing. Regardless of which procedure is utilized, the transfer, voluntary demotion, resignation, or termination in good standing shall become effective one month after the Human Resources Director has concurred with the Department Head's determination that a prohibited relationship has been established. This one-month time limit may be extended up to an additional two months with written approval from the City Manager, provided that personal or organizational considerations mandate such an extension.

Except as hereinafter provided, an employee who has been terminated in good standing because of the operation of this Section, may be reinstated to the position which such employee held at the time of termination, or to a position of equal seniority, status, and pay. In order for the employee to be eligible for reinstatement, he or she must be reinstated to a position in a department, division, or office where a prohibited relationship would not be established (or re-established), the position must be open, and the employee must still meet the qualifications for the position. This right of reinstatement shall be effective only through the ninety (90) days immediately following the effective date of the employee's termination in good standing, and shall take precedence over a right of reinstatement which has been derived from a voluntary resignation in good standing. Commencing on the ninety-first (91st) day after the effective date of the termination, the terminated employee shall have a co-equal right of reinstatement with employees who have voluntarily resigned in good standing, up to an additional nine (9) months.

With the exception of the Human Resources Director's review, as provided in this section, any decision to transfer, voluntarily demote, resign, or terminate an employee in good standing (pursuant to this Section), is not subject to any appeal or grievance procedure.

4.50 DRIVING SAFETY CHECK

A verifiable and acceptable driving record and proof of liability insurance shall be required of each final candidate for employment whose position requires the employee to drive a City vehicle or if the employee receives a vehicle allowance or mileage reimbursement. Verification of acceptable driving records of all employees may be conducted periodically. Driving a City vehicle without possessing a valid driver's license is not permitted and may result in disciplinary action up to and including termination. An employee shall notify his/her supervisor immediately if his/her licenses expires, is suspended, or revoked.

4.55 ELIGIBILITY LISTS

Lists of applicants to be considered for job openings in a particular classification may be established for open competitive or promotional competitive positions. An eligibility list shall be a list of persons who have taken an open competitive or promotional competitive examination for an advertised City position and have qualified for said classification. Each such list shall bear an expiration date. The hiring department may appoint any candidate on the eligibility list, provided all candidates with higher rankings have been interviewed. The best qualified candidate, as determined by the hiring manager, on the eligibility list shall be hired.

Non-Management eligibility lists shall remain in effect for six (6) months or until exhausted, whichever occurs first. Management eligibility lists shall remain in effect for three (3) months. An eligibility list may be terminated at any time when less than three (3) eligible candidates remain. The Human Resources Director shall have the right to extend an eligibility list for one or more periods not to exceed in total one (1) year from the original date of certification.

The Human Resources Director may remove a name from an eligibility list for any of the following reasons:

- A. If the eligible person accepts an appointment with the City to a career position of the same or higher classification. Acceptance of a temporary appointment at any level will not in itself be cause for removal from an eligibility list. An eligible person may refuse an appointment to a particular position and request to remain on the eligibility list.
- B. If the eligible person requests in writing removal from the list.
- C. If the eligible person fails to respond within ten (10) calendar days to a notification or letter which has been mailed to the person's last address on file with the City.
- D. If the eligible person is unable to accept any offered position.
- E. If a person on a promotional eligibility list resigned from City employment.
- F. If other circumstances, such as conviction of a crime involving moral turpitude or loss of a required license, make the person ineligible.
- G. If the eligible person has not been offered an appointment after interviewing for three (3) separately budgeted positions which are to be filled from the same eligibility list.

Placement on an eligibility list does not guarantee employment with the City of Moreno Valley.

If a vacancy exists in a classification for which there is no appropriate eligibility list, the Human Resources Director may prepare a list from one or more existing related lists by selecting names of eligibles from eligibility lists for classifications which are assigned to the same or higher salary range and which have minimum qualifications similar to those of the classification in which the vacancy exists.

4.60 FINAL DECISIONS ON SELECTION

The Department Head or designee shall recommend a final candidate for appointment to a vacant position to the City Manager. All appointments shall be subject to Human Resources Director's review and City Manager final approval before becoming effective. If the selected candidate accepts the appointment and reports for duty within the agreed upon time, the applicant shall be deemed appointed to the position. If the selected candidate does not report to duty within the agreed upon time, the candidate shall be deemed to have declined the appointment. By mutual agreement of the Department Head, the Human Resources Director, and the candidate, the date of the appointment may be changed. Upon the affected employee's written petition, effort shall be made to accommodate current City employees who are or will be on an approved leave as of the date of appointment and thereby unable to report for duty at the designated time.

4.65 PRE-EMPLOYMENT PHYSICAL

Each person accepting employment with the City shall be required pass a pre-employment physical and pre-employment drug test at a City-designated medical facility at City cost before an appointment to such employment becomes effective. This Section

shall also apply to changes of employment within the City when the new position places substantially more physical demands upon the employee.

4.70 EMPLOYMENT ELIGIBILITY VERIFICATION

In compliance with law and with regulations of the United States Department of Justice and the Immigration and Naturalization Service, the City of Moreno Valley requires that each person hired by the City complete Section I of the Employment Eligibility Verification Form I-9 to verify that the person is eligible for employment in the United States.

4.75 PROBATIONARY PERIOD

The first six (6) months, or any duly extended longer period, of all new and promotional employment in a career position shall be deemed a probationary period. The probationary period shall commence upon the effective date of the appointment.

During the probationary period, an employee may be terminated without the right of appeal, hearing or resort to any grievance procedure if his or her performance is deemed in any way unsatisfactory or below City standard by the City Manager, upon recommendation of the Department Head. At the conclusion of the probationary period, if the employee's performance does not meet City standards but is not altogether unsatisfactory, the probationary period may be extended up to an additional six (6) months, at the discretion of the City Manager. The decision to extend the length of an employee's probationary period must be based on justifiable reasons and must be made prior to the expiration of the original six (6) month probationary period. Such a decision shall not be appealable or grievable.

An employee who fails to complete his or her promotional probationary period satisfactorily shall be reinstated to the position in the same classification from which he or she was promoted unless discharged from City service as provided in these Personnel Rules. Before an employee may promote, they must first successfully complete original probation.

Crossing Guards shall be required to serve a 650-hour probationary period after becoming regular crossing guards. At the end of a successful probationary period, Crossing Guards shall become eligible for a merit pay increase. An Alternate Crossing Guard shall be deemed "at will/part-time" regardless of the number of hours worked.

4.80 CRIMINAL CONDUCT – INELIGIBILITY FOR EMPLOYMENT

Except as otherwise hereinafter provided, no person convicted of a misdemeanor involving moral turpitude or a felony shall be eligible for employment in the service of the City; however, the City Manager may disregard such conviction if he/she finds and determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

Only the City Manager, Employee Relations Officer, City's Attorneys, Human Resources Director, and other Human Resources staff are authorized to have access to the "State

Summary Criminal History Information” as provided for in Section 11105 of the Penal Code of the State of California.

4.85 FINGERPRINTING

To facilitate the City’s ability to perform complete background checks on its employees, new City employees will be fingerprinted and their backgrounds researched to ensure that there is nothing which would hinder their ability to perform their job satisfactorily or create any unnecessary liability for the City.

4.90 RESIGNATION

Employees who desire to terminate their service with the City shall submit a written resignation to the Department Head at least two weeks prior to the effective date of the resignation. Failure to comply with this requirement may be cause for denying future employment with the City.

4.95 REHIRE

Any career employee who voluntarily or involuntarily resigns or separates and is later rehired, may forfeit all previous seniority and benefits and does not need to be rehired at his/her former classification or pay level, except in the case of lay-off. The rehired employee may be considered the same as a new hire. With approval of the City Manager, a former employee who is eligible for rehire may be rehired by appointment rather than competitively, but may still be placed on six months probation upon return. However, if an employee voluntarily separates from the City and is subsequently rehired by the City within one calendar year of his/her employment separation date, the employee’s benefits will be the same as when the employee separated and the City will pay the employee’s share of CalPERS contributions in the same manner as done prior to the separation.

SECTION 5: PERFORMANCE EVALUATIONS AND SALARY ADJUSTMENTS

5.05 SALARY AT APPOINTMENT

Except as otherwise stated in this Section, all new employees shall be appointed at the 'A' Step of the salary range for the position. When the proposed employee's education, training, experience, and current salary are deemed superior and justify a higher starting salary, the Department Head may offer employment up to the 'C' Step of the salary range without obtaining City Manager approval.

If the Department Head recommends appointing the employee at a pay level above the 'C' Step, City Manager approval must be obtained prior to making an offer of employment. All final appointments are subject to City Manager approval, regardless of the pay level at which the employee is appointed.

When hiring new Department Heads, the City Manager may authorize certain added incentives to aid in the recruitment process. Some added inducements might be the authorization of a moving allowance, additional Annual Leave, educational expenses, etc. Such incentives may be authorized only if in conformance with a written policy, adopted by resolution of the City Council.

5.10 EMPLOYEE PERFORMANCE EVALUATION

The Performance Assessment Review (PAR) is the employee performance evaluation tool. Regular reports on forms prescribed by the Human Resources Director shall be made as to the efficiency, competency, conduct, and merit of all employees appointed by the City Manager. Performance evaluations are required to be given at the following times: three (3) months and six (6) months while on probation, and annually thereafter on the employee's anniversary date. An employee who received a rating of "Needs Improvement" will be eligible to be re-reviewed in six (6) months. Any decision to extend an employee's probationary period must be made prior to the expiration of the original probationary period. Any evaluation which warrants a merit increase but is not completed by the designated review date shall be retroactively paid back to that review date. In addition to those occasions referenced by this Section, a supervisor may render a performance evaluation when performance issues arise, whether positive or negative; when there is a change in assignment; and/or when there is a change in supervisor or management.

During the performance evaluation meeting, the employee and supervisor shall review and discuss the employee's significant accomplishments, training, problem or improvement areas, and future development and objectives. After reviewing the job descriptions, duties, and any established performance standards for that position, an evaluation shall be made by the supervisor as to whether the employee's performance meets City standards. An explanation must accompany any unacceptable or conditional judgment. The employee shall have an opportunity to review his or her performance evaluation report and agree or disagree with it. Based upon the Performance Assessment Review, the supervisor may make appropriate recommendations regarding a possible merit increase, or other action.

The employee shall have the right to attach a written response to the corresponding performance evaluation in his or her personnel file. This response must be made within ten (10) working days of receiving the evaluation.

If a career employee's written objection to his/her evaluation is concurred with by the Department Head, the evaluation may be revised accordingly. If there is no denial of merit increase nor an overall below-City standard rating, the Department Head's decision shall be final and conclusive with regard to the validity of the objection.

If a career employee is not in agreement with a performance evaluation which results in an overall below-City Standard rating (other than one which results in denial of a merit increase or in any other direct monetary detriment to the affected employee), the employee may, within ten (10) working days after receipt of the evaluation, request a review of such evaluation by his or her Department Head. If the employee is not in agreement with the determination of the Department Head, the employee may, within ten (10) working days after receipt of the determination of the Department Head, request a further review by the City's Human Resources Director, whose decision shall be final and conclusive.

If a performance evaluation results in a denial of a merit increase or in any other direct monetary detriment to the affected career employee, the employee may, within ten (10) working days after receipt of the evaluation, request a review thereof by his or her Department Head. If not in agreement with the determination of the Department Head, the employee may, within ten (10) working days after receiving the determination of the Department Head, request a further review of the evaluation by the City's Human Resources Director, whose decision shall be final and conclusive.

In either of the foregoing situations, if the career employee's Department Head prepared the evaluation in question, the employee may omit review by the Department Head and proceed directly to the next level of review by the Human Resources Director.

Probationary employees may attach written responses to their probationary evaluations and submit them to the Department Head for consideration, however, such employees have no appeal rights.

The employee and supervisor must sign and date the report. If the employee refuses to sign the report, the supervisor shall note this fact and any circumstances surrounding the employee's refusal on the Performance Assessment Review. Copies of the Report shall be distributed to the employee, the Department Head, and the Human Resources Department.

5.15 PROGRESSION ON MERIT PAY

A. Career Full-time and Career Part-time Employees shall earn merit pay increases based on meeting or exceeding satisfactory performance of duties in the overall rating rather than simple longevity, as follows:

1. Normal Progression

From the date of employment until the successful conclusion of the probationary period, no merit pay increase shall be granted. At the end of

a successful probationary period, the employee shall become eligible for a merit pay increase provided that the employee's overall performance has satisfactorily met City Standards. Thereafter, eligibility for merit pay increases shall occur at 12-month intervals provided the employee's performance is satisfactory, until such time as the employee reaches the top of the salary range available for his or her position. Employees must achieve an overall "meets job requirements" to be deemed as having met City Standards. An employee who receives an overall performance rating less than "meets expectations" will not receive a merit increase. An employee who receives a rating of "Needs Improvement" will be eligible to be re-reviewed in six (6) months.

2. Promotional Progression

From the date of promotion until the successful conclusion of the probationary period, no merit pay increase may be granted. When an employee is promoted to a classification with a greater salary range, his or her salary increases to an appropriate salary step within the salary range of the new position. An employee who is promoted shall be compensated at the pay level within the new salary range which is the lesser of five (5) percent higher than the pay level he or she held in the previous salary range or the top of the salary range for the new position.

All promoted employees who successfully pass their promotional review period are eligible for a step merit pay increase within the salary range of their position, again provided satisfactory performance is achieved. A promoted employee is eligible for another merit pay increase, annually thereafter, from the date of the promotional review until their salary reaches the top of the salary range.

- B. Temporary and Seasonal Employees It is the policy of the City of Moreno Valley to grant a merit pay increase to temporary employees after the first 1,000 hours of service, provided the performance is satisfactory. The next increase would occur after completion of 3,000 hours, as long as performance remained satisfactory, and every 2,000 hours thereafter, until such time as the employee reaches the top of their salary range. If a merit increase is warranted, it will be based on an abbreviated evaluation form similar to the one used during probation for a career employee. A temporary or seasonal employee may receive a performance evaluation when his or her period of service concludes to determine whether he or she is eligible for rehire and may be evaluated more frequently at the discretion of the supervisor. This performance evaluation may also be used as a basis for considering salary in the event the employee is rehired.
- C. All Crossing Guard employees who have successfully completed training shall become eligible for a merit pay increase. Regular Crossing Guards shall become eligible for a second merit pay increase upon completion of six hundred and fifty (650) hours of service; and shall then be eligible for merit adjustments once in each succeeding period of thirteen hundred (1,300) hours of continuous service, provided that performance meets City standards.

SECTION 6: ATTENDANCE AND HOURS OF WORK

6.05 WORKWEEK AND OVERTIME

For purposes of applying the overtime requirements of the Fair Labor Standards Act (FLSA), the workweek for City employees shall begin at 12:01 p.m. Friday and end at 12:00 noon the following Friday. For any illness or emergency absence from work, the employee must notify the supervisor within the first half hour of normal reporting time when possible.

6.06 OVERTIME COMPENSATION

Overtime compensation shall be provided to City employees as follows:

- A. Executive Management, Division Management, and Professional/Administrative/Management Employees are salaried employees and shall not receive overtime compensation. Employees in these categories shall receive administrative leave hours, as specified in Section 7.25.
- B. Non-Exempt and Part-time Employees may receive overtime compensation in the form of paid time or compensatory time-off, at a time-and-one-half rate. The choice of compensation method is the employee's. Employees in these categories may accrue compensatory time to a maximum cap of 120 hours. The City Manager may allow accrual beyond the maximum if circumstances warrant. Overtime will be paid for hours worked in excess of 40 hours in a workweek in accordance with the Fair Labor Standards Act (FLSA). In addition, career employees will be compensated with overtime for any hours actually worked in excess of 9 hours in a workday for those on a modified schedule or 8 hours in a workday for those on a regular schedule. Part-time Career Employees must use the 9-hour workday for overtime. Career employees will also receive overtime pay for hours worked on a City designated holiday or for a "Call Back" or "Call Out" as described in sections 15.05 and 15.10. All overtime worked must be pre-approved by the employee's manager.
- C. An employee who has accumulated the maximum amount of compensatory time shall not work overtime on a compensatory time basis until the accumulation has been reduced to less than the maximum accumulation allowed under these Rules. This in no way limits or caps paid overtime.

For Non-Exempt positions, which do not meet one of the FLSA exemption categories, overtime hours worked shall be compensated for time actually worked in excess of 40 hours in a workweek. In addition, and in accordance with the MOU, Career Non-Exempt employees shall be compensated for time actually worked in excess of 9 hours in a workday and/or 40 hours in a workweek for those employees on a modified work schedule or 8 hours in a workday for those on a regular work schedule. A paid holiday shall count as time labored towards the 40-hour workweek for the purposes of overtime compensation. Annual Leave, or compensatory time will not be included as time worked for purposes of calculating overtime.

Overtime for all Non-Exempt employees shall be compensated in one of the following two ways:

- A. As paid time at the one-and one-half rate of pay; or
- B. As compensatory time as accrued at the one and one-half rate of pay.

Prior to overtime being authorized, the employee and his or her supervisor shall agree as to how the employee shall be compensated (i.e. paid time or compensatory time). If the employee and supervisor do not agree on the method of compensation, the supervisor may ask another employee to perform the overtime work. If the supervisor requires that a particular employee perform the overtime, yet they cannot agree on the method of compensation, then the employee shall be given the choice of how he or she wishes to be compensated. Compensatory time accumulated under these Rules and Regulations is vested time and must be utilized or paid in conjunction with termination of employment.

6.08 COMPLIANCE WITH FAIR LABOR STANDARDS ACT

The City is committed to complying with the Fair Labor Standards Act and therefore prohibits improper deductions from FLSA exempt employees' pay. The City will promptly remedy any violations of this policy by reimbursing an affected employee for any amounts which have been improperly deducted from the employee's pay.

Any employee who believes that an improper deduction has been made from his/her pay should submit a complaint to the Human Resources Department as soon as possible. The Human Resources Department shall promptly investigate the complaint and render a written decision as soon as is reasonably possible. If the complaint is determined to be justified, the employee shall promptly be reimbursed in the amount improperly deducted. The City shall thereupon restate its good faith commitment to future compliance with the Fair Labor Standards Act.

6.10 NO GUARANTEE OF HOURS

Nothing contained in these Rules shall be construed to constitute a guarantee of minimum hours of work per day or per work week or of days of work per work week, provided that when reasonably possible at least 14 calendar days advance notice shall be given to each employee whose work hours are to be reduced. When economic conditions dictate, management may direct a reduction of hours, a furlough, or a reduction-in-force.

6.15 STAND-BY AND CALL-BACK POLICY

Policies relating to stand-by and call-back duty shall be established by the City Manager. *(For more information on stand-by and call-back requirements and compensation, see Section 15.)*

6.20 TIME SHEETS

All City employees must complete time sheets showing hours worked and leave taken. Salaried employees are not subject to having their pay reduced for less than 8 hour increments when no other authorized leaves are available to them. The City may make deductions from paid leave accruals for periods of less than 8 hours. Time sheets must

be signed by the individual employee, the employee's supervisor, Division Manager and, where required, Department Head. Time sheets will be reviewed and audited by the Finance Department. Notice of any correction(s) to the time-sheet will be sent to the employee and the Department Head. Such corrections will be deemed final unless questioned by the employee within thirty (30) days after the notice of correction has been given to the employee. Unresolved matters may be taken to the Human Resources Director for a final determination.

6.25 CONSTRUCTIVE RESIGNATION

An employee who is absent, without authorized leave, for three (3) or more consecutive work days is deemed to have resigned. If the Department Head, with the concurrence of the Human Resources Director, determines that extenuating circumstances exist, the resignation may be rescinded, in which case, absence may be covered by leave, with or without pay, if so approved by the Department Head.

6.30 LUNCH AND BREAK POLICY

Employees may take one break in the morning (before 11:00 a.m.), and one in the afternoon (after 2:00 p.m.). Break periods shall not exceed fifteen (15) minutes each. One paid break period is allowed for each 4-hour work period. Part-time employees are not entitled to a paid break unless they work longer than four hours.

Lunch periods shall be at least thirty (30) minutes, but no more than sixty (60) minutes per day. Employees are expected to conform their lunch hours in accordance with department schedules. As department schedules may not permit all employees to take lunch between 12:00 noon and 1:00 p.m., the Department Head may authorize staggered lunch periods throughout the late morning and afternoon. Part-time employees must work six or more consecutive hours to receive an unpaid 30-minute lunch break. If the part-time employee is alone, he/she may be authorized to eat at the work-site on paid time.

An employee who takes a break from his/her normal work station to smoke is using part of the 15-minute break. Employees in transit in the conduct of City business while smoking does not constitute a smoke break.

Break and lunch periods may be taken only in the time period for which they are designated and may not be accrued. Extenuating circumstances, as determined by the immediate supervisor, may establish cause for variation from the scheduling of break and lunch periods.

Salaried employees are expected to conform generally to the established standard for all employees. Although flexibility is provided for salaried employees to exercise judgment in maintaining their work schedule, this schedule should not be to the detriment of work production.

SECTION 7: LEAVES

7.05 HOLIDAY PAY AND HOLIDAY LEAVE

Days designated as legal holidays by the City Council are 11 holidays as follows:

New Year's Day (January 1), Dr. Martin Luther King, Jr. Day (3rd Monday in January), President's Day (3rd Monday in February), Memorial Day (last Monday in May), Independence Day (July 4th), Labor Day (1st Monday in September), Veteran's Day (November 11th), Thanksgiving (4th Thursday in November), Day after Thanksgiving (Friday after Thanksgiving), Christmas Eve (December 24th), and Christmas Day (December 25th).

Effective July 10, 2009, career full-time and career part-time employees receive holiday pay for all working hours scheduled to be worked on a holiday. If the holiday occurs on a day the employee is normally scheduled off, e.g. Friday, Saturday, Sunday or a WSR day, then the hours are recorded in the employee's accrued holiday leave bank, and the employee may request to use the banked holiday leave time like paid Annual Leave. However, when a holiday occurs on a Friday, Saturday or Sunday, the City may designate another day during the work week as an observed holiday. Career full-time employees accrue the number of hours of holiday leave time, based on their regular full-time work day schedule and work week schedule, i.e. 8 hours when on a 5/40, 9 hours when on a 4/36, 8 hours when on a 9/80, or 10 hours when on a 4/10 work week schedule. Career part-time employees accrue holiday leave time on a prorated basis. Accrued holiday leave time hours remain in the employee's holiday bank until used, without risk of forfeiture.

Temporary employees do not get paid or accrue holiday leave time.

7.10 ANNUAL LEAVE

In lieu of accruing separate banks of floating holiday, vacation, sick hours, and administrative leave time where applicable, employees will accrue annual leave. Effective December 14, 2007, accrued vacation banks for current employees will be converted to annual leave on an hour-for-hour basis.

Annual Leave Usage

Some of the appropriate uses of this leave time include the following:

- A. To provide recuperation time for an employee incapacitated due to illness, injury, or other medical disability;
- B. To allow for the quarantine of an employee exposed to a contagious disease which results in the enforced quarantine of an employee in accordance with public health regulations;

- C. To attend to the urgent health needs of immediate family members;
- D. To attend medical or dental office appointments;
- E. To enable employees to conduct important personal business during normal working hours;
- F. To provide time for periods of rest and relaxation; or
- G. In other instances consistent with all existing Rules and Regulations as authorized by the employee's Executive Manager or representative.

When personal emergencies or situations of personal necessity arise, annual leave may be granted over the telephone within 30 minutes of start time unless special and extenuating circumstances prohibit employees from calling in, but the caller must identify the specific reason for the emergency or necessity and follow up with a written request. Employees are encouraged to accrue annual leave balance as a protection against the adverse affects of short- or long-term absences due to a major illness or injury.

Minimum Use: During each calendar year, each full time career employee shall use at least 80 hours of annual leave. Part-time career employees are required to use forty (40) hours of annual leave. Further, employees are urged to retain a reasonable bank of annual leave in case of unexpected illnesses or injuries to either themselves or family members.

All employees shall generally make a request for said leave to the executive manager in sufficient time to plan work schedules. Consequently, executive management is responsible for planning work schedules to allow each employee to take that leave each calendar year and each employee is responsible for using it. Failure to use the minimum required hours of such leave shall result in City Manager review of the circumstances surrounding such failure. Failure to follow the minimum usage may result in disciplinary action if conditions warrant.

Paid annual leave shall continue to accrue in accordance with the provisions during any authorized period of leave with pay. All annual leave shall be scheduled and taken in accordance with the best interest of the City and the department or division in which the employee is assigned.

If an employee needs to be absent from work on a given day due to any unexpected reason, he/she must notify the supervisor by telephone within the first half hour of normal reporting time or earlier if possible.

Reporting Annual Leave: The reporting of the use of annual leave should normally be in increments of a quarter of an hour for non-exempt employees and

quarter of an hour increments for exempt employees will be used whether the employee works a full or partial day.

Physician's Certificate: An employee absent on unscheduled annual leave in excess of three (3) consecutive working days due to illness or injury, may be required by his/her executive manager to submit a written statement by a physician certifying that the employee's condition prevented the employee from performing his/her duties. The executive manager may also require a written statement that such employee is able to resume his/her normal duties. Management must list reasons for requesting the doctor's excuse for annual leave of less than three (3) consecutive working days. An employee may be placed on medical certification in instances when leave has not been pre-approved and the employee has exceeded the minimum use requirement for Annual Leave.

Leave Donation: Up to 24 hours of annual leave may be voluntarily donated from one employee to another out of a humanitarian need when the recipient employee has no leave accrued per approval by the Human Resources Director. No more than 480 total hours of leave may be donated to an individual employee.

Annual Leave Accrual

Annual leave time will accrue on a bi-weekly basis for twenty-six (26) pay periods a year. Each career employee shall have annual leave time accrue for each pay period starting from the first day of probationary appointment. Accrual rates are based on years of service.

Employees shall receive annual leave benefits on a pro-rata basis, calculated by the number of hours paid as a percentage of a forty (40) hour workweek, including any WSR. Employees, as outlined in the City's Benefit Plan, shall receive annual leave accruals as follows:

- A. Executive Management Employees shall earn 11.39 hours of annual leave per pay period of service (approximately 296 hours per year). This accrual shall extend to 12.93 hours per pay period (approximately 336 hours per year) at the beginning of the sixth year and extend to 14.47 hours per pay period (approximately 376 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 1,664 hours of annual leave. This 1,664 hour cap includes previously accrued leave. Once an employee reaches this cap, annual leave accruals will be suspended.
- B. Division Management Employees shall earn 10.47 hours of annual leave per pay period of service (272 hours per year). This accrual shall extend

to 12.01 hours per pay period (approximately 312 hours per year) at the beginning of the sixth year and extend to 12.93 hours per pay period (approximately 336 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 1,664 hours of annual leave. This 1,664 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Division Management Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 13.55 hours per pay period (approximately 352 hours per year), and may accrue up to 1,664 hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

- C. Professional / Administrative shall earn 9.70 hours of annual leave per pay period of service (252 hours per year). This accrual shall extend to 11.24 hours per pay period (approximately 292 hours per year) at the beginning of the sixth year and extend to 12.16 hours per pay period (approximately 316 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to 1,664 hours of annual leave. This 1,664 hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

PAM Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 12.77 hours per pay period (approximately 332 hours per year), and may accrue up to 1,664 hours of annual leave.

PAM Confidential employees receive an additional 0.62 hours per pay period (approximately 16 hours per year) of annual leave per year.

- D. Non-Exempt Employees shall earn 7.39 hours of annual leave per pay period of service (approximately 192 hours per year). This accrual shall extend to 8.93 hours per pay period (approximately 232 hours per year) at the beginning of the sixth year and extend to 9.85 hours per pay period (approximately 256 hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the annual leave accrual rate as a recruitment tool. Employees in these categories may accrue up to 1,664 hours of annual leave. This 1,664 hour cap includes previously accrued leave. Once an employee reaches this cap, annual leave accruals will be suspended.

Non-Exempt Employees hired prior to 9/22/92, shall accrue annual leave at the rate of 10.47 hours of annual leave per pay period (272 hours per

year), and may accrue up to 1,664 hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

- E. Seasonal Employees/Crossing Guards with Leave Accruals shall accrue annual leave at a rate determined by their program agreement or contract.

Temporary Employees shall not normally accrue paid annual leave, but may take leave without pay as approved by their supervisors.

7.15 GRANDFATHERED LEAVE BALANCES

Prior Sick Time Accruals: Employees shall retain all existing sick leave hours accrued prior to the enactment of this policy on December 14, 2007. Such accrued sick leave hours shall be referred to as Grandfathered sick leave balance and are considered Frozen Sick Leave hours. Although sick leave will no longer continue to accrue for employees, an employee's frozen sick leave balance will be available for use in the event of a illness or injury, which qualifies for disability. These frozen sick leave hours can be used for baby bonding or family member's illnesses or injuries, if the employee is on approved FMLA leave.

This Grandfathered sick leave balance shall be available for cash out upon separation at a rate of 40% of the accrued balance for full time employees and 20% for part time employees. The remaining balance will be converted to PERS service credit for retiring employees. Separating employees will forfeit the remaining balance.

At retirement, Frozen Sick Leave balance (sick leave accrued prior to December 14, 2007) will be paid as elected by the employee per the following formulas:

1. 70% PERS Service Credit with 30% Cash Out
2. 80 % PERS Service Credit with 20% Cash Out
3. 90% PERS Service Credit with 10% Cash Out
4. 100% PERS Service Credit with 0% Cash Out

Grandfather Clause: Sick leave balances as of 9/22/92 for Executive Management and Division Management employees shall be available for cash out upon retirement at a rate of 60% of the accrued balance and 40% towards PERS service credit. When sick leave is taken, the hours last accumulated shall be utilized first. Employees not retiring under the City's CalPERS contract benefits at the time of employment separation shall forfeit 40% of their frozen sick leave. An employee absent for three consecutive working days due to illness of injury may access their frozen sick leave bank if they submit a written statement by a physician certifying that the employee's condition prevented the employee from performing his/her duties. Further, the employee is to complete the Leave of Absence Request Form and attach it to the physician's certification before submission to their supervisor and executive manager for approval.

Converted Vacation, Holiday, Floating Holiday, and Admin Leaves: Balances converted to annual leave will be cashed out upon separation at the 100% rate in effect prior to the enactment of this policy. When annual leave is taken, the hours last accumulated shall be utilized first.

Effective one time only, at the time of conversion to Annual Leave, total hours in excess of 1384 shall be excluded from the 1664 hour annual leave cap.

The beneficiary on file of an employee who has died while actively employed by the City may receive a 100% cash out of the employee's accrued sick leave.

7.20 ANNUAL LEAVE CASH OUT UPON SEPARATION AND RETIREMENT

Separation from the City

Employees separating from the City are entitled to payment for 100% of their unused accrued annual leave balance.

Retirement from the City

Employees retiring from the City are entitled to payment for 100% of their unused accrued annual leave balance.

No compensation for annual leave will be awarded to current City employees until they terminate or retire.

Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15.

7.30 BEREAVEMENT LEAVE

Employees shall be allowed to utilize four (4) days of bereavement leave in the event of the death of an immediate family member. Immediate family in this instance shall be defined as mother, father, spouse, domestic partner, natural/step-children, children of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild. Step-parents may be included if they are currently members of the immediate family.

Employees will be allowed Annual Leave to be taken and/or advanced, if needed, up to ten (10) days in length in addition to bereavement in the event of a death in the employee's immediate family (parent, spouse, child, domestic partner, step-child, child of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild). Step-parents may be included if they are currently members of the immediate family.

7.35 JURY DUTY AND WITNESS LEAVE

No employee shall be dismissed or in any manner discriminated against for taking time off from work to serve as a juror or witness when required by law provided such an employee complies with the provisions of this Section. An employee called to serve as a juror or witness shall notify his or her supervisor at least one (1) week prior to the commencement of such service, unless extenuating circumstances exist.

Any employee of the City called as a juror or witness shall be entitled to be absent from his or her duties with the City shall receive their regular salary limited to one-hundred (100) hours each year for each of the following types of jury service: local and federal. This could be expanded, dependent on an unusual situation, which is subject to the approval of the City Manager. The employee shall obtain a jury calendar or assignment sheet weekly during such service. The employee shall have the jury calendar or assignment sheet signed by the jury clerk or commissioner and shall deliver this sheet to his or her supervisor at the end of each week to verify jury duty or witness service.

If a career employee on an alternative work schedule is summoned for jury duty, the Department Head or designee shall convert the employee's usual work shift to a regular five (5) day, Monday through Friday shift basis. A career employee required to serve on jury duty shall be entitled to his or her regular rate of pay, provided the employee deposits any fees for service, excluding mileage, with the City. A crossing guard, temporary, seasonal, or emergency employee called for jury duty will not be compensated for time lost while on jury duty, but shall be entitled to retain his or her jury fees.

Any employee required to be absent from work on behalf of the City by proper subpoena issued by a court or other legally empowered agency, shall be entitled to be absent from work at his or her regular rate of pay, provided that any fees, except mileage, are deposited with the City. A non-exempt employee required to be present as a witness in any other matter shall not be entitled to be paid during such absence. An exempt employee will be paid his/her regular rate of pay whenever required to provide testimony under oath in any proceeding related to City matters.

An employee who is released by the court from jury duty on any regularly scheduled work day shall contact his or her supervisor to find out whether he or she is required to return to work. An employee who is scheduled for stand-by duty while serving on jury duty shall be rescheduled for stand-by duty after the conclusion of jury duty, unless the employee agrees to serve both.

7.40 PREGNANCY DISABILITY LEAVE

Pregnancy disability leaves of absence shall be granted to employees medically disabled by pregnancy, childbirth, or related conditions, provided such leave shall not exceed four (4) months. At the commencement of a pregnancy disability leave of absence, employees will use accrued Annual Leave and/or compensatory time off, as well as disability pay, and thus, continuing to receive pay. City pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies except as modified herein. The use of accrued time-off shall not extend the length of the leave. The authorized absence is only for the duration of the disability up to four (4) months.

When an employee is on pregnancy disability leave, the City shall continue payment of benefit premiums for the employee and her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. If an employee files for disability, a doctor's certification is required. When the employee is no longer disabled, she may no longer continue pregnancy disability leave. Annual Leave shall not accrue during a pregnancy disability leave of absence unless the employee is continuing to receive pay by utilizing accrued Annual Leave or compensatory time off. Employees on pregnancy disability leave may also be eligible for benefits under the City's Disability Program. Employees must file a claim in order to receive these benefits. Forms are available from the City's Human Resources Department.

Any employee who takes a pregnancy disability leave of absence shall have her anniversary date extended by the same length of time as the unpaid portion of the maternity leave. For purposes of this section, paid portions of pregnancy disability leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a pregnancy disability leave of absence while on probation, her probationary period shall be extended the same length of time as the pregnancy disability leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

A request for a pregnancy disability leave of absence should be submitted by the employee as soon as feasible after the employee learns of her pregnancy. The employee must provide a written statement from her physician indicating the date the physician believes the leave of absence should begin and the estimated date of birth. The City may require a pregnant employee who wishes to continue working to provide a physician's statement approving the continuance of her current work duties.

Before returning to work following a pregnancy disability leave of absence, the employee shall submit a physician's verification stating the employee's ability to return to work. Unless the leave is otherwise extended, at the end of the four (4) month pregnancy disability leave period the employee shall be required to return to work full time. If approved by the employee's physician, the Department Head and the Human Resources Director, the employee may choose the option of returning to work prior to the conclusion of the four (4) month period on either a full-time or part-time basis and receive pro-rated benefits.

Up to an additional two (2) months of pregnancy disability leave may be granted for medical reasons if the employee's physician provides a written statement indicating the employee's inability to perform her duties or any feasible "limited duties." Such an extension of pregnancy disability leave is subject to the approval of the City Manager whose decision is final and conclusive. Nothing herein shall guarantee an extension beyond the standard four (4) months of leave.

An employee may take both pregnancy disability leave and subsequently State family care and medical leave to be with a newborn. The employee is entitled up to four (4) months of pregnancy disability leave, plus an additional twelve (12) weeks using the State family care and medical leave provisions.

7.45 FAMILY CARE AND MEDICAL LEAVE

Leaves of absence shall be granted to employees who have full-time career service with the City during the previous 12-month period, for the reason of childbirth, adoption, foster care, parental care, serious family illness, or for an immediate family member or the employee's own serious health condition, provided such leave shall not exceed twelve (12) weeks of leave in a twelve (12) month rolling period. When both parents are employed by the City, the two employees are only entitled to receive a combined twelve (12) weeks for the birth, adoption, or foster care of a child.

At the commencement of a family leave of absence, employees may first use all Frozen Sick Leave, and then any other accrued leave available, such as accrued Annual Leave or compensatory time off and, thus, continue to receive pay. Pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies governing leave without pay, except as modified herein. The use of accrued time off shall not extend the length of the leave.

The City requires the following information on a certification of the need for this leave:

- A. The date on which the serious health condition commenced.
- B. The probable duration of the condition.
- C. In the case of caring for a family member, an estimate of the amount of time the employee needs to care for the individual.
- D. That the serious health conditions warrant participation of a family member to provide care during the period of treatment.

In the case of an employee's own serious health condition, if the employee is unable to perform the functions of his or her position, the City can seek second and third opinions at its cost.

A serious health condition means an illness, injury, or impairment, or physical or mental condition that involves one of the following: hospitalization; absence of three (3) days plus treatment; pregnancy; chronic conditions regarding treatment; permanent/long term conditions requiring supervision; or multiple treatments (non-chronic conditions).

When an employee is on unpaid family leave, the City shall continue payment of benefit premiums for the employee and his/her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. Annual Leave shall not accrue during a family leave of absence unless the employee is continuing to receive pay.

An employee who takes a family leave of absence shall have his/her anniversary date extended by the same length of time as the unpaid portion of the family leave. For purposes of this section, paid portions of family leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a family leave of absence while on probation, his/her probationary

period shall be extended the same length of time as the family leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance. Family leave shall not constitute a break in service for purposes of longevity or seniority.

The employee should request a family leave of absence by submitting the proper form to his/her supervisor, signed by the Department Head, concurred by the Human Resources Director, and approved by the City Manager. Forms may be obtained in the Human Resources Department. For a more detailed understanding of this policy, the employee should read the complete family leave policy in the City's Administrative Policy Manual.

Employees may take 40 hours of Annual Leave per school year to consult with the school teachers or counselors of children, step-children, or children of domestic partners, or to attend their school activities. This time is to be taken against any leave accruals except sick leave. If no accrual is available, leave without pay may be used. As this is State law, supervisors must approve this leave up to 40 hours annually per child. The employee must provide evidence of this school appointment. Supervisors need not approve more than eight (8) hours in a month.

7.50 LEAVE OF ABSENCE WITHOUT PAY

Any employee who is absent from work and who is not on leave of absence with pay shall be considered to be on leave of absence without pay, if such leave has been authorized by the proper authorities.

This section is designed to grant special requests for leaves of absence without pay that are not specifically addressed in either the military leave, FMLA, or pregnancy disability leave sections of these Personnel Rules.

A leave of absence without pay must be approved by the appropriate Executive Manager. Leave without pay in excess of one week shall also require the approval of the Human Resources Director. No leave of absence without pay shall be granted unless the employee requests the leave in writing and includes the reason for the request. Approval by the appropriate authority shall be in writing. No leave of absence without pay pursuant to this Section shall be requested or authorized for the purpose of imposing disciplinary action upon any employee. The supervisor may require leave without pay in the event an employee is late for work or misses work without valid approval. In this case the supervisor would annotate the employee time sheet with leave without pay for the absent time.

An employee on a leave of absence without pay shall not receive compensation on accrued Annual Leave. After thirty (30) consecutive working days on a leave of absence without pay, contributions to retirement, life insurance, medical, dental, or other designated benefit plans shall be suspended until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue his or her benefits coverage at his or her own expense, with the exception of retirement benefits, which may not be so continued. Any employee requesting a leave of absence without pay shall utilize all of his or her accrued compensatory time off or Annual Leave prior to the start of the leave without pay.

Any employee who takes a leave of absence without pay for more than 30 work-days in a calendar year shall have his or her anniversary date extended by the same length of time as the leave without pay. If an employee takes a leave of absence without pay while on probation, his or her probation period shall be extended the same length of time as the leave without pay. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated to the position he or she occupied at the time leave was granted. Unauthorized failure on the part of an employee to report to work upon expiration of the leave of absence without pay shall constitute job abandonment and will result in dismissal.

It is the responsibility of the employee to submit a written request for a leave of absence within two weeks before such leave would begin stating the reason for the request, the date such leave will begin, and the duration of the leave. A "Leave of Absence Request" form and a "Payroll Action Form" must also be completed. Failure of an employee to apply for leave of absence and complete all necessary forms will be considered to be absent without leave, and all City-paid benefits will be terminated. Any unauthorized absence of an employee from duty shall be deemed to be absent without pay and may be cause for disciplinary action. Failure to report for work or call in for three (3) consecutive workdays shall be considered a voluntary resignation.

7.55 MILITARY LEAVE

Military Reserve Leave shall be granted under the provisions of State Law, which, in pertinent part at the present time, defines military reserve leave as: "military duty ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity as such member, provided that the period of ordered duty does not exceed 180 calendar days in a fiscal year, including time involved in going to and returning from the duty, but not for inactive duty (for training) such as scheduled reserve drill periods."

For the purposes of this Section, "active military training" shall be defined as a period of training (i.e. encampment, naval cruises, special exercises, or like activities) that normally occurs once a year over a two-week interval. "Inactive duty for training" and "scheduled reserve drill periods" shall be defined as the weekend periods of training that are scheduled once a month. Such weekend drills do not conflict with normal working hours within the City.

Employees must submit a copy of military orders to their Department Head and the Human Resources Director prior to the beginning of the military leave period and as soon as the employee knows of the need to request such leave, except where military necessity dictates.

Employees shall receive their full regular pay during the first thirty (30) calendar days of "military leave" in any one fiscal year. After the first thirty (30) days of military leave in a fiscal year, employees will continue to receive the same compensation less any military pay up to one year during the period of active military leave.

Employees on a military leave of absence shall receive the same Annual Leave and the same rights and privileges to promotions, continuance in office, employment, reappointment to office, or reemployment that they would have enjoyed had they not been absent there from. Contributions to retirement, and medical and dental plans that are not otherwise provided by military coverage during active duty, shall be continued until the employee is reinstated, provided that the period of ordered duty does not exceed three (3) years.

Except for probationary employees, an employee's anniversary date shall be extended if his or her military leave of absence is in excess of thirty (30) days per fiscal year. If an employee's military leave of absence exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as his or her leave of absence, minus the first thirty (30) days (i.e. if the employee's military leave of absence is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee is required to perform military reserve duties while on probation, his or her probationary period shall be extended the same length of time as the military leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

The City shall reinstate those employees returning from a military leave of one year or less to the position they occupied prior to taking a military leave of absence or to a position of comparable seniority, status, and pay, if such position exists, upon presentation of a certificate of satisfactory completion of service and if such employees are qualified to return to their former positions. If no such comparable position exists, the employee shall have the same rights and privileges that he or she would have had if he or she had occupied the position when it ceased to exist and had not taken a temporary military leave of absence.

Any employee who, in time of war or national emergency as proclaimed by the President or Congress, is ordered by the military to active duty, shall have a right, if released, separated, or discharged under conditions other than dishonorable, to return to his/her former classification within one year after termination of his/her active service with the armed forces, but not later than six (6) months after the end of the war or national emergency. (See Government Codes 395.1, 146, and 395.05.)

7.60 ON-THE-JOB INJURIES AND WORKERS' COMPENSATION COVERAGE

All injuries and illnesses arising out of, and in the course and scope of employment with the City, including first aid injuries, shall be reported immediately to the appropriate supervisor. The supervisor, upon receiving notice of the accident, shall be responsible for (1) giving the injured employee an "Employee's Claim For Workers' Compensation Benefits" (DWC-1) form within twenty-four (24) hours; and (2) immediately notifying the Risk Management of the accident in accordance with Labor Code provisions. The Risk Management shall be responsible for completing an "Employer's Report of Occupational Injury or Illness (form 5020)."

An employee incapacitated on account of an injury or illness arising out of and in the course and scope of employment may be entitled to:

- A. Medical care to cure the injury;

- B. Rehabilitation services necessary to return to work; and
- C. "Temporary disability" payments in lieu of lost wages, commencing three (3) days after the injury occurs.

If an occupational injury or illness is severe and requires immediate medical attention, first aid should be rendered and medical treatment should be obtained at the closest City-designated medical treatment facility. For severe accidents occurring outside the City limits, medical treatment should be obtained at the closest medical facility. Use of paramedic services is automatically authorized if the injury is life threatening.

In the case of an occupational injury that requires medical attention within the first twenty-four (24) hours or develops symptoms after the first twenty-four (24) hours following the injury, the employee shall immediately notify his or her supervisor and the employee's supervisor shall notify the Risk Management. If the employee has not submitted a properly completed "Employee Notification of Personal Physician" form to the Risk Management for treatment of job-related injuries, all medical treatment shall be provided through the City's designated medical service providers for the first thirty (30) days after the date of the injury. If the employee has submitted a properly completed "Employee Notification of Personal Physician" form to the Human Resource Department for treatment of job-related injuries, an appointment may be scheduled with the employee-designated medical service provider. The employee shall notify the Risk Management prior to scheduling the appointment, if he or she has chosen to be treated by an employee-designated medical service provider.

A career employee who is disabled by injury or illness arising out of and in the course and scope of his or her duties shall suffer no loss in City pay or accrued Annual Leave for the first three (3) days of absence from work because of such disability. If a career employee's absence persists in excess of three (3) days, the employee may be eligible for "temporary disability" payments. State law shall determine the "temporary disability" payment an employee can expect to receive from Workers' Compensation Insurance. City policy allows for career employees incapacitated by reason of an injury or illness arising out of and in the course and scope of his or her employment to receive fully paid Workers' Compensation Leave (i.e., equal to the employee's regular base pay compensation, including reduced pay due to furlough pay reduction). This is for the first six (6) months and then receive 66-2/3% of the gross salary through the City's Long Term Disability Plan up to the maximum by Labor Code beyond the six (6) months after the injury. This applies unless the employee is hospitalized for greater than 90 days, or is not allowed by the City to return to light duty even though authorized by competent medical authority to return to limited duty. The City shall allow the employee to use Annual Leave or compensatory time in order to equal his/her normal salary after the six (6) months. If the employee is unable to return to work due to a permanent disability and retires under CalPERS benefits, the employee may also be eligible for long-term disability plan benefits under the provisions, requirements and limits of the plan. Once all accrued leave is exhausted, compensation would be 66-2/3% of gross salary and all leave benefits will cease to accrue. Such worker's compensation shall commence three (3) days after the injury occurs, or after temporary disability begins, and shall conclude with the termination of such a temporary disability, upon reaching a permanent and stationary condition, as determined by competent medical evidence, or upon the completion of one (1) year on-the-job injury leave, whichever comes first. If the

employee is still unable to work after one year, the City may initiate processing a PERS disability retirement application on behalf of the employee. Employees with injuries or illnesses that persist beyond six (6) months may be eligible for workers' compensation temporary or permanent disability payments. Workers' Compensation income is non-taxable.

Except for probationary employees, an employee's anniversary date shall be extended if his or her Worker's Compensation related injury or illness is in excess of thirty (30) days per fiscal year. If an employee's Worker's Compensation related injury or illness exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as the injury or illness, minus the first thirty (30) days (i.e. if the employee's injury or illness is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee experiences a Workers' Compensation related injury or illness while on probation, his or her probationary period shall be extended the same length of time as the injury or illness. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Workers' Compensation leave and benefits shall be granted to an employee upon presentation to the City of a properly completed claim form and presentation of a physician's certificate of temporary disability status. A claim denied by the Workers' Compensation Board, a written statement from the treating physician indicating that the employee's condition is permanent and stationary, or separation from City service shall terminate an employee's eligibility for Workers' Compensation leave and any applicable benefits for that particular injury or illness.

The City maintains its right to require that an employee receiving workers' compensation benefits see a City-designated physician on a periodic basis to determine the employee's disability status. When an employee is given a permanent disability rating by the Disability Rating Bureau of Workers' Compensation Appeals Board of the State of California, the employee may return to work provided that he or she can perform his or her assigned duties safely without endangering his or her health or safety, or that of others.

The City also maintains its right to require an employee to return to work on a limited or modified duty status, provided that he or she has received written authorization, including stated restrictions, from the City-designated physician as well as from the Risk Management and the Department Head. Such modified duty must be of a temporary nature, usually limited to 90 days.

The City should communicate in writing with the employee's authorized physician to obtain the modified duty authorization. It should provide the doctor with a description of the employee's regular duties as well as a description of all proposed modified duty to be assigned and provide a copy of that correspondence to the employee. The treating physician should provide to the City and the employee a written modified duty authorization, including specific limitations and restrictions, as well as assignments the doctor authorizes the employee to perform.

An employee who declines a modified duty position, which meets the treating physician's requirements, may be subject to disciplinary action, up to and including termination. If

an employee is medically stationary, but has not been released to his or her regular budgeted position and is one for whom a reasonable accommodation cannot be made, then that employee is subject to medical layoff or medical retirement.

Additional information concerning Workers' Compensation Leave or benefits may be obtained by contacting the Risk Management and by referring to Risk Management Policy 6.19, Modified Duty/Return to Work Policy.

7.65 VOTING LEAVE

In accordance with State law, the City of Moreno Valley encourages all employees to vote in local, state, and national elections. Employees are encouraged to vote outside of normal working hours. Under special circumstances, an employee who does not have ample time to vote outside of normal working hours may make arrangements with his or her supervisor to take up to two hours with pay in order to vote.

SECTION 8: CONDUCT AND DISCIPLINARY GUIDELINES

8.05 GENERAL STATEMENT OF POLICY

It is the City's belief that rules of conduct are most effective when they are written and communicated to employees and supervisors, consistently enforced, and the difference between major and minor forms of misconduct is recognized.

The City's goal is to administer discipline on an equitable and corrective basis. Effective discipline reinforces training by identifying rules and their reasons, correcting misconduct or improving job performance, serving as a deterrent through enforcement, and penalizing in relation to the severity of the offense and the employee's past record.

8.10 CUSTOMER SERVICE POLICY

Moreno Valley residents depend on each City employee to render service speedily, efficiently, effectively and courteously. The following guidelines express in part the expectations of how employees are to implement the customer service philosophy of the City:

- A. Employees shall keep themselves informed in order to perform their jobs effectively.
- B. Employees shall be concerned about the welfare of others.
- C. Employees shall be considerate, tolerant, patient and fair with others.
- D. Employees shall be cheerful and as positive as possible.
- E. Employees shall use their training and capabilities to provide residents and businesses with the best service possible. Every effort should be made to provide correct answers and positive results.

8.15 UNLAWFUL DISCRIMINATION

Any employee who harasses or unlawfully discriminates against any other person on the basis of the other person's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, pregnancy, political affiliation, mental/physical disability, or sexual orientation, including gender identity; or denies family and medical leave (FMLA), or pregnancy disability leave; or as retaliation against an employee for filing a harassment and/or discrimination complaint, shall be subject to discipline in accordance with these Rules.

8.20 STANDARDS OF CONDUCT

Employees are encouraged to excel in their work. City employees are prohibited from engaging in any conduct which could reflect unfavorably upon the City. The following standards are intended to govern the actions of all City employees during their course of employment. Employees who violate these standards shall be subject to appropriate disciplinary actions.

- A. Employees shall abide by and carry out the ordinances, resolutions, policies, procedures, and the rules & regulations of the City of Moreno Valley.
- B. Employees shall always conduct themselves in a manner which reflects credit to the City and creates positive morale among City employees.
- C. Employees shall operate all equipment safely and utilize safe means of carrying out their duties.
- D. Employees shall follow instructions for all equipment and property.
- E. Supervisors shall manage in an effective, considerate and fair manner.
- F. Subordinates shall follow instructions in a positive, cooperative manner.
- G. Employees shall provide service with courtesy and a smile and avoid arguments with the public and other employees. If citizens become difficult, they should be referred to a supervisor.
- H. Employees shall avoid interpersonal conflict with others as it may affect productivity or the City's image. It is not necessary for everyone to like everyone else, but it is necessary to treat everyone respectfully, professionally, and courteously.
- I. Employees shall dress appropriately. Although dress will vary with the type of work done, neatness, cleanliness, and a professional image are essential. Uniforms must be kept in good condition and worn while on duty, if required. All field personnel who are supplied uniforms will wear their complete uniform at all times while on the job. Exceptions may be granted on a case-by-case basis by the immediate supervisor.

Political buttons or other attire that do not promote a professional image or may not provide adequate protection from work-related injuries shall not be worn while on duty.
- J. The use or possession of alcoholic beverage, illegal drugs, or controlled substances while on paid duty time, or working while under the influence thereof, will not be tolerated. Violation will result in disciplinary action, as outlined in Section 8.35 of these Rules. See Section 1.75 and 1.80 of the Rules.
- K. Employees should behave in their personal lives in such a manner as not to reflect discredit upon the City.

8.25 OBJECTIVE OF DISCIPLINARY GUIDELINES

The disciplinary guidelines outlined in Section 8 are intended to be standards for applying discipline on the job. The offenses listed are not intended as comprehensive coverage of the subject. The disciplinary actions listed are standards and guidelines. Individual circumstances may justify a supervisor, together with the Department Head and the Human Resources Director, administering more or less severe forms of

disciplinary actions than those listed in these guidelines. The disciplinary authority must use reasonable judgment and proper documentation in each individual instance.

All disciplinary actions should be consistently enforced. "Consistently enforced" does not mean that a supervisor must assign the same penalty in each case, but rather, that the supervisor take some form of disciplinary action for each infraction. The supervisor must also be able to justify the level of discipline imposed in a particular case by objective criteria.

Any variations to these procedures will be reviewed by the Human Resources Director and approved in writing by the City Manager.

8.30 MAJOR AND MINOR OFFENSES

There are two classes of disciplinary actions – major and minor.

- A. Major: Misconduct that directly affects the safety or health of other employees or customers or misconduct that directly affects the success or survival of the organization.
- B. Minor: Misconduct that interferes with the smooth, orderly, planned, and systematic progression of work.

8.35 LEVELS OF OFFENSES

There are four levels of offenses listed. A documented pattern which shows a history of recent disciplinary problems can result in cumulative or more severe disciplinary actions, including disciplinary suspension, reduction in pay, demotion, or dismissal. Moderating circumstances which may result in less severe disciplinary action include an employee's positive work record, outstanding accomplishments, length of service, and extenuating circumstances of the violation.

- A. Engaging in any of the following conduct will most likely result in dismissal:
 - 1. Theft, embezzlement, or fraud.
 - 2. Falsification, unauthorized removal, or alteration of official City records or employment applications.
 - 3. Possession of, use of, or working while under the influence of alcoholic beverages or other controlled substances during City working hours, while on City property, while operating City vehicles, or while subject to duty (i.e. stand-by).
 - 4. Assault, battery, or fighting an individual while on duty or under the guise of office.
 - 5. Illegal possession or brandishing of weapons or firearms on City premises or property, while on duty or under the guise of office.
 - 6. Acceptance of bribes or extortion.

7. Conviction of a felony or any crime involving moral turpitude.
8. Commission of an act involving moral turpitude, whether or not a conviction is obtained.
9. Harassment (as defined in Section 1.90 of these Rules) or unlawful discrimination against employees or others based upon race, color, age, marital status, pregnancy, sex, national origin, ancestry, ethnicity, religion, medical condition, mental or physical disability, or sexual orientation, including gender identity; or retaliation against an employee for filing a harassment and/or discrimination complaint; or denial of family and medical care leave or pregnancy disability leave.
10. Intentionally damaging property of value.
11. Job abandonment of three (3) consecutive work days with no notification or approved absence.
12. Material false statement or omission on the employment application.
13. Driving on City business with a suspended or revoked driver's license.
14. Continuing unsatisfactory job performance.
15. Felony eavesdropping or electronic recording of confidential communication without consent of all parties to such communication.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above mentioned disciplinary action.

B. Engaging in any of the following conduct will most likely result in disciplinary suspension without pay for five (5) to thirty (30) days, reduction in pay or dismissal depending upon the circumstances, accumulation, or pattern of offenses. Other recently documented violations along with this incident or the repeating of such offenses will result in dismissal.

1. Intentionally misusing or abusing City property or property of another.
2. Disregard for major safety rules.
3. Insubordination by refusing a supervisor's legitimate order.
4. Unlawfully restricting work efficiency and production.
5. Attempting to provoke a fight on City premises, threatening or deliberately intimidating others through threat of physical force.
6. Unauthorized release of information, which has been validly classified as confidential.
7. Intentional mistakes or gross negligence causing damage.

8. Use of authority for personal gain.
9. Dishonesty, including falsifying time cards or other reports.
10. Driving on City business with an expired license.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above-mentioned disciplinary action.

C. Engaging in any of the following conduct will most likely result in a written reprimand on the first offense, a disciplinary suspension of one (1) to five (5) working days, reduction in pay, or demotion on the second offense, and possible dismissal on the third. Other recently documented violations in conjunction with this violation will result in more severe disciplinary action.

1. Unauthorized operation of tools, machinery or equipment.
2. Gambling on City property.
3. Disregard of minor safety rules including failure to report an injury or accident.
4. Abuse of authority.
5. Carelessness or inefficiency in completing assignments.
6. Unauthorized sleeping or unaccounted whereabouts while on duty.
7. Traffic violations, including preventable accidents, in City vehicles or while on City business.
8. Political activity which violates pertinent provisions of state or local law.
9. Unauthorized absences or excessive leave without pay.
10. Abusive language that is personally or professionally insulting or derogatory, directed at a person or persons with normal sensibilities, in their presence.
11. Failure to notify the employee's supervisor of the loss of a required certificate or license, including driver's license.
12. Statements or allegations which are malicious, vexatious, or not made in good faith and designed to discredit another individual or agency.
13. Garnishment on two or more different debts within any one-year period.

This is not an exhaustive list. Other violations of similar scope and nature will result in the above-mentioned disciplinary action.

- D. Engaging in any of the following conduct will most likely result in either an informal discussion or formal warning on the first offense and a written reprimand on the second offense. Further incidents will result in more serious disciplinary action, including possible disciplinary suspension, reduction in pay, demotion or dismissal. Other recently documented violations in conjunction with this violation will also result in more severe disciplinary action.
1. Creating or contributing to unsanitary conditions.
 2. Violation of smoking policy.
 3. Unauthorized soliciting of contributions.
 4. Distributing unauthorized printed matter on City time.
 5. Failure to meet production or performance standards.
 6. Engaging in behavior which prevents or hampers job performance.
 7. Tardiness in reporting to work or leaving work early without supervisor approval.
 8. Abuse of Annual Leave.
 9. Abuse of breaks or lunch time.
 10. Inability or unwillingness to work harmoniously with other employees.
 11. Failure to contact supervisor when late or absent.
 12. Failure to report change of vital information.
 13. Failure to observe reasonable standards of personal appearance.
 14. Failure to follow specified job instructions.
 15. Minor safety violations, including housekeeping rule violations.
 16. Frequent personal phone calls.
 17. Frequent violations of established departmental rules and procedures.
 18. Reading non-related material during work time when not authorized.
 19. Misrepresentation of facts which does, or may lead to, a disruption of City business.
 20. Posting or distributing materials or telling jokes, which are offensive to a person or persons with normal sensibilities.

This is not an exhaustive list. Other violations of similar scope and nature will result in the above-mentioned disciplinary action.

SECTION 9: DISCIPLINARY ACTIONS

9.05 DEFINITION OF DISCIPLINARY ACTION

“Disciplinary Action” means action taken by the Department Head or designee for disciplinary reasons, pursuant to these Rules, and consistent with the philosophy of progressive discipline where appropriate. Such disciplinary actions include (1) a formal warning, (2) a written reprimand, (3) disciplinary suspension, (4) reduction in pay, (5) demotion, (6) dismissal, or (7) any other action taken for disciplinary purposes.

9.10 INFORMAL DISCUSSION

Though not a disciplinary action, when a minor job performance problem develops, an informal discussion shall usually occur to assist the employee in clarifying and remedying the problem. An informal discussion is designed to clarify standards, policies and procedures or rules and regulations so that problems are resolved early and thus, the need to utilize disciplinary action may be avoided.

9.15 FORMAL WARNING

The formal warning shall be given in response to minor misconduct. The warning should be prompt, calm, and constructive, and every effort shall be made for the formal warning to be given in private. The supervisor should include in the formal warning a review of appropriate department standards and policies, employee performance expected in the future and consequences for failure to correct performance or behavior.

9.20 WRITTEN REPRIMAND

The written reprimand shall be given by the Department Head or designated authority when a formal warning has not succeeded in stopping the misconduct or when the misconduct is considered too serious to warrant a formal warning. Misconduct includes failure to meet City performance standards. The Department Head should first counsel the employee about the misconduct, as if giving a formal warning. At the end of the discussion, if no extenuating circumstances are discovered, the Department Head shall inform the employee that a letter of reprimand shall follow and shall be placed in his or her central personnel file located in the Human Resources Department. The written reprimand should include a full, accurate and factual statement of the reason for the reprimand including the date and time of the event which is the cause of the reprimand, if applicable, appropriate department standards and policies, employee performance expected in the future, and consequences for failure to correct performance or behavior.

9.25 DISCIPLINARY SUSPENSION

Disciplinary suspensions without pay are actions which generally deprive an employee of pay for any period up to thirty (30) working days and are usually given when serious misconduct or repetition of past problems for which the employee has been reprimanded require a strong management response. The nature of the offense, its severity and the circumstances dictate the length of suspension. Recurrence of the same or similar offenses can result in a second or third disciplinary suspension of progressively increased duration or in a dismissal. A disciplinary suspension is given an employee

when formal warnings or written reprimands have not been effective, or when the misconduct warrants more than a written reprimand.

Employees who are categorized as exempt under the Fair Labor Standards Act may only be suspended without pay for infractions of safety rules of major significance such as rules relating to the prevention of serious danger in the workplace or to other employees. Exempt employees may also be subject to disciplinary suspensions of one or more full days without pay for infraction of workplace conduct rules applicable to all City employees.

The City distinguishes between minor disciplinary suspension as one (1) to five (5) working days and major disciplinary suspensions as six (6) to thirty (30) working days. Minor suspensions can be used as steps in progressive discipline. Major suspensions are used as a more severe step in progressive discipline or where the act of misconduct does not warrant dismissal.

Department Heads shall institute disciplinary suspensions only after receiving approval from the Human Resources Director.

9.30 REDUCTION IN PAY

The reduction of an employee's base pay is the action given when a disciplinary suspension has not been effective, or when the misconduct is too serious for disciplinary suspension alone.

Department Heads shall institute a reduction in an employee's base pay only after receiving approval from the Human Resources Director.

9.35 DEMOTION

The Department Head may demote an employee for disciplinary reasons or because the employee's ability to perform the required duties falls below standards for that position, provided that the employee has been given a reasonable time to improve. Upon request of the employee, and with the consent of the appointing authority, demotion may be made to a vacant position. No employee shall be demoted to a position unless he or she possesses the minimum qualifications for such a position.

Department Heads shall institute a demotion only after Human Resources Director approval.

9.40 LAST CHANCE EMPLOYMENT AGREEMENT

When the City, the bargaining unit representative (only when requested by employee to be involved) and the affected employee all agree that the affected employee should be given one last chance before administering dismissal, a Last Chance Employment Agreement may be administered and signed by all parties. This written employment agreement gives the employee who has committed serious misconduct one last chance to keep the employee's job. The agreement provides details about the employment misconduct, sets forth the City's expectations for continued job performance, and defines the employment consequences for failure to meet those expectations – usually

termination of employment, with a condition that the employee waive any future rights of appeal of the termination.

9.45 DISMISSAL

Dismissal or involuntary separation of an employee from City employment shall be imposed only when all other disciplinary measures have failed and the employee is deemed beyond rehabilitation or when an act of misconduct is deemed very serious. A career employee may be dismissed by the Department Head for just cause as outlined in these Rules.

Department Heads shall institute a dismissal only after Human Resources Director approval.

9.50 RESIGNATION – AN ALTERNATIVE TO DISCIPLINARY ACTION

At times, an employee may offer to resign instead of facing disciplinary action. By doing so, the employee loses the right to appeal. A resignation must be completely voluntary.

9.55 DOCUMENTATION OF DISCIPLINARY ACTION

All disciplinary actions should be fully documented and placed in the employee's personnel file.

A formal warning should be documented on a form prescribed by the Human Resources Director. The employee shall receive a copy of the documented formal warning, and a copy shall be placed in the employee's personnel file in the Human Resources Department. If the employee chooses to respond, that reply will also be placed in the employee's personnel file, and be attached to the supervisor's record of formal warning.

If the action taken is a disciplinary probation, a disciplinary suspension, a reduction in pay, a demotion, or a dismissal, documentation shall be in accordance with Section 10.20(1). A copy of all such disciplinary documents shall be placed in the employee's central personnel file located in the Human Resources Department. The employee shall sign and receive a copy of such disciplinary documents. If the employee refuses to sign the statement, that fact should be noted in writing by the supervisor.

9.60 EMPLOYEE REPRESENTATION

A represented employee is entitled to the presence of an Association representative during an investigative interview conducted by the manager whenever the employee reasonably believes that the interview might lead to or result in disciplinary action affecting any property right (i.e., suspension, pay reduction, demotion, or dismissal). The employee must request the representation. The manager is not obligated to inform the employee of the right to representation. The employee does not have a right to representation at every, or any, contact with a supervisor.

The employee does have the right to a specific representative. When the representative is a non-employee agent, the manager is not required to wait to hold the interview at a time the consultant would be available beyond 24 work hours. The employee and

representative must be allowed a reasonable period of time to confer in advance of the interview.

SECTION 10: PROCEDURAL DUE PROCESS FOR DISCIPLINARY ACTIONS

10.05 ACTIONS THAT ARE NOT APPEALABLE

Denial of merit or pay increases, performance evaluations (except as provided in Section 5.10), informal discussions, oral counselings, formal warnings, and written reprimands cannot be appealed.

10.10 DISCIPLINARY ACTION SUBJECT TO SKELLY PROCEDURE

Prior to a disciplinary suspension, a reduction in pay, a demotion, or a dismissal of a career employee for disciplinary purposes, the procedure set forth in this Section shall be complied with.

Disciplinary suspensions of less than five (5) days may be immediately implemented so long as the "Skelly" procedure is then promptly followed. (Section 10.20).

10.15 ADMINISTRATIVE SUSPENSIONS WITH PAY

Pending investigation of an accusation against an employee, the City Manager may approve the temporary suspension of an employee with pay, pending the undertaking or completion of an investigation or opportunity to respond as may be required to determine if any disciplinary action shall be taken.

10.20 SKELLY PROCEDURE/DUE PROCESS

- A. Written Notice: The Department Head or designated authority shall give the employee a written notice of the proposed disciplinary action at least ten (10) working days prior to the effective date. The written notice shall be personally delivered to the employee or sent by certified mail to the employee's last known address.

The notice should include the following information:

1. A description of the proposed action to be taken and its proposed effective date or dates;
2. The specific grounds and particular facts upon which the action is proposed to be taken;
3. The employee's right to receive a copy of the written materials alleged to support the proposed action; and
4. A statement advising the employee of the right to respond, orally or in writing, and the time period in which to do so.

- B. Employee Review and Response: The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based. Within ten (10) working days after receipt of the written notice, the employee shall have the right to respond to the Department Head, orally or in writing, concerning the proposed action. Failure to respond within the time

specified may result in the employee's waiver of his or her pre-disciplinary procedural rights. By mutual agreement, the specified time period may be extended. Appeal shall be addressed to the Department Head regardless of which supervisor may have issued the Skelly Letter.

- C. Department Head Decision: The Department Head or designated authority shall, within ten (10) working days, provide a written decision to the employee after reviewing the employee's response, if any. The decision shall be personally delivered to the employee or sent by certified mail to the employee's last known address. The decision shall acknowledge the employee's response and shall be dated and signed by the Department Head. If disciplinary action is to be taken, the written response shall include a statement informing the employee of the right to appeal and the time period within which the appeal must be made.

If mutually agreed upon, the effective date of any proposed disciplinary action may be postponed to allow the Department Head enough time to adequately review the employee's response before making a decision.

10.25 APPEAL OF DEPARTMENT HEAD'S DECISION

A career employee may appeal a Department Head's decision within ten (10) working days of receiving the decision. An appeal shall be accompanied by a copy of the written notice of disciplinary action served on the employee, the Department head's written decision, a brief statement of the facts and reasons for the appeal and a brief statement of the relief requested.

If, within the ten (10) day appeal period, the employee involved does not file an appeal, unless good cause for the failure is shown, the action of the Department Head or designated authority shall be conclusive. If an employee withdraws the appeal, the employee waives the right to further review. Upon approval of the City Manager, the Human Resources Director may designate any other non-involved Department Head to act on his or her behalf on such matters. Appeals filed within the ten (10) day requirement shall be handled in accordance with the following provisions:

- A. Minor Disciplinary Suspension, Reduction in Pay, and Demotion: An employee may appeal a disciplinary suspension of 5 days or less, or a reduction in pay of 5% or less annualized by submitting a written response to the Human Resources Director within ten (10) working days after the employee has received the Department Head's decision. Such an appeal and decision of the matter is based only upon the written record.

The Human Resources Director shall render a written decision within ten (10) working days after receipt of the appeal. The Human Resources Director may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action. The Human Resource Director's written decision is the final and conclusive administrative review.

- B. Major Disciplinary Suspension, Reduction in Pay, and Demotion: Disciplinary suspensions of greater than 5 days, reductions in pay greater than 5% annualized, or any demotions from class to class may be appealed to the City Manager. The City Manager may designate a non-involved Department Head or

the Human Resources Director to hear the appeal and act on his behalf on such matters.

The City Manager or designee shall act as Hearing Officer and determine the hearing procedure. The hearing need not be conducted according to technical rules relating to evidence and witnesses. However, the City Manager shall ensure that the matter before him or her can be fairly determined on reliable evidence. The Hearing shall be conducted in accordance with Section 11.30.

The City Manager or designee shall render a written record of his or her findings, conclusion and decision as soon after the conclusion of the hearing as possible and in no event later than twenty (20) working days after conducting the hearing, unless the parties otherwise agree. The City Manager may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action. The City Manager's decision on the appeal is final and conclusive administrative review.

- C. Dismissal: An employee wishing to appeal a dismissal must submit a request for a hearing officer to the Human Resources Director within ten (10) working days from receipt of the Department Head's decision. An Appeals Hearing on the appeal shall be conducted in accordance with Section 11. Upon mutual agreement of the employee and the City Manager, the employee may waive the right to the Appeals Hearing and present the appeal directly to the City Manager. If the employee chooses to appeal the Department Head's decision directly to the Human Resources Director, the employee forfeits the right to appeal to a Hearing Officer.

At any hearing before the Human Resources Director, City Manager or a Hearing Officer, subpoenas may be issued in accordance with the Government Code.

10.30 AMENDED NOTICE OF DISCIPLINARY ACTION

At any time before an appeal is submitted for decision, the Department Head or designated authority may, with the consent of the Human Resources Director, amend the disciplinary action or provide a supplemental notice of disciplinary action.

A decision not to impose any disciplinary action should be accompanied by a directive from the Department Head to delete all references to the pending action from the employee's personnel file(s). Failure by the Department to make further investigations or to provide an additional written answer shall not affect the ability of the City to impose disciplinary action.

If the amended or supplemental notice of disciplinary action presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a response in accordance with Section 10.20, but the employee shall not be required to file a further appeal. Any objections to the amended or supplemental causes or allegations may be made verbally or in writing during the appeal interview.

SECTION 11: APPEALS HEARING PROCESS

11.05 SELECTION OF A HEARING OFFICER

Within ten (10) working days from receipt of the written request for an appeals hearing pursuant to Section 10.25, the employee or designated representative and management representative shall select a Hearing Officer from a designated list. A paid outside Hearing Officer is only allowed in cases involving dismissal. The Hearing Officer shall be selected by mutual agreement or by the alternate striking of names from a pre-determined or standing list of Hearing Officers. The party to strike the first name shall be determined by chance. Only Hearing Officers who do not require transcription services, other than only an electronically recorded record, are to be used unless both parties agree otherwise.

The list shall contain at least seven (7) names and not more than twelve (12) names of persons qualified and willing to serve as a Hearing Officer. Employees, employee representatives and management representatives shall submit nominees for the list of Hearing Officers. If the total number of nominees is greater than the maximum number allowed on the list, the list shall be narrowed to the maximum number by consultation between management and employee representatives utilizing the strike out process. If a person withdraws his or her name from a list bringing the number of names below the designated minimum number, a name shall be added to the list. The list shall be revised at least every three (3) years.

11.10 SCHEDULING THE HEARING

Both parties shall endeavor to schedule the hearing as soon as possible. It is recognized that the schedule of the Hearing Officer, who is mutually selected, is dependent upon his/her already established schedule and availability. The City and the bargaining unit will jointly endeavor to identify the Hearing Officer within ten (10) working days of the employee's written request for one. All affected parties shall be notified in writing of the date, time and place of the hearing at least five (5) working days prior to the hearing. The Hearing Officer, prior to or during the hearing, may grant a continuance for any reason he or she believes to be important to its reaching a fair and proper decision.

All hearings shall be closed unless the employee requests an open hearing. No still photographs, moving pictures, or television pictures shall be taken in the hearing room during a hearing.

11.15 HEARING REPRESENTATION

Each party shall have the right to represent themselves, to be represented by legal counsel, or to be represented by any other person of his or her choice, except that no supervisor or Department Head shall be represented in appeal matters by an employee whom he or she may supervise, and no employee shall be represented in appeal matters by a supervisor or Department Head.

11.20 RECORDATION OF HEARING

All appeal hearings shall be recorded. The Human Resources Director shall arrange for the production of any relevant City record.

11.25 HEARING EXPENSES

All expenses for a Hearing Officer, including but not limited to, per diem expenses, travel and subsistence expenses, and the cost of the hearing room will be borne equally by the City and the employee. Each party shall make arrangements for and pay expenses of witnesses that are called by such party, except that any City employee called as a witness shall be released from work without loss of compensation or other benefits to give testimony at the hearing.

Prior to the hearing, the Hearing Officer shall draw up a contract and each party shall sign the contract agreeing to these payment conditions and any payment terms. A copy of the contract shall be given to the employee and another shall be given to the Human Resources Director. The Hearing Officer shall retain the original contract.

11.30 HEARING PROCEDURE

The Hearing Officer shall give all interested parties a reasonable opportunity to be heard on relevant issues. The hearing procedure shall be determined by the Hearing Officer. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The Hearing Officer shall observe the intent of such rules to the end that the matter before him or her can be fairly determined on reliable evidence. All interested parties shall have the following rights:

- A. To call and examine witnesses;
- B. To introduce exhibits;
- C. To cross-examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
- D. To impeach any witness regardless of which party first called him or her to testify;
- E. To rebut the evidence against them; and
- F. To present oral and written arguments.

11.35 HEARING OFFICER'S RECOMMENDATION

The Hearing Officer shall determine relevancy, weight, and credibility of testimony and evidence, and shall base his or her findings on the preponderance of evidence. Hearsay evidence shall be admitted and may be used for the purposes of supplementing or explaining any direct evidence, but if objected to, shall not be sufficient in itself to support a finding. The Hearing Officer shall submit a written record of his or her findings, conclusion and recommendation to the City Manager as soon after the conclusion of the hearing as possible and in no event later than thirty (30) working days after conducting

the hearing, unless the parties agree otherwise. The Hearing Officer may recommend sustaining, rejecting, or lessening the disciplinary action invoked against the employee.

11.40 CITY MANAGER'S DECISION

Upon review of the hearing record, the City Manager shall have the right to accept, modify or reject the Hearing Officer's recommendation. If the City Manager decides not to review this matter, the decision of the Hearing Officer on the appeal shall be the final administrative action. Within ten (10) working days, the City Manager should deliver a copy of his or her written decision to the employee. The decision of the City Manager shall be the final administrative action.

SECTION 12: GRIEVANCES

12.05 MATTERS SUBJECT TO GRIEVANCE PROCEDURES

A “grievance” is a job-related complaint by an employee regarding the terms and conditions of employment which arise out of a specific fact situation or transaction, other than discipline, that result in an alleged inequity or damage to the employee. The solution of any such grievance is wholly or partially within the province of the City to rectify and will involve the interpretation or application of existing ordinances, rules, regulations, or policies administered by the employee’s Department Head or designated authority concerning wages, hours, other terms and conditions of employment.

12.10 MATTERS NOT SUBJECT TO GRIEVANCE PROCEDURES

The following matters are not subject to the grievance procedure:

- A. Employee discipline.
- B. Oral or written warnings, reprimands, or counselings.
- C. Employee performance evaluations.
- D. Management of the City generally and issues of City or Department policy.
- E. Necessity and organization of any service or activity conducted by the City including the expansion or reduction of services or workforce.
- F. Determination of the nature, manner, means, technology, and extent of services to be provided to the public.
- G. Methods of financing.
- H. Types of equipment or technology to be used.
- I. Determination of and/or change in facilities, methods, technology, means and size of the work force by which City operations are to be conducted.
- J. Determination of and change in the location, number of locations, relocations and types of operations, processes and materials to be used in carrying out City functions.
- K. Work assignments and schedules in accordance with requirement as determined by the City.
- L. Establishment, implementation, and modification of productivity and performance programs and standards.
- M. Reductions in force or layoffs for lack of work or other non-disciplinary reasons.
- N. Establishment and approved modifications of job classifications.

- O. Determination of standards, policies and procedures for selection, training, and promotion of employees.
- P. Establishment, implementation, and modification of Departmental organizations, supervisory assignments, chains of command, and reporting responsibilities.
- Q. Levels of compensation, pay, and benefits based upon budgetary and fiscal considerations.

12.15 FREEDOM FROM REPRISAL

No employee shall be subject to coercion or disciplinary action for discussing a request or complaint with his or her immediate supervisor, or for filing a grievance petition.

12.20 CONSOLIDATION

Grievance petitions involving the same or similar issues, filed by employees in the same representation unit, may be consolidated for presentation at the discretion of the person hearing the petitions.

12.25 RESOLUTION

Any grievance petitions resolved at any step of the grievance procedure shall be considered conclusive.

12.30 WITHDRAWAL

Any grievance petition may be withdrawn by the grievant at any time, without prejudice.

12.35 RESUBMISSION

Upon consent of the person hearing the grievance petition and the grievant, a petition may be resubmitted to a lower step in the grievance procedure for reconsideration.

12.40 EMPLOYEE REPRESENTATION

If requested, an employee may have representation in the preparation and presentation of the grievance at any step in the formal grievance procedure, except that no supervisor or Department Head shall be represented by an employee whom he or she may supervise, and no employee shall be represented by a supervisor or Department Head.

The employee(s) and one employee representative are entitled to be released from work for a reasonable period of time in order to present the grievance.

12.45 MISCELLANEOUS

If an employee is given a legitimate order that he or she wishes to grieve, the employee must first complete the assignment and file a grievance later unless the assignment endangers the health or safety of the employee or others or if the requested assignment violates the employee's constitutional rights.

12.50 INFORMAL GRIEVANCE PROCEDURE

Every effort should be made to resolve a grievance through discussion between the employee and the employee's immediate supervisor, unless extenuating circumstances exist. If the employee is not satisfied with the decision reached through the informal discussion or if extenuating circumstances exist, the employee shall have the right to file a formal grievance in accordance with Section 12.55.

12.55 FORMAL GRIEVANCE PROCEDURE

Step I

If the employee is not in agreement with the decision rendered in the informal grievance procedure, an employee shall have the right to present a formal grievance to the Department Head within ten (10) working days after the occurrence of the incident causing the grievance, if applicable. Otherwise, the right to file a grievance petition shall be waived.

All grievances shall be submitted on the form prescribed by the Human Resources Director and no grievance petition shall be accepted until the form is complete. The written grievance shall contain a clear, concise statement of the grievance and facts upon which it is based, rule, regulation, or policy allegedly violated, and the specific remedies sought.

The Department Head should render a written decision within ten (10) working days after receipt of the written grievance.

Step II

If the grievance is not satisfactorily resolved in Step I, the employee shall have the right to submit the written grievance to the Human Resources Director within ten (10) working days after the Department Head's decision is received by the employee.

The Human Resources Director should render a written decision within ten (10) working days of receipt of the written grievance.

Step III

If the grievance has not been satisfactorily resolved in the Step II, it may be appealed to the City Manager within ten (10) working days after Human Resources Director's decision is received by the employee.

The City Manager may accept or reject the decision of the Human Resources Director, and should render a written decision within ten (10) working days after receipt of the written grievance. The decision of the City Manager shall be final and conclusive.

If mutually agreeable, a meeting may be conducted involving all affected parties at any step in the grievance procedure prior to the rendering of a decision.

GRIEVANCE PROCEDURES			
<u>STEP</u>	<u>CONTACT</u>	<u>FILE</u>	<u>DECISION</u>
Informal	Supervisor	N/A	Immediate
Step I Formal	Department Head (from incident)	10 working days from filing	10 working days
Step II Formal	Human Resources Director	10 working days from Step I	10 working days from filing decision
Step III Formal	City Manager	10 working days from Step II	10 working days from filing decision

The City Manager may delegate non-involved Department Heads to act on behalf of the City Manager to render an appeals judgment in these processes. The findings and recommendations they render will be advisory to the City Manager whose ultimate decision will be final.

12.60 TIME LIMITS

Grievance petitions shall be processed from one step to the next within the time limit indicated for each step. Time limits shall be strictly enforced. Any time limits established in this procedure, may be waived or extended by mutual agreement confirmed in writing. Any grievance petition not carried to the next step by the grievant within the prescribed time limits shall be deemed resolved upon the basis of the previous disposition.

SECTION 13: EMPLOYEE RECORDS AND FILES

13.05 PERSONNEL FILES

- A. Central Personnel Files: The Human Resources Department shall maintain a central personnel file for each City employee indicating the employee's name, title of position, the department assigned, salary, changes in employment status, performance evaluations, disciplinary documents and such other information as may be considered pertinent by the Human Resources Director. Copies of documents concerning disciplinary actions taken by the supervisor or Department Head must be placed in the employee's central Personnel file. There will be no disclosures of this information to third parties except as authorized by State or Federal law or as duly authorized in writing by the employee.

Personnel files shall be kept in locked, fireproof files located in the Human Resources Department.

- B. Payroll Files: The Finance Department shall maintain a file for each City employee showing the name, title of position, the department assigned, salary, changes in employment status, W-4 forms, payroll deductions and such other information as may be considered pertinent by the Finance Director. There will be no disclosures of this information to third parties except as authorized by State and Federal law, or as duly authorized in writing by the employee to third parties.

Nothing herein shall prohibit the City from keeping or placing documents in an observation file for the purpose of investigating alleged criminal conduct. For the purposes of this Section, an observation file shall not be considered a personnel file, and an employee or his or her designated representative shall not have access to observation files nor receive copies of documents placed in such files.

Unless required for a criminal investigation, an observation file on an employee shall remain open for a maximum of six (6) months. If disciplinary action by the City is warranted or if the employee is found guilty of criminal activity, documents in the observation file shall be placed in the employee's personnel file(s).

13.10 DOCUMENTS IN PERSONNEL FILES

Upon request of the employee, an employee may place documents in his or her respective personnel file that commends his or her job performance with the City or demonstrates educational attainment.

Disciplinary documents shall be placed in personnel files in accordance with Section 9.50. An employee shall be provided a copy of any documents placed in his or her personnel file(s), and may review his or her file on request.

If no further conduct requiring disciplinary action occurs, and at the employee's written request, documents concerning minor disciplinary actions shall be removed from an employee's personnel file after one (1) year or upon their incorporation in a performance evaluation, whichever occurs first. If no further conduct requiring disciplinary action

occurs and at the employee's written request, documents concerning major disciplinary actions shall be removed from an employee's personnel file after three (3) years, provided that such documents may be retained thereafter if they establish a pattern of conduct extending past the three (3) year period. With good cause, a department may grant an employee's request to remove the document from the employee's personnel file(s) sooner than the indicated time frames, with the concurrence of the Human Resources Director.

13.15 ACCESS TO FILES

No person other than the City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's hiring Department Head, immediate supervisor, current Department Head, current Division Head, or their designated representatives shall have access to an employee's central or department personnel file. The Department Head must approve in writing anyone below him/her before that authorized person may review a subordinate's central personnel file. No person other than the Financial and Administrative Services Director, payroll division staff, City Manager, City Attorney, or Human Resources Department staff shall have access to an employee's payroll file. Upon appointment, an employee or a person designated in writing by the employee for such purpose may inspect the contents of his or her respective personnel file(s). Upon paying the reasonable cost associated therewith, except as provided in Section 13.10, an employee or his or her designated representative may obtain copies of any documents contained in the employee's personnel file(s).

The employee may file a grievance regarding the contents of his or her personnel file(s) in accordance with the Grievance Procedure regulations outlined in Section 12.

13.20 DISCLOSURE OF INFORMATION

No direct information contained in the personnel files shall be disclosed concerning any current or former City employee other than the employee's job title, inclusive dates of employment, work location, salary, work phone number, departmental assignment, and the nature of separation, resignation, or termination, to any person other than the City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's Department Head, Division Manager or their designated representatives. An employee or former employee may authorize access to or the disclosure of information from their file only when written permission is provided to the Human Resources Department.

Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

13.25 CHANGES-IN-STATUS

It is the employee's responsibility to notify the Human Resources Department of any changes in his or her address, phone number, marital status, dependent status, name change, training certificates, or other pertinent information.

13.30 APPLICATION RETENTION

Applications submitted by candidates for City employment become the property of the City and must be retained for at least three (3) years.

13.35 DESTRUCTION OF PERSONNEL RECORDS

Personnel records, including employment applications, shall be destroyed only in accordance with the provisions of the City's system for the destruction of public records and then in accordance with other applicable law.

SECTION 14: EMPLOYEE BENEFIT POLICIES

Benefits for City employees shall be provided as outlined in the City's Benefit Plan. Further information on these benefits may be obtained by contacting the Human Resources Department.

The City retains the right to alter the benefit plan, if it finds such changes to be in the best interest of the City.

14.05 BENEFIT BANK

The City has adopted a "flexible or cafeteria" plan that will cover certain City benefits (i.e., medical, dental, vision care, etc.). Employees, other than those listed below, are not eligible for benefit bank benefits. City employees shall receive a negotiated amount of money as approved by City Council, and consistent with the current MOU, on a yearly basis in order to "purchase" benefits from the plan. These benefits are paid on a 24-pay period basis. Employees may change benefit elections only during open enrollment periods unless there is a qualifying event. Qualifying events may include, but are not limited to emergency hardships, changes in employment, or changes in family status such as, births, deaths, adoptions, marriages, or divorce, to the extent permitted by the provisions of the benefit plans carriers.

- A. Career Full-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.
- B. Career Part-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.
- C. As part of the cafeteria plan, all full-time employees, except City Council members, must purchase group medical insurance coverage for themselves, or provide proof of other medical coverage, i.e., through one's spouse's coverage, military, etc. If the City Council deems it in the City's best interest, the City, at its option, may require all employees to purchase the City's preferred coverage and not allow verification of other coverage. Once this individual medical coverage has been purchased or verified, employees may purchase any of the following options with the balance:
 1. Medical Insurance: Once medical insurance has been purchased for the employee, he or she may also choose to purchase excess coverage for him- or-herself or insure any dependents. Eligible employees may choose from a variety of health care providers as offered by the City. Medical benefits, plan costs, and any deductible costs may vary depending upon the insurance carrier offered by the City and chosen by the employee. Those who choose to use other kinds of medical coverage must report any change in that coverage within sixty (60) days as defined by CalPERS. Failure to do so will result in immediate enrollment in a City offered medical plan.

2. Dental Insurance: Employees may purchase dental insurance for themselves and any dependents. Dental benefits and any deductible costs may vary depending upon the insurance carrier chosen by the employee.
 3. Vision Care: Coverage must be purchased for all full-time career employees and may be purchased for any dependents, based upon vision care plans available to City employees.
 4. Supplemental Insurance: Employees may purchase supplemental insurances for themselves or their dependents.
 5. Dependent Care (Child and Elder): Employees may purchase dependent (child and elder) care reimbursement coverage through a flexible spending account. Documentation of payments with tax identification number of the provider must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.
 6. Medical Expense Reimbursement: Employees may purchase medical expense reimbursement through a Flexible Spending Account. Documentation of expenses and payments must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.
 7. Annual Leave Buy: Employees with unspent bank dollars may purchase up to two weeks of Annual Leave hours per year. This option is available only at open enrollment. Annual Leave hours bought must be used within the benefit year purchased. Unused Annual Leave which has been purchased will be returned to the benefit bank for cash out to the employee.
 8. Cash Out Option: Employees who would have unspent bank dollars for the calendar year will receive the leftover balance as a taxable cash payment. Council members are not eligible by State law for any cash-out option of unspent bank dollars. Annual Leave hours must be requested in writing during open enrollment each year.
 9. Use or Lose Provision: Flex dollars may not be carried over from one plan year to the next, according to IRS regulations. Employees who have left over funds and who do not elect additional Annual Leave hours will be paid in cash. This amount will be subject to Federal and State withholding taxes.
- D. Temporary Employees are not normally entitled to the benefits of the City's cafeteria plan.

14.10 MANAGEMENT PACKAGE

Certain categories of employees are entitled to a management benefit package as a percentage of their gross annual salary. The dollar amount shall change as salary increases are received during the year. This amount will be disbursed on a 24-pay period basis. These employee categories and percentages are as follows:

- A. Executive Management Employees shall receive six (6%) percent of their gross annual salary.

- B. Division Management Employees shall receive four (4%) percent of their gross annual salary.
- C. Professional/Administrative/Management Employees shall receive two (2%) percent of their gross annual salary.

This management package percentage amount may be expended in any of the flexible benefit plan options previously discussed. Other benefit options will be made available as they are approved by the City Council in accordance with applicable IRS guidelines.

14.12 AUTO ALLOWANCE:

The City provides taxable auto allowance benefits as follows:

- A. Executive Management Employees shall receive a monthly auto allowance, as budgeted.
- B. Division Management Employees shall receive a monthly auto allowance, as budgeted.

As outlined in the City's Vehicle Policy, certain employees may be assigned a City vehicle on a long-term basis, in lieu of the monthly auto allowance. Employees who utilize personal vehicles for City business, but do not receive an auto allowance, shall be reimbursed at the Federal mileage reimbursement rate.

If any of the above employees are assigned a City vehicle, no auto allowance will be provided.

14.15 POST RETIREMENT MEDICAL BENEFITS

- A. Annuity Programs: Effective January 1, 2001, the City of Moreno Valley shall contribute a monthly amount to each non-exempt full-time career employee for an annuity program for 20 years or until termination or retirement, for the purpose of funding retiree medical premiums. New hire probationary employees shall not be eligible to receive the monthly contribution until the successful completion of their probationary period. The effective date of their first contribution will commence the next full month after they have passed probation.

Effective January 1, 2002, after two full years of employment, the monthly contribution to the annuity program shall increase per the negotiated language as approved by City Council. This shall go into effect the next month after their two-year-anniversary date has passed.

Each bargaining unit has selected separate annuity programs.

- 1. Contributions for the MVCEA bargaining unit are being paid into the Benefit Bank.

In the event MVCEA ceases to be the recognized representative of bargaining unit employees, the control and administration of this program

shall transfer to management and the responsibility for same shall be the exclusive jurisdiction of management.

Employees may at their option contribute a portion of their compensation to the annuity subject to IRS restrictions through payroll deductions.

2. Contributions for the management bargaining unit are being paid into a Voluntary Employee Beneficiary Trust (VEBA), which manages the investment and distribution of the funds.

- B. City Paid Retiree Medical Benefit: Effective January 1, 2001, upon retiring, the City shall pay a minimum of the monthly fee required by PERS for enrollment of retirees. Employees who retire under the CalPERS retirement benefits system with a minimum of two years of service with the City shall be eligible to receive a benefit which is the lesser of the cost of medical coverage for the retiree and spouse, or the amount stipulated in the following table:

<u>EFFECTIVE DATE</u>	<u>MAXIMUM EMPLOYER CONTRIBUTIONS</u>
January 1, 2007	up to \$168.73 per month
January 11, 2008	up to \$243.73 per month
January 2, 2009	up to \$318.73 per month

To receive the Retiree Medical Benefit, the retiree must submit documentation of payment for medical insurance coverage. Documentation for those enrolled with PERS Health is provided by PERS. In the event of the retiree's death, the surviving spouse continues to be eligible to receive the benefit.

14.20 PERS MEDICAL COVERAGE FOR RETIREES

The City shall contribute a monthly employer fee for retiree medical coverage with the Public Employees Retirement System (PERS), per negotiated contract language as approved by City Council. Retirees must convert to Medicare at age 65.

14.25 CITY RETIREMENT PLAN

The City provides retirement benefits for all employees through the Public Employees Retirement System (PERS). The City pays both the employee's and employer's contributions into the plan for employees hired prior to July 1, 2009. Employees hired on or after July 1, 2009 pay their own employee's contribution into the plan, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions. This does not apply to promotional hires, whose original hire date was prior to July 1, 2009. At its option, the City may change its retirement system provider upon adoption by the City Council. Prior to any changes in retirement benefits, those eligible for retirement must be notified at least 30 days in advance. Current retirement benefits are available as follows:

- A. Career Full-time Employees hired prior to July 1, 2009 receive fully-paid PERS retirement benefits. Career Full-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution.

- B. Career Part-time Employees hired prior to July 1, 2009 receive fully paid PERS retirement benefits after 1,000 hours. Before that point, the employee will have the employee's portion deducted from salary. Career Part-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution.
- C. Part-time/Seasonal, Temporary Employees, and Crossing Guards who are not eligible for PERS, are required to contribute 7.5% of earnings to a PST "457" deferred compensation program. Contributions to this plan will be made through payroll deduction. Employees are eligible for participation in the PERS retirement plan after 1,000 hours worked in a fiscal year; however, they are responsible for the cost of their employee portion of PERS payment.

PERS refunds may be issued ONLY if the member has permanently separated from all PERS-covered or reciprocal employment. Or, if members have been on an unpaid leave of absence for at least six (6) months, they may request a refund of their contributions prior to returning to active employment.

- D. Any employee hired prior to July 1, 2009, if promoted on or after July 1, 2009, will still be eligible for all benefit rates provided for employees hired prior to July 1, 2009 for the bargaining unit the employee is in on or after July 1, 2009.

14.30 IRC SECTION 125 PLAN

The City has available to all full-time employees, and those who qualify for the City's group medical coverage, an Internal Revenue Code (IRC) Section 125 account. The monthly cost of plan administration will be borne by those eligible employees who voluntarily elect to enroll. The Health Reimbursement Option is not available until the employee has passed initial probation (normally at six months). An employee's unexpensed redirected Plan contributions from his/her salary account are forfeited and returned to the City at the end of the calendar year. See the Summary Plan Description for details.

14.35 IRC SECTION 457 PLAN

The City has available to all employees an Internal Revenue Code (IRC) Section 457 Account. Participation is voluntary for career employees. It is mandatory for temporary employees who are not yet eligible for, or enrolled in PERS.

Deferred compensation is an IRS-approved method of deferring federal and state income taxes on savings until retirement. Taxes are paid, on both savings and earnings, when they are withdrawn during retirement, or upon separation from City employment.

An employee may defer a maximum amount consistent with the most recent guidelines supplied by the IRS. The employee may increase, decrease, stop and restart voluntary contributions at any time by contacting the Human Resources Department.

In accordance with IRS rules, an employee may not withdraw these assets unless there is a bona fide emergency which is unforeseeable, unbudgetable, severe, beyond the employee's control, and must represent a last resort. All financial hardship requests for withdraw of funds must be made directly to the 457 plan provider.

14.36 IRC SECTION 401A PLAN

Certain management employees may voluntarily enter into a 401(a) Money Purchase Plan to provide additional retirement benefits. The employee contribution is a mandatory fixed amount for everyone within a management group, and is limited to the maximums allowed by law. Eligible employees wanting to enroll into the plan must do so within the first thirty (30) days after being hired, or during the annual open enrollment period. Once enrolled, the participant must remain in the plan. Participant contributions are structured with pre-tax dollars. Earnings accrue tax deferred. Participants may contribute to both a deferred compensation and a money purchase plan. Accounts are individual and loans may be made from the account.

PAM-Confidential employees receive \$750.10 per fiscal year (\$28.85 per pay period) in a City sponsored 401(a) Plan.

14.40 LIFE INSURANCE

The City provides term life insurance coverage for all City employees. Coverage becomes effective on the first day of the month which follows the first thirty (30) days of employment with the City. The premium is paid by the City. The amount of coverage is determined as follows:

- A. Executive Management and Division Management Employees shall receive term life insurance at an amount, which is three (3) times their salary (rounded to the nearest thousand) not to exceed \$300,000.
- B. Professional/Administrative/Management Employees shall receive term life insurance at an amount, which is two (2) times their annual salary (rounded to the nearest thousand).
- C. General Non-Exempt and Career Part-time Employees shall receive term life insurance at an amount, which is two (2) times, their annual salary (rounded to the nearest thousand) or \$50,000.00, whichever is greater.
- D. City Council Members shall receive \$50,000 of term life insurance.
- E. The City's death benefit to survivors of a member who dies prior to retirement shall be the PERS 1959 Survivor Level IV Option (Section 21574). It provides for a monthly allowance for the surviving spouse with two children \$2280, spouse and one child \$1900, and spouse alone \$950. The City's retired member PERS lump sum death benefit paid to beneficiaries is \$500.

14.45 DISABILITY INSURANCE

Disability Insurance is determined as follows:

A. City Disability Insurance:

The City provides short-term disability insurance to all Career employees who work a minimum of thirty (30) hours per week and who are disabled primarily as a result of a non-work-related illness or injury. This benefit commences after 30 calendar days of disability. In order to be eligible for benefits, an employee must be totally disabled for one month before benefits become payable. For the first twenty-four (24) months of a disability, "totally disabled" means that a former employee is prevented by disability from doing all the material and substantial duties of his or her job. If the disability persists beyond twenty-four (24) months, the former employee is re-evaluated to determine whether he or she can be rehabilitated for another career. If the employee can be rehabilitated, the employee is eligible for Rehabilitative Employment Services. If the employee cannot be rehabilitated for any career, total disability payments will continue.

An eligible employee may receive sixty-six and two-thirds (66 $\frac{2}{3}$ %) percent of his or her salary, up to a maximum monthly amount of \$14,000. This income is subject to taxes because the premiums are paid for by the City. Any other income benefits an employee may receive as a result of employment shall be subtracted from the monthly benefit payment. An eligible employee may continue to receive benefits up to the age of sixty-five (65). Between the ages of sixty-five (65) and seventy (70), benefits are awarded on a sliding scale. The remaining amount shall be taken from applicable leave accruals until they are exhausted and the person goes on leave without pay, see Section 7.40, Pregnancy Disability Leave and Section 7.50, Leave of Absence Without Pay.

The City agrees to maintain a long term disability salary continuance program that pays the above described benefits for job-related disabilities when the employee is still on the City's payroll after a minimum 180 calendar day elimination period up to age 65. Workers' Compensation information can be found in Section 7.60 of the City of Moreno Valley's Personnel Rules.

B. Continuation of Accruals and Benefits

The City shall extend payment of the medical insurance contribution for career full-time employees up to an additional ninety (90) calendar days during a twelve-month period while an employee is disabled due to a non-work-related illness or injury. Such an extension of medical coverage shall take effect when existing coverage would otherwise expire. Career full-time employees on paid leave will continue to accrue Annual Leave at their normal rate; however, employees on unpaid leave will not accrue Annual Leave. During an authorized leave under an FMLA leave, career full-time employees will be retained on the City's health insurance program under the same conditions and coverage levels that applied before the leave commenced. Employees' benefits continue as long as the employee is still on disability and the City paid benefits after 30 consecutive working days of being on Non City Paid Payroll Status. The employee must then covert to Consolidated Omnibus Budget Reconciliation Act (COBRA) status and

pay for health insurance premiums, or if eligible, may consider applying for CalPERS disability retirement. Employees not classified as career full-time shall not accrue any leave or receive any benefits once all of their accrued time (Annual Leave or compensatory time) has been exhausted.

14.50 UNEMPLOYMENT COMPENSATION

As required by State law, all City employees are covered under the California Unemployment Compensation Program. Further information can be obtained by contacting the local State of California Employment Development Department or the Human Resources Department.

14.55 EMPLOYEE ASSISTANCE PROGRAM (EAP)

Depending on budget and other considerations, the City may provide an employee assistance program. The EAP provides short term counseling and other services to assist employees and their families to deal with personal and emotional problems which affect or might potentially affect their job performance. This counseling is confidential and free to the employee.

14.60 MEDICARE

By law, employees hired after April 1, 1986, must have a certain percentage (currently 1.45%) deducted from their gross pay for Medicare. The City will deduct the employee contributions in accordance with Federal law. The City shall pay the employer's share, which is equal to the employee's share.

The above policies are based on Federal law and may change from time to time.

SECTION 15: SPECIAL COMPENSATION

15.05 STAND BY

A stand-by roster shall be comprised of City employees from designated departments or divisions who have volunteered to be on call and available to work after regular working hours. A stand-by assignment period shall be for a period of days starting at the time and on the day determined by the departmental coverage requirements and as approved by the employee's manager. Under some circumstances the period is not a seven consecutive day period. An employee on stand-by will be permitted to take home a City vehicle equipped with appropriate tools and supplies for use when called out on stand-by. The City will pay general employees (non-Animal Control Officers) a dollar amount per the negotiated language of the current MOU, as approved by City Council, per regular shift, Monday through Friday, and for weekends and holidays. The current Stand-by Pay amounts are \$20.00 per day on Monday through Friday, and \$25.00 per day on Saturday, Sunday and Holidays.

The designated department or division supervisor shall be responsible for scheduling his or her employees for stand-by duty and for providing duty rosters to the Police Department. The Police Department will be given a roster of employees with their stand-by duty dates, home telephone numbers, and pager numbers and codes. Once assigned to specific stand-by duty, employees may not trade stand-by assignments, except with the prior approval of the designated supervisor.

For general employees, compensation for call out hours worked will be paid at time-and-one-half for the number of hours actually worked. A minimum of two (2) hours shall be credited as time worked for each call out. For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. An employee on stand-by will be compensated an additional dollar amount, per the negotiated language, as approved by the City Council, for each 7-day week of stand-by duty. Stand-by pay is at the rate of an amount per the negotiated language as approved by the City Council per day (M-F). Stand-by pay will be increased to an amount per the negotiated language in the current Memorandum of Understanding, per day for weekends and holidays.

For Animal Control Standby (Night Truck), the City will pay a dollar amount, per the negotiated language as approved by City Council per regular shift, Monday through Friday, and pay an amount, per the negotiated language as approved by City Council for weekends and holidays. Call out pay will be at the overtime rate with a one-hour minimum. Work time includes 15 minutes each way of travel time for the trip to and from work or the actual time, whichever is less.

An employee assigned to stand-by duty must be available to respond to emergency calls at all times. This requires that the employee remain within fifteen (15) minutes travel time of his or her normal work station during the entire stand-by period. The employee must refrain from consuming alcoholic beverages or other substances which could impair his or her effectiveness or safety on the job. Violation of this policy shall result in disciplinary action, as outlined in Section 8.35 of the Personnel Rules.

Nothing herein shall be construed to require that the City establish stand-by duty for employees in any department or division.

15.10 CALL-BACK

In the event employees who are not assigned to stand-by duty are called back to work during normal off-duty hours to protect the public health or safety, they will be compensated at time-and-one-half for actual time worked, with a minimum of two (2) hours credit for each call out (one for Animal Control). For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. Call back shall be defined as having to return to work after having left work.

15.15 BILINGUAL PAY

Bilingual compensation will be implemented for staff who occupy positions designated as ones in which second language skills are utilized. Employees shall receive an amount per the negotiated language as approved by City Council.

15.16 SAFETY EQUIPMENT

Employees in qualified trade occupations will receive an annual stipend to purchase shoes, jackets, and/or Sam Brown belts in an amount per the negotiated language as approved by City Council.

The City provides uniforms for employees in the Security Guard job classification.

SECTION 16: TRAINING

16.05 TRAINING

The City recognizes the importance of employee development and training. In an effort to improve the capabilities and effectiveness of City personnel, a training program has been established. This training effort shall be geared to both organizational improvement and individual employee development. This development shall not only be the responsibility of Department heads or supervisors, but shall be shared with employees in a total organizational effort.

16.10 IN-HOUSE TRAINING

Employees who have training, knowledge or expertise in a subject area, or have recently attended a seminar or conference in a given subject matter, may be asked to share this information with other employees. Such in-house training may be informal or formal depending upon the nature of the training and can include any variety of topics such as computers, copiers, telephones, supervisory, writing skills, etc.

16.15 DEPARTMENTAL TRAINING

City departments and divisions are encouraged to offer specialized training to their employees. Such training shall be the responsibility of the Department or Division Head and may include topics such as safety, equipment operation and other training in their specific fields of responsibility.

16.20 TRAINING COURSES

The City shall encourage local educational resources to offer courses and workshops at City facilities on matters in which employees of several departments may benefit. Such courses may be offered periodically in such areas as management, supervision, communications, time management, stress management, writing skills, etc.

16.25 SEMINARS AND CONFERENCES

Employees may attend seminars or conferences covering current issues and areas relevant to their positions under the following conditions:

- A. Employees must submit their request on forms prescribed by the Financial and Administrative Services Department and follow all applicable procedures.
- B. Budgeted funds must exist for all such training and any travel. In-state attendance shall require Department Head approval while out of state travel shall require the approval of the City Manager.
- C. Employees must comply with the City's Administrative Travel Policy and provide necessary receipt documentation.
- D. Employees who have recently received such training must be willing to provide "in-house" training to other employees, if requested.

16.30 TUITION REIMBURSEMENT

Subject to the pre-approval of the Department Head, Human Resources Director, and City Manager (or designee), employees may be reimbursed for the cost of pre-approved, job-related, accredited, educational and other training courses based upon proof of successful completion up to a maximum annual limit of \$1,500.00 per fiscal year (i.e. July 1 through June 30). This proof includes a grade "C" or better of the course(s), and must be part of a recognized associate's degree, bachelor's degree, or master's degree program related to the employee's current job, and the program must be part of a school, college or university that is accredited by a U.S. Department of Education authorized accrediting organization, e.g. Western Association of Schools and Colleges (WASC). Further, employees may be reimbursed for certain pre-approved, job related training courses based on the approvals as stated above.

Classes taken which are offered as part of the City's official training program do not count against tuition reimbursement.

Any educational or training course that is a requirement for continuation of employment or is an identified part of a job evaluation shall be paid for by the City. Any other educational course that is job-related may, if prior approval for reimbursement is given by the City Manager (or designee), be reimbursed at 100% or less after successful completion. All college or other graded classes shall require a minimum grade of a "C" in order to receive such reimbursement. Books or other materials shall only be paid if some defined benefit can be shown to the City (i.e. books become part of City reference library).

In general, training time during working hours shall be considered part of the job. Unless the City directs an employee to attend a specific training course, and the course is not available during work hours, training after hours shall be considered voluntary, and no additional pay, overtime or compensatory time shall be given by the City, unless advance special written approval is granted. Study time shall be considered completely voluntary.

Although the City encourages employees to pursue additional education, the City shall not pay for educational degrees or for education in general, but will only reimburse employees for required or job-related classes and training. No reimbursement shall occur if an educational class does not provide a benefit to the City. There is no mileage reimbursement for travel to and from educational classes. Required forms must be completed and necessary documentation (receipts and grades) must be provided, in order to receive reimbursement. Final and conclusive determinations of the reimbursement amount shall be made by the City Manager after review of the request and recommendations by the Department Head and the Human Resources Director.

16.35 TRAINING AND TRAVEL REIMBURSEMENT

Non-exempt employees shall receive training and travel reimbursement as provided in this Section.

Time spent in attending lectures, meeting, training programs, and similar activities during work time shall be counted as time worked only if authorized in advance and in writing by the employee's Department Head. No such authorization shall be given unless the lecture, meeting, program, or other activity is directly related to improving the employee's ability to perform his or her job.

Time spent in attending lectures, meetings, training programs, and similar activities shall not be counted as time worked where such attendance is outside of the employee's regular working hours, except in situations where the employee is directed by his or her Department Head to attend such lecture, meeting, training program, or similar activity. Leisure and meal times are not considered time worked unless they are part of the seminar.

Time spent by an employee traveling between the employee's residence and the regular workplace is not work time and shall not be treated as hours worked. When an employee is assigned by his or her Department Head to travel outside of the City, time spent traveling between the employee's home and assigned destination shall be treated as time worked, only to the extent that it exceeds the amount of time normally taken by the employee to travel between his or her residence and regular workplace.

When an employee is assigned to travel outside the City, return the same day, and he or she utilizes public transportation, the time spent traveling between the employee's home and the location of the public carrier (i.e. airport, bus station, train station) shall not be treated as time worked. However, time spent traveling to a final destination via public carrier is considered time worked.

Employees shall receive mileage and travel reimbursement in accordance with provisions outlined in the City's Administrative Travel Policy.

**The City of Moreno Valley
Personnel Rules & Regulations
Drug and Alcohol Free Workplace Policy**

APPENDIX A

TESTING FOR ALCOHOL AND DRUGS

Toward reaching this goal of a drug and alcohol free workplace, the City may conduct pre-employment drug or alcohol testing of applicants for City positions. Pre-employment drug or alcohol tests shall apply only to non-City employees; City employees who apply for another City position shall not be subject to pre-employment drug or alcohol tests. Any applicant who tests positive shall not be hired by the City.

The City also reserves the right to require than an existing employee undergo testing of the City determines that probable cause exists to believe that the employee is under the influence of any illegal drug or controlled substance, as identified in this Section. Employees who (1) refuse to submit to a drug or alcohol test immediately when requested by authorized City or law enforcement personnel; (2) refuse to submit to a search of personal properties if requested by law enforcement personnel; or (3) are “convicted” of a “criminal drug or alcohol statute” violation, shall be subject to the disciplinary procedures which are outlined in these Rules.

All City lockers, desks, cabinets, vehicles, phone voice mail, e-mail, computer files, and disks are the property of the City and are subject to search without the employee’s consent by City management at any time with or without notice. Refusal to cooperate with a search may result in a disciplinary action, up to and including termination. Unless the Supervisors are directed otherwise by the Human Resources Director, employees will be given the opportunity to be present when the search is conducted.

In appropriate cases, such as a first offense, the City should make every effort to place an employee with an available employee assistance program or service for the purposes of rehabilitation, in-lieu of disciplinary action or criminal prosecution. If, in such cases, the employee refuses to attend an employee assistance program or service, he or she will be subject to the disciplinary procedures which are outlined in these Rules.

Any reports or complaints which are filed as a result of this Section or the “Drug and Alcohol Free Workplace Policy” and are determined to be malicious, vexatious, or not in good faith, shall not be tolerated. In such cases, the complaining individual shall be subject to disciplinary action. This applies to all managers, supervisors, and other employees who file a report or complaint which relates to drug or alcohol use.

A. EMPLOYEE RESPONSIBILITIES

An employee shall:

1. Not report to work or be subject to duty (i.e., paid stand-by time) while the employee’s ability to perform his or her duties is materially impaired due to drug and/or alcohol use.

2. Not report to work with alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) in their systems or the odor of alcohol on their breath, or possess or utilize such substances while they are on duty or subject to duty or during meal periods or breaks.
3. Not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while on-call, on breaks, or during meal periods.
4. Not directly or through a third party sell, purchase or provide drugs and/or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to duty.
5. Submit immediately to a drug and/or alcohol test when requested by an authorized City representative, who has probable cause to suspect drug or alcohol abuse or material impairment there from. The employee may request a representative when being tested for probable cause. The representative may be a bargaining unit representative or another employee of choice who shall be immediately available.
6. Before beginning work, notify his or her supervisor when taking any drug or medication (non-prescription or prescription), which may interfere with the safe and effective performance of duties or operation of City equipment. In the event there is a question regarding an employee's ability to perform assigned duties safely and effectively while using such drugs, clearance from a qualified physician may be required before the employee is allowed to resume his or her regular duties.
7. Have the opportunity, within twenty-four (24) hours (or by the close of the next business day) of request by an authorized City representative, to provide verification of a current prescription for any potentially impairing drug or medication which is identified in a drug test. The prescription must be in the employee's name.
8. Employees shall notify their supervisor of any criminal drug and/or alcohol statute conviction for a violation, no later than five (5) days after such conviction.
9. In the event that an employee suspects that his or her manager or supervisor is under the influence of drugs and/or alcohol, the employee may submit a written or oral complaint, which contains detailed evidence regarding the allegation of substance abuse to his or her department head or the Human Resources Director. Such complaints, if made in good faith, may be made without fear of reprisal. If the written or oral complaint establishes probable cause, the manager or supervisor may be requested to submit to a drug and/or alcohol test.

B. MANAGEMENT RESPONSIBILITIES

Managers and Supervisors shall:

1. Be responsible for enforcing this policy in a fair and consistent manner.
2. Work with the Human Resources Department to encourage employees to utilize an available employee assistance program when the employee's job performance is deteriorating or unsatisfactory, the employee does not respond to supervisory remedies, or when a specific on-the-job incident is cause for concern. As the supervisor's role is to monitor job performance, the supervisor should not attempt to diagnose an employee's problem.
3. Request through the Human Resources Department that an employee submit to a drug and/or alcohol test when a manager or supervisor has probable cause or a reasonable suspicion that an employee is impaired or under the influence of drugs or alcohol while on the job or subject to duty.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs and/or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- Slurred speech;
 - Alcohol or other suspicious odor (i.e. marijuana on breath);
 - Unsteady walking and movement
 - An accident involving City property where it appears that the employee's conduct may be at fault;
 - Physical or verbal altercation;
 - Wide and severe mood swings;
 - Blank, glassy-eyed stare;
 - Inability to perform work properly;
 - Behavior which is unusual for the employee;
 - Possession of drugs and/or alcohol in the workplace or on City property.
4. Work with Human Resources and document within forty-eight (48) hours of requesting an employee to submit to a drug and/or alcohol test, in writing, the facts constituting reasonable suspicion that the employee in question is impaired or under the influence of drugs and/or alcohol.
 5. Remind the employee of the requirements and disciplinary consequences of this policy when encountering an employee who refuses an order to submit to a drug and/or alcohol analysis. Where there is reasonable suspicion that the employee is impaired, or under the influence of alcohol or drugs, the manager or supervisor shall require the employee to remain on the premises for a reasonable amount of time until an authorized City representative or law enforcement representative can arrange to transport the employee to a testing facility, or home in the event of the employee's

refusal to submit to a drug or alcohol test. Any time spent remaining on the premises at the request of a supervisor or manager or time spent for City-required drug and/or alcohol testing shall be considered work time and shall be paid for by the City.

6. Not confiscate prescription drugs or medications from an employee who has a valid prescription for such. The prescription must be in the employee's name.
7. Deal with suspected offenders as discreetly, inconspicuously, and respectfully as possible.
8. Notify their Department Head or designee, and Human Resources, when they have probable cause to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is probable cause to believe that an employee is in possession of illegal drugs, the manager or supervisor shall not physically search employees or their personal possessions, but should request that they remain on the premises until the appropriate law enforcement agency has arrived. Also, the department head or designee shall notify the Human Resources Department as soon as possible.
9. May search areas which are jointly or fully controlled by the City after conferring with the Human Resources Department. In the event such an area is occupied by a Peace Officer all searches shall be consistent with Government Code Section 3309 (Police Officer Bill of Rights).
10. Management shall not use authority under these rules to unlawfully harass, intimidate, or discriminate against employees.

C. ENFORCEMENT

Employees reasonably believed to be impaired, or under the influence of drugs and/or alcohol, shall be prevented from engaging in further work and shall be monitored for a reasonable time until he or she can be safely transported from the work site. In no event should the individual be allowed to operate a vehicle while impaired, including driving home from work.

Refusal to submit immediately to a drug and/or alcohol analysis when requested by City management or law enforcement personnel shall constitute insubordination and may be grounds for discipline up to and including termination.

D. PHYSICAL EXAMINATION AND PROCEDURE

A drug and/or alcohol test may be administered by the City for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job. All testing (including the sample collection, chain of custody and laboratory services) shall be conducted in accordance with

Substance Abuse and Mental Health Services Administration (SAMHSA) and Department of Health and Human Services approved procedures.

E. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

Post-Employment Offer Medical Examination

A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standard, duties or responsibilities.

If a drug screen is positive, and a result of the post-employment offer medical examination, the applicant must provide, within twenty-four (24) hours (or by the close of the next business day) of request, bona fide verification of a valid current prescription for the drug identified in the drug screen to the Human Resources Department. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

During Medical Examinations or Drug and/or Alcohol Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide, within twenty-four (24) hours (or by the close of the next business day) of request, bona fide verification of a valid prescription for the drug identified in the drug screen, to the Human Resources Department. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action, up to and including discharge.

If a drug and/or alcohol test is positive, the City shall conduct an investigation to gather all the facts. The decision to discipline or discharge will be carried out in conformance with this section.

F. CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate, confidential medical folder that will be securely kept under the control of the Human Resources Director. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request.

SUPPLEMENT TO THE DRUG AND ALCOHOL FREE WORKPLACE POLICY;
CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY; AND
PROCEDURE PURSUANT TO THE DEPARTMENT OF TRANSPORTATION
REGULATIONS

Effective January 1, 1996, the City of Moreno Valley must comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991 and subsequent revisions. Specifically, the City must comply with the regulations of the Federal Motor Carried Safety Administration (FMCSA). Adoption of a policy is one of the City's obligations under the regulations. Where applicable to the City, the requirements of those regulations are reflected in this policy. This policy sets forth the rights and obligations of covered employees. If you are an employee covered under these new requirements, you should familiarize yourself with the Policy provisions BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.

In addition, employees are required to comply with the applicable provisions of the supplement to the Drug and Alcohol Free Workplace Policy.

A. EMPLOYEE QUESTIONS

The regulations required that employers designate a person to answer employee questions about drug and/or alcohol testing. Employees shall refer any questions regarding his or her rights and obligations under the new regulations to the Designated Employer Representative (DER) which is the Human Resources Director or designee for this federally mandated program.

B. COVERED EMPLOYEES

Overall, the regulations cover drivers of commercial motor vehicles. A driver is any person who operates a commercial motor vehicle on a full-time, casual, intermittent, as-needed, or occasional basis. Employees in these job classifications may be required to drive commercial motor vehicles at least on an occasional basis.

Therefore, employees in those job classifications (and applicants for such positions) are considered a covered employee subject to the provisions of this policy. For the purposes of the post-employment offer medical examination, the term "driver" includes persons applying for employment in a position requiring the driving of a commercial motor vehicle on at least an occasional basis.

New employees or employees shall be given a copy of this policy at the time they commence employment with the City. All covered employees currently employed by the City at the time this policy is adopted shall be given a copy thereof within ten (10) days of its adoption. All covered employees will also be asked to sign the Acknowledgement / Receipt Form indicating receipt of a copy of this policy. This policy shall be posted immediately and was effective on January 1, 1996.

C. COVERED COMMERCIAL VEHICLES

The regulations cover drivers of the following commercial motor vehicles:

1. A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. A vehicle with a gross vehicle weight of at least 26,001 pounds.
3. A vehicle designed to transport sixteen (16) or more passengers, including the driver; or
4. A vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act.

D. SAFETY-SENSITIVE FUNCTIONS

The performance of any of the following on-duty functions by a covered employee in connection with that employee's operation, or scheduled operation, of a commercial motor vehicle is considered to be a safety-sensitive function.

1. All time at a carrier or shipper, plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment such as brakes, steering mechanism, lights, tires, horn, windshield wipers, mirrors, or coupling devices; or otherwise inspecting, servicing, or conditioning any commercial motor vehicle.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle, or time spent performing driver requirements relating to accidents.

E. PROHIBITED CONDUCT

Covered employees may not have a measurable amount in their system or be in possession of controlled substances or alcohol during any work hours. Further, the regulations specifically prohibit certain conduct prior to performing and while performing safety-sensitive functions. The following conduct is prohibited and may result in discipline, up to and including termination:

1. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions while having an alcohol concentration level of 0.04 or greater.
2. Performing a safety-sensitive function within four (4) hours after using alcohol.
3. Being on duty or operating a vehicle, as described in Section C, while possessing alcohol.
4. Using or possessing alcohol while performing a safety-sensitive function.
5. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions when the employee has used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee (who in turn must notify his/her supervisor) that the substance does not adversely affect the employee's ability to safely operate a vehicle.
6. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions if the employee tests positive for controlled substances.
7. Refusing to submit to any alcohol or controlled substances test required by this Policy. A covered employee who refuses to submit to a required drug/alcohol test shall be treated in the same manner as an employee who tested 0.04 percent or greater on an alcohol test or tested positively on a controlled substance test.
8. A refusal to submit to an alcohol or controlled substances test required by this Policy includes, but is not limited to:
 - A refusal to provide a urine sample drug test.
 - An inability to provide a urine sample within the three (3) hour allowed time without a valid medical explanation.
 - A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test.
 - An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation.
 - Tampering with, attempting to adulterate, or substituting the urine specimen or collection procedure.
 - Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested.

- Leaving the scene of an accident without authorization from a supervisor or manager (who, in conjunction with the Human Resources Department, shall make a determination whether to send the employee for a post-accident drug and/or alcohol test), unless the employee has a valid reason for not obtaining such authorization.
9. Consuming alcohol during the eight (8) hours immediately following an accident, unless the covered employee has been informed that his/her actions have been discounted as a contributing factor, or if the employee has been tested.
 10. Use of prescribed drugs are not in direct violation of the City's policy, however inappropriate use or prescribed use that may substantially impair job performance, alter behavior, and/or create a risk to the health and safety of the employee or others, is in direct violation of the City's policy.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Action of 1988.

Covered employees are also reminded that they shall inform their supervisors of any over the counter or prescription medication prior to engaging in any safety-sensitive function.

F. CONSEQUENCES FOR EMPLOYEES FOUND TO HAVE ALCOHOL CONCENTRATION LEVELS OF 0.02 OR GREATER BUT LESS THAN 0.04

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 shall be removed from his/her safety-sensitive position for at least twenty-four (24) hours. Such an employee may be subject to discipline up to and including termination. The City shall then retest the employee. Before the employee may be returned to his/her safety-sensitive position, the employee's alcohol concentration must indicate a concentration below 0.02 percent.

G. CIRCUMSTANCES UNDER WHICH DRUG AND/OR ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES

1. Post-Employment Offer Testing
 - a. All applicants (whether by initial application or in connection with a transfer) for positions involving the performance of safety-sensitive functions shall be required to submit to post-employment offer/pre-duty drug testing. Applicants will not be hired for or transferred to a safety-sensitive position if they do not pass the test or if they refuse to consent to a drug/alcohol test.
2. Post-Accident Testing

- a. Post-accident drug and alcohol testing shall be conducted on employees following an accident involving injury(s) and/or repair costs.
 - b. Post-accident alcohol tests shall be administered within two (2) hours following an accident and no test may be administered after eight (8) hours. A post-accident drug test shall be conducted within thirty-two (32) hours following the accident.
3. Post-Accident Testing (urine sample)
- a. Conducted after accidents on safety-sensitive employees who have been in an accident involving a human fatality; or a citation has been issued in one of the following situations:
 - i. There has been bodily injury with the need for immediate medical attention away from the scene, or
 - ii. There has been disabling damage to any motor vehicle requiring tow away. (Refer to Federal Motor Carrier Safety Regulations, sections 391.113 and 391.117).

Following an accident, the employee shall remain available for drug and/or alcohol testing, or may be deemed to have refused to submit to testing. This rule does not require the delay of necessary medical attention for injured people following an accident, nor does it prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.

4. Random Testing

Covered employees will be subject to random alcohol and drug testing as follows:

A random alcohol test will be administered just prior to the employee performing a safety-sensitive function (i.e. driving), while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function. The City will subject at least ten (10) percent of the total number of covered employees to random alcohol testing per year.

A random drug test will be administered to at least fifty (50) percent of the total number of covered employees per year. A covered employee may be subjected to drug testing even on a day in which the employee is not expected to perform a safety-sensitive function. To ensure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the pool of employees for each subsequent period. This procedure assures that the probability of any individual being selected each period is always the same, whether or not the individual was selected in previous period.

On the date an employee is selected for random drug and/or alcohol testing, his/her supervisor will verify he/she is on the list of those to be tested.

5. Reasonable Suspicion Testing

“Reasonable suspicion” means that the trained supervisor believes that the actions, appearance, speech, body odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol. The witness must directly observe the behavior. Hearsay or second-hand information is not sufficient cause to require an employee to submit to a drug and/or alcohol test. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol concentration test must be based on short-term specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech, or body odors of the employee. The determination must be based upon observations of the trained supervisor making the determination, and may not be based upon hearsay.

The trained supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test. The trained supervisor witnessing the impairment must document the specific observations under which the reasonable suspicion is based.

The reasonable suspicion alcohol test will be administered within two (2) hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight (8) hours following the observation.

To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and/or alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substance use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

Any reports or complaints which are filed as a result of this section and are determined to be malicious, vexatious or not in good faith, shall be subject to disciplinary action. This applies to all managers, supervisors, and other employees who file a report or complaint which relates to alcohol use.

6. Return to Duty/Follow-up Testing

A covered employee who has violated any of the prohibitions of this Policy must submit to a return-to-duty test before he/she may be returned to a position requiring the performance of safety-sensitive functions. The test result must indicate an alcohol concentration of less than 0.02 percent or a verified negative result on a controlled substances test. In addition, because studies have shown that the relapse rate is highest

during the first year of recover, the employee will be subject to follow-up testing, which is separate from the random testing obligation. The employee will be subject at least six (6) unannounced drug and/or alcohol tests during the first year back to the safety-sensitive position following the violation.

A substance abuse professional can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months from the date the employee returns to duty. The Substance Abuse Professional can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the Substance Abuse Professional determines that additional testing is no longer necessary and is supported by the employer. Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drug use when the Substance Abuse Professional has reason to suspect other drug or alcohol use during the follow-up period.

H. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL

1. Alcohol Testing

Alcohol testing shall be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration. Non-EBT devices may be used for initial screening tests.

A screening test shall be conducted first. This initial screening may be accomplished using a saliva test kit. If the result is an alcohol concentration level of less than 0.02 percent, the test is considered a negative test. If the alcohol concentration level is 0.02 percent or more, a second confirmation test using the EBT shall be conducted.

The procedures that shall be utilized by the lab for collection and testing of the specimen are attached hereto as Appendix "B".

2. Drug Testing

Drug testing is a two-stage process. First, a screening test is performed. If it is positive for one or more drugs, then a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. The GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

All urine specimens are analyzed for the following drugs:

- Marijuana (THC Metabolite)
- Cocaine
- Amphetamines

- Opiates (including Heroin)
- Phencyclidine (PCP)

Drug testing will be conducted pursuant to the procedures set forth in Appendix "C"

I. REFUSAL TO SUBMIT TO A DRUG AND/OR ALCOHOL TEST

As set forth in this Policy, a covered employee who refuses to submit to any required drug and/or alcohol testing shall be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

A job applicant who refuses to consent to a drug and/or alcohol test will be denied employment with the City of Moreno Valley. An employee's failure to submit to drug and/or alcohol testing required by the City for any reason may result in disciplinary action, up to and including termination.

Where there is reasonable suspicion that the employee is then under the influence of drugs and/or alcohol, the manager or supervisor shall arrange for the employee to be safely transported home after the testing. An employee shall not be permitted to transport him/herself.

J. CONSEQUENCES OF FAILING A DRUG AND/OR ALCOHOL TEST

It is the employee's responsibility to inform the City if he/she has a substance abuse problem and needs assistance to solve the problem, prior to taking (and possibly failing) the drug and/or alcohol test.

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination in accordance with this policy.

If a covered employee is not terminated, the employee:

1. Must be removed from performing any safety-sensitive functions.
2. Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment to cure his/her drug or alcohol abuse. The City is not required to pay for this treatment
3. May not be returned to his/her former safety-sensitive position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) that indicates an alcohol concentration level of less than 0.02 percent or a negative result on a controlled substances test.
4. Shall be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety-sensitive position.

K. ALCOHOL MISUSE OVERVIEW

A drug is any chemical substance that produces physical, mental, emotional or behavioral change in the user. Alcohol is a drug. It is a central nervous system depressant that slows the body's functions. For some people, the use of alcohol can become addictive. The body develops a tolerance for alcohol, thus needing more of the drug to achieve the same effects. Once addicted to alcohol, the body experiences withdrawal symptoms when alcohol is not present in the bloodstream. Alcohol addiction, or alcoholism, is a disease. If left untreated, alcoholism is progressive as the damage to the body continues, and if unchecked may be ultimately fatal.

Alcohol misuse, alcohol abuse and alcoholism affect an individual's work performance. Alcohol, even in very small amounts, affects the user's judgment, reflexes, thinking ability, coordination, and attention. Alcohol is particularly dangerous when an individual needs to make a decision and act in an emergency or unfamiliar situation. Alcohol in a person's bloodstream affects one's ability to operate a vehicle or complex machinery, and to perform any safety-sensitive related tasks. Coming to work with a "hangover" also affects an employee's ability to perform. Hangover symptoms may include diminished clarity in thinking, tremors that reduce fine motor coordination, and flu-like feelings that decrease alertness and well being.

Alcohol misuse, alcohol abuse and alcoholism also affect an individual's personal and family life. Heavy alcohol drinkers have more illness and medical conditions requiring treatment. Financial and legal complications from excessive drinking are common problems. In the late stages of alcoholism, the individual's life is centered on alcohol; family, job, friends (except drinking buddies) are unimportant and ignored.

The following are indicators that alcohol may be a problem in an individual's life:

- Excessive use of Annual Leave because of heavy drinking or hangover.
- Monday and Friday absences from work; days before and after holidays.
- Making repeated promises to family/friends to "cut down" or stop drinking.
- Needing increasing amounts of alcohol to "feel good" or "get high."
- Morning shakes or tremors that are relieved by taking a drink.
- Being arrested for drunk driving.
- Refusing to participate in leisure activities where alcohol is unavailable.
- Experience periods of "blackout" when drinking (not remembering some events or situations that occurred while drinking).

- Mood swings and unreasonable resentments towards others.

ALCOHOL FACT SHEET

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical or mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

A. SIGNS AND SYMPTOMS OF ALCOHOL USE

1. IMMEDIATE EFFECTS OF ALCOHOL

- Odor of alcohol on breath
- Initial stimulation followed by depressed nervous system.
- Flushed skin
- Glazed appearance of eyes
- Slowed reaction rate
- Slurred speech
- Dulled mental processes
- Lack of Coordination

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

2. CHRONIC AND LONG TERM HEALTH EFFECTS

The chronic consumption of alcohol that averages three or more servings per day of an alcoholic beverage over time may result in the following health hazards: (one serving of beer is 12 oz., one serving of wine is 6 oz., and one serving of 80 proof liquor is 1.5 oz.)

- Nutritional deficiencies and sleeping difficulties
- Impaired short-term memory and the inability to concentrate
- Brain and nervous system damage
- Liver damage
- Digestive problems (gastric ulcers)

- Higher likelihood of stroke, coronary problems
- Disease of the pancreas and kidneys
- Birth defects in children of heavy-drinking women (up to 54 percent of all birth defects are alcohol related)
- Physical and psychological dependence (up to 10 percent of all people who drink alcohol become dependent on alcohol and can be termed “alcoholic.”)
- Increased cancer of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma

3. ALCOHOL’S EFFECTS ON SOCIETY

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetime.
- The rate of separation and divorce in families with alcohol dependency problems is seven times the national average.
- Forty percent of family court cases have alcohol-related problems.
- Alcoholics are 15 times more likely to commit suicide than other segments of the population.

4. WORKPLACE ISSUES

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage through the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is six times more likely to have an accident than a person who is sober.

5. CONFIDENTIALITY PROCEDURES FOR INTERNAL CONTROL

Laboratory reports or test results shall not appear in an employee’s general personnel file. The Human Resources Department will keep information of this nature under their control in a separate confidential medical file. Supervisors, managers, and other staff with such knowledge are not to discuss or disclose the results of any employee’s drug and/or

alcohol tests with other employees, except under approved reasons as delineated by City policy.

The Human Resources Director or designee may disclose reports or test results to City management on a strictly need-to-know basis and to the tested employee upon request.

Employee's confidentiality is also protected with regard to disclosure by supervisors of any over-the-counter or prescribed medications, when the employee has notified the supervisor of such use as mandated by this policy.

The City may disclose test results without the employee's consent only when:

- a. The information is compelled by law or by judicial or administrative process;
- b. The information has been placed at issue by the employee in a formal dispute between the employee and the City;
- c. The information is necessary to administer an employee benefit plan; or
- d. The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

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APPENDIX B

Each employer shall establish an employee education and training program for all covered employees including:

A. EDUCATION

The education component shall include display and distribution to every covered employee of informational material for employee assistance, if available.

B. TRAINING

1. 1. **Covered employees.** Covered employees must receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use, including alcohol; on personal health, safety, and the work environment; and on the signs and symptoms that may indicate prohibited drug abuse.
2. 2. **Supervisors.** Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least sixty (60) minutes of training on the physical, behavioral, and performance indicators of probable drug use, including alcohol, and at least sixty (60) minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

The local governing board of the employer or operator shall adopt an anti-drug and alcohol misuse policy statement. The statement must be made available to each covered employee, and shall include the following:

- a. The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employer's anti-drug use and alcohol misuse programs.
- b. The categories of employees who are subject to the provisions of this part.
- c. Specific information concerning the behavior and conduct prohibited by this part.
- d. The specific circumstances under which a covered employee will be tested for prohibited drugs and/or alcohol misuse under this part.
- e. The procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and

the integrity of the drug and alcohol testing process, safeguard the validity of the test results and ensure the test results are attributed to the correct covered employee.

- f. The requirement that a covered employee submit to drug and/or alcohol testing administered in accordance with this part.
- g. A description of the kind of behavior that constitutes a refusal to take a drug and/or alcohol test, and a statement that such a refusal constitutes a violation of the employer's policy.
- h. The consequences for a covered employee who has a verified positive drug or confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR part 40.
- i. The consequences, as set forth in FTA Part 655.35 of subpart D, for a covered employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04.
- j. The employer shall inform each covered employee if it implements elements of an anti-drug use or alcohol misuse program that are not required by this part. An employer may not impose requirements that are inconsistent with, contrary to, or frustrate the provisions of this part.

Each employer shall provide written notice to every covered employee, and to representatives of employee organizations, of the employer's anti-drug and alcohol misuse policies and procedures.

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APPENDIX C

A. ALCOHOL TESTING PROCEDURES

All testing will be conducted in accordance with alcohol testing procedures as required by 49 CFR.40 using the following procedures:

1. The employee arrives at the testing site.
2. If the employee does not arrive at the designated time for testing, the supervisor or designee will be contacted for instructions.
3. The I.D. of the employee to be tested is verified by examining a photo I.D. If the I.D. cannot be established, the Breath Alcohol Technician (BAT) will attempt to notify the employee's supervisor to establish a positive I.D. If that is not possible, the process stops.
4. If the employee being tested requests it, the Breath Alcohol Technician (BAT) should present his/her I.D.
5. Once the employee's I.D. is established, Step 1 of the United States Department of transportation Breath Alcohol Testing Form (DOT) will be completed.
6. The employee will complete Step 2 on the DOT form, signing the certification. If the employee refuses to sign; it is regarded as a refusal to take the test.
7. The employee shall be tested for alcohol using a saliva test kit or screening alcohol breath test. If test results are negative on this screening test, a copy of the DOT form will be completed noting the results, and a copy provided to the employee. One will be forwarded to the supervisor and one will be retained by the BAT.
8. If the screening test indicates an alcohol level greater than 0.02, an EBT test is required as follows:
 - a. The employee and BAT shall read the sequential test number displayed on the Evidential Breath Testing (EBT) device for the test.
 - b. The employee will open an individually sealed mouthpiece in view of the BAT and attach it to the EBT according to instructions.
 - c. The employee will blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates that an adequate amount of breath has been obtained.

- d. The BAT completes Step 3 of the DOT testing form.
- e. The employee will sign Step 4 of the DOT testing form stating that the information on the form is accurate and that the employee must not perform safety-sensitive duties or operate heavy equipment if the results are 0.02 or greater.
- f. If the test results are less than 0.02 on this test, a copy of the form will be provided to the employee. The test process is complete and a copy will be forwarded to supervisor and one will be retained by the BAT. If the test results are greater than 0.02 on this test, an EBT confirmation test will be conducted as follows:
 - i. The BAT will explain that a confirmation test will be conducted.
 - ii. The employee must stay in the room observed for a fifteen (15) minute waiting period. During this period, the employee may not eat, drink, or put any object or substance into his/her mouth.
 - iii. The confirmation test will be conducted no less than fifteen (15) minutes after the initial EBT test, but within thirty (30) minutes of the completion of the initial list.
 - iv. The confirmation test will be completed according to Steps H-M of this procedure.
 - v. If the result of the confirmation test is different from the EBT screening test, the confirmation test will be considered the accurate result.
 - vi. If the results are still greater than or equal to 0.02 on the confirmation test, the BAT will contact the employee's supervisor for further instructions before releasing the employee from the test site.
 - vii. Employees with a reading of 0.02 or more are not to drive or engage in any safety-sensitive operations until further notice from their supervisor and in accordance with this policy.
 - viii. All results will be transmitted in conformity to confidentiality procedures outlined below.

B. DRUG TESTING PROCEDURES

- 1. The urine specimen will be split into two bottles labeled as "primary" and "split" specimen. Both bottles will be sent to the lab.

2. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours to request that the split specimen be analyzed by a different certified lab.
3. The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine.
4. If the test is positive for one or more drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis.
5. All drug test results will be reviewed and interpreted by a physician before they are reported to the employee and then to the City.
6. With all positive drug tests, the physician (a.k.a. medical review officer [MRO]) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative."

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APPENDIX D

**REASONABLE SUSPICION OBSERVATION FORM
(STRICTLY CONFIDENTIAL)**

EMPLOYEE NAME:

DAY/TIME OF INCIDENT:

SUPERVISOR #1 NAME:
(Optional)

SUPERVISOR #2 NAME:
(Optional)

The following checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee is under the influence of a prohibited drug substance or alcohol. The supervisor(s) note all pertinent behavior and physical signs or symptoms, which lead you to reasonable belief that the employee has recently used or is under the influence of a prohibited substance. Mark each applicable item on this form and any additional facts or circumstances, which you have noted.

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

1. Observed/reported possession or use of a prohibited substance
2. Apparent drug or alcohol intoxication
3. Observed abnormal or erratic behavior
4. Arrest or conviction for drug-related offense
5. Evidence of tampering on a previous drug test
6. Other (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job). Please specify.

B. UNUSUAL BEHAVIOR

1. Verbal abusiveness
2. Physical abusiveness
3. Extreme aggressiveness or agitation
4. Withdrawal, depression, mood changes, or unresponsiveness
5. Inappropriate verbal response to questioning or instruction
6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, confusion). Please specify.

C. PHYSICAL SIGNS OR SYMPTOMS

1. Possessing, dispensing, or using controlled substance.
2. Slurred or incoherent speech.
3. Unsteady gait or other loss of physical control; poor coordination.
4. Dilated or constricted pupils or unusual eye movements.
5. Bloodshot or watery eyes.
6. Extreme fatigue or sleeping on the job.
7. Excessive sweating or clamminess to the skin.
8. Flushed or very pale face.
9. Highly excited or nervous.
10. Nausea or vomiting.
11. Odor of alcohol.
12. Odor of marijuana.
13. Dry mouth (frequent swallowing/lip wetting).
14. Dizziness or fainting.
15. Shaking hands or body tremors/twitching.
16. Irregular or difficult breathing.
17. Runny sores or sores around nostrils.
18. Inappropriate wearing of sunglasses.
19. Puncture marks or "tracks".
20. Other (Please specify.)

D. WRITTEN SUMMARY

Please summarize the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. Please note the date, times, and location of reasonable cause testing or note if employee refused test. Attach additional sheets as needed.

Signature of Supervisor #1 Date/Time

Signature of Supervisor #2 Date/Time

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APPENDIX E

I. THE CITY OF MORENO VALLEY DRUG AND ALCOHOL PROGRAM MANAGER (DPMA) AND DESIGNATED EMPLOYER REPRESENTATIVE (DER)

The City of Moreno Valley has designated the Human Resources Director or designee, as the Drug and Alcohol Program Manager (DAPM), and as the Designated Employer Representative (DER) to answer questions about the City of Moreno Valley's anti-drug and alcohol misuse programs.

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Personnel Rules and Regulations Revision Index

ATTACHMENT B

The attached City of Moreno Valley Personnel Rules reflect changes due to the MOU's that were adopted during the past two years. For easy reference purposes, the format of the document and headings were changed to regular font and no line spacing, so that changes can be more easily seen. Fonts with ~~strikethrough~~ indicate that the wording is being deleted. Fonts that are in **bold** indicate that the wording is new added.

The following is an index of the pages and changes made.

<u>Page Number</u>	<u>Change</u>
i	Date of revision to personnel rules and adding "official employee" to the title of the personnel file name
iii	Added Section 7.05 Holiday Pay and Holiday Leave
iv	Added Section 9.40 Last Chance Employment Agreement
3	
5	Added Section 9.40 Last Chance Employment Agreement terms
6	Added 12 months limit to terms of temporary employment
7	Changed "Normally" to "Typically"
20	Changed "determined" to "approved"
21	Changed "must request" to "can obtain"
35	An employee who resigns from the City, and is rehired within one year of his/her rehire date, will receive the same employee benefits, and the City will pay the same share of CalPERS contributions, as prior to the separation
39	All over-time work must be pre-approved by the employee's manager
42	Section 7.05 Holiday Pay and Holiday Leave Lists the City's 11 legal holidays and explains how holiday pay is accrued and how it can be used Section 7.10 Annual Leave Deleted the word "holiday" as part of the combined banks used to calculate annual leave banks Deleted Section A and then renamed Sections B – H
43	Changed required amount of annual leave usage from 168 to 80 hours annually Removed all references to "holiday leave" Annual Leave reporting shall be done in ¼-of-an-hour increments for all employees
44	Annual Leave Donations approved by HR Director instead of City Manager Deleted sentence regarding annual leave donations being taken from forfeitable annual leave balances Annual Leave calculations now include any WSR used in a 40-hour workweek Annual Leave Accrual Rates updated to reflect holiday hours being removed from Annual Leave Bank.

A. Executive Team

<u>Years of Service</u>	<u>Accrual Rate per Pay Period</u>		<u>Hours per Year</u>		<u>Annual Leave Cap</u>	
1 - 5	14.77	11.39	384	296	2,080	1,664
6 - 10	16.34	12.93	424	336		
11+	17.85	14.47	464	376		

Deleted "including grandfathered amounts"

B. Division Management Employees

<u>Years of Service</u>	<u>Accrual Rate per Pay Period</u>		<u>Hours per Year</u>		<u>Annual Leave Cap</u>	
1 - 5	13.85	10.47	360	272	2,080	1,664
6 - 10	15.38	12.01	400	312		
11+	16.34	12.93	424	336		
DM's Hired Prior to 9/22/92	16.92	13.55	440	352	2,080	1,644

C. Professional/Administrative

<u>Years of Service</u>	<u>Accrual Rate per Pay Period</u>		<u>Hours per Year</u>		<u>Annual Leave Cap</u>	
1 - 5	13.09	9.70	340	252	2,080	1,664
6 - 10	14.62	11.24	380	292		
11+	15.54	12.16	404	316		
PAM's Hired Prior to 9/22/92	16.15	12.77	420	332	2,080	1,644

Added: **PAM Confidential employees receive an additional 0.62 hours per pay period (approximately 16 hours per year) of annual leave per year.**

Deleted "including grandfathered amounts"

D. Non-Exempt

<u>Years of Service</u>	<u>Accrual Rate per Pay Period</u>		<u>Hours per Year</u>		<u>Annual Leave Cap</u>	
1 - 5	10.77	7.39	280	192	2,080	1,664
6 - 10	12.34	8.93	320	232		
11+	13.23	9.85	344	256		
NE's Hired Prior to 9/22/92	13.85	10.42	360	272	2,080	1,644

Section 7.15 Grandfathered Leave Balances

Added policy date of December 14, 2007

Sick Leave shall be referred to as "Grandfathered Sick Leave" and are considered "frozen" sick leave hours

Added the word "frozen"

Changed "an" to "a"

Deleted "not" added "only"

Added "if the employee is on approved FMLA leave"

Added formula options for Grandfathered Sick Leave balances at time of retirement

Changed "separation" to "retirement"

45

46

Added that employees who do not retire under the City's CalPERS contract at the time of separation shall forfeit 40% of their frozen sick leave

Added that an employee absent for three consecutive working days due to illness or injury may access their frozen sick leave bank. In order to do so, employee must complete a Leave of Absence Request Form and submit it, along with a physician's certification of inability to perform required duties to their supervisor and executive manager for approval

Changed 2080 to 1664 hour annual leave cap

Section 7.20 Annual Leave Cash Out Upon Separation and Retirement

Changed separating employees are entitled to payment for "80%" to "100%" of their unused annual leave balance

Deleted sentence regarding 20% of annual leave being forfeited

Deleted Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15

Changes employees retiring from the City

Changed retiring employees are entitled to payment for "80%" to "100%" of their unused annual leave balance

Deleted sentence regarding 20% of annual leave being converted to PERS service credit

48 Deleted sentence, "If she chooses to remain away from work longer, she must apply for family leave."

49 Changed "shall" to "may" and added "Frozen Sick Leave, and then any other accrued leave available, such as"

Changed "continuing" to continue"

53 Section 7.60 On-the-Job Injuries and Workers' Compensation Coverage

Added "fully paid Workers' Compensation Leave (i.e., equal to the employee's regular base pay compensation, including reduced pay due to furlough pay reduction"

Deleted "a sum which, when added to the amount of temporary disability payment, will result in a payment equal to such an employee's regular compensation"

Added "receive"

Added "through the City's Long Term Disability Plan"

Added sentence stating that if an employee is unable to return to work due to a permanent disability and retires under CalPERS benefits, the employee may also be eligible for long-term disability plan benefits

54 Added sentence stating that if an employee is still unable to work after one year, the City may initiate processing a PERS disability retirement application on behalf of the employee

55 Added "or medical Retirement"

63 Added Section 9.40 Last Chance Employment Agreement

Changed "9.40" to "9.45"

64 Changed "9.45" to "9.50"

Changed "9.50" to "9.55"

Changed "9.55" to "9.60"

- 76 Section 13.15 Access to Files
Changed "Finance" to Financial and Administrative Services"
- 78 Section 14.05 Benefit Bank
Added "to the extent permitted by the provisions of the benefit plan carriers"
Changed "two (2) weeks of any change of active status" to "sixty (60) days as defined by CalPERS"
- 80 Section 14.15 Post Retirement Medical Benefits
- 81 Deleted "an insurance/annuity program chosen by the MVCEA"
Added "the Benefit Bank"
Added "under the CalPERS retirement benefits system with a minimum of" and deleted "after at least"
Section 14.25 City Retirement Plan
Added "for employees hired prior to July 1, 2009. Employees hired on or after July 1, 2009 pay their own employee's contribution into the plan, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions. This does not apply to promotional hires, whose original hire date was prior to July 1, 2009."
Added "hired prior to July 1, 2009"
Added "Career Full-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution."
Added "hired prior to July 1, 2009"
Added "Career Part-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution."
- 82 Added section "D"
Section 14.35 IRC Section 457 Plan
Changed requests for emergency/hardship withdrawal will now be made directly to the 457 plan provider and not to Human Resources
14.36 IRC Section 401A Plan
Deleted "Open Enrollment is the only opportunity to join the plan."
Changed Eligible employees who want to enroll must do so within the first 30 days of hire, or during the annual open enrollment period.
Added PAM-Confidential employees receive \$750.10 per fiscal year (28.85 per pay period) in a City sponsored 401(a) Plan.
- 83 14.40 Life Insurance
Added section "D"
Changed \$11,000 to \$14,000

- 84 Added to Section "B" regarding paid vs. unpaid leave in relation to annual leave accruals, FMLA leave, health insurance and COBRA disability retirement options.
- 85 Section 15.05 Stand-by
Deleted "seven (7) consecutive calendar days a"
Added "period of days"
Deleted "Friday at 4:00 p.m."
Added "at the time and on the day determined by the departmental coverage requirements and as approved by the employee's manager. Under some circumstances the period is not a seven consecutive day period."
Added current Stand-by Pay amounts
- 86 15.16 Safety Equipment
Added "an", "stipend"
Deleted "vouchers with a local vendor"
Added "The City provides uniforms for employees in the Security Guard job classification."
- 87 Section 16.25 Seminars and Conferences
Section "A"
Changed Finance to "Financial and Administrative Services"
- 88 16.30 Tuition Reimbursement
Added "pre", "accredited", "up to a maximum annual limit of \$1,500.00 per fiscal year (i.e. July 1 through June 30)"
Added that courses must be part of a recognized degree or related to the employee's current job; and the school offering the program must be an accredited school recognized by the U.S. Department of Education or authorized accrediting organization, e.g. WASC
Deleted "leading to an Associate's degree, undergraduate or graduate degree"

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CITY OF MORENO VALLEY
PERSONNEL RULES & REGULATIONS
REVISED ~~FEBRUARY 2009~~, **May 2011**

Please complete this form and return to Human Resources. If you have any questions regarding the Personnel Rules & Regulations, please contact the Human Resources Department at extension 3045.

On _____, I received a copy of the City of Moreno Valley's, ~~February 2009~~ **May 2011**, Revised Personnel Rules & Regulations, and I have had an opportunity to ask questions and discuss the information. I understand that a copy of this acknowledgement form will be placed in my central **official employee** personnel file, located in the Human Resources Department.

Employee Name (Please Print): _____

Employee Signature: _____

Department/Division: _____

.....
.....

Human Resources Department Use Only

Date Returned: _____

Received by: _____

CITY OF MORENO VALLEY
PERSONNEL RULES AND REGULATIONS
REVISED ~~February 2009~~ **May 2011**

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PERSONNEL RULES AND REGULATIONS

REVISED February ~~2009~~ **May 2011**

SECTION 1: GENERAL PROVISIONS

1.05. AUTHORITY

The City Council of the City of Moreno Valley is authorized and directed under the Municipal Code and the provisions of Section 1.40 of these Rules to adopt rules for the administration of the City's personnel system.

1.10 OBJECTIVES

The objectives of these Personnel Rules are to facilitate efficient and effective services to meet public needs as well as provide for an equitable system of personnel management in municipal government.

These Rules shall set forth in detail procedures which ensure fair and equitable treatment for those who compete for original employment and promotion within City employment and define many of the obligations, rights, privileges and prohibitions which are placed upon all employees in the competitive service of the City.

1.15 INTERPRETATION

Within the limits of administrative feasibility, the City Manager shall be responsible for the interpretation of these Rules in cases where the proper application of a rule or any portion thereof is not clearly ascertainable. When such interpretation is required, the result shall be in harmony with the objectives set forth above.

1.20 DEFINITION OF TERMS

All words and terms used in these Rules and in any ordinance or any resolution dealing with Personnel Rules and Regulations shall be defined as they are normally and generally defined in the field of personnel administration. For the purpose of convenience, the following words and terms most commonly used are defined.

Anniversary Date: The date when the employee last completed probation. If an at-will employee, the date the employee was hired to the most recent position.

Except as specifically provided in these Rules, any non-probationary employee who takes an authorized leave of absence without pay shall have his or her anniversary date extended the same amount of time as his or her period of leave.

Appointing Authority: The City Manager or designee who, in his or her individual capacity, has the final authority to appoint a person to a position of employment.

Appointment: The designation of a person to fill a position of employment.

At-Will Employee: A probationary employee, temporary employee, seasonal employee or contract employee, who does not hold career status.

position, who is regularly scheduled to work no less than one thousand (1,000) hours per year, has successfully completed his or her probationary period, and has been retained as provided in these Rules.

City: The City of Moreno Valley.

City Manager: The City's Chief Executive Officer.

Classification: A certain group of job positions with the same title, salary range, and benefit package.

Classification Manual: A document containing the class specifications for all City positions as approved by the City Manager or designated official.

Classification Plan: A listing of the duties and responsibilities of all City positions, as determined by the City Manager and adopted by the City Council.

Classification Roster: A listing of all City positions including the title and benefit category contained in the annual fiscal year budget, as determined by the City Manager and adopted by City Council.

Compensatory Time: Time accrued or taken off from work with pay, in lieu of paid overtime compensation.

Competitive Service: The merit system whereby City employees are hired and promoted through a competitive process based upon objective standards of merit to assure fair consideration in all aspects of employment/promotion.

Contractual Employee: An employee hired and paid pursuant to the terms and conditions of a specified written contract between such an employee and the City.

Days: Calendar days unless otherwise stated.

Demotion: The voluntary or involuntary transfer of an employee from one classification to another classification with a lower salary or to a lower step in a classification or hierarchy of positions.

Department Head: One who functions directly under the authority of the City Manager, has direct responsibility for a particular department, and manages its staff, policies and budget.

Dependent: A covered person who relies on another person for support; or obtains health coverage through a spouse, domestic partner, parent, grandparent, or legal guardian. **For the purpose of insurance eligibility, an eligible dependent is defined as: spouse, registered domestic partner, child, economically dependent child, and adult children up to age 26.**

Direct Appointee: A person occupying a position in the City employment selected by the City Council or City Manager. Direct Appointees include the City Manager, Assistant City Manager, City Clerk, City Treasurer, City Attorney, and any assistant or deputies to the City Manager, City Clerk, City Treasurer, City Attorney and Department Heads.

Disciplinary Action: The discharge, demotion, reduction of pay, suspension, placing on probation, or the issuance of a **last chance employment agreement**, written reprimand, or formal warning, or any other action for punitive, corrective, or disciplinary reasons.

Disciplinary Suspension: A disciplinary action that temporarily separates an employee

from City service without pay.

Dismissal: The discharge of an employee by the City from City employment.

Division Manager: Division Heads and those who qualify for executive exemption under FLSA and for a certain benefits package.

Domestic Partner: As defined by state law and registered accordingly.

Elected Official: The Mayor and members of the City Council. Members of commissions and advisory bodies appointed by the City Council or City Manager shall be included in this definition for use in the Rules only.

Eligibility List: A list of all persons eligible for appointment to a particular classification after final testing/interviews as determined by the Human Resources Director.

Emergency Appointment: An appointment made to meet immediate requirements of an emergency condition, such as fire, flood or earthquake, which threatens life or property, where such employment is not anticipated to endure beyond the duration of such an emergency period.

Employee: A person occupying a position in the City employment providing services to the City or its residents. This excludes City Council Members, commissioners, members of advisory boards, positions appointed directly by the City Council, independent contractors and outside contractors.

Employee Assistance Program (EAP): A health and wellness benefit which allows an employee or a member of his or her family to receive personal counseling at City expense, subject to certain limits and available funds.

Employee Relations Officer: The City Manager-designated officer who administers the City's employee relations as defined in Employee Relations Resolution #92-110. The designated Employee Relations Officer functions under the authority of the City Manager.

Executive Management: Department Heads and those who qualify for executive exemption under FLSA and for a certain benefits package.

Fair Labor Standards Act (FLSA): The Federal Law, which guarantees employees certain minimum wages and time and one-half overtime standards.

Fiscal Year: A twelve-month period from July 1 to June 30 in which the City plans, budgets, appropriates, and expends its funds.

Flexible Work Schedule: A City Manager-approved variation from the standard daily work hour schedule of 8:00 a.m. to 5:00 p.m.

Full-time Employee: An employee who is regularly scheduled and expected to work forty (40) hours or more during a workweek.

Furlough: A Management-dictated, mandatory, reduced working period implemented to save City funds during difficult economic times.

overtime provisions of FLSA and who qualifies for a certain benefits package.
Human Resources Officer: The City Manager-designated officer, known as the Human Resources Director, who administers the City's personnel system. The designated Human Resources Officer functions under the authority of the City Manager.

In-House Competitive Examination: A type of examination open only to City employees meeting the minimum qualifications for a particular classification.

Immediate Family Member: Mother, father, spouse, domestic partner, natural/step children, children of domestic partner, mother-in-law, father-in-law, brother, or sister, grandparent and grandchild. Step-parents may be included depending on the current situation.

Insubordination: This occurs when an employee refuses a lawful order from a supervisor. Three elements should exist: (a) the employee understood the instructions and consequences of failing to follow the order; (b) the order was in line with the employee's duties; and (c) there was no safety reason for the employee to refuse the order.

Interim Employee: An employee who is appointed to a career classification on an acting or temporary basis pending completion of the recruitment process, issuance of an eligibility list, and filling the classification.

Last Chance Employment Agreement: is an agreement between the City, an affected employee and a bargaining unit representative. This written employment agreement gives the employee who has committed serious misconduct one last chance to keep the employee's job. The agreement provides details about the employment misconduct, sets forth the City's expectations for continued job performance, and defines the employment consequences for failure to meet those expectations — usually termination of employment, with a condition that the employee waive any future rights of appeal of the termination.

Lead Worker: A working daily supervisor who typically schedules, assigns, trains, monitors, and evaluates the work of a crew or group of employees. Additionally, a lead worker performs the more difficult and responsible tasks assigned to classifications within that classification series.

Leave of Absence Without Pay: A period of time during which an employee may take time off without receiving compensation or benefits, unless otherwise stated in these Rules.

Limited Term: An employee hired for a definite term based on the funding available and/or workload requirements.

Merit Salary Increases: The increase of an employee's salary within the salary range established for the classification the employee occupies, resulting from satisfactory job performance, which is based on performance or merit, not solely on longevity.

Misconduct: Any act or unsatisfactory job performance which may be subject to disciplinary action.

Modified Work Schedule: Any work pattern schedule other than a usual 8 to 5 schedule as approved by the City Manager.

Open Competitive Examination: A type of examination open to applicants meeting the minimum qualifications for a particular position.

Overtime: The time which an employee is required or permitted to work beyond the

number of hours prescribed for a full-time employee in that classification. Overtime compensation, taken as paid time or as compensatory time, shall be authorized as provided in Section 6.05.

Part-time Employees: The City has three (3) types of part-time employees; career part-time, temporary or seasonal, and crossing guards.

A. Career Part-Time Employee: An employee who works a minimum of twenty (20) scheduled hours per week on a permanent basis.

B. Temporary or Seasonal Employee: An employee, other than a contract employee, who is scheduled to work no more than 1,000 hours in a calendar year, **no more than twelve continuous months**, or one for whom there is no Council-authorized position **and no employee benefits**.

C. Crossing Guard: An employee hired as a regular or an alternate crossing guard. A regular crossing guard shall have a usual post near a school site. An alternate or substitute guard shall relieve any regular crossing guard in the case of absence.

Performance Assessment Review (PAR): This is the performance evaluation tool for the City's career employees, wherein performance is evaluated and rendered at three (3) months and six (6) months while on probation, and annually thereafter on the employee's anniversary date.

Permanent Disability: A medical disability which will indefinitely prevent the employee from performing his/her essential job duties without creating unreasonable endangerment to health and safety or inefficiency of the employee or others.

Personnel Ordinance: Chapter 2.30 of the City's Municipal Code, authorizing the establishment of a personnel system for the City.

Position: A specific job assigned to a job classification.

Probationary Employee: An employee who is serving his or her probationary period.

Probationary Period: A working test period which is part of the selection process, during which an employee is required to demonstrate his or her fitness for the position to which assigned. Before an employee may promote, they must successfully complete original probation.

Professional/Administrative/Management Employee: An employee who qualifies for the executive (Professional/Administrative/Management) exemption under FLSA and for a certain benefits package.

Promotion: The advancement of an employee from one classification to another classification having a higher salary range.

Reclassification: The reassignment from one classification description, or status to a different classification description, or status in accordance with a re-evaluation of the

title changes are not reclassifications.

Reduction in Force (RIF): A layoff in the work force.

Resignation: The voluntary separation by an employee from City employment.

Rules: These Personnel Rules, as they may be amended periodically.

Salary Schedule: The listing of the salary ranges and steps for all defined City classifications.

Salary Range: The range of pay an employee can earn while employed in a particular classification.

Seniority: The length of an employee's continuous service in a City career position.

Staffing Plan: The classification titles, salaries and number of allocated positions in a department or division for a designated fiscal year, as determined by the City Manager and adopted by City Council in the annual budget document.

Standards of Conduct: Those rules which are intended to govern the actions of City employees during their course of employment with the City with respect to the employee's job performance.

Supervisor: Performs full scope of supervisory duties including hiring, training, planning, scheduling, disciplining, and evaluating the work of several crews and/or work units of staff.

Temporary Employee: *(See Part-time Employees)*

Termination: The separation of an employee from City service because of retirement, resignation, permanent disability, death or dismissal.

Transfer: The change of an employee from one department or division to another department or division without changing the employee's salary and usually within the same classification.

Workweek: A regularly recurring period of seven (7) consecutive twenty-four (24) hour days beginning at 12:01 p.m. on Friday and concluding at 12:00 noon the following Friday.

Y-Rate of Pay: The Y-rate of pay shall exist when an employee's salary is frozen at the then current level until such time as the commencing salary at the Y-rate, taken together with subsequent general salary increases, equals or exceeds the employee's salary at the Y-rate. This may occur in situations where an employee is reclassified, voluntarily demoted, or as otherwise stated in these Rules. ~~Normally~~**Typically**, benefits will not be Y-rated.

The City Manager shall administer the City personnel system and may delegate any of the powers and duties related thereto to any other officer or employee of the City or may recommend that such powers and duties be performed under contract as provided in Section 1.30 of these Rules. The City Manager shall:

A. Act as the appointing authority for all City employees except those officers and employees directly appointed by the City Council.

B. Administer all of the provisions of these Personnel Rules except as specifically reserved to the City Council.

C. Prepare and recommend to the City Council any appropriate Personnel Rules and revisions to such Rules.

D. Prepare or cause to be prepared, and revise as appropriate, a position classification schedule, including class specifications.

E. Have the authority to discipline City employees in accordance with these Personnel Rules.

F. Provide for the publishing or posting of notices of examinations for positions in the competitive service; the flexibility to waive certain job stated qualifications for good cause when it is in the best interests of the City; the receiving of applications therefore; the conducting and grading of examinations; the establishment of a list of all persons eligible for appointment to the appropriate position in the competitive service; and the performance of any other duty which may be desirable or required for the effective implementation of these Rules.

G. Appoint employees on a temporary or seasonal basis without competitive examination.

H. Determine standardized daily work hours and schedules and approve variations to the standard schedule.

1.30 CONTRACTS FOR SPECIAL SERVICES

The City Manager may contract for the performance of technical services in connection with the establishment or operation of the personnel system. In addition, the City Manager may determine the circumstances under which it is in the best interests of the City to contract for such services, and to enter into contracts for such services with City Council approval. The contract may be with any qualified person or public or private agency for the performance of any or all of the following:

A. The preparation of Personnel Rules and subsequent revisions and amendments.

B. The preparation of a position classification plan, and subsequent revisions and amendments.

C. The preparation, conduct, and grading of qualifying tests.

D. The conduct of employee training programs.

E. Special and technical services of advisory or informational character on matters relating to personnel administration.

F. Professional services.

1.35 APPLICATION AND EXCEPTIONS

A. These Rules shall apply to all offices, positions, and employments in the service of the City, as defined in Section 1.20 of these Rules, with the exception of the following:

1. Members of the City Council and other elected officials. However, only the following provisions of the Rules shall apply to the City Council and other elected officials: 1.65 Political Activities; 1.75 Drug and alcohol Free Workplace; 1.80 Equal Employment Policy; 1.85 Discrimination and Anti-Harassment Policy; 1.90 Workplace Violence Policy; 1.95 Smoking Policy; 4.50 Driving Safely Check; 7.60 On-The-Job Injuries and Workers' Compensation Coverage; 13.15 Access to Files (access as specified in Section 13.15); and 13.20 Disclosure of Information.

2. Members of commissions and advisory bodies appointed by the City Council or City Manager.

3. Direct appointees of the City Council, including the City Manager, City Clerk, City Treasurer, City Attorney, and any assistant or deputies to the City Attorney. An employee who also holds the position of City Treasurer shall not be excluded from the Rules, unless he or she has entered into an employment agreement pursuant to sub-section "F" herein. The following provisions of the Rules shall specifically apply to Direct Appointees: 1.55 Conflicts of Interest and acceptance of Gifts and other Gratuities; 1.60 Incompatible Employee Activities; 1.65 Political Activities; 1.75 Drug and alcohol Free Workplace; 1.80 Equal Employment Policy; 1.85 Discrimination and Anti-Harassment Policy; 1.90 Workplace Violence Policy; 1.95 Smoking Policy; 4.50 Driving Safely Check; 4.65 Pre-Employment Physical; 4.70 Employment Eligibility Verification; 4.80 Criminal Conduct – Ineligibility for Employment; 4.85 Fingerprinting; 7.00 Leaves; 7.60 On-The-Job Injuries and Workers' Compensation Coverage; 13.15 Access to Files; 13.20 Disclosure of Information; and 14.00 Employee Benefit Policies.

4. Volunteer personnel, such as volunteer fire protection personnel, and others who provide services to the City without receiving compensation (although such persons may receive reimbursement for actual expenses incurred in the service of the City).

5. Outside and independent contractors, engaged to provide expert, professional, technical, or other services.

6. Employees who have entered into an employment agreement with the City, unless otherwise specified in an employment agreement.

B. These Rules, with the exception of Sections 8-12 inclusive, shall apply to the following employees, who serve at the pleasure of their respective appointing authorities and are considered "at will" employees:

1. Emergency employees, such as those hired to meet immediate needs of an emergency condition (i.e., fire, flood or earthquake) which threatens life or property.

2. Employees who are considered temporary or seasonal.

3. Other non-career employees who are not specifically mentioned in Section 1.35 of these Personnel Rules.

4. Alternate Crossing Guards.

5. Volunteers and Interns.

C. The crossing guard manual contains specific personnel policies for crossing guards. It is an extension of these rules. Violations of those written policies are also considered violations of these rules as well.

1.40 ADOPTION AND AMENDMENT OF RULES

Pursuant to the Personnel Ordinance, the City Council may adopt Personnel Rules to provide for the implementation of a personnel system for City employees. Recognized employee organization-proposed amendments to these Rules shall be submitted to that organization for review and recommendation prior to submittal to the City Council.

Advance notice and an opportunity to meet and confer shall be given to recognized employee organizations concerning any amendments which affect matters subject to meet and confer such as, wages, hours, and other terms and conditions of employment. Upon request, the Human Resources Director shall provide the opportunity for review and comment and consult with any recognized employee organization so requesting prior to consideration by the City Council.

As provided in Section 3500 et seq. of the California Government Code, in cases of emergency, when the City Council determines that amendment(s) to these Rules must be adopted immediately without prior notice or meeting with a recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practical time following the adoption of the amendment(s). Amendments shall become effective upon adoption by the City Council or at such other time as the adopting resolution may provide.

With the written approval of the City Manager, Department Heads may promulgate rules not in conflict with these Rules for the effective and efficient operation of their departments.

1.45 VALIDITY OF RULES (SEVERABILITY)

If any section, subsection, sentence, clause, phrase or portion of these rules is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these rules. The City Council of Moreno Valley hereby declare that it would have adopted these rules and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

1.50 VIOLATION OF RULES

Violation of these Rules may be grounds for disciplinary action, subject to the applicable appeals procedure provided herein.

1.55 CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES

City employees should serve the needs and respond to the wishes of all citizens equally without regard to their personal gain. City employees should perform their duties in an

interests of other persons. Therefore, it is the policy of the City of Moreno Valley that all City employees shall avoid situations which might be interpreted as involving or creating a conflict of interest between the employee's duties and responsibilities as a public employee, and the employee's personal and private interest.

Employees should not take part in the consideration of any application, proceeding or other matter involving their own personal property, real estate, investment or other interest, or that of any relative or close personal acquaintance. In all such situations, the employee should disclose the nature of the relationship to his or her immediate supervisor and request to be relieved of any responsibility or involvement in such matter. The acceptance of gifts, favors, or any form of compensation or gratuity may be viewed as influencing or compromising or attempting to influence or compromise the judgment of an employee. To prevent such a conflict, employees shall discourage any offer of a gift, favor or any form of compensation or gratuity. Gifts that can and will be shared with office staff, such as boxes of candy, flowers, and food, may be viewed as exceptions. Being hosted by a City contractor or potential City contractor is not a conflict of interest, provided that all financial disclosure laws and regulations are complied with.

Employees who receive or are offered an unanticipated gift, favor or gratuity, should consult their Department Head to determine an appropriate response to the donor. City employees shall not solicit or accept donations for City sponsored events unless waived for specific events by express written authorization of the City Manager.

1.60 INCOMPATIBLE EMPLOYEE ACTIVITIES

During an employee's work day, the employee is expected to devote his or her full time, attention and efforts to the performance of his or her assigned duties as a City employee. At no time shall any outside employment or activity be conducted on City time. No employee shall engage in any employment, outside activity, or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his or her ability to perform the duties, functions, or responsibilities of his or her position as a City employee, nor shall he or she engage in any outside activity which may directly or indirectly contribute to the lessening of his or her effectiveness as a City employee. Employees who undertake outside employment shall notify their immediate supervisors in writing of the nature, duties, and hours of that employment before undertaking such employment, including military service in the Reserves or Guard.

No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly permitted by the City Manager, Federal or State law, Memorandum of Understanding, or City Council directive.

1.65 POLITICAL ACTIVITIES

No restrictions shall be placed on the political activities of any employee of the City of Moreno Valley other than the following.

employment with the City shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position within the City, upon consideration or condition that the vote or political influence or action of such a person or another shall be given or used on behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration (Government Code 3204).

B. No employee shall directly or indirectly solicit political funds or contributions from other employees of the City. Employees, however, are not prohibited from requesting political funds or contributions to a significant segment of the public which may include officers or employees of the City (Government Code 3205).

C. No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer or arrange for any increase in compensation or salary for an employee of a state or local agency in exchange for, or a promise of, a contribution or loan to any committee controlled, directly or indirectly, by the person who holds, or is seeking election or appointment to office. (Government Code 3205.5)

D. No employee shall participate in any political activities while in uniform (Government Code 3206)

E. No employee shall engage in political activity during working hours or on City premises (Government Code 3207).

F. No employee shall engage, during his or her working hours, in the solicitation or receipt of political funds or contributions to promote the passage or defeat of any ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of the employees of the City; nor shall entry be permitted on City premises during working hours for such purposes (Government Code 3209).

1.70 SAFETY AND HEALTH

Each employee shall comply with all applicable safety laws, rules, and regulations. All employees shall follow safety practices, use personal protective equipment as required, render every possible aid to safe operations, and report to proper authority all unsafe conditions or practices.

A. Management may request a fitness-for-duty examination and repeat examinations as necessary to safeguard the employee and co-workers when there is a concern about an employee's ability to perform his or her job, based on the observations of a supervisor, manager, or physician. Specific reasons for the fitness-for-duty request must be stated.

Because drug and alcohol use can detrimentally affect job performance and employee safety, the City is committed to achieving and maintaining a drug and alcohol free workplace. While the City has no intention of intruding into the private lives of its employees, it will be firm in identifying and disciplining those employees whose impaired mental or physical condition, as a result of drug or alcohol use, may endanger the health or safety of fellow employees and the public at large, or interfere with the operations of the City.

This policy applies to all City employees (including part-time, temporary and hourly employees) and to all applicants for positions with the City.

While on paid duty time, the employee shall not be under the influence of any substances, drugs, medications, legal or illegal which could impair an employee's ability to effectively and safely perform the functions of the job. The use of prescription drugs which would not alter an employee's work performance is acceptable if prescribed by a qualified physician.

The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The unlawful manufacture, distribution, dispensing, possession, or use of any illegal drug or "controlled substance" is prohibited on the job, in the City's workplace, or while subject to duty (i.e., stand-by).

For the purposes of this Section, the following shall be defined as:

A. "Controlled Substance" denotes any substance which could potentially impair the employee's ability to effectively and safely perform the functions of his or her duties, including, but not limited to: alcohol, coca leaves, cocaine, marijuana, opium and opiates, amphetamines, methamphetamines, lysergic acid (L.S.D.), etc. As outlined below, certain prescription drugs and medications shall also be classified as controlled substances.

B. "Conviction" is a finding of guilt (including a plea of no contest), an imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

C. "Criminal Drug Statute" is a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any illegal drug or controlled substance.

Please refer to the City of Moreno Valley's Personnel Rules & Regulations, Appendix A-D, for a detailed description of the City's Drug and Alcohol Free Workplace Policy.

It is the policy of the City of Moreno Valley to offer equal opportunity in all matters of employment. Employment with the City is based solely upon the qualifications of the individual applicant, regardless of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability, unless sex, mental, or physical ability is a bona fide occupational qualification.

All employees are to be treated with respect and dignity. The City of Moreno Valley prohibits any harassment of employees in the workplace. Activities and occurrences which may constitute harassment, whether written or oral, include, but are not limited to disparaging comments on the basis of one's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or mental or physical disability. Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.

The City shall not unlawfully discriminate against a qualified individual with a disability in job applications, hiring, advancement, compensation, training, discharge, and other terms, conditions, or privileges of employment. A disabled person is one who has mental or physical impairment that limits at least one major life activity, who has a record of impairment, or who is regarded as having impairment. A qualified individual with a disability is a person, who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Violation of this policy will result in appropriate disciplinary action pursuant to Section 8 of these Rules.

1.85 DISCRIMINATION AND ANTI-HARASSMENT POLICY

The City of Moreno Valley is committed to providing a work environment that is free of discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting any form of harassment, including sexual harassment, of all employees. Furthermore, the City prohibits harassment in any form, including verbal, physical, visual, or sexual harassment or retaliation against an employee for filing a harassment and/or discrimination complaint.

Harassment of an employee by a co-worker, supervisor, management employee, or other agent of the City, or a customer, on the basis of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, pregnancy, sexual orientation, including gender identity, political affiliation, or a mental or physical disability will not be tolerated. Such harassment activities, which may have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the Human Resources Director.

A. Verbal Harassment- For example, epithets, derogatory comments or slurs on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity, age, or denial of family and medical care leave and denial of pregnancy disability leave.

B. Physical Harassment- For example, assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.

C. Visual Forms of Harassment- For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, marital status, sex, sexual orientation, including gender identity or age.

D. Sexual Harassment- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employee benefit, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or an offensive work environment.

The City shall ensure that each employee has a copy of the City's anti-harassment policy which will include information on its internal complaint procedure.

Any employee who believes he or she has been harassed by a co-worker, a supervisor, a management employee, any other agent of the City, or customer should promptly report the facts of the incident or incidents and names of persons involved to his or her supervisor and/or the division manager/department head, and/or the Human Resources Director. If the offending party is a department head or higher, the complaint should be addressed to the offending party's supervisor. Any supervisor, division manager, or department head is obligated to immediately report any complaints and/or incidents of harassment to the Human Resources Director. Failure to make such a report when required by this Section may provide grounds for disciplinary action.

Upon receiving notification of a harassment complaint, the Human Resources Director shall:

A. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with:

1. the complainant;
2. the accused harasser; and
3. any other persons the Human Resources Director has reason to believe have relevant knowledge concerning the complaint. This may include victims of similar conduct.

B. Review the factual information gathered through the investigation to determine

whether the alleged conduct constitutes harassment giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual, or sexual conduct, and the context in which the alleged incidents occurred.

C. Report the results of the investigation, and the determination as to whether harassment occurred, to appropriate persons, including the complainant, the alleged harasser, the supervisor, the department head, and the City Manager. If discipline is imposed, the discipline will not be communicated to the complainant.

D. If the harassment occurred, take and/or recommend to the appointing authority prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense.

E. Take reasonable steps to protect the complainant from further harassment.

F. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

G. If appropriate, take action to remedy the victim's loss, if any, which resulted from the harassment.

If the employee is not satisfied with the action taken, the employee shall have the right to file a formal grievance in accordance with Section 12.55. If the allegation of harassment implicates any person rendering a decision at any Step in the Grievance Procedure, the employee may omit that particular Step and proceed to the next Step in the Grievance Procedure.

Dissemination of Policy

All employees, shall receive a copy of this Discrimination and Anti-Harassment Policy when they are hired and regularly thereafter. All supervisors hired after January 1, 2005, shall receive harassment training within six (6) months of hire. All supervisors shall receive interactive anti-harassment training at least every two years.

1.90 WORKPLACE VIOLENCE POLICY

This organization does not tolerate workplace violence. We define workplace violence as actions or words that endanger or harm another employee or result in other employees having a reasonable belief that they are in danger. Such actions include:

- Verbal or physical threats, or intimidation;
- Assaults or other violence; and
- Any other behavior that causes others to feel unsafe (e.g., bullying, sexual harassment).

City policy requires an immediate response to all reports of violence. All threatening incidents will be investigated and documented. Counseling may be provided.

- Oral reprimand;
- Written reprimand;
- Suspension; or
- Termination.

Employees are expected to behave in a professional manner. It is the responsibility of all employees to report all threatening behavior to management immediately. The goal of this policy is to promote the safety and well-being of all people in our workplace.

1.95 SMOKING POLICY

In compliance with all CALOSHA regulations, smoking is prohibited in all City facilities and in all City vehicles and rolling stock. Consistent with CAL OSHA regulations no one may smoke less than 20 feet from doorways.

2.05 PREPARATION, ADOPTION, AND AMENDMENT OF CLASSIFICATION PLAN

The City Manager shall determine the duties and responsibilities of all City positions for inclusion in the Classification Plan. The Classification Plan shall be so developed and maintained to ensure that all positions which are substantially similar with respect to duties, responsibilities, authority and character of work, are included within the same classification, and the same schedules of compensation shall apply to all positions in the same classification. Classification specifications are explanatory, but not restrictive.

The listing of particular tasks shall not preclude the assignment of other related kinds of tasks or related jobs requiring lesser skills. The Classification Plan may be amended or revised, as required, in the same manner as originally established and described herein and is subject to adoption by the City Council.

2.10 ALLOCATED POSITIONS

The City Manager shall approve the appointment of employees to positions in the Classification Plan.

Only allocated positions which have been approved by City Council may be filled, provided that the following positions can be approved by the City Manager without prior City Council approval: 1) temporary; and 2) emergency.

2.15 NEW POSITIONS

When a new position is created, no person shall be appointed or employed to fill the position prior to the position's assignment to a classification, unless otherwise provided by these Rules. The City Manager shall amend the Classification Plan to establish and assign an appropriate classification for the new positions approved by the City Council.

2.20 CLASSIFICATION MANUAL

This manual shall contain a job description, as well as knowledge, skills, abilities, education, experience, sample duties, and other minimum qualifications for all classifications listed in the Classification Plan. This manual is developed by staff and approved by the City Manager.

2.25 PREPARATION OF SALARY SCHEDULE

The City Manager shall prepare a salary schedule that establishes the salary ranges and steps for all City classifications. The Salary Schedule shall be amended or revised, as required.

2.30 APPROPRIATE SALARY LEVEL

Employees occupying a City position shall be paid a salary range and step established for that position's classification under the adopted Classification and Salary Schedule.

2.35 BENEFIT PLAN:

The City Council shall, at its discretion, adopt a Benefit Plan that establishes the benefits for all City employees. This Benefit Plan is described in the Employee Benefits Section of the City's Compensation and Leave Policies.

3.05 TYPES OF APPOINTMENTS

Except for temporary vacancies, all vacancies shall be filled by transfer, promotion, demotion, or from candidates on an appropriate eligibility list, if one is available. In the absence of eligible candidates in one of the above categories, temporary appointments may be made in accordance with these Rules.

3.10 EMERGENCY APPOINTMENTS

To meet immediate requirements of an emergency condition which threatens life or property, the City Manager may create positions and employ such persons as temporary employees as may be needed for the duration of the emergency. If not determined otherwise by an applicable provision or by an Emergency Operations Plan approved by the City Council, the method of hiring for emergency appointments shall be subject to the discretion of the City Manager. All such appointments shall be reported to the City Council as soon as possible, and shall be compensated at an appropriate hourly rate as approved by the Human Resources Director.

3.20 ACTING PAY

When an employee is assigned to perform the significant duties and responsibilities of a higher level position on a full-time basis for more than thirty (30) calendar days, a temporary salary adjustment shall be made to reflect the increase in responsibility until the employee ceases to perform such out-of-class work. All acting assignments must be pre-approved by appropriate management staff, the HR Director and the City Manager in advance unless there is an emergency situation.

An employee who is ~~determined~~ **approved** to be working at a higher level in an acting capacity shall be compensated at the rate in the new salary range, which comes nearest to, but not less than, five percent (5%) higher than the rate he or she held in the previous salary range. The higher salary rate payable shall be retroactive to the first day of the acting assignment as approved by City management.

Individuals appointed to work out-of-class must meet minimum qualifications of the higher classification, and must be capable of handling major duties of the higher level classification without any more supervision than another would in the same job.

The mere performance of certain portions of the higher position, or only performing the less demanding responsibilities until the position is filled, does not constitute working out-of-class.

If the higher classification is in a different bargaining unit than the employee's regular classification, the employee would only receive the salary change, not a change in benefits or unit.

At the end of such assignment, the employee performing the temporary assignment shall be returned to his/her original position and salary rate with any merit or salary adjustments, as appropriate. At any time during the out-of-class assignment, an employee may be removed from that appointment without right of appeal or hearing.

employees temporarily to different or additional work duties and responsibilities for the purpose of responding to emergencies. While working in an out-of-class assignment, an employee shall continue to accrue, and have recorded, normal step increases in the employee's regular position. Should this assignment continue for 12 months or more, without a merit increase, the employee shall be entitled to a merit increase on the anniversary of the 12th consecutive month (based on performance), which is the lesser of a five (5) percent increase over the salary he or she received in the lower position, or the top of the salary schedule for the new position, if there is room within the range, upon approval of the City Manager. The City shall not rotate employees in and out of higher position classification assignments in order to avoid paying out-of-class compensation.

3.25 TRANSFER

An employee may transfer from his or her present position to a vacant position, in the same classification, or a comparable classification, within the same department or to another department. For purposes of this Section, a comparable classification is defined as one with the same salary range which involves the performance of similar duties that require substantially the same general qualifications. A transferred employee shall retain his or her rate of pay and his or her anniversary date for purposes of merit pay increases. No employee shall be transferred to a position for which he or she does not possess the minimum qualifications. A transfer shall not be used to effect a promotion, demotion, advancement or reduction in pay. An employee who voluntarily transfers to a lower position may be Y-rated. The employee who desires to transfer ~~must request~~ **can obtain** the appropriate form from the Human Resource Director. The Human Resource Department is under no obligation to notify employees of each potential transfer opportunity. Once the transfer request is received by the Human Resources Department, the Human Resource Director shall inform the Department Head of the request. The employee may be required to compete in an open selection process.

Unless otherwise provided for in these Rules, an employee must be employed with the City for at least six (6) months, or until the employee has completed his or her probationary period, before applying for a transfer. An employee may be requested to defer his or her transfer until his or her current position has been filled, but typically, two weeks notice will be given to the employee's current department.

A request for transfer to a vacant position may be initiated by an employee or the employee's Department Head. The City Manager may order a transfer for the purposes of economy, efficiency, or for reasons related to the best interest of the City. Such a determination by the City Manager shall not require the consent of the employee, either Department Head, or the Human Resources Director.

When it has been determined that a vacant position will be filled by promotional appointment, the Human Resources Director shall authorize a competitive promotional examination in order to fill the position, as stated in these Rules.

When an employee is appointed to a promotional position, that employee shall be paid at a level within the higher salary range which is the lesser of a five (5) percent increase over the salary he or she received in the lower position, or the top of the salary range for the new position. In accordance with the provisions in Section 5.15, any employee who is promoted within City service shall be required to successfully complete a probationary period in the new position. *(Refer to Section 4.75)*

3.35 DEMOTION

An employee may be demoted because his or her ability to perform the required duties of his or her position falls below standard, for disciplinary purposes, or for any other reasons as outlined in these Rules. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications. The position which has been made vacant by demotion shall then become subject to the provisions of these Rules which govern appointments.

An employee shall not be required to serve a probationary period in the position to which he or she is demoted unless he or she has not completed the probationary period in the higher position. In such cases, the employee shall be required to complete his or her unfinished probationary period in the lower position. The employee shall retain the anniversary date he or she had in the higher position.

A. Involuntary Demotion: An involuntarily demoted employee, who is placed in a position at a lower salary than the position he or she formerly occupied, shall be placed at a pay level within the lower salary range which is closest to, but lower than, the employee's salary rate in his or her former position. A demotion which is effected for disciplinary reasons, pursuant to Section 9.35, shall be subject to the disciplinary appeals process.

B. Voluntary Demotion: A voluntary demotion to a lower position and lower salary may be requested by an employee for any reason. Such a voluntary demotion shall require the approval of the Human Resources Director, the employee's present Department Head, and the Department Head under whom the employee will serve, if applicable.

The voluntarily demoted employee shall be placed at a pay level within the lower salary range which is closest to, but lower than, the employee's salary rate in his or her former position. In lieu of a reduction in salary, the City Manager may approve a Y-rated salary for a voluntarily demoted employee.

3.40 RECLASSIFICATION

Existing positions, where the duties have changed materially so as to necessitate reclassification, shall be reclassified by the City Manager to a more appropriate classification, whether new or existing, with the exception of reclassification from training

the selection of a candidate to fill a reclassified position must be made competitively, unless the incumbent from the reclassified position has been performing the duties for more than one year or unless specifically waived by the City Manager. Such determination must be approved by the City Manager. Regardless of the circumstances, the City Manager may require a competitive examination, and no incumbent shall have a right to be appointed to a reclassified position. No person shall be appointed or employed to fill a reclassified position unless the said reclassified position has been incorporated in the Classification Roster as provided by these Rules. A simple title change is not a reclassification and requires only City Manager approval.

The employee or Department Head may submit a request for a job audit to the Human Resources Director who shall determine if the reclassification is justified and provide a recommendation to the City Manager for approval. The City Manager has the authority to reclassify any employee whose reclassification is justified so long as the position is listed in the existing Classification Roster. If the position is not listed, the City Council must approve the reclassification. Since there is no money budgeted for that specific reclassification increase (normally 5%), the department shall fund for the City Manager approved reclassification from its general personnel account for the balance of the current fiscal year. The department shall place and fund the reclassified position in the following year's personnel budget. Reclassifications are normally done with the adoption of the fiscal year budget, but may be done at other times.

Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions, promotions, or unit modifications. The Human Resources Director may conduct objective, non-competitive examinations to establish qualifications for the position.

The salary of an employee in a position that is reclassified shall be determined as follows:

A. Classification with Same Salary Range: If the position is reclassified to a classification with the same salary range as the previous classification, and if the incumbent is appointed to the reclassified position, the salary rate and the anniversary date of the employee shall not change. The provision shall also apply to the change of classification title, provided there is no change in the basic duties of the classification.

B. Classification with Higher Salary Range: If the position is reclassified to a classification with a higher salary range than the previous classification, and if the incumbent is appointed to the reclassified position, he or she shall be compensated a pay level within the new salary range which is the lesser of five (5) percent higher than his or her previous salary level or the top of the salary range for the new position. The incumbent's anniversary date shall not change.

C. Classification with Lower Salary Range: If the position is reclassified to a classification with a lower salary range than the previous classification, and if the incumbent is appointed to the reclassified position, the City Manager may approve a Y-rate salary for the employee if the employee's old salary is above the top of the salary range for the new position. Otherwise, the employee's new salary shall be placed at a pay level which yields a salary closest to, but not less

Normally, benefits will not be Y-rated, unless specifically approved by the City Manager. The effective date of reclassification shall coincide with the first working day of a pay period after the reclassification is approved by the City Manager. Any completely new classification, one not listed in the Classification Roster, must be adopted by the City Council before it is approved.

3.45 LAYOFFS/REDUCTION-IN-FORCE/RECALL

The City Manager may lay off permanent and probationary workers at any time for lack of work, budgetary reasons, technological changes, or other City actions that necessitate a reduction in the work force. At least four weeks notice shall be given to any employee who is to be laid off. At the City Manager's discretion, a demotion or transfer to another department or classification may be made to prevent a layoff provided the employee is qualified by education and/or experience and is capable of performing the duties of the classification. The Department Heads, in consultation with the Human Resources Director, and as approved by the City Manager, will effect the layoffs.

Reduction in Force

When it becomes necessary to reduce the work force in the City, the City Manager shall designate the job classification, division, department, or other organizational unit in order to effect a reduction in the work force. Contract, temporary, seasonal, or initial probationary employees in the same job classification as ones proposed to be reduced within the City shall be laid off first. Probationary promotional employees who are laid off shall be returned to their former classification. Employees who accept lower positions or transfers in lieu of lay-off shall be placed at a pay level within the salary range of the new position, which yields a salary closest to current salary.

Order of Layoff

The order of layoff of career employees shall be made in accordance with a system which favors retention of the more meritorious employees, based upon evaluation of the following factors in the listed order of implementation:

- A. An overall rating of "unsatisfactory" or "needs improvement" on the most recent performance evaluation once finalized and filed in Human Resources except when an employee has less than one year seniority with the City. In that case, only seniority will be used.
- B. Documented disciplinary actions during the preceding twelve (12) months.
- C. Seniority (length of service in a career position):
 1. in the city
 2. in the classification
 3. in the department

above, preference will be given to those with proof of honorable military discharge.

Seniority:

Seniority is determined from the day of official appointment to a City department as a career employee, provided that any career employee, who, as a result of promotion, transfer, or voluntary demotion, is appointed to a career position in another department, shall for purposes of layoff, carry seniority previously acquired over to the new department.

Seniority shall continue to accrue during periods of Annual Leave, layoff not exceeding two (2) years, any authorized leave of absence of less than three (3) months, or any call to military service for the duration of the call to duty. Seniority shall not accrue during any other break in continuous service.

Other Policies:

The City may call back as a temporary employee, within the first year after layoff, any laid off employee who is on the recall list when the employee is qualified to fill a vacancy of a full-time position.

Any employee who receives an involuntary transfer shall have the option to be reinstated to a vacated position in the classification said employee was involuntarily transferred from for up to six (6) months from the effective date of the involuntary transfer in the event of layoff.

An employee who chooses to terminate and have his/her name placed on the Reinstatement List under this section shall notify the department in writing of his/her decision at least three (3) working days prior to the effective date of reassignment. Such termination shall be on the same date as the reassignment would have been effective.

Recall List:

The name of every career employee who is laid off, transfers, or elects to demote to a formerly held classification in the same department for longer than one pay period due to a Reduction-in-Force, shall be placed on the Recall List except that the names of those employees laid off under Sections A & B under "order of lay off" above, shall not be placed on the recall list. Vacancies to be filled within a department shall be offered, to individuals named on the Recall List who at the time of the Reduction-in-Force, held a position in the same job classification within the department as the vacancy to be filled. Order of recall shall be same as order of layoff.

Individual names may be removed from the Recall List for any of the following reasons:

- A. The expiration of two (2) years from the date of placement on the list.
- B. Re-employment with the City in a career full-time position in a department other than that from which the employee was laid off.

availability for employment.

D. Failure to report to work within 14 calendar days of mailing of a certified letter containing a notice of reinstatement to a position, absent mitigating circumstances.

E. Request in writing to be removed from the list.

Status on Re-employment:

A career employee who has been laid off or terminates in lieu of reassignment and is reemployed

in a career position within two (2) years from the date of his layoff or termination shall be entitled to:

A. Buy back and thereby restore all or a portion of Annual Leave credited to the employees' account on the date of layoff or termination and at the same rate as it was sold originally. This restoration must be requested in writing within 30 days of returning to work and must be fully paid back within six (6) months of the return to work.

B. Restoration of seniority accrued prior to and accrued during layoff.

C. Credit for all service prior to layoff for the purpose of determining the rate of accrual of Annual Leave.

D. Placement in the salary range as if the employee had been on a leave of absence without pay if he/she is reinstated to the same job classification in the same department from which he/she was laid off or terminated.

In the event of a vacancy, if there are no individuals on the recall list who formerly occupied the vacant classification, those individuals on the recall list who possess the necessary qualifications for the vacant classification shall be eligible for recall to the vacancy. Eligibility order shall be the same as the order of lay-off.

No person from outside City employment shall be hired in a career position in the deleted classification until all those displaced due to layoffs or transfers are recalled to their former classification or one classification lower in the same career ladder as the one in which the employee was laid off.

Continuation of Benefits:

Those who are laid off shall have their medical insurance benefits continued to the end of the second month following the date of their layoff in the event that they are not covered by another medical plan at that time.

4.05 EQUAL EMPLOYMENT GOALS AND POLICIES

In adopting these Rules, it is the goal of the City to employ the most qualified individuals and to achieve excellence in serving the needs of the community. Employment and promotions in the City shall be based upon merit and qualifications and shall be free from political influence and discrimination based upon religion, age, sex, marital status, race, color, national origin, ancestry, pregnancy, medical condition, mental/physical disability, sexual orientation, including gender identity, or political affiliation, unless sex or physical ability is a bona fide occupational qualification.

Although not expressed in the classification specifications or job announcements, all persons applying for or holding any position in the City shall be required to meet the following general qualifications to a reasonable degree: integrity, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume and fulfill the responsibilities of the employment, good health, and physical and mental abilities compatible with the work assignment. Where the position requires the driving of a motor vehicle, the applicant or employee must have a valid California Driver's license and is expected to drive the motor vehicle safely. The foregoing general qualifications shall be deemed to be part of the minimum qualifications of each classification specification or job announcement and need not be specifically set forth therein.

No residency requirements shall be enforced by the City of Moreno Valley. Extensive efforts shall be undertaken to make local residents aware of personnel openings, encouraging them to apply for any positions for which they qualify, and providing them with full due consideration. It is the City's intention to create an environment wherein employees will want to live and work in this community.

4.10 PERSONNEL REQUESTS

To initiate the filling of an authorized vacant position, the responsible Department Head shall submit to the Human Resources Director a completed Personnel Request Form containing at least the following information:

- A. The classification (job) title;
- B. The justification for filling the position, including its budgeted cost code; and
- C. The duties, responsibilities and qualifications of the position in accordance with the Classification Plan.

Each request shall be reviewed and approved by the Human Resources Director and the City Manager or designee.

4.15 JOB ANNOUNCEMENTS

Job announcements providing information about the position, its title and pay, its major responsibilities and duties, minimum and other qualifications, where and when to apply, and the last day on which applications will be accepted shall be prepared and distributed

posting announcements on the City's official bulletin boards and in such other places deemed advisable by the Human Resources Director. Employees may suggest additional locations.

Notice of open competitive examinations shall generally be posted a minimum of ten (10) working days before the filing deadline for applications unless it is in the best interests of the City to do a shorter recruitment, as approved by the City Manager.

Notice of promotional openings shall be posted a minimum of five (5) working days before the filing deadline for applications.

4.20 PERSONNEL APPLICATIONS

Applications for employment, transfer, or promotion with the City shall be made on forms provided by the Human Resources Department. All information required by the application shall be provided and the applicant shall certify as to the truth thereof. Any material false statement or omission on the application shall, absent mitigation, disqualify the application and may be cause for termination or other disciplinary action if the applicant is or subsequently becomes an employee of the City regardless of when the error is discovered. Resumes and other supplementary information may be submitted and attached to the application for consideration, but may not be used as a substitute for the application.

In order to be considered, an application must be received by 4:00 p.m. on the final day of the advertised recruitment period. A late application shall be accepted from a qualified current City employee only under the following circumstances:

A. The employee must submit a written letter to the Human Resources Director accompanied with a completed application for the position at least two working days prior to the first interview or testing phase; and

B. The employee must provide documentation establishing that he or she was absent from work on an authorized leave continuously from the date the position was first posted to the date the application period closed.

4.25 RECRUITMENT

It shall be the City's policy to recruit and hire the best-qualified persons available regardless of religion, age, sex, marital status, race, color, national origin, ancestry, pregnancy, medical/physical condition, sexual orientation, including gender identity, mental/physical disability, or political affiliation, unless sex or physical ability is a bona fide occupational qualification. While recognizing the need for introduction of persons from outside City employment at all levels, the policy of the City is to transfer or promote persons already employed by the City when their qualifications, training, work performance, and work experience are determined to be comparable to applicants from other sources. The Human Resources Director shall recommend to the City Manager whether the recruitment shall be open or promotional, on the basis of assuring an adequate number of candidates with appropriate skills to constitute a competitive merit process.

employment shall be by one of the following types of examinations.

A. Open Competitive: Examinations which are open to all persons who possess the indicated minimum qualifications as set forth in the job announcement.

Applicants for open competitive examinations may, but are not required to, be employees of the City.

B. In-House Competitive: Examinations which are open only to City employees who possess the indicated minimum qualifications as set forth in the job announcement.

C. Temporary Position: Employees may be hired on a temporary basis through either a temporary agency or by the City itself. The City Manager approves these positions. These persons may be hired without competitive examination.

Any variations to these procedures shall be reviewed by the Human Resources Director and approved in writing by the City Manager. The City Manager may select a candidate for Department Head solely based on a review of the applicant's application and/or resume from among those screened by the Human Resources Director as finalists.

4.30 EVALUATION OF APPLICATIONS

Each application shall be reviewed to determine if the applicant satisfies minimum educational experience, type and years of job related experience, certificates or licenses and any other requirements.

Selection techniques shall be impartial and relate to those areas which will adequately and fairly indicate the relative capacity of the applicants to perform the duties and responsibilities of the position to which they seek appointment.

The selection procedure may consist of personal interviews, performance tests, evaluation of work performed, work samples, assessment centers, physical agility tests, other written tests, review and investigation of personal background and references, medical examination, psychiatric examination, or any combination thereof. The Human Resources Director may at his or her discretion include as a part of the examination process, tests which determine whether applicants meet minimum qualifications.

In all examinations the minimum grade or standing for which eligibility may be earned may be based upon all factors in the examination, including educational requirements, experience, and other qualifying elements as shown in the application of the candidate or other verified information. Failure in one part of the examination may be grounds for declaring the applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination.

4.35 CANDIDATES' EXAMINATION INSPECTION

If a selection procedure consists of a written examination, the applicant shall be given written notice of his or her tests results. By appointment with the Human Resources Department, an applicant shall have the right to review his or her own written test within ten (10) working days after the examination results are mailed out. However, no

inspection.

Any error in rating or grading shall be corrected if it is called to the attention of the Human Resources Director at the time the applicant reviews his or her examination. Any applicant whose corrected score meets or exceeds the examination's established passing score will be placed on the applicable eligibility list for the position, if one exists. Any correction shall not invalidate an appointment or offer of employment that has been made previously.

4.40 VETERANS POINTS

The final score of a veteran who requests employment preference and submits proof of active duty (such as a DD214) shall receive five (5) additional percentage points, provided that he or she has already met minimum qualifications pursuant to Section 4.30, and attained a passing grade in the examination, if applicable. To be eligible for veterans' preference, the candidate must have received an honorable discharge from the Armed Forces of the United States and served on active duty during a period of war or tension as determined by the Veterans Administration. A disabled veteran, who is currently rated by the United States Veterans Administration as ten (10) percent or more disabled as a result of a service-connected disability incurred on active duty in federalized service during a period of war or tension as determined by the Veterans Administration, who requests employment preference and submits proof of such disability shall receive five (5) additional percentage points, for a total of ten (10) additional percentage points. Such percentage points may be awarded to widows or widowers of veterans upon request for such preference and submission of proof of eligibility.

The provisions hereof, relating to veterans' preference, shall not apply to any promotional examination.

4.45 NEPOTISM POLICY

An applicant for a position who has a relative employed by the City may not be denied the right to file an application for employment and compete in the examination process. Following examination, if the applicant is successfully certified as eligible, he or she may be employed in a department, division, or office in which a member of his or her immediate family is employed. Such employment shall be denied if the Human Resources Director determines that such employment would potentially create a conflict of interest or have a potentially adverse impact on supervision, safety, security, or morale, or if the employee would be in a position where he or she would directly supervise, or be supervised by, a member of his or her immediate family.

For the purposes of this policy, a "relative" or "immediate family member" shall be defined to include the following: mother, father, sister, brother, spouse, domestic partner, children of domestic partner, daughter, son, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandmother, grandfather, granddaughter, grandson, aunt, uncle, first cousin, niece, and nephew. Step-parents may be included if they are members of the immediate family, depending on the current situation.

the candidate shall remain on the eligibility list for openings in the same classification, as otherwise provided in these Rules, where no member of the employee's immediate family is employed, supervised by, or supervising the vacant position. In no case may an employee participate directly or indirectly in the recruitment or selection process for a position for which the employee's relative has filed an employment application.

Where two relatives are working in the same department, division, or office at the time these Rules are adopted, or if an event occurs in which a familial relationship is established between two employees who work in the same division or office (i.e. if a marriage results in a spousal or in-law relationship), the relationship shall not be deemed a "prohibited relationship" unless the employees' mutual employment creates a potential conflict of interest or has a potentially adverse impact on supervision, safety, security, or morale, and so long as neither employee is in a supervisory capacity over a member of his or her immediate family.

If, as stated above, a familial relationship exists or is established, the employees may continue in their positions so long as the conditions of a prohibited relationship are not met. If, in the determination of the Department Head, such a prohibited relationship does or would exist, the Department Head shall submit the reasons for his or her determination to the Human Resources Director for review. The Human Resources Director shall have one week to investigate the Department Head's findings and determine if a "prohibited relationship" does exist.

If the Human Resources Director's review confirms that a prohibited relationship exists, he or she shall submit his or her results to the Department Head. At this time, the Department Head shall promptly inform the employees of the City's intention to transfer one of the employees to a vacant position of comparable pay and duties in another City division or office, provided that such a vacant position exists, the transferee is qualified therefore, and no offer of employment to fill the vacant position has been made to another eligible candidate. If a position of comparable pay and duties is not open, but one in a lower classification is vacant, either of the employees may elect to voluntarily demote to the lower position, provided that the vacant position is in another department, division, or office, the employee is qualified to fill the position, and the position has not been offered to another candidate. Any voluntary demotion which occurs as a result of this section shall be in accordance with the provisions set forth in Section 3.35. In the event that a transfer or voluntary demotion is not feasible within the time limit set herein, the affected employees shall decide which of them will resign from City employment.

If a transfer or voluntary demotion is not feasible and neither employee has submitted a letter of resignation three weeks after the determination that a prohibited relationship exists, the Human Resources Director and Department Head shall determine which of the employees shall be terminated in good standing. Regardless of which procedure is utilized, the transfer, voluntary demotion, resignation, or termination in good standing shall become effective one month after the Human Resources Director has concurred with the Department Head's determination that a prohibited relationship has been established. This one-month time limit may be extended up to an additional two months with written approval from the City Manager, provided that personal or organizational considerations mandate such an extension.

because of the operation of this Section, may be reinstated to the position which such employee held at the time of termination, or to a position of equal seniority, status, and pay. In order for the employee to be eligible for reinstatement, he or she must be reinstated to a position in a department, division, or office where a prohibited relationship would not be established (or re-established), the position must be open, and the employee must still meet the qualifications for the position. This right of reinstatement shall be effective only through the ninety (90) days immediately following the effective date of the employee's termination in good standing, and shall take precedence over a right of reinstatement which has been derived from a voluntary resignation in good standing. Commencing on the ninety-first (91st) day after the effective date of the termination, the terminated employee shall have a co-equal right of reinstatement with employees who have voluntarily resigned in good standing, up to an additional nine (9) months.

With the exception of the Human Resources Director's review, as provided in this section, any decision to transfer, voluntarily demote, resign, or terminate an employee in good standing (pursuant to this Section), is not subject to any appeal or grievance procedure.

4.50 DRIVING SAFETY CHECK

A verifiable and acceptable driving record and proof of liability insurance shall be required of each final candidate for employment whose position requires the employee to drive a City vehicle or if the employee receives a vehicle allowance or mileage reimbursement. Verification of acceptable driving records of all employees may be conducted periodically. Driving a City vehicle without possessing a valid driver's license is not permitted and may result in disciplinary action up to and including termination. An employee shall notify his/her supervisor immediately if his/her licenses expires, is suspended, or revoked.

4.55 ELIGIBILITY LISTS

Lists of applicants to be considered for job openings in a particular classification may be established for open competitive or promotional competitive positions. An eligibility list shall be a list of persons who have taken an open competitive or promotional competitive examination for an advertised City position and have qualified for said classification. Each such list shall bear an expiration date. The hiring department may appoint any candidate on the eligibility list, provided all candidates with higher rankings have been interviewed. The best qualified candidate, as determined by the hiring manager, on the eligibility list shall be hired.

Non-Management eligibility lists shall remain in effect for six (6) months or until exhausted, whichever occurs first. Management eligibility lists shall remain in effect for three (3) months. An eligibility list may be terminated at any time when less than three (3) eligible candidates remain. The Human Resources Director shall have the right to extend an eligibility list for one or more periods not to exceed in total one (1) year from the original date of certification.

The Human Resources Director may remove a name from an eligibility list for any of the following reasons:

the same or higher classification. Acceptance of a temporary appointment at any level will not in itself be cause for removal from an eligibility list. An eligible person may refuse an appointment to a particular position and request to remain on the eligibility list.

B. If the eligible person requests in writing removal from the list.

C. If the eligible person fails to respond within ten (10) calendar days to a notification or letter which has been mailed to the person's last address on file with the City.

D. If the eligible person is unable to accept any offered position.

E. If a person on a promotional eligibility list resigned from City employment.

F. If other circumstances, such as conviction of a crime involving moral turpitude or loss of a required license, make the person ineligible.

G. If the eligible person has not been offered an appointment after interviewing for three (3) separately budgeted positions which are to be filled from the same eligibility list.

Placement on an eligibility list does not guarantee employment with the City of Moreno Valley.

If a vacancy exists in a classification for which there is no appropriate eligibility list, the Human Resources Director may prepare a list from one or more existing related lists by selecting names of eligibles from eligibility lists for classifications which are assigned to the same or higher salary range and which have minimum qualifications similar to those of the classification in which the vacancy exists.

4.60 FINAL DECISIONS ON SELECTION

The Department Head or designee shall recommend a final candidate for appointment to a vacant position to the City Manager. All appointments shall be subject to Human Resources Director's review and City Manager final approval before becoming effective. If the selected candidate accepts the appointment and reports for duty within the agreed upon time, the applicant shall be deemed appointed to the position. If the selected candidate does not report to duty within the agreed upon time, the candidate shall be deemed to have declined the appointment. By mutual agreement of the Department Head, the Human Resources Director, and the candidate, the date of the appointment may be changed. Upon the affected employee's written petition, effort shall be made to accommodate current City employees who are or will be on an approved leave as of the date of appointment and thereby unable to report for duty at the designated time.

4.65 PRE-EMPLOYMENT PHYSICAL

Each person accepting employment with the City shall be required pass a pre-employment physical and pre-employment drug test at a City-designated medical facility at City cost before an appointment to such employment becomes effective. This Section

substantially more physical demands upon the employee.

4.70 EMPLOYMENT ELIGIBILITY VERIFICATION

In compliance with law and with regulations of the United States Department of Justice and the Immigration and Naturalization Service, the City of Moreno Valley requires that each person hired by the City complete Section I of the Employment Eligibility Verification Form I-9 to verify that the person is eligible for employment in the United States.

4.75 PROBATIONARY PERIOD

The first six (6) months, or any duly extended longer period, of all new and promotional employment in a career position shall be deemed a probationary period. The probationary period shall commence upon the effective date of the appointment. During the probationary period, an employee may be terminated without the right of appeal, hearing or resort to any grievance procedure if his or her performance is deemed in any way unsatisfactory or below City standard by the City Manager, upon recommendation of the Department Head. At the conclusion of the probationary period, if the employee's performance does not meet City standards but is not altogether unsatisfactory, the probationary period may be extended up to an additional six (6) months, at the discretion of the City Manager. The decision to extend the length of an employee's probationary period must be based on justifiable reasons and must be made prior to the expiration of the original six (6) month probationary period. Such a decision shall not be appealable or grievable.

An employee who fails to complete his or her promotional probationary period satisfactorily shall be reinstated to the position in the same classification from which he or she was promoted unless discharged from City service as provided in these Personnel Rules. Before an employee may promote, they must first successfully complete original probation.

Crossing Guards shall be required to serve a 650-hour probationary period after becoming regular crossing guards. At the end of a successful probationary period, Crossing Guards shall become eligible for a merit pay increase. An Alternate Crossing Guard shall be deemed "at will/part-time" regardless of the number of hours worked.

4.80 CRIMINAL CONDUCT – INELIGIBILITY FOR EMPLOYMENT

Except as otherwise hereinafter provided, no person convicted of a misdemeanor involving moral turpitude or a felony shall be eligible for employment in the service of the City; however, the City Manager may disregard such conviction if he/she finds and determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

Only the City Manager, Employee Relations Officer, City's Attorneys, Human Resources Director, and other Human Resources staff are authorized to have access to the "State

Code of the State of California.

4.85 FINGERPRINTING

To facilitate the City's ability to perform complete background checks on its employees, new City employees will be fingerprinted and their backgrounds researched to ensure that there is nothing which would hinder their ability to perform their job satisfactorily or create any unnecessary liability for the City.

4.90 RESIGNATION

Employees who desire to terminate their service with the City shall submit a written resignation to the Department Head at least two weeks prior to the effective date of the resignation. Failure to comply with this requirement may be cause for denying future employment with the City.

4.95 REHIRE

Any career employee who voluntarily or involuntarily resigns or separates and is later rehired, may forfeit all previous seniority and benefits and does not need to be rehired at his/her former classification or pay level, except in the case of lay-off. The rehired employee may be considered the same as a new hire. With approval of the City Manager, a former employee who is eligible for rehire may be rehired by appointment rather than competitively, but may still be placed on six months probation upon return.

However, if an employee voluntarily separates from the City and is subsequently rehired by the City within one calendar year of his/her employment separation date, the employee's benefits will be the same as when the employee separated and the City will pay the employee's share of CalPERS contributions in the same manner as done prior to the separation.

5.05 SALARY AT APPOINTMENT

Except as otherwise stated in this Section, all new employees shall be appointed at the 'A' Step of the salary range for the position. When the proposed employee's education, training, experience, and current salary are deemed superior and justify a higher starting salary, the Department Head may offer employment up to the 'C' Step of the salary range without obtaining City Manager approval.

If the Department Head recommends appointing the employee at a pay level above the 'C' Step, City Manager approval must be obtained prior to making an offer of employment. All final appointments are subject to City Manager approval, regardless of the pay level at which the employee is appointed.

When hiring new Department Heads, the City Manager may authorize certain added incentives to aid in the recruitment process. Some added inducements might be the authorization of a moving allowance, additional Annual Leave, educational expenses, etc. Such incentives may be authorized only if in conformance with a written policy, adopted by resolution of the City Council.

5.10 EMPLOYEE PERFORMANCE EVALUATION

The Performance Assessment Review (PAR) is the employee performance evaluation tool. Regular reports on forms prescribed by the Human Resources Director shall be made as to the efficiency, competency, conduct, and merit of all employees appointed by the City Manager. Performance evaluations are required to be given at the following times: three (3) months and six (6) months while on probation, and annually thereafter on the employee's anniversary date. An employee who received a rating of "Needs Improvement" will be eligible to be re-reviewed in six (6) months. Any decision to extend an employee's probationary period must be made prior to the expiration of the original probationary period. Any evaluation which warrants a merit increase but is not completed by the designated review date shall be retroactively paid back to that review date. In addition to those occasions referenced by this Section, a supervisor may render a performance evaluation when performance issues arise, whether positive or negative; when there is a change in assignment; and/or when there is a change in supervisor or management.

During the performance evaluation meeting, the employee and supervisor shall review and discuss the employee's significant accomplishments, training, problem or improvement areas, and future development and objectives. After reviewing the job descriptions, duties, and any established performance standards for that position, an evaluation shall be made by the supervisor as to whether the employee's performance meets City standards. An explanation must accompany any unacceptable or conditional judgment. The employee shall have an opportunity to review his or her performance evaluation report and agree or disagree with it. Based upon the Performance Assessment Review, the supervisor may make appropriate recommendations regarding a possible merit increase, or other action.

performance evaluation in his or her personnel file. This response must be made within ten (10) working days of receiving the evaluation.

If a career employee's written objection to his/her evaluation is concurred with by the Department Head, the evaluation may be revised accordingly. If there is no denial of merit increase nor an overall below-City standard rating, the Department Head's decision shall be final and conclusive with regard to the validity of the objection.

If a career employee is not in agreement with a performance evaluation which results in an overall below-City Standard rating (other than one which results in denial of a merit increase or in any other direct monetary detriment to the affected employee), the employee may, within ten (10) working days after receipt of the evaluation, request a review of such evaluation by his or her Department Head. If the employee is not in agreement with the determination of the Department Head, the employee may, within ten (10) working days after receipt of the determination of the Department Head, request a further review by the City's Human Resources Director, whose decision shall be final and conclusive.

If a performance evaluation results in a denial of a merit increase or in any other direct monetary detriment to the affected career employee, the employee may, within ten (10) working days after receipt of the evaluation, request a review thereof by his or her Department Head. If not in agreement with the determination of the Department Head, the employee may, within ten (10) working days after receiving the determination of the Department Head, request a further review of the evaluation by the City's Human Resources Director, whose decision shall be final and conclusive.

In either of the foregoing situations, if the career employee's Department Head prepared the evaluation in question, the employee may omit review by the Department Head and proceed directly to the next level of review by the Human Resources Director.

Probationary employees may attach written responses to their probationary evaluations and submit them to the Department Head for consideration, however, such employees have no appeal rights.

The employee and supervisor must sign and date the report. If the employee refuses to sign the report, the supervisor shall note this fact and any circumstances surrounding the employee's refusal on the Performance Assessment Review. Copies of the Report shall be distributed to the employee, the Department Head, and the Human Resources Department.

5.15 PROGRESSION ON MERIT PAY

A. Career Full-time and Career Part-time Employees shall earn merit pay increases based on meeting or exceeding satisfactory performance of duties in the overall rating rather than simple longevity, as follows:

1. Normal Progression

From the date of employment until the successful conclusion of the probationary period, no merit pay increase shall be granted. At the end of

a merit pay increase provided that the employee's overall performance has satisfactorily met City Standards. Thereafter, eligibility for merit pay increases shall occur at 12-month intervals provided the employee's performance is satisfactory, until such time as the employee reaches the top of the salary range available for his or her position. Employees must achieve an overall "meets job requirements" to be deemed as having met City Standards. An employee who receives an overall performance rating less than "meets expectations" will not receive a merit increase. An employee who receives a rating of "Needs Improvement" will be eligible to be re-reviewed in six (6) months.

2. Promotional Progression

From the date of promotion until the successful conclusion of the probationary period, no merit pay increase may be granted. When an employee is promoted to a classification with a greater salary range, his or her salary increases to an appropriate salary step within the salary range of the new position. An employee who is promoted shall be compensated at the pay level within the new salary range which is the lesser of five (5) percent higher than the pay level he or she held in the previous salary range or the top of the salary range for the new position. All promoted employees who successfully pass their promotional review period are eligible for a step merit pay increase within the salary range of their position, again provided satisfactory performance is achieved. A promoted employee is eligible for another merit pay increase, annually thereafter, from the date of the promotional review until their salary reaches the top of the salary range.

B. Temporary and Seasonal Employees It is the policy of the City of Moreno Valley to grant a merit pay increase to temporary employees after the first 1,000 hours of service, provided the performance is satisfactory. The next increase would occur after completion of 3,000 hours, as long as performance remained satisfactory, and every 2,000 hours thereafter, until such time as the employee reaches the top of their salary range. If a merit increase is warranted, it will be based on an abbreviated evaluation form similar to the one used during probation for a career employee. A temporary or seasonal employee may receive a performance evaluation when his or her period of service concludes to determine whether he or she is eligible for rehire and may be evaluated more frequently at the discretion of the supervisor. This performance evaluation may also be used as a basis for considering salary in the event the employee is rehired.

C. All Crossing Guard employees who have successfully completed training shall become eligible for a merit pay increase. Regular Crossing Guards shall become eligible for a second merit pay increase upon completion of six hundred and fifty (650) hours of service; and shall then be eligible for merit adjustments once in each succeeding period of thirteen hundred (1,300) hours of continuous service, provided that performance meets City standards.

6.05 WORKWEEK AND OVERTIME

For purposes of applying the overtime requirements of the Fair Labor Standards Act (FLSA), the workweek for City employees shall begin at 12:01 p.m. Friday and end at 12:00 noon the following Friday. For any illness or emergency absence from work, the employee must notify the supervisor within the first half hour of normal reporting time when possible.

6.06 OVERTIME COMPENSATION

Overtime compensation shall be provided to City employees as follows:

A. Executive Management, Division Management, and Professional/Administrative/Management Employees are salaried employees and shall not receive overtime compensation. Employees in these categories shall receive administrative leave hours, as specified in Section 7.25.

B. Non-Exempt and Part-time Employees may receive overtime compensation in the form of paid time or compensatory time-off, at a time-and-one-half rate. The choice of compensation method is the employee's. Employees in these categories may accrue compensatory time to a maximum cap of 120 hours. The City Manager may allow accrual beyond the maximum if circumstances warrant. Overtime will be paid for hours worked in excess of 40 hours in a workweek in accordance with the Fair Labor Standards Act (FLSA). In addition, career employees will be compensated with overtime for any hours actually worked in excess of 9 hours in a workday for those on a modified schedule or 8 hours in a workday for those on a regular schedule. Part-time Career Employees must use the 9-hour workday for overtime. Career employees will also receive overtime pay for hours worked on a City designated holiday or for a "Call Back" or "Call Out" as described in sections 15.05 and 15.10. **All overtime worked must be pre-approved by the employee's manager.**

C. An employee who has accumulated the maximum amount of compensatory time shall not work overtime on a compensatory time basis until the accumulation has been reduced to less than the maximum accumulation allowed under these Rules. This in no way limits or caps paid overtime.

For Non-Exempt positions, which do not meet one of the FLSA exemption categories, overtime hours worked shall be compensated for time actually worked in excess of 40 hours in a workweek. In addition, and in accordance with the MOU, Career Non-Exempt employees shall be compensated for time actually worked in excess of 9 hours in a workday and/or 40 hours in a workweek for those employees on a modified work schedule or 8 hours in a workday for those on a regular work schedule. A paid holiday shall count as time labored towards the 40-hour workweek for the purposes of overtime compensation. Annual Leave, or compensatory time will not be included as time worked for purposes of calculating overtime.

Overtime for all Non-Exempt employees shall be compensated in one of the following two ways:

B. As compensatory time as accrued at the one and one-half rate of pay. Prior to overtime being authorized, the employee and his or her supervisor shall agree as to how the employee shall be compensated (i.e. paid time or compensatory time). If the employee and supervisor do not agree on the method of compensation, the supervisor may ask another employee to perform the overtime work. If the supervisor requires that a particular employee perform the overtime, yet they cannot agree on the method of compensation, then the employee shall be given the choice of how he or she wishes to be compensated. Compensatory time accumulated under these Rules and Regulations is vested time and must be utilized or paid in conjunction with termination of employment.

6.08 COMPLIANCE WITH FAIR LABOR STANDARDS ACT

The City is committed to complying with the Fair Labor Standards Act and therefore prohibits improper deductions from FLSA exempt employees' pay. The City will promptly remedy any violations of this policy by reimbursing an affected employee for any amounts which have been improperly deducted from the employee's pay.

Any employee who believes that an improper deduction has been made from his/her pay should submit a complaint to the Human Resources Department as soon as possible. The Human Resources Department shall promptly investigate the complaint and render a written decision as soon as is reasonably possible. If the complaint is determined to be justified, the employee shall promptly be reimbursed in the amount improperly deducted. The City shall thereupon restate its good faith commitment to future compliance with the Fair Labor Standards Act.

6.10 NO GUARANTEE OF HOURS

Nothing contained in these Rules shall be construed to constitute a guarantee of minimum hours of work per day or per work week or of days of work per work week, provided that when reasonably possible at least 14 calendar days advance notice shall be given to each employee whose work hours are to be reduced. When economic conditions dictate, management may direct a reduction of hours, a furlough, or a reduction-in-force.

6.15 STAND-BY AND CALL-BACK POLICY

Policies relating to stand-by and call-back duty shall be established by the City Manager. *(For more information on stand-by and call-back requirements and compensation, see Section 15.)*

6.20 TIME SHEETS

All City employees must complete time sheets showing hours worked and leave taken. Salaried employees are not subject to having their pay reduced for less than 8 hour increments when no other authorized leaves are available to them. The City may make deductions from paid leave accruals for periods of less than 8 hours. Time sheets must be signed by the individual employee, the employee's supervisor, Division Manager and,

Finance Department. Notice of any correction(s) to the time-sheet will be sent to the employee and the Department Head. Such corrections will be deemed final unless questioned by the employee within thirty (30) days after the notice of correction has been given to the employee. Unresolved matters may be taken to the Human Resources Director for a final determination.

6.25 CONSTRUCTIVE RESIGNATION

An employee who is absent, without authorized leave, for three (3) or more consecutive work days is deemed to have resigned. If the Department Head, with the concurrence of the Human Resources Director, determines that extenuating circumstances exist, the resignation may be rescinded, in which case, absence may be covered by leave, with or without pay, if so approved by the Department Head.

6.30 LUNCH AND BREAK POLICY

Employees may take one break in the morning (before 11:00 a.m.), and one in the afternoon (after 2:00 p.m.). Break periods shall not exceed fifteen (15) minutes each. One paid break period is allowed for each 4-hour work period. Part-time employees are not entitled to a paid break unless they work longer than four hours.

Lunch periods shall be at least thirty (30) minutes, but no more than sixty (60) minutes per day. Employees are expected to conform their lunch hours in accordance with department schedules. As department schedules may not permit all employees to take lunch between 12:00 noon and 1:00 p.m., the Department Head may authorize staggered lunch periods throughout the late morning and afternoon. Part-time employees must work six or more consecutive hours to receive an unpaid 30-minute lunch break. If the part-time employee is alone, he/she may be authorized to eat at the work-site on paid time.

An employee who takes a break from his/her normal work station to smoke is using part of the 15-minute break. Employees in transit in the conduct of City business while smoking does not constitute a smoke break.

Break and lunch periods may be taken only in the time period for which they are designated and may not be accrued. Extenuating circumstances, as determined by the immediate supervisor, may establish cause for variation from the scheduling of break and lunch periods.

Salaried employees are expected to conform generally to the established standard for all employees. Although flexibility is provided for salaried employees to exercise judgment in maintaining their work schedule, this schedule should not be to the detriment of work production.

7.05 HOLIDAY PAY AND HOLIDAY LEAVE

Days designated as legal holidays by the City Council are 11 holidays as follows:

New Year's Day (January 1), Dr. Martin Luther King, Jr. Day (3rd Monday in January), President's Day (3rd Monday in February), Memorial Day (last Monday in May), Independence Day (July 4th), Labor Day (1st Monday in September), Veteran's Day (November 11th), Thanksgiving (4th Thursday in November), Day after Thanksgiving (Friday after Thanksgiving), Christmas Eve (December 24th), and Christmas Day (December 25th).

Effective July 10, 2009, career full-time and career part-time employees receive holiday pay for all working hours scheduled to be worked on a holiday. If the holiday occurs on a day the employee is normally scheduled off, e.g. Friday, Saturday, Sunday or a WSR day, then the hours are recorded in the employee's accrued holiday leave bank, and the employee may request to use the banked holiday leave time like paid Annual Leave. However, when a holiday occurs on a Friday, Saturday or Sunday, the City may designate another day during the work week as an observed holiday. Career full-time employees accrue the number of hours of holiday leave time, based on their regular full-time work day schedule and work week schedule, i.e. 8 hours when on a 5/40, 9 hours when on a 4/36, 8 hours when on a 9/80, or 10 hours when on a 4/10 work week schedule. Career part-time employees accrue holiday leave time on a prorated basis. Accrued holiday leave time hours remain in the employee's holiday bank until used, without risk of forfeiture.

Temporary employees do not get paid or accrue holiday leave time.

7.10 ANNUAL LEAVE

In lieu of accruing separate banks of ~~holiday~~, floating holiday, vacation, sick hours, and administrative leave time where applicable, employees will accrue annual leave. Effective December 14, 2007, accrued vacation banks for current employees will be converted to annual leave on an hour-for-hour basis.

Annual Leave Usage

Some of the appropriate uses of this leave time include the following:

~~A. To enable employees to get paid on days so designated as legal holidays by the City Council which includes New Year's Day (January 1), Dr. Martin Luther King, Jr. Day (3rd Monday in January), President's Day (3rd Monday in February), Memorial Day (last Monday in May), Independence Day (July 4th), Labor Day (1st Monday in September), Veteran's Day (November 11th), Thanksgiving (4th Thursday in November), Day after Thanksgiving (Friday after Thanksgiving), Christmas Eve (December 24th), and Christmas Day (December 25th).~~

~~B.A.~~ To provide recuperation time for an employee incapacitated due to illness, injury, or other medical disability;

~~C.B.~~ To allow for the quarantine of an employee exposed to a contagious disease which results in the enforced quarantine of an employee in accordance with public health regulations;

~~D.C.~~ To attend to the urgent health needs of immediate family members;

~~E.D.~~ To attend medical or dental office appointments;

~~F.E.~~ To enable employees to conduct important personal business during normal working hours;

~~G.F.~~ To provide time for periods of rest and relaxation; or

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~~H.G.~~ In other instances consistent with all existing Rules and Regulations as

authorized by the employee's Executive Manager or representative.

When personal emergencies or situations of personal necessity arise, annual leave may be granted over the telephone within 30 minutes of start time unless special and extenuating circumstances prohibit employees from calling in, but the caller must identify the specific reason for the emergency or necessity and follow up with a written request. Employees are encouraged to accrue annual leave balance as a protection against the adverse affects of short- or long-term absences due to a major illness or injury.

Minimum Use: During each calendar year, each full time career employee shall use at least ~~168~~ **80** hours of annual leave., ~~with approximately, 88 hours of this leave provided to enable employees to get paid on days so designated as legal holidays by the City Council when City facilities are closed.~~ Part-time career employees are required to use forty (40) hours of annual leave. ~~Part-time career employees should use a portion of these hours for holidays, as appropriate.~~

Further, employees are urged to retain a reasonable bank of annual leave in case of unexpected illnesses or injuries to either themselves or family members. All employees shall generally make a request for said leave to the executive manager in sufficient time to plan work schedules. Consequently, executive management is responsible for planning work schedules to allow each employee to take that leave each calendar year and each employee is responsible for using it. Failure to use the minimum required hours of such leave shall result in City Manager review of the circumstances surrounding such failure. Failure to follow the minimum usage may result in disciplinary action if conditions warrant.

Paid annual leave shall continue to accrue in accordance with the provisions during any authorized period of leave with pay. All annual leave shall be scheduled and taken in accordance with the best interest of the City and the department or division in which the employee is assigned.

If an employee needs to be absent from work on a given day due to any unexpected reason, he/she must notify the supervisor by telephone within the first half hour of normal reporting time or earlier if possible.

Reporting Annual Leave: The reporting of the use of annual leave should normally be in increments of a quarter of an hour for non-exempt employees and ~~one~~ **quarter of an** hour increments for exempt employees will be used whether the employee works a full or partial day.

Physician's Certificate: An employee absent on unscheduled annual leave in excess of three (3) consecutive working days due to illness or injury, may be required by his/her executive manager to submit a written statement by a physician certifying that the employee's condition prevented the employee from performing his/her duties. The executive manager may also require a written statement that such employee is able to resume his/her normal duties.

Management must list reasons for requesting the doctor's excuse for annual leave of less than three (3) consecutive working days. An employee may be placed on medical certification in instances when leave has not been preapproved and the employee has exceeded the minimum use requirement for Annual Leave.

one employee to another out of a humanitarian need when the recipient employee has no leave accrued per ~~City Manager's approval~~ **by the Human Resources Director**. No more than 480 total hours of leave may be donated to an individual employee. ~~Donated annual leave will be taken from the forfeitable portion of leave balances.~~

Annual Leave Accrual

Annual leave time will accrue on a bi-weekly basis for twenty-six (26) pay periods a year. Each career employee shall have annual leave time accrue for each pay period starting from the first day of probationary appointment. Accrual rates are based on years of service.

Employees shall receive annual leave benefits on a pro-rata basis, calculated by the number of hours paid as a percentage of a forty (40) hour workweek, **including any WSR**. Employees, as outlined in the City's Benefit Plan, shall receive annual leave accruals as follows:

A. Executive Management Employees shall earn ~~14.77~~ **11.39** hours of annual leave per pay period of service (approximately ~~384~~ **296** hours per year). This accrual shall extend to ~~16.34~~ **12.93** hours per pay period (approximately ~~424~~ **336** hours per year) at the beginning of the sixth year and extend to ~~17.85~~ **14.47** hours per pay period (approximately ~~464~~ **376** hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to ~~2,080~~ **1,664** hours of annual leave. This ~~2,080~~ **1,664** hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

B. Division Management Employees shall earn ~~13.85~~ **10.47** hours of annual leave per pay period of service (~~360~~ **272** hours per year). This accrual shall extend to ~~15.38~~ **12.01** hours per pay period (approximately ~~400~~ **312** hours per year) at the beginning of the sixth year and extend to ~~16.34~~ **12.93** hours per pay period (approximately ~~424~~ **336** hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to ~~2,080~~ **1,664** hours of annual leave. This ~~2,080~~ **1,664** hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Division Management Employees hired prior to 9/22/92, shall accrue annual leave at the rate of ~~16.92~~ **13.55** hours per pay period (approximately ~~440~~ **352** hours per year), and may accrue up to ~~2,080~~ **1,664** hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

C. Professional / Administrative shall earn ~~13.08~~ **9.70** hours of annual leave per

pay period of service (~~340~~ **252** hours per year). This accrual shall extend to ~~44.62~~ **11.24** hours per pay period (approximately ~~380~~**292** hours per year) at the beginning of the sixth year and extend to ~~15.54~~**12.16** hours per pay period (approximately ~~404~~ **316** hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the actual accrual rate as a recruitment tool. Employees in this category may accrue up to ~~2,080~~**1,664** hours of annual leave. This ~~2,080~~**1,664** hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

PAM Employees hired prior to 9/22/92, shall accrue annual leave at the rate of ~~46.45~~**12.77** hours per pay period (approximately ~~420~~ **332** hours per year), and may accrue up to ~~2,080~~**1,664** hours of annual leave.

PAM Confidential employees receive an additional 0.62 hours per pay period (approximately 16 hours per year) of annual leave per year.

D. Non-Exempt Employees shall earn ~~40.77~~ **7.39** hours of annual leave per pay period of service (approximately ~~280~~ **192** hours per year). This accrual shall extend to ~~42.34~~ **8.93** hours per pay period (approximately ~~320~~ **232** hours per year) at the beginning of the sixth year and extend to ~~43.23~~ **9.85** hours per pay period (approximately ~~344~~ **256** hours per year) at the beginning of the 11th year. The City Manager has the authority to increase the annual leave accrual rate as a recruitment tool. Employees in these categories may accrue up to ~~2,080~~**1,664** hours of annual leave. This ~~2,080~~**1,664** hour cap includes previously accrued leave including grandfathered amounts. Once an employee reaches this cap, annual leave accruals will be suspended.

Non-Exempt Employees hired prior to 9/22/92, shall accrue annual leave at the rate of ~~43.85~~ **10.47** hours of annual leave per pay period (~~360~~ **272** hours per year), and may accrue up to ~~2,080~~**1,664** hours of annual leave. Once an employee reaches this cap, annual leave accruals will be suspended.

E. Seasonal Employees/Crossing Guards with Leave Accruals shall accrue annual leave at a rate determined by their program agreement or contract.

Temporary Employees shall not normally accrue paid annual leave, but may take leave without pay as approved by their supervisors.

7.15 GRANDFATHERED LEAVE BALANCES

Prior Sick Time Accruals: Employees shall retain all existing sick leave hours accrued prior to the enactment of this policy **on December 14, 2007. Such accrued sick leave hours shall be referred to as Grandfathered sick leave balance and are considered Frozen Sick Leave hours.** Although sick leave will no longer continue to accrue for employees, an employee's **frozen** sick leave balance will be available for use in the event of a serious illness or injury which qualifies for disability. These frozen sick leave hours can not be used for baby bonding or family member's illnesses or injuries, **if the employee is on approved FMLA leave.**

This Grandfathered sick leave balance shall be available for cash out upon separation at a rate of 40% of the accrued balance for full time employees and 20% for part time employees. The remaining balance will be converted to PERS service credit for retiring employees. Separating employees will forfeit the remaining balance.

At retirement, Frozen Sick Leave balance (sick leave accrued prior to December 14, 2007) will be paid as elected by the employee per the following formulas:

- 1. 70% PERS Service Credit with 30% Cash Out**
- 2. 80 % PERS Service Credit with 20% Cash Out**
- 3. 90 % PERS Service Credit with 10% Cash Out**
- 4. 100 % PERS Service Credit with 0% Cash Out**

Grandfather Clause: Sick leave balances as of 9/22/92 for Executive Management and Division Management employees shall be available for cash out upon ~~separation~~ **retirement** at a rate of 60% of the accrued balance and 40% towards PERS service credit. When sick leave is taken, the hours last accumulated shall be utilized first. **Employees not retiring under the City's CalPERS contract benefits at the time of employment separation shall forfeit 40% of their frozen sick leave.**

An employee absent for three consecutive working days due to illness of injury may access their frozen sick leave bank if they submit a written statement by a physician certifying that the employee's condition prevented the employee from performing his/her duties. Further, the employee is to complete the Leave of Absence Request Form and attach it to the physician's certification before submission to their supervisor and executive manager for approval.

Converted Vacation, Holiday, Floating Holiday, and Admin Leaves: Balances converted to annual leave will be cashed out upon separation at the 100% rate in effect prior to the enactment of this policy. When annual leave is taken, the hours last accumulated shall be utilized first.

Effective one time only, at the time of conversion to Annual Leave, total hours in excess of 1384 shall be excluded from the ~~2080~~ **1664** hour annual leave cap.

The beneficiary on file of an employee who has died while actively employed by the City may receive a 100% cash out of the employee's accrued sick leave.

7.20 ANNUAL LEAVE CASH OUT UPON SEPARATION AND RETIREMENT

Separation from the City

Employees separating from the City are entitled to payment for ~~80%~~ **100%** of their unused accrued annual leave balance. ~~The remaining 20% will be forfeited.~~

~~Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15.~~

Retirement from the City

Employees retiring from the City are entitled to payment for ~~80%~~ **100%** of their unused accrued annual leave balance. ~~The remaining 20% will be converted to PERS service credit.~~

No compensation for annual leave will be awarded to current City employees until they terminate or retire.

Grandfathered leave balances will be cashed out upon separation in accordance with Section 7.15.

7.30 BEREAVEMENT LEAVE

Employees shall be allowed to utilize four (4) days of bereavement leave in the event of

the death of an immediate family member. Immediate family in this instance shall be defined as mother, father, spouse, domestic partner, natural/step-children, children of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild. Step-parents may be included if they are currently members of the immediate family.

Employees will be allowed Annual Leave to be taken and/or advanced, if needed, up to ten (10) days in length in addition to bereavement in the event of a death in the employee's immediate family (parent, spouse, child, domestic partner, step-child, child of domestic partner, mother-in-law, father-in-law, brother or sister, grandparent or grandchild). Step-parents may be included if they are currently members of the immediate family.

7.35 JURY DUTY AND WITNESS LEAVE

No employee shall be dismissed or in any manner discriminated against for taking time off from work to serve as a juror or witness when required by law provided such an employee complies with the provisions of this Section. An employee called to serve as a juror or witness shall notify his or her supervisor at least one (1) week prior to the commencement of such service, unless extenuating circumstances exist.

Any employee of the City called as a juror or witness shall be entitled to be absent from his or her duties with the City shall receive their regular salary limited to one-hundred (100) hours each year for each of the following types of jury service: local and federal.

This could be expanded, dependent on an unusual situation, which is subject to the approval of the City Manager. The employee shall obtain a jury calendar or assignment sheet weekly during such service. The employee shall have the jury calendar or assignment sheet signed by the jury clerk or commissioner and shall deliver this sheet to his or her supervisor at the end of each week to verify jury duty or witness service.

If a career employee on an alternative work schedule is summoned for jury duty, the Department Head or designee shall convert the employee's usual work shift to a regular five (5) day, Monday through Friday shift basis. A career employee required to serve on jury duty shall be entitled to his or her regular rate of pay, provided the employee deposits any fees for service, excluding mileage, with the City. A crossing guard, temporary, seasonal, or emergency employee called for jury duty will not be compensated for time lost while on jury duty, but shall be entitled to retain his or her jury fees.

Any employee required to be absent from work on behalf of the City by proper subpoena issued by a court or other legally empowered agency, shall be entitled to be absent from work at his or her regular rate of pay, provided that any fees, except mileage, are deposited with the City. A non-exempt employee required to be present as a witness in any other matter shall not be entitled to be paid during such absence. An exempt employee will be paid his/her regular rate of pay whenever required to provide testimony under oath in any proceeding related to City matters.

An employee who is released by the court from jury duty on any regularly scheduled work day shall contact his or her supervisor to find out whether he or she is required to return to work. An employee who is scheduled for stand-by duty while serving on jury duty shall be rescheduled for stand-by duty after the conclusion of jury duty, unless the employee agrees to serve both.

7.40 PREGNANCY DISABILITY LEAVE

Pregnancy disability leaves of absence shall be granted to employees medically disabled by pregnancy, childbirth, or related conditions, provided such leave shall not

exceed four (4) months. At the commencement of a pregnancy disability leave of absence, employees will use accrued Annual Leave and/or compensatory time off, as well as disability pay, and thus, continuing to receive pay. City pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies except as modified herein. The use of accrued time-off shall not extend the length of the leave. The authorized absence is only for the duration of the disability up to four (4) months.

When an employee is on pregnancy disability leave, the City shall continue payment of benefit premiums for the employee and her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. If an employee files for disability, a doctor's certification is required. When the employee is no longer disabled, she may no longer continue pregnancy disability leave. ~~If she chooses to remain away from work longer, she must apply for family leave.~~ Annual Leave shall not accrue during a pregnancy disability leave of absence unless the employee is continuing to receive pay by utilizing accrued Annual Leave or compensatory time off. Employees on pregnancy disability leave may also be eligible for benefits under the City's Disability Program. Employees must file a claim in order to receive these benefits. Forms are available from the City's Human Resources Department.

Any employee who takes a pregnancy disability leave of absence shall have her anniversary date extended by the same length of time as the unpaid portion of the maternity leave. For purposes of this section, paid portions of pregnancy disability leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a pregnancy disability leave of absence while on probation, her probationary period shall be extended the same length of time as the pregnancy disability leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

A request for a pregnancy disability leave of absence should be submitted by the employee as soon as feasible after the employee learns of her pregnancy. The employee must provide a written statement from her physician indicating the date the physician believes the leave of absence should begin and the estimated date of birth. The City may require a pregnant employee who wishes to continue working to provide a physician's statement approving the continuance of her current work duties. Before returning to work following a pregnancy disability leave of absence, the employee shall submit a physician's verification stating the employee's ability to return to work. Unless the leave is otherwise extended, at the end of the four (4) month pregnancy disability leave period the employee shall be required to return to work full time. If approved by the employee's physician, the Department Head and the Human Resources Director, the employee may choose the option of returning to work prior to the conclusion of the four (4) month period on either a full-time or part-time basis and receive pro-rated benefits.

Up to an additional two (2) months of pregnancy disability leave may be granted for medical reasons if the employee's physician provides a written statement indicating the employee's inability to perform her duties or any feasible "limited duties." Such an extension of pregnancy disability leave is subject to the approval of the City Manager whose decision is final and conclusive. Nothing herein shall guarantee an extension beyond the standard four (4) months of leave.

An employee may take both pregnancy disability leave and subsequently State family care and medical leave to be with a newborn. The employee is entitled up to four (4) months of pregnancy disability leave, plus an additional twelve (12) weeks using the State family care and medical leave provisions.

7.45 FAMILY CARE AND MEDICAL LEAVE

Leaves of absence shall be granted to employees who have full-time career service with the City during the previous 12-month period, for the reason of childbirth, adoption, foster care, parental care, serious family illness, or for an immediate family member or the employee's own serious health condition, provided such leave shall not exceed twelve (12) weeks of leave in a twelve (12) month rolling period. When both parents are employed by the City, the two employees are only entitled to receive a combined twelve (12) weeks for the birth, adoption, or foster care of a child.

At the commencement of a family leave of absence, employees ~~shall~~ **may** first use all **Frozen Sick Leave, and then any other accrued leave available, such as** accrued Annual Leave or compensatory time off and, thus, continuing to receive pay. Pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies governing leave without pay, except as modified herein. The use of accrued time off shall not extend the length of the leave.

The City requires the following information on a certification of the need for this leave:

- A. The date on which the serious health condition commenced.
- B. The probable duration of the condition.
- C. In the case of caring for a family member, an estimate of the amount of time the employee needs to care for the individual.
- D. That the serious health conditions warrant participation of a family member to provide care during the period of treatment.

In the case of an employee's own serious health condition, if the employee is unable to perform the functions of his or her position, the City can seek second and third opinions at its cost.

A serious health condition means an illness, injury, or impairment, or physical or mental condition that involves one of the following: hospitalization; absence of three (3) days plus treatment; pregnancy; chronic conditions regarding treatment; permanent/long term conditions requiring supervision; or multiple treatments (non-chronic conditions).

When an employee is on unpaid family leave, the City shall continue payment of benefit premiums for the employee and his/her dependents. The City shall not continue payment of PERS retirement contributions unless the employee is continuing to receive pay from the City by utilizing accrued allowances. Annual Leave shall not accrue during a family leave of absence unless the employee is continuing to receive pay.

An employee who takes a family leave of absence shall have his/her anniversary date extended by the same length of time as the unpaid portion of the family leave. For purposes of this section, paid portions of family leave include only those portions for which payments are received on account of Annual Leave or compensatory time off. If an employee takes a family leave of absence while on probation, his/her probationary period shall be extended the same length of time as the family leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance. Family leave shall not constitute a break in service for purposes of longevity or seniority.

The employee should request a family leave of absence by submitting the proper form to his/her supervisor, signed by the Department Head, concurred by the Human Resources Director, and approved by the City Manager. Forms may be obtained in the Human Resources Department. For a more detailed understanding of this policy, the employee should read the complete family leave policy in the City's Administrative Policy Manual. Employees may take 40 hours of Annual Leave per school year to consult with the school teachers or counselors of children, step-children, or children of domestic partners, or to attend their school activities. This time is to be taken against any leave accruals except sick leave. If no accrual is available, leave without pay may be used. As this is State law, supervisors must approve this leave up to 40 hours annually per child. The employee must provide evidence of this school appointment. Supervisors need not approve more than eight (8) hours in a month.

7.50 LEAVE OF ABSENCE WITHOUT PAY

Any employee who is absent from work and who is not on leave of absence with pay shall be considered to be on leave of absence without pay, if such leave has been authorized by the proper authorities.

This section is designed to grant special requests for leaves of absence without pay that are not specifically addressed in either the military leave, FMLA, or pregnancy disability leave sections of these Personnel Rules.

A leave of absence without pay must be approved by the appropriate Executive Manager. Leave without pay in excess of one week shall also require the approval of the Human Resources Director. No leave of absence without pay shall be granted unless the employee requests the leave in writing and includes the reason for the request. Approval by the appropriate authority shall be in writing. No leave of absence without pay pursuant to this Section shall be requested or authorized for the purpose of imposing disciplinary action upon any employee. The supervisor may require leave without pay in the event an employee is late for work or misses work without valid approval. In this case the supervisor would annotate the employee time sheet with leave without pay for the absent time.

An employee on a leave of absence without pay shall not receive compensation on accrued Annual Leave. After thirty (30) consecutive working days on a leave of absence without pay, contributions to retirement, life insurance, medical, dental, or other designated benefit plans shall be suspended until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue his or her benefits coverage at his or her own expense, with the exception of retirement benefits, which may not be so continued. Any employee requesting a leave of absence without pay shall utilize all of his or her accrued compensatory time off or Annual Leave prior to the start of the leave without pay.

Any employee who takes a leave of absence without pay for more than 30 work-days in a calendar year shall have his or her anniversary date extended by the same length of time as the leave without pay. If an employee takes a leave of absence without pay while on probation, his or her probation period shall be extended the same length of time as the leave without pay. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated to the position he or she occupied at the time leave was granted.

Unauthorized failure on the part of an employee to report to work upon expiration of the leave of absence without pay shall constitute job abandonment and will result in dismissal.

It is the responsibility of the employee to submit a written request for a leave of absence within two weeks before such leave would begin stating the reason for the request, the date such leave will begin, and the duration of the leave. A "Leave of Absence Request" form and a "Payroll Action Form" must also be completed. Failure of an employee to apply for leave of absence and complete all necessary forms will be considered to be absent without leave, and all City-paid benefits will be terminated. Any unauthorized absence of an employee from duty shall be deemed to be absent without pay and may be cause for disciplinary action. Failure to report for work or call in for three (3) consecutive workdays shall be considered a voluntary resignation.

7.55 MILITARY LEAVE

Military Reserve Leave shall be granted under the provisions of State Law, which, in pertinent part at the present time, defines military reserve leave as: "military duty ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity as such member, provided that the period of ordered duty does not exceed 180 calendar days in a fiscal year, including time involved in going to and returning from the duty, but not for inactive duty (for training) such as scheduled reserve drill periods." For the purposes of this Section, "active military training" shall be defined as a period of training (i.e. encampment, naval cruises, special exercises, or like activities) that normally occurs once a year over a two-week interval. "Inactive duty for training" and "scheduled reserve drill periods" shall be defined as the weekend periods of training that are scheduled once a month. Such weekend drills do not conflict with normal working hours within the City.

Employees must submit a copy of military orders to their Department Head and the Human Resources Director prior to the beginning of the military leave period and as soon as the employee knows of the need to request such leave, except where military necessity dictates.

Employees shall receive their full regular pay during the first thirty (30) calendar days of "military leave" in any one fiscal year. After the first thirty (30) days of military leave in a fiscal year, employees will continue to receive the same compensation less any military pay up to one year during the period of active military leave.

Employees on a military leave of absence shall receive the same Annual Leave and the same rights and privileges to promotions, continuance in office, employment, reappointment to office, or reemployment that they would have enjoyed had they not been absent there from. Contributions to retirement, and medical and dental plans that are not otherwise provided by military coverage during active duty, shall be continued until the employee is reinstated, provided that the period of ordered duty does not exceed three (3) years.

Except for probationary employees, an employee's anniversary date shall be extended if his or her military leave of absence is in excess of thirty (30) days per fiscal year. If an employee's military leave of absence exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as his or her leave of absence, minus the first thirty (30) days (i.e. if the employee's military leave of absence is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee is required to perform military reserve duties while on probation, his or her probationary period shall be extended the same length of time as the military leave. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

The City shall reinstate those employees returning from a military leave of one year or less to the position they occupied prior to taking a military leave of absence or to a position of comparable seniority, status, and pay, if such position exists, upon presentation of a certificate of satisfactory completion of service and if such employees are qualified to return to their former positions. If no such comparable position exists, the employee shall have the same rights and privileges that he or she would have had if he or she had occupied the position when it ceased to exist and had not taken a temporary military leave of absence.

Any employee who, in time of war or national emergency as proclaimed by the President or Congress, is ordered by the military to active duty, shall have a right, if released, separated, or discharged under conditions other than dishonorable, to return to his/her former classification within one year after termination of his/her active service with the armed forces, but not later than six (6) months after the end of the war or national emergency. (See Government Codes 395.1, 146, and 395.05.)

7.60 ON-THE-JOB INJURIES AND WORKERS' COMPENSATION COVERAGE

All injuries and illnesses arising out of, and in the course and scope of employment with the City, including first aid injuries, shall be reported immediately to the appropriate supervisor. The supervisor, upon receiving notice of the accident, shall be responsible for (1) giving the injured employee an "Employee's Claim For Workers' Compensation Benefits" (DWC-1) form within twenty-four (24) hours; and (2) immediately notifying the Risk Management of the accident in accordance with Labor Code provisions. The Risk Management shall be responsible for completing an "Employer's Report of Occupational Injury or Illness (form 5020)."

An employee incapacitated on account of an injury or illness arising out of and in the course and scope of employment may be entitled to:

- A. Medical care to cure the injury;
- B. Rehabilitation services necessary to return to work; and
- C. "Temporary disability" payments in lieu of lost wages, commencing three (3) days after the injury occurs.

If an occupational injury or illness is severe and requires immediate medical attention, first aid should be rendered and medical treatment should be obtained at the closest City-designated medical treatment facility. For severe accidents occurring outside the City limits, medical treatment should be obtained at the closest medical facility. Use of paramedic services is automatically authorized if the injury is life threatening.

In the case of an occupational injury that requires medical attention within the first twenty-four (24) hours or develops symptoms after the first twenty-four (24) hours following the injury, the employee shall immediately notify his or her supervisor and the employee's supervisor shall notify the Risk Management. If the employee has not submitted a properly completed "Employee Notification of Personal Physician" form to the Risk Management for treatment of job-related injuries, all medical treatment shall be provided through the City's designated medical service providers for the first thirty (30) days after the date of the injury. If the employee has submitted a properly completed "Employee Notification of Personal Physician" form to the Human Resource Department for treatment of job-related injuries, an appointment may be scheduled with the employee-designated medical service provider. The employee shall notify the Risk Management prior to scheduling the appointment, if he or she has chosen to be treated by an employee-designated medical service provider.

A career employee who is disabled by injury or illness arising out of and in the course and scope of his or her duties shall suffer no loss in City pay or accrued Annual Leave for the first three (3) days of absence from work because of such disability. If a career employee's absence persists in excess of three (3) days, the employee may be eligible for "temporary disability" payments. State law shall determine the "temporary disability" payment an employee can expect to receive from Workers' Compensation Insurance. City policy allows for career employees incapacitated by reason of an injury or illness arising out of and in the course and scope of his or her employment to receive **fully paid Workers' Compensation Leave (i.e., equal to the employee's regular base pay compensation, including reduced pay due to furlough pay reduction)**, a sum which, when added to the amount of temporary disability payment, will result in a payment equal to such an employee's regular compensation. This is for the first six (6) months and then **receive 66-2/3%** of the gross salary **through the City's Long Term Disability Plan** up to the maximum by Labor Code beyond the six (6) months after the injury. This applies unless the employee is hospitalized for greater than 90 days, or is not allowed by the City to return to light duty even though authorized by competent medical authority to return to limited duty. The City shall allow the employee to use Annual Leave or compensatory time in order to equal his/her normal salary after the six (6) months. **If the employee is unable to return to work due to a permanent disability and retires under CalPERS benefits, the employee may also be eligible for long-term disability plan benefits under the provisions, requirements and limits of the plan.**

Once all accrued leave is exhausted, compensation would be 66-2/3% of gross salary and all leave benefits will cease to accrue. Such worker's compensation shall commence three (3) days after the injury occurs, or after temporary disability begins, and shall conclude with the termination of such a temporary disability, upon reaching a permanent and stationary condition, as determined by competent medical evidence, or upon the completion of one (1) year on-the-job injury leave, whichever comes first. **If the employee is still unable to work after one year, the City may initiate processing a PERS disability retirement application on behalf of the employee.** Employees with injuries or illnesses that persist beyond six (6) months may be eligible for workers' compensation temporary or permanent disability payments. Workers' Compensation income is non-taxable.

Except for probationary employees, an employee's anniversary date shall be extended if his or her Worker's Compensation related injury or illness is in excess of thirty (30) days per fiscal year. If an employee's Worker's Compensation related injury or illness exceeds thirty (30) days per fiscal year, his or her anniversary date shall be extended the same length of time as the injury or illness, minus the first thirty (30) days (i.e. if the employee's injury or illness is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee experiences a Workers' Compensation related injury or illness while on probation, his or her probationary period shall be extended the same length of time as the injury or illness. Such extensions of anniversary dates and probationary periods, which arise as a result of this policy, shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Workers' Compensation leave and benefits shall be granted to an employee upon presentation to the City of a properly completed claim form and presentation of a physician's certificate of temporary disability status. A claim denied by the Workers' Compensation Board, a written statement from the treating physician indicating that the employee's condition is permanent and stationary, or separation from City service shall terminate an employee's eligibility for Workers' Compensation leave and any applicable benefits for that particular injury or illness.

The City maintains its right to require that an employee receiving workers' compensation benefits see a City-designated physician on a periodic basis to determine the employee's disability status. When an employee is given a permanent disability rating by the Disability Rating Bureau of Workers' Compensation Appeals Board of the State of California, the employee may return to work provided that he or she can perform his or her assigned duties safely without endangering his or her health or safety, or that of others.

The City also maintains its right to require an employee to return to work on a limited or modified duty status, provided that he or she has received written authorization, including stated restrictions, from the City-designated physician as well as from the Risk Management and the Department Head. Such modified duty must be of a temporary nature, usually limited to 90 days.

The City should communicate in writing with the employee's authorized physician to obtain the modified duty authorization. It should provide the doctor with a description of the employee's regular duties as well as a description of all proposed modified duty to be assigned and provide a copy of that correspondence to the employee. The treating physician should provide to the City and the employee a written modified duty

authorization, including specific limitations and restrictions, as well as assignments the doctor authorizes the employee to perform.

An employee who declines a modified duty position, which meets the treating physician's requirements, may be subject to disciplinary action, up to and including termination. If an employee is medically stationary, but has not been released to his or her regular budgeted position and is one for whom a reasonable accommodation cannot be made, then that employee is subject to medical layoff **or medical retirement**.

Additional information concerning Workers' Compensation Leave or benefits may be obtained by contacting the Risk Management and by referring to Risk Management Policy 6.19, Modified Duty/Return to Work Policy.

7.65 VOTING LEAVE

In accordance with State law, the City of Moreno Valley encourages all employees to vote in local, state, and national elections. Employees are encouraged to vote outside of normal working hours. Under special circumstances, an employee who does not have ample time to vote outside of normal working hours may make arrangements with his or her supervisor to take up to two hours with pay in order to vote.

SECTION 8: CONDUCT AND DISCIPLINARY GUIDELINES

8.05 GENERAL STATEMENT OF POLICY

It is the City's belief that rules of conduct are most effective when they are written and communicated to employees and supervisors, consistently enforced, and the difference between major and minor forms of misconduct is recognized.

The City's goal is to administer discipline on an equitable and corrective basis. Effective discipline reinforces training by identifying rules and their reasons, correcting misconduct or improving job performance, serving as a deterrent through enforcement, and penalizing in relation to the severity of the offense and the employee's past record.

8.10 CUSTOMER SERVICE POLICY

Moreno Valley residents depend on each City employee to render service speedily, efficiently, effectively and courteously. The following guidelines express in part the expectations of how employees are to implement the customer service philosophy of the City:

- A. Employees shall keep themselves informed in order to perform their jobs effectively.
- B. Employees shall be concerned about the welfare of others.
- C. Employees shall be considerate, tolerant, patient and fair with others.
- D. Employees shall be cheerful and as positive as possible.
- E. Employees shall use their training and capabilities to provide residents and businesses with the best service possible. Every effort should be made to provide correct answers and positive results.

8.15 UNLAWFUL DISCRIMINATION

Any employee who harasses or unlawfully discriminates against any other person on the basis of the other person's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, pregnancy, political affiliation, mental/physical disability, or sexual orientation, including gender identity; or denies family and medical leave (FMLA), or pregnancy disability leave; or as retaliation against an employee for filing a harassment and/or discrimination complaint, shall be subject to discipline in accordance with these Rules.

8.20 STANDARDS OF CONDUCT

Employees are encouraged to excel in their work. City employees are prohibited from engaging in any conduct which could reflect unfavorably upon the City. The following standards are intended to govern the actions of all City employees during their course of employment. Employees who violate these standards shall be subject to appropriate disciplinary actions.

- A. Employees shall abide by and carry out the ordinances, resolutions, policies, procedures, and the rules & regulations of the City of Moreno Valley.
- B. Employees shall always conduct themselves in a manner which reflects credit to the City and creates positive morale among City employees.
- C. Employees shall operate all equipment safely and utilize safe means of carrying out their duties.
- D. Employees shall follow instructions for all equipment and property.
- E. Supervisors shall manage in an effective, considerate and fair manner.
- F. Subordinates shall follow instructions in a positive, cooperative manner.
- G. Employees shall provide service with courtesy and a smile and avoid arguments with the public and other employees. If citizens become difficult, they should be referred to a supervisor.
- H. Employees shall avoid interpersonal conflict with others as it may affect productivity or the City's image. It is not necessary for everyone to like everyone else, but it is necessary to treat everyone respectfully, professionally, and courteously.
- I. Employees shall dress appropriately. Although dress will vary with the type of work done, neatness, cleanliness, and a professional image are essential. Uniforms must be kept in good condition and worn while on duty, if required. All field personnel who are supplied uniforms will wear their complete uniform at all times while on the job. Exceptions may be granted on a case-by-case basis by the immediate supervisor.
Political buttons, or other attire that do not promote a professional image or may not provide adequate protection from work-related injuries shall not be worn while on duty.
- J. The use or possession of alcoholic beverage, illegal drugs, or controlled substances while on paid duty time, or working while under the influence thereof, will not be tolerated. Violation will result in disciplinary action, as outlined in Section 8.35 of these Rules. See Section 1.75 and 1.80 of the Rules.
- K. Employees should behave in their personal lives in such a manner as not to reflect discredit upon the City.

8.25 OBJECTIVE OF DISCIPLINARY GUIDELINES

The disciplinary guidelines outlined in Section 8 are intended to be standards for applying discipline on the job. The offenses listed are not intended as comprehensive coverage of the subject. The disciplinary actions listed are standards and guidelines. Individual circumstances may justify a supervisor, together with the Department Head and the Human Resources Director, administering more or less severe forms of

disciplinary actions than those listed in these guidelines. The disciplinary authority must use reasonable judgment and proper documentation in each individual instance. All disciplinary actions should be consistently enforced. "Consistently enforced" does not mean that a supervisor must assign the same penalty in each case, but rather, that the supervisor take some form of disciplinary action for each infraction. The supervisor must also be able to justify the level of discipline imposed in a particular case by objective criteria.

Any variations to these procedures will be reviewed by the Human Resources Director and approved in writing by the City Manager.

8.30 MAJOR AND MINOR OFFENSES

There are two classes of disciplinary actions – major and minor.

A. Major: Misconduct that directly affects the safety or health of other employees or customers or misconduct that directly affects the success or survival of the organization.

B. Minor: Misconduct that interferes with the smooth, orderly, planned, and systematic progression of work.

8.35 LEVELS OF OFFENSES

There are four levels of offenses listed. A documented pattern which shows a history of recent disciplinary problems can result in cumulative or more severe disciplinary actions, including disciplinary suspension, reduction in pay, demotion, or dismissal. Moderating circumstances which may result in less severe disciplinary action include an employee's positive work record, outstanding accomplishments, length of service, and extenuating circumstances of the violation.

A. Engaging in any of the following conduct will most likely result in dismissal:

1. Theft, embezzlement, or fraud.
2. Falsification, unauthorized removal, or alteration of official City records or employment applications.
3. Possession of, use of, or working while under the influence of alcoholic beverages or other controlled substances during City working hours, while on City property, while operating City vehicles, or while subject to duty (i.e. stand-by).
4. Assault, battery, or fighting an individual while on duty or under the guise of office.
5. Illegal possession or brandishing of weapons or firearms on City premises or property, while on duty or under the guise of office.
6. Acceptance of bribes or extortion.

7. Conviction of a felony or any crime involving moral turpitude.
8. Commission of an act involving moral turpitude, whether or not a conviction is obtained.
9. Harassment (as defined in Section 1.90 of these Rules) or unlawful discrimination against employees or others based upon race, color, age, marital status, pregnancy, sex, national origin, ancestry, ethnicity, religion, medical condition, mental or physical disability, or sexual orientation, including gender identity; or retaliation against an employee for filing a harassment and/or discrimination complaint; or denial of family and medical care leave or pregnancy disability leave.
10. Intentionally damaging property of value.
11. Job abandonment of three (3) consecutive work days with no notification or approved absence.
12. Material false statement or omission on the employment application.
13. Driving on City business with a suspended or revoked driver's license.
14. Continuing unsatisfactory job performance.
15. Felony eavesdropping or electronic recording of confidential communication without consent of all parties to such communication.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above mentioned disciplinary action.

B. Engaging in any of the following conduct will most likely result in disciplinary suspension without pay for five (5) to thirty (30) days, reduction in pay or dismissal depending upon the circumstances, accumulation, or pattern of offenses. Other recently documented violations along with this incident, or the repeating of such offenses will result in dismissal.

1. Intentionally misusing or abusing City property or property of another.
2. Disregard for major safety rules.
3. Insubordination by refusing a supervisor's legitimate order.
4. Unlawfully restricting work efficiency and production.
5. Attempting to provoke a fight on City premises, threatening or deliberately intimidating others through threat of physical force.
6. Unauthorized release of information, which has been validly classified as confidential.
7. Intentional mistakes or gross negligence causing damage.

8. Use of authority for personal gain.
 9. Dishonesty, including falsifying time cards or other reports.
 10. Driving on City business with an expired license.
- This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above-mentioned disciplinary action.
- C. Engaging in any of the following conduct will most likely result in a written reprimand on the first offense, a disciplinary suspension of one (1) to five (5) working days, reduction in pay, or demotion on the second offense, and possible dismissal on the third. Other recently documented violations in conjunction with this violation will result in more severe disciplinary action.
1. Unauthorized operation of tools, machinery or equipment.
 2. Gambling on City property.
 3. Disregard of minor safety rules including failure to report an injury or accident.
 4. Abuse of authority.
 5. Carelessness or inefficiency in completing assignments.
 6. Unauthorized sleeping or unaccounted whereabouts while on duty.
 7. Traffic violations, including preventable accidents, in City vehicles or while on City business.
 8. Political activity which violates pertinent provisions of state or local law.
 9. Unauthorized absences or excessive leave without pay.
 10. Abusive language that is personally or professional insulting or derogatory, directed at a person or persons with normal sensibilities, in their presence.
 11. Failure to notify the employee's supervisor of the loss of a required certificate or license, including driver's license.
 12. Statements or allegations which are malicious, vexatious, or not made in good faith and designed to discredit another individual or agency.
 13. Garnishment on two or more different debts within any one-year period.
- This is not an exhaustive list. Other violations of similar scope and nature will result in the above-mentioned disciplinary action.

D. Engaging in any of the following conduct will most likely result in either an informal discussion or formal warning on the first offense and a written reprimand on the second offense. Further incidents will result in more serious disciplinary action, including possible disciplinary suspension, reduction in pay, demotion or dismissal. Other recently documented violations in conjunction with this violation will also result in more severe disciplinary action.

1. Creating or contributing to unsanitary conditions.
2. Violation of smoking policy.
3. Unauthorized soliciting of contributions.
4. Distributing unauthorized printed matter on City time.
5. Failure to meet production or performance standards.
6. Engaging in behavior which prevents or hampers job performance.
7. Tardiness in reporting to work or leaving work early without supervisor approval.
8. Abuse of Annual Leave.
9. Abuse of breaks or lunch time.
10. Inability or unwillingness to work harmoniously with other employees.
11. Failure to contact supervisor when late or absent.
12. Failure to report change of vital information.
13. Failure to observe reasonable standards of personal appearance.
14. Failure to follow specified job instructions.
15. Minor safety violations, including housekeeping rule violations.
16. Frequent personal phone calls.
17. Frequent violations of established departmental rules and procedures.
18. Reading non-related material during work time when not authorized.
19. Misrepresentation of facts which does, or may lead to, a disruption of City business.
20. Posting or distributing materials or telling jokes, which are offensive to a person or persons with normal sensibilities.

This is not an exhaustive list. Other violations of similar scope and nature will result in the above-mentioned disciplinary action.

SECTION 9: DISCIPLINARY ACTIONS

9.05 DEFINITION OF DISCIPLINARY ACTION

“Disciplinary Action” means action taken by the Department Head or designee for disciplinary reasons, pursuant to these Rules, and consistent with the philosophy of progressive discipline where appropriate. Such disciplinary actions include (1) a formal warning, (2) a written reprimand, (3) disciplinary suspension, (4) reduction in pay, (5) demotion, (6) dismissal, or (7) any other action taken for disciplinary purposes.

9.10 INFORMAL DISCUSSION

Though not a disciplinary action, when a minor job performance problem develops, an informal discussion shall usually occur to assist the employee in clarifying and remedying the problem. An informal discussion is designed to clarify standards, policies and procedures or rules and regulations so that problems are resolved early and thus, the need to utilize disciplinary action may be avoided.

9.15 FORMAL WARNING

The formal warning shall be given in response to minor misconduct. The warning should be prompt, calm, and constructive, and every effort shall be made for the formal warning to be given in private. The supervisor should include in the formal warning a review of appropriate department standards and policies, employee performance expected in the future and consequences for failure to correct performance or behavior.

9.20 WRITTEN REPRIMAND

The written reprimand shall be given by the Department Head or designated authority when a formal warning has not succeeded in stopping the misconduct or when the misconduct is considered too serious to warrant a formal warning. Misconduct includes failure to meet City performance standards. The Department Head should first counsel the employee about the misconduct, as if giving a formal warning. At the end of the discussion, if no extenuating circumstances are discovered, the Department Head shall inform the employee that a letter of reprimand shall follow and shall be placed in his or her central personnel file located in the Human Resources Department. The written reprimand should include a full, accurate and factual statement of the reason for the reprimand including the date and time of the event which is the cause of the reprimand, if applicable, appropriate department standards and policies, employee performance expected in the future, and consequences for failure to correct performance or behavior.

9.25 DISCIPLINARY SUSPENSION

Disciplinary suspensions without pay are actions which generally deprive an employee of pay for any period up to thirty (30) working days and are usually given when serious misconduct or repetition of past problems for which the employee has been reprimanded require a strong management response. The nature of the offense, its severity and the circumstances dictate the length of suspension. Recurrence of the same or similar offenses can result in a second or third disciplinary suspension of progressively increased duration or in a dismissal. A disciplinary suspension is given an employee

when formal warnings or written reprimands have not been effective, or when the misconduct warrants more than a written reprimand.

Employees who are categorized as exempt under the Fair Labor Standards Act may only be suspended without pay for infractions of safety rules of major significance such as rules relating to the prevention of serious danger in the workplace or to other employees. Exempt employees may also be subject to disciplinary suspensions of one or more full days without pay for infraction of workplace conduct rules applicable to all City employees.

The City distinguishes between minor disciplinary suspension as one (1) to five (5) working days and major disciplinary suspensions as six (6) to thirty (30) working days. Minor suspensions can be used as steps in progressive discipline. Major suspensions are used as a more severe step in progressive discipline or where the act of misconduct does not warrant dismissal.

Department Heads shall institute disciplinary suspensions only after receiving approval from the Human Resources Director.

9.30 REDUCTION IN PAY

The reduction of an employee's base pay is the action given when a disciplinary suspension has not been effective, or when the misconduct is too serious for disciplinary suspension alone.

Department Heads shall institute a reduction in an employee's base pay only after receiving approval from the Human Resources Director.

9.35 DEMOTION

The Department Head may demote an employee for disciplinary reasons or because the employee's ability to perform the required duties falls below standards for that position, provided that the employee has been given a reasonable time to improve. Upon request of the employee, and with the consent of the appointing authority, demotion may be made to a vacant position. No employee shall be demoted to a position unless he or she possesses the minimum qualifications for such a position.

Department Heads shall institute a demotion only after Human Resources Director approval.

9.40 LAST CHANCE EMPLOYMENT AGREEMENT

When the City, the bargaining unit representative (only when requested by employee to be involved) and the affected employee all agree that the affected employee should be given one last chance before administering dismissal, a Last Chance Employment Agreement may be administered and signed by all parties. This written employment agreement gives the employee who has committed serious misconduct one last chance to keep the employee's job. The agreement provides details about the employment misconduct, sets forth the City's expectations for continued job performance, and defines the employment consequences for failure to meet those expectations — usually termination of employment, with a condition that the employee waive any future rights of appeal of the termination.

9.450 DISMISSAL

Dismissal or involuntary separation of an employee from City employment shall be imposed only when all other disciplinary measures have failed and the employee is deemed beyond rehabilitation or when an act of misconduct is deemed very serious. A career employee may be dismissed by the Department Head for just cause as outlined in these Rules.

Department Heads shall institute a dismissal only after Human Resources Director approval.

9.5045 RESIGNATION – AN ALTERNATIVE TO DISCIPLINARY ACTION

At times, an employee may offer to resign instead of facing disciplinary action. By doing so, the employee loses the right to appeal. A resignation must be completely voluntary.

9.550 DOCUMENTATION OF DISCIPLINARY ACTION

All disciplinary actions should be fully documented and placed in the employee's personnel file.

A formal warning should be documented on a form prescribed by the Human Resources Director. The employee shall receive a copy of the documented formal warning, and a copy shall be placed in the employee's personnel file in the Human Resources Department. If the employee chooses to respond, that reply will also be placed in the employee's personnel file, and be attached to the supervisor's record of formal warning. If the action taken is a disciplinary probation, a disciplinary suspension, a reduction in pay, a demotion, or a dismissal, documentation shall be in accordance with Section 10.20(1). A copy of all such disciplinary documents shall be placed in the employee's central personnel file located in the Human Resources Department. The employee shall sign and receive a copy of such disciplinary documents. If the employee refuses to sign the statement, that fact should be noted in writing by the supervisor.

9.6055 EMPLOYEE REPRESENTATION

A represented employee is entitled to the presence of an Association representative during an investigative interview conducted by the manager whenever the employee reasonably believes that the interview might lead to or result in disciplinary action affecting any property right (i.e., suspension, pay reduction, demotion, or dismissal). The employee must request the representation. The manager is not obligated to inform the employee of the right to representation. The employee does not have a right to representation at every, or any, contact with a supervisor.

The employee does have the right to a specific representative. When the representative is a non-employee agent, the manager is not required to wait to hold the interview at a time the consultant would be available beyond 24 work hours. The employee and representative must be allowed a reasonable period of time to confer in advance of the interview.

SECTION 10: PROCEDURAL DUE PROCESS FOR DISCIPLINARY ACTIONS

10.05 ACTIONS THAT ARE NOT APPEALABLE

Denial of merit or pay increases, performance evaluations (except as provided in Section 5.10), informal discussions, oral counselings, formal warnings, and written reprimands cannot be appealed.

10.10 DISCIPLINARY ACTION SUBJECT TO SKELLY PROCEDURE

Prior to a disciplinary suspension, a reduction in pay, a demotion, or a dismissal of a career employee for disciplinary purposes, the procedure set forth in this Section shall be complied with.

Disciplinary suspensions of less than five (5) days may be immediately implemented so long as the "Skelly" procedure is then promptly followed. (Section 10.20).

10.15 ADMINISTRATIVE SUSPENSIONS WITH PAY

Pending investigation of an accusation against an employee, the City Manager may approve the temporary suspension of an employee with pay, pending the undertaking or completion of an investigation or opportunity to respond as may be required to determine if any disciplinary action shall be taken.

10.20 SKELLY PROCEDURE/DUE PROCESS

A. Written Notice: The Department Head or designated authority shall give the employee a written notice of the proposed disciplinary action at least ten (10) working days prior to the effective date. The written notice shall be personally delivered to the employee or sent by certified mail to the employee's last known address.

The notice should include the following information:

1. A description of the proposed action to be taken and its proposed effective date or dates;
2. The specific grounds and particular facts upon which the action is proposed to be taken;
3. The employee's right to receive a copy of the written materials alleged to support the proposed action; and
4. A statement advising the employee of the right to respond, orally or in writing, and the time period in which to do so.

B. Employee Review and Response: The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based. Within ten (10) working days after receipt of the written notice, the employee shall have the right to respond to the Department Head, orally or in writing, concerning the proposed action. Failure to respond within the time

specified may result in the employee's waiver of his or her pre-disciplinary procedural rights. By mutual agreement, the specified time period may be extended. Appeal shall be addressed to the Department Head regardless of which supervisor may have issued the Skelly Letter.

C. Department Head Decision: The Department Head or designated authority shall, within ten (10) working days, provide a written decision to the employee after reviewing the employee's response, if any. The decision shall be personally delivered to the employee or sent by certified mail to the employee's last known address. The decision shall acknowledge the employee's response and shall be dated and signed by the Department Head. If disciplinary action is to be taken, the written response shall include a statement informing the employee of the right to appeal and the time period within which the appeal must be made.

If mutually agreed upon, the effective date of any proposed disciplinary action may be postponed to allow the Department Head enough time to adequately review the employee's response before making a decision.

10.25 APPEAL OF DEPARTMENT HEAD'S DECISION

A career employee may appeal a Department Head's decision within ten (10) working days of receiving the decision. An appeal shall be accompanied by a copy of the written notice of disciplinary action served on the employee, the Department head's written decision, a brief statement of the facts and reasons for the appeal and a brief statement of the relief requested.

If, within the ten (10) day appeal period, the employee involved does not file an appeal, unless good cause for the failure is shown, the action of the Department Head or designated authority shall be conclusive. If an employee withdraws the appeal, the employee waives the right to further review. Upon approval of the City Manager, the Human Resources Director may designate any other non-involved Department Head to act on his or her behalf on such matters. Appeals filed within the ten (10) day requirement shall be handled in accordance with the following provisions:

A. Minor Disciplinary Suspension, Reduction in Pay, and Demotion: An employee may appeal a disciplinary suspension of 5 days or less, or a reduction in pay of 5% or less annualized by submitting a written response to the Human Resources Director within ten (10) working days after the employee has received the Department Head's decision. Such an appeal and decision of the matter is based only upon the written record.

The Human Resources Director shall render a written decision within ten (10) working days after receipt of the appeal. The Human Resources Director may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action. The Human Resource Director's written decision is the final and conclusive administrative review.

B. Major Disciplinary Suspension, Reduction in Pay, and Demotion: Disciplinary suspensions of greater than 5 days, reductions in pay greater than 5% annualized, or any demotions from class to class may be appealed to the City Manager. The City Manager may designate a non-involved Department Head or

the Human Resources Director to hear the appeal and act on his behalf on such matters.

The City Manager or designee shall act as Hearing Officer and determine the hearing procedure. The hearing need not be conducted according to technical rules relating to evidence and witnesses. However, the City Manager shall ensure that the matter before him or her can be fairly determined on reliable evidence. The Hearing shall be conducted in accordance with Section 11.30. The City Manager or designee shall render a written record of his or her findings, conclusion and decision as soon after the conclusion of the hearing as possible and in no event later than twenty (20) working days after conducting the hearing, unless the parties otherwise agree. The City Manager may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action. The City Manager's decision on the appeal is final and conclusive administrative review.

C. Dismissal: An employee wishing to appeal a dismissal must submit a request for a hearing officer to the Human Resources Director within ten (10) working days from receipt of the Department Head's decision. An Appeals Hearing on the appeal shall be conducted in accordance with Section 11. Upon mutual agreement of the employee and the City Manager, the employee may waive the right to the Appeals Hearing and present the appeal directly to the City Manager. If the employee chooses to appeal the Department Head's decision directly to the Human Resources Director, the employee forfeits the right to appeal to a Hearing Officer.

At any hearing before the Human Resources Director, City Manager or a Hearing Officer, subpoenas may be issued in accordance with the Government Code.

10.30 AMENDED NOTICE OF DISCIPLINARY ACTION

At any time before an appeal is submitted for decision, the Department Head or designated authority may, with the consent of the Human Resources Director, amend the disciplinary action or provide a supplemental notice of disciplinary action.

A decision not to impose any disciplinary action should be accompanied by a directive from the Department Head to delete all references to the pending action from the employee's personnel file(s). Failure by the Department to make further investigations or to provide an additional written answer shall not affect the ability of the City to impose disciplinary action.

If the amended or supplemental notice of disciplinary action presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a response in accordance with Section 10.20, but the employee shall not be required to file a further appeal. Any objections to the amended or supplemental causes or allegations may be made verbally or in writing during the appeal interview.

SECTION 11: APPEALS HEARING PROCESS

11.05 SELECTION OF A HEARING OFFICER

Within ten (10) working days from receipt of the written request for an appeals hearing pursuant to Section 10.25, the employee or designated representative and management representative shall select a Hearing Officer from a designated list. A paid outside Hearing Officer is only allowed in cases involving dismissal. The Hearing Officer shall be selected by mutual agreement or by the alternate striking of names from a predetermined or standing list of Hearing Officers. The party to strike the first name shall be determined by chance. Only Hearing Officers who do not require transcription services, other than only an electronically recorded record, are to be used unless both parties agree otherwise.

The list shall contain at least seven (7) names and not more than twelve (12) names of persons qualified and willing to serve as a Hearing Officer. Employees, employee representatives and management representatives shall submit nominees for the list of Hearing Officers. If the total number of nominees is greater than the maximum number allowed on the list, the list shall be narrowed to the maximum number by consultation between management and employee representatives utilizing the strike out process. If a person withdraws his or her name from a list bringing the number of names below the designated minimum number, a name shall be added to the list. The list shall be revised at least every three (3) years.

11.10 SCHEDULING THE HEARING

Both parties shall endeavor to schedule the hearing as soon as possible. It is recognized that the schedule of the Hearing Officer, who is mutually selected, is dependent upon his/her already established schedule and availability. The City and the bargaining unit will jointly endeavor to identify the Hearing Officer within ten (10) working days of the employee's written request for one. All affected parties shall be notified in writing of the date, time and place of the hearing at least five (5) working days prior to the hearing. The Hearing Officer, prior to or during the hearing, may grant a continuance for any reason he or she believes to be important to its reaching a fair and proper decision.

All hearings shall be closed unless the employee requests an open hearing. No still photographs, moving pictures, or television pictures shall be taken in the hearing room during a hearing.

11.15 HEARING REPRESENTATION

Each party shall have the right to represent themselves, to be represented by legal counsel, or to be represented by any other person of his or her choice, except that no supervisor or Department Head shall be represented in appeal matters by an employee whom he or she may supervise, and no employee shall be represented in appeal matters by a supervisor or Department Head.

11.20 RECORDATION OF HEARING

All appeal hearings shall be recorded. The Human Resources Director shall arrange for the production of any relevant City record.

11.25 HEARING EXPENSES

All expenses for a Hearing Officer, including but not limited to, per diem expenses, travel and subsistence expenses, and the cost of the hearing room will be borne equally by the City and the employee. Each party shall make arrangements for and pay expenses of witnesses that are called by such party, except that any City employee called as a witness shall be released from work without loss of compensation or other benefits to give testimony at the hearing.

Prior to the hearing, the Hearing Officer shall draw up a contract and each party shall sign the contract agreeing to these payment conditions and any payment terms. A copy of the contract shall be given to the employee and another shall be given to the Human Resources Director. The Hearing Officer shall retain the original contract.

11.30 HEARING PROCEDURE

The Hearing Officer shall give all interested parties a reasonable opportunity to be heard on relevant issues. The hearing procedure shall be determined by the Hearing Officer. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The Hearing Officer shall observe the intent of such rules to the end that the matter before him or her can be fairly determined on reliable evidence. All interested parties shall have the following rights:

- A. To call and examine witnesses;
- B. To introduce exhibits;
- C. To cross-examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
- D. To impeach any witness regardless of which party first called him or her to testify;
- E. To rebut the evidence against them; and
- F. To present oral and written arguments.

11.35 HEARING OFFICER'S RECOMMENDATION

The Hearing Officer shall determine relevancy, weight, and credibility of testimony and evidence, and shall base his or her findings on the preponderance of evidence. Hearsay evidence shall be admitted and may be used for the purposes of supplementing or explaining any direct evidence, but if objected to, shall not be sufficient in itself to support a finding. The Hearing Officer shall submit a written record of his or her findings, conclusion and recommendation to the City Manager as soon after the conclusion of the hearing as possible and in no event later than thirty (30) working days after conducting

the hearing, unless the parties agree otherwise. The Hearing Officer may recommend sustaining, rejecting, or lessening the disciplinary action invoked against the employee.

11.40 CITY MANAGER'S DECISION

Upon review of the hearing record, the City Manager shall have the right to accept, modify or reject the Hearing Officer's recommendation. If the City Manager decides not to review this matter, the decision of the Hearing Officer on the appeal shall be the final administrative action. Within ten (10) working days, the City Manager should deliver a copy of his or her written decision to the employee. The decision of the City Manager shall be the final administrative action.

SECTION 12: GRIEVANCES

12.05 MATTERS SUBJECT TO GRIEVANCE PROCEDURES

A “grievance” is a job-related complaint by an employee regarding the terms and conditions of employment which arise out of a specific fact situation or transaction, other than discipline, that result in an alleged inequity or damage to the employee. The solution of any such grievance is wholly or partially within the province of the City to rectify and will involve the interpretation or application of existing ordinances, rules, regulations, or policies administered by the employee’s Department Head or designated authority concerning wages, hours, other terms and conditions of employment.

12.10 MATTERS NOT SUBJECT TO GRIEVANCE PROCEDURES

The following matters are not subject to the grievance procedure:

- A. Employee discipline.
- B. Oral or written warnings, reprimands, or counselings.
- C. Employee performance evaluations.
- D. Management of the City generally and issues of City or Department policy.
- E. Necessity and organization of any service or activity conducted by the City including the expansion or reduction of services or workforce.
- F. Determination of the nature, manner, means, technology, and extent of services to be provided to the public.
- G. Methods of financing.
- H. Types of equipment or technology to be used.
- I. Determination of and/or change in facilities, methods, technology, means and size of the work force by which City operations are to be conducted.
- J. Determination of and change in the location, number of locations, relocations and types of operations, processes and materials to be used in carrying out City functions.
- K. Work assignments and schedules in accordance with requirement as determined by the City.
- L. Establishment, implementation, and modification of productivity and performance programs and standards.
- M. Reductions in force or layoffs for lack of work or other non-disciplinary reasons.
- N. Establishment and approved modifications of job classifications.

O. Determination of standards, policies and procedures for selection, training, and promotion of employees.

P. Establishment, implementation, and modification of Departmental organizations, supervisory assignments, chains of command, and reporting responsibilities.

Q. Levels of compensation, pay, and benefits based upon budgetary and fiscal considerations.

12.15 FREEDOM FROM REPRISAL

No employee shall be subject to coercion or disciplinary action for discussing a request or complaint with his or her immediate supervisor, or for filing a grievance petition.

12.20 CONSOLIDATION

Grievance petitions involving the same or similar issues, filed by employees in the same representation unit, may be consolidated for presentation at the discretion of the person hearing the petitions.

12.25 RESOLUTION

Any grievance petitions resolved at any step of the grievance procedure shall be considered conclusive.

12.30 WITHDRAWAL

Any grievance petition may be withdrawn by the grievant at any time, without prejudice.

12.35 RESUBMISSION

Upon consent of the person hearing the grievance petition and the grievant, a petition may be resubmitted to a lower step in the grievance procedure for reconsideration.

12.40 EMPLOYEE REPRESENTATION

If requested, an employee may have representation in the preparation and presentation of the grievance at any step in the formal grievance procedure, except that no supervisor or Department Head shall be represented by an employee whom he or she may supervise, and no employee shall be represented by a supervisor or Department Head. The employee(s) and one employee representative are entitled to be released from work for a reasonable period of time in order to present the grievance.

12.45 MISCELLANEOUS

If an employee is given a legitimate order that he or she wishes to grieve, the employee must first complete the assignment and file a grievance later unless the assignment endangers the health or safety of the employee or others or if the requested assignment violates the employee's constitutional rights.

12.50 INFORMAL GRIEVANCE PROCEDURE

Every effort should be made to resolve a grievance through discussion between the employee and the employee's immediate supervisor, unless extenuating circumstances exist. If the employee is not satisfied with the decision reached through the informal discussion or if extenuating circumstances exist, the employee shall have the right to file a formal grievance in accordance with Section 12.55.

12.55 FORMAL GRIEVANCE PROCEDURE

Step I

If the employee is not in agreement with the decision rendered in the informal grievance procedure, an employee shall have the right to present a formal grievance to the Department Head within ten (10) working days after the occurrence of the incident causing the grievance, if applicable. Otherwise, the right to file a grievance petition shall be waived.

All grievances shall be submitted on the form prescribed by the Human Resources Director and no grievance petition shall be accepted until the form is complete. The written grievance shall contain a clear, concise statement of the grievance and facts upon which it is based, rule, regulation, or policy allegedly violated, and the specific remedies sought.

The Department Head should render a written decision within ten (10) working days after receipt of the written grievance.

Step II

If the grievance is not satisfactorily resolved in Step I, the employee shall have the right to submit the written grievance to the Human Resources Director within ten (10) working days after the Department Head's decision is received by the employee.

The Human Resources Director should render a written decision within ten (10) working days of receipt of the written grievance.

Step III

If the grievance has not been satisfactorily resolved in the Step II, it may be appealed to the City Manager within ten (10) working days after Human Resources Director's decision is received by the employee.

The City Manager may accept or reject the decision of the Human Resources Director, and should render a written decision within ten (10) working days after receipt of the written grievance. The decision of the City Manager shall be final and conclusive.

If mutually agreeable, a meeting may be conducted involving all affected parties at any step in the grievance procedure prior to the rendering of a decision.

GRIEVANCE PROCEDURES

STEP CONTACT FILE DECISION

Informal Supervisor N/A Immediate

Step I Formal Department Head

(from incident)

10 working days

from filing

10 working days

Step II Formal Human Resources

Director

10 working days

from Step I

10 working days

from filing decision

Step III Formal City Manager 10 working days

from Step II

10 working days

from filing decision

The City Manager may delegate non-involved Department Heads to act on behalf of the City Manager to render an appeals judgment in these processes. The findings and recommendations they render will be advisory to the City Manager whose ultimate decision will be final.

12.60 TIME LIMITS

Grievance petitions shall be processed from one step to the next within the time limit indicated for each step. Time limits shall be strictly enforced. Any time limits established in this procedure, may be waived or extended by mutual agreement confirmed in writing. Any grievance petition not carried to the next step by the grievant within the prescribed time limits shall be deemed resolved upon the basis of the previous disposition.

SECTION 13: EMPLOYEE RECORDS AND FILES

13.05 PERSONNEL FILES

A. Central Personnel Files: The Human Resources Department shall maintain a central personnel file for each City employee indicating the employee's name, title of position, the department assigned, salary, changes in employment status, performance evaluations, disciplinary documents and such other information as may be considered pertinent by the Human Resources Director. Copies of documents concerning disciplinary actions taken by the supervisor or Department Head must be placed in the employee's central Personnel file. There will be no disclosures of this information to third parties except as authorized by State or Federal law or as duly authorized in writing by the employee.

Personnel files shall be kept in locked, fireproof files located in the Human Resources Department.

B. Payroll Files: The Finance Department shall maintain a file for each City employee showing the name, title of position, the department assigned, salary, changes in employment status, W-4 forms, payroll deductions and such other information as may be considered pertinent by the Financial and Administrative Services Director. There will be no disclosures of this information to third parties except as authorized by State and Federal law, or as duly authorized in writing by the employee to third parties.

Nothing herein shall prohibit the City from keeping or placing documents in an observation file for the purpose of investigating alleged criminal conduct. For the purposes of this Section, an observation file shall not be considered a personnel file, and an employee or his or her designated representative shall not have access to observation files nor receive copies of documents placed in such files.

Unless required for a criminal investigation, an observation file on an employee shall remain open for a maximum of six (6) months. If disciplinary action by the City is warranted or if the employee is found guilty of criminal activity, documents in the observation file shall be placed in the employee's personnel file(s).

13.10 DOCUMENTS IN PERSONNEL FILES

Upon request of the employee, an employee may place documents in his or her respective personnel file that commends his or her job performance with the City or demonstrations educational attainment.

Disciplinary documents shall be placed in personnel files in accordance with Section 9.50. An employee shall be provided a copy of any documents placed in his or her personnel file(s), and may review his or her file on request.

If no further conduct requiring disciplinary action occurs, and at the employee's written request, documents concerning minor disciplinary actions shall be removed from an employee's personnel file after one (1) year or upon their incorporation in a performance evaluation, whichever occurs first. If no further conduct requiring disciplinary action

occurs and at the employee's written request, documents concerning major disciplinary actions shall be removed from an employee's personnel file after three (3) years, provided that such documents may be retained thereafter if they establish a pattern of conduct extending past the three (3) year period. With good cause, a department may grant an employee's request to remove the document from the employee's personnel file(s) sooner than the indicated time frames, with the concurrence of the Human Resources Director.

13.15 ACCESS TO FILES

No person other than the City Manager, Assistant City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's hiring Department Head, immediate supervisor, current Department Head, current Division Head, or their designated representatives shall have access to an employee's central or department personnel file. The Department Head must approve in writing anyone below him/her before that authorized person may review a subordinate's central personnel file. No person other than the ~~Finance~~ **Financial and Administrative Services** Director, payroll division staff, City Manager, City Attorney, or Human Resources Department staff shall have access to an employee's payroll file. Upon appointment, an employee or a person designated in writing by the employee for such purpose may inspect the contents of his or her respective personnel file(s). Upon paying the reasonable cost associated therewith, except as provided in Section 13.10, an employee or his or her designated representative may obtain copies of any documents contained in the employee's personnel file(s).

The City Council Members shall have access to the personnel files of the City Manager, City Attorney and City Clerk.

The employee may file a grievance regarding the contents of his or her personnel file(s) in accordance with the Grievance Procedure regulations outlined in Section 12.

13.20 DISCLOSURE OF INFORMATION

No direct information contained in the personnel files shall be disclosed concerning any current or former City employee other than the employee's job title, inclusive dates of employment, work location, salary, work phone number, departmental assignment, and the nature of separation, resignation, or termination, to any person other than the City Manager, Assistant City Manager, City Attorney, Special Legal Counsel, Human Resources Director, Human Resources staff, the employee's Department Head, Division Manager or their designated representatives. An employee or former employee may authorize access to or the disclosure of information from their file only when written permission is provided to the Human Resources Department.

Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

13.25 CHANGES-IN-STATUS

It is the employee's responsibility to notify the Human Resources Department of any changes in his or her address, phone number, marital status, dependent status, name change, training certificates, or other pertinent information.

13.30 APPLICATION RETENTION

Applications submitted by candidates for City employment become the property of the City and must be retained for at least three (3) years.

13.35 DESTRUCTION OF PERSONNEL RECORDS

Personnel records, including employment applications, shall be destroyed only in accordance with the provisions of the City's system for the destruction of public records and then in accordance with other applicable law.

SECTION 14: EMPLOYEE BENEFIT POLICIES

Benefits for City employees shall be provided as outlined in the City's Benefit Plan. Further information on these benefits may be obtained by contacting the Human Resources Department.

The City retains the right to alter the benefit plan, if it finds such changes to be in the best interest of the City.

14.05 BENEFIT BANK

The City has adopted a "flexible or cafeteria" plan that will cover certain City benefits (i.e., medical, dental, vision care, etc.). Employees, other than those listed below, are not eligible for benefit bank benefits. City employees shall receive a negotiated amount of money as approved by City Council, and consistent with the current MOU, on a yearly basis in order to "purchase" benefits from the plan. These benefits are paid on a 24-pay period basis. Employees may change benefit elections only during open enrollment periods unless there is a qualifying event. Qualifying events may include, but are not limited to emergency hardships, changes in employment, or changes in family status such as, births, deaths, adoptions, marriages, or divorce, **to the extent permitted by the provisions of the benefit plans carriers**

A. Career Full-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.

B. Career Part-time Employees shall receive a negotiated amount as approved by the City Council, and consistent with the current MOU, with which to purchase benefits. New benefit amounts may become effective January 1st of each year.

C. As part of the cafeteria plan, all full-time employees, except City Council members, must purchase group medical insurance coverage for themselves, or provide proof of other medical coverage, i.e., through one's spouse's coverage, military, etc. If the City Council deems it in the City's best interest, the City, at its option, may require all employees to purchase the City's preferred coverage and not allow verification of other coverage. Once this individual medical coverage has been purchased or verified, employees may purchase any of the following options with the balance:

1. Medical Insurance: Once medical insurance has been purchased for the employee, he or she may also choose to purchase excess coverage for him or herself or insure any dependents. Eligible employees may choose from a variety of health care providers as offered by the City. Medical benefits, plan costs, and any deductible costs may vary depending upon the insurance carrier offered by the City and chosen by the employee. Those who choose to use other kinds of medical coverage must report any change in that coverage within ~~two (2) weeks of any change of active status~~ **sixty (60) days as defined by CalPERS**. Failure to do so will result in immediate enrollment in a City offered medical plan.

2. Dental Insurance: Employees may purchase dental insurance for themselves and any dependents. Dental benefits and any deductible costs may vary depending upon the insurance carrier chosen by the employee.

3. Vision Care: Coverage must be purchased for all full-time career employees and may be purchased for any dependents, based upon vision care plans available to City employees.

4. Supplemental Insurance: Employees may purchase supplemental insurances for themselves or their dependents.

5. Dependent Care (Child and Elder): Employees may purchase dependent (child and elder) care reimbursement coverage through a flexible spending account. Documentation of payments with tax identification number of the provider must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.

6. Medical Expense Reimbursement: Employees may purchase medical expense reimbursement through a Flexible Spending Account. Documentation of expenses and payments must be submitted to receive reimbursement. Unreimbursed funds will be forfeited at the end of the year.

7. Annual Leave Buy: Employees with unspent bank dollars may purchase up to two weeks of Annual Leave hours per year. This option is available only at open enrollment. Annual Leave hours bought must be used within the benefit year purchased. Unused Annual Leave which has been purchased will be returned to the benefit bank for cash out to the employee.

8. Cash Out Option: Employees who would have unspent bank dollars for the calendar year will receive the leftover balance as a taxable cash payment. Council members are not eligible by State law for any cash-out option of unspent bank dollars. Annual Leave hours must be requested in writing during open enrollment each year.

9. Use or Lose Provision: Flex dollars may not be carried over from one plan year to the next, according to IRS regulations. Employees who have left over funds and who do not elect additional Annual Leave hours will be paid in cash. This amount will be subject to Federal and State withholding taxes.

D. Temporary Employees are not normally entitled to the benefits of the City's cafeteria plan.

14.10 MANAGEMENT PACKAGE

Certain categories of employees are entitled to a management benefit package as a percentage of their gross annual salary. The dollar amount shall change as salary increases are received during the year. This amount will be disbursed on a 24-pay period basis. These employee categories and percentages are as follows:

A. Executive Management Employees shall receive six (6%) percent of their gross annual salary.

B. Division Management Employees shall receive four (4%) percent of their gross annual salary.

C. Professional/Administrative/Management Employees shall receive two (2%) percent of their gross annual salary.

This management package percentage amount may be expended in any of the flexible benefit plan options previously discussed. Other benefit options will be made available as they are approved by the City Council in accordance with applicable IRS guidelines.

14.12 AUTO ALLOWANCE:

The City provides taxable auto allowance benefits as follows:

A. Executive Management Employees shall receive a monthly auto allowance, as budgeted.

B. Division Management Employees shall receive a monthly auto allowance, as budgeted.

As outlined in the City's Vehicle Policy, certain employees may be assigned a City vehicle on a long-term basis, in lieu of the monthly auto allowance. Employees who utilize personal vehicles for City business, but do not receive an auto allowance, shall be reimbursed at the Federal mileage reimbursement rate.

If any of the above employees are assigned a City vehicle, no auto allowance will be provided.

14.15 POST RETIREMENT MEDICAL BENEFITS

A. Annuity Programs: Effective January 1, 2001, the City of Moreno Valley shall contribute a monthly amount to each exempt full-time career employee for an annuity program for 20 years or until termination or retirement, for the purpose of funding retiree medical premiums. New hire probationary employees shall not be eligible to receive the monthly contribution until the successful completion of their probationary period. The effective date of their first contribution will commence the next full month after they have passed probation.

Effective January 1, 2002, after two full years of employment, the monthly contribution to the annuity program shall increase per the negotiated language as approved by City Council. This shall go into effect the next month after their two year-anniversary date has passed.

Each bargaining unit has selected separate annuity programs.

1. Contributions for the MVCEA bargaining unit are being paid into ~~an insurance/annuity program chosen by the MVCEA~~ **the Benefit Bank.**

In the event MVCEA ceases to be the recognized representative of bargaining unit employees, the control and administration of this program shall transfer to management and the responsibility for same shall be the exclusive jurisdiction of management.

Employees may at their option contribute a portion of their compensation to the annuity subject to IRS restrictions through payroll deductions.

2. Contributions for the management bargaining unit are being paid into a Voluntary Employee Beneficiary Trust (VEBA), which manages the investment and distribution of the funds.

B. City Paid Retiree Medical Benefit: Effective January 1, 2001, upon retiring, the City shall pay a minimum of the monthly fee required by PERS for enrollment of retirees. Employees who retire **under the CalPERS retirement benefits system with a minimum of after at least two years of service with the City** shall be eligible to receive a benefit which is the lesser of the cost of medical coverage for the retiree and spouse, or the amount stipulated in the following table:

EFFECTIVE DATE MAXIMUM EMPLOYER CONTRIBUTIONS

January 1, 2007 up to \$168.73 per month

January 11, 2008 up to \$243.73 per month

January 2, 2009 up to \$318.73 per month

To receive the Retiree Medical Benefit, the retiree must submit documentation of payment for medical insurance coverage. Documentation for those enrolled with PERS Health is provided by PERS. In the event of the retiree's death, the surviving spouse continues to be eligible to receive the benefit.

14.20 PERS MEDICAL COVERAGE FOR RETIREES

The City shall contribute a monthly employer fee for retiree medical coverage with the Public Employees Retirement System (PERS), per negotiated contract language as approved by City Council. Retirees must convert to Medicare at age 65.

14.25 CITY RETIREMENT PLAN

The City provides retirement benefits for all employees through the Public Employees Retirement System (PERS). The City pays both the employee's and employer's contributions into the plan **for employees hired prior to July 1, 2009. Employees hired on or after July 1, 2009 pay their own employee's contribution into the plan, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions. This does not apply to promotional hires, whose original hire date was prior to July 1, 2009.** At its option, the City may change its retirement system provider upon adoption by the City Council. Prior to any changes in retirement benefits, those eligible for retirement must be notified at least 30 days in advance. Current retirement benefits are available as follows:

A. Career Full-time Employees **hired prior to July 1, 2009** receive fully-paid PERS retirement benefits. **Career Full-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution.**

B. Career Part-time Employees **hired prior to July 1, 2009** receive fully paid PERS retirement benefits after 1,000 hours. Before that point, the employee will have the employee's portion deducted from salary. **Career Part-time Employees hired on or after July 1, 2009 pay for their own employee's contribution for PERS retirement benefits, under the provisions of Internal Revenue Code Section 414(b) for pretax contributions, and at no point will the employer pay any portion of the employee's contribution.**

C. Part-time/Seasonal, Temporary Employees, and Crossing Guards who are not eligible for PERS, are required to contribute 7.5% of earnings to a PST "457" deferred compensation program. Contributions to this plan will be made through

payroll deduction. Employees are eligible for participation in the PERS retirement plan after 1,000 hours worked in a fiscal year; however, they are responsible for the cost of their employee portion of PERS payment. PERS refunds may be issued ONLY if the member has permanently separated from all PERS-covered or reciprocal employment. Or, if members have been on an unpaid leave of absence for at least six (6) months, they may request a refund of their contributions prior to returning to active employment.

D. Any employee hired prior to July 1, 2009, if promoted on or after July 1, 2009, will still be eligible for all benefit rates provided for employees hired prior to July 1, 2009 for the bargaining unit the employee is in on or after July 1, 2009.

14.30 IRC SECTION 125 PLAN

The City has available to all full-time employees, an Internal Revenue Code (IRC) Section 125 account. The Health Reimbursement Option is not available until the employee has passed initial probation (normally at six months). An employee's unexpensed redirected Plan contributions from his/her salary account are forfeited and returned to the City at the end of the calendar year. See the Summary Plan Description for details.

14.35 IRC SECTION 457 PLAN

The City has available to all employees an Internal Revenue Code (IRC) Section 457 Account. Participation is voluntary for career employees. It is mandatory for temporary employees who are not yet eligible for, or enrolled in PERS.

Deferred compensation is an IRS-approved method of deferring federal and state income taxes on savings until retirement. Taxes are paid, on both savings and earnings, when they are withdrawn during retirement, or upon separation from City employment.

An employee may defer a maximum amount consistent with the most recent guidelines supplied by the IRS. The employee may increase, decrease, stop and restart voluntary contributions at any time by contacting the Human Resources Department.

In accordance with IRS rules, an employee may not withdraw these assets unless there is a bona fide emergency which is unforeseeable, unbudgetable, severe, beyond the employee's control, and must represent a last resort. ~~A request for emergency~~

~~withdrawal must be documented and supported in writing to the Human Resources Director.~~ **All financial hardship requests for withdraw of funds must be made directly to the 457 plan provider.**

14.36 IRC SECTION 401A PLAN

Certain management employees may voluntarily enter into a 401(a) Money Purchase Plan to provide additional retirement benefits. The employee contribution is a mandatory fixed amount for everyone within a management group, and is limited to the maximums allowed by law. ~~Open Enrollment is the only opportunity to join the plan.~~ **Eligible employees wanting to enroll into the plan must do so within the first thirty (30) days after being hired, or during the annual open enrollment period.** Once enrolled, the participant must remain in the plan. Participant contributions are structured with pretax dollars. Earnings accrue tax deferred. Participants may contribute to both a deferred compensation and a money purchase plan. Accounts are individual and loans may be made from the account.

PAM-Confidential employees receive \$750.10 per fiscal year (\$28.85 per pay period) in a City sponsored 401 (a) Plan.

14.40 LIFE INSURANCE

The City provides term life insurance coverage for all City employees. Coverage becomes effective on the first day of the month which follows the first thirty (30) days of employment with the City. The premium is paid by the City. The amount of coverage is determined as follows:

A. Executive Management and Division Management Employees shall receive term life insurance at an amount, which is three (3) times their salary (rounded to the nearest thousand) not to exceed \$300,000.

B. Professional/Administrative/Management Employees shall receive term life insurance at an amount, which is two (2) times their annual salary (rounded to the nearest thousand).

C. General Non-Exempt and Career Part-time Employees shall receive term life insurance at an amount, which is two (2) times, their annual salary (rounded to the nearest thousand) or \$50,000.00, whichever is greater.

D. City Council Members shall receive \$50,000 of term life insurance.

ED. The City's death benefit to survivors of a member who dies prior to retirement shall be the PERS 1959 Survivor Level IV Option (Section 21574). It provides for a monthly allowance for the surviving spouse with two children \$2280, spouse and one child \$1900, and spouse alone \$950. The City's retired member PERS lump sum death benefit paid to beneficiaries is \$500.

14.45 DISABILITY INSURANCE

Disability Insurance is determined as follows:

A. City Disability Insurance:

The City provides short-term disability insurance to all Career employees who work a minimum of thirty (30) hours per week and who are disabled primarily as a result of a non-work-related illness or injury. This benefit commences after 30 calendar days of disability. In order to be eligible for benefits, an employee must be totally disabled for one month before benefits become payable. For the first twenty-four (24) months of a disability, "totally disabled" means that a former employee is prevented by disability from doing all the material and substantial duties of his or her job. If the disability persists beyond twenty-four (24) months, the former employee is re-evaluated to determine whether he or she can be rehabilitated for another career. If the employee can be rehabilitated, the employee is eligible for Rehabilitative Employment Services. If the employee cannot be rehabilitated for any career, total disability payments will continue.

An eligible employee may receive sixty-six and two-thirds (66 $\frac{2}{3}$ %) percent of his or her salary, up to a maximum monthly amount of ~~\$11,000~~ **\$14,000**. This income is subject to taxes because the premiums are paid for by the City. Any other income benefits an employee may receive as a result of employment shall be

subtracted from the monthly benefit payment. An eligible employee may continue to receive benefits up to the age of sixty-five (65). Between the ages of sixty-five (65) and seventy (70), benefits are awarded on a sliding scale. The remaining amount shall be taken from applicable leave accruals until they are exhausted and the person goes on leave without pay, see Section 7.40, Pregnancy Disability Leave and Section 7.50, Leave of Absence Without Pay. The City agrees to maintain a long term disability salary continuance program that pays the above described benefits for job-related disabilities when the employee is still on the City's payroll after a minimum 180 calendar day elimination period up to age 65. Workers' Compensation information can be found in Section 7.60 of the City of Moreno Valley's Personnel Rules.

B. Continuation of Accruals and Benefits

The City shall extend payment of the medical insurance contribution for career full-time employees up to an additional ninety (90) calendar days during a twelvemonth period while an employee is disabled due to a non-work-related illness or injury. Such an extension of medical coverage shall take effect when existing coverage would otherwise expire. **Career full-time employees on paid leave will continue to accrue Annual Leave at their normal rate; however, employees on unpaid leave will not accrue Annual Leave. During an authorized leave under an FMLA leave, career full-time employees will be retained on the City's health insurance program under the same conditions and coverage levels that applied before the leave commenced. Employees' benefits continue as long as the employee is still on disability and the City paid benefits after 30 consecutive working days of being on Non City Paid Payroll Status. The employee must then convert to Consolidated Omnibus Budget Reconciliation Act (COBRA) status and pay for health insurance premiums, or if eligible, may consider applying for CalPERS disability retirement.**

Employees not classified as career full-time shall not accrue any leave or receive any benefits once all of their accrued time (Annual Leave or compensatory time) has been exhausted.

14.50 UNEMPLOYMENT COMPENSATION

As required by State law, all City employees are covered under the California Unemployment Compensation Program. Further information can be obtained by contacting the local State of California Employment Development Department or the Human Resources Department.

14.55 EMPLOYEE ASSISTANCE PROGRAM (EAP)

Depending on budget and other considerations, the City may provide an employee assistance program. The EAP provides short term counseling and other services to assist employees and their families to deal with personal and emotional problems which affect or might potentially affect their job performance. This counseling is confidential and free to the employee.

14.60 MEDICARE

By law, employees hired after April 1, 1986, must have a certain percentage (currently 1.45%) deducted from their gross pay for Medicare. The City will deduct the employee contributions in accordance with Federal law. The City shall pay the employer's share, which is equal to the employee's share.

The above policies are based on Federal law and may change from time to time.

SECTION 15: SPECIAL COMPENSATION

15.05 STAND-BY

A stand-by roster shall be comprised of City employees from designated departments or divisions who have volunteered to be on call and available to work after regular working hours. A stand-by assignment period shall be for ~~seven (7) consecutive calendar days~~ a **period of days** starting ~~on Friday at 4:00 p.m.~~ **at the time and on the day determined by the departmental coverage requirements and as approved by the employee's manager.**

Under some circumstances the period is not a seven consecutive day period. An employee on stand-by will be permitted to take home a City vehicle equipped with appropriate tools and supplies for use when called out on stand-by. The City will pay general employees (non-Animal Control Officers) a dollar amount per the negotiated language of the current MOU, as approved by City Council, per regular shift, Monday through Friday, and for weekends and holidays. **The current Stand-by Pay amounts are \$20.00 per day on Monday through Friday, and \$25.00 per day on Saturday, Sunday and Holidays.**

The designated department or division supervisor shall be responsible for scheduling his or her employees for stand-by duty and for providing duty rosters to the Police Department. The Police Department will be given a roster of employees with their standby duty dates, home telephone numbers, and pager numbers and codes. Once assigned to specific stand-by duty, employees may not trade stand-by assignments, except with the prior approval of the designated supervisor.

For general employees, compensation for call out hours worked will be paid at time-and one-half for the number of hours actually worked. A minimum of two (2) hours shall be credited as time worked for each call out. For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. An employee on stand-by will be compensated an additional dollar amount, per the negotiated language, as approved by the City Council, for each 7-day week of stand-by duty. Stand-by pay is at the rate of an amount per the negotiated language as approved by the City Council per day (M-F). Stand-by pay will be increased to an amount per the negotiated language in the current Memorandum of Understanding, per day for weekends and holidays.

For Animal Control Standby (Night Truck), the City will pay a dollar amount, per the negotiated language as approved by City Council per regular shift, Monday through Friday, and pay an amount, per the negotiated language as approved by City Council for weekends and holidays. Call out pay will be at the overtime rate with a one-hour minimum. Work time includes 15 minutes each way of travel time for the trip to and from work or the actual time, whichever is less.

An employee assigned to stand-by duty must be available to respond to emergency calls at all times. This requires that the employee remain within fifteen (15) minutes travel time of his or her normal work station during the entire stand-by period. The employee must refrain from consuming alcoholic beverages or other substances which could impair his or her effectiveness or safety on the job. Violation of this policy shall result in disciplinary action, as outlined in Section 8.35 of the Personnel Rules.

Nothing herein shall be construed to require that the City establish stand-by duty for employees in any department or division.

15.10 CALL-BACK

In the event employees who are not assigned to stand-by duty are called back to work during normal off-duty hours to protect the public health or safety, they will be compensated at time-and-one-half for actual time worked, with a minimum of two (2) hours credit for each call out (one for Animal Control). For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. Call back shall be defined as having to return to work after having left work.

15.15 BILINGUAL PAY

Bilingual compensation will be implemented for staff who occupy positions designated as ones in which second language skills are utilized. Employees shall receive an amount per the negotiated language as approved by City Council.

15.16 SAFETY EQUIPMENT

Employees in qualified trade occupations will receive ~~an annual stipend vouchers with a local vendor~~ to purchase shoes, jackets, and/or Sam Brown belts in an amount per the negotiated language as approved by City Council.

The City provides uniforms for employees in the Security Guard job classification.

SECTION 16: TRAINING

16.05 TRAINING

The City recognizes the importance of employee development and training. In an effort to improve the capabilities and effectiveness of City personnel, a training program has been established. This training effort shall be geared to both organizational improvement and individual employee development. This development shall not only be the responsibility of Department heads or supervisors, but shall be shared with employees in a total organizational effort.

16.10 IN-HOUSE TRAINING

Employees who have training, knowledge or expertise in a subject area, or have recently attended a seminar or conference in a given subject matter, may be asked to share this information with other employees. Such in-house training may be informal or formal depending upon the nature of the training and can include any variety of topics such as computers, copiers, telephones, supervisory, writing skills, etc.

16.15 DEPARTMENTAL TRAINING

City departments and divisions are encouraged to offer specialized training to their employees. Such training shall be the responsibility of the Department or Division Head and may include topics such as safety, equipment operation and other training in their specific fields of responsibility.

16.20 TRAINING COURSES

The City shall encourage local educational resources to offer courses and workshops at City facilities on matters in which employees of several departments may benefit. Such courses may be offered periodically in such areas as management, supervision, communications, time management, stress management, writing skills, etc.

16.25 SEMINARS AND CONFERENCES

Employees may attend seminars or conferences covering current issues and areas relevant to their positions under the following conditions:

- A. Employees must submit their request on forms prescribed by the **Financial and Administrative Services** Department and follow all applicable procedures.
- B. Budgeted funds must exist for all such training and any travel. In-state attendance shall require Department Head approval while out of state travel shall require the approval of the City Manager.
- C. Employees must comply with the City's Administrative Travel Policy and provide necessary receipt documentation.
- D. Employees who have recently received such training must be willing to provide "in-house" training to other employees, if requested.

16.30 TUITION REIMBURSEMENT

Subject to the **pre**-approval of the Department Head, Human Resources Director, and City Manager (or designee), employees may be reimbursed for the cost of pre-approved, job-related, **accredited**, educational and other training courses based upon proof of successful completion **up to a maximum annual limit of \$1,500.00 per fiscal year (i.e. July 1 through June 30)**. This proof includes a grade "C" or better of the course(s), and must be part of a **recognized associate's degree, bachelor's degree, or master's degree** program **related to the employee's current job, and the program must be part of a school, college or university that is accredited by a U.S. Department of Education authorized accrediting organization, e.g. Western Association of Schools and Colleges (WASC) leading to an Associate's degree,** ~~undergraduate or graduate degree.~~ Further, employees may be reimbursed for certain pre-approved, job related training courses based on the approvals as stated above.

Classes taken which are offered as part of the City's official training program do not count against tuition reimbursement.

Any educational or training course that is a requirement for continuation of employment or is an identified part of a job evaluation shall be paid for by the City. Any other educational course that is job-related may, if prior approval for reimbursement is given by the City Manager (or designee), be reimbursed at 100% or less after successful completion. All college or other graded classes shall require a minimum grade of a "C" in order to receive such reimbursement. Books or other materials shall only be paid if some defined benefit can be shown to the City (i.e. books become part of City reference library).

In general, training time during working hours shall be considered part of the job. Unless the City directs an employee to attend a specific training course, and the course is not available during work hours, training after hours shall be considered voluntary, and no additional pay, overtime or compensatory time shall be given by the City, unless advance special written approval is granted. Study time shall be considered completely voluntary.

Although the City encourages employees to pursue additional education, the City shall not pay for educational degrees or for education in general, but will only reimburse employees for required or job-related classes and training. No reimbursement shall occur if an educational class does not provide a benefit to the City. There is no mileage reimbursement for travel to and from educational classes. Required forms must be completed and necessary documentation (receipts and grades) must be provided, in order to receive reimbursement. Final and conclusive determinations of the reimbursement amount shall be made by the City Manager after review of the request and recommendations by the Department Head and the Human Resources Director.

16.35 TRAINING AND TRAVEL REIMBURSEMENT

Non-exempt employees shall receive training and travel reimbursement as provided in this Section.

Time spent in attending lectures, meeting, training programs, and similar activities during work time shall be counted as time worked only if authorized in advance and in writing by the employee's Department Head. No such authorization shall be given unless the lecture, meeting, program, or other activity is directly related to improving the employee's ability to perform his or her job.

Time spent in attending lectures, meetings, training programs, and similar activities shall not be counted as time worked where such attendance is outside of the employee's regular working hours, except in situations where the employee is directed by his or her Department Head to attend such lecture, meeting, training program, or similar activity. Leisure and meal times are not considered time worked unless they are part of the seminar.

Time spent by an employee traveling between the employee's residence and the regular workplace is not work time and shall not be treated as hours worked. When an employee is assigned by his or her Department Head to travel outside of the City, time spent traveling between the employee's home and assigned destination shall be treated as time worked, only to the extent that it exceeds the amount of time normally taken by the employee to travel between his or her residence and regular workplace.

When an employee is assigned to travel outside the City, return the same day, and he or she utilizes public transportation, the time spent traveling between the employee's home and the location of the public carrier (i.e. airport, bus station, train station) shall not be treated as time worked. However, time spent traveling to a final destination via public carrier is considered time worked.

Employees shall receive mileage and travel reimbursement in accordance with provisions outlined in the City's Administrative Travel Policy.

The City of Moreno Valley
Personnel Rules & Regulations
Drug and Alcohol Free Workplace Policy
APPENDIX A

TESTING FOR ALCOHOL AND DRUGS

Toward reaching this goal of a drug and alcohol free workplace, the City may conduct pre-employment drug or alcohol testing of applicants for City positions. Pre-employment drug or alcohol tests shall apply only to non-City employees; City employees who apply for another City position shall not be subject to pre-employment drug or alcohol tests. Any applicant who tests positive shall not be hired by the City.

The City also reserves the right to require than an existing employee undergo testing of the City determines that probable cause exists to believe that the employee is under the influence of any illegal drug or controlled substance, as identified in this Section.

Employees who (1) refuse to submit to a drug or alcohol test immediately when requested by authorized City or law enforcement personnel; (2) refuse to submit to a search of personal properties if requested by law enforcement personnel; or (3) are “convicted” of a “criminal drug or alcohol statute” violation, shall be subject to the disciplinary procedures which are outlined in these Rules.

All City lockers, desks, cabinets, vehicles, phone voice mail, e-mail, computer files, and disks are the property of the City and are subject to search without the employee’s consent by City management at any time with or without notice. Refusal to cooperate with a search may result in a disciplinary action, up to and including termination. Unless the Supervisors are directed otherwise by the Human Resources Director, employees will be given the opportunity to be present when the search is conducted.

In appropriate cases, such as a first offense, the City should make every effort to place an employee with an available employee assistance program or service for the purposes of rehabilitation, in-lieu of disciplinary action or criminal prosecution. If, in such cases, the employee refuses to attend an employee assistance program or service, he or she will be subject to the disciplinary procedures which are outlined in these Rules.

Any reports or complaints which are filed as a result of this Section or the “Drug and Alcohol Free Workplace Policy” and are determined to be malicious, vexatious, or not in good faith, shall not be tolerated. In such cases, the complaining individual shall be subject to disciplinary action. This applies to all managers, supervisors, and other employees who file a report or complaint which relates to drug or alcohol use.

A. EMPLOYEE RESPONSIBILITIES

An employee shall:

1. Not report to work or be subject to duty (i.e., paid stand-by time) while the employee's ability to perform his or her duties is materially impaired due to drug and/or alcohol use.
2. Not report to work with alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) in their systems or the odor of alcohol on their breath, or possess or utilize such substances while they are on duty or subject to duty or during meal periods or breaks.
3. Not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while on-call, on breaks, or during meal periods.
4. Not directly or through a third party sell, purchase or provide drugs and/or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to duty.
5. Submit immediately to a drug and/or alcohol test when requested by an authorized City representative, who has probable cause to suspect drug or alcohol abuse or material impairment there from. The employee may request a representative when being tested for probable cause. The representative may be a bargaining unit representative or another employee of choice who shall be immediately available.
6. Before beginning work, notify his or her supervisor when taking any drug or medication (non-prescription or prescription), which may interfere with the safe and effective performance of duties or operation of City equipment. In the event there is a question regarding an employee's ability to perform assigned duties safely and effectively while using such drugs, clearance from a qualified physician may be required before the employee is allowed to resume his or her regular duties.
7. Have the opportunity, within twenty-four (24) hours (or by the close of the next business day) of request by an authorized City representative, to provide verification of a current prescription for any potentially impairing drug or medication which is identified in a drug test. The prescription must be in the employee's name.
8. Employees shall notify their supervisor of any criminal drug and/or alcohol statute conviction for a violation, no later than five (5) days after such conviction.
9. In the event that an employee suspects that his or her manager or supervisor is under the influence of drugs and/or alcohol, the employee may submit a written or oral complaint, which contains detailed evidence regarding the allegation of substance abuse to his or her department head or the Human Resources Director. Such complaints, if made in good faith, may be made without fear of reprisal. If the written or oral complaint establishes probable cause, the manager or supervisor may be requested to submit to a drug and/or alcohol test.

B. MANAGEMENT RESPONSIBILITIES

Managers and Supervisors shall:

1. Be responsible for enforcing this policy in a fair and consistent manner.
2. Work with the Human Resources Department to encourage employees to utilize an available employee assistance program when the employee's job performance is deteriorating or unsatisfactory, the employee does not respond to supervisory remedies, or when a specific on-the-job incident is cause for concern. As the supervisor's role is to monitor job performance, the supervisor should not attempt to diagnose an employee's problem.
3. Request through the Human Resources Department that an employee submit to a drug and/or alcohol test when a manager or supervisor has probable cause or a reasonable suspicion that an employee is impaired or under the influence of drugs or alcohol while on the job or subject to duty.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs and/or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- Slurred speech;
- Alcohol or other suspicious odor (i.e. marijuana on breath);
- Unsteady walking and movement
- An accident involving City property where it appears that the employee's conduct may be at fault;
- Physical or verbal altercation;
- Wide and severe mood swings;
- Blank, glassy-eyed stare;
- Inability to perform work properly;
- Behavior which is unusual for the employee;
- Possession of drugs and/or alcohol in the workplace or on City property.

4. Work with Human Resources and document within forty-eight (48) hours of requesting an employee to submit to a drug and/or alcohol test, in writing, the facts constituting reasonable suspicion that the employee in question is impaired or under the influence of drugs and/or alcohol.
5. Remind the employee of the requirements and disciplinary consequences of this policy when encountering an employee who refuses an order to submit to a drug and/or alcohol analysis. Where there is reasonable suspicion that the employee is impaired, or under the influence of alcohol or drugs, the manager or supervisor shall require the employee to remain

on the premises for a reasonable amount of time until an authorized City representative or law enforcement representative can arrange to transport the employee to a testing facility, or home in the event of the employee's refusal to submit to a drug or alcohol test. Any time spent remaining on the premises at the request of a supervisor or manager or time spent for City-required drug and/or alcohol testing shall be considered work time and shall be paid for by the City.

6. Not confiscate prescription drugs or medications from an employee who has a valid prescription for such. The prescription must be in the employee's name.

7. Deal with suspected offenders as discreetly, inconspicuously, and respectfully as possible.

8. Notify their Department Head or designee, and Human Resources, when they have probable cause to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is probable cause to believe that an employee is in possession of illegal drugs, the manager or supervisor shall not physically search employees or their personal possessions, but should request that they remain on the premises until the appropriate law enforcement agency has arrived. Also, the department head or designee shall notify the Human Resources Department as soon as possible.

9. May search areas which are jointly or fully controlled by the City after conferring with the Human Resources Department. In the event such an area is occupied by a Peace Officer all searches shall be consistent with Government Code Section 3309 (Police Officer Bill of Rights).

10. Management shall not use authority under these rules to unlawfully harass, intimidate, or discriminate against employees.

C. ENFORCEMENT

Employees reasonably believed to be impaired, or under the influence of drugs and/or alcohol, shall be prevented from engaging in further work and shall be monitored for a reasonable time until he or she can be safely transported from the work site. In no event should the individual be allowed to operate a vehicle while impaired, including driving home from work.

Refusal to submit immediately to a drug and/or alcohol analysis when requested by City management or law enforcement personnel shall constitute insubordination and may be grounds for discipline up to and including termination.

D. PHYSICAL EXAMINATION AND PROCEDURE

A drug and/or alcohol test may be administered by the City for any substance which could impair an employee's ability to effectively and safely perform the

functions of his/her job. All testing (including the sample collection, chain of custody and laboratory services) shall be conducted in accordance with Substance Abuse and Mental Health Services Administration (SAMHSA) and Department of Health and Human Services approved procedures.

E. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

Post-Employment Offer Medical Examination

A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standard, duties or responsibilities.

If a drug screen is positive, and a result of the post-employment offer medical examination, the applicant must provide, within twenty-four (24) hours (or by the close of the next business day) of request, bona fide verification of a valid current prescription for the drug identified in the drug screen to the Human Resources Department. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

During Medical Examinations or Drug and/or Alcohol Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide, within twenty-four (24) hours (or by the close of the next business day) of request, bona fide verification of a valid prescription for the drug identified in the drug screen, to the Human Resources Department. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action, up to and including discharge.

If a drug and/or alcohol test is positive, the City shall conduct an investigation to gather all the facts. The decision to discipline or discharge will be carried out in conformance with this section.

F. CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate, confidential medical folder that will be securely kept under the control of the Human Resources Director. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request.

SUPPLEMENT TO THE DRUG AND ALCOHOL FREE WORKPLACE POLICY;
CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY; AND
PROCEDURE PURSUANT TO THE DEPARTMENT OF TRANSPORTATION
REGULATIONS

Effective January 1, 1996, the City of Moreno Valley must comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991 and subsequent revisions. Specifically, the City must comply with the regulations of the Federal Motor Carried Safety Administration (FMCSA). Adoption of a policy is one of the City's obligations under the regulations. Where applicable to the City, the requirements of those regulations are reflected in this policy. This policy sets forth the rights and obligations of covered employees. If you are an employee covered under these new requirements, you should familiarize yourself with the Policy provisions BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.

In addition, employees are required to comply with the applicable provisions of the supplement to the Drug and Alcohol Free Workplace Policy.

A. EMPLOYEE QUESTIONS

The regulations required that employers designate a person to answer employee questions about drug and/or alcohol testing. Employees shall refer any questions regarding his or her rights and obligations under the new regulations to the Designated Employer Representative (DER) which is the Human Resources Director or designee for this federally mandated program.

B. COVERED EMPLOYEES

Overall, the regulations cover drivers of commercial motor vehicles. A driver is any person who operates a commercial motor vehicle on a full-time, casual, intermittent, as-needed, or occasional basis. Employees in these job classifications may be required to drive commercial motor vehicles at least on an occasional basis.

Therefore, employees in those job classifications (and applicants for such positions) are considered a covered employee subject to the provisions of this policy. For the purposes of the post-employment offer medical examination, the term "driver" includes persons applying for employment in a position requiring the driving of a commercial motor vehicle on at least an occasional basis.

New employees or employees shall be given a copy of this policy at the time they commence employment with the City. All covered employees currently employed by the City at the time this policy is adopted shall be given a copy thereof within ten (10) days of its adoption. All covered employees will also be asked to sign the Acknowledgement / Receipt Form indicating receipt of a copy of this policy. This policy shall be posted immediately and was effective on January 1, 1996.

C. COVERED COMMERCIAL VEHICLES

The regulations cover drivers of the following commercial motor vehicles:

1. A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. A vehicle with a gross vehicle weight of at least 26,001 pounds.
3. A vehicle designed to transport sixteen (16) or more passengers, including the driver; or
4. A vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act.

D. SAFETY-SENSITIVE FUNCTIONS

The performance of any of the following on-duty functions by a covered employee in connection with that employee's operation, or scheduled operation, of a commercial motor vehicle is considered to be a safety-sensitive function.

1. All time at a carrier or shipper, plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment such as brakes, steering mechanism, lights, tires, horn, windshield wipers, mirrors, or coupling devices; or otherwise inspecting, servicing, or conditioning any commercial motor vehicle.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle, or time spent performing driver requirements relating to accidents.

E. PROHIBITED CONDUCT

Covered employees may not have a measurable amount in their system or be in possession of controlled substances or alcohol during any work hours. Further, the regulations specifically prohibit certain conduct prior to performing and while performing safety-sensitive functions. The following conduct is prohibited and may result in discipline, up to and including termination:

1. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions while having an alcohol concentration level of 0.04 or greater.
2. Performing a safety-sensitive function within four (4) hours after using alcohol.
3. Being on duty or operating a vehicle, as described in Section C, while possessing alcohol.
4. Using or possessing alcohol while performing a safety-sensitive function.
5. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions when the employee has used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee (who in turn must notify his/her supervisor) that the substance does not adversely affect the employee's ability to safely operate a vehicle.
6. Reporting for duty or remaining on duty that requires the performance of safety-sensitive functions if the employee tests positive for controlled substances.
7. Refusing to submit to any alcohol or controlled substances test required by this Policy. A covered employee who refuses to submit to a required drug/alcohol test shall be treated in the same manner as an employee who tested 0.04 percent or greater on an alcohol test or tested positively on a controlled substance test.
8. A refusal to submit to an alcohol or controlled substances test required by this Policy includes, but is not limited to:
 - A refusal to provide a urine sample drug test.
 - An inability to provide a urine sample within the three (3) hour allowed time without a valid medical explanation.
 - A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test.
 - An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation.
 - Tampering with, attempting to adulterate, or substituting the urine specimen or collection procedure.
 - Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested.

- Leaving the scene of an accident without authorization from a supervisor or manager (who, in conjunction with the Human Resources Department, shall make a determination whether to send the employee for a post-accident drug and/or alcohol test), unless the employee has a valid reason for not obtaining such authorization.

9. Consuming alcohol during the eight (8) hours immediately following an accident, unless the covered employee has been informed that his/her actions have been discounted as a contributing factor, or if the employee has been tested.

10. Use of prescribed drugs are not in direct violation of the City's policy, however inappropriate use or prescribed use that may substantially impair job performance, alter behavior, and/or create a risk to the health and safety of the employee or others, is in direct violation of the City's policy.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Action of 1988.

Covered employees are also reminded that they shall inform their supervisors of any over the counter or prescription medication prior to engaging in any safety sensitive function.

F. CONSEQUENCES FOR EMPLOYEES FOUND TO HAVE ALCOHOL CONCENTRATION LEVELS OF 0.02 OR GREATER BUT LESS THAN 0.04

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 shall be removed from his/her safety-sensitive position for at least twenty-four (24) hours. Such an employee may be subject to discipline up to and including termination. The City shall then retest the employee. Before the employee may be returned to his/her safety-sensitive position, the employee's alcohol concentration must indicate a concentration below 0.02 percent.

G. CIRCUMSTANCES UNDER WHICH DRUG AND/OR ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES

1. Post-Employment Offer Testing

a. All applicants (whether by initial application or in connection with a transfer) for positions involving the performance of safety-sensitive functions shall be required to submit to post-employment offer/pre-duty drug testing. Applicants will not be hired for or transferred to a safety-sensitive position if they do not pass the test or if they refuse to consent to a drug/alcohol test.

2. Post-Accident Testing

a. Post-accident drug and alcohol testing shall be conducted on employees following an accident involving injury(s) and/or repair costs.

b. Post-accident alcohol tests shall be administered within two (2) hours following an accident and no test may be administered after eight (8) hours. A post-accident drug test shall be conducted within thirty-two (32) hours following the accident.

3. Post-Accident Testing (urine sample)

a. Conducted after accidents on safety-sensitive employees who have been in an accident involving a human fatality; or a citation has been issued in one of the following situations:

i. There has been bodily injury with the need for immediate medical attention away from the scene, or

ii. There has been disabling damage to any motor vehicle requiring tow away. (Refer to Federal Motor Carrier Safety Regulations, sections 391.113 and 391.117).

Following an accident, the employee shall remain available for drug and/or alcohol testing, or may be deemed to have refused to submit to testing. This rule does not require the delay of necessary medical attention for injured people following an accident, nor does it prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.

4. Random Testing

Covered employees will be subject to random alcohol and drug testing as follows:

A random alcohol test will be administered just prior to the employee performing a safety-sensitive function (i.e. driving), while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function. The City will subject at least ten (10) percent of the total number of covered employees to random alcohol testing per year.

A random drug test will be administered to at least fifty (50) percent of the total number of covered employees per year. A covered employee may be subjected to drug testing even on a day in which the employee is not expected to perform a safety-sensitive function. To ensure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the pool of employees for each subsequent period. This procedure assures that the probability of any individual being selected each period is always the same, whether or not the individual was selected in previous period.

On the date an employee is selected for random drug and/or alcohol testing, his/her supervisor will verify he/she is on the list of those to be tested.

5. Reasonable Suspicion Testing

“Reasonable suspicion” means that the trained supervisor believes that the actions, appearance, speech, body odors, or conduct of an on-duty employee are indicative of the use of drugs or alcohol. The witness must directly observe the behavior. Hearsay or second-hand information is not sufficient cause to require an employee to submit to a drug and/or alcohol test. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol concentration test must be based on short-term specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech, or body odors of the employee. The determination must be based upon observations of the trained supervisor making the determination, and may not be based upon hearsay.

The trained supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test. The trained supervisor witnessing the impairment must document the specific observations under which the reasonable suspicion is based. The reasonable suspicion alcohol test will be administered within two (2) hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight (8) hours following the observation.

To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and/or alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substance use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

Any reports or complaints which are filed as a result of this section and are determined to be malicious, vexatious or not in good faith, shall be subject to disciplinary action. This applies to all managers, supervisors, and other employees who file a report or complaint which relates to alcohol use.

6. Return to Duty/Follow-up Testing

A covered employee who has violated any of the prohibitions of this Policy must submit to a return-to-duty test before he/she may be returned to a position requiring the performance of safety-sensitive functions. The test result must indicate an alcohol concentration of less than 0.02 percent or a verified negative result on a controlled substances test. In addition, because studies have shown that the relapse rate is highest

during the first year of recover, the employee will be subject to follow-up testing, which is separate from the random testing obligation. The employee will be subject at least six (6) unannounced drug and/or alcohol tests during the first year back to the safety-sensitive position following the violation.

A substance abuse professional can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months from the date the employee returns to duty. The Substance Abuse Professional can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the Substance Abuse Professional determines that additional testing is no longer necessary and is supported by the employer. Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drug use when the Substance Abuse Professional has reason to suspect other drug or alcohol use during the follow-up period.

H. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL

1. Alcohol Testing

Alcohol testing shall be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration. Non-EBT devices may be used for initial screening tests. A screening test shall be conducted first. This initial screening may be accomplished using a saliva test kit. If the result is an alcohol concentration level of less than 0.02 percent, the test is considered a negative test. If the alcohol concentration level is 0.02 percent or more, a second confirmation test using the EBT shall be conducted.

The procedures that shall be utilized by the lab for collection and testing of the specimen are attached hereto as Appendix "B".

2. Drug Testing

Drug testing is a two-stage process. First, a screening test is performed. If it is positive for one or more drugs, then a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. The GC/MS confirmation ensures that over-the counter medications or preparations are not reported as positive results.

All urine specimens are analyzed for the following drugs:

- Marijuana (THC Metabolite)
- Cocaine
- Amphetamines

- Opiates (including Heroin)
- Phencyclidine (PCP)

Drug testing will be conducted pursuant to the procedures set forth in Appendix "C"

I. REFUSAL TO SUBMIT TO A DRUG AND/OR ALCOHOL TEST

As set forth in this Policy, a covered employee who refuses to submit to any required drug and/or alcohol testing shall be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

A job applicant who refuses to consent to a drug and/or alcohol test will be denied employment with the City of Moreno Valley. An employee's failure to submit to drug and/or alcohol testing required by the City for any reason may result in disciplinary action, up to and including termination.

Where there is reasonable suspicion that the employee is then under the influence of drugs and/or alcohol, the manager or supervisor shall arrange for the employee to be safely transported home after the testing. An employee shall not be permitted to transport him/herself.

J. CONSEQUENCES OF FAILING A DRUG AND/OR ALCOHOL TEST

It is the employee's responsibility to inform the City if he/she has a substance abuse problem and needs assistance to solve the problem, prior to taking (and possibly failing) the drug and/or alcohol test.

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination in accordance with this policy.

If a covered employee is not terminated, the employee:

1. Must be removed from performing any safety-sensitive functions.
2. Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment to cure his/her drug or alcohol abuse. The City is not required to pay for this treatment
3. May not be returned to his/her former safety-sensitive position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) that indicates an alcohol concentration level of less than 0.02 percent or a negative result on a controlled substances test.
4. Shall be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety-sensitive position.

K. ALCOHOL MISUSE OVERVIEW

A drug is any chemical substance that produces physical, mental, emotional or behavioral change in the user. Alcohol is a drug. It is a central nervous system depressant that slows the body's functions. For some people, the use of alcohol can become addictive. The body develops a tolerance for alcohol, thus needing more of the drug to achieve the same effects. Once addicted to alcohol, the body experiences withdrawal symptoms when alcohol is not present in the bloodstream. Alcohol addiction, or alcoholism, is a disease. If left untreated, alcoholism is progressive as the damage to the body continues, and if unchecked may be ultimately fatal.

Alcohol misuse, alcohol abuse and alcoholism affect an individual's work performance. Alcohol, even in very small amounts, affects the user's judgment, reflexes, thinking ability, coordination, and attention. Alcohol is particularly dangerous when an individual needs to make a decision and act in an emergency or unfamiliar situation. Alcohol in a person's bloodstream affects one's ability to operate a vehicle or complex machinery, and to perform any safety-sensitive related tasks. Coming to work with a "hangover" also affects an employee's ability to perform. Hangover symptoms may include diminished clarity in thinking, tremors that reduce fine motor coordination, and flu-like feelings that decrease alertness and well being.

Alcohol misuse, alcohol abuse and alcoholism also affect an individual's personal and family life. Heavy alcohol drinkers have more illness and medical conditions requiring treatment. Financial and legal complications from excessive drinking are common problems. In the late stages of alcoholism, the individual's life is centered on alcohol; family, job, friends (except drinking buddies) are unimportant and ignored.

The following are indicators that alcohol may be a problem in an individual's life:

- Excessive use of Annual Leave because of heavy drinking or hangover.
- Monday and Friday absences from work; days before and after holidays.
- Making repeated promises to family/friends to "cut down" or stop drinking.
- Needing increasing amounts of alcohol to "feel good" or "get high."
- Morning shakes or tremors that are relieved by taking a drink.
- Being arrested for drunk driving.
- Refusing to participate in leisure activities where alcohol is unavailable.
- Experience periods of "blackout" when drinking (not remembering some events or situations that occurred while drinking).

- Mood swings and unreasonable resentments towards others.

ALCOHOL FACT SHEET

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical or mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

A. SIGNS AND SYMPTOMS OF ALCOHOL USE

1. IMMEDIATE EFFECTS OF ALCOHOL

- Odor of alcohol on breath
- Initial stimulation followed by depressed nervous system.
- Flushed skin
- Glazed appearance of eyes
- Slowed reaction rate
- Slurred speech
- Dulled mental processes
- Lack of Coordination

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

2. CHRONIC AND LONG TERM HEALTH EFFECTS

The chronic consumption of alcohol that averages three or more servings per day of an alcoholic beverage over time may result in the following health hazards: (one serving of beer is 12 oz., one serving of wine is 6 oz., and one serving of 80 proof liquor is 1.5 oz.)

- Nutritional deficiencies and sleeping difficulties
- Impaired short-term memory and the inability to concentrate
- Brain and nervous system damage
- Liver damage
- Digestive problems (gastric ulcers)

- Higher likelihood of stroke, coronary problems
- Disease of the pancreas and kidneys
- Birth defects in children of heavy-drinking women (up to 54 percent of all birth defects are alcohol related)
- Physical and psychological dependence (up to 10 percent of all people who drink alcohol become dependent on alcohol and can be termed “alcoholic.”)
- Increased cancer of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma

3. ALCOHOL’S EFFECTS ON SOCIETY

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetime.
- The rate of separation and divorce in families with alcohol dependency problems is seven times the national average.
- Forty percent of family court cases have alcohol-related problems.
- Alcoholics are 15 times more likely to commit suicide than other segments of the population.

4. WORKPLACE ISSUES

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage through the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is six times more likely to have an accident than a person who is sober.

5. CONFIDENTIALITY PROCEDURES FOR INTERNAL CONTROL

Laboratory reports or test results shall not appear in an employee’s general personnel file. The Human Resources Department will keep information of this nature under their control in a separate confidential medical file. Supervisors, managers, and other staff with such knowledge are not to discuss or disclose the results of any employee’s drug and/or

alcohol tests with other employees, except under approved reasons as delineated by City policy.

The Human Resources Director or designee may disclose reports or test results to City management on a strictly need-to-know basis and to the tested employee upon request.

Employee's confidentiality is also protected with regard to disclosure by supervisors of any over-the-counter or prescribed medications, when the employee has notified the supervisor of such use as mandated by this policy.

The City may disclose test results without the employee's consent only when:

- a. The information is compelled by law or by judicial or administrative process;
- b. The information has been placed at issue by the employee in a formal dispute between the employee and the City;
- c. The information is necessary to administer an employee benefit plan; or
- d. The information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

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APPENDIX B

Each employer shall establish an employee education and training program for all covered employees including:

A. EDUCATION

The education component shall include display and distribution to every covered employee of informational material for employee assistance, if available.

B. TRAINING

1. Covered employees. Covered employees must receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use, including alcohol; on personal health, safety, and the work environment; and on the signs and symptoms that may indicate prohibited drug abuse.

2. Supervisors. Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least sixty (60) minutes of training on the physical, behavioral, and performance indicators of probable drug use, including alcohol, and at least sixty (60) minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

The local governing board of the employer or operator shall adopt an antidrug and alcohol misuse policy statement. The statement must be made available to each covered employee, and shall include the following:

- a. The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employer's anti-drug use and alcohol misuse programs.
- b. The categories of employees who are subject to the provisions of this part.
- c. Specific information concerning the behavior and conduct prohibited by this part.
- d. The specific circumstances under which a covered employee will be tested for prohibited drugs and/or alcohol misuse under this part.

- e. The procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and the integrity of the drug and alcohol testing process, safeguard the validity of the test results and ensure the test results are attributed to the correct covered employee.
 - f. The requirement that a covered employee submit to drug and/or alcohol testing administered in accordance with this part.
 - g. A description of the kind of behavior that constitutes a refusal to take a drug and/or alcohol test, and a statement that such a refusal constitutes a violation of the employer's policy.
 - h. The consequences for a covered employee who has a verified positive drug or confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR part 40.
 - i. The consequences, as set forth in FTA Part 655.35 of subpart D, for a covered employee who is found to have an alcohol concentration of 0.02 or greater but less than .04.
 - j. The employer shall inform each covered employee if it implements elements of an anti-drug use or alcohol misuse program that are not required by this part. An employer may not impose requirements that are inconsistent with, contrary to, or frustrate the provisions of this part.
- Each employer shall provide written notice to every covered employee, and to representatives of employee organizations, of the employer's anti-drug and alcohol misuse policies and procedures.

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APPENDIX C

A. ALCOHOL TESTING PROCEDURES

All testing will be conducted in accordance with alcohol testing procedures as required by 49 CFR.40 using the following procedures:

1. The employee arrives at the testing site.
2. If the employee does not arrive at the designated time for testing, the supervisor or designee will be contacted for instructions.
3. The I.D. of the employee to be tested is verified by examining a photo I.D. If the I.D. cannot be established, the Breath Alcohol Technician (BAT) will attempt to notify the employee's supervisor to establish a positive I.D. If that is not possible, the process stops.
4. If the employee being tested requests it, the Breath Alcohol Technician (BAT) should present his/her I.D.
5. Once the employee's I.D. is established, Step 1 of the United States Department of transportation Breath Alcohol Testing Form (DOT) will be completed.
6. The employee will complete Step 2 on the DOT form, signing the certification. If the employee refuses to sign; it is regarded as a refusal to take the test.
7. The employee shall be tested for alcohol using a saliva test kit or screening alcohol breath test. If test results are negative on this screening test, a copy of the DOT form will be completed noting the results, and a copy provided to the employee. One will be forwarded to the supervisor and one will be retained by the BAT.
8. If the screening test indicates an alcohol level greater than 0.02, an EBT test is required as follows:
 - a. The employee and BAT shall read the sequential test number displayed on the Evidential Breath Testing (EBT) device for the test.
 - b. The employee will open an individually sealed mouthpiece in view of the BAT and attach it to the EBT according to instructions.
 - c. The employee will blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates that an adequate amount of breath has been obtained.

- d. The BAT completes Step 3 of the DOT testing form.
- e. The employee will sign Step 4 of the DOT testing form stating that the information on the form is accurate and that the employee must not perform safety-sensitive duties or operate heavy equipment if the results are 0.02 or greater.
- f. If the test results are less than 0.02 on this test, a copy of the form will be provided to the employee. The test process is complete and a copy will be forwarded to supervisor and one will be retained by the BAT. If the test results are greater than 0.02 on this test, an EBT confirmation test will be conducted as follows:
 - i. The BAT will explain that a confirmation test will be conducted.
 - ii. The employee must stay in the room observed for a fifteen (15) minute waiting period. During this period, the employee may not eat, drink, or put any object or substance into his/her mouth.
 - iii. The confirmation test will be conducted no less than fifteen (15) minutes after the initial EBT test, but within thirty (30) minutes of the completion of the initial list.
 - iv. The confirmation test will be completed according to Steps H-M of this procedure.
 - v. If the result of the confirmation test is different from the EBT screening test, the confirmation test will be considered the accurate result.
 - vi. If the results are still greater than or equal to 0.02 on the confirmation test, the BAT will contact the employee's supervisor for further instructions before releasing the employee from the test site.
 - vii. Employees with a reading of 0.02 or more are not to drive or engage in any safety-sensitive operations until further notice from their supervisor and in accordance with this policy.
 - viii. All results will be transmitted in conformity to confidentiality procedures outlined below.

B. DRUG TESTING PROCEDURES

- 1. The urine specimen will be split into two bottles labeled as "primary" and "split" specimen. Both bottles will be sent to the lab.
- 2. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours to request that the split specimen be analyzed by a different certified lab.
- 3. The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine.
- 4. If the test is positive for one or more drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis.
- 5. All drug test results will be reviewed and interpreted by a physician before they are reported to the employee and then to the City.

6. With all positive drug tests, the physician (a.k.a. medical review officer [MRO]) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as “negative.”

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APPENDIX D
REASONABLE SUSPICION OBSERVATION FORM
(STRICTLY CONFIDENTIAL)

EMPLOYEE NAME: DAY/TIME OF INCIDENT:
SUPERVISOR #1 NAME: SUPERVISOR #2 NAME:
(Optional) (Optional)

The following checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee is under the influence of a prohibited drug substance or alcohol. The supervisor(s) note all pertinent behavior and physical signs or symptoms, which lead you to reasonable belief that the employee has recently used or is under the influence of a prohibited substance. Mark each applicable item on this form and any additional facts or circumstances, which you have noted.

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

1. Observed/reported possession or use of a prohibited substance
 2. Apparent drug or alcohol intoxication
 3. Observed abnormal or erratic behavior
 4. Arrest or conviction for drug-related offense
 5. Evidence of tampering on a previous drug test
 6. Other (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job). Please specify.
-
-

B. UNUSUAL BEHAVIOR

1. Verbal abusiveness
 2. Physical abusiveness
 3. Extreme aggressiveness or agitation
 4. Withdrawal, depression, mood changes, or unresponsiveness
 5. Inappropriate verbal response to questioning or instruction
 6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, confusion). Please specify.
-
-

C. PHYSICAL SIGNS OR SYMPTOMS

1. Possessing, dispensing, or using controlled substance.
2. Slurred or incoherent speech.
3. Unsteady gait or other loss of physical control; poor coordination.
4. Dilated or constricted pupils or unusual eye movements.
5. Bloodshot or watery eyes.
6. Extreme fatigue or sleeping on the job.

7. Excessive sweating or clamminess to the skin.
8. Flushed or very pale face.
9. Highly excited or nervous.
10. Nausea or vomiting.
11. Odor of alcohol.
12. Odor of marijuana.
13. Dry mouth (frequent swallowing/lip wetting).
14. Dizziness or fainting.
15. Shaking hands or body tremors/twitching.
16. Irregular or difficult breathing.
17. Runny sores or sores around nostrils.
18. Inappropriate wearing of sunglasses.
19. Puncture marks or "tracks".
20. Other (Please specify.)

D. WRITTEN SUMMARY

Please summarize the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. Please note the date, times, and location of reasonable cause testing or note if employee refused test. Attach additional sheets as needed.

Signature of Supervisor #1 Date/Time Signature of Supervisor #2 Date/Time

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 APPENDIX E

I. THE CITY OF MORENO VALLEY DRUG AND ALCOHOL PROGRAM MANAGER (DPMA) AND DESIGNATED EMPLOYER REPRESENTATIVE (DER)

The City of Moreno Valley has designated the Human Resources Director or designee, as the Drug and Alcohol Program Manager (DAPM), and as the Designated Employer Representative (DER) to answer questions about the City of Moreno Valley's anti-drug and alcohol misuse programs.

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**MINUTES - REGULAR MEETING OF APRIL 26, 2011 (Report
of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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**MINUTES – SPECIAL REGULAR MEETING OF APRIL 19,
2011 (Report of: City Clerk’s Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.3

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**MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Report
of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.4

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**MINUTES - REGULAR MEETING OF APRIL 26, 2011 (Report
of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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**MINUTES – SPECIAL REGULAR MEETING OF APRIL 19,
2011 (Report of: City Clerk’s Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.3

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**MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Report
of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.4

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

Report to City Council

TO: Chairperson and Members of the Community Redevelopment Agency Board of the City of Moreno Valley

FROM: Barry Foster, Community & Economic Development Director

AGENDA DATE: May 10, 2011

TITLE: REVISIONS TO THE REDEVELOPMENT AGENCY HOMEBUYER ASSISTANCE PROGRAM

RECOMMENDED ACTION

Staff recommends the Redevelopment Agency Board (RDA) approve amendments to the Homebuyer's Assistance Program (HAP) to allow the loan term to be reduced to 20 years and allow the loan to be forgiven upon the expiration of the loan term.

BACKGROUND

On July 14, 1998, the RDA Board approved the RDA-HAP. Consistent with State Redevelopment Law, the RDA-HAP makes homeownership affordable and achievable for first-time homebuyers who earn up to 120% of the Area Median Income and are purchasing an existing home in the City of Moreno Valley. Under the original program, homebuyers were provided up to \$20,000 of down payment assistance in the form of a 30-year, zero-interest, deferred-payment loan with equity share provisions.

The RDA Board approved policy changes to the RDA-HAP program in April 2004 and September 2010 to better respond to the residential market and provide assistance to homebuyers. These changes included increasing the maximum HAP loan amount to twenty-percent (20%) of the purchase price and increasing the maximum home purchase price for the HAP to 95% of the Federal Housing Administration (FHA) single family mortgage limit as well as allowing a portion of the RDA-HAP loan to be applied to buyer's non-recurring closing costs. All of this was done to react and adjust to a changing residential real estate market and lending environment.

DISCUSSION

The RDA-HAP loan is an important tool used to facilitate the sale of the City's NSP properties. Since no monthly payments are required and the loan is interest free, homebuyer's who may not otherwise qualify for financing to purchase homes, are afforded the opportunity to enjoy the benefits of home ownership. The City also benefits because the RDA-HAP loans help stabilize neighborhoods by increasing home ownership and eliminating the blight created by vacant properties. However, given a changing marketplace, many potential homebuyers are currently reluctant to accept the present loan structure with a 30 year term and balloon payment requirements.

In an effort to better fulfill the commitments of the City's NSP Program by removing impediments to potential homebuyers, staff recommends that the term of the current RDA-HAP loan be amended to 20 years and that the loan be forgiven at the end of the 20 year term. These recommended changes will make the loan more attractive to qualified homebuyers while maintaining the City's NSP and RDA objectives of creating long-term home owners within neighborhoods. The equity sharing requirements of the RDA-HAP remain intact. These provisions discourage the resale, refinance, or rental of the property by requiring a share of equity together with the repayment of principal RDA-HAP loan amount upon the occurrence of one of these events. Before proposing these changes, staff surveyed other jurisdictions and found similar terms on their down payment assistance loans.

ALTERNATIVES

- 1) Approve an amendment to the RDA-HAP to allow the term of the RDA-HAP loan to be 20 years and that the loan is forgiven at the end of the 20 year term. **Staff recommends this alternative as it will allow the RDA to better respond to the current market conditions and consumer needs of the community.**
- 2) Decline to approve an amendment to the RDA-HAP to allow the term of the RDA-HAP loan to be 20 years and that the loan is forgiven at the end of the 20 year term. **Staff does not recommend this alternative as it will not allow the RDA to respond to the current market conditions and consumer needs of the community.**

FISCAL IMPACT

Funding for the Homebuyer Assistance Program is provided by the RDA Housing Set-Aside fund. The recommended actions impose no near-term fiscal impact to the RDA Housing Set-Aside fund. The reduction in the loan's term and the forgiveness provision will not affect equity share and principal repayments that occur prior to the loan's 20th anniversary.

These recommended actions impose NO fiscal impact to the General Fund. Under State Redevelopment Law, Housing Set-Aside funds are restricted for uses that support affordable housing.

SUMMARY

Due to the ever-changing real estate market, modifications to the RDA-HAP Program are necessary. The RDA-HAP loan helps to facilitate the sale of the City's NSP properties. With this type of loan, homebuyer's who may not otherwise qualify for financing to purchase homes, are given the opportunity to enjoy the benefits of home ownership. The City benefits because the RDA-HAP loans help stabilize neighborhoods by increasing home ownership and eliminating the blight created by vacant properties. However, many potential homebuyers are reluctant to accept the loan's 30 year term and balloon payment requirements.

In an effort to fulfill the commitments of the City's NSP Program by removing impediments to potential homebuyers, staff recommends that the term of the current RDA-HAP loan is amended to 20 years and that the loan is forgiven at the end of the 20 year term. These changes will make the loan more attractive to qualified homebuyers while maintaining the City's NSP and RDA objectives. The equity sharing requirements of the RDA-HAP remain intact. These provisions discourage the resale, refinance, or rental of the property by requiring a share of equity together with the repayment of principal RDA-HAP loan amount upon the occurrence of one of these events. Before proposing these changes, staff surveyed other jurisdictions and found similar terms and conditions for their down payment assistance loans.

NOTIFICATION

Publication of the Agenda

ATTACHMENTS/EXHIBITS

ATTACHMENT A: RDA-HAP Guidelines

Prepared By:
Michele Patterson
Redevelopment and Housing Programs Administrator

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:

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CITY OF MORENO VALLEY HOMEBUYER ASSISTANCE PROGRAM POLICY AND PROCEDURES

Approved May 19, 2004
Revised August 19, 2010
Revised May 10, 2011
Revision 10.2

City of Moreno Valley
Community & Economic Development Department
Neighborhood Preservation Division
14177 Frederick Street
P.O. Box 88005
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*Making the
Dream
of
Homeownership
a
Reality*



Attachment A
**CITY OF MORENO VALLEY
HOMEBUYER ASSISTANCE PROGRAM (HAP)**

PROGRAM PROCEDURES MANUAL

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**CITY OF MORENO VALLEY
HOMEBUYER ASSISTANCE PROGRAM (HAP)
PROGRAM PROCEDURES MANUAL**

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SECTION 1: HAP OVERVIEW

1.1 INTRODUCTION

The Homebuyer Assistance Program (HAP) Procedures Manual describes the HAP program and sets forth the role and requirements of the City, participating lenders, escrow companies, real estate agents, and the homebuyer, (hereinafter called the borrower) and seller. This document contains a description of the HAP loan parameters, processing procedures, and program administration. The City may revise these guidelines from time to time as deemed necessary.

The City encourages all eligible first-time borrowers to apply for a HAP loan. Participating lenders are expected to be well informed about all the restrictions contained in this manual so that both borrowers and sellers alike are aware of these restrictions before the loan application is taken.

1.2 PURPOSE AND OBJECTIVE

The City Council authorized the Homebuyer Assistance Program (HAP) for the purpose of providing down payment assistance to low, median, and moderate-income homebuyers purchasing a home within the City of Moreno Valley.

The program funding sources are the Redevelopment Agency (RDA) 20 percent set-aside Low and Moderate Income Housing Fund, and the Federal HOME Investment Partnership Program (HOME).

The Health and Safety Code provides that not less than 20 percent of all taxes allocated to a jurisdiction's RDA set-aside funds must be used to preserve, increase, or improve the community supply of housing available to families of low or moderate and very low-income households.

The purpose of HOME funds is to expand the supply of affordable housing for low- and very low-income families. HOME funds are subject to all federal rules and regulations as published in 24 CFR Part 92.

The objective of the Homebuyer Assistance Program (HAP) is to promote neighborhood stabilization and revitalization.

1.3 HOW A HOMEBUYER/BORROWER APPLIES FOR A HAP LOAN

The borrower must obtain a first mortgage loan and apply for the HAP loan through one of the HAP Participating Lenders approved by the City. The Lender will calculate the needed HAP assistance in conjunction with the City and submit the Application Package to the City for approval.

SECTION 2: HAP LOAN PARAMETERS AND FIRST MORTGAGE REQUIREMENTS

2.1 LOAN TERMS

- Second Lien:** The City HAP loan is a second mortgage, and must be in second lien position.
- Interest Rate:** 0% Interest.
- Loan Term:** Principal is forgiven in 20 years.
If the property is sold, the buyer ceases to occupy the property, or the property is refinanced and cash taken out during the 20-year term, the loan will become immediately due and payable.
- Payments:** Deferred no (principal or interest) payments are required during the loan term.
- Shared Equity:** The loan terms include an equity sharing arrangement in lieu of interest on the deferred loan. When the property is sold,, transferred, refinanced with cash taken out, or the loan is prepaid in full prior to loan maturity, the City will receive a share of the gain on sale/value in addition to the original amount loaned. The percentage factor of the equity share percentage is calculated by dividing the original HAP loan amount by the original purchase price.

Share of Equity Example:

If the HAP loan amount was \$52,345 and the original purchase price was \$261,725, the equity share percentage would be 20% (52,345 divided by 261,725). Next, the equity share percentage is multiplied by the gain on the sale/value (as determined by the sales price or the property value certified by a professional appraiser) to determine the City's share of the profit on the sale. If the gain on the sale/value were \$50,000, the City's share would be 20% of \$50,000, or \$10,000. The equity share amount is added to the HAP loan principal balance. The total repayment to the City would be \$62,345.

- Assumability:** The HAP loan is not assumable or transferable.

2.2 LOAN AMOUNT

The amount of HAP down payment assistance is based on the purchase price and the borrower's income. The borrower may only receive what is needed to close the purchase transaction. The maximum HAP loan amount is 20% of the purchase price as determined by the City. *The purchase price cannot exceed the appraised value.*

SECTION 2: HAP LOAN PARAMETERS AND FIRST MORTGAGE REQUIREMENTS CONTINUED...

2.3 FUNDS USAGE

HAP funds may be used for down payment and/or reasonable closing costs, based upon need and subject to City approval.

2.4 PROGRAM CHARGES AND FEES

The Lender may only charge the borrower reasonable fees as would be charged to a borrower applying for a mortgage not provided in connection with the HAP loan.

The cost for title insurance (limited coverage) for the HAP should also be included as part of the first mortgage loan fees. There will be no other fees incurred by the HAP loan process.

2.5 ELIGIBLE FIRST MORTGAGE TYPE

The HAP loan may only be used in conjunction with fixed-rate, fully amortized, 30-year FHA or Conventional (Fannie Mae or Freddie Mac) loan types.

Lease Option, VA loans, ARM, and Interest Only loans are not eligible for use with the HAP.

The first mortgage lender will estimate the HAP loan amount and process the first mortgage and HAP loans concurrently. The City will determine the final amount of the HAP assistance upon receipt of the HAP Loan Submission Package (Approval Phase). The HAP loan can only be used with original first mortgage financing, and will only be subordinated to the first mortgage.

Lenders will process the underlying mortgages using standard procedures, with adjustments to those procedures to conform to the HAP guidelines. The borrower must accept the highest loan-to-value ratio first mortgage amount for which they can qualify.

Note: Lenders must use the more restrictive program parameters of the HAP loan program or first mortgage loan program, (e.g. FHA, Fannie Mae, Freddie Mac).

2.6 COMBINED LOAN-TO VALUE

The borrower(s) must receive the highest loan-to-value ratio first mortgage amount for which they can qualify. The combined loan-to-value (CLTV) of the first mortgage without financed MIP, if applicable, and the HAP loan **cannot exceed the maximum CLTV of 100%**.

Note: Lenders must use the more restrictive CLTV limits of the HAP Program or the first mortgage loan program, (e.g. FHA, Fannie Mae, Freddie Mac).

SECTION 3: BORROWER ELIGIBILITY

3.1 FIRST TIME-HOMEBUYER

To qualify, the borrower must not have owned a home or held an interest in residential real property for the previous three (3) years prior to the date of the application. *Exception: A person who qualifies as a displaced homemaker or a single parent (See Definition Section), while previously married, owned a home with his/her spouse, does not need to meet this HAP requirement.*

To comply with first-time homebuyer requirements and ensure the household does not exceed the maximum income limit, each borrower and all persons expected to reside in the residence must provide copies of their most recent three years' **Federal Income Tax Returns**. The Returns must be **re-signed and dated (live ink) by the applicable borrower(s) or household member** as certification that they are true and exact copies of the returns submitted to the IRS.

If the borrower(s) or any other household member cannot provide a copy of his or her Federal Income Tax Returns, he or she may:

1. Request copy from the IRS; or
2. Request form #1722 from the IRS (This form may be accepted if it can be determined that the he or she did not itemize their deductions.)

3.2 HOMEBUYER EDUCATION

Each borrower receiving HAP assistance (taking title) is required to attend a Homebuyers Education/Counseling Seminar before the loan documents are drawn. The City has approved the following three non-profit agencies as the providers. Alternate providers are acceptable; however, they must be a HUD-approved homebuyer education provider and offer classroom-based courses. [Internet-based homebuyer education courses are not accepted] The first lender is responsible for ensuring the borrower(s) attend a session and must forward the original Certificate of Completion for **each** borrower before the HAP loan documents are drawn.

Approved Providers	Address	Telephone
Fair Housing Council of Riverside County, Inc.	3933 Mission Inn Avenue Riverside, CA 92501 Web: www.fairhousing.net	951.682.6581 800.655.1812
Inland Fair Housing and Mediation Board	60 East 9 th Street, Ste. 100 Upland, CA 91786 Web: www.inmedbd.com	909.984.2254 800.321.0911
Springboard	1605 Spruce Street, Ste. 100 Riverside, CA 92507 Web: www.credit.org	800.947.3752

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.3 INCOME LIMITS

The borrower’s **total annualized current gross household income cannot exceed 120%** of the Riverside County area median income (AMI) adjusted by household size.

The annual gross income of the borrower(s) **and** any other adult who will live in the subject property must be included when determining maximum income eligibility. The maximum income limits are subject to change each year.

The 2010 annual income limits effective July 2010 are as follows:

Table 3.1 2010 Annual Income Limits							
Household Size	50% (Very Low)	70% (Low)	80% (Lower)	100% (Median)	110% (Moderate)	115%- FHA (Moderate)	120% (Moderate)
1 Person	22,750	31,850	36,400	45,500	50,050	52,300	54,600
2 Person	26,000	36,400	41,600	52,000	57,200	59,800	62,400
3 Person	29,250	40,950	46,800	58,500	64,350	67,250	70,200
4 Person	32,500	45,500	52,000	65,000	71,500	74,750	78,000
5 Person	35,100	49,140	56,200	70,200	77,220	80,750	84,250
6 Person	37,700	52,780	60,350	75,400	82,940	86,700	90,500
7 Person	40,300	56,420	64,500	80,600	88,660	92,700	96,700
8 Person	42,900	60,060	68,650	85,800	94,380	98,650	102,950

Note: Lenders must use the more restrictive income limit of the HAP Program, HOME Program, or first mortgage loan program, (e.g. FHA, Fannie Mae, Freddie Mac).

3.4 INCOME QUALIFICATION CRITERIA

The annual income for purposes of qualifying for a HAP loan includes **all** household income, and may be lower or higher than the income amount utilized by the lender to underwrite the first mortgage (**See the Income Worksheet**). There are two major differences:

- **Anticipated Income:** The HAP figure represents ANTICIPATED income, while the Lender’s figure represents income AVERAGED over the last few years; and
- **Income Sources:** The HAP requires that **every** source of income, taxed or untaxed, be included in the HAP computation, while the underwriter for the first mortgage lender may choose not to honor sources of income that are sporadic and lack a strong track record.

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.4 INCOME QUALIFICATION CRITERIA CONTINUED...

Gross Income is calculated based on **annual household income** that will be used as set forth as follows:

1. All of the income of all adult working household members over the age of 18 who share the same dwelling unit or share in the ownership of the unit shall be considered in the total family income. If over 18 and a full time student, verification of full time status will be required.
2. Gross income will be the full amount before taxes and any payroll deductions. All overtime, bonuses and commissions will be counted as income.
3. For self-employed individuals, adjusted gross income will be the net income from the operation of the business and profession, as calculated by averaging the net income manifested by their Federal income taxes for the past three (3) years.
4. Interest earned, dividends, and other net income of any kind will be counted as part of the household gross income.
5. Social security payments, income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, including other similar periodic receipt of income will be counted as part of the household gross income.
6. Payments in lieu of earnings, such as unemployment, worker's compensation, severance pay, and welfare assistance will be included in the computation of gross income, even though lenders may not utilize these earnings for the issuance of credit. Food stamps value are not included in the income calculation.
7. Periodic and determinable allowances, such as alimony and child support payments will also be included in the computation of gross income.
8. All regular pay, special pay, and allowances of a member of the Armed Forces will be included as Gross income.
9. Any other income that must be reported for Federal income tax purposes will be included.

If the borrower(s) receives overtime, commission, or other wages in addition to their regular salary/hourly rate, the Verification of Employment (VOE) must have each amount listed separated to determine anticipated income.

In addition to the VOE, the borrower(s) will be required to provide signed and dated Federal tax returns for the last three (3) years and verification of current income, as evidenced by copies of the most recent pay stubs for the last 30 days.

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.5 MAXIMUM AFFORDABLE HOUSING COST AND HOUSING RATIO

Affordable Housing Cost Definition:

The Affordable Housing Cost (AHC) is the maximum monthly housing cost that a borrower in a certain income level may pay based on a percentage of income adjusted by household size.

Section 6920 of Title 25 of the California Code of Regulations defines the affordable housing cost to include the following:

- Principal and interest (first mortgage)
- Property Taxes and Assessments
- Homeowners' Association (HOA) Dues
- Hazard Insurance (if not included in HOA)
- Mortgage Insurance Premium
- Utility Allowance: including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels
- Maintenance and Repair Allowance

Summary of Affordable Housing Cost (AHC) Expense and Housing Ratio:

The following is a summary of the AHC expense and front-end ratio. Refer to **Table 3.2 - Maximum Monthly Housing Cost and Ratio Schedule** for additional requirements.

- **Households earning less than 80% AMI (Lower):** Cannot exceed the **lesser** of:
 - **30%** of the household's gross monthly income; or
 - The affordable housing cost limits stated in the **Maximum Monthly Housing Cost Schedule in Table 3.2.**
- **Households earning more than 80.01% - 120% AMI (Low - Moderate):**
 - Minimum housing expense ratio is 28% of the household's gross monthly income; and
 - cannot exceed the **lesser** of 35% of the borrower's gross monthly income, or
 - The affordable housing cost limits stated in the **Maximum Monthly Housing Cost Schedule in Table 3.2.**

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.5 MAXIMUM AFFORDABLE HOUSING COST AND HOUSING RATIO CONTINUED...

Maximum Monthly Housing Cost and Housing Ratios:

Table 3.2 provides the maximum monthly affordable housing cost limits and ratios defined by the applicable income level and unit size. **The maximum monthly housing cost must include utility and maintenance allowance per Table 3.3.**

Table 3.2 Maximum Monthly Housing Cost and Ratio Schedule						
AMI Level	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom	Five Bedroom	Six Bedroom
50% - Very Low 30% of 50% of Median	<ul style="list-style-type: none"> No Minimum housing expense ratio requirement Not to exceed the lesser of 30% of borrower's gross monthly income or the amounts listed below 					
	\$650	\$731	\$813	\$878	\$943	\$1,008
70% - Low 30% of 70% of Median	<ul style="list-style-type: none"> No Minimum housing expense ratio requirement Not to exceed the lesser of 30% of borrower's gross monthly income or the amounts listed below 					
	\$910	\$1,024	\$1,138	\$1,229	\$1,320	\$1,411
70.01% - 80.00% Low - Lower	<ul style="list-style-type: none"> No Minimum ratio requirement Not to exceed 30% of Gross Monthly Income 					
80.01% - 110% Moderate	<ul style="list-style-type: none"> Minimum 28% Not to exceed the lesser of 35% of Gross Monthly Income or the amounts listed below 					
	\$1,668	\$1,877	\$2,085	\$2,252	\$2,419	\$2,586
110.01%-120% Moderate	<ul style="list-style-type: none"> Minimum 28% Not to exceed 35% of Gross Monthly Income 					

Note: When combining programs lenders must use the more restrictive Monthly Housing Costs and Ratios of the HAP Program, HOME Program, or first mortgage loan program (e.g. FHA, Fannie Mae, Freddie Mac).

Utility and Maintenance Allowance Schedule:

Table 3.3 defines the **2010-2011 Utility and Maintenance Allowance** amounts to include when determining the borrower's Affordable Housing Cost expense. The amounts are subject to change in July of each year.

Table 3.3 2010-2011 Utility and Maintenance Schedule						
Size of Unit	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom	Five Bedroom	Six Bedroom
Utilities	\$125	\$154	\$192	\$225	\$260	\$284
Maint. & Repairs	\$20	\$25	\$30	\$35	\$40	\$60
Total	\$145	\$179	\$222	\$260	\$300	\$344

Utility Allowance Source: Housing Authority of the County of Riverside. Effective 7/01/10- Expires 6/30/11

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.6 TOTAL DEBT /BACK END RATIO

The borrower's total monthly debt back-end ratio (Total Housing expense and all other debt combined) cannot exceed **42%*** of the borrower's gross monthly income.

**If compensating factors exist, under extenuating circumstances, the borrower(s) may qualify with a higher back-end ratio, not to exceed 45%, subject to supporting documentation and Loan Committee approval.*

Note: When combining programs lenders must use the more restrictive income ratios of the HAP Program, HOME Program, or first mortgage loan program (e.g. FHA, Fannie Mae, Freddie Mac).

3.7 CREDIT STANDARDS

The HAP Program requires the borrower(s) to have a fair credit rating, at minimum. Please refer to chart below:

Score Rating	
Excellent	750-850
Good	660-749
Fair	620-659
Poor	300-619

Please note: the first mortgage lender's credit standards may differ from those of the City's, the more restrictive credit standards will be used.

If a bankruptcy and/or a foreclosure exist, a waiting period of **three years** is required before the borrower may participate in the HAP Program. The Loan Committee will reserve the right to approve such loans if extenuating circumstances exist (i.e. death, divorce, etc.) In addition, the credit record(s) must not show substantial disregard for former or existing obligations.

3.8 CASH ASSETS

In order to qualify for the HAP, the borrower(s) must not be able to purchase a home with his/her current assets, yet still have sufficient income and credit with which to qualify for a loan. **The borrower(s) shall have at least one month's total housing expense** (principal, interest, taxes and insurance) in reserves at the time of closing **but not more than six month's total housing expense reserves.**

For purposes of the HAP program, the following are considered assets in determining program eligibility:

A. Cash savings, marketable securities, stocks, bonds, and other forms of

capital investments other than Individual Retirement Accounts, KEOGH plans, or other retirement vehicles.

- B. Inheritances, cash lump sum insurance payments, settlements for personal property damage already received will be considered a household asset.
- C. Any equity in real estate will be considered an asset.
- D. Allowable assets will be the borrower's portions of the down payment and up to six months savings for monthly housing costs. The cash value of an asset is its market value minus reasonable expenses required to convert the asset to cash.

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.9 BORROWER'S CONTRIBUTION

The borrower(s) must have buy-in and make a contribution toward the purchase. A minimum three-percent (3%) of the purchase price is required as a buyer contribution, one-percent (1%) of the contribution must be from the buyer's own funds. A maximum two-percent (2%) of the buyer's contribution may be gifted, supporting documentation will be required. The buyer's contribution may be applied toward the down payment and/or closing costs.

The buyer's contribution must be a cash contribution. The required one month's reserves discussed in Section 3.8 do not satisfy the buyer's contribution requirement.

3.10 OWNER OCCUPANCY REQUIREMENTS

The borrower(s) must occupy the residences within 21 days of closing, and continue to occupy, as long as the HAP loan exists, as his or her principal residence. Non-occupant co-borrowers are not permitted.

Borrowers may not rent, sell, assign or transfer the residence as long as the HAP loan exists on the property.

SECTION 4: PROPERTY ELIGIBILITY AND HOME INSPECTION REQUIREMENTS

4.1 PROPERTY TYPES

Eligible homes must be:

Located within the **City of Moreno Valley**.

Existing single-family residence or condominium. Manufactured homes on individually owned parcels might qualify for assistance if they are on a permanent foundation. Preference will be given for foreclosure properties and others that have been vacant over 90 days. Properties with a pool/spa may be considered on case-by-case basis, subject to Loan Committee approval.

The property must be currently owner occupied by the seller, vacant or occupied by tenant buyer/borrower purchasing the home. The City will not pay relocation expenses for displaced tenants. The Seller's Affidavit requires the seller(s) to certify to the property's occupancy status.

Ineligible homes are:

New homes and mobile homes on rented spaces are not eligible.

4.2 MAXIMUM PURCHASE PRICE

The maximum purchase price cannot exceed **95%** of the Riverside County - FHA Single Family Mortgage Limit under 203(b) of the National Housing Act (12.U.S.C. 1709(b)) as determined by HUD. Effective May 29, 2007, the HAP maximum purchase price limit is **\$362,790**. Although HUD has increased the 2008 limit, the city will continue to use the limit in effect in 2007.

(The CEDD Director reserves the right to adjust the maximum purchase price based upon market conditions).

4.3 PROPERTY VALUE

The lender must provide the City with a copy of the Appraisal Report with color pictures. A professional appraiser may only determine the property value, and the purchase price cannot exceed the appraised value.

SECTION 4: PROPERTY ELIGIBILITY CONTINUED...

4.4 PROPERTY STANDARDS AND INSPECTION REQUIREMENTS

The home must be in sound condition and meet established City of Moreno Valley Housing Quality Standards. **(See the Housing Quality Standards Exhibit).**

The City will require an inspection of the property performed by the City Inspector to ensure the property is eligible under the HAP Program. **City staff will contact the lender to schedule the inspection within five (5) business days from receipt and review of a completed HAP Reservation Request Package.** Generally, the inspection will be conducted within 10 business days from the date of the City's issuance of a Reservation Confirmation; however, increased volume may extend the time period.

Note: Inspections are **not** conducted on Fridays.

The City inspection will include an assessment for lead-based paint for all properties built in or before 1978. The inspection may determine that additional testing and possible abatement may be required due to the age of the property and the condition of the paint. **The HAP Loan Submission Package must include the original City form, "Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards," executed the borrower, seller and listing agent.**

After the City Inspector performs the inspection, and if it is determined that repairs are necessary before the property is HAP program eligible, City staff will prepare an **"Inspection Results Report,"** identifying any deficiency items. The report will be distributed to the lender, borrower, seller and agents.

The seller must complete and return the original Acknowledgement Section of the "Inspection Results Report" to the City, which advises the City of the seller's intention regarding completion of the required repairs. Fax copies are acceptable. **It is the City's recommendation that the seller does not begin the repairs until after the lender submits the HAP Loan Submission Package and the Loan Committee approves the borrower(s).**

In the event that the seller elects to not make repairs that are not merely cosmetic in nature the property would **not** be eligible under the HAP program.

After the seller completes the repairs, the lender must contact the City to schedule a re-inspection of the property. The HAP loan cannot close until all repairs are completed and the City Inspector authorizes clearance.

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS

Lenders must adhere to the HAP processing time frame, and promptly notify the City in writing of any HAP cancellations and/or requests for commitment extensions.

The HAP processing procedures are designed to coincide with standard mortgage loan processing and underwriting procedures that are in place at most mortgage lending institutions. Recognizing there are procedural variations among the participating lenders, the procedures outlined here are meant to serve as guidelines with respect to the sequence of events. However, the City, lender, real estate agent, borrower, escrow, and title companies must at some point complete all the elements of the processing sequence outlined in this manual regardless of sequence.

5.1 LOAN ORIGATION

1. Borrower applies for the HAP loan with an approved HAP participating lender in conjunction with the first mortgage loan.
2. The lender discusses the program parameters with the borrower and determines that the borrower is an eligible candidate for HAP based on income, prior home ownership and other borrower eligibility factors as referenced in the Borrower Eligibility Section, and the purchase transaction meets the HAP guidelines.
3. The lender and borrower complete the HAP documents that include specific certifications as required by the HAP Program, Federal and/or State regulations and requirements. **(See the Exhibits Section.)**
4. Lender submits Reservation Request Package to the City. **(See Section 5.2 Request for Reservation of HAP Funds below.)**
5. Lender performs standard underwriting procedures and determines that the borrower qualifies for a first mortgage.

5.2 REQUEST FOR RESERVATION OF HAP FUNDS (MINIMUM OF 45 DAYS BEFORE ESTIMATED CLOSE OF ESCROW)

RESERVATION REQUEST WILL BE PROCESSED IN THE DATE AND TIME ORDER RECEIVED – NO EXCEPTIONS. IF A RESERVATION REQUEST PACKAGE IS INCOMPLETE, THE RESERVATION REQUEST WILL BE DECLINED, AND THE LENDER WILL BE REQUIRED TO SUBMIT A NEW RESERVATION REQUEST PACKAGE.

1. The lender submits the Reservation Request Package to the City a minimum of 45 days before the estimated close of escrow date. **(See the HAP Reservation Request Form in the Exhibits Section.)** The Reservation Request Package may be submitted by way of fax; however, applicable original HAP documents must be included in the HAP Loan Submission Package (Approval Phase).

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS CONTINUED...

5.2 REQUEST FOR RESERVATION OF HAP FUNDS AND PROCESSING CONTINUED...

2. City staff will review the Reservation Request Package within three (3) business days from the receipt date for completeness, consistency, accuracy, and compliance with the HAP loan eligibility requirements regarding the borrower, the property, and the financing structure of the transaction.
3. If the Reservation Request Package is complete, the City will forward a Reservation Confirmation to the lender within the 5 business day period and schedule the property inspection. **(See the Property Eligibility Section for inspection details.)**

IF A RESERVATION REQUEST PACKAGE IS INCOMPLETE, THE RESERVATION REQUEST WILL BE DECLINED, AND THE LENDER WILL BE REQUIRED TO SUBMIT A NEW RESERVATION REQUEST PACKAGE.

Note: the reservation confirmation letter is not a loan approval.

4. The reservation will expire in 45 days. If the lender does not submit the HAP Loan Submission Package (Approval Phase) within 45 days from the reservation confirmation date, the City will cancel the reservation request.

5.3 REQUEST FOR HAP LOAN APPROVAL (MINIMUM OF 30 DAYS BEFORE ESTIMATED CLOSE OF ESCROW)

The lender submits the HAP Loan Submission Package (Approval Phase) to the City a **minimum of 30 days before the estimated close of escrow date.** (See HAP Loan Submission Checklist (Approval Phase) in the Exhibits Section.)

1. City staff will review the HAP Loan Submission Package within 10 business days from the receipt date for completeness, consistency, accuracy, and compliance with the HAP loan eligibility requirements regarding the borrower, the property, and financing structure of the transaction.
2. If the package is complete and the borrower(s), the property, and the purchase transaction meet the HAP eligibility guidelines, staff will prepare the file for submission to the Loan Committee at the next available meeting.
3. The Loan Committee meets regularly on the **1st and 3rd Wednesday of each month.** On occasion, it may be necessary to reschedule the meeting due to holiday or staff schedules. A HAP Loan Submission Package must be received a minimum of seven (7) days before the Loan Committee meeting date. If not, it will be presented on the next scheduled meeting date. Please plan accordingly.

If the HAP Loan Submission Package (Approval Phase) is not complete, the City will suspend the HAP reservation request and/or the incomplete file will be returned to the lender. All suspense items must be received a minimum of seven (7) days before the next Loan Committee meeting date. If the suspense items are not received in sufficient time for staff review, staff will not submit the loan until the next scheduled meeting. (Continued on next page.)

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS CONTINUED...

5.3 REQUEST FOR HAP LOAN APPROVAL CONTINUED...

4. Upon approval/declination, the City will prepare and fax a Approval/Declination Letter to the Lender. The approval is valid for a period of 60 days. The Housing Program Coordinator may grant a 30-day extension, if requested, in writing by the lender. The "approval" shall be contingent on approval of the first mortgage, compliance with all program criteria, and HAP compliance loan conditions.

5.4 HAP LOAN CLOSING CONDITIONS AND PRE-FUNDING REQUIREMENTS (MINIMUM OF 10 BUSINESS DAYS BEFORE CLOSE OF ESCROW)

STANDARD HAP CLOSING CONDITIONS:

1. **Reminder** – the HAP funds are limited for use as down payment assistance only.
2. **DO NOT pad closing cost.** The borrower cannot receive any cash back at closing. The closing agent must return all refunds/overages due to the borrower(s) after closing to the City for principal reduction of the HAP loan along with a copy of the final HUD-1 Settlement Statement.
3. **Hazard Insurance Coverage** – Hazard Insurance cover must include the HAP loan and list the City as the second lien holder/mortgagee on the Declaration of Insurance. The City must review to the Declaration of Insurance before the release of funds to the closing agent.

The City's Loss Payee is:

The City of Moreno Valley, The Community Redevelopment Agency, and The Community Service District
Its Successors and/or Assigns

Address:

City of Moreno Valley
Attention: Neighborhood Preservation Division
P.O. Box 88005
City of Moreno Valley, CA 92552-0805

4. **Title Insurance:** A separate Limited Title Insurance policy is required for the HAP loan and the fee collect from the borrower at closing. The City must receive a final Title Policy referencing the following:

The City of Moreno Valley and The Community Redevelopment Agency, Its Successors and/or Assigns
5. **Estimated HUD-1:** Closing Agent to provide the City with a certified copy of Estimated HUD-1 prior to funding for review.

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS CONTINUED...

5.5 **PRE-CLOSING PROCESSES** **(MINIMUM OF 10 BUSINESS DAYS BEFORE CLOSE OF ESCROW)**

The City prepares the loan documents listed below and a Pre-funding Closing Instructions letter to the closing agent listing the HAP standard conditions as referenced above, and any other "Prior to Funding Conditions," if applicable. The City will contact the lender to schedule pickup.

The Closing Documents Include:

- HAP Deed of Trust and Assignments of Rent
- HAP Promissory Note (HOME or RDA)
- Final Equity Share Disclosure
- HOME Funds Disclosure, if HOME Funds are applicable
- Truth-In-Lending Disclosure Statement
- 4506 or 8821-Tax Information Authorization

NOTE: THE CITY ATTORNEY AND CITY MANAGER MUST SIGN THE DEED OF TRUST. THEY WILL ONLY SIGN IT AFTER THE BORROWER(S) HAS EXECUTED THE DOCUMENT.

5.6 **FUNDING PROCESSES** **(MINIMUM OF 5-7 BUSINESS DAYS BEFORE FUNDING)**

After the borrower executes the HAP loan documents and obtains Hazard Insurance, the Closing Agent must return the following items to the City a minimum of 5-7 Business days before funding to facilitate review and execution of the Deed of Trust by the City Attorney and City Manager.

- HAP Deed of Trust and Assignments of Rent (ORIGINAL)
- HAP Promissory Note (HOME or RDA) (ORIGINAL)
- HOME Funds Disclosure, if applicable (ORIGINAL)
- Final Equity Share Disclosure (ORIGINAL)
- Truth-In-Lending Disclosure Statement (ORIGINAL)
- 4506 or 8821-Tax Information Authorization (ORIGINAL)
- First Mortgage Deed of Trust (COPY)
- First Mortgage Note (COPY)
- Declaration of Insurance referencing the City (COPY)
- Certified copy of Estimated Final HUD-1 (COPY)

After the City reviews the Closing Package documents, and the Deed of Trust signed by the City Attorney and City Manager, staff schedules pick up of the HAP Deed of Trust with the closing agent for recordation, and issues wire transfer authorization of the HAP funds.

**SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS
CONTINUED...**

5.7 AFTER FUNDING PROCESSES

The closing agent provides the City with a certified copy of the Final HUD-1 Settlement Statement, and a check for any cash proceeds/overages for HAP loan principal balance reduction, if applicable, two weeks after closing.

SECTION 6: MISCELLANEOUS INFORMATION AND ADMINISTRATION PROCESSES

6.1 CANCELLATION AND COMMITMENT EXPIRATIONS

In a situation where the borrower or seller makes the decision to cancel the purchase transaction, written notice must be given to the City before the expiration of the Reservation Commitment or the Approval Commitment. The notice must include the reason(s) for the cancellation and be signed by both the Lender and the Borrower.

Before the Commitment has expired, the Lender must either: (1) submit the closing package; (2) submit a written request for a 30-day extension; or, (3) submit a notice of cancellation as described above.

6.2 REVOCATIONS

Automatic revocation occurs when the residence for which a HAP loan was issued ceases to be the borrower's principal residence; the HAP loan will become due and payable.

Automatic revocation occurs when the original loan/first mortgage is refinanced, unless the City of Moreno Valley has approved a Streamline Refinance loan for which no cash is taken out by the borrower during the transaction.

Revocation will occur upon discovery by the City or a participating Lender of any material misstatement, whether negligent or fraudulent. If the HAP loan is revoked, it is immediately due and payable.

6.3 TRANSFERRING HAP APPLICATIONS TO ANOTHER LENDER

If a Borrower has a pending HAP Reservation Commitment or Approval Commitment, and decides to change from one participating lender to another, the City will honor the original expiration date as long as all other conditions are unchanged and the new lender verifies the commitment documents and provides updated HAP forms accordingly. The transfer will be acceptable to the City only after written notification from the borrower is received.

6.4 CHANGING PROPERTIES DURING THE HAP APPLICATION PROCESS

Should the borrower elect to change properties, which could be the result of the seller's cancellation or the property's failure to meet the City of Moreno Valley Housing quality Standards, the reservation, and/or commitment is no longer valid. If the borrower finds a replacement property, a new application for reservation and commitment is required and is subject to the availability of funds.

6.5 POST AUDIT

The City or its assignee retains the express authority to perform annual random case post audits of participating lender records.

SECTION 7: LENDER ELIGIBILITY

7.1 LENDER ELIGIBILITY

The HAP is available to **direct lenders only**. Brokers are not eligible for designation as an approved participating lender (hereinafter called "lender"); however, they may enter into arrangements with an approved participating lender to process HAP applications. The participating lenders will remain responsible for all submittals and correspondence.

All lenders who wish to participate in the HAP must be enrolled in the program, maintain an active status, and meet the following requirements:

1. Lender must have a Corporate License to make first mortgage loans in the State of California;
2. Sign a Lender Participation Agreement and provide copy of Corporate Resolution for signature authority;
3. Each approved branch must obtain a City of Moreno Valley Business License;
4. Require all personnel involved with the HAP to attend a HAP training session;
5. Provide the HAP Manual and the Handbook to all HAP processors;
6. Complete the Lender's Certification for each HAP loan submission perform in accordance with Lender Participation Agreement and the HAP Program Procedures Manual
7. Certify that borrower meets all HAP loan criteria;
8. Cooperate with the City in providing the best possible service to the City's homebuyers;
9. Designate contact person(s) for the program; and
10. Ensure the borrower(s) attend homebuyer education and counseling as soon as the completed application submission package is received by the City.

7.2 LENDER REMOVAL

The Community & Economic Development Department (CEDD) may suspend or remove participating lenders from the Homebuyer Assistance Program in accordance with the terms of the Lender Participation Agreement. Lender may be suspended or removed from the HAP Program based on, but not limited to, the following violations:

1. Failure to follow the HAP Guidelines, as described in this manual and periodic Lender Bulletins.
2. Failure to submit all outstanding documentation within fifteen days of scheduled loan closing.
3. Withholding information that would result in borrower or property disqualification from the program.
4. Negligent or fraudulent misstatements or actions in regard to the Program.
5. Failure to conduct reasonable verification of borrower qualifications for the Program.
6. Failure to maintain complete borrower record for a minimum of seven (7) years after loan closing.

SECTION 8: LOAN MANAGEMENT AFTER CLOSING

8.1 MANAGING AGENCY

The City of Moreno Valley Redevelopment Agency is the appointed trustee for all loans made through the Homebuyer Assistance Program. Forward correspondence to:

City of Moreno Valley
Community & Economic Development Department
Neighborhood Preservation Division
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552-0805

Telephone: 951.413.3450
Fax: 951.413.3459

8.2 RECONVEYANCE OF HAP LOAN

When the assisted property is sold or other circumstances occur requiring loan pay-off, the City of Moreno Valley will calculate the pay-off amount and issue a pay-off demand. Upon receipt of the pay-off funds, the City will complete and submit a Deed of Reconveyance to the Riverside County Recorder's office for recordation.

SECTION 9: LOAN DEFINITIONS

Affidavit:	An affidavit filed in connection with the program made under oath and subject to penalties of perjury.
Affordable Housing Cost:	Section 6920 of Title 25 of the California Code of Regulations defines the affordable housing cost to include the following: <ul style="list-style-type: none">▪ Principal and interest (first mortgage)▪ Property Taxes and Assessments▪ Homeowners' Association (HOA) Dues▪ Hazard Insurance (if not included in HOA)▪ Mortgage Insurance Premium▪ Utility Allowance*: including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels▪ Maintenance and Repair Allowance
Approved Lender:	A lender that has been approved by the City to participate in the HAP Program. To participate in the HAP Program, a Lender must: (1) attend the HAP Training session; (2) Sign the Lender Participation Agreement and designate a contact person; and (3) Obtain a City of Moreno Valley Business License.
Assets:	A cash or non-cash item that can be converted to cash. Assets exclude personal property. Cash assets at closing cannot exceed six (6) months monthly housing payment (PITI).
Borrower(s):	Any person(s) who applies for a HAP loan.
Borrower's Contribution:	A cash contribution made by the borrower(s) equal to or greater than three-percent of the purchase price of which one-percent of the contribution must be from borrower(s)' own funds.
Commitment:	Issued by the City of Moreno Valley based on Loan Committee's approval and are valid for 60 days.
Displaced Homemaker:	An individual who, (1) is an adult; (2) has not worked full-time, or worked a full-year in the labor force, but has during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. For the purpose of the HAP, a displaced homemaker may be eligible to apply for a loan providing that the ownership was previously held with a spouse, as joint tenants.
Eligible Borrower:	Any person meeting the criteria of an eligible borrower set forth in this manual that is in the process of securing financing for the purchase of a Principal Residence. Also referred to as "borrower(s)."

SECTION 9: LOAN DEFINITIONS CONTINUED...

Eligible Dwelling:	Residential real property located in the City that is an existing home which has been previously occupied, designed as a residential unit for one household and which meets the City of Moreno Housing Quality Standards and the criteria set forth in this manual
Existing Home:	Resale home.
HAP:	Homebuyer Assistance Program of the City of Moreno Valley.
HAP Funds Usage:	The HAP funds usage may be used for down payment assistance and/or reasonable closing costs, based upon need and subject to City approval.
Income (Eligibility):	The total gross household income for all borrowers and adults residing in the household that anticipates receiving income during the 12-month period. All income derived from any source as stated in income definitions (See Section 3.4).
Income – Extremely Low (RDA §50106):	30 percent of area median income adjusted for family size.
Income – Very Low (RDA §50105):	50 percent of area median income adjusted for family size.
Income – Lower (RDA §50105):	80 percent of area median income adjusted for family size.
Income - Moderate (RDA §50093):	Households with income at or below 120% of the median income for the area. Maximum income allowed under the HAP of the City of Moreno Valley.
Income – Low (HOME):	Households with income below 80% of the median income for the area.
Interest Recurring:	Lenders usually require borrowers to pay at settlement the interest that accrues on the mortgage from the date of settlement to the beginning of the period covered by the first monthly payment.
Lender:	A direct lender (financial institution) that is licensed by the State, and has met all of the requirements set forth in this manual. (See Section 7.1).
Loan:	An extension of credit provided to an Eligible Borrower to finance the purchase of an Eligible Dwelling which meets the City requirements set forth in this manual.
Non-recurring Closing Costs:	One-time fees and expenses paid at the time of closing. The HAP funds may be used toward the payment of reasonable closing costs and is subject to City approval.

SECTION 9: LOAN DEFINITIONS CONTINUED...

Ownership:	Any of the following interests in residential real property: <ul style="list-style-type: none">■ Fee simple interest■ Joint tenancy■ Tenancy in common■ Interest of a tenant-shareholder in a cooperative■ Life estate■ Interest held in trust for the Borrower that would constitute a present ownership interest if held by the Borrower
Participating Lender:	See Lender Eligibility Section 7.
Principal Residence:	A single-family house; or any manufactured home (including a mobile home) as defined under Federal law which is of a type customarily used at a location and which sits on a permanent foundation. The borrower must expect to occupy the property as their Principal Residence .
Property Standard:	The minimum standards to meet all applicable City of Moreno Valley Housing Quality Standards.
Property Value:	The value of the eligible property as determined by a certified appraisal. The property value, not the purchase price, shall not exceed 95% of the area median purchase price for the house, as annually determined by the United States Department of Housing and Urban Development (HUD).
Purchase Price:	The cost of acquiring the residence excluding usual and reasonable settlement or finance cost. The purchase price cannot exceed 95% of the Riverside County Single Family Mortgage Limits under 203(b) of the National Housing Act (12 U.S.C. 1709(b)) as determined annually by the United States Department of Housing and Urban Development (HUD).
Related Person:	A related person, as that term is defined under the Internal Revenue Code and applicable regulations.
Recurring Closing Costs:	Also known as “pre-paids.” Means annual renewal fees such as property taxes, insurance and MIP. The HAP funds may be used toward the payment of reasonable closing costs and is subject to City approval.
Single Parent:	An individual who is (1) unmarried or legally separated from a spouse; and (2) has one or more minor children for whom the individual has custody or joint custody of, or is pregnant. For the purpose of the HAP, a single parent may be eligible to apply for a loan providing that the ownership was previously held as joint tenancy.

SECTION 10: HAP EXHIBITS LIST

Form Name		Number of Pages	Revision Date
1.	HAP010-Reservation Request Form	1 Page	07/01/08
2.	HAP011A-Reservation Confirmation (Sample)	1 Page	07/01/08
3.	HAP012-Loan Submission Checklist (Approval Phase)	1 Page	07/01/08
4.	HAP013-Contact Information Sheet	2 Pages	07/01/08
5.	HAP014-Lender's Affidavit	2 Pages	07/01/08
6.	HAP015-Borrower's Affidavit	3 Pages	07/01/08
7.	HAP016-Upfront Equity Share Disclosure	1 Page	07/01/08
8.	HAP017-Income Worksheet & Instructions	2 Pages	07/01/08
9.	HAP018-Non-Filing of Tax Returns Affidavit	1 Page	12/27/07
10.	HAP019-Declaration of Income	1 Page	12/27/07
11.	HAP020-Seller's Affidavit	1 Page	07/01/08
12.	HAP021-Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards	1 Page	06/05/02
13.	HAP022-Protect Your Family From Lead in Your Home (HUD Booklet)	16 Pages	9/01
14.	HAP024-Housing Quality Standards	5 Pages	6/04/02
15.	HAP025-Affordable Housing Cost Limit Worksheet	2 Pages	07/01/09

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**MINUTES - REGULAR MEETING OF APRIL 26, 2011 (Report
of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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**MINUTES - REGULAR MEETING OF APRIL 12, 2011 (Report
of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.4

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City of Moreno Valley
Community & Economic Development

MEMORANDUM

To: Mayor and City Council
Henry Garcia, City Manager
Jane Halstead, City Clerk

From: Barry Foster, Community and Economic Development Director

Date: May 10, 2011

Subject: Public Hearing to Adopt the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Program Annual Action Plan for Fiscal Year 2011/12

The above referenced item is scheduled as a Public Hearing item.

The Department of Housing and Urban Development (HUD) issues funding allocations for Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Program. However, *as of today*, HUD had not yet released the City's FY 2011/12 grant allocation. Instead of final allocations HUD released updated estimates and asked cities use the new figures in their Action Plans. HUD has indicated that the figures are the best figures available at this time. A timeline for release of the final allocations hasn't been established. However, Action Plans must be submitted to HUD by May 13.

Since the release of the Agenda packet, HUD has informed the City that the estimate for the City's allocation has changed slightly and will be reduced by 16.63% rather than the original estimate of 16.5% and HOME will be reduced only by 11.7% rather than the original estimate of 16.5%. Below are the revised CDBG and HOME handouts. Additionally, Attachment E has been updated to reflect the revised funding allocations.

ESTIMATED CDBG PROGRAM BUDGET

<u>Funding Category</u>	<u>Funding Allocation</u>
2011/12 CDBG Estimated Allocation	\$1,618,666
Project Savings (previous year(s))	\$333,690
TOTAL AVAILABLE CDBG FUNDS	\$1,952,356
Program Administration (<u>20%</u> maximum of annual grant)	\$323,733
Public Social Services (<u>15%</u> maximum of annual grant)	\$242,799
Public Facilities & Improvements	\$650,000
Rehabilitation	\$10,000
Code Enforcement	\$285,208
Economic Development	\$440,616
TOTAL PLANNED CDBG BUDGET	\$1,952,356

ESTIMATED HOME PROGRAM BUDGET

<u>Funding Category</u>	<u>Funding Allocation</u>
2011/12 HOME Estimated Allocation	\$588,314
Funds available under the Multi-Family Housing project account	\$1,000,000
TOTAL AVAILABLE HOME FUNDS	\$1,588,314
Program Administration (maximum 10% of allocation)	\$58,831
FY 11/12 CHDO (required 15% of allocation)	\$88,247
Mobile Home Grant Program (MHGP)	\$100,000
Home Improvement Loan Program (HILP)	\$250,000
Hemlock Family Apartments	\$1,000,000
TOTAL PLANNED HOME BUDGET	\$1,497,078

ATTACHMENT E – CDBG PROPOSED PROGRAMS

CDBG – FY 2011/12 – Total Anticipated Funding \$1,618,666 plus project savings of \$333,690* = \$1,952,356

ACTIVITY	FY 2010/11 ALLOCATION	FY 2011/12 Request	Staff Recommendation	City Council Recommendation
A. ADMINISTRATION (20% CAP – \$323,733)				
0 Administrative Staffing	\$338,869		\$293,733	
1 Fair Housing Council of Riverside County – Fair Housing Program	\$49,453		\$30,000	
Subtotal	\$388,322		\$323,733	
B. PUBLIC SERVICES (15% CAP – \$242,799)				
2 Community Foreclosure Prevention Workshops	\$44,000	\$30,000	\$28,500	
3 Community Assistance Program (CAP) Food Program	\$30,600	\$34,220	\$29,070	
4 Friends of the Moreno Valley Senior Center (MoVan) Transportation	\$30,000	\$30,000	\$28,500	
5 Problem Orienting Community Policing (POP) Team	\$28,241	na	\$0	
6 Fair Housing Council of Riv County – Foreclosure Prevention Program	\$25,000	\$25,000	\$21,079	
7 Fair Housing Council of Riv County – Landlord Tenant Mediation Program	na	\$15,000	\$14,250	
8 Lutheran Social Services (MARB) Homeless Shelter	\$15,000	\$21,104	\$14,250	
9 Path of Life Transitional Family Shelter (MARB)	\$15,000	\$30,000	\$14,250	
10 PW Enhancement Center – Emergency Services Outreach	\$15,000	\$32,000	\$14,250	
11 Neighborhood Clean-ups	\$15,000	\$15,000	\$14,250	
12 Assistance League/Operation School Bell – Clothes/School Supplies	\$10,000	\$15,000	\$9,500	
13 CASA for Riverside County Foster Youth Program	\$10,000	\$32,535	\$9,500	
14 God's Helping Hand Ministries – Food Bank	\$9,000	\$10,000	\$8,550	
15 Operation Safehouse Shelter for Youth	\$8,000	\$8,000	\$7,600	
16 Alternatives to Domestic Violence Emergency Shelter & Services	\$7,500	\$15,000	\$7,125	
17 Riverside Area Rape Crisis Center – Child Abuse Prevention Program	\$7,500	\$7,500	\$7,125	
18 Moreno Valley Community Educators – Tutoring Program	\$6,400	na	\$0	
19 ARC of Riverside – Disabled Adult Day Care Facility	\$5,000	\$20,000	\$5,000	
20 Salvation Army –Food Program	\$5,000	\$10,900	\$5,000	
21 Catholic Charities – Case Worker	na	\$35,000	\$0	
22 MVUSD High School Intervention Program	na	\$10,500	\$0	
23 Smooth Transition Literacy/Job Readiness/Life Skills Trng.	na	\$48,872	\$0	
24 CVHC – Afterschool/Computer Program	na	\$10,000	\$0	
25 ReNu Hope Foundation – Pre School Bldg. Improvements	na	\$19,413	\$0	
26 Volunteer Ctr. '211' Telephone Referral Service	\$5,000	\$20,000	\$5,000	
27 Volunteer Ctr. Rent Gaurantee Program	na	\$63,000	\$0	
28 Alpha & Assoc. – Reclaiming Youth Intervention Program	na	\$50,000	\$0	
29 MCL Music Changing Lives – Youth Intervention/Music Program	na	\$150,000	\$0	
30 Family Service Assoc. Nutrition Program at Supportive Hsq Complex	na	\$50,000	\$0	
31 Leading Our World – Help the Streets Outreach Program	na	\$1,105,000	\$0	
Subtotal	\$291,241	\$1,913,044	\$242,799	
C. PUBLIC FACILITIES & IMPROVEMENTS				
32 Street Improvement Project	na	\$650,000	\$650,000	
Subtotal	\$0	\$650,000	\$650,000	
D. REHABILITATION				
33 Habitat for Humanity	\$10,000	\$10,000	\$10,000	
Subtotal	\$10,000	\$10,000	\$10,000	
E. CODE ENFORCEMENT				
34 Code & Neighborhood Enforcement Program (CDBG Target Areas)	\$263,390	\$192,604	\$192,604	
35 Code Enforcement – Foreclosure 'Strike Team'	\$103,017	\$92,604	\$92,604	
Subtotal	\$366,407	\$285,208	\$285,208	
F. ECONOMIC DEVELOPMENT				
37 MV New Business Incentive Program	\$540,000	\$525,000	\$195,616	
38 Employment Resource Center	\$145,641	\$145,000	\$145,000	
40 Youth Opportunity Center	\$50,000	\$25,000	\$25,000	
41 Family Service Assoc. Meal Program Facilities	\$50,000	\$50,000	\$25,000	
42 Small Business Development Center	\$50,000	\$50,000	\$50,000	
Subtotal	\$835,641	\$795,000	\$440,616	
GRAND TOTAL	\$1,891,611	\$3,643,252	\$1,952,356	

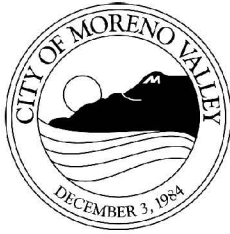
■ New applicants ■ Organization serving homeless population ■ Recommended funding changes over previous year

* Anticipated funding based on 16.63% reduction of last years actual allocation + past years project savings of \$333,690. BY LAW Project savings CANNOT be applied to Public Services. Public Services are capped at 15% of annual grant.

427-

Item No. E.1

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

Report to City Council

TO: Mayor and City Council

FROM: Barry Foster, Community and Economic Development Department Director

AGENDA DATE: May 10, 2011

TITLE: PUBLIC HEARING TO ADOPT THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIP (HOME) PROGRAM ANNUAL ACTION PLAN FOR FISCAL YEAR 2011/12

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Conduct a Public Hearing for the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Program to provide the public with an opportunity to comment on the proposed 2011/12 Annual Action Plan and,
2. Approve the proposed 2011/12 Annual Action Plan.

BACKGROUND

Every year the Department of Housing and Urban Development (HUD) allocates federal grant monies to the City of Moreno Valley for use in programs that provide decent housing and/or expand employment opportunities for low-to-moderate income persons (see Attachment A for the 2010 Income Limit table). These grants are known as Community Development Block Grant (CDBG) and the HOME Investment Partnership Program (HOME).

Grants are provided on an annual basis to Entitlement Cities (eligible, selected cities with a population exceeding 50,000), with allocation amounts varying each year based on a formula that considers the extent of poverty, population, housing overcrowding, the age of housing and the population growth lag in relationship to other metropolitan areas. Moreno Valley has been classified by HUD as an Entitlement City since 1988.

In accordance with HUD requirements, CDBG Target Areas must be established so that Entitlement Cities may concentrate their programs in areas determined to contain at least 51% of residents earning low-to-moderate incomes. For a map of the CDBG Target Areas see Attachment B.

HUD requires Entitlement Cities (such as Moreno Valley) to prepare a Consolidated Plan that directs CDBG activities for a five year period. FY 2011/12 marks the fourth year of the City's FY 2008-2013 Consolidated Plan. Entitlement Cities also adopt Annual Action Plan updates of the Consolidated Plan each year. The Annual Action Plan more specifically identifies the activities for which the City will allocate both CDBG and HOME funds for the upcoming program year. This staff report requests that the City Council conduct a Public Hearing to review and adopt the Annual Action Plan for FY 2011/12, which must be received by HUD no later than May 13, 2011.

Eligible CDBG grant activities can range from social services to capital improvements to economic development programs. HOME funds must be used toward the development of affordable housing projects. Attachment C details eligible and ineligible activities for both programs.

In past years, the City of Moreno Valley has used CDBG to fund a variety of eligible programs including capital improvement projects, code enforcement activities, social service programs, and economic development programs. CDBG regulations allow Entitlement Cities to dedicate up to a maximum 15% of their annual CDBG allocation to the provision of social services. Social services can include but are not limited to the following:

- Homeless and Emergency services,
- Programs for elderly, disabled, or youth,
- Public safety/crime prevention services, or
- Specialized counseling and treatment.

Social services can be provided directly by the Entitlement City or CDBG social service funds can be granted to certified non-profit organizations (known as sub-recipients) to provide the desired services or programs.

DISCUSSION

At the City Council meeting of March 22, 2011, staff proposed awards for subrecipients based on an estimated budget which called for a 7.5% reduction from last year. At this present time HUD still **has not** released the actual grant allocations. However, HUD has contacted local communities, including Moreno Valley, to advise of even steeper federal funding cuts affecting CDBG allocations. The City was told to expect an approximate 16.5% funding decrease from the previous year instead of the 7.5% decrease that was previously indicated and used to form the budget recommendations reviewed by Council on March 22nd. Based on this new information, the CDBG allocation for FY 2011/12 is estimated at \$1,621,245 (this represents a 16.5% decrease from last year).

Attachment D is the proposed Annual Action Plan for Fiscal Year 2011/12. The Annual Action Plan details the specific projects and (estimated) allocated funding for the upcoming

program year. In conformance with HUD requirements, the Annual Action Plan was made available for a 30-day public review from March 29, 2011 through April 29, 2011. To date, there have been public comments received at meetings. These are incorporated in the Action Plan as an attachment. The following tables detail the revised funding allocations. These allocations are included in the Annual Action Plan.

2011/12 CDBG PROGRAMS AND BUDGET

The goal of the CDBG Program is to respond to the needs of low and moderate income persons and neighborhoods. The CDBG program administration is subject to a cap of 20% of the total CDBG allocation. In addition, CDBG social service activities are capped at 15% of the total allocation. The anticipated budget and funding allocations are shown in the following tables.

CDBG PROGRAM BUDGET

<i>Funding Category</i>	<i>Funding Allocation</i>
2011/12 CDBG Allocation	\$1,621,245
Project Savings (previous year(s))	\$412,830
TOTAL AVAILABLE CDBG FUNDS	\$2,034,075
Program Administration (<u>20%</u> maximum of annual grant)	\$324,249
Public Social Services (<u>15%</u> maximum of annual grant)	\$243,186
Public Facilities & Improvements*	\$650,000
Rehabilitation	\$10,000
Code Enforcement	\$366,407
Economic Development	\$440,987
TOTAL PLANNED CDBG BUDGET	\$2,034,071

* Project shall utilize \$350,000 from 2011/12 CDBG allocation plus \$300,000 in past year savings.

1) CDBG PROGRAM ADMINISTRATION

HUD limits program administration costs to twenty percent (20%) of the annual CDBG allocation. The FY 2011/12 cap for program administration is estimated to be \$324,249. Funding under this category provides for program management by Economic Development Department staff and Fair Housing Services (required by HUD). The Fair Housing Services are free to the public and include: community education on fair housing rights and responsibilities and investigation of public complaints and discriminatory practices.

2) SOCIAL SERVICES

Social services are subject to a fifteen percent (15%) maximum limit of the annual CDBG allocation. Since the March 22nd public hearing, HUD has advised of even steeper federal funding cuts affecting CDBG allocations to local communities, and the City was asked to anticipate a 16.5% funding decrease from the previous year instead of the 7.5% as originally indicated. The City is now required to adjust the social service budget as proposed on March 22nd by \$26,212 to accommodate the reduction. Due to less funding, Staff is proposing that:

- there be no new social service programs funded in FY 2011\12¹,
- all existing public service programs that were approved to continue as FY 2011\12 'subrecipients' have the proposed budget allocations trimmed by 5% (i.e., with the exception of programs funded at \$5,000 which per adopted local policy, represents the minimum grant amount the City can extend).

This will allow the City to meet the mandatory cap of 15% toward public social services without having to eliminate any valuable service programs.

FY 2011/12 recommendations encompass a wide range of programs and services including: 1) public safety services; 2) emergency and transitional shelter for homeless families; 3) youth services; 4) emergency food distribution; and 5) youth career development programs. The projects listed in Attachment E reflect the community priorities adopted by the City Council on December 14, 2010 and programs the City Council approved for funding at the March 22, 2011 Public Hearing.

3) PUBLIC FACILITIES & IMPROVEMENTS

The City is proposing to provide funding toward the construction of a much needed sidewalk and street widening project in Central Sunnymead. The project will improve Dracaea Street from Perris Boulevard to Patricia Street. The intent is to improve pedestrian access ways to area schools such as Butterfield Elementary and March Mountain High School, as well as provide safer access to bus stops, and local businesses along Perris Boulevard.

4) REHABILITATION

CDBG regulations allow for specific housing rehabilitation activities. The dollars received under the CDBG allocation have enabled staff to recommend continued funding of the Habitat for Humanity 'Helping Hands' Mobile Home Rehabilitation Program. This program provides for the supplies and materials that volunteers shall use to help eligible low income households make exterior improvements to their mobile homes. The program was designed to provide assistance mainly to elderly or disabled persons whom are unable to maintain the exterior of their property and are facing penalties that could lead to eviction. Staff feels this program will assist to

¹ Only one new agency had been recommended for FY 2011/12 at the March 22, 2011 Public Hearing.

supplement the City's existing Mobile Home Grant Program by relieving it of having to subsidize less critical exterior repairs (which are often general clean-up or cosmetic) and instead focus grant dollars on the more expensive code related improvements.

5) **CODE ENFORCEMENT**

City code enforcement is an important service partially funded by CDBG. The Code Compliance officers provide proactive code compliance within the CDBG-designated Target Areas. Staff is recommending maintaining general Code Enforcement and the 'Foreclosure Strike Team' at its current funding level to allow continued foreclosure enforcement efforts on bank-owned properties.

6) **ECONOMIC DEVELOPMENT**

a. **Small Business Counseling Services**

Funding is recommended for Small Business Counseling Services. The Inland Empire Small Business Development Center (SBDC) provides one-on-one counseling services, workshops\seminars, and more free of charge to Moreno Valley businesses.

b. **Employment Resource Annex**

Continued funding is recommended for the Employment Resource Center. The Employment Resource Center is an office located in the Towngate Center where unemployed or under-employed Moreno Valley residents are able to utilize computers and other standard office equipment to access the internet to search for employment opportunities, prepare resumes, fax job applications, and/or apply for unemployment free of charge. The Center also partners with major employers either in or locating to the City to conduct employment recruitments. Due to demand, an expansion completed this past fiscal year. An additional 20 computers, classroom space, and career coaching services, were added to enhance the existing facility and allow it to serve more residents.

c. **Moreno Valley New Business Incentive Program**

Continued funding is recommended for the New Business Incentive Program intended to incentivize the attraction of businesses to Moreno Valley. HUD allows Entitlement Cities to use CDBG funds to assist private, for-profit businesses through loans, grants or interest subsidies, so long as the activity provides a public benefit, which in this case would be the creation of full-time permanent jobs (of which 51% are held by or made available to low and moderate income level persons) and the boosting of sales tax revenues. Several major retailers have utilized this program.

2011/12 HOME PROGRAMS AND ESTIMATED BUDGET

The City anticipates receiving a HOME program allocation of \$556,600 in FY 2011/12. This is a 16.5% decrease from the previous year (actual TBD). In addition, there are monies accumulated from past years "Multi-Family Housing Fund" that will be used toward a new affordable housing project called the 'Hemlock Family Apartments'. This project would provide for 77 new, affordable units to residents at 50%-60% of the area median income.

The HOME Program generally funds city-sponsored programs and projects. Program administration has a cap of 10% of the total HOME allocation. In addition, a minimum of 15% of the funds must be used by a Community Housing Development Organization (CHDO) to increase the supply of affordable housing for low-income families.

The anticipated HOME budget and funding allocation is shown in the following table.

HOME PROGRAM BUDGET

<i>Funding Category</i>	<i>Funding Allocation</i>
2011/12 HOME Allocation	\$556,600
Funds available under the Multi-Family Housing project account	\$1,000,000
TOTAL AVAILABLE HOME FUNDS	\$1,556,600
Program Administration (maximum 10% of allocation)	\$55,660
FY 11/12 CHDO (required 15% of allocation)	\$83,490
Mobile Home Grant Program (MHGP)	\$100,000
Home Improvement Loan Program (HILP)	\$250,000
Hemlock Family Apartments	\$1,000,000
TOTAL ALLOCATION OF HOME FUNDS	\$1,489,150

2011/12 RECOMMENDED HOME PROJECTS AND PROGRAMS

1) HOME PROGRAM ADMINISTRATION

Program Administration costs are subject to a ten (10%) cap. Grant funding under this category provides for project management by Economic Development staff.

2) COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) SET-A-SIDE

HUD mandates that a minimum of fifteen (15%) of HOME funds be allocated toward affordable housing projects to be undertaken by qualified CHDOs. Over FY 11/12

\$83,490 must be allocated to CHDO-directed projects for potential affordable housing development. Staff will bring recommendations for CHDO allocation to the City Council later in the year.

ALTERNATIVES

Alternative 1 – Staff recommends that the City Council conduct a public hearing to provide the public with an opportunity to comment on the proposed Annual Action Plan and adopt the Annual Action Plan for Fiscal Year 2011/12. **Staff recommends this alternative.**

Alternative 2 – Do not approve the Annual Action Plan for Fiscal Year 2011/12. **Staff does not recommend this alternative because it would result in a failure to meet the HUD deadline for submission of this document.**

FISCAL IMPACT

Available CDBG funds for FY 2011/12 is expected to be about \$2,034,075. These funds will provide funding for a variety of improvements and services. The available HOME funds will be approximately \$1,556,600. These funds will provide funding for affordable housing projects. Together, the CDBG and HOME programs will afford a variety of affordable housing and neighborhood preservation efforts in Moreno Valley. The following represent the budgets for the two funds – CDBG and HOME.

<u>Fund</u>	<u>Business Unit No/Name</u>	<u>Amounts</u>
	CDBG Account	\$2,034,075
285	73952 CDBG Administration	
289	73852 CDBG Programs	
285	74052 Code and Neighborhood Enforcement	
176	77110 - HOME	\$1,556,600

The proposed program funding selections have NO impact on the City's General Fund. CDBG funding must be used for eligible activities in Target Areas that contain at least 51% of residents earning low to moderate incomes. Eligible programs or projects must meet one of three HUD national objectives, in accordance with City Council adopted community priorities.

CITY COUNCIL GOALS

1. REVENUE DIVERSIFICATION & PRESERVATION

CDBG and HOME funds will enhance the City's ability to create a stable revenue base and fiscal policies that will support essential City improvements and services.

2. PUBLIC SAFETY

Many of the proposed CDBG and HOME projects and programs will directly or indirectly help to provide a secure environment for people and property in the community.

3. POSITIVE ENVIRONMENT

A positive environment for the development of Moreno Valley's future will be created through a variety of community-based CDBG and HOME programs and projects.

4. COMMUNITY IMAGE, NEIGHBORHOOD PRIDE & CLEANLINESS

CDBG and HOME programs such as: Code Enforcement, Neighborhood Policing, Public Infrastructure Improvements and Housing Rehabilitation will help to preserve, rehabilitate and improve existing neighborhoods.

SUMMARY

HUD requires that grantee Entitlement Cities such as Moreno Valley, prepare an Annual Action Plan for the Community Development Block Program. The Annual Action Plan details the activities and projects the City will undertake in Fiscal Year 2011/12 using CDBG and HOME grant funds. The Annual Action Plan must be submitted to HUD no later than May 13, 2011.

The City Council established CDBG funding priorities at the December 14, 2010 meeting. At the March 22, 2011 Public Hearing, Council reviewed funding recommendations made by staff and the 2011 CDBG Technical Review Committee for the 2011/12 CDBG and HOME Programs. Staff now recommends that the City Council conduct a public hearing and approve the proposed 2011/12 Annual Action Plan for submittal to HUD.

NOTIFICATION

Notice of this meeting was published in the Press-Enterprise newspaper on April 26, 2011.

ATTACHMENTS/EXHIBITS

ATTACHMENT A	2010 Income Limits
ATTACHMENT B	CDBG Target Area Map
ATTACHMENT C	Eligible/Ineligible Activities
ATTACHMENT D	Annual Action Plan for Fiscal Year 2011/12
ATTACHMENT E	CDBG Funding Allocations FY 2011/12

Prepared By:
Isa Rojas
Management Analyst

Department Head Approval:
Barry Foster
Economic Development Director

Concurred By:
Michele Patterson
Redevelopment and Neighborhood Programs Administrator

ATTACHMENT A







2010 INCOME LIMITS
Effective April 2, 2010 – Revised Annually
Neighborhood Preservation Division

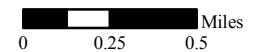
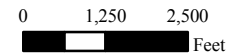
Annual Income Level	% of Area Median	Number of Persons In Household							
		1	2	3	4	5	6	7	8
Extremely Low Income	30%	\$13,650	\$15,600	\$17,550	\$19,500	\$21,100	\$22,650	\$24,200	\$25,750
Very Low Income	50%	\$22,750	\$26,000	\$29,250	\$32,500	\$35,100	\$37,700	\$40,300	\$42,900
60% Limits (HOME)	60%	\$27,300	\$31,200	\$35,100	\$39,000	\$42,120	\$45,240	\$48,360	\$51,480
Low Income	80%	\$36,400	\$41,600	\$46,800	\$52,000	\$56,200	\$60,350	\$64,500	\$68,650
Median Income	100%	\$45,500	\$52,000	\$58,500	\$65,000	\$70,200	\$75,400	\$80,600	\$85,800
Moderate Income	120%	\$54,600	\$62,400	\$70,200	\$78,000	\$84,250	\$90,500	\$96,700	\$102,950

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CITY OF MORENO VALLEY CDBG TARGET AREAS

CDBG Districts

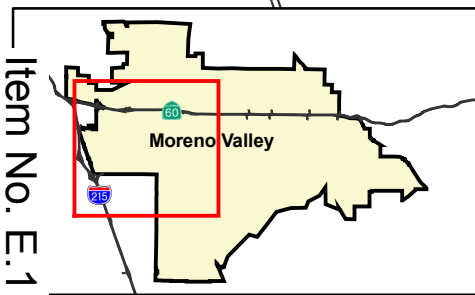
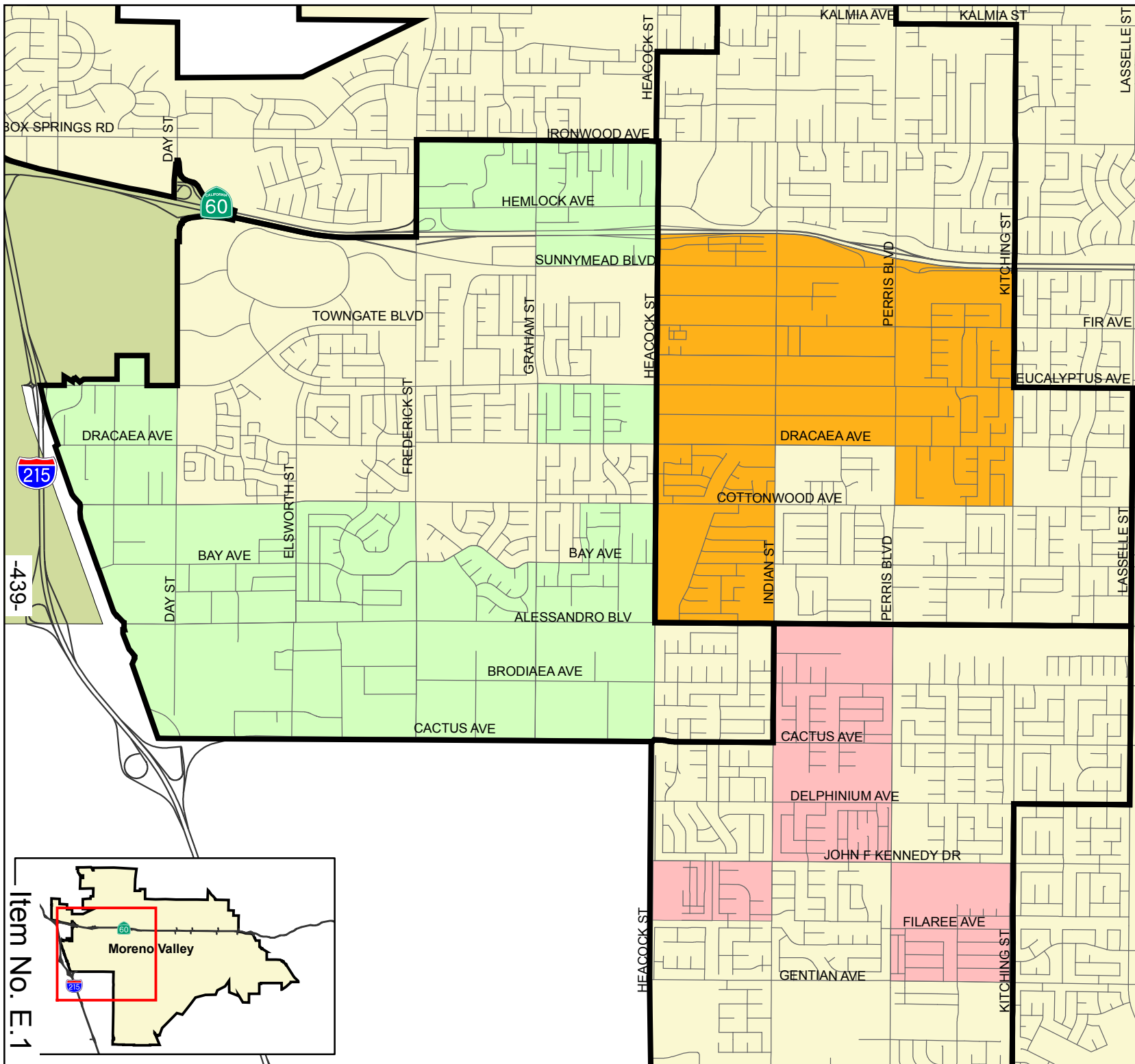
-  District 1
-  District 4
-  District 5
-  Council District Boundaries
-  Moreno Valley
-  Riverside



Map Produced by Moreno Valley Geographic Information System

Geographic Information in:
State Plane NAD 83 California Zone 6 Feet
G:\ArcMap\Code\
CDBG target areas 1007.mxd
October 30, 2007

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.



Item No. E.1

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ATTACHMENT C

Eligible CDBG Activities

- ❖ Acquisition, design, construction, rehabilitation, or installation of certain publicly owned facilities such as:
 - Parks, playgrounds and recreational facilities.
 - Senior centers, except 24-hour care facilities.
 - Neighborhood facilities.
 - Fire protection facilities and equipment.
 - Parking facilities.
 - Street improvements.
 - Flood, drainage, or sewer facilities.
 - Other improvements vital to a community's development.
- ❖ Acquisition of property that is: of historic value; appropriate for beautification or conservation of open spaces; appropriate for low or moderate income housing.
- ❖ Clearance and demolition of buildings and land which may be a health hazard to the community. Interim assistance or temporary help to alleviate harmful or dangerous conditions.
- ❖ Removal of architectural barriers which restrict the mobility of handicapped persons.
- ❖ Rehabilitation and preservation of buildings and improvements, both publicly and privately owned.
- ❖ Code enforcement in designated target areas.
- ❖ Historic preservation activities.
- ❖ Eligible economic development activities.
- ❖ Eligible planning and environmental design costs.
- ❖ Public services including, but not limited to: fair housing activities, public safety services, homeless services, senior citizen services, educational programs, youth services, drug abuse counseling & treatment and recreation programs.

Ineligible CDBG Activities

- ❖ Buildings for the general conduct of government, such as city halls, courthouses, and police stations.
- ❖ Stadiums, sports arenas, auditoriums, museums and central libraries (Note: branch libraries may be built in CDBG Target Areas).
- ❖ Purchase of equipment such as construction equipment, fire protection equipment, furnishings, and personal property.
- ❖ Schools
- ❖ Airports, subways, bus or other stations.
- ❖ Hospitals, nursing homes, and other medical facilities.
- ❖ Treatment works for liquid industrial wastes or sewage.
- ❖ Expenses of general government for operation and maintenance of public facilities.
- ❖ Political activities.
- ❖ Direct income payments to residents.

Eligible HOME Activities

- ❖ Incentives provided by Participating Jurisdictions (the City of Moreno Valley is a Participating Jurisdiction) to develop and support affordable rental housing and homeownership affordability through acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing (including manufactured housing).
- ❖ Operating expenses and capacity building costs for eligible Community Housing Development Organizations (CHDO).
- ❖ Eligible administrative and planning costs.

Ineligible HOME Activities

- ❖ Project reserve accounts or operating subsidies.
- ❖ Tenant-based rental assistance for the special purposes of the Section 8 program.
- ❖ To provide non-federal matching contributions.
- ❖ To provide assistance to annual contributions for the operation of public housing.
- ❖ Modernization of public housing.
- ❖ Prepayment of low-income housing mortgages.
- ❖ Assistance to a project previously assisted with HOME funds during the period of affordability.



Community Development Block Grant
(CDBG) and HOME Investment
Partnership (HOME)

Annual Action Plan
2011-2012

July 1, 2011 through June 30, 2012

14177 Frederick Street, P.O. Box 88005, Moreno Valley, CA 92552-0805

CITY OF MORENO VALLEY

Richard A. Stewart
Mayor (District 2)

2011 City Council members

Jesse Molina
District 1 Councilmember

Robin Hastings
District 3 (Mayor Pro-tem)

Marcello Co
District 4 Councilmember

William H. Batey II
District 5 Councilmember

Henry Garcia
City Manager

Barry Foster
Economic Development Department Director

Michele Patterson
Redevelopment and Neighborhood Programs Administrator

Prepared By:

Isa Rojas, Management Analyst
Economic Development Department
Neighborhood Preservation Division

Phone: (951) 413-3450 Fax: (951) 413-3459

DUNS # 177134186

SECTION 1 – INTRODUCTION

The Economic Development Department is the lead agency in developing the Consolidated and Annual Action Plans for the City of Moreno Valley. The Annual Action Plan addresses the City's plan for use of Community Development Block Grant ("CDBG") and Home Investment Partnership ("HOME") Funds during the 2011/12 Fiscal Year from July 1, 2011 through June 30, 2012. The Annual Action Plan is based upon the approved 2008-2013 Consolidated Plan prepared for both programs. The Annual Action Plan facilitates the strategy outlined in the Consolidated Plan by addressing community needs through various mechanisms.

The Action Plan provides a basis for assessing performance. It outlines programs for the upcoming program year as well as the proposed accomplishments over the five-year period of the Consolidated Plan. At the end of the program year a Consolidated Annual Performance and Evaluation Report (CAPER) provides information on the annual programmatic accomplishments.

The overall goals of the CDBG and HOME Programs, as included in the Consolidated Plan, are to develop viable urban communities by providing (1) decent housing, (2) a suitable living environment and (3) expanded economic opportunities principally for low and moderate-income persons.

- (1). *Decent housing* includes assisting homeless persons, retention of the affordable housing stock, increasing the availability of permanent housing in standard condition and affordable cost to low-income and moderate-income persons.
- (2). *A suitable living environment* includes improving the safety and livability of neighborhoods, increasing access to quality public and private facilities and services, and the revitalization of deteriorating or deteriorated neighborhoods.
- (3). *Expanded economic opportunities* includes job creation and retention, as well as establishment, stabilization and expansion of small businesses.

The primary means towards this end is to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing.



SECTION 1 – INTRODUCTION

EXECUTIVE SUMMARY

CONSOLIDATED PLAN

Moreno Valley's Consolidated Plan is a comprehensive five-year strategy that addresses the use of Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) Grant funds to meet decent housing, suitable living environment, and expanded economic opportunity goals for low- and moderate-income city residents.

ANNUAL ACTION PLAN

The Annual Action Plan identifies specific projects, programs, and resources that will be implemented during the program year with CDBG and HOME Grant funds, consistent with the Consolidated Plan. In fiscal year 2011/12, the City of Moreno Valley will be receiving approximately \$1,621,245 in new CDBG funds, and approximately \$556,600 in HOME funds. These funds will be used to support housing and community development activities.

Activities meeting Consolidated Plan goals fit into one or more of the following strategies:

- Homeless Strategy
- Special Needs Strategy
- Housing/Fair Housing Strategy
- Community and Economic Development Strategy

For each strategy identified in the Consolidated Plan, a list of activities, resources available, and goals are provided for the upcoming program year.

The Action Plan also addresses other actions such as the anti-poverty strategy, institutional structure to carry out the activities, coordination with other agencies, public housing, a monitoring plan and plans for meeting underserved needs.

Additionally, as part of the grant requirements, a form application SF 424 is included as well as a Citizen Participation Plan, public comments received and required certifications by the City.

GEOGRAPHIC DISTRIBUTION & CDBG TARGET AREAS

Moreno Valley's CDBG Target Areas encompass some of the oldest areas in the city. The City's CDBG Target Areas generally include neighborhoods identified locally as Edgemont, Central Sunnymead, Eastgate, and Warner Ranch. Significant portions of the target areas lack adequate infrastructure such as curbs, gutters, street improvements, sidewalks, water and sewer lines, storm drains, and street lighting. The majority of proposed projects are distributed within the CDBG target areas, because these areas have the greatest concentrations of low-and moderate-income individuals. Other projects such as the Redevelopment (RDA) Agency's housing programs target low- and moderate-income individuals citywide.

SECTION 1 – INTRODUCTION
AVAILABLE RESOURCES

The City of Moreno Valley will utilize a variety of Federal, State, and local funding sources to achieve the community and housing priorities identified. Specific funding resources will be utilized based upon availability, opportunities, and constraints of each particular project or program.

The City is committed to utilizing each funding source to its highest and best use. Therefore, the City will leverage the resources identified in this section to facilitate various programs and projects. Specific resources available to address the needs identified in the plan are included under the Annual Action Plan Section.

The following includes a description of both the resources the City currently uses and those for which funding may be pursued.

Federal Resources

Community Development Block Grant Program (CDBG)

Moreno Valley receives an annual CDBG allocation to meet the following three broad national objectives:

- Benefit to low and moderate income households;
- Removal of slum or blight; or
- Meet urgent community needs.

Approximately 90% of the funding has been used to benefit persons of low and moderate income. Programs and projects funded generally include public services, code compliance activities, and economic development activities. The City’s grant allocation available for fiscal year 2011/12 is estimated at \$1,621,245. Table 1-A details the available CDBG funds. Table 1-B details the allocations for FY 2011/12.

TABLE 1-A
FY 2011/12 CDBG AVAILABLE FUNDING

Funding Category	Funding Allocation
2011/12 ESTIMATED CDBG Allocation	\$1,621,245
Unallocated Project Savings from Previous Years	\$412,830
TOTAL AVAILABLE CDBG FUNDS	\$2,034,075
Program Administration (20% maximum of annual grant)	\$324,249
Public Social Services (15% maximum of annual grant)	\$243,186
Public Facilities & Improvements	\$650,000
Rehabilitation Activities	\$10,000
Code Enforcement	\$366,407
Economic Development	\$440,987
TOTAL PLANNED CDBG BUDGET	\$2,034,071

**TABLE 1-B
 CDBG FUNDING ALLOCATIONS FY 2011/12**

ADMINISTRATION (20% CAP - \$324,249)	
CDBG Program Administration	\$324,198
Fair Housing Services	\$30,000
SOCIAL SERVICES (15% CAP - \$243,186)	
Community Foreclosure Prevention Workshops	\$28,500
Community Assistance Food Program (CAP)	\$29,070
Friends of the Moreno Valley Senior Center (MoVan)	\$28,500
Fair Housing Council of Riverside County – Foreclosure Prevention / Mitigation	\$20,708
Fair Housing Council of Riverside County – Landlord Tenant Mediation Program	\$14,250
Lutheran Social Services Transitional Center (MARB)	\$14,250
Path of Life Ministries King Hall Family Shelter (MARB)	\$14,250
PW Enhancement Center – Emergency & Homeless Services	\$14,250
Neighborhood Clean-up Program	\$14,250
Assistance League of Riverside - Operation School Bell	\$9,500
CASA for Riverside County	\$9,500
God's Helping Hand Ministries Food Program	\$8,550
Operation Safehouse Shelter for Youth	\$7,600
Alternatives to Domestic Violence - Prevention and Outreach Program	\$7,125
Riverside Area Rape Crisis Center - Child Abuse Prevention Program	\$7,125
Salvation Army Food Program	\$5,000
Volunteer Center '211' Program	\$5,000
PUBLIC FACILITIES & IMPROVEMENTS	
Street Improvement Project, Dracaea from Perris Blvd to Patricia	\$650,000
REHABILITATION	
Habitat for Humanity Mobile Home Grant Program	\$10,000
CODE ENFORCEMENT	
Code & Neighborhood Enforcement Program (CDBG Target Areas)	\$263,390
Code Enforcement - Foreclosure 'Strike Team'	\$103,017
ECONOMIC DEVELOPMENT	
MV New Business Incentive Program	\$220,987
Community Employment Resource Center	\$120,000
Small Business Development Center	\$50,000
Family Service Association Meal Program Facilities	\$25,000
Youth Opportunity Center	\$25,000
TOTAL CDBG FUNDING ALLOCATIONS	\$2,034,071

HOME Investment Partnership Program (HOME)

HOME Investment Partnership funding is provided to the City to:

- assist with affordable rental housing
- promote home ownership through acquisition
- construction,
- reconstruction,
- and/or rehabilitation of affordable housing.

Moreno Valley became an Entitlement City for HOME funds during FY 1995/96.

The City of Moreno Valley's HOME allocation for FY 2011/12 is estimated at \$556,600. Table 1-C details the estimated HOME funds for FY 2011/12. Table 1-D details the anticipated funding allocations for program year 2011/12. The funding allocations are for new and continuing projects and programs that will be implemented in FY 2011/12.

TABLE 1-C

FY 2011/12 HOME ESTIMATED FUNDING	
2011/12 HOME Allocation	\$556,600
Funds accumulated under Multi-Family Housing Fund	\$1,000,000
Total Available HOME Funds	\$1,556,600

TABLE 1-D

HOME FUNDING ALLOCATIONS FY 2011/12	
Program Administration (maximum 10% of allocation)	\$55,660
FY 09/10 CHDO (required 15% of allocation)	\$83,490
Mobile Home Grant Program (MHGP)	\$100,000
Home Improvement Loan Program (HILP)	\$250,000
Hemlock Family Apartments	\$1,000,000
TOTAL ALLOCATION OF HOME FUNDS	\$1,489,150

A. Local Resources

- ***Community Redevelopment Agency of the City of Moreno Valley***

As required by California Redevelopment Law, the Redevelopment Agency expends 20% of its tax increment revenue funding affordable housing projects. RDA (Housing Set-Aside) revenue projections for FY 2011/12 indicate an estimated 20% set-aside funding of \$3.6 million.

- ***Homelessness Prevention and Rapid Re-housing Program (HPRP)***

In 2009 the City was provided with a one-time HPRP grant allocation of \$732,872 under the American Recovery Re-investment Act of 2009. The purpose of the HPRP grant is

to provide homelessness prevention assistance to households who would otherwise become homeless in the current economic crisis and to rapidly re-house individuals and families who are currently homeless as defined by section 103 of the McKinney-Vento Homeless Assistance Act (42U.S.C. 11302). Moreno Valley has established 6 activities that assist families facing homelessness, including: case management, rent/arrears assistance, security deposit assistance, utility/arrears assistance, legal assistance, and administration.

- **Community Development Block Grant – Recovery (CDBG-R)**

The City was also provided with a one-time CDBG-R grant valued at \$472,872 under the American Recovery Re-investment Act of 2009. Moreno Valley's CDBG-R program establishes 4 projects (plus administration) aimed at stimulating the economy by creating jobs, modernizing infrastructure, and promoting energy efficiency.

- **Neighborhood Stabilization Program (NSP)**

Under the Housing and Economic Recovery Act (HERA), the City of Moreno Valley received a CDBG allocation of \$11,390,116, to formulate the Neighborhood Stabilization Program (NSP) which is designed to stabilize neighborhoods most impacted by foreclosures. The City's NSP Program is comprised of four activities: 1) single family residential acquisition, rehabilitation, and resale (SFR-ARR), 2) multi-family residential acquisition, rehabilitation, and resale (MFR-ARR), 3) Homebuyers Assistance Program (HAP), and 4) Administration. In partnership with selected Development Partners, the City acquires and rehabilitates single family residences for the purpose of resale to homebuyers earning up to 120% of the Area Median Income (AMI), and multi-family residences for the purpose of rental to households earning up to 50% AMI. Of the total \$11,390,116 allocation received, the funds have been budgeted accordingly:

<u>ACTIVITY</u>	<u>BUDGET</u>
SFR-ARR	\$5,203,576.00
MFR-ARR	\$4,047,529.00
HAP	\$1,000,000.00
ADMINISTRATION	\$1,139,011.00

In FY 10/11, the City acquired approximately seventeen single family properties and obligated its entire NSP budget. Over FY11/12, the City will continue efforts to expending the 'obligated' budget as well as program income generated from the sale of the single family properties.

- **Riverside County Housing Authority**

The County of Riverside serves as the local housing authority for the region. The County operates the Section 8 housing and various public housing facilities throughout the County including those located in Moreno Valley. Sources of funds available to city residents through the Housing Authority are primarily limited to Section 8, Capital Fund Program (formerly the Comprehensive Grant Program), and the Public Housing programs.

B. Private Resources

For-Profit Organizations

▪ ***Community Reinvestment Act (CRA)***

The city encourages increased cooperation between lending institutions and the communities they serve to meet CRA requirements for the development of affordable housing.

Non-Profit Organizations

Currently, a number of non-profit organizations facilitate a variety of social services and housing activities in Moreno Valley. The City encourages and supports non-profit organizations that apply for funding from various sources.

C. Leveraging and Matching Funds – HOME

The primary source of fund leveraging will occur in conjunction with activities carried out through Redevelopment Agency 20% Set-Aside funds. Specific matching fund activities include housing rehabilitation and development programs for single family, multi-family, and mobile home units. The following table summarizes FY 2011/12 HOME activities and match sources:

**TABLE 1-E
HOME MATCH**

HOME BUDGET FISCAL YEAR 2011/12	Continuing from Prior Years	2011/12 Allocation	Total Request	RDA Match 25%+
Administration (10% Cap)		\$55,660	\$55,660	\$0
Community Housing Development Organization (15% Min.)		\$83,490	\$83,490	\$0
Home Improvement Loan Program		\$250,000		\$0
Multi-Family Affordable Housing Project - Hemlock Family Apartments	\$1,000,000	0	\$1,000,000	
Mobile Home Grant Program		\$100,000		\$0
GRAND TOTAL	\$1,000,000	\$489,150	\$1,139,150	

SECTION 2 –ACTIVITIES TO BE UNDERTAKEN

The city will pursue housing, community development, and economic development activities to meet the needs of very-low, low, and moderate-income persons in Moreno Valley. To accomplish this, the city plans to expend CDBG, HOME, and other funds as available, such as Homelessness Prevention and Rapid Rehousing Program (HPRP), Neighborhood Stabilization Program (NSP), and Community Development Block Program – Recovery (CDBG-R) to meet community needs. The Consolidated Plan has several strategies for meeting community needs. The following objectives were identified in the Strategic Plan portion of the Consolidated Plan.

HOMELESS STRATEGY – TABLE 2-A, page 10

Objective 1. Provide supportive housing and public services to meet the needs of homeless persons and persons threatened with homelessness.

SPECIAL NEEDS STRATEGY – TABLE 2-B, page 14

Objective 1. Provide supportive housing and public services to meet the needs of special needs persons.

HOUSING STRATEGY – TABLE 2-C, page 15

Objective 1. - Rehabilitation of existing and construction of new single-family homes, multi-family housing, and mobile homes to create or maintain decent, affordable housing for low and moderate-income residents.

Objective 2. - Create home ownership opportunities for low and moderate-income residents.

Objective 3. - Improve the safety and livability in the CDBG Target Areas to create a suitable living environment.

Objective 4. - Provide fair housing and landlord/tenant services to educate and assist residents on their rights and responsibilities.

COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY – TABLE 2-D, page 25

Objective 1. - Promote expanded employment opportunities in order to create or retain low and moderate-income jobs.

Objective 2. - Provide infrastructure improvements in CDBG Target Areas to create a suitable living environment by increasing access to quality public facilities.

Objective 3. - Support social service programs available to serve low and moderate-income residents.

Objective 4. - Provide employment training and placement programs available to serve low and moderate-income residents

The following tables detail the activities the City will undertake to address these objectives in FY 2011/12. The tables identify available funding, the geographic areas covered by the activity, and the target populations.

SECTION 2 –ACTIVITIES TO BE UNDERTAKEN (Continued)
HOMELESS STRATEGY

The Five Year Goals and Proposed Accomplishments under the homeless strategy are to assist 2500 homeless persons and persons threatened with homelessness with housing and public service activities. The following programs for FY 2011/12 will be implemented to meet this goal.

TABLE 2-A

HOMELESS STRATEGY	
OBJECTIVE 1: Provide supportive housing and public services to meet the needs of homeless persons and persons threatened with homelessness.	
PROGRAM:	PATH OF LIFE MINISTRIES – KING HALL FAMILY SHELTER
PROGRAM DESCRIPTION:	Program provides long term (up to 2 years) shelter to homeless families and individuals with children. Residents may live at the shelter for a maximum of two years. While living at the shelter families are provided comprehensive counseling and support services that will assist them in becoming self sufficient. The shelter is located on March Air Reserve Base.
RESOURCES	CDBG Funds 2011/12 \$14,250
TARGET POPULATION	Homeless families and homeless individuals with children
GEOGRAPHIC AREAS:	Citywide

H O M E L E S S S T R A T E G Y

(OBJECTIVE 1 CONTINUED)

PROGRAM: **LUTHERAN SOCIAL SERVICES TRANSITIONAL SHELTER PROGRAM**

PROGRAM DESCRIPTION: A long term (up to 2 years) shelter program that provides assistance to homeless women and children through a comprehensive transitional living program. Counseling, education assessments and other services are provided to assist participants in gaining self sufficiency. Through the City's HPRP Program, Lutheran Social Services also provides assistance with utility payments arrears and security deposits to families at risk of homelessness.

RESOURCES: CDBG Funds 2011/12 \$14,250
 HPRP Funds 2009/10 \$65,938

TARGET POPULATION: Homeless Women and Children

GEOGRAPHIC AREAS: Citywide

PROGRAM: **P. W. ENHANCEMENT CENTER (PWEC)**

PROGRAM DESCRIPTION: Emergency motel vouchers, shelter placement, security deposit and rental assistance for homeless persons and persons threatened with homelessness. Also provides emergency and supportive services to needy households including food distribution, money management, job preparedness, child development and counseling.

RESOURCES: CDBG Funds 2011/12 \$14,250
 HPRP Funds 2009/10 \$64,063

TARGET POPULATION: Homeless; Low and Moderate-Income Households

GEOGRAPHIC AREAS: Citywide

H O M E L E S S S T R A T E G Y

(OBJECTIVE 1 CONTINUED)

PROGRAM: **OPERATION SAFEHOUSE**

PROGRAM DESCRIPTION: Operation Safehouse provides emergency shelter, counseling and comprehensive support services for homeless/run-away youth aged 12 – 17, with a goal of family reunification.

RESOURCES: CDBG Funds 2011/12 \$7,600

TARGET POPULATION: Abused, Neglected, and Homeless Youth

GEOGRAPHIC AREAS: Citywide

PROGRAM: **COMMUNITY ASSISTANCE PROGRAM (CAP)**

PROGRAM DESCRIPTION: CAP provides emergency and supplemental food, utility payment assistance, and social services referrals to Moreno Valley families in need.

RESOURCES: CDBG Funds 2011/12 \$29,070

TARGET POPULATION: Low and Moderate Income Households

GEOGRAPHIC AREAS: Citywide

PROGRAM: **GOD’S HELPING HAND FOOD AND EMERGENCY SERVICES PROGRAM**

PROGRAM DESCRIPTION: Emergency and supplemental food, clothing, utility assistance, and social services referrals to Moreno Valley persons and families in need.

RESOURCES: CDBG Funds 2011/12 \$8,550

TARGET POPULATION: Low and Moderate Income Households

GEOGRAPHIC AREAS: Citywide

H O M E L E S S S T R A T E G Y

(OBJECTIVE 1 CONTINUED)

PROGRAM: **ASSISTANCE LEAGUE OF RIVERSIDE OPERATION SCHOOL BELL**

PROGRAM DESCRIPTION: Program provides new essential clothing and school supplies, a backpack, hygiene kit to low income children identified by teachers or school officials as homeless or needy.

RESOURCES: CDBG Funds 2011/12 \$9,500

TARGET POPULATION: Elementary school aged children from low income families

GEOGRAPHIC AREAS: Citywide

PROGRAM: **FORECLOSURE PREVENTION WORKSHOPS**

PROGRAM DESCRIPTION: Program will fund workshops aimed at providing much needed foreclosure prevention education services to struggling homeowners in the community. The seven workshops held over 09/10 attracted approximately 600 struggling homeowners.

RESOURCES: CDBG Funds 2011/12 \$28,500

TARGET POPULATION: Low-income homeowners

GEOGRAPHIC AREAS: Citywide

H O M E L E S S S T R A T E G Y

(OBJECTIVE 1 CONTINUED)

PROGRAM: **INLAND LEGAL SERVICES**

PROGRAM DESCRIPTION: Free legal advice\services related to housing issues. Offers tenant legal services for evictions and other related legal needs. Funding also allows for expanded service hours.

RESOURCES: HPRP Funds 2009/10 \$40,000

TARGET POPULATION: Low-income homeowners

GEOGRAPHIC AREAS: Citywide

PROGRAM: **CATHOLIC CHARITIES**

PROGRAM DESCRIPTION: Catholic Charities provides assistance with rental subsidy and rental arrears payments through the City's HPRP program.

RESOURCES: HPRP Funds 2009/10 \$161,667

TARGET POPULATION: Low and Moderate Income Households

GEOGRAPHIC AREAS: Citywide

H O M E L E S S S T R A T E G Y

(OBJECTIVE 1 CONTINUED)

PROGRAM: **FAMILY SERVICES ASSOCIATION (FSA)**

PROGRAM DESCRIPTION: FSA provides case management and assistance with rent subsidies and/or rental arrears payments. Program is funded through the City HPRP program.

RESOURCES: HPRP Funds \$161,667

TARGET POPULATION: Low and moderate income families

GEOGRAPHIC AREAS: Citywide

PROGRAM: **SALVATION ARMY FOOD PROGRAM**

PROGRAM DESCRIPTION: The Food Pantry offers needy residents emergency food. Funding shall allow for the hire of a part-time driver to pick up food from collaborative partners such as Wal-mart, 2nd Harvest, March ARB, and United Natural Foods. The program expects to assist over 22,000 persons in the coming year.

RESOURCES: CDBG Funds 2011/12 \$5,000

TARGET POPULATION: Low and moderate income families

GEOGRAPHIC AREAS: Citywide

PROGRAM: **VOLUNTEER CENTER**

PROGRAM DESCRIPTION: Provides assistance with rental subsidy and rental arrears payments through the City's HPRP Program.

RESOURCES: HPRP Funds \$161,667

TARGET POPULATION: Low and moderate income families

GEOGRAPHIC AREAS: Citywide

PROGRAM:	FAIR HOUSING SERVICES – FORECLOSURE PREVENTION AND MITIGATION PROGRAM
PROGRAM DESCRIPTION:	Program provides homeowners that are at risk of or currently losing their homes to foreclosure with assistance negotiating with lenders and one-on-one counseling. It also offers financial assessments, budget management, mortgage education, training to potential homebuyers, and referral services.
RESOURCES:	CDBG Funds 2011/12 \$20,708
TARGET POPULATION:	Low and Moderate Income Households
GEOGRAPHIC AREAS:	Citywide

ASSISTANCE AVAILABLE TO PERSONS THREATENED WITH HOMELESSNESS

In order to prevent low-income families from becoming homeless, local non-profit organizations (i.e. Catholic Charities, Gods Helping Hand, P.W. Enhancement Center), provide one-time emergency rental/mortgage assistance. The goal is to prevent homelessness for persons who missed a rent/mortgage payment due to extenuating circumstances. Some low-income families live “paycheck to paycheck” which makes it difficult for them to pay for the basic necessities when an emergency expense arises. The emergency rental/mortgage assistance program greatly benefits families on the threshold of becoming homeless.

For those families at risk of homelessness due to foreclosure, the city will continue conducting a series of foreclosure prevention workshops and fund the Riverside County Fair Housing Foreclosure Prevention and Mitigation Program to assist with mitigation of the foreclosure and provide valuable referrals. The City will also continue to offer programs under the Homelessness Prevention and Rapid Re-Housing Program (HPRP) grant provided in 2008/09 under the American Recovery Act. This emergency legislation was established specifically to address the issue of potential homelessness due to the economic crisis. Funds were dedicated to providing various forms of assistance to qualifying families including: monthly rental assistance, rental arrears, security deposit assistance, utility payments and arrears, motel vouchers, legal assistance, and individual case management.

There are several programs administered by Riverside County that aid in the prevention of homelessness. For example, the Emergency Food and Shelter Program meets the needs of the hungry and homeless by providing funds to provide the following housing assistance (as determined by the Local Board in funded jurisdictions): lodging in a mass shelter or hotel; one month’s rent or mortgage payment; one month’s utility bill; and minimal repairs to allow a sheltering facility to function during the program year.

CONTINUUM OF CARE

The City will continue to actively participate in Riverside County's Continuum of Care Consortium. The Continuum of Care Consortium consists of local government agencies and local non-profits that work together to address homeless issues in the region. Continuum of Care grant funding is provided to local public and non-profit agencies to provide homeless services, emergency and transitional shelter. Periodic meetings provide an opportunity for networking and working towards the common goal.

The County of Riverside is the lead agency charged with developing the Continuum of Care's 10 Year Strategy to End Homelessness. A working group of local government agency staff and other community stakeholders has been formed to develop this 10 year plan. The City of Moreno Valley has assigned a staff person to participate in this working group (which meets monthly) to assist in the accomplishment of the goal of ending homelessness in ten (10) years.

SECTION 2 –ACTIVITIES TO BE UNDERTAKEN
SPECIAL NEEDS STRATEGY

The Five Year Goals and Proposed Accomplishments under the special needs strategy are to assist 15,000 special needs persons, including the elderly and disabled, with housing and public services. In FY 2011/12, the following programs will be implemented to meet this goal.

TABLE 2-B

SPECIAL NEEDS STRATEGY	
OBJECTIVE 1: Provide supportive housing and public services to meet the needs of special needs persons.	
PROGRAM:	SENIOR VAN TRANSPORTATION SERVICES (MoVan)
PROGRAM DESCRIPTION:	The MoVan is used to transport the elderly and adult handicapped to medical appointments and other needed destinations for a small donation or at no cost. The MoVan is a specially equipped 17-passenger bus with two wheel chair tie-downs is available 7 hours a day/ 5 days a week.
RESOURCES:	CDBG Funds 2011/12 \$28,500
TARGET POPULATION:	Special Needs Persons – Elderly and Disabled
GEOGRAPHIC AREAS:	Citywide
PROGRAM:	ARC OF RIVERSIDE COUNTY
PROGRAM DESCRIPTION:	The ARC of Riverside County serves adults with developmental disabilities at one of the only centers of its kind located in the City. Activities are aimed at increasing interaction, self esteem, and independence. ARC proposes to use grant dollars to continue to provide specialized medical services by an on-site LVN, and to help continue other existing services.
RESOURCES:	CDBG Funds 2011/12 \$5,000
TARGET POPULATION:	Special Needs Persons – Disabled
GEOGRAPHIC AREAS:	Citywide

SECTION 2 –ACTIVITIES TO BE UNDERTAKEN
HOUSING STRATEGY

The Five Year Goals and Proposed Accomplishments under the housing strategy are to:

1. To rehabilitate or construct a minimum of 400 housing units.
2. To provide home ownership to 5 households.
3. To provide increased, proactive Code Compliance, Neighborhood Cleanups and public safety activities to assist 3000 households in the CDBG Target Areas.
4. To assist 2,500 persons with fair housing and landlord/tenant services.

In FY 2011/12, the following programs will be implemented to meet the goals of each Objective:

TABLE 2-C

HOUSING STRATEGY	
OBJECTIVE 1: Rehabilitation of existing housing and/or construction of new single-family homes, multi-family housing and mobile homes to create or maintain decent, affordable housing for low and moderate income residents.	
PROGRAM:	MOBILE HOME GRANT PROGRAM
PROGRAM DESCRIPTION:	Program offers rehabilitation grants of up to \$10,000 to low-income owner occupants of mobile home coaches located in rental parks within the City to repair and eliminate substandard conditions.
RESOURCES:	HOME Funds \$100,000
TARGET POPULATION:	Low Income Mobile Home Owners
GEOGRAPHIC AREAS:	Citywide

HOUSING STRATEGY

OBJECTIVE 1: (Continued)

PROGRAM: HOME IMPROVEMENT LOAN PROGRAM (HILP)

PROGRAM DESCRIPTION: 3% deferred loans for income qualified homeowners to rehabilitate single-family homes. The purpose is to eliminate substandard housing conditions, improve handicap accessibility, and improve the aesthetics of older neighborhoods, thereby contributing to their preservation and revitalization.

RESOURCES: HOME Funds 2011/12 \$250,000

TARGET POPULATION: Low and Moderate Income Home Owners

GEOGRAPHIC AREAS: Citywide

PROGRAM: MULTI-FAMILY AFFORDABLE HOUSING PROJECT – HEMLOCK FAMILY APARTMENTS

PROGRAM DESCRIPTION: This project provides for new construction of 77 affordable multi-family housing units in Moreno Valley. It shall assist residents at 50%-60% of the area median income and help to improve the amount of decent housing in the community.

RESOURCES: HOME Funds 2011/12 \$1,000,000

TARGET POPULATION: Low- income renters

GEOGRAPHIC AREAS: CDBG Target Area

HOUSING STRATEGY

(OBJECTIVE 1 CONTINUED)

PROGRAM: **SINGLE FAMILY ACQUISITION, REHABILITATION, AND RESALE PROGRAM (SFR-ARR)**

PROGRAM DESCRIPTION: Funded by the Neighborhood Stabilization Program grant, the SFR-ARR program purchases, repairs, then re-sells foreclosed and abandoned properties to qualifying families earning up to 120% of the area median income.

RESOURCES: NSP Funds \$5,203,575

TARGET POPULATION: Low and Moderate Income families

GEOGRAPHIC AREAS: NSP Target Census Tracts

PROGRAM: **MULTI-FAMILY ACQUISITION REHABILITATION AND RESALE (MFR-ARR)**

PROGRAM DESCRIPTION: Funded by the Neighborhood Stabilization Program grant, the MFR-ARR program purchases, repairs, foreclosed and abandoned multi-family apartments and makes them available to renters earning up to 50% of the area median income.

RESOURCES: NSP Funds \$4,047,529

TARGET POPULATION: Low and Moderate Income renters

GEOGRAPHIC AREAS: NSP Target Census Tracts

HOUSING STRATEGY

(OBJECTIVE 1 CONTINUED)

PROGRAM: CHDO – COMMUNITY HOUSING DEVELOPMENT ORG, Unprogrammed

PROGRAM DESCRIPTION: 15% CHDO Set aside money for the future rehabilitation or construction of affordable housing for very low income residents. Specific project to be selected at a later date.

RESOURCES: HOME CHDO Funds 2011/12 \$83,490

TARGET POPULATION: Very Low- income households

GEOGRAPHIC AREAS: CDBG Target Area

PROGRAM: HABITAT FOR HUMANITY –
MOBILE HOME REHABILITATION PROGRAM

PROGRAM DESCRIPTION: Program provides for the supplies and materials that volunteers shall use to help eligible low income households make exterior improvements to their mobile homes. The program was designed to provide assistance mainly to elderly or disabled persons whom are unable to maintain the exterior of their property and are facing penalties that could lead to eviction. Program will supplement the City's existing Mobile Home Grant Program by relieving it of having to subsidize less critical exterior repairs (which are often general clean-up or cosmetic) and focus more grant dollars on the code related improvements.

RESOURCES: CDBG Funds 2011/12 \$10,000

TARGET POPULATION: Low Income Mobile Home Owners

GEOGRAPHIC AREAS: CDBG Target Areas

HOUSING STRATEGY

OBJECTIVE 2: Create home ownership opportunities for low and moderate-income residents

PROGRAM: HOMEBUYER ASSISTANCE PROGRAM (HAP)

PROGRAM DESCRIPTION: Provides down payment assistance of up to 20% of the purchase price, for first time homebuyers purchasing resale homes up to the maximum FHA 203b limit. Loans are deferred for 30 years with no interest.

RESOURCES: Neighborhood Stabilization Funds 2011/12 \$1 million
 Redevelopment Funds 2011/12 \$500,000

TARGET POPULATION: Low and moderate income households

GEOGRAPHIC AREAS: Citywide

PROGRAM: OAKWOOD AFFORDABLE HOUSING PROJECT

PROGRAM DESCRIPTION: Development of 240 apartment units for low income renters. The project is currently under construction.

RESOURCES: Redevelopment Housing Set-aside Funds \$ 3 million

TARGET POPULATION: Low-income renters

GEOGRAPHIC AREAS: RDA Project Area

PROGRAM: RANCHO DORADO AFFORDABLE HOUSING DEVELOPMENT

PROGRAM DESCRIPTION: Development of apartment units for low income renters. Phase 1 of the project is currently under construction. Phase 2 is competing for State Tax Credit funding. The project will provide 148 affordable units once constructed.

RESOURCES: Redevelopment Housing Set-aside Funds Phase 1 \$4,750,000
 Phase 2 \$4,750,000

TARGET POPULATION: Low-income renters

GEOGRAPHIC AREAS: RDA Project Area

HOUSING STRATEGY

OBJECTIVE 3: Improve the safety and livability in the CDBG Target Areas to create a suitable living environment.

PROGRAM: NEIGHBORHOOD CODE COMPLIANCE

PROGRAM DESCRIPTION: City Code Compliance Officers provide enhanced, proactive inspection and enforcement services within the CDBG Target Areas to eliminate substandard housing and poor property maintenance conditions. Many low-income tenants are unable to pay for improvements that are the responsibility of the property owner. Increased code enforcement seeks compliance from property owners and assists in eliminating the substandard conditions.

RESOURCES: CDBG Funds 2011/12 \$263,390

TARGET POPULATION: CDBG Target Areas

GEOGRAPHIC AREAS: CDBG Target Areas

HOUSING STRATEGY

(OBJECTIVE 3 CONTINUED)

PROGRAM: CODE ENFORCEMENT - CITY FORECLOSURE STRIKE TEAM

PROGRAM DESCRIPTION: This team will address code enforcement activities specific to foreclosures and abandoned homes in the CDBG target area. The objective is to identify these properties within the Target area then pursue property inspections and maintenance activities. The Strike Team is also responsible for working with trustees, lenders, real estate agents, and property managers to obtain code compliance for properties in default/foreclosure in CDBG target areas.

RESOURCES: CDBG Funds 2011/12 \$103,017

TARGET POPULATION: CDBG Target Area Neighborhoods

GEOGRAPHIC AREAS: CDBG Target Areas

PROGRAM: NEIGHBORHOOD CLEAN-UP PROGRAM

PROGRAM DESCRIPTION: This neighborhood program assists in the revitalization of older neighborhoods. Funds will be used to conduct large-scale neighborhood clean-ups (utilizing commercial sized dumpsters and skip loaders) providing haul away and other services to residents within the targeted neighborhoods. Each clean-up typically assists an average of 125 properties.

RESOURCES: CDBG \$14,250

TARGET POPULATION: CDBG Target Area Neighborhoods

GEOGRAPHIC AREAS: CDBG Target Areas

HOUSING STRATEGY

OBJECTIVE 4: Provide fair housing and landlord/tenant services to educate and assist residents on their rights and responsibilities.

PROGRAM: FAIR HOUSING SERVICES

PROGRAM DESCRIPTION: The Fair Housing Council of Riverside County provides a full range of fair housing services including education, discrimination investigation, landlord/tenant mediation, enforcement, and training and technical assistance. All services designed to affirmatively further fair housing.

RESOURCES: CDBG Funds 2011/12 \$30,000

TARGET POPULATION: Low and Moderate Income Households

GEOGRAPHIC AREAS: Citywide

CITY EFFORTS TO ADDRESS LEAD-BASED PAINT HAZARDS

The City provides four consumer loan products that are impacted by the requirements of lead based paint disclosure. Applicants for the City's Mobile Home Grant Program, the Homebuyers Assistance Program, Home Improvement Loan Program, and the Homeowners Assistance for Minor Rehabilitation Program are given a lead-based paint disclosure booklet and sign an acknowledgment that is included in the loan application. If the home was constructed prior to 1978, the City contracts with Home Safe for a lead-based paint inspection of the property. If the property is found to contain lead-based paint, mitigation measures are incorporated as a part of the revitalization work. Since the HAP loan is down payment assistance, the lead-based paint mitigations are the responsibility of the Seller prior to the title transfer. Both buyer and seller receive the disclosure materials as a part of the loan application process.

SECTION 2 – AFFORDABLE AND FAIR HOUSING

Zoning

While not specifically addressed as a barrier to affordable housing, the City will begin re-evaluation of some areas that have been re-zoned to non-residential uses. In most cases, the areas re-zoned are older areas of the City that may offer more affordable housing. The City will continue to review the policies in its Housing Element for consistency with the Consolidated Plan and identify areas in need of improvement.

Strategies to Promote Affordable Housing

The City of Moreno Valley will undertake the following strategies to promote and foster affordable housing:

- Actively support projects that apply for State and Federal funds, on a case-by-case basis.
- Continue to develop and maintain affordable housing through the use of CDBG funds, HOME funds, Redevelopment Agency Housing Set-aside funds, and Neighborhood Stabilization Program funds.
- Complete infrastructure plans for various areas of the City to reduce-up front design costs for construction of improvements.
- Continue to implement Permit streamlining to encourage the development of affordable housing in the City.
- Continue to allocate funding for Code Compliance services in the CDBG target areas to address code compliance issues and encourage housing and property maintenance.

ACTIONS TO AFFIRMATIVELY FURTHER FAIR HOUSING

The City updated its Analysis of Impediments to Fair Housing Choice Report in 2008. The following proposed actions were identified during the process. The recommended actions are directed to the City, lending institutions, and other service agencies that assist Moreno Valley residents. Listed below are the key actions that the City could take to continue its efforts to affirmatively further fair housing:

1. Private Sector Actions

Action 1.1 Hate crime victim services are needed because families may feel threatened and unwanted. The City will develop a directory of victim services.

Action 1.2 Numerous professional organizations guide the day-to-day practice of real estate agents and property management companies. These day-to-day practices impact the delivery of housing on a fair and equal basis. The City will continue to maintain an awareness of these organizations and how they affect housing in Moreno Valley.

Action 1.3 The City will encourage the Press-Enterprise to identify in its Fair Housing Notice the agencies that can respond to fair housing questions. Such agencies would include the Fair Housing Council of Riverside County (FHCRC).

Action 1.4 The City will encourage the Press-Enterprise to publish a “no pets” disclaimer that indicates rental housing owners must provide reasonable accommodations, including “service animals” and “companion animals” for disabled persons.

Action 1.5 The City will encourage the Fair Housing Council to prepare a summary of reasonable accommodation requirements and transmit this information to the owners and managers of Moreno Valley’s large apartment communities. The information may also provide a link to the State Department of Fair Employment and Housing video on reasonable accommodations.

2. Public Sector Actions

Action 2.1 The City will continue to support fair housing services in order to ameliorate the impacts of housing discrimination and to inform residents on how to recognize and avoid predatory lending, panic selling, and steering.

Action 2.2 The City’s Home Improvement and Homeowner’s Assistance Programs will continue to assist loan applicants that may have previously been denied through private banks and institutions, with low interest and deferred loans. The deferred loans would not increase an applicant’s debt-to-income ratio. In addition, the City can be somewhat more lenient than a private lender insofar as past credit history.

Action 2.3 Using HPRP funds, the City will fund expanded hours for the provision of income – eligible families facing unlawful eviction and homelessness.

Action 2.4 Over the past few years, homeowners in the City as in other Inland Empire communities, are late with their monthly loan payments and, thus, are receiving notices of default and facing foreclosure and possible bankruptcy. The fair housing services provided by the FHCRC have been augmented to help struggling homeowners.

Action 2.5 The City will continue to provide large scale Foreclosure Prevention Workshops in Moreno Valley. Two workshop will be held, each providing education, counseling, and other assistance to struggling homeowners.

Action 2.6 The City will assist the County of Riverside Housing Authority by transmitting information contained in the Fair Housing Community Profile (Technical Appendix A of the Analysis of impediments to Fair Housing Choice). That information will include the areas of minority and low-income concentrations and an inventory of rental housing communities located outside these areas. In this way, the Housing Authority will have specific geographic information to counsel Section 8 tenants and seek owners outside areas of concentration. This information will be transmitted to the Housing Authority during the first year of the five-year Fair Housing Action Plan.

**ACTIONS TO BE TAKEN DURING PROGRAM YEARS 2008-2009 TO 2012-2013 OF
THE CONSOLIDATED PLAN**

Program Year 2011-2012

- Continue to contract the FHCRC to provide fair housing services to Moreno Valley's residents.
- Prepare a listing or directory of hate crime victim services.
- Provide the public fair housing information by preparing Q&A documents on topics such as service and companion animal guidelines and accessibility guidelines.
- Conduct annual coordination meetings with the FHCRC, Inland Valley Association of Realtors and the Apartment Association of the Greater Inland Empire to discuss emerging fair housing issues.
- Transmit to the County of Riverside Housing Authority information on areas of minority and low income populations. This information will help the Housing Authority to counsel Section 8 tenants and to conduct landlord outreach to the owners and managers of apartments located outside these areas.

**SECTION 2 –ACTIVITIES TO BE UNDERTAKEN
 COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY**

The Five Year Goals and Proposed Accomplishments under the Community and Economic Development Strategy are to:

1. To assist 400 local small businesses with counseling services and loan programs.
2. To construct infrastructure improvements that will assist 250 parcels located within CDBG Target Areas.
3. To assist 50,000 low and moderate income residents with public service activities (other than homeless or special needs activities).
4. To assist 150 low and moderate income residents with employment training and placement opportunities.

The following tables outline the activities that the city will undertake during Program Year 2011/12 to meet the Consolidated Plan Goals and Objectives.

TABLE 2-D

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY	
OBJECTIVE 1: Promote expanded economic opportunities in order to create or retain low and moderate income jobs.	
PROGRAM:	SMALL BUSINESS COUNSELING SERVICES
PROGRAM DESCRIPTION:	Counseling services for local small businesses in business planning, finances, marketing, etc. The goal is to create and/or retain low-income jobs in the community.
RESOURCES:	CDBG Funds FY 2011/12 \$50,000
TARGET POPULATION:	Low income small business owners and employees
GEOGRAPHIC AREAS:	Citywide
PROGRAM:	EMPLOYMENT RESOURCE CENTER
PROGRAM DESCRIPTION:	The Center will provide low and moderate income individuals computer/internet access to search for employment opportunities, prepare resumes, fax job applications, and/or apply for unemployment at no cost.
RESOURCES:	CDBG Funds 2011/12 \$120,000
TARGET POPULATION:	Low and Moderate Income Persons
GEOGRAPHIC AREAS:	Citywide

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

(OBJECTIVE 1 CONTINUED)

PROGRAM: MORENO VALLEY NEW BUSINESS INCENTIVE PROGRAM

PROGRAM DESCRIPTION: The New Business Incentive Program is intended to attract major employers to locate in large, vacant retail space in the TownGate, Centerpointe Business Park, and the Moreno Valley Industrial areas of the community through loans, grants or interest subsidies. The program intent is to create full-time permanent jobs which, per a formal agreement with the employer, a certain number shall be held by or made available to low and moderate income persons.

RESOURCES: CDBG Funds 2011/12 \$220,987

TARGET POPULATION: Low and Moderate Income Persons

GEOGRAPHIC AREAS: Citywide

PROGRAM: FAMILY SERVICE ASSOCIATION - MEAL PROGRAM FACILITY

PROGRAM DESCRIPTION: The local Family Services Association plans to construct a kitchen facility in the City's CDBG Target Area where meals will be prepared for the participants of its daycare centers. CDBG funding would be used for help in acquiring a building for the site. In lieu of the CDBG assistance FSA must create a minimum of two full time permanent jobs which are held by or made available to low and moderate income level persons.

RESOURCES: CDBG Funds 2011/12 \$25,000

TARGET POPULATION: Low and Moderate Income Persons

GEOGRAPHIC AREAS: Citywide

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

(OBJECTIVE 1 CONTINUED)

PROGRAM: LORD'S GYM

PROGRAM DESCRIPTION: The 'Lord's Gym' is a non-profit organization aimed at providing young people in the community with a safe outlet by focusing on sports. The facility offers a sports and fitness center with weight room, basketball courts, computer room, wellness clinic, and classrooms for life care and mentoring. A new facility shall open in Moreno Valley. The proposed CDBG funding will be used toward tenant improvements which are currently underway. In lieu of the CDBG assistance, the 'Lord's Gym' must create or retain a minimum of one full time permanent job held by or made available to low and moderate income level person.

RESOURCES: CDBG Funds 2010/11 \$20,000

TARGET POPULATION: Low and Moderate Income Persons

GEOGRAPHIC AREAS: Citywide

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

OBJECTIVE 2: Provide infrastructure improvements in CDBG Target Areas to create a suitable living environment by increasing access to quality public facilities.

PROGRAM: DRACAEA STREET SIDEWALK IMPROVEMENTS

PROGRAM DESCRIPTION: The project will design and construct sidewalks, while widening Draecaea Street, from Perris Boulevard to Patricia Street.

RESOURCES: CDBG Funds 2011/12 \$650,000

TARGET POPULATION: CDBG Target Areas

GEOGRAPHIC AREAS: Central Sunnymead

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

OBJECTIVE 3: Support public service programs available to serve low and moderate income residents.

PROGRAM: COMMUNITY ASSISTANCE PROGRAM (CAP)

PROGRAM DESCRIPTION: CAP provides emergency and supplemental food, utility payment assistance, and social services referrals to Moreno Valley families in need.

RESOURCES: CDBG Funds 2011/12 \$29,070

TARGET POPULATION: Low and Moderate Income Households

GEOGRAPHIC AREAS: Citywide

PROGRAM: GOD'S HELPING HAND FOOD PROGRAM

PROGRAM DESCRIPTION: Emergency and supplemental food, clothing and social services referrals to Moreno Valley persons and families in need.

RESOURCES: CDBG Funds 2011/12 \$8,550

TARGET POPULATION: Low and Moderate Income Households

GEOGRAPHIC AREAS: Citywide

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

(OBJECTIVE 3 CONTINUED)

PROGRAM: CHILD ABUSE PREVENTION & EDUCATION PROGRAM

PROGRAM DESCRIPTION: The Riverside Area Rape Crisis Center provides a child abuse prevention program designed to educate children (K-12th grade) through the Moreno Valley schools. They also provide counseling and support services to abuse victims and their families.

RESOURCES: CDBG Funds 2011/12 \$7,125

TARGET POPULATION: K-12 students

GEOGRAPHIC AREAS: Citywide

PROGRAM: SALVATION ARMY FOOD PROGRAM

PROGRAM DESCRIPTION: The Food Pantry offers needy residents emergency food. Funding shall allow for the hire of a part-time driver to pick up food from collaborative partners such as Wal-mart, 2nd Harvest, March ARB, and United Natural Foods. The program expects to assist over 22,000 persons in the coming year.

RESOURCES: CDBG Funds 2011/12 \$5,000

TARGET POPULATION: Low and moderate income persons

GEOGRAPHIC AREAS: Citywide

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

(OBJECTIVE 3 CONTINUED)

PROGRAM: ASSISTANCE LEAGUE OF RIVERSIDE OPERATION SCHOOL BELL

PROGRAM DESCRIPTION: Program provides a backpack, hygiene kit and back-to-school clothing through a "shopping" experience to children identified by teachers or school officials as being in need.

RESOURCES: CDBG Funds 2011/12 \$9,500

TARGET POPULATION: Elementary school aged children from homeless and low income families

GEOGRAPHIC AREAS: Citywide

PROGRAM: ALTERNATIVES TO DOMESTIC VIOLENCE

PROGRAM DESCRIPTION: Alternatives to Domestic Violence provides services to victims of domestic violence. These services include an Outreach Counseling Center which offers a 24-hour crisis line, counseling, support groups, court advocacy, and an emergency shelter for battered women and abused children.

RESOURCES: CDBG Funds 2011/12 \$7,125

TARGET POPULATION: Victims of Domestic Violence

GEOGRAPHIC AREAS: Citywide

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

(OBJECTIVE 3 CONTINUED)

PROGRAM: CASA for RIVERSIDE COUNTY

PROGRAM DESCRIPTION: Advocacy for Abused and Neglected Children. CASA offers court appointed monitoring services to foster youth. CDBG funds will be used to fund the salary of one supervisor who will train volunteers that in turn will provide service to 57 Moreno Valley foster children over the program year.

RESOURCES: CDBG Funds 2011/12 \$9,500

TARGET POPULATION: Abused/Neglected Youth

GEOGRAPHIC AREAS: Citywide

PROGRAM: VOLUNTEER CENTER '211 PROGRAM'

PROGRAM DESCRIPTION: The '211 Program' is a quality telephone referral system available 24 hours a day, 7 days a week that residents may use to access information on public and private facilities and services in the City.

RESOURCES: CDBG Funds 2011/12 \$5,000

TARGET POPULATION: Low and moderate income persons

GEOGRAPHIC AREAS: Citywide

COMMUNITY & ECONOMIC DEVELOPMENT STRATEGY

OBJECTIVE 4: Provide employment training and placement programs available to serve low and moderate income residents.

PROGRAM: YOUTH OPPORTUNITY CENTER (YOC)

PROGRAM DESCRIPTION: The Center will offer local youth access to an array of educational services (tutoring, GED, and college preparation programs), job coaching and placement, support groups, and volunteer/civic engagement coordination. The proposed \$25,000 in CDBG funding would be used for tenant improvements.

RESOURCES: CDBG Funds 2011/12 \$25,000

TARGET POPULATION: Low and Moderate Income Persons

GEOGRAPHIC AREAS: Citywide

SECTION 3 – OTHER ACTIONS
ANTI-POVERTY STRATEGY

The City identified several programs in its strategy to produce and preserve affordable housing. Programs include: the Neighborhood Stabilization Program (NSP), the Home Improvement Loan Program, Mobilehome Rehabilitation Grant Program, and the Homebuyer Assistance Program. The implementation of these programs and the re-evaluation of zoning in specific neighborhoods will assist in maintaining livable conditions for lower income persons. These programs, when coupled with the various social services, such as shelter and food services, and counseling programs, (including homeless prevention programs) provide residents opportunities to utilize programs at little or no cost, thereby reducing financial burden. The City's current structure limits the ability to directly reduce the numbers of households with incomes below the poverty line. However, by utilizing multiple programs and working with County, private, and nonprofit agencies the City can work to reduce the number of persons with incomes below the poverty line.

The City has established several goals to reduce poverty among its population:

1. Economic Development and Job Creation/Retention

In 2009, the City implemented 2 new programs aimed at relieving area unemployment and creating new jobs. The New Business Incentive Program continues this year to function as a tool to assist in the attraction of retail business to Moreno Valley providing full-time jobs to low-and-moderate income individuals. The Employment Resource

Center provides a centrally located office where low-to-moderate income persons may utilize computers and other office equipment to assist in building their resumes and run job searches.

The City partners with the Inland Empire Small Business Development Center (SBDC) to provide small business counseling services and specialized training to local businesses with the goal of improving\expanding businesses thereby creating and/or retaining low and moderate income jobs.

The City continues to implement a \$479,292 Community Development Block Grant – Recovery, received in 2009, that incentivizes job creation.

2. Housing Programs

The City identified several programs in its strategy to produce and preserve affordable housing. The implementation of programs such as:

- the Homebuyer Assistance Program,
- the Home Improvement Loan Programs,
- the Mobile Home Grant Program,
- NSP Acquisition, Rehabilitation, Resale of Single Family Homes,
- NSP Acquisition Rehabilitation, Rental of Multi Family Apartments
- New Affordable Housing Development
- Homelessness Prevention and Rapid Re-Housing Program (HPRP)

will assist in maintaining livable conditions for lower income persons.

The City currently makes significant efforts to ensure that the City's Target Area and the Redevelopment Area benefit from the listed programs. Additionally, four other areas of the city were designated Revitalization Areas by HUD. The City is exploring opportunities to acquire and rehabilitate HUD owned properties within these areas to be sold to low-income homebuyers.

3. Public Service Providers

Public service organizations provide direct assistance to low-income persons, including the elderly, homeless, disabled, and persons threatened with homelessness. Providers assist with obtaining and maintaining adequate housing, emergency assistance as needed to meet immediate and urgent individual and family needs, including shelter; and the achievement of self-sufficiency. These programs provide city residents opportunities to utilize various services at little or no cost, thereby reducing their financial burden. The Homelessness Prevention and Rapid Re-housing grant of \$732,872 received in 2009, also utilizes Public Service providers to distribute emergency assistance to families facing homelessness.

4. Coordination of Efforts

The City's goal is to continue to establish collaborative relationships between governmental and social service agencies to assure the effective delivery of services to low-income individuals. One example is the Riverside County Continuum of Care. The

Continuum of Care group consists of several local non-profits and local governmental agencies, such as the City of Moreno Valley, who meet periodically to share information, coordinate efforts to assist homeless persons and plan future activities. While the City's ability to directly reduce the numbers of households with incomes below the poverty line is limited, the City will attempt to reduce the number by utilizing multiple programs and working with the county, private and non-profit agencies.

Planning and Meeting Obstacles

The City will continue to evaluate and monitor priority community development needs, including those needs that may be currently underserved. The City will also work toward identifying, assessing and overcoming obstacles to meeting underserved community development needs.

SECTION 3 –OTHER ACTIONS

INSTITUTIONAL STRUCTURE AND COORDINATION

The institutional structure described in the Consolidated Plan demonstrates the diverse types of organizations needed to accomplish its program goals. The City will work with a variety of public and private agencies to accomplish the Consolidated Plan goals set forth in this strategic plan.

In addition, coordination with other public and private agencies is necessary in order to establish solid working relationships that will enable all service providers to better assist those in need. The City enjoys a cooperative relationship with surrounding jurisdictions, agencies, and nonprofit organizations.

Public Agencies

The City shall work with state and federal agencies through several grant programs to facilitate services and programs, which meet housing and safety needs in the community.

The City is a member of the March Joint Powers Authority (JPA). The JPA is a public entity created for the purpose of addressing the use, reuse, and joint use of realigned March Air Reserve Base (MARB) a (size) base located immediately adjacent to Moreno Valley.

On a more local level, City staff will work with Riverside County agencies such as the Departments of Mental Health and Public Social Services, to address regional homeless issues. The City meets on a regular basis with the Riverside County Department of Public Social Services as part of the Continuum of Care process to assist homeless persons. The Continuum of Care Consortium consists of local government agencies as well as non-profit agencies that work together to address homeless issues in the region. Continuum of Care grant funding is provided to local public and non-profit agencies to provide homeless services and shelter. Periodic meetings provide an opportunity for networking and working towards the common goal. Riverside County's Economic Development Agency also partners with the City to provide employment assistance services at the City's Employment Resource Center, as well as support services for at-risk youth at the Youth opportunity Center (under development).

Public Housing Authority

The Riverside County Housing Authority administers public housing and Section 8 programs in Moreno Valley. Issues relating to public housing are included in the Consolidated Plan for Riverside County. The City will work with the Riverside County Housing Authority when possible to improve the living environment of public housing and Section 8 residents.

Non-Profit Organizations

The City utilizes a variety of nonprofit organizations to address community needs, such as homelessness, special needs, fair housing and food distribution services. The City will provide information and updates to local social service agencies regarding the availability of private affordable housing opportunities in Moreno Valley. The City will also inform and educate private housing entities on the services, programs, and referrals provided by local social service agencies to persons seeking housing. Distribution of this information may be through a variety of methods including direct mailing, public service announcements, and personal contacts by city staff. Many of the objectives identified in the Annual Plan and associated programs are carried out by non-profit organizations. These organizations are the primary service providers for Moreno Valley's homeless, special needs and low-income populations. CDBG funds are allocated to these organizations to carry out activities benefiting these populations.

HOME funds are provided to non-profit agencies for rehabilitation and new construction of affordable housing units in the city. The city will work with its Community Housing Development Organizations (CHDO's), Riverside Housing Development Corporation (RHDC), and Habitat for Humanity to accomplish the housing goals. As a result of working with the CHDO's, the City has been able to address a wide variety of community needs including housing programs and public safety. The City will continue to work with these entities throughout the program year.

SECTION 3 – OTHER ACTIONS

MONITORING

MONITORING OF CDBG PROGRAMS

Monitoring serves as an effective tool to ensure that expenditures of federal funds are consistent with CDBG National Objectives and achieve program/project goals. The following outlines monitoring requirements for Moreno Valley CDBG program:

Subrecipients – When an organization becomes a City subrecipient, they must sign a contract with the City in which the various scopes of work, time lines, and documentation requirements are outlined. On a monthly basis, each Subrecipient must submit detailed information regarding the number, ethnicity, and income level of individuals benefiting from CDBG funds. Quarterly summary reports are required of some agencies in which further information is provided on activities accomplished in that quarter. The City conducts an on-site inspection of each agency at least once per year, preferably toward the end of the funding cycle. A sample Subrecipient Monitoring Form is attached as Attachment G.

Construction Projects – All construction projects comply with Federal Labor and Procurement Procedures as well as the various affirmative action and equal opportunity requirements required by various federal and state laws. The CDBG Management Analyst oversees and reviews contract preparation at each step from bid preparation, contract document preparation, pre-construction meetings, and ongoing project inspections. All public notices that solicit bids for capital projects are submitted to minority newspapers such as El Chicano, the San Bernardino American and the Precinct Reporter in order to give minority-owned businesses the opportunity to bid on the CDBG capital projects.

MONITORING OF HOME PROGRAMS

Multi-Family Affordable Housing Programs

The City requires property owners who have received funds under the Rental Rehabilitation Program or Multifamily Affordable Housing Program to recertify their tenant's eligibility annually. They report information and provide documentation related to the property, unit occupancy, tenant information and financial reporting. Forms and applicable documentation such as Federal income tax returns are to be completed by tenants of reserved (affordable) units and submitted with the report. If the unit was occupied by multiple tenants, then a copy of the application, rental agreement and the dates of residency must be provided. In addition, a copy of "Determining Affordable Rent" is provided to the owner for the reserved units. A City building inspector will conduct a property inspection to determine if the property is in compliance with code requirements and in good condition. The City will work with a recertification consulting service to ensure that the information is accurate and complete. Examples of the checklists used to monitor the affordable units under the Rental Rehabilitation Loan Program are also included in Attachment G.

Single Family Housing Programs – For Owner-Occupants

The City's Homebuyer Assistance Program offers a low-interest, silent second, down-payment assistance loans to income qualified individuals.

Loan terms include an equity sharing arrangement in lieu of interest on the deferred loan. When the property is sold or transferred, the City will receive a share of the gain on sale in addition to the original amount loaned. The percentage of the equity share percentage is calculated by dividing the original loan amount by the original purchase price.

Example: If the HAP loan amount was \$10,000 and the original purchase price was \$90,000, the equity share percentage would be 11%. The equity share percentage is then multiplied by the gain on the sale (as determined by the sales price or the property value determined by a professional appraisal) to determine the City's Share of the profit on the sale. If the gain on the sale were \$15,000, the City's share would be 11% of \$15,000, or \$1,650. The total repayment to the City would be \$11,650.

In addition, a Deed of Trust is recorded to serve as loan collateral (security). The securing deed may take first, second, or third position if it does not exceed the one hundred percent (100%) loan-to-value ratio.

Displacement and Relocation

The City does not have any plans to displace or relocate any residents from their homes using CDBG or HOME funds. If a project necessitated displacement or relocation, it would be done in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA).

PROPOSED ACCOMPLISHMENTS

The following table details each of the goals and objectives identified in the Strategic Plan and the proposed accomplishments over the five-year period of the Consolidated Plan. Following the close of the program year on June 30th, the City has 90 days to complete a Consolidated Annual Performance and Evaluation Report (CAPER) for public review and submittal to HUD. The CAPER will include the following table to track the accomplishments during the entire five-year period. Annual goals will be identified in the Annual Action Plan.

**TABLE 3-A
 PROPOSED FIVE-YEAR ACCOMPLISHMENTS (SAMPLE TABLE. INTENTIONALLY BLANK.)**

Priority	Five-Year Goal / Proposed Accomplishments	Complete per Program Year				Summary of Progress
		08/09	09/10	10/11	11/12	
HOMELESS STRATEGY						
OBJECTIVE: Provide supportive housing and public services to meet the needs of homeless persons and persons threatened with homelessness.						
1.1	To assist 2500 homeless persons and persons threatened with homelessness with housing and public service activities.					Goal: Completed:
SPECIAL NEEDS STRATEGY						
OBJECTIVE: Provide supportive housing and public services to meet the needs of special needs persons.						
2.1	To assist 15,000 special needs persons, including the elderly and disabled, with housing and public services.					Goal: Completed:
HOUSING STRATEGY						
OBJECTIVE: Rehabilitation of existing and construction of new single-family homes, multi-family housing and mobile homes to create or maintain decent, affordable housing for low and moderate income residents.						
3.1	To rehabilitate or construct a minimum of 400 housing units.					Goal: Completed:
OBJECTIVE: Create home ownership opportunities for low and moderate income residents.						
3.2	To provide home ownership to 5 households.					Goal: Completed:
OBJECTIVE: Improve the safety and livability in the CDBG Target Areas to create a suitable living environment.						
3.3	To provide increased, proactive Code Enforcement, Neighborhood Cleanups and public safety activities to assist 3,000 households.					Goal: Completed:
OBJECTIVE: Provide fair housing services to educate households on their rights and responsibilities and assist residents with fair housing issues.						
3.4	To assist 2,500 households with fair housing services.					Goal: Completed:

COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY				
Priority	Five-Year Goal / Proposed Accomplishments	Complete per Program Year	Summary of Progress	
OBJECTIVE: Promote expanded economic opportunities in order to create or retain low and moderate income jobs.				
4.1	To assist 400 local small businesses with counseling services and loan programs.			Goal: Completed:
OBJECTIVE: Provide infrastructure improvements in CDBG Target Areas to create a suitable living environment by increasing access to quality public facilities.				
4.2	To construct infrastructure improvements that will assist 250 parcels located within CDBG Target Areas.			Goal: Completed:
OBJECTIVE: Support public service programs available to serve low and moderate income residents.				
4.3	To assist 50,000 low and moderate income residents with public service activities (other than homeless or special needs activities).			Goal: Completed:
OBJECTIVE: Provide employment training programs available to serve low and moderate income residents.				
4.4	To assist 150 low and moderate income residents with employment training and placement.			Goal: Completed:

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SECTION 4 – ADDITIONAL GRANT REQUIREMENTS
FORM APPLICATION SF424

Form Application SF 424

(behind this page)

Application for Federal Assistance SF-424		Version 02
*1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	*2. Type of Application <input type="checkbox"/> New <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Revision	* If Revision, select appropriate letter(s) *Other (Specify) _____
3. Date Received: _____		4. Applicant Identifier: B-10-MC-06-0567
5a. Federal Entity Identifier: _____	*5b. Federal Award Identifier: _____	
State Use Only:		
6. Date Received by State: _____	7. State Application Identifier: _____	
8. APPLICANT INFORMATION:		
*a. Legal Name: City of Moreno Valley		
*b. Employer/Taxpayer Identification Number (EIN/TIN): 33-0076484	*c. Organizational DUNS: 177134186	
d. Address:		
*Street 1: 14177 Frederick Street		
Street 2: PO BOX 88005		
*City: Moreno Valley		
County: _____		
*State: CA		
Province: _____		
*Country: USA		
*Zip / Postal Code 92553		
e. Organizational Unit:		
Department Name: ECONOMIC DEVELOPMENT	Division Name: NEIGHBORHOOD PRESERVATION	
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: Ms.	*First Name: Isa	
Middle Name: _____		
*Last Name: Rojas		
Suffix: _____		
Title: Management Analyst		
Organizational Affiliation: _____		
*Telephone Number: 951-413-3227		Fax Number: 951-413-3459
*Email: IsaR@MoVal.org		

Application for Federal Assistance SF-424

Version 02

***9. Type of Applicant 1: Select Applicant Type:**

C. City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

*Other (Specify)

***10 Name of Federal Agency:**

Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14.218

CFDA Title:

Community Development Block Grant Program

***12 Funding Opportunity Number:**

*Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Moreno Valley, CA

***15. Descriptive Title of Applicant's Project:**

Annual Action Plan for FY 2011/12 Community Development Block Grant funding. Programs/projects receiving new allocations for funding includes public services (landlord/tenant mediation, homeless/transitional housing shelters, emergency food assistance, youth programs, and elderly programs) code enforcement, and economic development programs.

Application for Federal Assistance SF-424

Version 02

***Applicant Federal Debt Delinquency Explanation**

The following should contain an explanation if the Applicant organization is delinquent of any Federal Debt.

NA

Application for Federal Assistance SF-424		Version 02
*1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	*2. Type of Application * If Revision, select appropriate letter(s) <input type="checkbox"/> New <input checked="" type="checkbox"/> Continuation *Other (Specify) _____ <input type="checkbox"/> Revision	
3. Date Received:	4. Applicant Identifier: M-10-MC-06-0551	
5a. Federal Entity Identifier:	*5b. Federal Award Identifier:	
State Use Only:		
6. Date Received by State:	7. State Application Identifier:	
8. APPLICANT INFORMATION:		
*a. Legal Name: CITY OF MORENO VALLEY		
*b. Employer/Taxpayer Identification Number (EIN/TIN): 33-0076484	*c. Organizational DUNS: 177134186	
d. Address:		
*Street 1: 14177 FREDERICK STREET		
Street 2: PO BOX 88005		
*City: MORENO VALLEY		
County: RIVERSIDE		
*State: CA		
Province: _____		
*Country: USA		
*Zip / Postal Code 92552-0805		
e. Organizational Unit:		
Department Name: ECONOMIC DEVELOPMENT	Division Name: NEIGHBORHOOD PRESERVATION	
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: MS.	*First Name: ISA	
Middle Name: _____		
*Last Name: ROJAS		
Suffix: _____		
Title: MANAGEMENT ANALYST		
Organizational Affiliation:		
*Telephone Number: 951-413-3227	Fax Number: 951-413-3459	
*Email: IsaR@moval.org		

Application for Federal Assistance SF-424

Version 02

***9. Type of Applicant 1: Select Applicant Type:**

C. City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

*Other (Specify)

***10 Name of Federal Agency:**

Department of Housing and Urban Development (HUD)

11. Catalog of Federal Domestic Assistance Number:

14.239 _____

CFDA Title:

HOME Investment Partnership Program _____

***12 Funding Opportunity Number:**

*Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Moreno Valley, CA

***15. Descriptive Title of Applicant's Project:**

Annual Action Plan for FY 2011/12 HOME funding. Programs/projects receiving new allocations for funding include ...TBD.

Application for Federal Assistance SF-424		Version 02
16. Congressional Districts Of:		
*a. Applicant: 43 rd and 44th		*b. Program/Project: 43 rd and 44th
17. Proposed Project:		
*a. Start Date: July 1, 2011		*b. End Date: June 30, 2012
18. Estimated Funding (\$):		
*a. Federal	_____	TBD
*b. Applicant	_____	
*c. State	_____	
*d. Local	_____	
*e. Other	_____	
*f. Program Income	_____	
*g. TOTAL	_____	TBD
*19. Is Application Subject to Review By State Under Executive Order 12372 Process?		
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on _____		
<input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review.		
<input checked="" type="checkbox"/> c. Program is not covered by E. O. 12372		
*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<p>21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)</p> <p><input checked="" type="checkbox"/> ** I AGREE</p> <p>** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions</p>		
Authorized Representative:		
Prefix: Mr.	_____	*First Name: Henry _____
Middle Name: L.	_____	
*Last Name: Garcia	_____	
Suffix: _____		
*Title: City Manager		
*Telephone Number: 951-413-3453		Fax Number: 951-413-3459
* Email: HenryG@moval.org		
*Signature of Authorized Representative:		*Date Signed:

Application for Federal Assistance SF-424

Version 02

***Applicant Federal Debt Delinquency Explanation**

The following should contain an explanation if the Applicant organization is delinquent of any Federal Debt.

N/A

SECTION 4 – ADDITIONAL GRANT REQUIREMENTS

CITIZEN PARTICIPATION

CITIZEN PARTICIPATION PROCESS

In preparing the 2011/12 Action Plan, the City took an assertive approach to encourage citizen participation. HUD regulations require that cities consult with public and private community-based non-profit organizations to obtain input on the housing and non-housing needs of low- and moderate-income and homeless members of the community. Those with special needs are included as well. To meet this requirement, the City prepared a Citizen Participation Plan (Attachment D), which outlines the process for encouraging citizen participation in the development of the Action Plan.

Citizen participation was accomplished through a series of meetings, public notices and announcements. City staff hosted community meetings and invited area residents, non-profit organizations and surrounding jurisdictions to provide input on the needs of the community. Public meetings to determine needs were held at the Moreno Valley Conference and Recreation Center and the Senior Center. In addition, several focused meetings with local agencies, surrounding jurisdictions and City committees were also conducted. Information and notification of these meetings was distributed through correspondence, flyers and public notices. Table 4-A, on the following page, outlines the citizen participation schedule.

The information compiled from the meetings (as outlined in the above schedule) was used in determining the needs in the community and the development of strategies. Citizen Comments are included as Attachment E. Organizations that participated in meetings or consultations included the following:

- CASA – Court Advocates Program
(for Foster Youth)
- Fair Housing Council of Riverside
- 211 Riverside County
- Community Action Partnership of
Riverside County

The proposed Action Plan was available for a 30-day public examination and comment period from March 29, 2011 through April 29, 2011.

The Action Plan was available for public review at the following locations:

- City of Moreno Valley Economic Development Department – City Hall
- Moreno Valley Senior Center
- City of Moreno Valley Corporate Yard
- Moreno Valley City Library

No Public comments on the Annual Action Plan were received during the public review period. Comments received at public meetings and hearings are included in Attachment E.

**TABLE 4-A
 CITIZEN PARTICIPATION SCHEDULE**

Annual Action Plan FY 2011-2012 CDBG & HOME Programs Citizen Participation Schedule	
November 3, 2010	Notice of Community Needs Meetings (<i>Publish in Newspaper & Mail Out</i>)
November 17, 2010	Community Needs Assessment Meeting – Conference & Recreation Center (6:00 p.m. to 8:00 p.m.)
December 1, 2010	Publish Notice of Public Hearing for December 14, 2010 to Adopt CDBG/HOME Program Objectives and Policies
December 2, 2010	Community Needs Assessment Meeting – Senior Community Center (6:00 p.m. to 8:00 p.m.)
December 14, 2010	City Council Meeting – Adopt CDBG/HOME Program Objectives and Policies (Public Hearing)
December 14, 2010	Mail NOFA (Notice of Funding Availability) to Interest List
January 3, 2011	CDBG/HOME Applications Available for Distribution Notice of Funding Availability Published
January 31, 2011	All Applications Due (Non Profit and In-House)
February 1-17, 2011	Technical Review Committee Reviews Public Service and Community Needs Applications; <u>Applicant Oral Presentations</u>
February 15, 2011	Publish Notice of Annual Action Plan Review Period (Mar 15 – Apr 15)
February 17, 2011	Final Technical Committee Project Review & Recommendation
February 18, 2011	Publish Notice of Public Hearing for March 8, 2011 City Council Meeting
March 22, 2011	City Council Meeting - CDBG/HOME Project Selection (Public Hearing)
March 29, 2011	Begin Annual Action Plan 30-Day Review Period
April 26, 2011	Publish Notice of Public Hearing for May 10, 2011 to Approve the Annual Action Plan
April 29, 2011	Close of 30-day Public Comment Period for Annual Action Plan
May 10, 2011	City Council Meeting - Review Citizen Comments & Approve the Annual Action Plan (Public Hearing)
Not later than May 12, 2011	Submittal of Annual Action Plan to HUD

**SECTION 4 – ADDITIONAL GRANT REQUIREMENTS
CERTIFICATIONS**

(Behind this page)

CERTIFICATIONS FY 2011-2012

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the City of Moreno Valley certifies that:

Affirmatively Further Fair Housing -- The jurisdiction will affirmatively further fair housing, and it has concluded an analysis of impediments to fair housing choice within the jurisdiction, and will take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential ant displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace -- It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about -
 - (a) The dangers of drug abuse in the workplace;
 - (b) The grantee's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

Anti-Lobbying -- To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction -- The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan -- The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 -- It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

Signature/Authorized Official

Date

Henry Garcia, City Manager

Specific CDBG Certifications

The City of Moreno Valley certifies that:

Citizen Participation -- It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

Community Development Plan -- Its consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that provide decent housing, expand economic opportunities primarily for persons of low and moderate income. (See CFR 24 570.2 and CFR 24 part 570)

Following a Plan -- It is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

1. Maximum Feasible Priority. With respect to activities expected to be assisted with CDBG funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);
2. Overall Benefit. The aggregate use of CDBG funds including section 108 guaranteed loans during program year(s) 2010-2011 (a period specified by the grantee consisting of one, two, or three specific consecutive program years), shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period;
3. Special Assessments. It will not attempt to recover any capital costs of public improvements assisted with CDBG funds including Section 108 loan guaranteed funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108, unless CDBG funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. Also, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

Excessive Force -- It has adopted and is enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;

Compliance With Anti-Discrimination laws -- The grant will be conducted and administered in conformity within title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations.

Lead-Based Paint -- Its activities concerning lead-based paint will comply with the requirements of 24 CFR Part 35, subparts A, B, J, K and R;

Compliance with Laws -- It will comply with applicable laws.

Signature/Authorized Official

Date

Henry Garcia, City Manager

Specific HOME Certifications

The City of Moreno Valley certifies that:

Tenant Based Rental Assistance -- If the participating jurisdiction intends to provide tenant-based rental assistance:

The use of HOME funds for tenant-based rental assistance is an essential element of the participating jurisdiction's consolidated plan for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing.

Eligible Activities and Costs -- it is using and will use HOME funds for eligible activities and costs, as described in 24 CFR 92.205 through 92.209 and that it is not using and will not use HOME funds for prohibited activities, as described in 92.214.

Appropriate Financial Assistance -- before committing any funds to a project, it will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;

Signature/Authorized Official

Date

Henry Garcia, City Manager

APPENDIX TO CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS:

A. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification.
2. The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).
5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).

6. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

City Hall

14177 Frederick Street

Moreno Valley, CA 92552

Check if there are workplaces on file that are not identified here.

The certification with regard to the drug-free workplace is required by 24 CFR part 24, subpart F.

7. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

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ATTACHMENT A – DEFINITIONS OF TERMS AND ACRONYMS USED

List of acronyms used in this document:

CDBG: Community Development Block Grant

CDBG-R: Community Development Block Grant, Recovery Program

HOME: HOME Investment Partnership Grant

HPRP: Homelessness Prevention and Rapid Re-housing Program

HUD: U.S. Department of Housing and Urban Development

NSP: Neighborhood Stabilization Program

RDA: Community Redevelopment Agency of the City of Moreno Valley

This glossary is designed to provide a comprehensive list of terms used in this Consolidated Plan and future annual plans.

Affordable Housing: Affordable housing is generally defined as housing where the occupant is paying no more than 30 percent of gross income for gross housing costs, including utility costs.

AIDS and Related Diseases: The disease of acquired immune deficiency syndrome or any conditions arising from the etiologic agent for acquired immune deficiency syndrome.

Alcohol/Other Drug Addiction: A serious and persistent alcohol or other drug addiction that significantly limits a person's ability to live independently.

Assisted Household or Person: For the purpose of specifying one-year goals for assisting households or persons, a household or person is assisted if, during the coming Federal fiscal year, they will benefit from one or more programs included in the jurisdiction's investment plan. A renter is benefited if the person takes occupancy of affordable housing that is newly acquired, newly rehabilitated, or newly constructed, and/or receives rental assistance. An existing homeowner is benefited during the year if the home's rehabilitation is completed. A first-time homebuyer is benefited if a home is purchased during the year. A homeless person is benefited during the year if the person becomes an occupant of transitional or permanent housing. A non-homeless person with special needs is considered as being benefited, however only if the provision of supportive services is linked to the acquisition, rehabilitation, or new construction of

a housing unit and/or the provision of rental assistance during the year. Households or persons who will benefit from more than one program activity must be counted only once. To be included in the goals, the housing unit must, at a minimum, satisfy the HUD Section 8 Housing Quality Standards (see 24 CFR section 882.109) See also instructions for completing Table 3B of the CHAS and Table 1 of the Annual Performance Report.

Committed: Generally means there has been a legally binding commitment of funds to a specific project to undertake specific activities.

Consolidated Plan: The document that is submitted to HUD that serves as the planning document (comprehensive housing affordability strategy and community development plan) of the jurisdiction and an application for funding under any of the Community Planning and Development formula grant programs (CDBG, ESG, HOME, or HOPWA), which is prepared in accordance with the process prescribed in 24CFR part 91.

Cost Burden: The extent to which gross housing costs, including utility costs, exceed 30 percent of gross income, based on data published by the U.S. Census Bureau.

Disabled Household: A household composed of one or more persons at least one of whom is an adult (a person of at least 18 years of age) who has a disability. A person shall be considered to have a disability if the person is determined to have a physical, mental or emotional impairment that: (1) is expected to be of long-continued and indefinite duration, (2) substantially impeded his or her ability to live independently, and (3) is such a nature that the ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if he or she has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-6006). The term also includes the surviving member or members of any household described in the first sentence of this paragraph who were living in an assisted unit with the deceased member of the household at the time of his or her death.

Economic Independence and Self-Sufficiency Programs: Programs undertaken by Public Housing Agencies (PHAs) to promote economic independence and self-sufficiency for participating families. Such programs may include Project Self-Sufficiency and Operation Bootstrap programs that originated under earlier Section 8 rental certificate and rental voucher initiatives, as well as the Family Self-Sufficiency program. In addition, PHAs may operate locally developed programs or conduct a variety of special projects designed to promote economic independence and self-sufficiency.

Elderly Household: For HUD rental programs, a one or two person household in which the head of the household or spouse is at least 62 years of age.

Emergency Shelter: Any facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless.

Extremely Low-Income Family: Family whose income is between 0 and 30 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

Existing Homeowner: An owner-occupant of residential property who holds legal title to the property and who uses the property as his/her principal residence.

Family: Family means all persons living in the same household who are related by birth, marriage or adoption.

Family Self-Sufficiency (FSS) Program: A program enacted by Section 554 of the National Affordable Housing Act which directs Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) to use Section 8 assistance under the rental certificate and rental voucher programs, together with public and private resources to provide supportive services, to enable participating families to achieve economic independence and self-sufficiency.

Federal Preference for Admission: The preference given to otherwise eligible applicants under HUD's rental assistance programs who, at the time they seek housing assistance, are involuntarily displaced, living in substandard housing, or paying more than 50% of family income for rent. (See, for example, 24 CFR 882.219.)

First-Time Homebuyer: An individual or family who has not owned a home during the three-year period preceding the HUD-assisted purchase of a home that must be used as the principal residence of the homebuyer, except that any individual who is a displaced homemaker (as defined in 24 CFR 92) or a single parent (as defined in 24 CFR 92) may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker or married, owned a home with his or her spouse or resided in a home owned by the spouse.

For Rent: Year round housing units that are vacant and offered/available for rent. (U.S. Census definition)

For Sale: Year round housing units that are vacant and offered/available for sale only. (U.S. Census definition)

Frail Elderly: An elderly person who is unable to perform at least 3 activities of daily living (i.e., eating, dressing, bathing, grooming, and household management activities). (See 24 CFR 889.105.)

Group Quarters: Facilities providing living quarters that are not classified as housing units. (U.S. Census definition). Examples include: prisons, nursing homes, dormitories, military barracks, and shelters.

HOME: The HOME Investment Partnerships Program, which is authorized by Title II of the National Affordable Housing Act.

Homeless Family: Family that includes at least one parent or guardian and one child under the age of 18, a homeless pregnant woman, or a homeless person in the process of securing legal custody of a person under the age of 18.

Homeless Individual/Homeless Person: An unaccompanied youth (17 years or younger) or an adult (18 years or older) without children, who is homeless (not imprisoned or otherwise detained pursuant to an Act of Congress or a State law), including the following: (1) an individual who lacks a fixed, regular, and adequate nighttime residence; and (2) an individual who has a primary nighttime residence that is: (i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (ii) an institution that provides a temporary residence for individuals intended to be institutionalized; or (iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Homeless Subpopulations: Include but are not limited to the following categories of homeless persons: severely mentally ill only, alcohol/drug addicted only, severely mentally ill and alcohol/drug addicted, fleeing domestic violence, youth, and persons with HIV/AIDS.

Homeless Youth: Unaccompanied person 17 years of age or younger who is living in situations described by terms "sheltered" or "unsheltered".

Household: All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Housing Problems: Households with housing problems include those that: (1) occupy units meeting the definition of Physical Defects; (2) meet the definition of overcrowded; and (3) meet the definition of cost burden greater than 30%.

Housing Unit: An occupied or vacant house, apartment, or single room (SRO housing) that is intended as separate living quarters. (U.S. Census definition)

Institutions/Institutional: Group quarters for persons under care or custody. (U.S. Census definition)

Jurisdiction: A State or unit of general local government.

Large Family/Household: Family/household of five or more persons.

Large Related: A household of 5 or more persons that includes at least one person related to the householder by blood, marriage or adoption.

LIHTC: (Federal) Low Income Housing Tax Credit.

Low- and Moderate-Income Household: A household having an income equal to or less than the Section 8 low-income limit established by HUD.

Low- and Moderate-Income Person: A member of a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose.

Low-Income Family/Household: Low-income families/households whose incomes do not exceed 50 percent of the median family/household income for the area, as determined by HUD with adjustments for smaller and larger families/households, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

Middle-Income Family/Household: Family/household whose income is between 80 percent and 95 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families/households, except that HUD may establish income ceilings higher or lower than 95 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. (This corresponds to the term "moderate income family" under the CHAS statute, 42 U.S.C. 12705.)

Moderate-Income Family/Household: Family/household whose income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families/households, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

Non-Homeless Persons with Special Needs: Includes frail elderly persons, persons with AIDS, disabled families, and families participating in organized programs to achieve economic self-sufficiency.

Non-Institutional: Group quarters for persons not under care or custody. (U.S. Census definition used)

Occupied Housing Unit: A housing unit that is the usual place of residence of the occupant(s).

Other Household: A household of one or more persons that does not meet the definition of a Small Related household, Large Related household or Elderly Household.

Other Income: Household whose incomes exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. (This term corresponds to moderate-income in the CDBG Program.)

Other Vacant: Vacant year round housing units that are not For Rent or For Sale. This category would include Awaiting Occupancy or Held.

Overcrowded: For purposes of describing relative housing needs, a housing unit containing more than one person per room, as defined by the U.S. Census Bureau, for which data are made available by the Census Bureau. (See 24 CFR 791.402(b).)

Owner: A household that owns the housing unit it occupies. (U.S. Census definition)

Physical Defects: A housing unit lacking complete kitchen or bathroom (U.S. Census definition). Jurisdictions may expand upon the Census definition.

Primary Housing Activity: A means of providing or producing affordable housing -- such as rental assistance, production, rehabilitation or acquisition -- that will be allocated significant resources and/or pursued intensively for addressing a particular housing need. (See also, "Secondary Housing Activity".)

Project-Based (Rental) Assistance: Rental Assistance provided for a project, not for a specific tenant. Tenants receiving project-based rental assistance give up the right to that assistance upon moving from the project.

Public Housing CIAP: Public Housing Comprehensive Improvement Assistance Program.

Public Housing MROP: Public Housing Major Reconstruction of Obsolete Projects.

Rent Burden > 30% (Cost Burden): The extent to which gross rents, including utility costs, exceed 30 percent of gross income, based on data published by the U.S. Census Bureau.

Rent Burden > 50% (Severe Cost Burden): The extent to which gross rents, including utility costs, exceed 50 percent of gross income, based on data published by the U.S. Census Bureau.

Rental Assistance: Rental assistance payments provided as either project-based rental assistance or tenant-based rental assistance.

Renter: A household that rents the housing unit it occupies, including both units rented for cash and units occupied without cash payment of rent. (U.S. Census definition)

Renter Occupied Unit: Any occupied housing unit that is not owner occupied, including units rented for cash and those occupied without payment of cash rent.

Secondary Housing Activity: A means of providing or producing affordable housing -- such as rental assistance, production, rehabilitation, or acquisition -- that will receive fewer resources and less emphasis than primary housing activities for addressing a particular housing need. (See also, "Primary Housing Activity".)

Section 215: Section 215 of Title II of the National Affordable Housing Act. Section 215 defines "affordable" housing projects under the HOME program.

Service Needs: The particular services identified for special needs populations, which typically may include transportation, personal care, housekeeping, counseling, meals, case management, personal emergency response, and other services to prevent premature institutionalization and assist individuals to continue living independently.

Severe Cost Burden: The extent to which gross housing costs, including utility costs, exceed 50 percent of gross income, based on data published by the U.S. Census Bureau.

Severe Mental Illness: A serious and persistent mental or emotional impairment that significantly limits a person's ability to live independently.

Sheltered: Families and persons whose primary nighttime residence is a supervised publicly or privately operated shelter, including emergency shelters, transitional housing for the homeless, domestic violence shelters, residential shelters for runaway and homeless youth, and any hotel/motel/apartment voucher arrangement paid because the person is homeless. This term does not include persons living doubled up or in overcrowded or substandard conventional housing. Facilities that offer permanent shelter are not shelters, nor are the residents to be considered homeless.

Small Related: A household of 2 to 4 persons that includes at least one person related to the householder by birth, marriage, or adoption.

Substandard Condition and not Suitable for Rehab: By local definition, dwelling units that are in such poor condition as to be neither structurally nor financially feasible for rehabilitation.

Substandard Condition but Suitable for Rehab: By local definition, dwelling units that do not meet standard conditions but are both financially and structurally feasible for rehabilitation. This

does not include units that require only cosmetic work, correction or minor livability problems or maintenance work. The jurisdiction must define this term (i.e., standard condition, financially and structurally feasible for rehab) and include this definition in the Appendix (Glossary of Terms) portion of its CHAS submission.

Substantial Amendment: A major change in an approved housing strategy. It involves a change to the five-year strategy, which may be occasioned by a decision to undertake activities or programs inconsistent with that strategy.

Substantial Rehabilitation: Rehabilitation of residential property at an average cost for the project in excess of \$25,000 per dwelling unit.

Supportive Housing: Housing, including Housing Units and Group Quarters, that provides a supportive environment and include a planned service component.

Supportive Service Need in FSS Plan: The plan that PHAs administering a Family Self-Sufficiency program are required to develop to identify the services they will provide to participating families and the source of funding for those services. The supportive services may include child care; transportation; remedial education; education for completion of secondary or post secondary schooling; job training, preparation and counseling; substance abuse treatment and counseling; training in homemaking and parenting skills; money management, and household management; counseling home ownership; job development and placement; follow-up assistance after job placement; and other appropriate services.

Supportive Services: Services provided to residents of supportive housing for the purpose of facilitating the independence of residents. Some examples are case management, medical or psychological counseling and supervision, childcare, transportation, and job training.

Tenant-Based (Rental) Assistance: A form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. The assistance is provided for the tenant, not for the project.

Total Vacant Housing Units: Unoccupied year round housing units. (U.S. Census definition)

Transitional housing: A project that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living within 24 months, or a longer period approved by HUD. For purposes of the HOME program, there is no HUD-approved time period for moving to independent living.

Unsheltered: Families and individuals whose primary nighttime residence is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (e.g., streets, parks, alleys).

Vacant Awaiting Occupancy or Held: Vacant year round housing units that have been rented or sold and are currently awaiting occupancy, and vacant year round housing units that are held by owners or renters for occasional use. (U.S. Census definition)

Vacant Housing Unit: Unoccupied year-round housing units that are available or intended for occupancy at any time during the year.

Very Low-Income: Households whose incomes do not exceed 30 percent of the median area income for the area, as determined by HUD, with adjustments for smaller and larger families and for areas with unusually high or low incomes or where needed because of prevailing levels of construction costs or fair market rents. (This term corresponds to low-income households in the CDBG Program.) For the purpose of further distinguishing needs within this category, two subgroups (0 to 30% and 31 to 50% of MFI) have been established in the CHAS tables and narratives.)

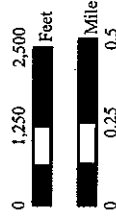
Worst-Case Needs: Unassisted, very low income renter households who pay more than half of their income for rent, live in seriously substandard housing (which includes homeless people) or have been involuntarily displaced.

Year Round Housing Units: Occupied and vacant housing units intended for year round use. (U.S. Census definition.) Housing units for seasonal or migratory use are excluded.

CITY OF MORENO VALLEY CDBG TARGET AREAS

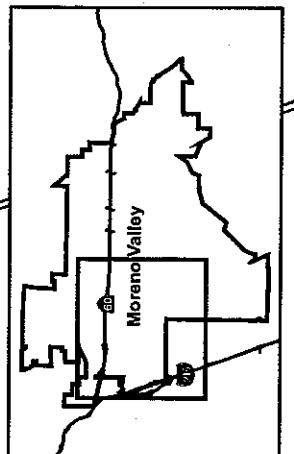
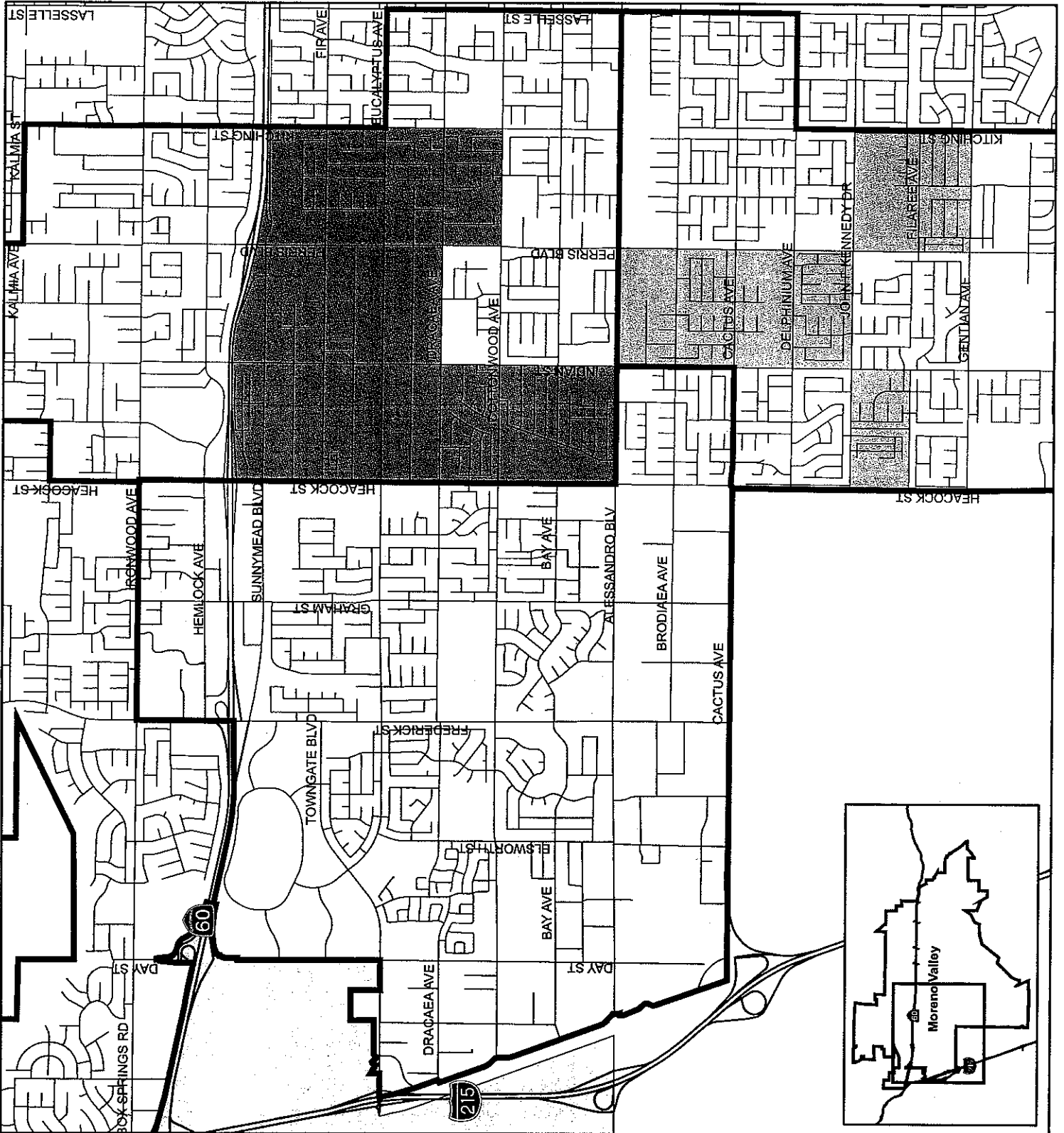
CDBG Districts

- District 1
- District 4
- District 5
- Council District
- Boundaries
- Moreno Valley
- Riverside

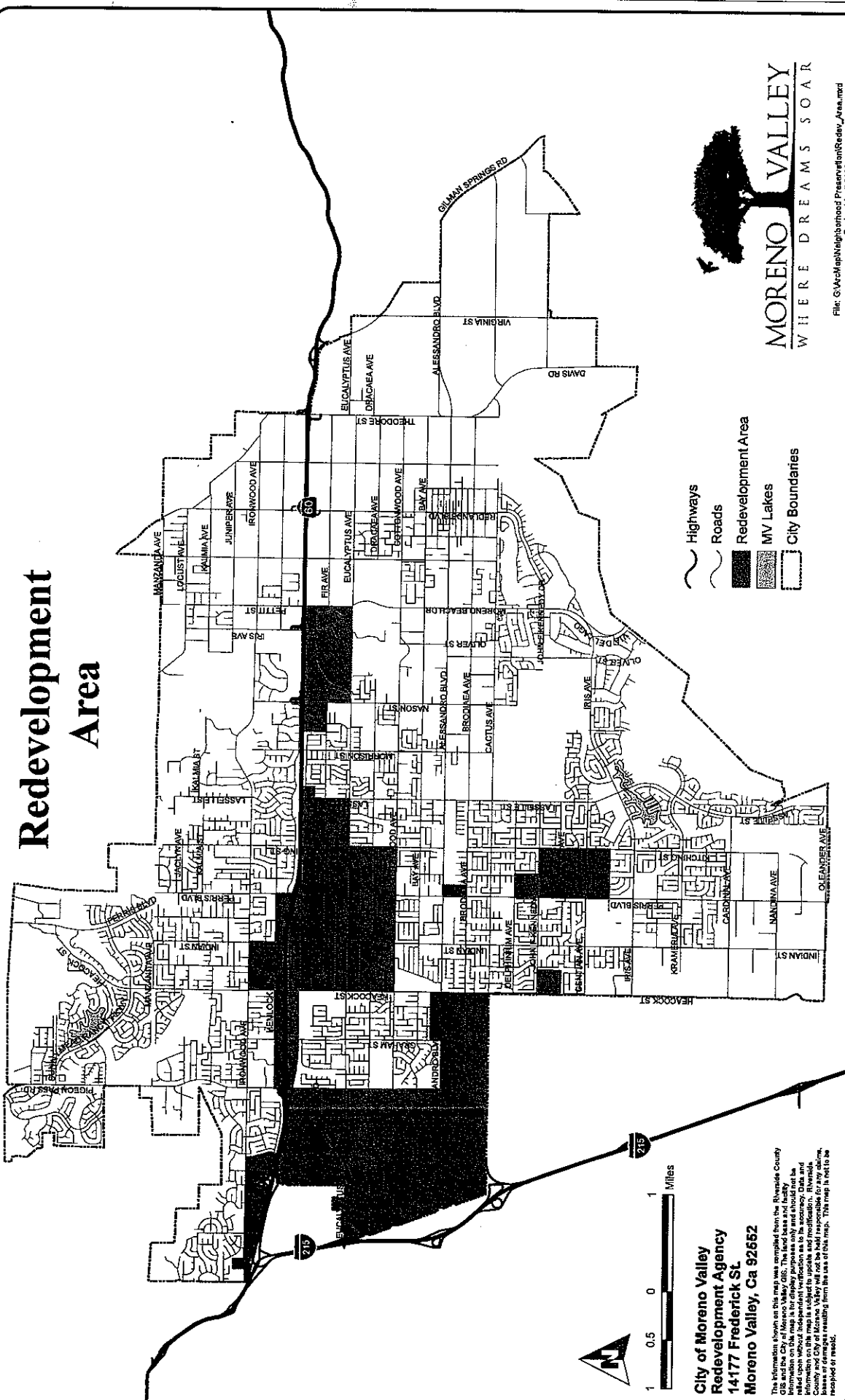


Map Produced by Moreno Valley Geographic Information System
 Geographic Information in: G:\ArcMap\Code\ CDBG target areas 1007.mxd
 October 30, 2007

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.



Redevelopment Area

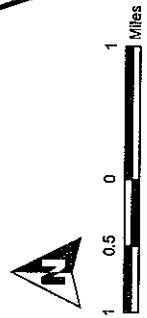


File: G:\Mrc\ap\Neighborhood Preservation\Redev_Area.mxd
 Revised April 2008

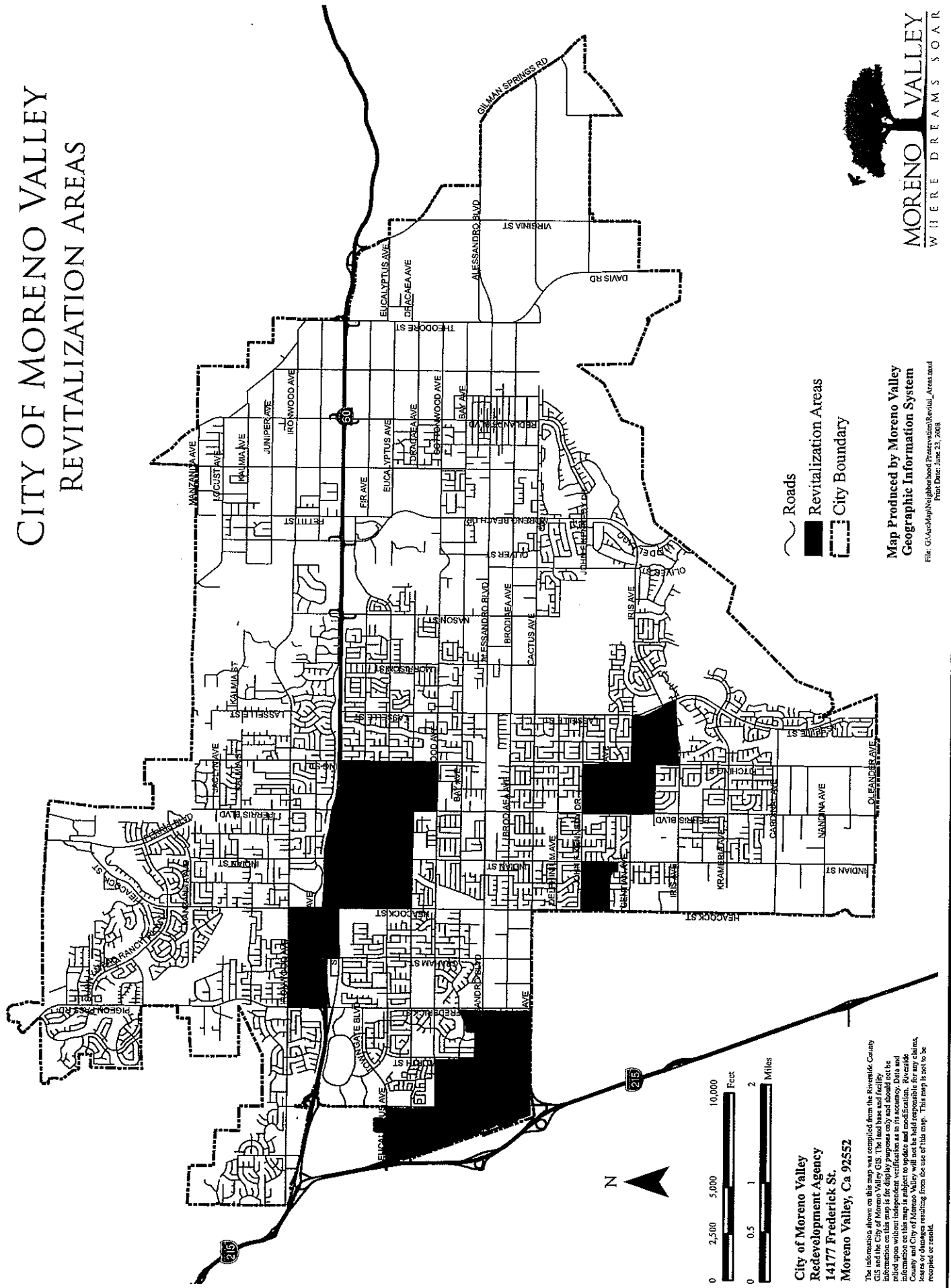
- Highways
- Roads
- Redevelopment Area
- MV Lakes
- City Boundaries

**City of Moreno Valley
 Redevelopment Agency
 14-177 Frederick St.
 Moreno Valley, Ca 92652**

This information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley. It is for display purposes only and should not be relied upon without independent verification as to the accuracy. Data and information were obtained from the Riverside County GIS, Riverside County and City of Moreno Valley. No warranty is made by the City of Moreno Valley or the Riverside County GIS as to the accuracy, completeness, or reliability of the information. Any use of the information is at the user's risk. The map is not to be used for any purpose other than that for which it was prepared.



CITY OF MORENO VALLEY REVITALIZATION AREAS





CITY OF MORENO VALLEY

NOTICE OF PUBLIC HEARING

CDBG & HOME PROGRAMS FISCAL YEAR 2011/2012 ANNUAL ACTION PLAN

The Moreno Valley City Council of the City of Moreno Valley will hold a **PUBLIC HEARING** to review and select the programs and projects requesting Community Development Block Grant (CDBG) and HOME Incentive Partnership Program (HOME) Funds for FY 2011/12.

The **Public Hearing** will be held on **Tuesday, March 22, 2011 at 6:30 p.m.** at the following location:

**City Council Chambers
City of Moreno Valley - City Hall
14177 Frederick Street.
Moreno Valley, CA 92552**

The City anticipates receiving an estimated \$1,795,990 in new CDBG funds and \$603,264 in HOME funds in FY 2011/2012. Please note that at least 70% of the CDBG funding will be allocated to projects serving lower income residents. The public is invited to attend and give input regarding the programs proposed for funding. Once approved at the City level, the programs will be incorporated into the 2010/11 Annual Action Plan and submitted to the Department of Housing and Urban Development (HUD) for Federal approval.

The Action Plan is the annual update to the City's adopted 5-Year Consolidated Plan that covers the period from July 1, 2008 through June 30, 2013 (FY 2008 - FY 2013). The Consolidated Plan is a comprehensive planning document that identifies priority housing and non-housing needs of the community. It also discusses strategies, projects and funding distributions. The City is required to provide HUD the Annual Action Plan that incorporates how new CDBG and HOME funds will be used to facilitate the strategies and address the needs identified in the Consolidated Plan.

For more information, please contact Isa Rojas, Management Analyst in the Economic Development Department, (951) 413-3450.

3-9-11



CITY OF MORENO VALLEY

NOTICE OF PUBLIC COMMENT PERIOD

PROPOSED 2011/2012 ANNUAL ACTION PLAN

As a recipient of both Federal Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) funds, the City of Moreno Valley is required to complete a Consolidated Plan and an Annual Action Plan. The Consolidated Plan is a five-year planning document that addresses the housing and community development needs of the City. The Annual Action Plan details the strategies and programs that the City will undertake during each program year.

The 2011/2012 Annual Action Plan covering activity from July 1, 2011 through June 30, 2012 will be available for public review and comments from March 29, 2011 through April 29, 2011. Public comments will only be received during the fifteen (30) day comment period. Upon completion of the comment period, the Action Plan will be revised to include a summary of public comments received. All comments will be incorporated as addendums to the Report and will be forwarded to the U.S. Department of Housing and Urban Development (HUD).

Copies of the Action Plan will be available for review at the Senior Community Center, the Purchasing Division Office at the City Corporate Yard, the Economic Development Department at City Hall, and the Moreno Valley Public Library. Comments must be submitted to the Economic Development Department. Contact information is listed below.

**ISA ROJAS, MANAGEMENT ANALYST
CITY OF MORENO VALLEY
ECONOMIC DEVELOPMENT DEPARTMENT
NEIGHBORHOOD PRESERVATION DIVISION
14177 FREDERICK STREET
MORENO VALLEY, CA 92552
NP@MOVA.ORG
(951) 413-3450**

ATTACHMENT D – CITIZEN PARTICIPATION PLAN

INTRODUCTION

The City of Moreno Valley is required by law to have a detailed Citizen Participation Plan that contains the City's policies and procedures for public involvement in the Consolidated Plan process and the use of CDBG and HOME funds. The Moreno Valley Citizen Participation Plan was developed pursuant to the U.S. Department of Housing and Urban Development (HUD), Consolidated Submission for Community Planning and Development Programs as required under 24CFR Part 91 and Part 8. The Citizen Participation Plan provides the method and process by which the City of Moreno Valley will encourage citizen participation in the development of its Consolidated Plan. Through this plan, citizens will be afforded the opportunity to provide input regarding housing and community development needs, issues and problems affecting low- and moderate-income persons, development of strategies, project selections and funding distributions.

Encouraging Public Participation

The law requires that the City's Citizen Participation Plan both provide for and encourage public participation, emphasizing involvement by low- and moderate-income people – especially those living in low- and moderate-income neighborhoods (see CDBG Target Area Map). Also, HUD expects the City to take whatever actions are appropriate to encourage participation of minorities, people who do not speak English, and people with disabilities.

The City also maintains a distribution list of persons, agencies, and organizations that have expressed interest in the City's CDBG or HOME programs. Notifications of events, such as the Community Needs meetings, are mailed directly to those on the distribution list to encourage public participation.

The Role of Low Income People

The law declares that the primary purpose of the programs covered by this Citizen Participation Plan is to improve communities by providing: decent housing, a suitable living environment, and growing economic opportunities – all principally for low- and moderate-income people.

The City of Moreno Valley will provide the Riverside County Public Housing Authority with a copy of all Public Notices that are published during the Consolidated Plan process. The City encourages input from residents of the Public Housing developments and via the Public Housing Authority, residents are notified of Community Needs Meetings as well as Public Hearings.

Because the amount of federal CDBG and HOME money the City receives each year is mostly based upon the severity of both poverty and substandard housing conditions in the City, it is necessary that public participation genuinely involve low-income residents who experience these conditions. Genuine involvement by low income people must take place at all stages of the process, including:

- Identifying needs
- Setting priorities among these needs, deciding how much money should be allocated to each high-priority need and suggesting the types of programs to meet high-priority needs
- Overseeing the way in which programs are carried out

The Various Stages of the Consolidated Plan Process

The policies and procedures in this Citizen Participation Plan relate to several stages of action mentioned in law or regulation. In general, these stages or events include:

- A. Identification of community and housing needs (includes Public Hearing)
- B. Preparation of a draft use of funds for the upcoming year, call the Proposed Annual Action Plan (includes Public Hearing)
- C. Formal approval by the City Council of the Final Annual Action Plan (includes Public Hearing)
- D. In the case where is it necessary to change the use of money already budgeted in an Action Plan or change priorities, a Substantial Amendment will be proposed (includes Public Hearing)
- E. After the program year is complete, a Consolidated Annual Performance and Evaluation Report (CAPER) is drafted for public review and comment and then sent to HUD

The Program Year

The program year for Moreno Valley coincides with the City's fiscal year from July 1 through June 30.

PUBLIC NOTICES

Items Covered by the Public Notice Requirement

Advance Public Notice is provided once a federally required document is available for public review and comment, such as the Annual Action Plan or Consolidated Plan. In addition, advance public notice of all public hearings and public meetings is provided at least two weeks in advance.

Public Notice Schedule

Advance notice of all available documents, public hearings and public meetings are provided at least two weeks in advance. The notices will give residents a clear understanding of the event being announced.

The following is a general timeline of when public notices are published:

<i>November-January</i>	Notice of Community Needs Meetings
<i>December-January</i>	Notice of Public Hearing to Identify Community Needs
<i>January</i>	Notice of Funding Availability and Application Process for Funding
<i>March</i>	Notice of Public Hearing to Discuss Proposed Consolidated/Action Plan
<i>March-April</i>	Notice of Consolidated/Action Plan Availability for Public Review
<i>April-May</i>	Notice of Public Hearing to Adopt Final Consolidated/Action Plan
<i>As Needed</i>	Notice of Availability of Amendment to Consolidated/Action Plan
<i>As Needed</i>	Notice of Public Hearing to Amend Consolidated/Action Plan

Forms of Public Notice

Public notices are published in the Press-Enterprise as display advertisements in the non-legal section of the newspaper. A copy of the public notice will be sent to any person or organization requesting to be on the mailing list.

PUBLIC ACCESS TO INFORMATION

As required by law, the City will provide the public with reasonable and timely access to information and records relating to the data or content of the Consolidated Plan, as well as the proposed, actual and past use of funds covered by the Citizen Participation Plan. Regarding the past use of funds, the law requires reasonable public access to records about any uses of these funds during the previous five years.

Also, the City will provide the public with reasonable and timely access to local meetings relating to the proposed or actual use of funds.

Standard Documents

Standard documents include:

- The proposed and final Annual Action Plans
- The proposed and final Five-Year Consolidated Plan
- Proposed and final Substantial Amendments to either an Annual Action Plan or the Five-Year Consolidated Plan
- Consolidated Annual Performance and Evaluation Report
- Citizen Participation Plan

Availability of Standard Documents

All documents are available for immediate public review at City Hall in the Economic Development Department. Copies of standard documents that are not currently posted for public review will be provided to the public within five working days of the request at no cost. Copies of draft documents such as the Action Plan and CAPER are available at several locations for public review. These locations are: the Library, the Senior Center, City Hall, and the Purchasing Division at the City Corporate Yard. Documents remain at each of the for the entire required review time that is specified in the applicable public notice. All final documents are available for public review at City Hall during normal business hours.

PUBLIC HEARINGS

Public hearings are required by law in order to obtain the public's views and to provide the public with the City's responses to public questions and proposals.

The law requires a minimum of two public hearings at two different stages of the process. The City will conduct three public hearings at the following stages of the process: Identifying Needs, Proposed Annual Action Plan, and the Final Annual Action Plan. Public hearings are also conducted for amendments to the Annual Action Plan as needed.

Access to Public Hearings

Public hearings will be held only after there has been adequate notice as described in the Public Notice part of this Citizen Participation Plan, including a display advertisement in the non-legal section of the newspaper at least two weeks prior to the public hearing. Public hearings are conducted during the regularly scheduled City Council meetings.

Public Hearings and Populations with Unique Needs

All public hearings will be held at locations accessible to people with disabilities and provisions will be made for people with disabilities when requests are made within at least five working days prior to a hearing. Translators will be provided for people who do not speak English when requests are made at least five working days prior to a hearing.

Conduct of Public Hearings

To ensure that public hearings are meaningful to residents, each public hearing will be conducted in the presence of the City Council. Each resident choosing to speak will be allowed a maximum of five minutes to make a verbal presentation.

The following is a general timeline of when public hearings are conducted during the process:

<i>January</i>	Public Hearing to Identify Community Needs
<i>March</i>	Public Hearing to Discuss CDBG and HOME Proposed Projects
<i>May</i>	Public Hearing to Adopt Final Consolidated Plan Amendment/ Action Plan
<i>As Needed</i>	Public Hearing to Amend Consolidated Plan Amendment/ Action Plan

STAGES IN THE PROCESS

A. IDENTIFYING NEEDS

Because the housing and community development needs of low- and moderate-income people are so great and so diverse, priorities must be set in order to decide which needs should get more attention and more resources than other needs. This is the basic reason the Consolidated Plan exists.

A public hearing is required to obtain residents' opinions about needs and what priority those needs have. In order to encourage public involvement, two public community needs meetings are conducted in two separate locations to determine the specific needs and priorities identified by low- and moderate-income people. After information is gathered from the community needs meetings, a public hearing is conducted to allow residents to express comments regarding the needs of the City's low- and moderate-income population.

The public hearing about community needs will be completed at least 15 days before a draft Annual Action Plan is published for comment, so that the needs identified can be considered by the City and addressed in the draft Annual Action Plan.

B. THE PROPOSED ANNUAL ACTION PLAN (AND/OR FIVE-YEAR STRATEGY)

The law governing the Citizen Participation Plan calls for improved accountability of jurisdiction to the public. In that spirit and in compliance with the terms of the law, the City will use the following procedures.

At the beginning of this stage, the City will provide the public with an estimate of the amount of CDBG and HOME funds it expects to receive in the upcoming year, along with a

description of the range of types of activities that can be funded with these resources. Also, the public will be given an estimate of the amount of these funds that will be used in ways that will benefit low- and moderate-income people.

The plans of the City to minimize the extent to which low- and moderate-income people will have to leave their homes as a result of the use of these federal dollars (called “displacement”) will also be available at this time. This “anti-displacement plan” will also describe how the City will compensate people who are actually displaced as a result of the use of these funds, specifying the type and amount of compensation.

Technical Assistance

City staff will work with organizations and individuals representative of low- and moderate-income people who are interested in submitting a proposal to obtain funding for an activity. All potential applicants for funding are encouraged to contact City staff for technical assistance before completing a proposal form.

Availability of a Proposed Annual Action Plan

Within 3 weeks after the Public Hearing about the Proposed Annual Action Plan, the City will make the Proposed Annual Action Plan available to the public. In addition, copies will be available at the locations specified above in the section, “Public Access to Information”. A Public Notice will be published at least two weeks prior to the document’s availability. The term “notice” described earlier in the section on “Public Notice” will be used.

Also, the date the Proposed Annual Action Plan is available to the public will be at least 30 days prior to the date a Final Annual Action Plan is approved by the City Council so that low- and moderate-income people will have a reasonable opportunity to examine it and to submit comments.

Public Hearing and Further Action

A public hearing about the Proposed Annual Action Plan will be conducted by the City Council within 30 days before it is available to the public. In addition, this public hearing will be held so that there are at least another 30 days before the Final Annual Action Plan is approved by the City Council so that the elected officials can consider the public’s comments from the public hearing.

In preparing a Final Annual Action Plan, careful consideration will be given to all comments and views expressed by the public, whether given as verbal testimony at the public hearing or submitted in writing during the review and comment period. The Final Annual Action Plan will have a section that presents all comments and explains why any comments were not accepted.

C. THE FINAL ANNUAL ACTION PLAN (AND/OR FIVE-YEAR STRATEGY)

Copies of the Final Annual Action Plan will be made available to the public at City Hall for review. Copies can be obtained free of charge and within five business days of the request.

D. AMENDMENTS TO THE ANNUAL ACTION PLAN (AND/OR FIVE-YEAR STRATEGY)

The Final Annual Action Plan will be amended any time there is: a change in one of the Priorities presented on the HUD-required Priority Table, a change in the use of money to an activity not mentioned in the Final Annual Action Plan, or, a change in the purpose, location, scope of beneficiaries of an activity. The public will be notified whenever there is an amendment.

Substantial Amendments

The following will be considered “substantial” amendments:

1. A change in the use of CDBG or HOME money from one activity to another.
2. The elimination of an activity originally described in the Annual Action Plan.
3. The addition of an activity not originally described in the Annual Action Plan.
4. A change in the purpose of an activity, such as a change in the type of activity or its ultimate objective – for example, a change in a construction project from housing to commercial.
5. A meaningful change in the location of an activity.
6. A change in the type or characteristics of people benefiting from the activity. Among the “characteristics” are:
 - a. The HUD-recognized income levels of: 0-30 percent of area median income; between 31 percent and 50 percent of AMI; and between 51 percent and 80 percent of AMI
 - b. Race or ethnicity
 - c. Renter or homeowner

- d. Single households, small ones (two to four persons), large ones (five or more persons)
7. A 20% percent decrease in the number of low- and moderate-income people benefiting from an activity.
8. A change in the scope of an activity, such that there is a 20% percent increase or decrease in the amount of money allocated to the activity.

Public Notice and Public Hearing for Substantial Amendments

There must be reasonable notice of a proposed Substantial Amendment so that residents will have an opportunity to review it and comment on it. Notice will be made according to the procedures described earlier in this Citizen Participation Plan, with the addition of the following procedures specifically for Substantial Amendments:

1. There will be advance notice of the availability of a proposed Substantial Amendment 30 days before there is a public hearing.
2. A detailed written description of the proposed Substantial Amendment will be made available to the public. Also, copies will be available at the locations indicated earlier in this Citizen Participation Plan under "Public Access to Information".
3. There will be a public hearing regarding the proposed Substantial Amendment conducted by the City Council. This public hearing will not take place until the public has had 30 days to review the proposed Substantial Amendment.
4. The public hearing will be held no sooner than two weeks prior to submission to HUD.
5. In preparing the Final Substantial Amendment, careful consideration will be given to all comments and views expressed by the public, whether given as verbal testimony at the public hearing or submitted in writing during the review and comment period. The Final Substantial Amendment will have a section that presents all comments and explains why any comments were not accepted.

E. CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

Every year the City must send into HUD a Consolidated Annual Performance and Evaluation Report (CAPER) within 90 days of the close of the program year. In

general, the CAPER must describe how funds were actually used and the extent to which these funds were used for activities that benefited low- and moderate-income people.

Public Notice and Public Hearing for Consolidated Annual Performance and Evaluation Report (CAPER)

There must be reasonable notice that the Consolidated Annual Performance and Evaluation Report (CAPER) is available so that residents will have an opportunity to review it and comment on it. Notice will be made according to the procedures described earlier in this Citizen Participation Plan, with the addition of the following procedures specifically for the CAPER:

1. There will be advance notice of the availability of the CAPER two weeks in advance.
2. A complete copy of the CAPER will be made available to the public at the locations indicated earlier in the Citizen Participation Plan under “Public Access to Information”.
3. The public will have a minimum of 15 days to review and provide comments on the CAPER.
4. In preparing the CAPER for submission to HUD, careful consideration will be given to all comments and views expressed by the public. The CAPER sent to HUD will have a section that presents all comments and explains why any comments were not accepted.

Contents of the CAPER

The CAPER provides details on the actions taken by the City during the previous program year and accomplishments completed during the year. Accomplishments include the number of low- and moderate-income persons served and the ethnicity of those individuals. Also provided are expenditures taken during the year and funds spent undertaking each activity.

COMPLAINT PROCEDURES

Comments, suggestions or complaints may be addressed to the Economic Development Department as follows:

City of Moreno Valley
Economic Development Department
Attention: Neighborhood Preservation Division
14177 Frederick Street, P.O. Box 88005
Moreno Valley, CA 92552-0805
(951) 413-34507

All written complaints from the public will receive a meaningful written response within 15 working days after receipt.

CHANGES TO THE CITIZEN PARTICIPATION PLAN

The Citizen Participation Plan can be changed only after the public has been notified of the intent to modify it, and only after the public has had a reasonable chance to review and comment on proposed substantial changes to it.

ATTACHMENT E

COMMUNITY NEEDS ASSESSMENT MEETING

Conference & Recreation Center

November 17, 2010

6:00 p.m. – 7:30 p.m.

Staff members present at the meeting:

Donna Moeller, Housing Program Specialist

Isa Rojas, Management Analyst

Community members present at the meeting:

- Lyn Garcia, Community Action Partnership of Riverside County
- Debra Jackson, Community Action Partnership of Riverside County
- Craig Redelsperger, 211 Riverside County
- Deborah Sutton, CASA – Court Advocates Program (for Foster Youth)

Donna Moeller presented an overview of the CDBG and HOME programs, including historical funding levels, identified priorities, and projects underway in the current program year. Attendees were advised that the purpose of the Needs Assessment Meeting was to solicit input from local residents and service providers on the current needs of the community, and attendees were asked to speak on behalf of their agency or to state their concerns and issues. The reference materials packet was reviewed with attendees.

The following is a summary of needs assessment comments made by meeting attendees:

- It was suggested that future funding consideration go toward foster youth services since there is a substantial need. A detailed discussion centered around the high population of kids in the foster care system, the high number of group homes in Moreno Valley (it was commented that the City has the highest number in the County), and the lack of quality foster parents.
- It was commented that with the economy struggling and the high unemployment, new groups of individuals are seeking assistance for the very first time. It was shared that consequently, telephone referral services to members of the community have increased by 38% with the majority of callers requesting help with utilities and housing.
- There was a recommendation that funding should be directed at addressing the increased demand in certain service areas. It was shared that community members are being turned away at certain service provider organizations, such as food banks -which no longer are receiving donations at the level they were in the past. Emergency services and utility services are in extremely high demand.
- The need for support toward local youth programs, including job training was discussed, as was the need for programs that assist 'special needs' populations (elderly, disabled).
- The need for affordable, safe, childcare in our community was noted, particularly with State budget cuts no longer providing subsidies or licensing.

COMMUNITY NEEDS ASSESSMENT MEETING

Community Senior Center

December 2, 2010

6:00 p.m. – 7:30 p.m.

Staff members present at the meeting:

Donna Moeller, Housing Program Specialist

Isa Rojas, Management Analyst

Community members present at the meeting:

- Robin Goins, Smooth Transition, Inc.
- Monica Lopez, Fair Housing Program Manager with the Fair Housing Council of Riverside County
- Sheena Wright, Foreclosure Prevention/Loss Mitigation Specialist, Fair Housing Council of Riverside County

Donna Moeller presented an overview of the CDBG and HOME programs, including historical funding levels, identified priorities, and projects underway in the current program year. Attendees were advised that the purpose of the Needs Assessment Meeting was to solicit input from local residents and service providers on the current needs of the community, and attendees were asked to speak on behalf of their agency or to state their concerns and issues. The reference materials packet was reviewed with attendees.

The following is a summary of needs assessment comments made by meeting attendees:

- It was reported that fair housing issues continue to rise in Moreno Valley. With many homeowners having lost their homes and now being required to rent, tenant-landlord mediation has spiked. Evictions and repair issues are high, and fair housing discrimination cases involving disabled persons have increased 42%.
- The need for loss mitigation counseling continues especially for repeat services for homeowners with modifications who's employment situation keeps changing. It was also noted that predatory lending and foreclosure prevention scams continue to be prevalent in Moreno Valley.
- With the economy still struggling, it was reported that many Fair Housing clients were in need of rental and utility assistance.
- The Fair Housing Council continues to receive requests for, and to provide, First Time Homebuyer education.
- The need for community education was emphasized particularly life skills education and job training for 'at risk' populations such as emancipated youth. It was a consensus that education is key in preventing future hardships for these individuals.

COMMUNITY NEEDS ASSESSMENT COMMENTS (CONTINUED)

The following is a summary of needs assessment comments made by persons who were unable to attend the meetings but submitted their comments by phone or e-mail:

Community members:

- Judy Neiburger, representing Friends of the Senior Center- MoVan
 - Carolyn Sherman, Assistance League of Riverside
-
- Moreno Valley continues to have a big demand for low cost elderly transportation. It was stated that the MoVan program is ideal for persons on a fixed income and provided for ridership at 1/12 of the cost of other local transportation.
 - Special attention was recommended be paid to the increase in homelessness in the community. It was felt that support for services (particularly food) is needed this upcoming funding year.
 - It was reported that the Assistance League assisted more needy children with school clothes, backpacks and hygiene kits than ever before. With the recession affecting our local area more severely than the rest of the nation, the need is expected to continue.



CITY OF MORENO VALLEY
ECONOMIC DEVELOPMENT DEPARTMENT
NEIGHBORHOOD PRESERVATION DIVISION

Community Development Block Grant
"Subrecipient Monitoring Form"

GENERAL INFORMATION:

Interviewer: _____
Interviewer: _____
Project Name: _____
Location: _____
Agency: _____
Project Began: _____
Project Ended: _____
Date: _____

Name(s) and Title(s) of Person(s) Interviewed:

CDBG REGULATIONS

1. What efforts has the Subrecipient made to ensure that employees understand applicable CDBG program requirements?
2. Does the Subrecipient maintain adequate records to comply with CDBG program requirements, including records retention? (circle one) Yes No
3. Comments:

INTERNAL CONTROLS

1. Has the Subrecipient ensured that financial management systems are maintained in accordance with 24 CFR, Part 85.20(b), as applicable? (circle one) Yes No
If yes, what are the financial management standards?
2. If Subrecipient employees work on both CDBG-eligible and non-CDBG eligible activities, what system does the Subrecipient have in place to ensure that appropriate time distribution records are kept?

3. Is the Subrecipient in compliance with the procurement and/or subcontracting requirements of 24 CFR, Part 85.36, as applicable? (circle one) Yes No

4. Does the Subrecipient significantly review for evidence of conflicts of interest either between the Subrecipient and the employees or between the Subrecipient and its contractors (such as obtaining information on background of staff or board directors and seeking specific assurances from contractors, vendors, and suppliers)? (circle one) Yes No

SUBRECIPIENT AGREEMENT (24 CFR, PART 570.503)

1. Does the "Scope of Services" contain a description of the types and amounts of services or products that will result from use of CDBG funds in sufficient detail to allow for effective monitoring? (circle one) Yes No

Give examples of any deficiencies found:

2. Is a deadline designated for accomplishment of each of the major services or projects identified in the "Scope of Services" (reference 24 CFR, Part 570.503(b)(1))? (circle one) Yes No

Give examples of any deficiencies found:

3. Are the costs for carrying out the "Scope of Services" presented in sufficient detail to provide an adequate base for comparison of planned and actual performance (reference 24 CFR, Part 570.403(b)(1))? (circle one) Yes No

Describe any deficiencies:

4. Are the documents presented and required of the Subrecipient in order to receive payment of CDBG funds adequate to ensure that payments are eligible and reasonable in relation to actual performance and that funds are not being requested in excess of immediate needs? (circle one) Yes No

If not, please explain:

5. Where special documentation is required by the contract or project activity type such as but not limited to, necessary or appropriate determinations, or lead-based paint, is such documentation being maintained by the Subrecipient? (circle one) Yes No

If not, what is lacking?

6. Where special income documentation is required by the contract or project activity type, is such documentation being maintained by the Subrecipient? (circle one) Yes No

Indicate type of verification required:

7. Are current income limits being utilized for the program? (*circle one*) Yes No
8. Does the Agreement specify that program income is to be retained by the Subrecipient? (*circle one*) Yes No
- If yes, what provisions are made to ensure that such income is recorded and reported, and that it will be used in accordance with CDBG regulations?
9. Has Subrecipient been informed of requirement to submit an annual audit of City funded portion for the program per the CDBG Agreement? Audit shall be performed by a Certified Public Accountant or other independent auditor. (*circle one*) Yes No

REPORTING

1. Does the Subrecipient submit reports such as progress or financial reports on a timely and periodic basis (reference 24 CFR, Part 570.503(b)(2))? (*circle one*) Yes No
- If yes, please describe:
2. How frequently are these reports required to be submitted?
3. Has Subrecipient submitted written reports and is the information submitted sufficient to assess Subrecipient performance against the specifications in the "Scope of Services"? (*circle one*) Yes No
- If not, please explain:
4. Is the reported data verified by the City? (*circle one*) Yes No
- If yes, how does the recipient verify actual beneficiaries of a project?

PROGRAM INCOME MONITORING

1. How does the Subrecipient keep track of generated program income and ensure accurate reporting?
2. Has the Subrecipient established revenue accounts to record program income?
3. If program income is retained by Subrecipient, does the Subrecipient check to determine that:
- Program income is being used before new grant funds are requested?
 - Such income is being used in accordance with CDBG rules and regulations?

ON-SITE REVIEW OF SUBRECIPIENTS BY CITY

1. Did a representative from the City of Moreno Valley monitor this Subrecipient on site?
(circle one) Yes No

2. Based on this review, does there appear to be any significant differences between actual performance and the reported performance submitted to the City?
(circle one) Yes No

If yes, please describe:

3. In reviewing the activities and costs charged by the Subrecipient to the CDBG program, are there any costs that appear clearly unreasonable? (circle one) Yes No

4. Are there any expenditures that warrant further review? (circle one) Yes No
If yes, please explain:

SUMMARY

1. Is it evident that the Subrecipient is adequately managing and monitoring its activities?
(circle one) Yes No

If not, try to identify the apparent causes of the problem(s). What action is recommended? Does the Subrecipient need additional technical assistance in any particular area? Are there elements of the Sub-recipients management system that are particularly successful? Please note below any general observations, positive and/or negative, which would contribute to a determination as to whether the Subrecipient has an adequate management and monitoring system in place to ensure compliance with regulations and accomplishment of goals and objectives.

FINDINGS:

CONCERNS:

RECOMMENDED ACTIONS:

POSITIVE OBSERVATIONS:

Signature of Reviewer

Date

Name and Title

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ATTACHMENT E – CDBG PROPOSED PROGRAMS				
CDBG – FY 2011/12 – Total Anticipated Funding \$1,621,245 plus project savings of \$412,830* = \$2,034,075				
ACTIVITY	FY 2010/11 ALLOCATION	FY 2011/12 Request	Staff Recommendation	City Council Recommendation
A. ADMINISTRATION (20% CAP – \$324,249)				
0 Administrative Staffing	\$338,869		\$294,249	
1 Fair Housing Council of Riverside County – Fair Housing Program	\$49,453		\$30,000	
Subtotal	\$388,322		\$324,249	
B. PUBLIC SERVICES (15% CAP – \$243,186)				
2 Community Foreclosure Prevention Workshops	\$44,000	\$30,000	\$28,500	
3 Community Assistance Program (CAP) Food Program	\$30,600	\$34,220	\$29,070	
4 Friends of the Moreno Valley Senior Center (MoVan) Transportation	\$30,000	\$30,000	\$28,500	
5 Problem Orienting Community Policing (POP) Team	\$28,241	na	\$0	
6 Fair Housing Council of Riv County – Foreclosure Prevention Program	\$25,000	\$25,000	\$20,708	
7 Fair Housing Council of Riv County – Landlord Tenant Mediation Program	na	\$15,000	\$14,250	
8 Lutheran Social Services (MARB) Homeless Shelter	\$15,000	\$21,104	\$14,250	
9 Path of Life Transitional Family Shelter (MARB)	\$15,000	\$30,000	\$14,250	
10 PW Enhancement Center – Emergency Services Outreach	\$15,000	\$32,000	\$14,250	
11 Neighborhood Clean-ups	\$15,000	\$15,000	\$14,250	
12 Assistance League/Operation School Bell – Clothes/School Supplies	\$10,000	\$15,000	\$9,500	
13 CASA for Riverside County Foster Youth Program	\$10,000	\$32,535	\$9,500	
14 God's Helping Hand Ministries – Food Bank	\$9,000	\$10,000	\$8,550	
15 Operation Safehouse Shelter for Youth	\$8,000	\$8,000	\$7,600	
16 Alternatives to Domestic Violence Emergency Shelter & Services	\$7,500	\$15,000	\$7,125	
17 Riverside Area Rape Crisis Center – Child Abuse Prevention Program	\$7,500	\$7,500	\$7,125	
18 Moreno Valley Community Educators – Tutoring Program	\$6,400	na	\$0	
19 ARC of Riverside – Disabled Adult Day Care Facility	\$5,000	\$20,000	\$5,000	
20 Salvation Army – Food Program	\$5,000	\$10,900	\$5,000	
21 Catholic Charities – Case Worker	na	\$35,000	\$0	
22 MVUSD High School Intervention Program	na	\$10,500	\$0	
23 Smooth Transition Literacy/Job Readiness/Life Skills Trng.	na	\$48,872	\$0	
24 CVHC – Afterschool/Computer Program	na	\$10,000	\$0	
25 ReNu Hope Foundation – Pre School Bldg. Improvements	na	\$19,413	\$0	
26 Volunteer Ctr. '211' Telephone Referral Service	\$5,000	\$20,000	\$5,000	
27 Volunteer Ctr. Rent Guarantee Program	na	\$63,000	\$0	
28 Alpha & Assoc. – Reclaiming Youth Intervention Program	na	\$50,000	\$0	
29 MCL Music Changing Lives – Youth Intervention/Music Program	na	\$150,000	\$0	
30 Family Service Assoc. Nutrition Program at Supportive Hsg Complex	na	\$50,000	\$0	
31 Leading Our World – Help the Streets Outreach Program	na	\$1,105,000	\$0	
Subtotal	\$291,241	\$1,913,044	\$242,428	
C. PUBLIC FACILITIES & IMPROVEMENTS				
32 Street Improvement Project	na	\$650,000	\$650,000	
Subtotal	\$0	\$650,000	\$650,000	
D. REHABILITATION				
33 Habitat for Humanity	\$10,000	\$10,000	\$10,000	
Subtotal	\$10,000	\$10,000	\$10,000	
E. CODE ENFORCEMENT				
34 Code & Neighborhood Enforcement Program (CDBG Target Areas)	\$263,390	\$263,390	\$263,390	
35 Code Enforcement – Foreclosure 'Strike Team'	\$103,017	\$103,017	\$103,017	
Subtotal	\$366,407	\$366,407	\$366,407	
F. ECONOMIC DEVELOPMENT				
37 MV New Business Incentive Program	\$540,000	\$525,000	\$220,987	
38 Employment Resource Center	\$145,641	\$120,000	\$120,000	
40 Youth Opportunity Center	\$50,000	\$25,000	\$25,000	
41 Family Service Assoc. Meal Program Facilities	\$50,000	\$50,000	\$25,000	
42 Small Business Development Center	\$50,000	\$50,000	\$50,000	
Subtotal	\$835,641	\$770,000	\$440,987	
GRAND TOTAL	\$1,891,611	\$3,699,451	\$2,034,071	

■ New applicants ■ Organization serving homeless population ■ Recommended funding changes over previous year

* Anticipated funding based on 16.5 % reduction of last years actual allocation + past years project savings CANNOT be applied to Public Services. Public Services are capped at 15% of annual grant.

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

Report to City Council

TO: Mayor and City Council

FROM: Michelle Dawson, Acting Assistant City Manager

AGENDA DATE: May 10, 2011 (continued from April 12, 2011)

TITLE: Resolution Regarding the Liberty Quarry

RECOMMENDED ACTION

Staff recommends that the City Council discuss and consider adopting Resolution No. 2011-31 regarding the Liberty Quarry.

BACKGROUND

Granite Construction Incorporated has proposed the Liberty Quarry project in Southwest Riverside County to address the need for construction grade aggregate resources in Southern California. The proposed project would help meet the current and projected demand for construction aggregates in the Temecula-Murrieta area, southwestern Riverside County, and northern San Diego County by providing reliable, high-quality, aggregate products at a maximum permitted production level of 5 million tons per year for a maximum of 75 years. The operations at Liberty Quarry would involve hard rock extraction and crushing, material processing and product production, and truck transport of quarry products to customers.

The proposed site is located within Riverside County at the border to San Diego County, west of I-15, and comprises 414 acres. One hundred fifty-five acres are proposed for the quarry area and associated support operations, 9 acres would be used for an access road and utility pad, and 250 acres would remain as undisturbed open space and would serve as buffers to adjacent properties. The proposed project would include construction of a crushed rock processing plant and associated facilities. The project would also include construction of an additional lane at the southbound I-15 off-ramp at Rainbow Valley Boulevard to accommodate traffic entering the site from the north.

According to the environmental impact report released by Riverside County, in addition to the processing plant and support facilities, the project would include the following specific design features that avoid or reduce potential impacts:

- Open space areas and buffers
- Reclamation plan suitable for habitat open space
- Enclosed equipment to reduce dust and odors
- Low-profile installation, onsite setbacks, and a landscaped berm to limit noise and views
- Water reuse to conserve water resources

Additionally, reclamation activities would be conducted during all phases of development of the Proposed Project, and the post-reclamation end use would be suitable for habitat open space.

In July, 2009, the County of Riverside released the Draft Environmental Impact Report (DEIR) for this project, which assessed potentially significant impacts related to the environment. The DEIR determined that there would be no adverse impact to mineral resources and less than significant impacts with implementation of mitigation measures, design considerations and/or compliance with standard regulations for the following issue areas: aesthetics and light, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, utilities and service systems, and vibration. The DEIR did determine that the proposed project would result in “significant and unavoidable impacts” to air quality and traffic/transportation, which cannot be mitigated to below a level of significance. However it also indicated that those impacts would occur without the project due to diesel trucks traveling long distances to haul aggregate if the quarry is not constructed. As stated in the proposed resolution of support, aggregate supply facilities in Banning, Palm Springs, and Indio currently truck aggregate through the City of Moreno Valley and neighboring communities to meet the needs of Southwest Riverside County and northern San Diego because of a lack of local aggregate. Presumably this traffic would be less frequent if these areas were served by a quarry located closer to that region.

The Draft EIR was circulated for 120 days for review for the period from July 20, 2009 through November 23, 2009 (the review period was extended from the original 60 days to 120 days per public requests) and 232 comment letters and emails were submitted. The Final Environmental Impact Report was released by the County on March 24, 2011 and included no major changes to the Draft EIR.

DISCUSSION

The proposed resolution was placed on the agenda at the direction of members of the City Council. Similar resolutions of support have been adopted by the cities of Banning, Beaumont, and Eastvale. Granite Construction lists among the supporters of the project the Greater Riverside Chambers of Commerce, Moreno Valley Chamber of Commerce, Inland Empire Economic Partnership and the Riverside Building Industry Association.

Proponents of the project cite the need to increase aggregate reserves. According to the California Geological Survey, at the current rate of production the state's permitted aggregate reserves will be exhausted in about 30 years; the California Department of Conservation reports that Western Riverside County currently has less than 16 years of permitted aggregate reserves remaining. California State Geologist John Parrish has stated that increasing demands for a dwindling supply of construction grade aggregates as California's population grows will result in higher market prices for aggregate commodities. This could result in higher project costs for all types of construction.

The City of Temecula passed a resolution opposing the project on March 8, 2011. Temecula's resolution states that the project is incompatible with County development, zoning, and land use standards, as well as the Multiple Species Habitat Conservation Plan, and should be prohibited. The Temecula resolution also states that the project will degrade air quality, increase traffic and negatively impact the economy and that the Draft EIR is "fundamentally misleading and incomplete." On April 12, 2011 City of Temecula Mayor Ron Roberts forwarded a letter to the City Council asking that they not support this project (a copy of the letter is included as Attachment B). Opponents of the Liberty Quarry project include a group of residents from Rainbow, Fallbrook and Southwest Riverside County called "Save our Southwest Hills"; the group's website includes a list of nearly 500 businesses and organizations opposed to the quarry project.

ALTERNATIVES

- 1) Approve the attached resolution in support of the need for and benefits of the Liberty Quarry.
- 2) Not approve the attached resolution in support of the need for and benefits of the Liberty Quarry.
- 3) Direct staff to prepare a different resolution regarding the Liberty Quarry.
- 4) Take no official position with regard to the Liberty Quarry.

FISCAL IMPACT

The proposed resolution will have no fiscal impact to the City.

SUMMARY

Granite Construction Incorporated has proposed the Liberty Quarry project in Southwest Riverside County to address the need for construction grade aggregate resources in Southern California. A proposed resolution in support of the need for and benefits of the Liberty Quarry project was placed on the agenda at the direction of members of the City Council.

COUNCIL GOALS

Public Facilities and Capital Projects: Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

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

ATTACHMENTS/EXHIBITS

- Attachment A: Resolution No. 2011-31 in support of the need for and benefits of Liberty Quarry.
- Attachment B: April 12, 2011 Letter from Temecula Mayor Ron Roberts

Prepared By:
Michelle Dawson
Acting Assistant City Manager

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

RESOLUTION NO. 2011-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, IN SUPPORT OF THE NEED FOR AND BENEFITS OF LIBERTY QUARRY

WHEREAS, access to high quality, affordable construction materials geographically near major transportation corridors is critical to address sustainable growth and development throughout California; and

WHEREAS, California is facing a critical shortage of aggregate materials and reserves that is both substantial and immediate; and

WHEREAS, according to the California Geological Survey, at the current rate of production the state's permitted aggregate reserves will be exhausted in about 30 years, and according to the California Department of Conservation, Western Riverside County currently has less than 16 years of permitted aggregate reserves remaining; and

WHEREAS, the Liberty Quarry could produce up to 5 million tons per year of aggregate, concrete and asphalt and could supply all of the Southwestern portions of Riverside County with enough aggregate for its needs for the next 75 years; and

WHEREAS, a local quarry project such as Liberty Quarry would contribute \$300 million in new sales tax revenue, \$41 million in new property taxes and fees and \$2.2 million in Riverside County taxes annually; and

WHEREAS, the proposed quarry would provide jobs for residents in Southwest Riverside County as well as generate numerous indirect jobs in other parts of Riverside County; and

WHEREAS, aggregate supply facilities in Banning, Palm Springs, and Indio currently truck aggregate through the City of Moreno Valley and neighboring communities to meet the needs of Southwest Riverside County and northern San Diego because of a lack of local aggregate; and

WHEREAS, the proposed Liberty Quarry in Southwest Riverside County would provide these markets with a local source of aggregate and take hundreds of aggregate-hauling trucks off of State Route 60 and Interstate 215.

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

1. That Moreno Valley supports efforts to make available additional aggregate resources nearby major transportation corridors to reduce the impacts of and increased costs related to importing material long distances.

ATTACHMENT A

1

Resolution No. 2011-31
Date Adopted: May 10, 2011

2. Presuming completion of required environmental review and analysis and mitigation of impacts as directed by Riverside County, Moreno Valley supports the Liberty Quarry project and encourages the County to work closely with the other stakeholders in the region and area to ensure that this important facility is permitted and developed for the benefit of all citizens of Riverside County.

APPROVED AND ADOPTED this 10th day of May, 2011.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ATTACHMENT A

2

Resolution No. 2011-31
Date Adopted: May 10, 2011

RESOLUTION JURAT

[Clerk's office will prepare]

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

ATTACHMENT A

3

Resolution No. 2011-31
Date Adopted: May 10, 2011

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Rec'd @ Regular CC mtg
April 12, 2011 from
Betsy Lowrey
City of Temecula
Planning dept.



City of Temecula

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Ronald H. Roberts
Mayor

Chuck Washington
Mayor Pro-Tem

Jeff Comerchero
Council Member

Maryann Edwards
Council Member

Michael S. Naggar
Council Member

951-506-5100
FAX 951-694-6499

April 12, 2011

Honorable Richard A. Stewart, Mayor
City of Moreno Valley
14177 Frederick Street
P. O. Box 88005
Moreno Valley, CA 92552-0805

Dear Mayor Stewart and Council Members:

The City of Temecula understands that the City of Moreno Valley is considering a Resolution in support of the proposed Liberty Quarry project, adjacent to the Santa Margarita Ecological Reserve, at the City of Temecula's southern boundaries. The City of Temecula and its expert consultants have thoroughly reviewed the Environmental Impact Report (EIR) prepared for Liberty Quarry and have commented extensively on the analyses contained within the Environmental Impact Report. Specific to the City of Moreno Valley's concerns described in its proposed Resolution regarding traffic, aggregate and economic benefits, we offer the following information:

Traffic

Any representation that truck traffic will be displaced or reduced through Moreno Valley by Liberty Quarry, or that the proposed Liberty Quarry would take hundreds of aggregate-hauling trucks off of State Route 60 and Interstate 215 is wholly unsubstantiated and not supported by the Liberty Quarry Environmental Impact Report (EIR). To the contrary, the County of Riverside has concluded Liberty Quarry will increase traffic and congestion, not decrease traffic and congestion anywhere in the County including Moreno Valley. The County of Riverside in fact ultimately determined that the report prepared by Granite Construction's consultant upon which makes the claim of reduced or displaced trucks (Appendix K-1 of the EIR) should not be used in any traffic determination within the EIR.

Aggregate

Granite Construction fails to disclose, in its efforts to advocate that there is a "critical" shortage of aggregate, that there is an abundance of high quality aggregate resources widely available throughout all of Southern California. Resources are the total amount of construction aggregate materials that exist naturally in the ground. Neither Riverside County nor San Diego County lack construction aggregate resources as evidenced by the 5.7 billion tons of aggregate identified by the Department of Conservation in Special Report 153 for San Diego County alone. Moreover, there are vast areas throughout the region that have

The Honorable Richard A. Stewart
April 12, 2011
Page 2

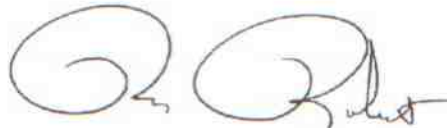
aggregate resources not even yet identified by the California Geological Survey that could be mined which could conservatively exceed 10 times the amount of land already identified. Indeed Riverside County has more aggregate mines than any other County in California. The Liberty Quarry proposed site is not unique in its geological conditions. In fact, the geology throughout Riverside and San Diego Counties contains the same geologic resources for mining aggregate and could provide enormous amounts of high quality aggregate, yet not at such an environmentally sensitive location as the proposed Liberty Quarry site. As released in January 2011, a 120 page comprehensive San Diego Region Aggregate Supply Study, written by the San Diego Association of Governments (SANDAG) and CALTRANS, and reviewed by a panel of 50 experts, including Gary Nolan from Granite Construction, confirmed that: "San Diego has ample sources of the necessary rock types to meet the anticipated future aggregate demand." The Report confirms what SANDAG has asserted for many years that "San Diego County is very rich in its own aggregate resources." Since Granite Construction plans to haul 70 percent of the aggregate to San Diego County, and San Diego County is abundantly rich in its aggregate resources, it makes best sense to locate Liberty Quarry in San Diego County where SANDAG has identified more than 50,000 acres appropriate for the high quality aggregate to meet San Diego's demands.

Benefits

The economic benefit analysis presented by Granite Construction provides no evaluation of the costs associated with the substantial negative impacts of a quarry. A more balanced economic report would include an evaluation of the benefits weighed against the costs of the negative impacts associated with one of the largest open pit gravel mines in the United States located at one of the most highly environmentally sensitive areas of the Southwest Riverside County region. The proposed Liberty Quarry project comes at the expense of hundreds of thousands Riverside County residents.

The City of Temecula respectfully requests that the City of Moreno Valley does not support the Liberty Quarry project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Roberts". The signature is stylized with large, flowing loops.

Ron Roberts
Mayor

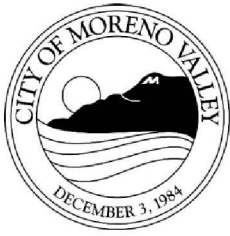
The Honorable Richard A. Stewart
April 12, 2011.
Page 3

cc: Riverside County Supervisor Bob Buster, Chairman, District 1
Riverside County Supervisor John Tavaglione, Vice-Chairman, District 2
Riverside County Supervisor Jeff Stone, District 3
Riverside County Supervisor John Benoit, District 4
Riverside County Supervisor Marion Ashley, District 5

Riverside County Planning Commissioner John Roth, Chairman, District 1
Riverside County Planning Commissioner John Snell, Vice-Chairman, District 2
Riverside County Planning Commissioner John Petty, District 3
Riverside County Planning Commissioner Jim Porras, District 4
Riverside County Planning Commissioner Jan Zuppardo, District 5

City of Temecula Mayor Pro-Tem Chuck Washington
City of Temecula Council Member Mike Naggar
City of Temecula Council Member Maryann Edwards
City of Temecula Council Member Jeff Comerchero
Shawn Nelson, City Manager

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APPROVALS	
BUDGET OFFICER	caf
CITY ATTORNEY	RH
CITY MANAGER	MS

Report to City Council

TO: Mayor and City Council

FROM: Richard Teichert, Financial & Administrative Services Director

AGENDA DATE: May 10, 2011

TITLE: APPROVAL OF ERP SYSTEM REPLACEMENT PROJECT BUDGET AND FUNDING PLAN; AND AUTHORIZATION FOR CITY MANAGER TO EXECUTE CONTRACT WITH NEW WORLD SYSTEMS

RECOMMENDED ACTION

The Finance Subcommittee recommends that the City Council take the following actions:

1. Approve the ERP System Replacement Project Budget and Funding Plan in the amount of \$1,999,060; and
2. Authorize the City Manager to execute a contract and purchase order with New World Systems (NWS) for a one-time project cost not-to-exceed \$1,322,490 and annual maintenance according to the not-to-exceed schedule below:

Year 1 maintenance	No Charge
Year 2 maintenance	\$164,640
Year 3 maintenance	\$174,930
Year 4 maintenance	\$185,220
Year 5 maintenance	\$195,510
Year 6 maintenance	\$205,800

BACKGROUND

The City's current Enterprise Resource Planning (ERP) system, *OneWorld*, was developed by J.D. Edwards and successfully implemented by the City in 1999. While the system has been a reliable performer, announcements marking the end of support for *OneWorld* and advancements in the ERP software sector have caused the City to seek a replacement system. In 2003, J.D. Edwards was acquired by PeopleSoft Inc.;

then in 2005, PeopleSoft was acquired by the Oracle Corporation. Oracle's support for *OneWorld* is not consistent, their vision for the *OneWorld* product is ambiguous, not focused on the government sector, and costly upgrades will be required in order to maintain Oracle's support. Therefore, it is in the City's best interest to find a replacement system for *OneWorld*.

Starting in November 2005 staff undertook a rigorous 24 month process to select a replacement ERP system. The various steps in the process are described below:

- Preparation and issuance of a Request for Proposals (RFP);
- Proposal evaluation;
- Two-day product demonstrations for each of four (4) short-listed vendors;
- Two-day software demonstrations for each of two (2) finalists;
- Comprehensive telephone reference checks with multiple agencies for the two finalists;
- Site visits to evaluate the two finalists' products in a "live" operating environment and to discuss implementation issues with the applicable agencies;
- Corporate visits to the two finalists' headquarters offices to assess the companies' corporate culture, product development, implementation services, technical support, and commitment to customer service;
- Preparation and issuance of a "gap analysis" to give the two finalists an opportunity to address software functionality issues ("gaps") identified by the City and to provide updated pricing.
- Evaluation of responses to "gap analysis" and final pricing.

The City's current Permitting/Community Development system, *Permits Plus*, was developed by Sierra Computer Systems and successfully implemented by the City in 1985. In 1999, Sierra Computer Systems merged with OpenData Systems and the new company was named Accela. While the system has been a reliable performer, Accela has diverted the majority of its development resources to another permitting application, *Accela Automation*, and has actively encouraging customers to implement various versions of the newer product for the past 10 years. *Permits Plus*, along with two other permitting solutions acquired by Accela, are no longer included in Accela's list of available products.

Accela's decision to strategically focus on *Accela Automation* instead of *Permits Plus* has made its support and development very difficult. *Permits Plus* no longer receives product enhancements; this has made integration with our Geographic Information System (GIS) very problematic. There is no existing or planned web-based version of *Permits Plus* which makes modernizing our systems impossible. *Permits Plus* support for the City's use of wireless technologies and digital photos has limitations that the City would like to push beyond, but cannot. Attempts to integrate *Permits Plus* with other systems, particularly the Cashiering and Business Licensing systems, has resulted in many frustrations and required work-arounds that have been less than satisfactory. Additionally, multiple corporate mergers has left Accela with many customer issues surrounding its support while the annual support costs increase at a rate that outpaces all other City systems. All these factors have caused the City to seek a replacement system.

Accumulated depreciation on the *OneWorld* and *Permits Plus* systems is available to purchase and implement a replacement ERP system that encompasses all the features of both the ERP and Community Development systems.

Following this extensive evaluation process, staff has selected New World Systems as the vendor best able to meet the City's long-term needs for an ERP system. Key factors involved in this decision were technology and strategic direction, product functionality, reporting services, and total cost of ownership.

New World Systems (NWS), founded in 1981, is based in Troy, Michigan, with regional offices in 18 states including California. NWS is dedicated to providing software solutions for the public sector, including applications for public safety, court management, and overall public administration. The City is proposing to implement NWS's *Logos.NET* suite of applications, which includes human resources, payroll, budgeting, accounting, purchasing, asset management, project accounting, and employee self-service. Additionally, the agreement gives the City the option to implement NWS's Community Development suite after the completion of the ERP project, contingent on a review and approval of current functionality.

DISCUSSION

Contract negotiations with NWS began on November 28, 2007 but were suspended in December 2007 by the City Manager at the report of an impending financial recession. Over 3 years have passed and it is important that the City address the *OneWorld* end-of-support issues before the ERP system reaches the point of not being supported. It is staff's intent to conclude negotiations and execute a contract by May 10, 2011 to realize the maximum discounts offered by NWS, and so that the project can commence this year. The maximum amount to be expended under the contract, exclusive of any change orders, will be \$1,322,490 for one-time project cost plus annual maintenance of \$164,640 starting in year 2 of the project and ending at \$205,800 in year 6.

Although it has been 3 years and 5 months since the City suspended the project, the RFP process has continued and remains valid, resulting in a competitive bid. The RFP process has remained valid because negotiations have continued since the project was suspended. It has remained the intent of both the City and NWS that negotiations be successfully concluded. Negotiations started in November 2007 with substantive milestones being reached during August 2009, October 2009, October 2010, December 2010, and March 2011. During this time, staff has also monitored the ERP market for changes in other ERP offerings that would warrant reissuing the RFP; no such changes in the ERP market have been found.

It is also noteworthy that the City does not have the necessary lead-time to repeat the RFP process and implement the selected solution before *OneWorld* has reached its end-of-support date. Staff required 24 months with an inter-departmental committee to select the replacement ERP system; budgets for another RFP process do not exist; and the Financial, Payroll and Human Resources (HR) portions of the implementation project are scheduled to take 12 months. With *OneWorld* support ending in December 2013 there is not sufficient time to initiate another competitive process. The City has delayed the ERP replacement project and its associated expenses as long as it can

afford and still implement a new system before the existing system is no longer supported.

Negotiation Progress

Since the initial negotiation in November 2007, staff has negotiated many concessions with NWS to the City's favor. NWS's initial offering to the City consisted of 450 user licenses, 1,200 implementation hours, and 36 modules at a cost of \$1.2 million. That is an average cost of \$2,705 per user license or \$33,808 per module. Staff's negotiations have resulted in 600 user licenses, 1,320 implementation hours, and 59 modules at a cost of \$1.3 million. That is an average cost of \$2,204 per user license or \$22,415 per module.

The additional 23 modules give the City significantly more features in the ERP that will allow staff to be productive even though staff layoffs are planned. The areas of added features include: Finance, Payroll, and HR Business Analytics; Permitting; Code Enforcement, Municipal Inspections; Work Orders; GIS integration; and online access to records for staff and vendors. These additional features were negotiated specifically to enhance staff productivity during a time of declining staff; a reduced workforce cannot maintain current service levels with *OneWorld*.

Project Schedule

The ERP system implementation is expected to begin in October 2011 and last approximately 18 months. It will consist of three separate phases: Phase 1 – Core Financials; Phase 2 – Human Resources and Payroll; and Phase 3 – Community Development. The following is an overview of the project schedule:

Timeframe	Activity/Application
October 2011 – January 2012	Finalize project staffing assignments and revise the City's Chart of Accounts
January – June, 2012	Business Process Review for Core Financial Applications Implement Phase 1 – Core Financials Business Process Review for Human Resources & Payroll
July – December, 2012	Implement Phase 2 - Human Resources & Payroll Business Process Review for Community Development
January – June, 2013	Implement Phase 3 – Community Development (subject to a functional review and approval)

Project Budget

Total funding requested for the ERP replacement system project is \$1,999,060 as itemized below:

• NWS One-Time Project Cost (not-to-exceed)		\$1,322,490
○ Application Software	\$729,200	
○ Implementation Services	593,290	
• Staff Backfill		476,570
• Contingency (11%)		200,000
• Total		<u>\$1,999,060</u>

Funding requested for staff backfill is needed to hire temporary assistance while project team members are working concentrated periods of time on the project and to fund any necessary acting pay. The project team members who will be assigned to the project will have assignments ranging from 6 to 12 months. Providing backfill for these staff members will be a critical component to the success of this project, particularly given the dramatic staffing reductions already implemented at the City and the additional reductions being planned.

Annual Maintenance

ERP systems, like all software systems, require annual maintenance agreements in order to continue using the system, to receive enhancements and fixes, and to enable support calls when problems arise. NWS prices annual maintenance at 16% of the standard application software cost with an automatic increase of 1% per year for 5 years. NWS has agreed to provide the first year of maintenance at no charge; the schedule for annual maintenance is shown below.

Year 1 maintenance	No Charge
Year 2 maintenance	\$164,640
Year 3 maintenance	\$174,930
Year 4 maintenance	\$185,220
Year 5 maintenance	\$195,510
Year 6 maintenance	\$205,800

The City currently spends \$297,892 per year on *OneWorld* and *Permits Plus* related annual maintenance and consultants; these costs will cease once these systems have been replaced. Thus this contract represents a savings in annual maintenance costs even at the end of the contract period.

ALTERNATIVES

1. Approve the ERP System Replacement Project Budget and Funding Plan.
2. Authorize the City Manager to execute a contract with New World Systems for one-time project cost not-to-exceed \$1,322,490 and annual maintenance starting at \$164,640.
3. Do not approve the ERP System Replacement Project Budget. ***This action would prevent replacement of the current ERP system, which has many functionality and support deficiencies, and whose developer has announced an end-of-life support date.***
4. Provide staff with further direction.

Staff recommends Alternative Nos. 1 and 2.

FISCAL IMPACT

Funding for the \$1,999,060 ERP System Replacement project budget is available through the use of depreciation reserves and previously budgeted project funds, as follows:

- Reserves for depreciation (from current ERP system) \$828,966
- Reserves for depreciation (from current Permit system) 1,000,000
- Project Management funds remaining from original project 170,094
- Total project funding sources \$1,999,060

The \$828,966 reserve for depreciation for the current *OneWorld* ERP system is available as a restricted cash source within the Technology Services internal service fund, and has been accumulating since the *OneWorld* system went live in 1999.

A total of \$1 million was allocated in the FY 2005-06 Technology Services budget to replace the City's permitting system following completion of the ERP System Replacement Project. Because NWS has Community Development modules which can be purchased and co-developed more cost-effectively between the City and NWS than by purchasing a new third-party system, this \$1 million can be contributed to the ERP System Replacement Project budget without negatively impacting the City's permitting system.

Due to the availability of the funding sources identified above, approval of the ERP System Replacement project budget will have no impact on the City's General Fund operating budget.

CITY COUNCIL GOALS

Not applicable.

SUMMARY

Following an extensive evaluation process, staff has selected New World Systems (NWS) as the preferred vendor for a replacement ERP system through a competitively bid Request for Proposals (RFP) process. Contract negotiations began in November 2007 and have been ongoing since then. In order for the ERP System Replacement Project to commence in October and to maximize the City's discounts, it is recommended that the City Council approve the project budget of \$1,999,060 and authorize the City Manager to execute a contract with NWS for a one-time project cost not-to-exceed of \$1,322,490 and an annual maintenance budget starting in year 2 of the contract of \$164,460. In addition to the NWS contract, components of the project budget will include staff backfill (\$476,570), and 10% contingency (\$200,000). The ERP system implementation is expected to begin in October 2011 and last approximately 18 months. It will consist of three separate phases: Phase 1 – Core Financials; Phase 2 – Human Resources and Payroll; and Phase 3 – Community Development.

The proposed ERP Replacement Project Budget and Funding Plan have been reviewed and are supported by the Finance Subcommittee.

ATTACHMENTS/EXHIBITS

Exhibit A – New World Systems Logos.NET Standard Software License and Services Agreement dated April 18, 2011

Prepared By:
Steve Hargis
Technology Services Division Manager

Department Head Approval by:
Richard Teichert
Financial & Administrative Services Director

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

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STANDARD SOFTWARE LICENSE AND SERVICES AGREEMENT

April 18, 2011

This *Standard Software License and Services Agreement* which includes the attached Exhibits (“this **Agreement**”) is between **New World Systems® Corporation** (“**New World**”), a Michigan Corporation and the **City of Moreno Valley, California**, (“**Customer**”). This **Agreement** sets forth the terms and conditions under which **New World** will furnish the Licensed Products and will provide certain services described herein to **Customer**. The attached Exhibits include:

- Exhibit AA..... TOTAL COST SUMMARY AND PAYMENT SCHEDULE**
- Exhibit A LICENSED STANDARD SOFTWARE AND FEES**
- Exhibit B..... IMPLEMENTATION AND TRAINING SUPPORT SERVICES**
- Exhibit C STANDARD SOFTWARE MAINTENANCE AGREEMENT**
- Exhibit D NON-DISCLOSURE AND SECURITY AGREEMENT FOR THIRD PARTIES**
- Exhibit E..... DEMONSTRATION SITE DISCOUNT**
- Exhibit F..... DATA FILE CONVERSION ASSISTANCE**
- Exhibit G CUSTOMER REQUESTED STANDARD SOFTWARE ENHANCEMENTS / MODIFICATIONS AND / OR CUSTOM SOFTWARE**
- Exhibit H..... ESCROW OF SOFTWARE SOURCE CODE**
- Exhibit I..... ACCEPTANCE TESTING**

By signing below, each of us agrees to the terms and conditions of this Agreement together with the attached Exhibits. This Agreement contains the complete and exclusive statement of the agreement between us relating to the matters referenced herein and replaces any prior oral or written representations or communications between us. Each individual signing below represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met. If the individual is not so authorized then (s)he assumes personal liability for compliance under this Agreement.

ACKNOWLEDGED AND AGREED TO BY:

NEW WORLD SYSTEMS® CORPORATION
(New World)

CITY OF MORENO VALLEY, CALIFORNIA
(Customer)

By: _____
Larry D. Leinweber, President

By: _____
Authorized Signature Title

By: _____
Authorized Signature Title

Date: _____

Date: _____

The “Effective Date” of this Agreement is the latter of the two dates in the above signature block.

I. DEFINITIONS

The following terms as defined below are used throughout this **Agreement**:

1. **"Authorized Copies"**:
Except as provided in Section II, subparagraph 1.3, the only authorized copies of the Licensed Software and Licensed Documentation are the copies of each application software package defined in this Paragraph. They are:
 - (i) the single copy of the Licensed Software and the related Licensed Documentation delivered by **New World** under this **Agreement**; and
 - (ii) any additional copies made by **Customer** as authorized in Section II, subparagraph 1.2.
2. **"An Authorized User/Workstation"**:
Subject to the number of users specified in Exhibit A, any PC workstation that is connected to access the Licensed Software resident on Computer and that may be logged on to access the programs, interfaces, data, or files created and/or maintained by the Licensed Software.
3. **"Computer"**:
The .NET Server(s) to be located at:
*City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552*
Customer shall identify in writing the serial number of the Computer within ten (10) days of receipt of the Computer or within ten (10) days of the Effective Date, whichever is later. If the Computer is to be relocated, **Customer** shall notify **New World** of the new location in writing prior to the relocation.
4. **"Confidential Information"**:
Information disclosed or obtained by one party in connection with, and during the term of, this **Agreement** and designated as "Confidential" by the party claiming confidentiality at the time of disclosure. Confidential Information does not include any information which was previously known to the other party without obligation of confidence or without breach of this **Agreement**, is publicly disclosed either prior or subsequent to the other party's receipt of such information, or is rightfully received by the other party from a third party without obligation of confidence.
5. **"Customer Liaison"**:
A **Customer** employee assigned to act as liaison between **Customer** and **New World** for the duration of this **Agreement**. Within ten (10) days of the Effective Date, **Customer** shall notify **New World** of the name of the Customer Liaison.
6. **"Deficiency"**:
A failure of a deliverable or service or an omission or defect in a deliverable or service, which causes it not to conform to its specification. Also referred to as Error, Defect, or Malfunction which are synonymous with Deficiency.
7. **"Delivery of Licensed Standard Software"**:
Licensed Standard Software will be delivered in a machine readable form to Customer via an agreed upon network connection, or on appropriate media if requested, as soon as the software is available after the Effective Date.
8. **"Development Software"**:
Standard application software currently under development by **New World** which, if applicable, will be completed and delivered to **Customer** as Licensed Standard Software when available.
9. **"Go Live"**:
The point at which a software system, module or update/upgrade is implemented into active and live operation mode.
10. **"Hourly Rate"**:
As described in this **Agreement**, **New World** shall provide services to **Customer** at the rate of \$150/hour. The hourly rate is protected for 12 months after the Effective Date, at which time the hourly rate shall be the then-current **New World** hourly rate.
11. **"Installation of Licensed Standard Software"**:
Installation of the Licensed Standard Software shall be deemed to occur, for all billings or other events described herein, upon the earlier of:
 - (a) the transfer or loading of the Licensed Standard Software onto a **Customer** server or computer, or
 - (b) thirty (30) days after delivery of the Licensed Standard Software.
12. **"Licensed Custom Software"**:
Any software (programs or portions of programs) developed by **New World** specifically for **Customer's** own use.
13. **"Licensed Documentation"**:
New World User Manuals which includes the current specifications for the Licensed Standard Software and other written instructions relating to the Licensed Software (such as Product Bulletins, installation instructions, and training materials).
14. **"Licensed Products"**:
The Licensed Software, the related Licensed Documentation, and the Authorized Copies of the foregoing.
15. **"Licensed Software"**:
The Licensed Standard Software, Development Software, Upgrades, and Licensed Custom Software provided under this **Agreement**.
16. **"Licensed Standard Software"**:
The current version of **New World** standard and development application software package(s) (in machine readable code) listed in Exhibit A.
17. **"SSMA"**:
The **New World** Standard Software Maintenance Agreement as set forth in Exhibit C.
18. **"Travel Expenses"**:
All actual and reasonable travel expenses incurred by **New World** for trips relating to this project, including but not limited to, airfare, rental car, lodging, mileage, parking/tolls, and daily per diem expenses.
19. **"Travel Time"**:
Actual **New World** employee travel time billed at the Hourly Rate up to, but not exceeding, four (4) hours per each trip relating to this project.

20. "Upgrades":

Any enhanced and/or improved versions of the Licensed Standard Software provided as Licensed Standard Software under Exhibit C of this **Agreement** and released after the execution of this **Agreement**.

II. GENERAL TERMS AND CONDITIONS

1.0 *SINGLE USE LICENSE*

- 1.1 **New World** grants **Customer** a nontransferable, nonexclusive, and non-assignable license to use the Licensed Software only on the Computer and only for its internal processing needs. **Customer** shall have the right and license to use, enhance, or modify the Licensed Software only for **Customer's** own use and only on the Computer and only on an authorized workstation. **New World** will deliver to **Customer** one copy of each application of the Licensed Software (in machine readable form compatible with the specified operating environment) and one copy of the related Licensed Documentation. If **Customer** fails to pay all license fees specified in Exhibit A and the applicable custom software fees, if any, **Customer** shall forfeit the right and license to use the Licensed Products and shall return them to **New World**.
- 1.2 In order to assist **Customer** in the event of an emergency, **Customer** is permitted to make up to two (2) back-up copies on magnetic media of each application of the Licensed Software and one back-up copy of the related Licensed Documentation. These Authorized Copies may be stored as defined above so long as they are kept in a location secure from unauthorized use. **Customer** or anyone obtaining access through **Customer** shall not copy, distribute, disseminate, or otherwise disclose to any third party the Licensed Products or copies thereof in whole or in part, in any form or media. This restriction on making and distributing the Licensed Products or copies of any Licensed Product, includes without limitation, copies of the following:
- (i) Program libraries, either source or object code;
 - (ii) Operating control language;
 - (iii) Test data, sample files, or file layouts;
 - (iv) Program listings; and
 - (v) Licensed Documentation.
- 1.3 Upon written request by **Customer**, and with written permission by **New World**, additional Authorized Copies may be made for **Customer's** internal use only.

2.0 *OWNERSHIP*

- 2.1 The Licensed Products and all copyright, trade secrets and other proprietary rights, title and interest therein, remain the sole property of **New World** or its licensors, and **Customer** shall obtain no right, title or interest in the Licensed Products by virtue of this **Agreement** other than the nonexclusive, nontransferable, non-assignable license to use the Licensed Products as restricted herein.
- 2.2 The license to use any Licensed Custom Software provided under this **Agreement**, if any, is included in this license. **New World** shall have the right to use any data processing ideas, techniques, concepts, and/or know-how acquired by it in the performance of services under this **Agreement** including the development of Licensed Custom Software for the advancement of its own technical expertise and the performance of other Software License and Service Agreements or any other applicable agreements. **New World** shall have, without restriction, the right to use all programs, procedures, information, and techniques that are publicly available, obtained or obtainable from third parties and/or developed independently by **New World** without specific reference to **Customer's** organization.

3.0 *CORRECTION AND SOFTWARE MAINTENANCE ON STANDARD SOFTWARE*

- 3.1 **New World** provides software correction service and maintenance for the Licensed Standard Software during the term of **Customer's** SSMA. See Exhibit C for a description of the SSMA start date and term, the services available and the applicable fees and procedures.

4.0 *WARRANTIES*

- 4.1 **New World** warrants, for **Customer's** benefit only, that the Licensed Standard Software will perform as specified in its user manuals based on the then-current release of the Licensed Standard Software.
- 4.2 **New World** warrants, for **Customer's** benefit only, that it possesses the necessary intellectual rights to license to **Customer** the Licensed Standard Software provided hereunder.

The foregoing warranties do not apply if the Licensed Product(s) have been modified by any party other than **New World**. **New World** does not warrant that the features or functions of the Licensed Software will meet **Customer's** requirements or in any combination or use **Customer** selects. EXCEPT AS SPECIFICALLY PROVIDED IN THIS PARAGRAPH 4.0, AND ITS SUBSECTIONS, **NEW WORLD** EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE LICENSED PRODUCTS, INCLUDING BUT NOT LIMITED TO, THE LICENSED PRODUCTS' CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

5.0 *INSTALLATION AND TRAINING SUPPORT SERVICES*

5.1 As provided for in Exhibit B and concurrent with timely payments, **New World** shall make available to **Customer** qualified representative(s) who will provide installation and training support services for each application of the Licensed Software delivered. See Exhibit B for a description of the services provided and the applicable fees and procedures.

6.0 *CUSTOMER LIAISON AND CUSTOMER RESPONSIBILITIES*

The successful implementation of the Licensed Products into **Customer's** environment requires **Customer's** commitment to and cooperation in the implementation process. Accordingly, **Customer** hereby agrees to the following:

- 6.1 **Customer** understands that the Licensed Software is designed to run in a specified operating environment which includes hardware, software and related equipment not provided by **New World**. **Customer** is responsible for assuring that the appropriate hardware equipment, related components and all cabling are installed timely and are suitable for the successful installation of the Licensed Software.
- 6.2 **Customer** agrees to provide the management interface and support necessary to successfully complete the implementation of the Licensed Software. This support includes upper level management priority setting and timely involvement during and after a change in **Customer's** organization, **Customer's** operations and/or after changes in **Customer's** internal policies or procedures which directly affect the software implementation.
- 6.3 **Customer** shall assign an upper level employee to serve as the Customer Liaison for the duration of the Licensed Software implementation. If **Customer** must replace the Customer Liaison for reasons beyond its control, **Customer** will assign a new Customer Liaison as soon as reasonably possible. **New World** is not responsible for any delay caused directly or indirectly by the reassignment of the Customer Liaison. In addition to other duties and responsibilities, the Customer Liaison shall:
- (i) provide timely answers to **New World's** requests for information;
 - (ii) coordinate a mutually agreeable implementation and training schedule;
 - (iii) have authority to sign for and obligate **Customer** to any matters relating to service requests, design documents, performance test documents and/or delivery and service dates;
 - (iv) in situations where **Customer** participation is required, provide timely input for systems definition, detail design, and use of the software system.
- 6.4 **Customer** is responsible for creating and maintaining its master files, tables and the like which includes accurate data entry, accurate file editing and overall file control to assure successful systems performance.
- 6.5 **Customer** shall provide qualified personnel with sufficient backup to be trained to use the Licensed Software and to interpret the output. Applying the output information in **Customer's** environment is **Customer's** sole responsibility.

7.0 *BILLING AND ADDITIONAL AUTHORIZED WORKSTATION CHARGES*

- 7.1 The attached Exhibits set forth the manner in which fees and payments shall be allocated and made under this **Agreement**. Past due amounts are subject to a service charge of 1.5% per month, which charge **Customer** agrees to pay. To the extent **Customer** imposes additional requirements on **New World** for services other than those expressly provided in this **Agreement**, **New World** retains the right to make additional price adjustments and/or any other adjustments that may be necessitated. Before performing these additional services, **New World** will notify **Customer** that the services are subject to additional charge(s).
- 7.2 If **Customer** wishes to add additional authorized workstations or Licensed Standard Software, **Customer** agrees to pay the additional License fees at the then current software prices in effect.

- SSMA fees shall be increased according to the additional Licensed Standard Software fees on the next annual billing date after the additional workstations and/or Licensed Standard software is added, or as specified in the future contract. With said payments, the license provided in Section II, Paragraph 1.0 permits **Customer's** use of the Licensed Software for the specified workstations.
- 7.3 **Customer** shall notify **New World** if additional authorized workstations need to be added to access the Licensed Software and will pay the additional authorized workstation fees promptly when invoiced.
- 7.4 Any taxes or fees imposed from the course of this **Agreement** are the responsibility of the **Customer** and **Customer** agrees to remit when imposed. If an exemption is claimed by the **Customer**, an exemption certificate must be submitted to **New World**.
- 8.0 *NON-RECRUITMENT OF PERSONNEL*
- 8.1 During, and for a period of twenty-four (24) months after the expiration of, the Standard Software Maintenance Agreement and/or any renewal maintenance agreement, each party agrees not to solicit or hire current or former employees of the other without the other's prior written consent.
- 9.0 *CONFIDENTIAL INFORMATION / NON-DISCLOSURE AGREEMENT*
- 9.1 Subject to the requirements of the Freedom of Information Act (FOIA) and/or other comparable applicable state law, each party shall hold all Confidential Information in trust and confidence for the party claiming confidentiality and not use such Confidential Information absent express written consent by the party claiming confidentiality. The other party agrees not to disclose any such Confidential Information, by publication or otherwise, to any other person or organization. **Customer** agrees to timely notify **New World** of any request(s) made for disclosure of confidential information.
- 9.2 **Customer** hereby acknowledges and agrees that all Licensed Products are Confidential Information and proprietary to **New World**. In addition to the other restrictions set forth elsewhere in this **Agreement** or otherwise agreed to in writing, **Customer** agrees to implement all reasonable measures to safeguard **New World's** proprietary rights in the Licensed Products, including without limitation the following measures:
- (i) **Customer** shall only permit access to the Licensed Products to those employees who require access and only to the extent necessary to perform **Customer's** internal processing needs.
 - (ii) With respect to agents or third parties, **Customer** shall permit access to the Licensed Products only after **New World** has received, approved and returned a fully executed Non-Disclosure Agreement to **Customer** (see Exhibit D). **New World** reserves the right to reasonably refuse access to a third party after it has evaluated the request. **Customer** agrees to provide information reasonably requested by **New World** to assist **New World** in evaluating **Customer's** request to permit third party access to the Licensed Products. In addition to any other remedies, **New World** may recover from **Customer** all damages and legal fees incurred in the enforcement of this provision on third party access;
 - (iii) **Customer** shall cooperate with **New World** in the enforcement of the conditions set forth in the attached Non-Disclosure Agreement or any other reasonable restrictions **New World** may specify in writing in order to permit access;
 - (iv) **Customer** shall not permit removal of copyright or confidentiality labels or notifications from its proprietary materials; and
 - (v) **Customer** shall not attempt to disassemble, decompile or reverse engineer the Licensed Software.
- 9.3 **Customer** agrees that in addition to any other remedies that may be available at law, equity or otherwise, **New World** shall be entitled to seek and obtain a temporary restraining order, injunctive relief, or other equitable relief against the continuance of a breach or threatened breach of this paragraph 9.0 on Confidentiality and Non-Disclosure without the requirement of posting a bond or proof of injury as a condition for the relief sought.
- 9.4 If **Customer** receives a request for documents pursuant to the California Public Records Act relating to the Licensed Products, **Customer** shall notify **New World** of such request prior to disclosing the requested documents. Should **New World** object to the release of the requested records, **New World** must provide that objection to the **Customer** in writing within five (5) days and file any necessary action to prevent the disclosure of the requested records. **New World** is wholly responsible for

- determining and defending what is confidential and acknowledges that **Customer** must timely respond to all Public Records Act requests within ten (10) days.
- 9.5 **New World** agrees that all data supplied by **Customer** to **New World** shall remain Confidential and shall be stored in a secure location for any purpose related to this **Agreement**. **Customer** data shall not be retained any longer than necessary and shall be deleted immediately upon completion of the task for which it was provided.

10.0 *LIMITATION OF LIABILITY AND RECOVERABLE DAMAGES*

New World's entire liability and **Customer's** exclusive remedies are set forth below:

- 10.1 For any claim relating to the non-conformance or imperfection of any licensed software provided under this **Agreement**, **New World** will correct the defect so that it conforms to the warranties set forth in Section II, subparagraph 4.1; or if after repeated attempts to correct the non-conformity, **New World** is unable to correct the non-conformity, then **Customer** may recover its actual damages subject to the limits set forth in subparagraph 10.2 below. For any other claim arising under or in connection with this **Agreement**, **Customer** may recover its actual damages subject to the limits set forth in subparagraph 10.2 below.
- 10.2 **New World's** total liability to **Customer** for all claims relating to the Licensed Products and this **Agreement**, including any action based upon contract, tort, strict liability, or other legal theory, shall be limited to **Customer's** actual damages and in no event shall **New World's** liability exceed the Exhibit A Licensed Standard Software fees paid to **New World**.
- 10.3 **New World** shall not be liable for any special, indirect, incidental, punitive, exemplary, or consequential damages, including loss of profits or costs of cover, arising from or related to a breach of this **Agreement** or any order or the operation or use of the Licensed Products including such damages, without limitation, as damages arising from loss of data or programming, loss of revenue or profits, failure to realize savings or other benefits, damage to equipment, and claims against **Customer** by any third person, even if **New World** has been advised of the possibility of such damages. **New World's** liability for any form of action shall only apply after any and all appropriate insurance coverage has been exhausted.
- 10.4 If it is determined that a limitation of liability or a remedy contained herein fails of its essential purpose, then the parties agree that the exclusion of incidental, consequential, special, indirect, punitive, and/or exemplary damages is still effective.

11.0 *INTEGRATION WITH U.S. COPYRIGHT ACT*

- 11.1 In addition to all other provisions provided under this **Agreement**, **Customer** agrees to be bound by and to comply with any and all provisions of the U.S. Copyright Act (*The Copyright Act of 1976, U.S.C. Sections 101-810 (1976) as amended*). If a provision of the U.S. Copyright Act and this **Agreement** conflict, the more restrictive of the two applies. If it cannot be determined which is the more restrictive, then the provision within this **Agreement** shall apply.

12.0 *INDEPENDENT CONTRACTOR*

- 12.1 **New World** is an independent contractor. The personnel of one party shall not in any way be considered agents or employees of the other. To the extent provided for by law, each party shall be responsible for the acts of its own employees.
- 12.2 Each party shall be responsible for Workers' Compensation coverage for its own personnel.

13.0 *INSURANCE REQUIREMENTS*

New World shall not commence work under this **Agreement** until it has obtained the insurance required under this paragraph.

- 13.1 **Workers' Compensation Insurance:** **New World** shall procure and maintain during the term of this **Agreement**, Workers' Compensation Insurance for all of its employees who engage in the work to be performed.
- 13.2 **Liability and Property Insurance – Comprehensive Form:** **New World** shall procure and maintain during the term of this **Agreement**, Liability and Property Damage Insurance in an amount not less than \$1,000,000 on account for each accident; and in an amount not less than \$1,000,000 for each accident for damage to property.
- 13.3 **Automobile Liability Insurance:** **New World** shall procure and maintain during the term of this **Agreement**, Hired and Non-Ownership Motor Vehicle Bodily Injury and Property Damage Insurance

in an amount not less than \$1,000,000 for injuries, including accidental death, to each person; and, subject to the same limit for each person, in an amount not less than \$1,000,000 for each accident; and in an amount not less than \$1,000,000 on account for each accident for damage to property, provided however that the combined single limit for all automotive related claims shall not exceed \$1,000,000.

14.0 DISPUTE RESOLUTION PROCEDURE

14.1 Any dispute or controversy arising out of or relating to this **Agreement**, or breach thereof, shall be settled by the following procedure.

Level 1: Before entering into Level 2 or Level 3 of this Dispute Resolution Procedure (DRP), the **Customer** shall enter into a series of management meetings for the purpose of resolving the dispute or controversy through normal business management practices. The series of meetings, consisting of not less than two face-to-face meetings, must be held between upper-level managers of both **Customer** and **New World**. Both parties agree to put forth their best efforts in these meetings. The meetings shall be held at **Customer's** offices. The Level 1 period shall begin when one party gives notice to the other by certified mail that it is entering into this Level 1 procedure to resolve the dispute.

Level 2: Only after the parties have completed Level 1 of the DRP without resolving the dispute or controversy and before entering into Level 3 of the DRP, the **Customer** and **New World** shall enter into a mediation process. The mediation process is defined as follows:

Either party may commence mediation by providing to JAMS, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS and with one another in selecting a mediator from a panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in joint mediation costs. Mediation will take place in the JAMS Dispute Resolution Center in Southern California. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by any mediator or JAMS employees or agents, are confidential, privileged and inadmissible for any purpose, in any litigation or other similar proceeding between the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

Level 3: Only after the completion of both Levels 1 and 2 above without a satisfactory resolution of the dispute or controversy, either party may bring suit in the United States District Court, Central District of California, Eastern Division so long as subject matter jurisdiction is met. In the event subject matter jurisdiction is not met, either party may bring suit in a court of appropriate jurisdiction. Each party shall bear the cost of their own legal expenses if Level 3 is used.

15.0 TERMINATION

15.1 **By Customer:** If **New World** fails to provide the Licensed Software as warranted in accordance with the terms of this **Agreement**, **Customer** may at its option terminate this **Agreement** with ninety (90) days written notice as follows:

- (i) The termination notice shall provide a detailed description (with examples) of any warranty defects claimed;
- (ii) **New World** shall have ninety (90) days from receipt of said notice to correct any warranty defects in order to satisfy the terms of this **Agreement**;
- (iii) During the ninety (90) day cure period, **Customer** shall apply sound management practices and use its best efforts to resolve any issues or obstacles – including cooperating with **New World** and reassigning personnel if necessary to improve the working relationship;
- (iv) At the end of ninety (90) days unless the termination has been revoked in writing by **Customer**, the **Agreement** terminates.

15.2 **By New World:** If **Customer** fails to make prompt payments to **New World** when invoiced, or if **Customer** fails to fulfill its responsibilities under this **Agreement**, including but not limited to those outlined in Section II, Paragraph 6.0, then **New World** may at its option terminate this **Agreement** with written notice as follows:

- (i) The termination notice shall define the reason for termination;
 - (ii) If the cited reason for termination is **Customer's** failure to make prompt payment, **Customer** shall have ten (10) days from receipt of said notice to make payment in full for all outstanding invoiced payments due;
 - (iii) If the cited reason for termination is **Customer's** failure to fulfill its responsibilities, **Customer** shall have ninety (90) days from receipt of said notice to correct any actual deficiencies in order to satisfy the terms of this **Agreement**;
 - (iv) During the applicable cure period, **New World** will use sound management practices and its best efforts to resolve any issues or obstacles – including the reassignment of personnel if necessary to improve the working relationship;
 - (v) At the end of the applicable cure period, unless the termination has been revoked in writing by **New World**, the **Agreement** terminates.
- 15.3 In the event of termination by either party, **New World** shall continue to provide its services, as previously scheduled, through the termination date and the **Customer** shall continue to pay all fees and charges incurred through the termination date as provided in the attached Exhibits.
- 15.4 Upon termination, **Customer** shall return to **New World** all Licensed Products, including any copies provided to or created by **Customer** under this **Agreement**.
- 15.5 Nothing in this paragraph on termination is intended to infer that either party has or does not have a claim for damages.
- 15.6 The Terms and Conditions relating to ownership, warranties, non-recruitment of personnel, confidentiality and non-disclosure, limitation of liability and recoverable damages, Copyright Act, dispute resolution and the General provisions (18.0), survive termination.

16.0 *PATENT AND TRADEMARK INDEMNIFICATION*

New World agrees to indemnify and save the **Customer** harmless from and against any and all judgments, suits, costs, and expenses subject to the limits set forth in this **Agreement** resulting from any alleged infringement of any patent or copyright arising from the licensing of the Licensed Standard Software pursuant to this **Agreement**, provided that **Customer** has notified **New World** in writing of such allegation within thirty (30) days of the date upon which the **Customer** first receives notice thereof. **New World's** obligation to indemnify and save **Customer** harmless under this paragraph is void if the claim of infringement arises out of or in connection with any modification made to the Licensed Standard Software or any use of the Licensed Standard Software not specifically authorized in writing by **New World**.

17.0 *NOTICES*

- 17.1 Notices to **Customer** shall be deemed effective when sent by Registered or Certified U.S. Mail to the business address of the **Customer**.
- 17.2 Notices to **New World** shall be deemed effective when sent by Registered or Certified U.S. Mail to the following address (or to any other address so specified by **New World**):
- New World Systems Corporation
888 West Big Beaver, Suite 600
Troy, Michigan 48084
Attention: President

18.0 *GENERAL*

- 18.1 This **Agreement** is the entire agreement between the parties superseding all other communications, written or oral, between the parties relating to the subject matter of this **Agreement**. **This Agreement may be amended or modified only in writing signed by both parties.**
- 18.2 This **Agreement** is governed by the laws of the State of California and it shall be binding on the successors and assigns of the parties.
- 18.3 Failure to enforce any provision of this **Agreement** shall not be deemed a waiver of that provision or any other provision of this **Agreement**.
- 18.4 No action, regardless of form, arising out of the services performed or Licensed Products delivered hereunder, may be brought by either party more than two (2) years after the cause of action has accrued.

- 18.5 The paragraph headings which appear herein are included solely for convenience and shall not be used in the interpretation of this **Agreement**. Any provision of this **Agreement** determined to be invalid or otherwise unenforceable shall not affect the other provisions, which other provisions remain in full force and effect.
- 18.6 This **Agreement** is entered into solely for the benefit of **New World** and **Customer**. No third party shall have the right to make any claim or assert any right under it, and no third party shall be deemed a beneficiary of this **Agreement**.
- 18.7 Notwithstanding anything contained herein to the contrary, these terms and conditions may be extended to other public entities for purchase of the license and/or services described under this **Agreement**. To the extent they are required, the parties shall execute any requisite cooperative agreements authorizing such extension of terms and conditions. If this is done, **Customer** assumes no authority, liability, or obligation on behalf of any other public entity that may use this **Agreement** for any such purchase.
- 18.8 Other integrated licensed software and services from **New World** may be purchased by **Customer** under the terms and conditions of this **Agreement**.

EXHIBIT AA
TOTAL COST SUMMARY AND PAYMENT SCHEDULE

I. Total Cost Summary: Licensed Standard Software, Implementation Services, And Third Party Products

<u>DESCRIPTION OF COST</u>	<u>COST</u>
A. LICENSED STANDARD SOFTWARE as further described in Exhibit A	\$528,400
1. Licensed Standard Software	\$748,000
2. Less Demonstration Site Discount	(149,600)
3. Less Contract Signing Discount if Agreement is Executed by 5/10/11	(70,000)
B. IMPLEMENTATION SERVICES	421,900
1. PROJECT MANAGEMENT as further described in Exhibit B	
2. INTERFACE INSTALLATION SERVICES as further described in Exhibit B	
3. IMPLEMENTATION AND TRAINING SERVICES as further described in Exhibit B	
4. OTHER IMPLEMENTATION SERVICES as further described in Exhibit B	
5. DATA FILE CONVERSION ASSISTANCE SERVICES as further described in Exhibit F	
6. CUSTOM SOFTWARE/MODIFICATION SERVICES as further described in Exhibit G	
C. ESCROW OF SOFTWARE SOURCE CODE FEE	3,000
1. Source Code Escrow as further described in Exhibit H	
D. NEW WORLD SYSTEMS' EXECUTIVE CUSTOM CONFERENCE ATTENDANCE	1,890
1. CONFERENCE ATTENDANCE as further described in Exhibit B	
ONE TIME PROJECT COST:	<u>\$955,190</u>
E. TRAVEL EXPENSES (Estimate) – billed as incurred	\$52,500
F. STANDARD SOFTWARE MAINTENANCE SERVICES – as further described in Exhibit C	
G. SOURCE CODE ESCROW ANNUAL ADMINISTRATIVE FEE – as further described in Exhibit H	\$1,000

PRICING ASSUMES CONTRACT EXECUTION BY MAY 10, 2011.

Exhibit AA / COST SUMMARY AND PAYMENT SCHEDULE**II. Payments for Licensed Standard Software, Implementation Services, and Third Party Products**

<u>DESCRIPTION OF PAYMENT</u>	<u>PAYMENT</u>
A. LICENSED STANDARD SOFTWARE as further detailed in Exhibit A	\$528,400
1. Amount invoiced upon Effective Date (30%)	\$158,520
2. Amount invoiced upon delivery of each Licensed Standard Software (20%)	105,680
3. Amount due upon acceptance of the Financial Management Base Suite as defined in Exhibit I, but no later than 365 days from Effective Date, whichever occurs first (30%)	158,520
4. Amount due upon acceptance of the Human Resources Management Base Suite as defined in Exhibit I, but no later than 365 days from Effective Date, whichever occurs first (20%)	105,680
B. IMPLEMENTATION SERVICES	\$421,900
1. Amount invoiced upon Project Kickoff Meeting (22.5%)	\$94,925
2. Amount invoiced upon delivery of the draft Project Implementation Plan (22.5%)	94,925
3. Amount invoiced upon acceptance of Financial Management Base Suite as defined in Exhibit I, but no later than 365 days from Effective Date, whichever occurs first (22.5%)	94,925
4. Amount invoiced upon acceptance of the Human Resources Management Base Suite as defined in Exhibit I, but no later than 365 days from Effective Date, whichever occurs first (22.5%)	94,925
5. Amount invoiced upon acceptance of project completion or 540 days after the Effective Date, whichever comes first (10%)	42,200
C. ESCROW OF SOFTWARE SOURCE CODE FEE	3,000
1. Escrow One-time set-up fee – invoiced upon Effective Date	3,000
D. EXECUTIVE CUSTOMER CONFERENCE ATTENDANCE	1,890
1. Amount invoiced on July 15, 2011 for the 2011 Conference	1,890
ONE TIME PAYMENTS	<u>\$955,190</u>

- E. TRAVEL EXPENSES (*Estimate) \$52,500*
(These expenses are billed as incurred)
 - 1. 35 trips are anticipated
 - 2. Travel Time for the estimated 35 trips is not included in this estimate and will be billed as incurred.

- F. STANDARD SOFTWARE MAINTENANCE SERVICES – as further detailed in Exhibit C

- G. SOURCE CODE ESCROW FEES \$1,000
 - 1. Annual Administrative Fee – first year invoiced upon Effective Date. Subsequent year's Annual Administrative Fees will not increase more than 5% over the previous year's Fee.

ALL PAYMENTS ARE DUE WITHIN THIRTY (30) DAYS FROM RECEIPT OF INVOICE.

Billings are applied ratably to each deliverable included under the total one-time cost. If any deliverable is subject to sales tax, the tax will be calculated and added as applicable to each billing.

EXHIBIT A
LICENSED STANDARD SOFTWARE AND FEES

License Fee for Licensed Standard Software And Documentation Selected By Customer:

LOGOS.NET STANDARD APPLICATION SOFTWARE ^{1,2,3}		
ITEM	DESCRIPTION	INVESTMENT

FINANCIAL MANAGEMENT

- 1. Logos.NET Financial Management Base Suite**
 - General Ledger
 - Budget Management
 - Annual Budget Preparation
 - Accounts Payable
 - Revenue/Cash Receipting
- 2. Logos.NET Additional Financial Management Software**
 - Asset Management
 - Project Accounting
 - Misc. Billing & Receivables
 - Government (GASB) Reporting
 - Bank Reconciliation
 - Work Orders
- 3. Expanded Revenue Collections**
 - 3rd Party Receivables Interface (Batch)
 - PC Cash Register Interface
- 4. Logos.NET Procurement Management Suite**
 - Purchasing Base
 - Requisition Processing
 - Contract Accounting



PAYROLL & HUMAN RESOURCES SUITE

- 5. Logos.NET Human Resources Management Base Suite**
 - Payroll Processing
 - Personnel Management
 - Position Control
- 6. Logos.NET Human Resources**
 - Employee Event Tracking
 - Personnel Action Processing
- 7. Logos.NET Benefits Management**
 - Benefits Administration
 - Employee Retirement Tracking
- 8. Logos.NET Additional Payroll & HR Modules**
 - Applicant Tracking
 - Position Budgeting
 - Benefit Tracking (Non-Employee)



Exhibit A / LICENSED STANDARD SOFTWARE AND FEES

eSUITE

- 9. eSuite Base Software**
- 10. eFinance**
 - eSupplier
- 11. eHR**
 - eEmployee
 - eTimesheets
 - eBenefits Administration
 - eRecruit



BUSINESS ANALYTICS

- 12. Finance Analytics**
 - Includes 10+ users
- 13. Human Resource/Payroll Analytics**
 - Includes 5-6 users



AUTHORIZED USERS

- 14. Site License for up to 600 Authorized Users ⁴**

NEW WORLD STANDARD SOFTWARE LICENSE FEE	748,000
Demonstration Site Discount	(149,600)
Contract Signing Discount is Agreement is Executed by 5/10/11	(70,000)
TOTAL SOFTWARE LICENSE FEE ^{5,6}	\$528,400

Note: A Site License is included for this solution. This Site License entitles the City of Moreno Valley, CA, to 600 authorized users for the Standard Software licensed in Exhibit A, to be divided up between applications. The Site License is available to only the affiliated Public Administration agencies within the City of Moreno Valley, CA.

Exhibit A / LICENSED STANDARD SOFTWARE AND FEES

ENDNOTES

- ¹ *Personal Computers must meet the minimum hardware requirements for New World Systems' Logos.NET product. Microsoft Windows XP or greater with IE 7.0 or greater is the required operating systems for all client machines. Windows 2008 Server is required for the Application Server(s), Web Server(s) and Database Server. Microsoft SQL Server 2008 is required for the Database Server.*
- ² *New World Systems' Logos.NET product requires Microsoft Windows 2008 Server and Microsoft SQL Server 2008 including required Client Access Licenses (CALs) and Windows Server 2008 External Connector (EC) licenses for applicable Microsoft products. Servers must meet minimum hardware requirements provided by New World Systems.*
- ³ *Suggested minimum: 100MB Ethernet Network. 10MB CAT5 Ethernet Network may have less than adequate response time. Further consultation would be required to assess your network.*
- ⁴ *Additional cost per group of 5 for authorized users is \$5,000.*
- ⁵ *Prices assume that all software proposed is licensed.*
- ⁶ *Any taxes or fees imposed are the responsibility of the purchaser and will be remitted when imposed.*

Exhibit A / OPTIONAL LICENSED STANDARD SOFTWARE AND FEES

Optional Licensed Standard Software Pricing

Customer may license the following software modules at the indicated current list prices for up to eighteen (18) months from the date of execution of this **Agreement**.

OPTIONAL SOFTWARE MODULES

LOGOS.NET STANDARD APPLICATION SOFTWARE ^{1,2,3}		
ITEM	DESCRIPTION	INVESTMENT

COMMUNITY DEVELOPMENT SUITE

- 1. Logos.NET Community Development Software**
 - Business Licensing
 - Parcel Management
 - Permits
 - Municipal Inspections
 - Project Planning
 - Code Enforcement
 - Requests for Services Tracking
 - Special Assessments (development)
- 2. Logos.NET Additional Community Development Modules**
 - GIS Integration ⁴
 - Community Development
 - Business Licensing (4 screens)*
 - Parcel Management (7 screens)*
 - Permits (2 screens)*
 - Municipal Inspections (4 screens)*
 - Code Enforcement (3 screens)*
 - Requests for Services Tracking (1 screen)*
 - Financial Management
 - Asset Management (2 screens)*
 - Work Orders (1 screen)*

eSUITE

- 3. eFinance**
 - ePayments
- 4. eCommunity**
 - eParcels (development)
 - ePermits
 - eLicense
 - eRequest

Exhibit A / OPTIONAL LICENSED STANDARD SOFTWARE AND FEES

BUSINESS ANALYTICS

5. Community Development Analytics

- Includes 2 users

NEW WORLD STANDARD SOFTWARE LICENSE FEE	\$281,000
Demonstration Site Discount	(56,200)
Contract Signing Discount if Agreement is Executed by 5/10/11	(25,000)
TOTAL SOFTWARE LICENSE FEE ^{5,6}	\$199,800

Note: Training and Support Services cost as well as Maintenance (SSMA) costs for these optional modules are not included.

ENDNOTES

- ¹ *Personal Computers must meet the minimum hardware requirements for New World Systems' Logos.NET product. Microsoft Windows XP or greater with IE 7.0 or greater is the required operating systems for all client machines. Windows 2008 Server is required for the Application Server(s), Web Server(s) and Database Server. Microsoft SQL Server 2008 is required for the Database Server.*
- ² *New World Systems' Logos.NET product requires Microsoft Windows 2008 Server and Microsoft SQL Server 2008 including required Client Access Licenses (CALs) and Windows Server 2008 External Connector (EC) licenses for applicable Microsoft products. Servers must meet minimum hardware requirements provided by New World Systems.*
- ³ *Suggested minimum: 100MB Ethernet Network. 10MB CAT5 Ethernet Network may have less than adequate response time. Further consultation would be required to assess your network.*
- ⁴ *GIS integration currently supports either ESRI's ArcIMS or ArcGIS Server software; the ArcIMS and ArcGIS Server software and any services related to the installation and setup of ArcIMS or ArcGIS are not included in this proposal. The ArcIMS or ArcGIS Server software would need to be purchased, installed and setup separately.*
- ⁵ *Prices assume that all software proposed is licensed.*
- ⁶ *Any taxes or fees imposed are the responsibility of the purchaser and will be remitted when imposed.*

EXHIBIT B
PROJECT MANAGEMENT, IMPLEMENTATION AND
TRAINING SUPPORT SERVICES

1. Project Management Services

New World shall act as Project Manager to assist **Customer's** management in implementing the Exhibit A software. This responsibility will include documenting, coordinating and managing the overall Implementation Plan with **Customer's** management and the Customer Liaison. Project Management Services include:

- a) a summary level Implementation Plan;
- b) a detail level Implementation Plan;
- c) revised Implementation Plans (if required);
- d) monthly project status reports; and
- e) project status meetings
 - a project review (kickoff) meeting at **Customer's** location
 - progress status meeting(s) will occur during implementation via telephone conference or at **Customer's** location; and
 - a project close-out meeting at **Customer's** location to conclude the project.

The implementation services fees described in Exhibit AA include Project Management fees for a period up to 18 months after the Effective Date.

2. Implementation and Training Support Hours Recommended

It is recommended that appropriate support hours are allocated for all Licensed Standard Software listed in Exhibit A to insure successful implementation of and training on each application package. Based on the Licensed Standard Software listed on Exhibit A, up to **1,020** hours of **New World** implementation and training support services have been allocated for this project. Excess hours requested shall be billed at the Hourly Rate. Avoiding or minimizing custom or modified features will aid in keeping the support costs to the amount allocated. **Customer** agrees to reimburse **New World** for support trips canceled by **Customer** less than ten (10) days before the scheduled start date to cover **New World's** out-of-pocket costs. The recommended implementation and training support services include:

- a) implementation of each package of Licensed Standard Software; and
- b) **Customer** training and/or assistance in testing for each package of Licensed Standard Software.

The project management, implementation and training support services provided by **New World** may be performed at **Customer's** premises and/or at **New World** national headquarters in Troy, Michigan (e.g., portions of project management are performed in Troy).

3. Other Service Fees

Registration for two (2) Customer participants to the 2011 New World Systems' Executive Customer Conference to include two (2) nights stay at the Conference Hotel on specified conference dates, conference registration and meals. Participation does not include Customer's travel cost, local transportation cost or any other miscellaneous expense incurred by Customer. These fees are non-refundable and may not be used toward a conference other than those specified in payment terms.

Exhibit B / PROJECT MANAGEMENT, IMPLEMENTATION AND TRAINING SUPPORT SERVICES**4. Interface Installation Service**

New World shall provide interface installation services as described in this paragraph below. These services do not include hardware and/or third party product costs which shall be **Customer's** responsibility, if required. Whenever possible, these services will be done remotely, resulting in savings in Travel Expenses and Time. If on-site installation and training is required, **Customer** will be responsible for the actual Travel Expenses and Time. The services include the following interfaces.

- a) Bank Reconciliation
- b) 3rd Party Receivables (Batch)

5. Hardware Quality Assurance Service

New World shall provide Hardware Systems Assurance of **Customer's** Logos.NET server(s). These services do not include hardware and/or third party product costs which shall be **Customer's** responsibility, if required. Whenever possible, these services will be provided remotely, resulting in savings in travel expenses and time. If on-site installation is required, **Customer** will be responsible for the actual travel expenses and time.

- a) Hardware Quality Assurance Services (Standard) Environment:
Hardware Systems Assurance and Software Installation:
 - Assist with High Level System Design/Layout
 - Validate Hardware Configuration and System Specifications
 - Validate Network Requirements, including Windows Domain
 - Physical Installation of **New World** Application Servers
 - Install Operating System and Apply Updates
 - Install SQL Server and Apply Updates
 - Install New World Applications Software and Apply Updates
 - Establish Base SQL Database Structure
 - Install Anti-Virus Software and Configure Exclusions
 - Install Automated Backup Software and Configure Backup Routines
 - Configure System for Electronic Customer Support (i.e. NetMeeting)
 - Tune System Performance Including Operating System and SQL Resources
 - Test High Availability/Disaster Recovery Scenarios (if applicable)
 - Provide Basic System Administrator Training and Knowledge Transfer
 - Document Installation Process and System Configuration

6. Additional Services Available

Other **New World** services may be required or requested for the following:

- a) additional software training;
- b) tailoring of Licensed Standard Software by **New World** technical staff and/or consultation with **New World** technical staff;
- c) **New World** consultation with other vendors or third parties;
- d) modifying the Licensed Standard Software;
- e) designing and programming Licensed Custom Software; and
- f) maintaining modified Licensed Standard Software and/or custom software.

Customer may request these additional services in writing using **New World's** Request For Service (RFS) procedure (or other appropriate procedures mutually agreed upon by **Customer** and **New World** and will be provided at the Hourly Rate).

EXHIBIT C
STANDARD SOFTWARE MAINTENANCE AGREEMENT (SSMA)

This Standard Software Maintenance Agreement (SSMA) between **New World** and **Customer** sets forth the standard software maintenance support services provided by **New World**.

1. SSMA Period

This SSMA shall remain in effect for a term of six (6) years (the SSMA term) beginning on the delivery of Licensed Standard Software ("Start Date") and ending on the same calendar date at the conclusion of the SSMA term. **New World** shall provide **Customer** no-charge SSMA for a period of 365 days from the Start Date.

2. Services Included

New World shall provide the following services during the SSMA term.

- a) upgrades, including new releases, to the Licensed Standard Software (prior releases of Licensed Standard Software application packages are supported no longer than nine (9) months after a new release is announced by **New World**);
- b) temporary fixes to Licensed Standard Software (see paragraph 6 below);
- c) revisions to Licensed Documentation;
- d) reasonable telephone support for Licensed Standard Software on Monday through Friday from 8:00 a.m. to 8:00 p.m. (Eastern Time Zone); and
- e) invitation to and participation in user group meetings.

Items a, b, and c above will be distributed to **Customer** by electronic means.

Additional support services are available as requested by **Customer** at the Hourly Rate.

3. Maintenance for Modified Licensed Standard Software and Custom Software

Customer is advised that if it requests or makes changes or modifications to the Licensed Standard Software, these changes or modifications (no matter who makes them) make the modified Licensed Standard Software more difficult to maintain. If **New World** agrees to provide maintenance support for Custom Software or Licensed Standard Software modified at **Customer's** request, or for prior releases of **New World's** software, then the additional **New World** maintenance or support services provided shall be billed at the Hourly Rate.

4. Billing

Maintenance costs will be billed annually.

Exhibit C / STANDARD SOFTWARE MAINTENANCE AGREEMENT

5. Additions of Software to Maintenance Agreement

Additional Licensed Standard Software licensed from **New World** will be added to the SSMA ninety (90) days after delivery. Costs for the maintenance for the additional software will be billed to **Customer** on a pro rata basis for the remainder of the maintenance year and on a full year basis thereafter.

6. Requests for Software Correction on Licensed Standard Software

At any time during the SSMA term, if **Customer** believes that the Licensed Standard Software does not conform to the warranties provided under this **Agreement**, **Customer** must notify **New World** in writing that there is a claimed defect and specify which feature and/or report it believes to be defective. Before any notice is sent to **New World**, it must be reviewed and approved by the Customer Liaison. Documented examples of the claimed defect must accompany each notice. **New World** will review the documented notice and when a feature or report does not conform to the published specifications, **New World** will provide software correction service at no charge. A non-warranty request is handled as a billable Request For Service (RFS) provided at the Hourly Rate.

The no-charge software correction service does not apply to any of the following:

- a) situations where the Licensed Standard Software has been changed by anyone other than **New World** personnel;
- b) situations where **Customer's** use or operations error causes incorrect information or reports to be generated; and
- c) requests that go beyond the scope of the specifications set forth in the current User Manuals.

7. Maintenance Costs for Licensed Standard Software Packages Covered for .NET Server(s)

New World agrees to provide software maintenance at the costs listed below for the **New World** Licensed Standard Software packages described in Exhibit A.

<u>Annual Maintenance Cost</u>	
Year 1	No charge
Year 2	\$119,680
Year 3	127,160
Year 4	134,640
Year 5	142,120
Year 6	149,600

EXHIBIT D
NEW WORLD SYSTEMS CORPORATION
NON-DISCLOSURE AND SECURITY AGREEMENT FOR THIRD PARTIES

This **Agreement**, when accepted and executed by **New World**, grants the undersigned the permission to use and/or have limited access to certain **New World Systems® Corporation (New World)** proprietary and/or confidential information.

Installed At: **City of Moreno Valley**
Customer Name

Located At: **14177 Frederick Street**
Moreno Valley, CA 92552

Authorized Signature of Customer:

Name (Please Print or Type)	Title	Signature

In exchange for the permission to use or have access to **New World** proprietary and/or confidential information, including without limitation, **New World** software and/or documentation, the organization and individual whose names appear below, agree to the following:

1. No copies in any form will be made of **New World** proprietary or confidential information without the expressed written consent of **New World's** President, including without limitation, the following:
 - a) Program Libraries, whether source code or object code;
 - b) Operating Control Language;
 - c) Test or Sample Files;
 - d) Program Listings;
 - e) Record Layouts;
 - f) All written confidential or proprietary information originating from **New World** including without limitation, documentation, such as user manuals and/or system manuals; and/or
 - g) All **New World** Product Bulletins and/or other **New World** Product related materials.

2. **New World** software, **New World** documentation, or other proprietary or confidential information shall not be used for any purpose other than processing the records of the **Customer** identified above as permitted in the **Customer's Standard Software License and Services Agreement** with **New World**.

3. The undersigned agree(s) that this **Agreement** may be enforced by injunction in addition to any other appropriate remedies available to **New World**. If it is determined that the money damages caused by the undersigned's failure to comply with the foregoing terms are difficult to ascertain, they are hereby estimated at liquidated damages of no less than three times the then-current License Fees for the License Software provided to **Customer** under the **Standard Software License and Service Agreement** between **Customer** and **New World**.

Agreed and Accepted by Third Party (Organization)

Agreed and Accepted by Third Party (Individual)

Organization: _____

Individual: _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Accepted and Approved by New World Systems Corp.

By: _____

Title: _____

Date: _____

EXHIBIT E
DEMONSTRATION SITE DISCOUNT

New World has provided **Customer** a significant discount in exchange for the privilege of using **Customer's** site for demonstration purposes. Accordingly, after the Licensed Software has been delivered and installed, **Customer** agrees to act as a demonstration site for prospective **New World** customers. **Customer** also agrees to serve as a reference or remote demonstration site on the telephone for prospective **New World** customers. By agreeing to be a demonstration site, **Customer** is not necessarily endorsing the **New World** software and **Customer** will not actively participate in any type of marketing and advertising campaign for or on behalf of **New World**.

Demonstrations will be coordinated with the appropriate **Customer** personnel and will be scheduled to minimize the interruption to **Customer's** operations. **New World** will provide **Customer** reasonable notice for preparation.

EXHIBIT F
DATA FILE CONVERSION ASSISTANCE

New World will provide conversion assistance to **Customer** to help convert the existing data files specified below. If additional files are identified after the contract execution, estimates will be provided to **Customer** prior to **New World** beginning work on those newly identified files.

1. General

- a) This conversion effort includes data coming from one unique data source, not multiple sources.
- b) No data cleansing, consolidation of records, or editing of data will be part of the data conversion effort. Data cleansing, removal of duplicate records, and editing must take place by **Customer** prior to providing the data to **New World**

2. New World Responsibilities

- a) **New World** will provide **Customer** with a conversion design document for signoff prior to beginning development work on the data conversion. No conversion programming by **New World** will commence until **Customer** approves this document.
- b) **New World** will provide the data conversion programs to convert **Customer's** data from a single data source to the **New World Licensed Standard Software** for the specified files that contain 500 or more records.
- c) As provided in the approved project plan for conversions, **New World** will schedule a conversion analysis trip and a separate data conversion testing trip to **Customer's** location. The conversion testing trip for each application is a billable support trip, using standard Exhibit B hours, which is scheduled in conjunction with the delivery of the converted data to the **Customer**.
- d) **New World** will provide the **Customer** up to 3 test sets of the converted data. Additional test sets requested may/will require additional conversion costs.
- e) **New World** will provide the standard conversion record layouts to the **Customer** and convert the available data elements defined in the standard conversion record layouts.
- f) Up to twelve years of historic data will be converted by **New World**.

3. Customer Responsibilities

- a) **Customer** will provide data in standard conversion record layouts as provided by **New World**. Submitted data files must include an accurate count of records contained in the files.
- b) Data will be submitted to **New World** in one of the following formats: AS/400 files, Microsoft SQL Server database, Microsoft Access database, Microsoft Excel Spreadsheet, or an ASCII-format delimited text file. Data and databases will be transferred using the New World ftp site.
- c) **Customer** understands that files or tables containing less than 500 records or table entries will not be converted.
- d) As provided in the project plan for conversions, **Customer** will provide a dedicated resource in each application area to focus on conversion mapping and testing. This includes dedicating a support person(s) whenever **New World** staff is on site regarding conversions. Roughly a one to one commitment exists for **Customer** commitment and **New World** commitment. **Customer** understands that thorough and timely testing of the converted data by **Customer** personnel is a key part of a successful data conversion.
- e) **Customer** agrees to promptly review conversion deliveries and signoff on both the conversion design document and on the final conversion after the appropriate review. Applying the converted data to the production (Live) environment will constitute conversion acceptance by **Customer**.
- f) If the **Customer** cannot provide data in the format defined in New World's standard conversion record layouts then **New World** will map the data to New World's standard conversion record layout at the Hourly Rate. The **Customer** must provide complete file and field definitions for **New World** to map the data.

Exhibit F / DATA FILE CONVERSION ASSISTANCE

4. Files to be converted

Up to 9 files from the following possible sources are included.

Financial

- Vendor Information
- Asset Management (Fixed Assets)
- General Ledger, including Budget, History
- Accounts Receivable History
- Purchase Order History
- Accounts Payable History

Payroll

- Employee Information
- Employee Detailed Check (including deductions, benefits, and accruals) History
- Position Master File

EXHIBIT G
CUSTOMER REQUESTED STANDARD SOFTWARE ENHANCEMENTS / MODIFICATIONS AND / OR
CUSTOM SOFTWARE

1. Definition of Project

New World will provide the **Customer** requested Standard Software Enhancements and/or Custom Software as discussed below to address the **Customer's** requirements. **Customer** agrees to cooperate in not making modifications and enhancements too extensive as defined in the 2(b)(1) procedure below.

An analysis and assessment to verify the scope of effort for the project will be conducted. A revised estimate for the modifications/interfaces may be provided at the conclusion of the assessment. Customer may elect to cancel or proceed with the modifications/interfaces based on the revised estimate.

Capabilities included in the initial scope:

- a) Custom Software/Interfaces
- (1) **The Active Network, Class**: One-way user initiated batch process to import journal transactions from a third party system, Active, to New World's general ledger.
 - (2) **Chameleon**: One-way user initiated batch process to import journal transactions from a third party system, Chameleon to New World's general ledger.
 - (3) **OneWorld**: One-way user initiated batch process to import journal transactions from a third party system, OneWorld, to New World's general ledger.
 - (4) **AP Purchasing Card**: A one-way user initiated batch process to import purchasing card transaction from the bank, or vendor, to New World's accounts payable purchasing card invoices.

With New World providing consultation, Customer is responsible for obtaining technical contacts and/or technical specifications from the third parties involved.

2. Methodology to Provide Enhancements and/or Custom Software

- a) Definition of New World's Responsibility

This project includes the following activities to be performed by **New World**.

- (1) Review of required features with **Customer**. Only items identified in Paragraph 1 above will be provided in this implementation plan.
- (2) Preparation of Requirements Document (RD) to include:
 - Detailed description of the required feature
 - menu samples
 - screen samples
 - report samples
- (3) Programming and programming test.
- (4) On-site training, testing and/or other support services at the Hourly Rate.

For modification requiring over fifty (50) hours of work, **New World** utilizes a design document procedure [see 2(b)(1) below]. For smaller modifications, **New World** uses a Request For Service (RFS) procedure. Both procedures are reviewed with **Customer** at a pre-installation planning meeting. The RFS procedure utilizes a form with a narrative description and supporting documentation if applicable to define the work to be done.

**Exhibit G / CUSTOMER REQUESTED STANDARD SOFTWARE ENHANCEMENTS /
MODIFICATIONS AND / OR CUSTOM SOFTWARE**

b) Implementation Schedule

<u>Activity</u>	<u>Targeted Time Period</u>
(1) Complete Design Review with Customer Staff. Customer agrees to be reasonable and flexible in not attempting to design the modifications to be more extensive than called for in the scope (cost and schedule) of this project.	To be determined
(2) New World submits completed RD to Customer .	To be determined
(3) RD is accepted and signed off by Customer (no programming will be done by New World until the formal sign-off and Customer's authorization to proceed in writing).	To be determined
(4) New World completes programming from RD and provides modified software to Customer .	To be determined
(5) Software Modification Acceptance Test based on RD.	To be determined

c) Customer's Responsibility

All **Customer**-requested changes after RD sign-off must be documented by **Customer** and authorized in writing including potential costs, if any. Additional changes will most likely delay the schedule and may increase the cost.

EXHIBIT H
ESCROW OF SOFTWARE SOURCE CODE

So long as **Customer** pays the applicable fees as described in Exhibit AA, **New World** stipulates that the source code, executable code, and **Customer's** configuration for the Licensed Standard Software, together with the related Documentation as it is or becomes available, will be deposited in an escrow account maintained at a suitable Agent pursuant to an agreement between the Agent and **New World** (the "Escrow Agreement").

New World will deposit into the escrow account copies of source code, executable code, and **Customer's** configuration for Releases and Versions of the Licensed Standard Software and related Documentation within ninety (90) days of the first commercial use of the Releases and Versions.

New World or **New World's** trustee in bankruptcy shall authorize the Agent to make and release a copy of the applicable deposited materials to **Customer** upon the occurrence of any of the following events: (i) The existence of any one or more of the following circumstances uncorrected for more than thirty (30) days: entry of an order for relief under Title 11 of the United States Code; the making by **New World** of a general assignment for the benefit of creditors; or action by **New World** under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation; unless within the specified thirty (30) day period, **New World** provides to **Customer** adequate assurances, reasonably acceptable to **Customer** of its continuing ability and willingness to fulfill its maintenance obligations under this **Agreement**, (ii) **New World** or its successor or assigns has ceased its on-going business operations or that portion of its business operations relating to the sale, licensing and maintenance of the Software.

In the event of release under this **Agreement**, **Customer** agrees that it will treat and preserve the deposited materials as a trade secret of **New World** in accordance with generally accepted standards utilized to safeguard trade secrets against unauthorized use and disclosure. This means their use is for internal processing needs only and no additional copies will be provided to any third parties.

EXHIBIT I
ACCEPTANCE TESTING

Each application of Licensed Software shall be deemed to have been accepted upon the successful completion of either Criteria 1 or Criteria 2 (listed below) whichever occurs first. Acceptance Testing is successful under either Criteria 1 or Criteria 2 unless the Licensed Software application contains a warranty defect which substantially impairs the value and **Customer's** use of the Licensed Software. Any claimed defects must be documented in writing as set forth in Exhibit C.

Criteria 1:

Using Exhibit B support service hours, **New World** shall assist **Customer** in conducting the following software Acceptance Test.

Following published specifications using established procedures and controls, the test criteria includes:

1. the successful entering and editing of a representative sample of transactions;
2. the successful processing of a representative sample of file maintenance transactions for the master file transactions; and
3. the successful generation of standard output reports.

Testing under Criteria 1 may be completed before **Customer** has gone "live" on the application. If Criteria 1 is used, **Customer** agrees to provide the requisite resources to timely complete the Acceptance Test procedure. If **Customer** unreasonably delays the start of the Criteria 1 test procedure for more than fourteen (14) calendar days beyond the designated test date, then successful software acceptance shall be deemed to have occurred for that application of Licensed Software on the fifteenth (15th) day after the designated test date.

Criteria 2:

The Licensed Software shall be deemed accepted ninety (90) days after Customer has had beneficial use of the Licensed Software without occurrence of a Major Failure through its use in a production environment ("live use") that supports Customer operations. Final Acceptance shall not be withheld due to minor or moderate errors.



Total Cost Summary

CITY OF MORENO VALLEY, CALIFORNIA

April 18, 2011

New World Software and Services	FM, HR/PY	CD*	Total
A. Application Software			
1) Licensed Standard Software	\$748,000	\$281,000	\$1,029,000
2) Demonstration Site Discount	(149,600)	(56,200)	(205,800)
3) Contract Signing Discount is Agreement is Executed by 5/10/11	(70,000)	(25,000)	(95,000)
	528,400	199,800	\$728,200
B. Implementation Services			
1) Project Management	421,900	99,000	\$520,900
2) Installation and Training			
3) Interface Installation Service Fee			
4) Windows Operating System Assurance and Software Installation			
5) Data File Conversion (estimate)			
6) Custom Software/Custom Software Interfaces (estimate)			
C. Source Code Escrow Setup Fee			
	3,000		
D. 2011 Executive Customer Conference			
	1,890		
TOTAL ONE TIME COST	\$955,190	\$298,800	\$1,253,990

Maintenance

E. 1) Standard Software Maintenance Agreement (SSMA) (Annual Cost):			
One-Year Warranty from Date of Delivery (Year 1 SSMA)	No Charge	No Charge	No Charge
Year 2 Cost:	\$119,680	\$44,960	\$164,640
Year 3 Cost:	127,160	47,770	174,930
Year 4 Cost:	134,640	50,580	185,220
Year 5 Cost:	142,120	53,390	195,510
Year 6 Cost:	149,600	56,200	205,800
2) Source Code Escrow Maintenance (Annual Cost)			
	\$1,000		\$1,000
3) Estimated Travel			
	\$52,500	\$15,000	\$67,500

* Optional CD pricing will be held for 18 months from Effective Date.

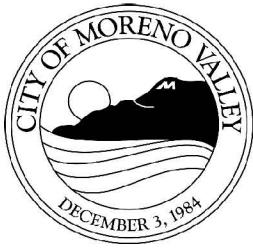
NOTE: New World's cost is based on all of the proposed products and services being obtained from New World. Should significant portions of the products or services be deleted, New World reserves the right to adjust its prices accordingly.

This assumes you are purchasing this directly through New World and not thru an RFP procurement procedure.

Subsequent years of Software Maintenance will include a price increase.

Travel and Living expenses are not included in the Total One Time Cost above. New World estimates there to be 35 trips at \$1,500/trip (may include airfare, hotel, per diem, car rental, gas), or \$52,500. All Travel and Living expenses will be billed on a weekly basis, but only as incurred.

CONFIDENTIAL AND PROPRIETARY



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

Report to City Council

TO: Mayor and City Council

FROM: Robert Hansen, City Attorney

AGENDA DATE: May 10, 2011

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 1.10.080 AND 11.80.060 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO CIVIL CITATIONS AND NOISE ENFORCEMENT.

BACKGROUND

At a prior Study Session, Council members expressed concern over the enforcement policies relating to noise ordinance violations at private parties. Direction was given to the Police Department and City Attorney's Office to provide alternatives which would allow more discretion for an officer to provide a warning to 1st time offenders in lieu of the currently mandated \$100 civil citation.

DISCUSSION

In working with the Police Department, it became evident that two obstacles, one legal and one practical, were preventing officers from issuing warnings to parties that exceeded the parameters for a Noise Disturbance in the Moreno Valley Municipal Code.

The first obstacle was a legal one based on the terms of the police enforcement policy and Section 11.80.060 of the Municipal Code. That section established that a first time offense **shall** be punished by a fine of not less than \$50 if charged as an infraction. The alternative method of issuing a civil citation was frequently used; however, this method resulted in a citation of exactly \$100. In essence, the citing officer had discretion to cite or not to cite but if a citation was issued, the fine was either \$100 as a civil citation or between \$50 and \$100, as imposed by the court, if cited as an infraction.

The second obstacle was more practical in determining how to track the number of warnings that may be given to a particular party when different patrol officers are responding. The police department already has an efficient system for tracking the issuance of civil citations. Accordingly, we thought to develop and propose a system whereby a civil citation could be issued for less than the \$100 fee set by Council. In this manner, a citing officer has the discretion to issue a civil citation with a zero dollar (\$0) fine amount. Although in the form of a citation, it would have the practical effect of a warning. The police department can track this as a first citation so any future responders to the property will know that a first citation has already been issued. They may then proceed to the second citation.

The police department has requested that the fine amounts for second and third offenses remain the same, such that in a case where a first citation was issued with no fine, the second citation would remain at \$200 and the third at \$500 as previously established. This would be established by an enforcement policy adopted by the department.

The proposed amendments to the Municipal Code remove these encumbrances and allow for the procedures set forth above to be implemented. The police department would likewise be amending their policy on noise ordinance enforcement on private residential parties in line with the proposed ordinance changes.

ALTERNATIVES

The City Council may consider the following alternatives:

1. Adopt the proposed changes to Moreno Valley Municipal Code Sections 1.10.080 and 11.80.060, and introduce Ordinance No. 824.
2. Direct staff to make changes to the ordinance and return to a City Council meeting or study session on a later date with a revised Ordinance.
3. Take no action. The existing Ordinances will remain in effect.

FISCAL IMPACT

No significant fiscal impact is anticipated.

ATTACHMENTS/EXHIBITS

1. A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 1.10.080 and 11.80.060 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO CIVIL CITATIONS AND NOISE ENFORCEMENT.

Prepared By:
Paul Early, Deputy City Attorney

Robert L. Hansen City Attorney

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

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ORDINANCE NO. 824

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTIONS 1.10.080 and 11.80.060 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO CIVIL CITATIONS AND NOISE ENFORCEMENT.

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

SECTION 1. MUNICIPAL CODE ADDED:

1.1 Section 1.10.080 of the Moreno Valley Municipal Code is hereby amended to read as follows:

“Section 1.10.080 Civil fines – Amounts and penalties

A. The maximum amount of a civil fine for violating particular provisions of this code shall be set forth in a schedule of civil fines adopted by resolution of the city council. The schedule may include escalating civil fine amounts for repeat code violations occurring within specified periods of time. A fine amount, not to exceed those set forth by resolution, may be imposed or reduced at the discretion of the citing officer or the City Attorney.

B. Where no civil fine amount is specified by resolution of the city council, civil fines shall be in accordance with those specified in Section 1.01.230 of this code.

C. A late payment penalty shall be imposed for civil fines not paid within thirty (30) calendar days of their due date. The amount of the late payment penalty shall be one hundred (100) percent of the total amount of the civil fine owed.

D. In addition to any civil fine and/or late payment penalty, a hearing officer shall also assess administrative costs against the responsible person when it finds that a violation has occurred or that compliance has not been achieved within the time specified in the civil citation and any granted extensions thereof. Administrative costs may include any and all costs incurred by the city in connection with the matter including, but not limited to, costs of investigation, staffing costs incurred in preparation for an administrative hearing and for the administrative hearing itself, and costs for all reinspections of the property related to the violation(s).

E. Unless otherwise prohibited by law or regulation, all civil fines and administrative costs imposed pursuant to the provisions of this chapter shall accrue

Attachment 1

Ordinance No. 824

Date Adopted:

interest at the rate of eight percent until the civil fine or administrative costs, including interest thereon, is paid in full. Interest shall begin to accrue thirty (30) calendar days after the due date for the civil fine or administrative costs and continue until the civil fine or administrative costs, including interest thereon, is paid in full.”

1.2 Section 11.80.060 of the Moreno Valley Municipal Code is hereby amended to read as follows:

“Section 11.80.060 Violation

A. Violation of Sound Level Limits. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or six months in the county jail, or both. Notwithstanding the forgoing, any violation of the provisions of this chapter may, in the discretion of the citing officer or the city attorney, be cited and/or prosecuted as an infraction or be subject to civil citation pursuant to Chapter 1.10.

B. Joint and Several Responsibility. In addition to the person causing the offending sound, the owner, tenant or lessee of property, or a manager, overseer or agent, or any other person lawfully entitled to possess the property from which the offending sound is emitted at the time the offending sound is emitted, shall be responsible for compliance with this chapter if the additionally responsible party knows or should have known of the offending noise disturbance. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor or operator of the premises shall be responsible for operating or maintaining the premises in compliance with this chapter and may be cited regardless of whether or not the person actually causing the sound is also cited.

C. Violation May Be Declared a Public Nuisance. The operation or maintenance of any device, equipment, instrument, vehicle or machinery in violation of any provisions of this chapter which endangers the public health, safety and quality of life of residents in the area is declared to be a public nuisance, and may be subject to abatement summarily or by a restraining order or injunction issued by a court of competent jurisdiction.

SECTION 2. EFFECT OF ENACTMENT:

2.1 Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 3. NOTICE OF ADOPTION:

3.1 Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be publicly posted in three places within the city.

SECTION 4. EFFECTIVE DATE:

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

APPROVED AND ADOPTED this ____ day of _____, 2011,

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ORDINANCE JURAT

[Clerk's office will prepare]

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

Attachment 1

Ordinance No. 824
Date Adopted:

- 4 -

CITY MANAGER'S REPORT

**(Informational Oral Presentation only –
not for Council action)**

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