

AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF
THE CITY OF MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY
BOARD OF LIBRARY TRUSTEES

October 27, 2015

REGULAR MEETING – 6:00 PM

City Council Study Sessions

First & Third Tuesdays of each month – 6:00 p.m.

City Council Meetings

Special Presentations – 5:30 P.M.

Second & Fourth Tuesdays of each month – 6:00 p.m.

City Council Closed Session

Will be scheduled as needed at 4:30 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 Guy Pegan, ADA Coordinator, at 951.413.3120 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.

Dr. Yxstian A. Gutierrez, Mayor Pro Tem
Jeffrey J. Giba, Council Member

Jesse L. Molina, Mayor

George E. Price, Council Member
D. LaDonna Jempson, Council Member

AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
October 27, 2015

CALL TO ORDER - 5:30 PM

SPECIAL PRESENTATIONS

1. Proclamation Recognizing Carolyn Syms Luna, Executive Director, Riverside County Habitat Conservation Agency (RCHCA)

2. Proclamation Recognizing Kim Carter, Executive Director, Time for Change Foundation – 2015 CNN Hero

3. Proclamation Recognizing March Air Reserve Base

**AGENDA
JOINT MEETING OF THE
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY
AND THE BOARD OF LIBRARY TRUSTEES**

***THE CITY COUNCIL RECEIVES A SEPARATE STIPEND FOR CSD
MEETINGS***

**REGULAR MEETING – 6:00 PM
OCTOBER 27, 2015**

CALL TO ORDER

Joint Meeting of the City Council, Community Services District, City as Successor Agency for the Community Redevelopment Agency, Housing Authority 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

Apostle Duane Spencer, End Time Ministries

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 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.

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 City Council, Community Services District, City as Successor Agency for the Community Redevelopment Agency, Housing Authority or the Board of Library Trustees

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 Items withdrawn for report or discussion will be heard after public hearing items.

A. CONSENT CALENDAR-CITY COUNCIL

- A.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

- A.2. MINUTES - CITY COUNCIL - REGULAR MEETING - OCT 13, 2015 6:00 PM

Recommendation: Approve as submitted.

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

Recommendation:

1. Receive and file the Reports on Reimbursable Activities for the period of October 7 - 20, 2015.

- A.4. APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN THE FOURTH AMENDMENT TO THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE FOR THE RIVERSIDE SUPERIOR COURT CASE ENTITLED RADOS, ET AL. V. CITY OF MORENO VALLEY (Report of: Public Works)

Recommendation:

1. Approve and Authorize the City Manager to sign the Fourth Amendment to the Settlement Agreement in the case Rados, et al. v. City of Moreno Valley (Riverside Superior Court Case No. RIC 425623) subject to review and approval in its final form by the Interim City Attorney.

- A.5. COUNCIL DISCRETIONARY EXPENDITURE REPORTS FOR FISCAL YEAR 2015/2016 (Report of: Financial & Management Services)

Recommendation:

1. Receive and file the Fiscal Year 2015/2016 Council Discretionary Expenditure Reports as of August 31, 2015.

- A.6. AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO ROSENOW SPEVACEK GROUP INC. FOR

ANNUAL COMPLIANCE MONITORING OF THE AFFORDABLE HOUSING INVENTORY (Report of: Financial & Management Services)

Recommendations: That the City Council acting as the Successor Agency and Housing Authority:

1. Approve the Agreement for Professional Consultant Services with Rosenow Spevaceck Group Inc. (RSG) to provide Affordable Housing Compliance Services for the City of Moreno Valley's affordable housing portfolio.
2. Authorize the City Manager to execute the Agreement for Professional Consultant Services with RSG.
3. Authorize the issuance of purchase orders for service beginning once the Agreement has been fully executed in the not-to-exceed (NTE) amount of \$87,800.
4. Authorize the City Manager to execute any subsequent related Amendments to the Agreement, including the authority to authorize associated Purchase Orders in accordance with the terms of the Agreement, subject to the approval of the City Attorney.

A.7. PURSUANT TO A LANDOWNER PETITION, ANNEX ASSESSOR'S PARCEL NUMBERS ASSOCIATED WITH FR CAL MORENO VALLEY (P14-084 - NANDINA BUILDING A - SOUTHEAST OF HEACOCK ST. AND SAN MICHELE RD.) INTO COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) — AS AMENDMENT NO. 7 (Report of: Public Works)

Recommendation:

1. That the City Council acting as the legislative body of Community Facilities District No. 2014-01 (Maintenance Services) approve and adopt Resolution No. 2015-69. A Resolution of the City of Moreno Valley, California, ordering the annexation of territory to City of Moreno Valley Community Facilities District No. 2014-01 (Maintenance Services) and approving the amended map for said district.

A.8. APPROVE 2016 ANNUAL SYSTEM RESOURCE ADEQUACY PLAN FOR MORENO VALLEY ELECTRIC UTILITY (MVU) (Report of: Financial & Management Services)

Recommendation:

1. Approve the Annual System Resource Adequacy Plan for 2016.

A.9. LIST OF PERSONNEL CHANGES (Report of: Administrative Services)

Recommendation:

1. Ratify the list of personnel changes as described.

B. CONSENT CALENDAR-COMMUNITY SERVICES DISTRICT

- B.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

- B.2. MINUTES - REGULAR MEETING OF OCTOBER 13, 2015 (See A.2)

Recommendation: Approve as submitted.

- B.3. DECLARING INTENTION TO ANNEX TENTATIVE TRACT 31592 (LOCATED ON THE EAST SIDE OF PERRIS BLVD. NORTH OF MANZANITA AVE.) TO COMMUNITY FACILITIES DISTRICT NO. 1 (PARK MAINTENANCE) (Report of: Public Works)

Recommendations: That the CSD:

1. Acting as the legislative body of Community Facilities District No. 1 (Park Maintenance) approve and adopt Resolution No. CSD 2015-31. A Resolution of the Moreno Valley Community Services District of the City of Moreno Valley, California, Declaring its Intention to Annex Territory (Tentative Tract 31592) to its Community Facilities District No. 1 (Park Maintenance).

C. CONSENT CALENDAR - HOUSING AUTHORITY

- C.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

- C.2. MINUTES - REGULAR MEETING OF OCTOBER 13, 2015 (See A.2)

Recommendation: Approve as submitted.

D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES

- D.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

D.2. MINUTES - REGULAR MEETING OF OCTOBER 13, 2015 (See A.2)

Recommendation: Approve as submitted.

E. PUBLIC HEARINGS - NONE

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.

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)

March Joint Powers Commission (JPC)

Riverside County Habitat Conservation Agency (RCHCA)

Riverside County Transportation Commission (RCTC)

Riverside Transit Agency (RTA)

Western Riverside Council of Governments (WRCOG)

Western Riverside County Regional Conservation Authority (RCA)

School District/City Joint Task Force

Southern California Association of Governments (SCAG)

G.2. PLANNING COMMISSION ANNUAL REPORT (ORAL PRESENTATION)
(Report of: City Clerk)

G.3. RESOLUTION AMENDING THE RULES OF PROCEDURE FOR COUNCIL MEETINGS TO PROVIDE ADDITIONAL TIME FOR PUBLIC REVIEW OF AGENDA MATERIALS (Report of: City Manager)

Recommendations: That the City Council:

1. Adopt Resolution No. 2015-70. A Resolution of the City Council of the City of Moreno Valley, California, Amending the Adopted Rules of Procedure for City Council Meetings and Related Functions and

Activities by Requiring the Posting of Agenda Materials in Advance of Regularly Scheduled City Council Meetings, to reflect the period of time as determined by the City Council.

- G.4. PROPOSED CHANGE IN REGULARLY SCHEDULED DAYS FOR REGULAR MEETINGS AND STUDY SESSIONS OF THE CITY COUNCIL AND AFFILIATED LEGISLATIVE BODIES (Report of: City Attorney)

Recommendations: That the City Council:

That pursuant to City Council direction at a prior Study Session, the City Council:

1. Adopt Resolution No. 2015-71. A Resolution of the City Council of the City of Moreno Valley, California, Amending the Rules of Procedure for Council Meetings and Related Functions and Activities, changing the schedule of Regular Meetings from the Second (2nd) and Fourth (4th) Tuesdays or each month to the First (1st) and Third (3rd) Tuesdays of each month, eliminating the second Regular Study Session of each month and moving the remaining first Regular Study Session from the First (1st) Tuesday or each month to Second (2nd) Tuesday of each month for the purpose of eliminating the current conflict between the Moreno Valley City Council and Moreno Valley School District Board of Education Regular Meetings schedules.

- G.5. AMENDMENT TO THE POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS (Report of: Public Works)

Recommendations: That the City Council and CSD:

1. Staff recommends the Mayor and Members of the Moreno Valley City Council approve and adopt Resolution No. 2015-72. A Resolution of the City of Moreno Valley, California, to amend Legislative Policy #1.12, Policy For Conducting Mail Ballot Proceedings.
2. Staff recommends the City Council, acting in the capacity as the Board of Directors of the Moreno Valley Community Services District ("CSD Board"), approve and adopt Resolution No. CSD 2015-32. A Resolution of the Moreno Valley Community Services District of the City of Moreno Valley, California, to amend Legislative Policy #1.12, Policy For Conducting Mail Ballot Proceedings.

- G.6. FOURTH AMENDMENT TO OWNER PARTICIPATION BY AND AMONG MORENO VALLEY HOUSING AUTHORITY, CITY OF MORENO VALLEY, HEACOCK COTTONWOOD LIMITED PARTNERSHIP AND MORENO

VALLEY COTTONWOOD 1R PARTNERS, LP (Report of: Financial & Management Services)

Recommendations: That the City Council and Housing Authority:

1. Approve the Fourth Amendment to the Owner Participation Agreement (OPA) by and among the Moreno Valley Housing Authority, City of Moreno Valley, Heacock Cottonwood Limited Partnership and Moreno Valley Cottonwood 1R Partners, LP.
2. Approve the Subordination and Intercreditor Agreement by and among the City of Moreno Valley, Moreno Valley Housing Authority, Citibank, N.A. and Moreno Valley Cottonwood 1R Partners, LP.
3. Authorize the City Manager and Executive Director of the Housing Authority to execute project-related documents upon approval as to form by City Attorney.
4. Approve necessary budget appropriations as set forth in the fiscal impact section.

G.7. CITY MANAGER'S REPORT

(Informational Oral Presentation - not for Council action)

G.8. CITY ATTORNEY'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

H.2.1. ADOPT ORDINANCE NO. 907, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA (RECEIVED INTRODUCTION AND FIRST READING ON OCTOBER 13, 2015 BY A 3-2 VOTE, GUTIERREZ AND PRICE ABSENT) (Report of: Parks & Community Services)

Recommendation: That the City Council:

1. Adopt Ordinance No. 907. An Ordinance of the City Council of the City of Moreno Valley, California, Repealing Ordinance No. 860 and Deleting Chapter 2.64 of Title 2 of the City of Moreno Valley Municipal Code Relating to the July 4th Advisory Board.

H.3. ORDINANCES - URGENCY ORDINANCES - NONE

H.4. RESOLUTIONS - NONE

CLOSING COMMENTS AND/OR REPORTS OF THE CITY COUNCIL, COMMUNITY SERVICES DISTRICT, CITY AS SUCCESSOR AGENCY FOR THE COMMUNITY REDEVELOPMENT AGENCY OR HOUSING AUTHORITY

PUBLIC INSPECTION

The contents of the agenda packet are available for public inspection on the City's website at www.moval.org and in the City Clerk's office at 14177 Frederick Street during normal business hours.

Any written information related to an open session agenda item that is known by the City to have been distributed to all or a majority of the City Council less than 72 hours prior to this meeting will be made available for public inspection on the City's website at www.moval.org and in the City Clerk's office at 14177 Frederick Street during normal business hours.

ADJOURNMENT

CERTIFICATION

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, certify that 72 hours prior to this Regular Meeting, the City Council Agenda was posted on the City's website at: www.moval.org and in the following three public places pursuant to City of Moreno Valley Resolution No. 2007-40:

City Hall, City of Moreno Valley
14177 Frederick Street

Moreno Valley Library
25480 Alessandro Boulevard

Moreno Valley Senior/Community Center
25075 Fir Avenue

Jane Halstead, CMC,
City Clerk

Date Posted: October 23, 2015

MINUTES
CITY COUNCIL REGULAR MEETING OF THE CITY OF MORENO VALLEY
October 13, 2015

CALL TO ORDER - 5:30 PM

SPECIAL PRESENTATIONS

1. Moreno Valley Police Department - Officer of the 2nd Quarter – Officer Jason Vickers
2. Employee of the Quarter, 2nd Quarter, 2015 - Timothy Carroll, Media & Production Coordinator
3. Business Spotlight 1. Z&M Tailoring (District 5) 2. Marshall Scott State Farm Insurance and Financial Services Agency (District 5)

**MINUTES
JOINT MEETING OF THE
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY
BOARD OF LIBRARY TRUSTEES**

**REGULAR MEETING – 6:00 PM
October 13, 2015**

CALL TO ORDER

Joint Meeting of the City Council, Community Services District, City as Successor Agency for the Community Redevelopment Agency, Housing Authority 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

The Pledge of Allegiance was led by Frank Wright.

INVOCATION

The Invocation was given by Tom Jerele, Sr.

ROLL CALL

Council:	Jesse L. Molina	Mayor
	Dr. Yxstian A. Gutierrez	Mayor Pro Tem
	Jeffrey J. Giba	Council Member
	D. LaDonna Jempson	Council Member
	George E. Price	Council Member

Council Member Price participated by teleconference during item G.2.

INTRODUCTIONS

Staff:	Michelle Dawson	City Manager
	Steve Quintanilla	Interim City Attorney
	Jane Halstead	City Clerk
	Richard Teichert	Chief Financial Officer
	Thomas M. DeSantis	Assistant City Manager
	Ahmad Ansari	Public Works Director/City Engineer
	Joel Ontiveros	Police Chief
	Abdul Ahmad	Fire Chief
	Chris Paxton	Administrative Services Director

Minutes Acceptance: Minutes of Oct 13, 2015 6:00 PM (CONSENT CALENDAR-CITY COUNCIL)

Betsy Adams
Mike Lee
Allen Brock

Parks & Community Services Director
Economic Development Director
Community Development Director

Mayor Molina announced Agenda Item G.2 was being moved to the beginning of the meeting.

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 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.

Public comments were given by the following individuals:

Donovan Saadiq

1. Edgemont

Melissa Martinez

1. Concerns regarding speed bumps on Bay Avenue

Christopher Baca

1. Crossing Guards issue

Bob Palomarez

1. Taxes
2. Crossing Guards

Tom Jerele, Sr.

1. Community Image

Rafael Brugueras

1. Community
2. Behavior in City
3. City Staff works very hard

Roy Bleckert

- 1. Stop the Divisiveness
- 2. Free Rights and Speech
- 3. Community

Louise Palomarez

- 1. Crossing Guard Issue
- 2. Change of Meeting Dates

Jose Chavez

- 1. School District

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 City Council, Community Services District, City as Successor Agency for the Community Redevelopment Agency, Housing Authority or the Board of Library Trustees requests that an item be removed for separate action. The motion to adopt the Consent Calendars is deemed to be a separate motion by each Agency and shall be so recorded by the City Clerk. Items withdrawn for report or discussion will be heard after public hearing items.

Motion to approve the Consent Calendars Items A.1 through D.2 with the exception of item A.6 which was moved to Item F.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	Dr. Yxstian A. Gutierrez, Mayor Pro Tem
AYES:	Jesse L. Molina, Dr. Yxstian A. Gutierrez, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	George E. Price

A. CONSENT CALENDAR-CITY COUNCIL

- A.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

- A.2. City Council - Regular Meeting - Sep 22, 2015 6:00 PM

Recommendation: Approve as submitted.

Minutes Acceptance: Minutes of Oct 13, 2015 6:00 PM (CONSENT CALENDAR-CITY COUNCIL)

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

Recommendation:

1. Receive and file the Reports on Reimbursable Activities for the period of September 2 – October 6, 2015.

- A.4. PAYMENT REGISTER - AUGUST 2015 (Report of: Financial & Management Services)

Recommendation:

1. Receive and file the Payment Register.

- A.5. AUTHORIZATION TO SUBMIT SUSTAINABLE TRANSPORTATION PLANNING GRANT APPLICATION TO CALTRANS AND RESOLUTION NO. 2015-64 AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH CALTRANS FOR TRANSPORTATION PLANNING GRANTS (Report of: Public Works)

Recommendations:

1. Authorize staff to submit an application for a Sustainable Transportation Planning Grant.
2. Adopt Resolution No. 2015-64. A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the City Manager to Execute Agreements with Caltrans for the Moreno Valley Dracaea Avenue Corridor Master Plan.

- A.6. This item has been moved to F.

- A.7. LIST OF PERSONNEL CHANGES (Report of: Administrative Services)

Recommendation:

1. Ratify the list of personnel changes as described.

- A.8. THIRD AMENDMENT TO AGREEMENT FOR LEGAL SERVICES FOR REGULATORY PARTICIPATION IN SCE'S 2015 GENERAL RATE CASE (Report of: Public Works)

Recommendation:

1. Approve a Third Amendment to Agreement for Legal Services for Regulatory Participation in SCE's 2015 General Rate Case.

- A.9. PURSUANT TO LANDOWNER PETITION, ANNEX ASSESSOR'S PARCEL NUMBER ASSOCIATED WITH TENTATIVE TRACT 31592 (P13-078 - EAST OF PERRIS BLVD., NORTH OF MANZANITA AVE.) INTO COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) — AS AMENDMENT NO. 8 (Report of: Public Works)

Recommendation:

1. That the City Council acting as the legislative body of Community Facilities District No. 2014-01 (Maintenance Services) approve and adopt Resolution No. 2015-65, a Resolution of the City Council of the City of Moreno Valley, California, Ordering the Annexation of Territory to City of Moreno Valley Community Facilities District No. 2014-01 (Maintenance Services) and Approving the Amended Map for said District.

B. CONSENT CALENDAR-COMMUNITY SERVICES DISTRICT

- B.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

- B.2. MINUTES - REGULAR MEETING OF SEPTEMBER 22, 2015 (See A.2)

Recommendation: Approve as submitted.

- B.3. PARTICIPATION IN METROPOLITAN WATER DISTRICT'S TURF REMOVAL REBATE PROGRAM FOR COMMUNITY SERVICES DISTRICT ZONES 01 AND E-7 (Report of: Public Works)

Recommendations:

1. Authorize Participation in Metropolitan Water District's (MWD) Turf Removal Program for a Rebate of up to \$372,252 (\$88,192 for the benefit of Community Services District (CSD) Zone E-7 (E-7) and up to \$284,060.00 for the benefit of CSD Landscape Maintenance District (LMD) 2014-02 Zone 01(01) landscape maintenance districts.
2. Approve the First Amendment to the 2015/16 Independent Contractor Agreement (2015/16 Agreement) for Project No. SD-2015-01 for Landscape Maintenance Services (First Amendment) with Landcare, 1616 Marlborough Avenue, Building S, Riverside, CA 92507 to replace turf with drought tolerant landscape and irrigation materials (Additional Work) in those areas listed on Exhibits A and B of the First Amendment.

3. Approve budget adjustments to the CSD Zones E-7 and 01 budgets as set forth in the Financial Impact section of this report.
4. Authorize the City Manager to execute the First Amendment with Landcare, which includes authorizing the City Manager to execute subsequent Amendments or Extensions to the 2015/16 Agreement, and the authority to authorize associated purchase orders in accordance with the terms of the 2015/16 Agreement, subject to the approval of the City Attorney.
5. Authorize the issuance of a change order for fiscal year 2015/16 to Landcare from the current not-to-exceed amount of \$201,768.56 to a new not-to-exceed amount of \$740,173.56 for an increase of \$538,405.00 (\$498,243.00 \$142,600.00 for Zone E-7 and \$395,805.00 for Zone 01 for Additional Work services).

B.4. PARTICIPATION IN METROPOLITAN WATER DISTRICT'S TURF REMOVAL REBATE PROGRAM FOR COMMUNITY SERVICES DISTRICT ZONE D (Report of: Public Works)

Recommendations:

1. Authorize participation in Metropolitan Water District's (MWD) Turf Removal Program for a rebate of up to \$529,058.00 for the benefit of Community Services District (CSD) Zone D landscape maintenance district.
2. Approve the First Amendment to the 2015/16 Independent Contractor Agreement (2015/16 Agreement) for Project No. DSG-2/12-13 for Landscape Maintenance Services (First Amendment) with Mariposa Landscape Services, Inc., 15529 Arrow Highway, Irwindale, CA 91706 to: 1) replace turf with drought tolerant landscape and irrigation materials (Additional Work) in those areas listed on Exhibits A and B of the First Amendment and 2) increase the frequency of routine landscape maintenance (Base Work) for Tract 20715.
3. Approve a budget adjustment to the CSD Zone D budget as set forth in the Financial Impact section of this report.
4. Authorize the City Manager to execute the First Amendment with Mariposa Landscapes, Inc., which includes authorizing the City Manager to execute subsequent Amendments or Extensions to the 2015/16 Agreement, which may include future Amendments to capture unforeseen costs associated with the turf conversion that may be performed to receive available rebate allowance, and the authority to authorize associated purchase orders in accordance with the terms of the 2015/16 Agreement, subject to the approval of the

City Attorney.

5. Authorize the issuance of a change order for fiscal year 2015/16 to Mariposa Landscapes, Inc. from the current not-to-exceed amount of \$279,888.44 to a new not-to-exceed amount of \$779,355.21 for an increase of \$499,466.77 (\$498,243.00 for Additional Work services and an annual increase of \$1,223.77 for Base Work services).
6. Authorize the City Manager to execute subsequent change orders up to a not-to-exceed 10% contingency amount of \$49,824.30 should the need arise.

B.5. PARTICIPATION IN METROPOLITAN WATER DISTRICT'S TURF REMOVAL REBATE PROGRAM FOR COMMUNITY SERVICES DISTRICT ZONE M (Report of: Public Works)

Recommendations:

1. Authorize Participation in Metropolitan Water District's ("MWD") Turf Removal Program for a Rebate of up to \$125,592.00 for the benefit of Community Services District ("CSD") Zone M landscape maintenance district.
2. Approve the First Amendment to the 2015/16 Independent Contractor Agreement for Project No. M/12-13 for Landscape Maintenance Services ("First Amendment") with Landcare (formerly TruGreen Landcare), 1616 Marlborough Avenue, Suite S, Riverside, CA 92507 to: 1) replace turf with drought tolerant landscape and irrigation materials ("Additional Work") in those areas listed on Exhibits A and B of the First Amendment and 2) accept for routine landscape maintenance ("Base Work") the Alessandro Boulevard landscaped median located between Indian Avenue and Perris Boulevard.
3. Approve a budget adjustment to the CSD Zone M budget as set forth in the Financial Impact section of this report.
4. Authorize the City Manager to execute the First Amendment with Landcare, which includes authorizing the City Manager to execute subsequent Amendments or Extensions to the 2015/16 Agreement, including the authority to authorize associated purchase orders in accordance with the terms of the 2015/16 Agreement, subject to the approval of the City Attorney.
5. Authorize the issuance of a change order for fiscal year 2015/16 to Landcare from the current not-to-exceed amount of \$78,949.71 to a new not-to-exceed amount of \$344,443.76, for an increase of \$265,494.05 (\$263,195.00 for Additional Work services and an

increase of \$2,299.05 for Base Work services for eight months of service starting November 1, 2015).

6. Authorize the City Manager to execute subsequent change orders up to a not-to-exceed 10% contingency amount of \$26,319.50 should the need arise.

B.6. CERTIFICATION OF SPECIAL ELECTION RESULTS FOR ANNEXATION NO. 2015-35 AND 2015-36 TO COMMUNITY FACILITIES DISTRICT NO. 1 (PARK MAINTENANCE) (Report of: Public Works)

Recommendation:

1. That the Community Services District (CSD) of the City of Moreno Valley acting as the legislative body of Community Facilities District No. 1 (Park Maintenance) approve and adopt Resolution No. CSD 2015-30, a Resolution of the Community Services District of the City of Moreno Valley, Certifying the Results of two Elections and Adding Property to Community Facilities District No. 1 (Park Maintenance) for Annexation No. 2015-35 and 2015-36.

C. CONSENT CALENDAR - HOUSING AUTHORITY

- C.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

- C.2. MINUTES - REGULAR MEETING OF SEPTEMBER 22, 2015 (See A.2)

Recommendation: Approve as submitted.

D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES

- D.1. ORDINANCES - READING BY TITLE ONLY - THE MOTION TO ADOPT AN ORDINANCE LISTED ON THE CONSENT CALENDAR INCLUDES WAIVER OF FULL READING OF THE ORDINANCE.

Recommendation: Waive reading of all Ordinances.

- D.2. MINUTES - REGULAR MEETING OF SEPTEMBER 22, 2015 (See A.2)

Recommendation: Approve as submitted.

E. PUBLIC HEARINGS - NONE

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.

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

F.1. FUNDING APPROPRIATION AND AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES FOR THE HUBBARD STREET STORM DRAIN PROJECT PROJECT NO. 804 0010 70 77 (Report of: Public Works)

Mayor Molina opened the agenda item for public comments, which were received from Pete Bleckert and Guy Zazzaro.

Recommendations:

1. Approve the appropriation of \$200,000 from the unencumbered General Fund fund balance to the Hubbard Street Storm Drain design: GL Account No. 1010-70-77-80004-720199, Project No. 804 0010-1010-99.
2. Authorize the City Manager to award and execute a Professional Consultant Services Agreement for the Hubbard Street Storm Drain design, if it is within the project budget, subject to approval by the City Attorney.
3. Authorize the issuance of a Purchase Order in an amount not to exceed \$175,000.00 when the Agreement has been signed by all parties.
4. Authorize the Public Works Director/City Engineer to execute any subsequent amendments to the Agreement for Professional Consultant Services, not to exceed the Purchase Order amount, subject to the approval of the City Attorney.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	D. LaDonna Jempson, Council Member
SECONDER:	Jesse L. Molina, Mayor
AYES:	Jesse L. Molina, Dr. Yxstian A. Gutierrez, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	George E. Price

G. REPORTS

G.1. CITY COUNCIL REPORTS ON REGIONAL ACTIVITIES

(Informational Oral Presentation - not for Council action)

Minutes Acceptance: Minutes of Oct 13, 2015 6:00 PM (CONSENT CALENDAR-CITY COUNCIL)

March Joint Powers Commission (JPC)

Mayor Pro Tem Dr. Gutierrez provided an update from the October 7, March Joint Powers Commission meeting.

The JPA's Airport Director reported on the JPA's efforts to develop a partnership with distributors from Baja, Mexico, and with companies using the Foreign Trade Zone. The March Inland Port is working to identify enough local importers and exporters to justify basing a regular cargo flight at March. JPA staff also confirmed that UPS will use March Inland Port again this Christmas season.

The Commission also approved development of a new project that will develop two buildings with a total of 192,000 square feet of business park units in the Meridian Specific Plan along I-215 north of Van Buren.

Also announced that the groundbreaking for the March Veterans Village will be held on November 9. Hope to see you there.

Riverside County Habitat Conservation Agency (RCHCA) - No report given.

Riverside County Transportation Commission (RCTC)

Mayor Molina reported that the next Board meeting for the Commission will be on October 14th.

Riverside Transit Agency (RTA)

Mayor Molina gave an update on RTA. Good news for our college students! At the September 24th meeting, the Board of Directors renewed the University Pass program agreement with La Sierra University allowing students to ride all fixed RTA routes for free simply by swiping their college ID. This highly successful program helps RTA regularly set ridership records and has greatly reduced traffic congestion around the college campus.

He also wanted to remind everyone of the October 31st submission deadline for the Logo Contest for the Moreno Valley and Perris Chapter of Transportation Now. The contest is open to High School students and there will be cash prizes of \$500, \$350, and \$250 for first, second, and third place respectively. Please go to the agency's website, www.riversidetransit.com for further details.

Western Riverside Council of Governments (WRCOG)

Council Member Giba gave a brief update of items covered at the WRCOG Executive Committee meeting on October 5, 2015.

Regional Streetlight Inventory Update

WRCOG is developing a Regional Streetlight Program to support interested

jurisdictions in purchasing and retrofitting LED into SCE-owned streetlights. The Executive Committee recently selected a firm to assist with development of regional lighting design standards.

HERO Program

The HERO Program expansion throughout the state continues, as six more communities were accepted into the California Program this month. California HERO now includes 272 cities and counties.

Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS)

The Executive Committee received a presentation from Hasan Ikhata, Executive Director of the Southern California Association of Governments (SCAG) on their 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).

The 2016 RTP/SCS is a long-range visioning plan that is intended to balance future mobility and housing needs with economic, environmental, and public health goals. The RTP/SCS is updated every four years and is developed with input from many stakeholders (i.e. local government, county transportation commissions (CTCs), tribal governments, non-profit organizations, businesses, and local stakeholders).

A draft plan will be released in December, and final adoption is anticipated in April 2016.

Advancing the Choice Expo set for October 29

WRCOG's 16th annual Advancing the Choice Expo will be held on Thursday, October 29, 2015. This event will be held from 9:00 a.m. - 1:00 p.m. at the UC Riverside Center for Environmental Research & Technology. The Advancing the Choice Expo is one of the largest events in the Inland region aimed at strategies for people to live better, healthier lives with less impact on the environment.

Western Riverside County Regional Conservation Authority (RCA)

Council Member Jempson reported that the agency met on Oct 5, Executive Director Charles Laundry reported that RCA was awarded \$2 million dollars in grant funds from the U.S. Fish and Wildlife Service for the coming year. This equaled 10% of federal funds that were available for the program nationwide. This is earmarked for land acquisitions to address the needs of the agency. In addition the State will likely provide a match, which could mean an additional \$1 million.

School District/City Joint Task Force

Mayor Pro Tem Dr. Gutierrez stated that a subcommittee meeting would be held on Thursday at 3:30-4:30.

Southern California Association of Governments (SCAG)

SCAG meetings are held on the first Thursday of every month.

Council Member Giba will be sending out a newsletter.

G.2. PROPOSED BUDGET ADJUSTMENTS - CROSSING GUARD PROGRAM
(Report of: City Manager)

Mayor Molina opened the agenda item for public comments, which were received from: Aida Navarro, Donovan Saadiq, Erika Paz, Karla Manzano, Brian Lowell, Chris Baca, Bob Palomarez, Melissa Moreno, Scott Heveran, David Nause, Lyric, Jasiah, Carmen Pickersgill, Frank Wright, Rafael Brugueras, Santiago Hernandez, Irma Flores, Tom Jerele, Sr., Milly B., Darline B., and Louise Palomarez.

Recommendations: That the City Council:

1. Approve the amendments to the Position Control Roster as detailed in Table 1 of this staff report.
2. Approve the budget adjustments to the Gas Tax Fund budget as set forth in Table 2 in the Fiscal Impact section of this report.

Mayor Molina stated he would like the item to be brought back to the City Council during the budget cycle for the Moreno Valley School District and City. There would be no layoffs and negotiations were still forthcoming. Negotiations would include Moreno Valley Chairman Gary Baugh, Superintendent Judy White, Mayor Molina and Interim City Attorney, Steve Quintanilla. The phase-out plans would not occur at this time.

Motion to table the item to January 23, 2016 for further negotiations.

Mayor Molina moved, seconded by Mayor Pro Tem Dr. Gutierrez.

Motion withdrawn to table the item and a substitute motion made to disapprove the budget item.

RESULT:	APPROVED [4 TO 1]
MOVER:	Jesse L. Molina, Mayor
SECONDER:	George E. Price, Council Member
AYES:	Jesse L. Molina, Dr. Yxstian A. Gutierrez, D. LaDonna Jempson, George E. Price
NAYS:	Jeffrey J. Giba

G.3. APPROVE RESOLUTION NO. 2015-66 ESTABLISHING AN AD HOC COMMITTEE REGARDING LOGISTICS INDUSTRY TRAINING AND EDUCATION (Report of: City Clerk)

Mayor Molina opened the agenda item for public comments, which were received from Christopher Baca, Bob Palomarez, Evan Morgan, Tom Jerele, Sr., Louise Palomarez, Robert Harris, and Rafael Brugueras.

Minutes Acceptance: Minutes of Oct 13, 2015 6:00 PM (CONSENT CALENDAR-CITY COUNCIL)

Recommendations: That the City Council:

1. Approve Resolution No. 2015-66, a Resolution of the City Council of the City of Moreno Valley, California, Establishing a Logistics Industry Training / Education Ad Hoc Committee of the City Council.
2. Appoint two members of the City Council to serve as the Ad Hoc Committee tasked with working with community stakeholders to guide the development of Logistics Industry Training / Education.

Item tabled to a date uncertain due to a full Council being present and input from the developer.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	D. LaDonna Jempson, Council Member
AYES:	Jesse L. Molina, Dr. Yxstian A. Gutierrez, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	George E. Price

- G.4. ADOPT RESOLUTION NO. 2015-67 FOR MORENO MASTER DRAINAGE PLAN (REVISION NO. 2); RESOLUTION NO. 2015-68 CONFIRMING CONSIDERATION OF THE ADOPTED PROGRAM ENVIRONMENTAL IMPACT REPORT AND ITS ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM (Report of: Public Works)

Mayor Molina opened the agenda item for public comments, which were received from Roy Bleckert, Pete Bleckert, Tom Jerele, Sr. and Robert Perez.

Recommendations: That the City Council:

1. Adopt Resolution No. 2015-67, a Resolution of the City Council of the City of Moreno Valley, California, adopting the Moreno Master Drainage Plan (Revision No. 2).
2. Adopt Resolution No. 2015-68, a Resolution of the City Council of the City of Moreno Valley, California, to consider as a Responsible Agency the Certified Program Environmental Impact Report for the Moreno Master Drainage Plan (Revision No. 2) and its associated Mitigation Monitoring and Reporting Program.

Motion to approve staff's recommendation No. 1.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	Dr. Yxstian A. Gutierrez, Mayor Pro Tem
AYES:	Jesse L. Molina, Dr. Yxstian A. Gutierrez, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	George E. Price

Motion to approve staff's recommendation No. 2.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	Dr. Yxstian A. Gutierrez, Mayor Pro Tem
AYES:	Jesse L. Molina, Dr. Yxstian A. Gutierrez, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	George E. Price

G.5. APPOINTMENTS TO THE LIBRARY COMMISSION AND THE RECREATIONAL TRAILS BOARD (Report of: City Clerk)

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

Recommendations: That the City Council:

1. Appoint one applicant to the Library Commission with a term expiring June 30, 2017.
2. Appoint one applicant to the Recreational Trails Board with a term expiring June 30, 2018 and two applicants with terms expiring June 30, 2016.
3. If vacancies are not filled by a majority vote of the City Council, authorize the City Clerk to re-advertise the positions as vacant and carry over the current applications for reconsideration of appointment at a future date.

Appointment to the Library Commission - Mona Lisa Stallworth for a term expiring June 30, 2017. Appointment to the Recreational Trails Board - Sarah Martinez and John Menke for a term expiring June 30, 2016 and re-advertise for the one vacancy on the Recreational Trails Board term expiring on June 30, 2018.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	D. LaDonna Jempson, Council Member
AYES:	Jesse L. Molina, Dr. Yxstian A. Gutierrez, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	George E. Price

- G.6. SELECT A FUNDING AND FINANCING ALTERNATIVE FOR THE \$25.1 MILLION IN IDENTIFIED INFRASTRUCTURE PROJECTS FOR THE MORENO VALLEY UTILITY AND DIRECT STAFF TO IMPLEMENT THE SELECTED ALTERNATIVE (Report of: Financial & Management Services)

Mayor Molina opened the agenda item for public comments, which were received from Christopher Baca, Louise Palomarez, Roy Bleckert, and Pete Bleckert.

Recommendations: That the City Council:

1. Select a funding and financing alternative for the \$25.1 million in identified infrastructure projects for the Moreno Valley Utility (MVU).
2. Direct staff to implement the selected alternative.

Motion to bring back more information to the Finance Subcommittee at the earliest possible with date with new recommendations for approval.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	D. LaDonna Jempson, Council Member
AYES:	Jesse L. Molina, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	Dr. Yxstian A. Gutierrez, George E. Price

G.7. CITY MANAGER'S REPORT - None

(Informational Oral Presentation - not for Council action)

G.8. CITY ATTORNEY'S REPORT - None

(Informational Oral Presentation - not for Council action)

H. LEGISLATIVE ACTIONS

H.1. ORDINANCES - 1ST READING AND INTRODUCTION

- H.1.1. ADOPT ORDINANCE NO. 907. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, REPEALING ORDINANCE NO. 860 AND DELETING CHAPTER 2.4 OF TITLE 2 OF THE MORENO VALLEY MUNICIPAL CODE RELATING TO

THE JULY 4TH ADVISORY BOARD (RECEIVED INTRODUCTION AND FIRST READING ON OCTOBER 13, 2015 BY A 3-2 VOTE, GUTIERREZ AND PRICE ABSENT) (Report of: Parks & Community Services)

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

Recommendation: That the City Council:

- 1. Adopt Ordinance No. 907. An Ordinance of the City Council of the City of Moreno Valley, California, Repealing Ordinance No. 860 and Deleting Chapter 2.64 of Title 2 of the City of Moreno Valley Municipal Code Relating to the July 4th Advisory Board.

RESULT:	FIRST READING OF ORDINANCE [UNANIMOUS] Next: 10/27/2015 6:00 PM
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	D. LaDonna Jempson, Council Member
AYES:	Jesse L. Molina, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	Dr. Yxstian A. Gutierrez, George E. Price

H.2. ORDINANCES - 2ND READING AND ADOPTION

H.2.1. ADOPT ORDINANCE EMERGENCY FLOODING – SINGLE SOURCE AND SOLE SOURCE (Report of: City Attorney)

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

Recommendations: That the City Council:

- 1. Adopt Ordinance No. 903. An Ordinance of the City Council of the City of Moreno Valley, California, which allows the City to purchase goods, materials, and services through single and/or sole sourcing in response to and in preparation of the impending threat of flooding which is anticipated to be caused by El Niño.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	D. LaDonna Jempson, Council Member
AYES:	Jesse L. Molina, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	Dr. Yxstian A. Gutierrez, George E. Price

H.2.2. ADOPT ORDINANCE NO. 904. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 6.04.040 OF CHAPTER 6.04 OF THE MORENO VALLEY MUNICIPAL CODE RELATING TO PUBLIC NUISANCES (RECEIVED INTRODUCTION AND FIRST READING ON SEPTEMBER

Minutes Acceptance: Minutes of Oct 13, 2015 6:00 PM (CONSENT CALENDAR-CITY COUNCIL)

22, 2015 ON A 4-0-1 VOTE, GUTIERREZ ABSENT) (Report of: Public Works)

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

Recommendation: That the City Council:

1. Adopt Ordinance No. 904. An Ordinance of the City Council of the City of Moreno Valley, California, amending section 6.04.040 of Chapter 6.04 of the Moreno Valley Municipal Code relating to Public Nuisances.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey J. Giba, Council Member
SECONDER:	D. LaDonna Jempson, Council Member
AYES:	Jesse L. Molina, Jeffrey J. Giba, D. LaDonna Jempson
ABSENT:	Dr. Yxstian A. Gutierrez, George E. Price

H.3. ORDINANCES - URGENCY ORDINANCES - NONE

H.4. RESOLUTIONS - NONE

CLOSING COMMENTS AND/OR REPORTS OF THE CITY COUNCIL, COMMUNITY SERVICES DISTRICT, CITY AS SUCCESSOR AGENCY FOR THE COMMUNITY REDEVELOPMENT AGENCY OR HOUSING AUTHORITY

Council Member Giba

Council Member Giba commented that Planning Official, Rick Sandzimier participated in the League of Cities PAC fundraiser golf game and his team scored at 15 under. In the interest of time his comments were brief.

Council Member Jempson

Expressed appreciation to Melissa Phillips and all the individuals for the cleanup in Edgemont. Waste Management and City staff which included Michelle Dawson and Rick Sandzimier supported the clean-up. Thanked others that provided additional support including Highland Fairview, Mayor Molina, Coldwell Banker and David Marquez.

Attended Artoberfest, commended Parks & Community Services Director Betsy Adams and her staff.

Is interested in promoting City events and how to get the word out to the community, will be asking residents how to get the resident's attention.

Commented on an article in the newspaper and corrected what was written about the Mayor. Apologized for the Press Enterprise.

Would like the Study Session schedule be brought back to Council, residence are in support of that.

Commented on the ad hoc committee and the inference that was made.

Mayor Molina

Mayor Molina reported he had attended the League of California Cities in San Jose. He attended classes on Records Retention and adoptability of pets.

Went to San Jose League of California Cities, sat in the records retention classes, increase adoptability of pets, to get to a zero kill rate is achievable. He was at the cleanup at Edgemont.

The Mayor encouraged unity. He also stated that big businesses are looking at the City's web site and at the council meetings.

ADJOURNMENT

There being no further business the Regular Meeting was adjourned at 10:58 p.m.

Submitted by:

Jane Halstead, City Clerk, CMC
 Secretary, Moreno Valley Community Services District
 Secretary, City as Successor Agency for the Community Redevelopment Agency of the City of Moreno Valley
 Secretary, Moreno Valley Housing Authority
 Secretary, Board of Library Trustees

Approved by:

Jesse L. Molina, Mayor
 President, Moreno Valley Community Services District
 Chairperson, City as Successor Agency for the Community Redevelopment Agency of the City of Moreno Valley
 Chairperson, Moreno Valley Housing Authority
 Chairperson, Board of Library Trustees



Report to City Council

TO: Mayor and City Council

FROM: Jane Halstead, City Clerk

AGENDA DATE: October 27, 2015

TITLE: CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES

RECOMMENDED ACTION

Recommendation:

1. Receive and file the Reports on Reimbursable Activities for the period of October 7 - 20, 2015.

<i>Reports on Reimbursable Activities</i>			
October 7 – 20, 2015			
Council Member	Date	Meeting	Cost
Jeffrey J. Giba	10/8/15	Southern California Association of Governments (SCAG) Train Fare	\$26.50
	10/16/15	BIA Riverside County Installation and Award Ceremony	\$125.00
	10/17/15	Inland Empire Navy Birthday and Ball – 240 Years	\$125.00
Dr. Yxstian A. Gutierrez		None	
D. LaDonna Jempson	10/7/15	Student of the Month	\$15.00
Jesse L. Molina		None	
George E. Price		None	

NOTIFICATION

Publication of Agenda

PREPARATION OF STAFF REPORT

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

Department Head Approval:
Jane Halstead
City Clerk

CITY COUNCIL GOALS

None

ATTACHMENTS

None

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>
City Attorney Approval	<u>✓ Approved</u>
City Manager Approval	<u>✓ Approved</u>



Report to City Council

TO: Mayor and City Council

FROM: Ahmad R. Ansari, P.E., Public Works Director/City Engineer

AGENDA DATE: October 27, 2015

TITLE: APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN THE FOURTH AMENDMENT TO THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE FOR THE RIVERSIDE SUPERIOR COURT CASE ENTITLED RADOS, ET AL. V. CITY OF MORENO VALLEY

RECOMMENDED ACTION

Recommendation:

1. Approve and Authorize the City Manager to sign the Fourth Amendment to the Settlement Agreement in the case Rados, et al. v. City of Moreno Valley (Riverside Superior Court Case No. RIC 425623) subject to review and approval in its final form by the Interim City Attorney.

SUMMARY

Amending the Settlement Agreement between Rados and the City will extend the freeze on Development Fees for the industrial and residential components of the project (because of the time effect the CEQA case had). The Amendment is consistent with the Council's economic development goals and will extend the Agreement by three years.

DISCUSSION

On February 5, 2005, Rados initiated a lawsuit about the City Council's denial of the Planning Commission's approval of Plot Plan PA 03-0014. In 2007, a settlement agreement was entered into which acknowledged that Rados has submitted an alternative application for the land use. The agreement was extended while the application and approval was pending. Paragraph 3 of the settlement agreement provides as follows:

Development Fees for the Proposed Project. As to both the Northerly Property and the Southerly Property, City agrees to apply and impose all development impact fees (“Development Impact Fees”) subject to City’s control at the rates and structures in effect at the time the City Council denied the Project on November 23, 2004. The rates and structures of such Development Impact Fees shall remain in place and be fixed for a period of 3 years from the date of the City’s last discretionary approval associated with the Proposed Project, from and after which time the then existing rates and structures shall be applicable. Current components of City “Development Impact Fees” are: Police Facilities, Fire Facilities, City Hall Facilities, Animal Shelter, Corporate Yard Facilities, Maintenance Equipment, Arterial Streets, Traffic Signals, Interchange Improvements, Library Facilities and Materials, Parks Land, “Quimby” fees, Park Improvements, and Community and Recreational Facilities. Fees that are not included within the definition of Development Impact Fees are: (1) City processing fees (such as fees charged for plan checks, building permits, grading permits, etc.), (2) development impact fees that are not under the City’s control or jurisdiction, and (3) impact or mitigation fees imposed by the City pursuant to a regional mitigation program such as the Multi Species Conservation Habitat Plan fee and Transportation Uniform Mitigation Fee.

In July 2009, the Planning Commission approved the industrial component of the new application. Thereafter, “Residents for a Livable Moreno Valley” appealed the Planning Commission’s approval to the Council. In January 2010, the Council denied the appeal of “Residents for a Livable Moreno Valley” and approved the industrial component. In February 2010, “Residents for a Livable Moreno Valley” filed a CEQA lawsuit against the City and Rados. In July 2010, the City approved the residential component. In May 2011, “Residents” and Rados settled the CEQA lawsuit.

The City and Rados entered into the First Amendment to Settlement Agreement which clarified that the three year freeze on Development Impact Fees for the industrial component would run from June 2, 2011, which was when the CEQA lawsuit was dismissed. Accordingly, the three year freeze on the industrial component expires in 2014. In July 2013, the Council authorized the Second Amendment which extended the freeze on the residential component of the project. In June 2014, the City Council approved the Third Amendment which extended the freeze on Development Impact Fees for the industrial component for an additional three years. The proposed Fourth Amendment would extend the freeze on the Development Impact Fee for the industrial and residential components for an additional three years to January 26, 2020 and July 13, 2020, respectively, in exchange for 106,516 square feet of street right-of-way

dedication along a portion of Heacock Street and Gentian Avenue fronting the applicable Rados properties.

The residential component of the project is entitled to construct 134 residential lots and an approved subdivision map that expires in July 2017. The industrial component of the project has approved entitlements to build several industrial buildings with an approved parcel map that expires in January 2017. According to the City's Municipal Code and the Subdivision Map Act provisions, the Planning Division can administratively extend these entitlements and maps up to three (3) additional years. Rados Properties is in the process of submitting an application for the three year extension. The Code currently also allows for an additional two (2) year extension beyond the said three years for a total of five (5) years. Rados Properties intends to make this two year extension application at the appropriate time in the event the project components are not built out by then. This Fourth Amendment extends the freeze on the Development Impact Fees for both the residential and industrial components of the project up to three years and if necessary for the total five years which is currently anticipated as the final expiration date of the map and entitlements.

ALTERNATIVES

1. Amending the Settlement Agreement will facilitate the timely needed ultimate right-of-way dedication along Heacock Street and Gentian Avenue at no out pocket cash flow. *This alternative will allow for the necessary dedication needed for the ultimate Heacock Channel improvements and for the Heacock Street improvements.*
2. Not amending the Settlement Agreement means the Agreement will have expired in January 2017 for the industrial component and in July 2017 for the residential component. *This alternative will require the City to pay substantial cash amount for the needed street right-of-way during a period of significant reduced Gas Tax and Measure A transportation related revenues.*

FISCAL IMPACT

No new fiscal impact to the City is contemplated by this amendment.

NOTIFICATION

Posting of the Agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Prem Kumar
Deputy Public Works Director/Assistant City Engineer

Department Head Approval:
Ahmad R. Ansari, P.E.
Public Works Director/City Engineer

Concurred By:
Steve Quintanilla
Interim City Attorney

CITY COUNCIL GOALS

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

ATTACHMENTS

1. FOURTH AMENDMENT TO SETTLEMENT AGREEMENT

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/20/15 10:40 AM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 3:42 PM
City Manager Approval	<u>✓ Approved</u>	

**FOURTH AMENDMENT TO THE SETTLEMENT AGREEMENT
AND MUTUAL RELEASE**

THIS FOURTH AMENDMENT TO THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE (“Amendment”) is made and entered into as of the last day of execution below, by and between the City of Moreno Valley, a municipal corporation organized and existing under the laws of the State of California (“City”) and Rados Properties - California Land, LLC, a California Limited Liability Company (“Rados Properties”). The City and Rados Properties collectively are referred to herein as the “Parties.”

RECITALS

A. On February 4, 2005, Alexander S. Rados, Walter S. Rados, Stephen S. Rados, Olivera Lynn and Sonja Doder initiated a lawsuit in the Riverside County Superior Court, State of California, entitled *Alexander S. Rados, et al. v. City of Moreno Valley*, Case No. RIC 425323 (the “Action”) alleging causes of action for (1) petition for writ of mandate for administrative mandamus; and (2) inverse condemnation. The Action generally requests (1) a writ of mandate directing the City of Moreno Valley to rescind the City Council’s denial of the Planning Commission’s approval of Plot Plan number PA 03-0014, and (2) damages based upon an alleged regulatory taking.

B. On or about February 6, 2007, the City, on one hand, and Alexander S. Rados, Walter S. Rados, Stephen S. Rados, Olivera Lynn and Sonja Doder, on the other hand, entered into a SETTLEMENT AGREEMENT AND MUTUAL RELEASE, which acknowledged that Alexander S. Rados, Walter S. Rados, Stephen S. Rados, Olivera Lynn and Sonja Doder had submitted an alternative land use application for the property that was the subject of the Action. The land use application is described in the SETTLEMENT AGREEMENT AND MUTUAL RELEASE and is identified as the “Proposed Project.” The Parties have entered into six extensions of the SETTLEMENT AGREEMENT AND MUTUAL RELEASE.

C. The Proposed Project included both residential and industrial components. The residential component consists of two parcels (APN 485-230-025, 026; Lots 20 and 21 of Riverside Alfalfa Acres. The property for the residential component is referred to at times as the “Northerly Property”). The industrial component consists of two groups of parcels -- one group where a single large industrial building is proposed (APNs 485-230-014 through 024; Lots 14 through 24 of Parcel Map 24314), and another group of parcels where a series of smaller industrial buildings is proposed (APNs 485-230-001 through 010; Lots 1 through 10 of Parcel Map 24314) . The property for the industrial component is referred to at times as the “Southerly Property.” The residential component and the industrial component were the subject of two separate land use applications to the City.

D. Paragraph 3 of the SETTLEMENT AGREEMENT AND MUTUAL RELEASE provides as follows:

“Development Fees for the Proposed Project. As to both the Northerly Property and the Southerly Property, City agrees to apply and impose all development impact fees (“Development Impact Fees”) subject to City’s control at the rates and structures in effect at the time the City Council denied the Project on November 23, 2004. The rates and structures of such Development Impact Fees shall remain in place and be fixed for a period of 3 years from the date of the City’s last discretionary approval associated with the Proposed Project, from and after which time the then existing rates and structures shall be applicable. Current components of City “Development Impact Fees” are: Police Facilities, Fire Facilities, City Hall Facilities, Animal Shelter, Corporate Yard Facilities, Maintenance Equipment, Arterial Streets, Traffic Signals, Interchange Improvements, Library Facilities and Materials, Park Land, “Quimby” fees, Park Improvements, and Community and Recreational Facilities. Fees that are not included within the definition of Development Impact Fees are: (1) City processing fees (such as fees charged for plan checks, building permits, grading permits, etc.), (2) development impact fees that are not under the City’s control or jurisdiction, and (3) impact or mitigation fees imposed by the City pursuant to a regional mitigation program such as the Multi Species Conservation Habitat Plan fee and Transportation Uniform Mitigation Fee.”

E. On or about September 16, 2008, Alexander S. Rados, Walter S. Rados, Stephen S. Rados, Olivera Lynn and Sonja Doder transferred their interest in the properties that comprise the residential and industrial components to Rados Properties.

F. The industrial component received final approval on January 26, 2010. Due to a subsequent CEQA action which was settled, the entitlement for the industrial component is currently set to expire January 26, 2017.

G. The residential component received final approval on July 13, 2010. The entitlement for the residential component is currently set to expire July 13, 2017.

H. There have been six prior written extensions of the SETTLEMENT AGREEMENT AND MUTUAL RELEASE. Additionally, there have been three prior amendments to the SETTLEMENT AGREEMENT AND MUTUAL RELEASE.

I. City desires to acquire an immediate dedication of land from Rados Properties, which is particularly described in the proposed dedication, attached hereto as Exhibit “1.” In return, City agrees to extend the freeze on Development Impact Fees at November 23, 2004 levels for both the industrial and residential components to the final expiration date of the entitlements for both components. This Amendment to the SETTLEMENT

AGREEMENT AND MUTUAL RELEASE is made in conjunction with an application that Rados Properties is making to the City to extend the entitlements for both components for an additional three years each such that the expiration of the entitlement for the industrial component would be extended to January 26, 2020 and the expiration date of the entitlement for the residential component would be extended to July 13, 2020. Based on City of Moreno Valley Municipal Ordinance 9.02.203, Rados Properties intends to apply for an additional two year extension for both components, in the event they are not built out by expiration of the three year extension of the entitlements. It is the purpose of this Amendment to the SETTLEMENT AGREEMENT to extend the freeze on Development Impact Fees at November 23, 2004 levels to the final expiration date of the entitlements for both components. City acknowledges and agrees that Rados Properties' obligation to complete the dedication set forth in Exhibit "1" hereto, is conditioned upon the City granting Rados Properties' application to extend the entitlements for both the industrial and residential components for three years.

AMENDMENT TO SETTLEMENT AGREEMENT

1. **Rados Properties' dedication of land to City.** Rados Properties dedicates the land more particularly described in the dedication attached hereto as Exhibit "1." This dedication conditioned upon the City granting three year extensions of the entitlements for both the industrial component and the residential component.

2. **Extension of freeze on Development Impact Fees for industrial component.** City extends the freeze on Development Impact Fees for the industrial component from November 23, 2004 levels to the final expiration date of the approved entitlement.

3. **Extension of entitlement and freeze on Development Impact Fees for residential component.** City extends the freeze on Development Impact Fees for the residential component from November 23, 2004 levels to the final expiration date of the approved entitlement.

4. **Terms of original SETTLEMENT AGREEMENT AND MUTUAL RELEASE are incorporated by reference.** The City and Rados Properties agree that all recitals and operative provisions of the original SETTLEMENT AGREEMENT AND MUTUAL RELEASE and all six extensions and three previous amendments, except those that are directly contradicted by this Fourth Amendment to the SETTLEMENT AGREEMENT AND MUTUAL RELEASE, are incorporated herein by this reference and remain in full force and effect.

“CITY OF MORENO VALLEY, a
municipal corporation”

DATE: _____, 2015

By: _____

[ADDITIONAL SIGNATURE ON FOLLOWING PAGE]

Attachment: FOURTH AMENDMENT TO SETTLEMENT AGREEMENT (1741 : APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN THE

RADOS PROPERTIES - California Land,
LLC, a California Limited Liability
Company

DATE: _____, 2015

By: _____
Its Managing Agent
Stephen S. Rados

Attachment: FOURTH AMENDMENT TO SETTLEMENT AGREEMENT (1741 : APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN THE

EXHIBIT "1"

TO THE

**FOURTH AMENDMENT TO THE SETTLEMENT AGREEMENT AND
MUTUAL RELEASE BETWEEN CITY OF MORENO VALLEY AND RADOS
PROPERTIES**

Attachment: FOURTH AMENDMENT TO SETTLEMENT AGREEMENT (1741 : APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN THE

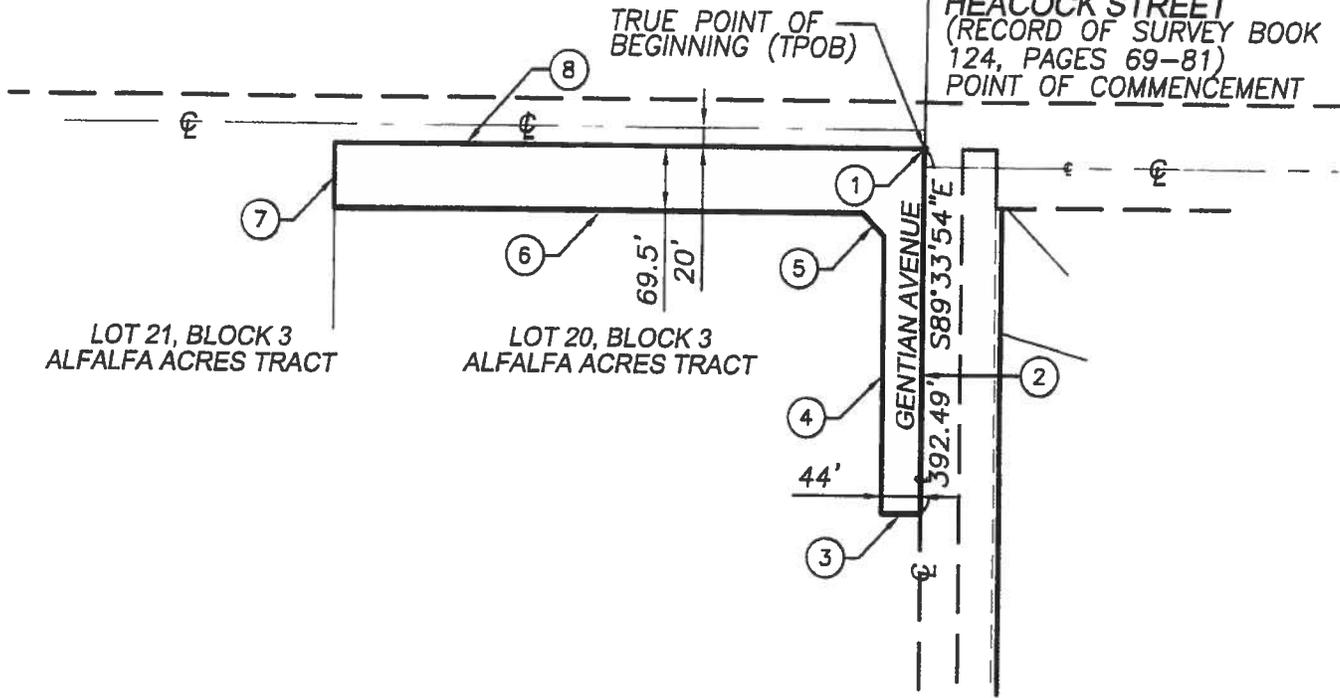
IN THE CITY OF MORENO VALLEY, CA

EXHIBIT B

STREET DEDICATION
DECEMBER 2008

INTERSECTION OF
GENTIAN AVENUE
HEACOCK STREET

(RECORD OF SURVEY BOOK
124, PAGES 69-81)
POINT OF COMMENCEMENT

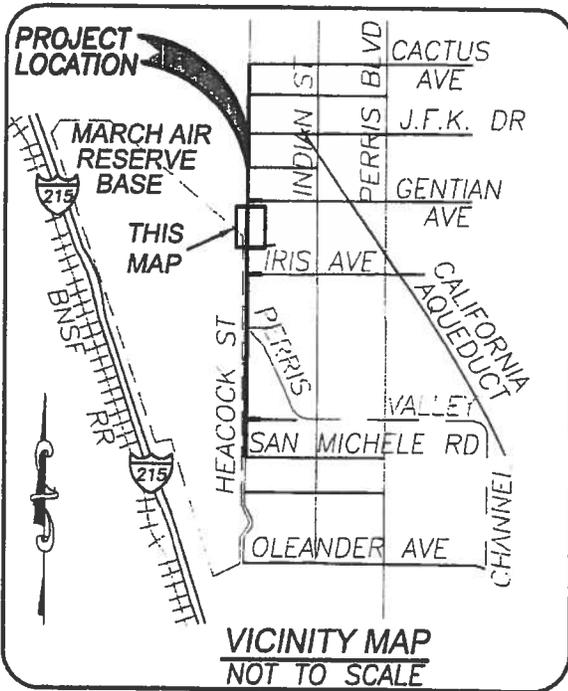


DISTANCE AND BEARINGS

- ① N.89°33'54"W. 19.50'
- ② S.89°33'54"E 392.49'
- ③ S.00°26'06"W. 44.00'
- ④ N.89°33'54"W. 298.00'
- ⑤ S.45°26'26"E. 35.35'
- ⑥ S.00°26'46"W. 592.95'
- ⑦ N.89°33'54"W. 69.50'
- ⑧ N.00°26'46"E. 661.95'

LEGEND

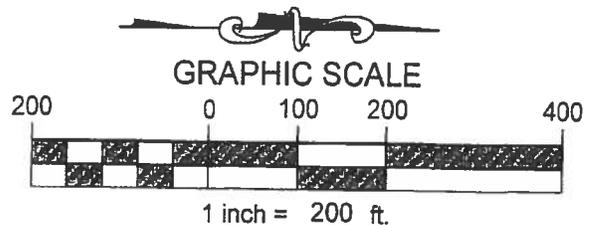
-  LIMITS OF ACQUISITION
-  RIGHT OF WAY
-  STREET CENTERLINE



Prepared by: DMC Design Group
 Address: 140 N. Maple Street, Suite 104
 Corona, CA 92880

Scale: N/A
 Assessor's Parcel Number(s): 485-230-025

Date Exhibit Prepared: 12-01-2008



IN THE CITY OF MORENO VALLEY, CA

EXHIBIT A

STREET DEDICATION
DECEMBER 2008

REAL PROPERTY IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THE WESTERLY 69.50 FEET OF LOT 21 OF BLOCK 3 OF RIVERSIDE ALFALFA ACRES, IN THE CITY OF MORENO VALLEY COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 21 OF MAPS, OFFICIAL RECORDS OF SAID COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 21, THENCE NORTH 661.94 FEET, MORE OR LESS ALONG THE WESTERLY LINE OF SAID LOT 21, TO THE NORTHWEST CORNER OF SAID LOT 21;

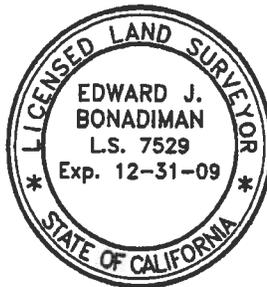
THENCE EAST ALONG THE NORTHERLY LINE OF SAID LOT 21, A DISTANCE OF 69.50 FEET TO A A LINE PARALLEL WITH AND DISTANT 69.50 FEET EASTERLY, MEASURED AT

THENCE SOUTH PARALLEL TO THE WESTERLY LINE OF SAID LOT 21, A DISTANCE OF 661.43 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 21;

THENCE WEST ALONG THE SOUTHERLY LINE OF SAID LOT 21, A DISTANCE OF 69.50 TO THE POINT OF BEGINNING;

CONTAINS 1.06 ACRES (45,987 SQUARE FEET), MORE OR LESS.

SUBJECT TO ALL RESERVATIONS, RESTRICTIONS, EASEMENTS, OFFERS OF DEDICATIONS AND RIGHT OF WAY RECORDS.



SURVEYOR'S NOTE:

THIS DOCUMENT WAS PREPARED BY ME, OR UNDER MY DIRECTION IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT

[Handwritten Signature] 12-10-08

EDWARD J. BONADIMAN, P.L.S. 7529
EXP. 12-31-09

Prepared by: DMC Design Group
Address: 140 N. Maple Street, Suite 104
Corona, CA 92880

Scale: N/A
Assessor's Parcel Number(s): 485-230-026

Date Exhibit Prepared: 12-01-2008



Report to City Council

TO: Mayor and City Council

FROM: Richard Teichert, Chief Financial Officer

AGENDA DATE: October 27, 2015

TITLE: COUNCIL DISCRETIONARY EXPENDITURE REPORTS
FOR FISCAL YEAR 2015/2016

RECOMMENDED ACTION

Recommendation:

1. Receive and file the Fiscal Year 2015/2016 Council Discretionary Expenditure Reports as of August 31, 2015.

SUMMARY

This staff report is prepared at the request of City Council to provide transparency of the expenditure of City funds from the City Council Discretionary Expenditure accounts. This report is for the Fiscal Year 2015/2016 as of August 31, 2015. Each Councilmember District receives an annual budget allocation of \$3,000. In addition, the Mayor receives an additional \$3,000 annually. The reports are provided by each Council District for the fiscal year 2015/16 activity as of August 31, 2015, and include each transaction with a clear description of the expenditure.

These new reports have been posted to the City's website. The reports will also be included routinely in the City Council agenda as an additional means of distributing the report.

The expenditure reports for the Mayor Differential and five independent council districts lists, in date order, the transactions allocated to the discretionary expenditure accounts. These reports are prepared jointly by City Council support staff and Financial Operations staff and are reconciled to the City's General Ledger activity.

These reports will continue to be provided on a monthly basis. Once available, they will be posted to the City's website and on the next scheduled City Council agenda. The reports will follow the same cycle and will appear companion with the monthly payment

register on City Council agendas in the future.

PREPARATION OF STAFF REPORT

Prepared By:
Dena Heald
Financial Operations Division Manager

Department Head Approval:
Richard Teichert
Chief Financial Officer

CITY COUNCIL GOALS

None

ATTACHMENTS

- 1. District Spending FY 15.16 as of 8.31.15

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/19/15 10:31 AM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 1:58 PM
City Manager Approval	<u>✓ Approved</u>	



MAYOR DIFFERENTIAL

Fiscal Year 2015/2016 Council Discretionary Expenditures

Account: 1010-10-01-10010-620130

As of August 31, 2015

Date	Amount	Description
-	\$ -	<i>No expenditures to report for July and August</i>
	\$ -	TOTAL Council Discretionary Expenditures for FY 15/16
	\$ 3,000.00	FY 15/16 Budget Amount
	\$ 3,000.00	<i>FY 15/16 Budget Amount Remaining</i>

Source: Unaudited financial data from the City's accounting records.

Updated as of: 10/14/15



COUNCIL DISTRICT 1

Fiscal Year 2015/2016 Council Discretionary Expenditures

Account: 1010-10-01-10010-620111

As of August 31, 2015

Date	Amount	Description
-	\$ -	<i>No expenditures to report for July and August</i>
	\$ -	TOTAL Council Discretionary Expenditures for FY 15/16
	\$ 3,000.00	FY 15/16 Budget Amount
	\$ 3,000.00	<i>FY 15/16 Budget Amount Remaining</i>

Source: Unaudited financial data from the City's accounting records.
Updated as of: 10/14/15



COUNCIL DISTRICT 2

Fiscal Year 2015/2016 Council Discretionary Expenditures

Account: 1010-10-01-10010-620112

As of August 31, 2015

Date	Amount	Description
-	\$ -	<i>No expenditures to report for July and August</i>
	\$ -	TOTAL Council Discretionary Expenditures for FY 15/16
	\$ 3,000.00	FY 15/16 Budget Amount
	\$ 3,000.00	<i>FY 15/16 Budget Amount Remaining</i>

Source: Unaudited financial data from the City's accounting records.
Updated as of: 10/14/15



COUNCIL DISTRICT 3

Fiscal Year 2015/2016 Council Discretionary Expenditures

Account: 1010-10-01-10010-620113

As of August 31, 2015

Date	Amount	Description
7/28/2015	\$ 15.00	Wake-up Moreno Valley Meeting 7/22/2015
	\$ 15.00	TOTAL Council Discretionary Expenditures for FY 15/16
	\$ 3,000.00	FY 15/16 Budget Amount
	\$ 2,985.00	FY 15/16 Budget Amount Remaining

Source: Unaudited financial data from the City's accounting records.
Updated as of: 10/14/15



COUNCIL DISTRICT 4

Fiscal Year 2015/2016 Council Discretionary Expenditures

Account: 1010-10-01-10010-620114

As of August 31, 2015

Date	Amount	Description
7/28/2015	\$ 15.00	Wake-up Moreno Valley Meeting 7/22/2015
	\$ 15.00	TOTAL Council Discretionary Expenditures for FY 15/16
	\$ 3,000.00	FY 15/16 Budget Amount
	\$ 2,985.00	FY 15/16 Budget Amount Remaining

Source: Unaudited financial data from the City's accounting records.
Updated as of: 10/14/15



COUNCIL DISTRICT 5

Fiscal Year 2015/2016 Council Discretionary Expenditures

Account: 1010-10-01-10010-620115

As of August 31, 2015

Date	Amount	Description
-	\$ -	<i>No expenditures to report for July and August</i>
	\$ -	TOTAL Council Discretionary Expenditures for FY 15/16
	\$ 3,000.00	FY 15/16 Budget Amount
	\$ 3,000.00	<i>FY 15/16 Budget Amount Remaining</i>

Source: Unaudited financial data from the City's accounting records.
Updated as of: 10/14/15



Report to City Council

TO: Mayor and City Council
 Mayor and City Council Acting in its Capacity as Chairman
 and Commissioners of the Moreno Valley Housing Authority
 (HA)

FROM: Richard Teichert, Chief Financial Officer

AGENDA DATE: October 27, 2015

TITLE: AUTHORIZATION TO AWARD AGREEMENT FOR
 PROFESSIONAL CONSULTANT SERVICES TO
 ROSENOW SPEVACEK GROUP INC. FOR ANNUAL
 COMPLIANCE MONITORING OF THE AFFORDABLE
 HOUSING INVENTORY

RECOMMENDED ACTION

Recommendations: That the City Council acting as the Successor Agency and Housing Authority:

1. Approve the Agreement for Professional Consultant Services with Rosenow Spevacek Group Inc. (RSG) to provide Affordable Housing Compliance Services for the City of Moreno Valley's affordable housing portfolio.
2. Authorize the City Manager to execute the Agreement for Professional Consultant Services with RSG.
3. Authorize the issuance of purchase orders for service beginning once the Agreement has been fully executed in the not-to-exceed (NTE) amount of \$87,800.
4. Authorize the City Manager to execute any subsequent related Amendments to the Agreement, including the authority to authorize associated Purchase Orders in accordance with the terms of the Agreement, subject to the approval of the City Attorney.

SUMMARY

This report recommends approval of an agreement with RSG for Professional Consultant Services to provide Affordable Housing Compliance Services for the City of Moreno Valley's affordable housing portfolio. The proposed services to be rendered by RSG include verifying regulatory requirements, income limits, rent limits, and property standards during the applicable affordability period for all developments containing City, former Redevelopment Agency, and/or Housing Authority affordable housing covenants. The proposed initial and annual re-certification processes will be fully funded by the Successor Agency and Housing Authority.

DISCUSSION

The City of Moreno Valley (City), the Moreno Valley Housing Authority (Housing Authority), and the former Community Redevelopment Agency of the City of Moreno Valley (Agency) have previously funded the rehabilitation and new construction of approximately 1,306 rent-restricted affordable units within 26 developments located throughout the City. A combination of funding sources including conventional financing, Low and Moderate Housing Set-aside Funds, Low Income Housing Tax Credits (LIHTC), HOME funds, and Neighborhood Stabilization Program (NSP) funds were utilized to rehabilitate and/or construct these developments. As such, the affordability covenants that govern the restricted units require annual re-certifications and monitoring to ensure compliance with regulatory requirements, income limits, rent limits, and property standards during the applicable affordability period.

Since 1995, the City has been responsible for conducting the required annual re-certifications. However, as the number of restricted affordable units in the City's Multi-family Property Portfolio (Portfolio) increases, the City, Agency and Housing Authority are faced with the opportunity to streamline program delivery and implementation to adapt to emerging needs. The City aims to improve the monitoring activities by revising the existing guidelines to streamline processes and by enlisting the services of a consultant to conduct annual compliance duties to more efficiently meet compliance obligations.

On March 23, 2015 the City issued a Request for Proposal (RFP) for Consulting Services to Revise Program Guidelines; Provide a Customized Database and Monitoring Software; and Conduct Annual Compliance Monitoring for the Affordable Multi-Family Rental Program.

In addition to our standard advertisement of the RFP on the City website and through the new Planet Bids application, a link to the RFP was also posted onto the National Association of Housing and Redevelopment Officials (NAHRO) website. Staff also conducted outreach to local companies which offer relevant services. Although interest from 18 prospective bidders was received through Planet Bids; only one proposal (from RSG) was received upon this initial advertisement. Due to the limited responses received, it was determined that re-advertisement of the RFP was necessary to seek additional responses.

As part of the re-advertisement of the RFP, staff reached out to the prospective bidders of the prior advertisement however, many of these companies had limited scopes of

service related to the services required. A few of the other firms indicated they would be interested in bidding if the City re-advertised and if they had additional time to review the RFP and respond.

The RFP was re-advertised in June with a July 14, 2015 due date. The second advertisement garnered interest from 21 prospective bidders. However, only two proposals were received, including proposals from RSG and Compliance Services.

Interviews were conducted on September 1, 2015. Pursuant to these interviews, it was determined RSG is more appropriately staffed to conduct the necessary services at the service level required for the City to maintain compliance with State, Federal, and local requirements. Since RSG does not offer a software interface, the software component of the RFP will be removed from the scope of work. Staff recommends awarding the contract for compliance and monitoring services to RSG for \$87,800 for an initial one (1) year term as further detailed below.

Pursuant to City Council Resolution No. 2008-115, the City Council shall provide approval of procurements greater than \$100,000. Since the current procurement policy (Policy #3.18, Section V.B.3) allows the original agreement to be extended by four additional one-year terms, the total potential value of the Agreement is taken in to consideration when determining signature authority. The following table shows a cumulative overview of the proposed costs for the Agreement as may be allowed per the terms of this Agreement.

	FY 15/16 Original Agreement	FY 16/17 Potential First Amendment	FY 16/17 Potential Second Amendment	FY 16/17 Potential Third Amendment	FY 16/17 Potential Fourth Amendment	Cumulative Total
Guidelines	\$18,940	na	na	na	na	\$18,940
Monitoring	\$68,860	\$36,620	\$36,620	\$36,620	\$36,620	\$215,340
Total	\$87,800	\$36,620	\$36,620	\$36,620	\$36,620	\$234,280

The monitoring element in year one of the contract is higher than in subsequent years due to one-time efforts to review all of the agreements as well as the outstanding affordable housing loans. The initial contract term shall be one (1) year with an option to extend at the end of each contract period for an additional one (1) year period, up to an additional four (4) years, at the request of the City and per written acceptance of the extension request by the Consultant. Extension to the Contract will be made at the City's discretion and contingent upon the availability of funds, and the Consultants' continued compliance with Federal, State, and local regulations and per a successful evaluation of the Consultant's performance.

Staff is requesting that the City Council authorize the City Manager to approve the Agreement and any future amendments and all associated purchase orders required to extend the Agreement as noted above.

ALTERNATIVES

1. Approve and authorize the recommended actions as presented in this staff report. *This alternative will provide for the timely completion of initial and annual compliance re-certifications, thus ensuring compliance with regulatory requirements contained within Affordable Housing Agreements.*
2. Do not approve and authorize the recommended actions as presented in this staff report. *This alternative will delay the completion of initial and annual compliance re-certifications, and not permit the City to take the necessary measures to ensure covenants contained within the subject Affordable Housing Agreements are upheld.*

FISCAL IMPACT

This Agreement is to be funded by Housing Authority funds. Ongoing annual compliance services will be funded through the receipt of annual loan re-payments and residual receipts received in connection with the subject Affordable Housing Agreements. There is no impact to the General Fund.

Description	Fund	GL Account No.	Type (Rev/Exp)	FY 15/16 Budget	Proposed Adjustments	FY 15/16 Amended Budget
Initial Agreement	Housing Authority	8884-30-33-20601-620299	Exp	\$57,000	\$87,800	\$144,800

PREPARATION OF STAFF REPORT

Prepared By:
Diana D. Vasquez
Management Assistant

Department Head Approval:
Richard Teichert
Chief Financial Officer

Concurred By:
Marshall Eyerman
Financial Resources Division Manager

CITY COUNCIL GOALS

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

Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

ATTACHMENTS

1. RSG Proposal

- 2. RSG Revised Fee Schedule
- 3. RSG Professional Consultant Services Agreement

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/15/15 3:29 PM
City Attorney Approval	<u>✓ Approved</u>	10/15/15 4:16 PM
City Manager Approval	<u>✓ Approved</u>	

AFFORDABLE HOUSING COMPLIANCE MONITORING

A PROPOSAL TO
THE CITY OF MORENO VALLEY



Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO



ROSENOW SPEVACEK GROUP INC.
309 WEST 4TH STREET
SANTA ANA, CALIFORNIA
92701-4502

T 714 541 4585
F 714 541 1175
E INFO@WEBRSG.CO
WEBRSG.COM

July 13, 2015

Via Electronic Mail

City of Moreno Valley
Planet Bids PB System
eProcurement – PB System

**INVITATION 2015-014
PROPOSAL FOR AFFORDABLE HOUSING COMPLIANCE SERVICES**

Thank you for this opportunity to present our proposal to the City of Moreno Valley (“City”) and its City Council, the Successor Agency to the Community Redevelopment Agency of the City of Moreno Valley (“Agency”), and the Moreno Valley Housing Authority (“Authority”). RSG staff are recognized experts in housing compliance monitoring throughout the State of California. Since 1988, RSG has been providing these services to clients. For your convenience, we have provided a concise and to-the-point proposal because we know that your time is valuable. Here is a short-list of reasons we feel that RSG is the most qualified firm to provide these services to the City of Huntington Beach:

Why Hire RSG?

- *Over 18 Housing Compliance Monitoring clients*
- *128 projects (consisting of approximately 9,000 units) monitored currently*
- *30+ years of housing expertise*

Highlights from the attached proposal are provided below.

Background

- The City, Agency and Authority seek a consultant for Affordable Housing Program compliance monitoring services to improve the efficacy of the existing Affordable Multi-family Rental Program (“AMRP”) and to ensure regulatory compliance.
- Services RSG would provide include (*we have not included the development of Custom Web-based Software, as this does not fall under RSG’s areas of expertise*):
 - Revision of AMRP Guidelines
 - Initial Compliance Monitoring
 - Ongoing Compliance Monitoring

FISCAL HEALTH
ECONOMIC DEVELOPMENT
REAL ESTATE, HOUSING
AND HEALTHY COMMUNITIES

Methodology

- Specific Tasks
 - Collect documents and review specific tasks.
 - Review all relevant City/Agency/Authority agreements and documentation.
 - Determine the status of project compliance.
 - Identify adherence to annually specified rent restrictions.
 - Review tenant income applications, tenant files and associated documents to determine existing compliance.
 - Review property owner recertification compliance.
 - Determine a Project Schedule following document review activities.
 - Prepare and maintain a database in Microsoft Excel with pertinent and accurate records for compliance monitoring.
- Implementation Plan for monitoring compliance provided.
- Strategies to ensure client satisfaction.
- Project Schedule finalized upon completion of document review.
- City staff tasks/needs specifically outlined.

Staffing

RSG staff with more than 3 decades of affordable housing experience will be assigned to this project.

Qualifications

- Over 18 Housing Compliance Monitoring clients/5 references provided
- 128 projects (consisting of approximately 9,000 units) monitored currently
- 30+ years of housing expertise

Fee Proposal

\$74,950 for the first year of services (which includes Phase I and Phase III services) and \$30,070 for the subsequent years (Phase IV services) for a total of \$105,020. Please note that the Fee Proposal will be valid for a period of 180 days from the date of this letter.

The address and telephone number of the RSG Office, the office from which the project will be managed, is 309 West 4th Street, Santa Ana, California 92701

We look forward to meeting with you to discuss our proposal in detail. In the meantime, should you have any questions, please feel free to contact us.

Sincerely,
ROSENOW SPEVACEK GROUP INC.



Jim Simon
Principal



Becky Caha
Associate

Background and Project Summary

It is our understanding that the City of Moreno Valley ("City") and its City Council, the Successor Agency to the Community Redevelopment Agency of the City of Moreno Valley ("Agency"), and the Moreno Valley Housing Authority ("Authority") are seeking the expertise of monitoring and compliance consultants ("Consultant") to improve the efficacy of the existing Affordable Multi-family Rental Program (AMRP); and to provide customized web-based software to retain and report compliance documentation; and to conduct annual compliance monitoring for the AMRP. *Unfortunately, RSG is unable to respond to Phase II of the RFP, Development of Custom Web-based Software, as it is not in our realm of expertise, but we believe that our expertise in all other areas of this RFP makes us uniquely qualified to perform those tasks, and be a valuable asset with another firm that can provide the web-based software.*

Compliance and monitoring program and procedure development services needed would include the following:

PHASE I

Monitoring Compliance Guidelines – a draft AMRP Guidelines document shall be provided for review by City staff in word format and upon acceptance of final draft by the City, 4 (four) hard copies of final guidelines shall be provided. The final document shall be provided in Word *and* PDF formats to the City and shall also include all forms and supporting files.

PHASE II

Web-based Database and Software Application – *Unfortunately, RSG is unable to respond to this Phase of the RFP, Development of Custom Web-based Software, as it is not in our realm of expertise, but we believe that our expertise in all other areas of this RFP makes us uniquely qualified to perform those tasks, and be a valuable asset with another firm that can provide the web-based software.*

PHASE III

Initial Compliance Monitoring – Consultant shall facilitate the collection and uploading of current compliance data and work directly with property owners and/or managers to bring current units into compliance; and provide the City with monthly compliance status reports for all subject properties.

PHASE IV

Annual Monitoring – Consultant to provide the City with a schedule by which annual monitoring will occur for each project contained in the Portfolio, and upon conducting the annual monitoring, the Consultant shall work directly with owners and/or managers to assure all required data is uploaded on an ongoing basis and assure units remain compliance. Consultant to also provide the City with monthly compliance status reports for all subject properties.

Methodology

RSG would provide Affordable Housing Compliance Monitoring Services to the City/Agency/Authority to ensure compliance pursuant to related Federal and State regulations.

PHASE I – REVISION OF PROGRAM GUIDELINES

1. Review and evaluate the current AMRP Guidelines and compliance reports to identify opportunities to improve the program's efficiency and efficacy and make recommendations to increase project compliance.
2. Meet with the City to discuss recommendations prior to the preparation of revisions.
3. Prepare revisions to guidelines according to findings and forward draft to the City for review and approval.
4. Forward final version in PDF form to all project owners upon acceptance by the City and provide final version of the guidelines to the City in Word and PDF format.

PHASE II – DEVELOPMENT OF CUSTOM WEB-BASED SOFTWARE

Unfortunately, RSG is unable to respond to Phase of the RFP, Development of Custom Web-based Software, as it is not in our realm of expertise, but we believe that our expertise in all other areas of this RFP makes us uniquely qualified to perform those tasks, and be a valuable asset with another firm that can provide the web-based software. Determine that the project owner is adhering to legal requirements with regard to the inclusion of required disclosures and statements, including:

PHASE III – INITIAL COMPLIANCE MONITORING

1. Create income, rent limit and utility allowance charts for current year and distribute to the City and all property owners listed on the portfolio.
2. Collect various monitoring documents and certifications from the owner/manager of each multi-family property in the portfolio. This documentation includes collecting current tenant data for each restricted unit from the property manager or owner of each project for all tenants occupying restricted units. Information to be tracked shall include but is not limited to: unit address, rental unit number, if unit is fixed or floating, tenant name, lease date, rent increases, move-in and move-out date, tenant household composition (names, ages, occupations of all household members, ethnicity and gender of each head of household), household income/assets, maximum rent, rent paid, applicable deductions, utility allowance (basic and energy efficient), and whether the unit receives Section 8 voucher assistance and the amount of the housing assistance payment.
3. Accurately review income source documentation for new and recertifying tenants of restricted units.

4. Accurately apply various affordable housing program regulations and requirements to determine whether a project is in compliance. Consultant must identify how each program differs in the income documentation required and frequency with which such documentation must be collected from tenants. In addition, multi-family housing revenue bond projects must be reviewed for compliance with restrictions established by the Internal Revenue Service (IRS).
5. Maintain updated electronic files for each monitored project to document and track compliance through a web-based application. Facilitate the uploading of project data by the project owner into the contractor's monitoring database. Issue Notices (i.e. Reminder Notices, Late Notices, Non-Compliant Notices, miscellaneous program correspondence and track notices sent).
6. Conduct on-site visits as mandated by all applicable regulations and to follow-up on non-compliant properties. During site visits, RSG will comply with all applicable regulations for conducting audits, including, but not limited to, reviewing the management plan, affirmative marketing plan, tenant selection plan, wait list, copies of initial tenant leases and mandatory lease addenda, income source documentation, rent and utility schedules, and other compliance documentation and project and tenant files.
7. Provide customer service to property owners and managers by establishing and maintaining a good working relationship with them, and provide training as needed.
8. Provide the City with a status and compliance report and back-up documentation (i.e. Certificate of Continuing Program Compliance, Occupancy Summary Report, and Bond Report) with each monthly invoice for all projects monitored/invoiced for the previous month, including site visit reports. Monthly reports will also include year-to-date information on monitored projects. After the expiration date and last monitoring period lapses, RSG shall return files with all monitoring documents and electronic data to the City.
9. Provide additional related services and technical assistance as requested by the City, including, but not limited to, responding to requests for compliance information and documents on specific properties under review by the Department and/or assistance remediating findings of noncompliance.

PHASE IV – ONGOING COMPLIANCE MONITORING

1. Create annual income, rent limit and utility allowance charts and distribute to the City and all property owners listed on Multi-family Affordable Unit Portfolio on a regular ongoing basis and at a consistent time each year.
2. Create an annual timeline/schedule for onsite monitoring for distribution to the City, property owners and their agents (i.e. onsite managers/property management company). The timeline will incorporate all noticing requirements as dictated by the project's respective funding source(s) (i.e. HOME, TCAC, etc.).

3. As predicated by the established monitoring schedule referenced above in Section b, annually collect various monitoring documents and certifications from the owner/manager of each multi-family property in the portfolio. This documentation includes collecting current tenant data for each restricted unit from the property manager or owner of each project for all tenants occupying restricted units. Information to be tracked shall include but is not limited to: unit address, rental unit number, if unit is fixed or floating, tenant name, lease date, rent increases, move-in and move-out date, tenant household composition (names, ages, occupations of all household members, ethnicity and gender of each head of household), household income/assets, maximum rent, rent paid, applicable deductions, utility allowance (basic and energy efficient), and whether the unit receives Section 8 voucher assistance and the amount of the housing assistance payment.
4. Accurately review income source documentation for new and recertifying tenants of restricted units.
5. Accurately apply various affordable housing program regulations and requirements to determine whether a project is in compliance. Consultant must identify how each program differs in the income documentation required and frequency with which such documentation must be collected from tenants. In addition, multi-family housing revenue bond projects must be reviewed for compliance with restrictions established by the Internal Revenue Service (IRS).
6. Maintain updated electronic files for each monitored project to document and track compliance through a web-based application. Facilitate the uploading of project data by the project owner into the contractor's monitoring database. Issue Notices (i.e. Reminder Notices, Late Notices, Non-Compliant Notices, miscellaneous program correspondence and track notices sent).
7. Conduct on-site visits as mandated by all applicable regulations and to follow-up on non-compliant properties. During site visits, RSG will comply with all applicable regulations for conducting audits, including, but not limited to, reviewing the management plan, affirmative marketing plan, tenant selection plan, wait list, copies of initial tenant leases and mandatory lease addenda, income source documentation, rent and utility schedules, and other compliance documentation and project and tenant files.
8. Provide customer service to property owners and managers by establishing and maintaining a good working relationship with them, and providing training as needed.
9. Provide the City with a status and compliance report and back-up documentation (i.e. Certificate of Continuing Program Compliance, Occupancy Summary Report, and Bond Report) with each monthly invoice for all projects monitored/invoiced for the previous month, including site visit reports. Monthly reports will also include year-to-date information on monitored projects. After the expiration date and last monitoring period lapses, the RSG shall return files with all monitoring documents and electronic data.
10. Provide additional related services and technical assistance as requested by the City, including, but not limited to, responding to requests for compliance information and documents on specific properties under review by the Department and/or assistance remediating findings of noncompliance.

CLIENT SATISFACTION

All documents will be provided to City staff for review and comment and revisions will be made to work products based on this valuable input. Ms. Caha will communicate regularly and often with City staff during work on each task to align expectations ensure that all tasks are completed in the manner that meets or exceeds the City/Agency/Authority's expectations.

The RSG staff assigned to this project each have over three decades of housing and municipal consulting experience. This breadth of experience allows RSG to provide accurate and superior work products to our clients in an efficient manner. We value client input highly and pride ourselves with excellent customer service.

PROJECT SCHEDULE

It is understood that the City/Agency/Authority desire a detailed estimated project schedule for the Program revisions and compliance monitoring of the properties identified in the portfolio. RSG would adhere to the tentative schedule as outlined in the RFP and will provide a detailed schedule upon the determination of the actual scope of work. In general, based on the unit numbers provided, it would be anticipated that the initial inspections of all properties (including unit inspections, if required) would be completed by the end of October, 2015.

CITY STAFF TASKS

At this time is it anticipated that the items that would be needed from City staff would be complete copies of all controlling documents for each of properties outlined by the City/Agency/Authority. These items will enable RSG to prepare the detailed schedule requested above and outline an efficient and thorough implementation plan.

COMPLIANCE REPORTING FORMAT

RSG has provided a sample report that outlines the format that will be used for compliance reporting, including all components. In the event that that a project is found to be out of compliance, RSG would immediately report to the City and Authority as well as give the property manager/owner a detailed reporting of items that need to be completed in order to bring the property back into compliance. It is anticipated that a 30-day time frame will be used to allow property managers/owners to bring their properties into compliance, and if not, RSG would work with City/Authority staff in determining the next course of action.

Staffing

This assignment will be lead by Jim Simon, Principal-in-Charge. Mr. Simon will oversee and monitor all activities, will attend meetings and coordinate with RSG and City staff on an as-needed basis. Mr. Simon has approximately 20 years of experience with providing redevelopment, financial and other municipal consulting services to public agency clients.

Becky Caha, Associate, will act as Project Manager for this assignment. Ms. Caha has over 25 years of experience with housing compliance monitoring services, making her a top expert in this field. Ms. Caha will review all documents, create and maintain the database of compliance monitoring data, coordinate and direct on-site visits, create reports and interface with City staff. Rosa Romero and Nicole Miller, Research Assistants, will assist with data collection and analysis as well as needed on-site visits.

Resumes for all RSG staff for this assignment follow.

JIM SIMON, *Principal/President*



FOCUS AREAS

Real estate acquisition, development and financial feasibility, economic development

WHAT I LOVE ABOUT WORK

I'm driven to help local government capitalize on community development opportunities. The work is not static. I enjoy adapting my style, pace and approach to the specific needs of my clients and their communities.

ABOUT ME

Inspired to improve the Golden State in his work, Jim delivers intelligence, innovation and passion to projects requiring his unparalleled expertise in fiscal health, real estate and economic development. For nearly 25 years, Jim is proud to have led projects that have resulted in the investment of over \$3 billion in private and public capital, transforming cities and communities across California. As President of RSG, Jim is helping to shape the next generation of the firm's legacy - leading RSG's team of inspired, creative and insightful consultants that serve over 100 communities each year.

Jim joined RSG in 1991, and has served as a Principal and shareholder since 2001. He received a BA in Business Administration with a concentration in entrepreneurial management from California State University, Fullerton. In 2014, Jim was selected as an Advisory Board member of the California Association for Local Economic Development, and is an active member of the International Council of Shopping Centers (ICSC) and the National Association of Office and Industrial Properties (NAIOP) as well as other professional organizations.

RECENT ENGAGEMENTS

- Performed economic impact analysis for development of the catalytic Kaiser Permanente medical office project for the Leimert Park neighborhood in south Los Angeles.
- Negotiated and structured terms and conditions of a workforce housing development in Goleta which was recognized by the American Planning Association's Central Coast Chapter as a "Hard Won Victory."
- Analyzed and developed deal terms for a disposition and development agreement for a public-private partnership of a \$70 million mixed use project in downtown San Carlos.
- Analyzed and developed framework for a subvention agreement between the City of Los Angeles and Westfield for development of a \$350 million destination lifestyle center in west San Fernando Valley.
- Vetted equity investor and developer qualifications for the resurrection of the stalled reopening of the Ritz Carlton Rancho Mirage to be opened in May 2014.
- Led the RSG team in an analysis of real estate market conditions and other assumptions employed by the Los Angeles County Assessor's office in their 2012-13 property value forecast.

OUT & ABOUT

- "Layered Financing: Funding Projects Today" – CALED/Annual Conference (Apr '14)
- "Creating an Economic Development Strategy" – OCED/Southern California Economic Development Symposium (Feb '14)
- "Real Estate Development & Reuse" – CALED/Introduction to Economic Development Certificate Program (Oct '13)
- "Components of an Economic Development Strategy" – CSAC/Economic Development and Opportunities for Counties (May '13)
- "Economic Development Beyond Redevelopment" – CSMFO/Webinar (Sep '12)
- "Unincorporated Communities and Infrastructure Financing" – CALAFCO/Annual Conference (Oct '10)
- "Pro Forma Development" – CSU Fullerton/Extension Program (May '08) National Association of Office and Industrial Properties



BECKY CAHA, *Associate*



ABOUT ME

Becky conducts a wide variety of real estate and affordable housing consulting services to municipalities throughout Southern California. Her broad portfolio of experience includes developing and administering low and moderate income housing and subsidy programs, reviewing applicant eligibility, coordinating escrow and document preparation, and conducting annual monitoring and reporting activities. Becky also has considerable experience in the field of rent subsidy and tenant coordination for multifamily affordable housing projects.

Becky joined RSG in 1989. She received a BA in Liberal Arts from the University of Redlands, and an MA in Organizational Leadership from Biola University.

RECENT ENGAGEMENTS

- Program Administrator and/or Oversight Agent pursuant to bond requirements for 11 public entity-assisted multifamily projects and 23 mobile home projects throughout California.
- Since 2009, Project Manager for multi-family compliance monitoring activities for the Fontana Housing Authority.
- Since 2103, Project Manager for the City of Huntington Beach compliance monitoring services.
- Since 2012, Project manager for City of Moreno Valley's Neighborhood Stabilization Program Home Purchase Program.

FOCUS AREAS

Affordable Housing and Housing Assistance Programs, Oversight Agent, Program Administration, Application Process Oversight, Escrow Supervision, Underwriting Services

WHAT I LOVE ABOUT WORK

I have a direct impact on the lives of individuals and families in need.

OUT & ABOUT

- National Notary Association
- California Association for Local Economic Development
- Coalition of Affordable Housing Professionals

ROSA ROMERO, *Research Assistant*



ABOUT ME

Rosa Romero is involved with housing monitoring activities and supports the Program Administrator and Oversight Agent responsibilities pursuant to bond requirements for 11 City- and Agency-assisted multi-family affordable housing projects and 23 mobile home projects throughout California.

Rosa's primary duties at RSG are to support project management, interface with clients, and report compliance. Rosa's specific tasks include the preparation of reporting requirements for oversight and program administration monitoring.

Ms. Romero joined RSG in 2007. She has 12 years of experience in real estate and affordable housing. Before joining RSG, Rosa was a Senior Loan Processor and was responsible for pre-underwriting loans and monitoring compliance documents for single-family and multi-family housing transactions. Rosa has been able to translate her past experience into working with the many different aspects of the affordable housing arena.

FOCUS AREAS

Compliance Monitoring, Affordable Housing, Housing Assistance Programs, Oversight Agent, Program Administration.

WHAT I LOVE ABOUT WORK

I enjoy being a part of the affordable housing services RSG provides and collaborating with the cities and local jurisdictions, as well as the community residents themselves.

RECENT ENGAGEMENTS

- Conducted compliance auditing, report monitoring, and inspections of affordable housing subsidized with HOME funds.
- Conducted inspections for 166 units subsidized with HOME funds and prepared reporting requirements for the City of Riverside to ensure the project's compliance with the development agreement.
- Involved with the eligibility review and loan underwriting services for the City of Marcos' First-Time Homebuyers Loan Program and Rehabilitation Loan Program.

NICOLE MILLER

RESEARCH ASSISTANT

Nicole brings a public service background to the RSG team. She researches a wide variety of data and translates it into reliable sources of information. She also provides assistance with housing compliance data analysis and reporting. Her distinctive knowledge and skill blend allows her to understand and help solve community problems.

FOCUS AREAS: Compliance Monitoring, Affordable Housing, Community Development

RECENT ENGAGEMENTS:

- Reviewed tenant occupancy file documentation to ensure cities and properties meet low income housing requirements
- Assisted in preparing Financial Consulting Reports.
- Assisted with market research centered on bringing business to a city.

Nicole joined RSG in 2015. She received both her Masters of Public Administration and Bachelors of Arts, History, at California State University, Fullerton.

WHAT I LOVE ABOUT WORK: I enjoy contributing to the affordable housing services RSG provides, in addition to community development and financial services. Through these areas, I feel that I positively affect communities.



OUT AND ABOUT:

Pi Alpha Alpha –
National Public
Administration Honors
Society



Qualifications

RSG was founded in 1988 and has been providing housing compliance monitoring services, as well as other municipal consulting services, to clients for over 30 years. As such, we have a long and successful track record in assisting public agencies in their affordable housing program formulation, implementation, and administration. We prepare monitoring programs and operating manuals for cities and agencies, as well as conduct one-time or continuing annual compliance audits of multifamily rental projects. Through our broad experience in all aspects of affordable housing, RSG staff is completely familiar with the calculation of housing costs and housing expense allowances, and the laws relating to continuing affordability and the processes involved with income determination and verification, eligibility review and recertification, and monitoring and reporting compliance activities.

Our housing staff has extensive experienced in providing on-going program administration and compliance monitoring services for numerous cities and agencies. We have developed and implemented homebuyer assistance programs in the Cities of La Quinta, Fontana, Garden Grove and Palmdale. We currently administer and monitor homebuyer purchase loan programs and residential rehabilitation projects for numerous cities including, Aliso Viejo, Carson, Irwindale, Brea, Commerce, Perris, Coronado, El Cajon, and Lemon Grove. In addition, we provide housing bond oversight and program administrator services for multi-family properties in the Cities of Alhambra, and Paramount, as well as for mobile home parks in the Cities of San Marcos (6 parks), Seal Beach, Fresno, Daly City, and Union City.

The firm's qualifications and responsiveness in serving our clients is demonstrated by our established long-term continuing consulting relationships with a large number of public agency clients throughout the state. The following provides a summary overview of our affordable housing administration and monitoring services which is inclusive of the tasks outlined in the RFP.

AFFORDABLE HOUSING ELIGIBILITY REVIEW & COMPLIANCE MONITORING

As contract staff for our clients, RSG provides ongoing housing administrative services including, but not limited to, annual tenant income re-certifications, rental increase reviews, ownership continuing occupancy verifications, annual monitoring reporting to the City for income-restricted units, as well as, preparation and updating of City web site data pursuant to the AB 987 requirements effective January, 1, 2008.

BOND OVERSIGHT AGENT/PROGRAM ADMINISTRATOR

For multifamily complexes and mobile home parks throughout the state, RSG ensures that operation is consistent with bond or other financing provisions, including oversight of a project's financial status and affordability requirements.

HOUSING STRATEGIES, STUDIES, PROGRAMS, AND PLANS

Affordable housing solutions differ within each community. Assessing housing needs and providing strategies and plans to address client needs is RSG's specialty. RSG brings a diverse background of housing experience to enable our clients to design programs that meet housing objectives in context of land use, economic, and special needs issues.

REFERENCES

Pursuant to the RFP, five references are provided below representing clients that are receiving, or have received, similar services as those contained in this Proposal. We encourage the City to contact these individuals to learn more about the quality of housing compliance monitoring services provided by RSG.

Fontana Housing Authority - 2009 to Present

RSG formulated and implemented the City's affordable housing compliance monitoring program in 2009 and continues to serve as consultant staff for the Fontana Housing Authority providing housing asset management and annual compliance monitoring services for 22 multifamily projects (,012 units) including recertification of tenant qualifying incomes, verification of affordable rents, and reporting to the Authority and HCD on the projects compliance under the applicable agreements. RSG provides technical support in negotiating resolutions for non-compliance issues identified through the compliance monitoring and financial review audit process. RSG also performed property inspection services in order to comply with HOME property standards.

Assigned Staff: *Becky Caha, Project Manager*
Rosa Romero, Research Assistant
Nicole Miller, Research Assistant

Contact Person: David Edgar, Deputy City Manager
 Fontana Housing Authority
 (909) 350-6739
dedgar@fontana.org

City of Carson Housing Authority - 2007 to Present

RSG prepared a comprehensive affordable housing compliance monitoring manual for the Carson Redevelopment Agency and initiated the City's first annual compliance monitoring in 2007. RSG continues to serve as consultant staff for the Carson Housing Authority providing housing asset management and annual compliance monitoring services for five multifamily projects (385 units) including recertification of tenant qualifying incomes, verification of affordable rents, and reporting to the Authority and HCD on the projects compliance under the applicable agreements. In addition, RSG performed a 10-year forensic review audit of the annual financial statements for the Authority's multifamily projects, and continues to perform annual review audits to ensure the accurate and timely payment of residual receipts to the Authority in accordance with applicable loan agreements. RSG provides technical support in negotiating resolutions for non-compliance issues identified through the compliance monitoring and financial review audit process. RSG also assisted Carson in preparing a comprehensive affordable housing database, and in preparing for review audits related to HOME funded properties.

Assigned Staff: *Becky Caha, Associate*
Rosa Romero, Research Assistant
Nicole Miller, Research Assistant

Contact Person: *Jeff Westbrook, Redevelopment Manager*
City of Carson/Carson Housing Authority
(310) 233-4821
jwestbro@carson.ca.us

City of Westminster Housing Authority - 2008 to Present

RSG prepared a comprehensive affordable housing strategy for the Westminster Redevelopment Agency and implemented the City's affordable housing compliance monitoring program in 2008. RSG continues to serve as consultant staff for the Westminster Housing Authority providing housing asset management and annual compliance monitoring services for nine multifamily projects (807 units) including recertification of tenant qualifying incomes, verification of affordable rents, and reporting to the Authority and HCD on the projects compliance under the applicable agreements. RSG also performs annual review audits to ensure the accurate and timely payment of residual receipts and ground lease payments to the Authority in accordance with applicable loan and lease agreements. RSG provides technical support in negotiating resolutions for non-compliance issues identified through the compliance monitoring and financial review audit process.

Assigned Staff: *Becky Caha, Associate*
Rosa Romero, Research Assistant

Contact Person: *Tami Piscotty, Housing Manager*
City of Westminster Housing Authority
(714) 898-3311 x 3494
TPiscotty@Westminster-CA.gov

Orange County Development Agency - 2001 to Present

We currently provide bond Oversight Agent and/or Program Administrator services for two multifamily projects in the County of Orange (Woodbridge and Ladera). This involves reviewing income tax and other financial statements to verify income eligibility, cash flow management, annual transmittal of program information notices, and annual eligibility recertification. This also includes quarterly site inspections of the properties to verify that the properties are maintained properly.

Assigned Staff: *Becky Caha, Project Manager*
Rosa Romero, Research Assistant
Nicole Miller, Research Assistant

Contact Person: *William Rawlings, Director*
County of Orange CEO, Real Estate
(714) 834-7128
William.Rawlings@ocgov.com

City of Huntington Beach

RSG provided a comprehensive affordable housing strategy review and recommendations for the City of Huntington Beach implemented the City's affordable housing compliance monitoring program in 2013. RSG continues to serve as consultant staff for the City providing annual compliance monitoring services for twenty-one multifamily projects (1,100 units) including recertification of tenant qualifying incomes, verification of affordable rents, and reporting to the Authority and HCD on the projects compliance under the applicable agreements. RSG provides technical support in negotiating resolutions for non-compliance issues identified through the compliance monitoring and financial review audit process.

Assigned Staff: *Becky Caha, Project Manager*
Rosa Romero, Research Assistant/Analyst

Contact Person: *Denise Bazant, Office of Business Development*
City of Huntington Beach
(714) 536-5470
dbazant@surfcity-hb.org

Fee Proposal

RSG proposes to provide the services described in the Scope of Services on a time-and-materials basis not-to-exceed the following fees by Phases as outlined below. Our fee is based upon an estimate of the number of annual hours needed for each task. The table below provides a cost breakdown for the Fee Proposal.

AFFORDABLE MULTI-FAMILY RENTAL COMPLIANCE AND MONITORING PROGRAM AND PROCEDURE DEVELOPMENT				
Estimated Budget based on 462 units at approx 21 properties				
Staffing Position	Principal/ Director	Assoc.	Research Assistant	Total Cost
Hourly Rate	\$235	\$160	\$110	
<i>Estimated Hours by Activity</i>				
PHASE I ACTIVITIES - REVISION OF PROGRAM GUIDELINS				
Project Document Review	2	15	60	\$9,470
Revisions and provision of Final Guidelines	2	15	60	\$9,470
PHASE I TOTAL	4	30	120	\$18,940
PHASE II ACTIVITIES - WEB-BASED SOFTWARE DEVELOPMENT				
- Not a part of this proposal	0	0	0	\$0
PHASE II TOTAL	0	0	0	\$0
PHASE III ACTIVITIES - INITIAL COMPLIANCE MONITORING				
Project/Controlling Document Review	2	20	80	\$12,470
Preparation of Monitoring Forms	2	10	60	\$8,670
Tenant File Recertification & Reporting	1	25	120	\$17,435
Property Inspections & Reporting	1	25	120	\$17,435
PHASE III TOTAL	2	50	240	\$56,010
PHASE IV ACTIVITIES - INITIAL COMPLIANCE MONITORING				
Tenant File Recertification & Reporting	1	10	120	\$15,035
Property Inspections & Reporting	1	10	120	\$15,035
PHASE IV TOTAL	2	20	240	\$30,070
TOTAL CONTRACT AMOUNT	6	80	360	\$105,020

If the tasks under the Methodology section are substantially changed in the future, RSG will notify the City and request a fee adjustment. The annual fee will be subject to an annual inflationary adjustment in accordance with the published Consumer Price Index pertinent to Orange County.

Any revisions to the Scope of Services will be billed on a time-and-materials basis at the following hourly rates:

Principal / Director	\$ 235
Senior Associate	\$ 180
Associate	\$ 160
Senior Analyst	\$ 135
Analyst	\$ 125
Research Assistant	\$ 110
Technician	\$ 80
Clerical	\$ 60
Reimbursable Expenses	Cost plus 10%

It is the policy of RSG, not to charge clients for mileage, parking, standard telephone/fax expenses, general postage or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs and teleconferencing services. We also charge for copies of reports, documents, notices, and support material in excess of five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended and the hourly rate.

Attachments 1 and 2 – Work Samples

CITY OF CARSON
Redevelopment Agency



AFFORDABLE HOUSING PROGRAM MONITORING MANUAL

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

CITY OF CARSON REDEVELOPMENT AGENCY

Affordable Housing Program Monitoring Manual

Prepared by:
Rosenow Spevacek Group, Inc.
309 West 4th Street
Santa Ana, California 92701

FINAL November 18, 2009

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I. Introduction

California Health and Safety Code Section 33000 et. seq., (California Redevelopment Law (“CRL”)) identifies the regulatory requirements associated with the expenditure of redevelopment tax increment revenues including any money deposited into a redevelopment agency’s Low and Moderate Income Housing Fund (“LMIHF”). The CRL also identifies specific affordable housing production obligations the agency must fulfill during each ten-year housing compliance period and over the life of the Redevelopment Plan. In fulfilling an agency’s affordable housing production obligations, units produced or otherwise assisted by an agency must have long-term income restrictions or covenants recorded with the Clerk of the county to reflect a period of not less than 45 years for owner-occupied units and 55 years for rental units.

This Affordable Housing Program Monitoring Manual (“Manual”) is prepared pursuant to the requirements under Section 33418 (a) of the CRL, which requires that a redevelopment agency shall monitor, on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to any provisions of the redevelopment law. As part of this monitoring, an agency shall require owners or managers of the housing to submit an annual report to the agency. For each rental unit the annual reports shall include: the rental rate and the income and family size of the occupants, and for each owner-occupied unit whether there was a change in ownership from the prior year and, if so, the income and family size of the new owners.

The purpose of this Manual is to provide guidelines to assist the Carson Redevelopment Agency (“Agency”) in implementing and administering the required affordable housing monitoring activities to ensure compliance under the CRL for those units that were assisted or otherwise made available through the programs and projects undertaken by the Agency. Even in cases where the Agency does not provide direct financial assistance to an individual project or unit, it may otherwise assist affordable housing units in the City of Carson (“City”) in a manner which requires that the projects or units be included under the annual monitoring requirements per Section 33418 (a) of the CRL. The following sections of this Manual provide an overview of terms and definitions under the CRL; a description of the monitoring process and suggested timelines for implementation; a review of the qualifying income limits for each income category and the applicable affordable housing costs for owner-occupied units and rental units for each income category; and sample monitoring letters and certification forms for owner-occupied units and rental apartment projects.

II. Glossary of Terms and Definitions

Adjusted Income: If stipulated by the program or project controlling documents, program or project eligibility may be determined by a household's adjusted gross income rather than "true" gross income. Adjusted gross income would include those income sources described under Gross Income below less the adjustments to gross income allowed on page one of IRS Form 1040 for the household's federal income tax return.

Area Median Income: (*Pursuant to Health and Safety Code Section 33334.13*) Area Median Income ("AMI") means one of the following: the median income adjusted for household size to reflect the statewide median household income or the countywide median household income established by the California Department of Housing and Community Development ("HCD") or, if applicable under the program or project, the median family income adjusted for household size as determined by the U.S. Department of Housing and Urban Development (HUD) with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

Affordable Housing Qualifying Income Limits: (*Pursuant to Health and Safety Code Section 50093*) "Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the California Department of Housing and Community Development ("HCD") in accordance with adjustment factors adopted and amended from time to time by the U.S. Department of Housing and Urban Development ("HUD") pursuant to Section 8 of the U.S. Housing Act of 1937. However, HCD may establish higher qualifying income limits ("adjusted qualifying income limits") in designated geographic areas of the state, upon their determination that 120 percent of median income in the particular geographic area is too low to qualify a substantial number of persons and families of low- or moderate-income who can afford rental or home purchase of housing financed without subsidy. HCD's adjusted qualifying income limits for Los Angeles County, a high cost area, are reflected in Table 1 on page 13 in the Income/Housing Cost Limits section of this manual, which reflect the 2009 adjusted qualifying income limits for extremely low-, very low-, low-, and moderate-income households adjusted for family size.

The Qualifying Income Limits for "Persons and families of low or moderate income" are defined as follows:

- **Extremely Low-Income:** (*Pursuant to Health and Safety Code Section 50106*) An extremely low-income household is one where the combined gross incomes of all persons residing in the unit does not exceed the adjusted qualifying income limit for Extremely Low-Income, adjusted for family size, as promulgated and revised annually by HCD.
- **Very Low-Income:** (*Pursuant to Health and Safety Code Section 50105*) A very low-income household is one where the combined gross incomes of all persons residing in the unit exceeds the adjusted qualifying income limit for Extremely Low-Income but does not exceed the adjusted qualifying income limit for Very Low-Income, adjusted for family size, as promulgated and revised annually by HCD.
- **Low-Income:** (*Pursuant to Health and Safety Code Section 50079.5*) A low-income household is one where the combined gross incomes of all persons residing in the unit exceeds the adjusted qualifying income limit for Very Low-Income but is less than the

maximum adjusted qualifying income limit allowed for Low-Income households, adjusted for family size, as promulgated annually by HCD.

- **Moderate-Income:** *(Pursuant to Health and Safety Code Section 50093(b))* A moderate-income household is one where the combined gross incomes of all persons residing in the unit exceeds the adjusted qualifying income limit for Low-Income but is less than the maximum adjusted qualifying income limit allowed for Moderate-Income households, adjusted for family size, as promulgated and revised annually by HCD.

Affordable Housing Cost: *(Pursuant to Health and Safety Code Sections 33742, 50052.5)* For owner-occupied properties, affordable housing costs includes the following monthly amounts: the mortgage principal and interest payment, property taxes and insurance, mortgage insurance and/or homeowner's association dues if applicable, and a reasonable amount for utilities (generally includes gas, electricity, water and trash) and maintenance of the property.

The amount used to determine monthly utility costs may be determined by staff and could be a local average based on the number of occupants, a local average based on the square footage of the housing unit, or the amounts established annually by the County of Los Angeles for its Housing Assistance Program. As a matter of policy, at staff's discretion, an amount may be included for maintenance of the property.

Per Health and Safety Code Section 50052.5 (h), in determining the applicable maximum affordable housing cost that would be allowed, the family size is adjusted (or "imputed") based on the number of persons appropriate for the unit size (number of bedrooms). The code section identifies that "adjusted for family size appropriate for the unit" shall mean 1 person for a studio unit, 2 persons for a 1 bedroom unit, 3 persons for a 2 bedroom unit, 4 persons for a 3 bedroom unit, and 5 persons for a 4 bedroom unit. For example, if a 3 bedroom home is purchased by a 2 person household, the applicable housing cost for the 3 bedroom home would, nonetheless, be calculated based on an imputed 4-person household rather than the actual household size of 2 persons.

For any owner-occupied housing that receives assistance after January 1, 1991, total monthly affordable housing costs shall be calculated as follows:

- For **Extremely Low-Income** households the maximum monthly housing costs may not exceed one-twelfth (1/12) of the product of 30 percent times 30 percent of area median income adjusted for family size appropriate for the unit. *(Note: currently the Carson Redevelopment Agency does not have a production requirement to provide housing units affordable to extremely low-income households.)*
- For **Very Low-Income** households the maximum housing costs may not exceed one-twelfth (1/12) of the product of 30 percent times 50 percent of area median income adjusted for family size appropriate for the unit.
- For **Low-Income** households the maximum housing costs is calculated as one-twelfth (1/12) of the product of 30 percent times 70 percent of area median income adjusted for family size appropriate for the unit. However, the Agency has the option to determine that Low-Income households that have gross incomes between 70 percent and 80 percent of area median income may have maximum housing costs that do not exceed

30 percent of the household's gross income. Such an optional provision would need to be included in the program controlling documents.

- For **Moderate-Income** households the maximum housing costs is calculated as one-twelfth (1/12) of the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. However, for Moderate-Income owner-occupied housing units the minimum housing cost may not be less than one-twelfth (1/12) of the product of 28 percent of the household's gross income. The Agency has the option to determine that Moderate-Income households that have gross incomes between 110 percent and 120 percent of area median income may have maximum housing costs that do not exceed 35 percent of the household's gross income. Such an optional provision would need to be included in the program controlling documents.

Affordable housing costs for households who own a mobile home would include the monthly mortgage principal and interest payment, the space rent for the space the mobile home occupies, personal property tax on the mobile home, DMV registration fees, mortgage insurance and/or homeowner's association dues, if applicable, and a reasonable amount for those utilities that are not included in the monthly space rent (generally including gas, electricity, water and trash) and maintenance of the property. In adjusting housing costs or rents for household size, Redevelopment Law assumes that 1 person will occupy an RV, 2 persons will occupy a single-wide mobile home, and 3 persons will occupy a double-wide or multi-sectional mobile home.

Affordable Rent: *(Pursuant to Health and Safety Code Sections 33742, 50053)* Affordable rent for multifamily rental units includes the monthly rent plus a reasonable utility allowance. The amount included for monthly utility costs may be determined by staff and could be a local average based on the number of occupants, a local average based on the square footage of the housing unit, or the amounts established annually by the County of Los Angeles for its Housing Assistance Program. The same family size adjustments appropriate for the unit are used as identified above for owner-occupied units.

For any rental housing that receives assistance after January 1, 1991, the maximum monthly affordable rents including a reasonable allowance for utilities shall be calculated as follows:

- For **Extremely Low-Income** households the maximum rent may not exceed one-twelfth (1/12) of the product of 30 percent times 30 percent of area median income adjusted for family size appropriate for the unit. (Note: currently the Carson Redevelopment Agency does not have a production requirement to provide housing units affordable to Extremely Low-Income households.)
- For **Very Low-Income** households the maximum rent may not exceed one-twelfth (1/12) of the product of 30 percent times 50 percent of area median income adjusted for family size appropriate for the unit.
- For **Low-Income** households the maximum housing costs is calculated as one-twelfth (1/12) of the product of 30 percent times 60 percent of area median income adjusted for family size appropriate for the unit. However, the Agency has the option to determine that Low-Income households that have gross incomes between 60 percent and 80 percent of area median income may have maximum monthly rents that do not exceed 30 percent of the household's gross income. Such an optional provision would need to be included in the program controlling documents.

- For **Moderate-Income** households the monthly rent is calculated as one-twelfth (1/12) of the product of 30 percent times 110 percent of area median income adjusted for family size appropriate for the unit. However, the Agency has the option to determine that Moderate-Income households that have gross incomes between 110 percent and 120 percent of area median income may have maximum monthly rent that does not exceed 30 percent of the household's gross income. Such an optional provision would need to be included in the program controlling documents.

Affordable rent for tenants of mobile home parks would include the amount for rental of the mobile home, the amount for rent of the space the mobile home occupies if paid by the tenant, and a reasonable amount for utilities that are not included in the space rent (generally including gas, electricity, water and trash). The same family size adjustments are used. See *Table 3 on page 15*.

Elderly (Senior): (*Pursuant to Health and Safety Code Section 50067*) California Redevelopment Law defines elderly as a household in which the head of the household is at least 60 years of age, or an elderly or handicapped household. The age may be adjusted by the Agency to facilitate participation in other municipal, state or federal programs, i.e. in other state and federal projects including those that receive low income housing tax credits from the Tax Credit Allocation Committee, a senior citizen household is defined, in accordance with State and Federal Fair Housing Law, as one in which the head of household is 55 years of age or older (except for federal housing programs which may have a different limitation (age 62 and over)).

Gross Income: (*Source: California Code of Regulations Section 6914*) Gross income is the total of the true gross wages and other income, both taxable and non-taxable, of everyone living in the household at the time of eligibility determination, regardless of relationship, equity ownership in the property, or responsibility for a rental agreement or lease, including the following:

- amount of wages, salaries, overtime pay, commissions, fees, tips and bonuses, and payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (before payroll deduction)
 - net income from business or profession or rental of property (without deduction for repayment of debts or expansion of business)
 - interest and dividends
 - periodic receipts such as social security, annuities, pensions, retirement funds, insurance policies, disability or death benefits, alimony, child support, regular contributions or gifts from persons not occupying unit
 - public assistance allowance or grant plus excess of maximum allowable for shelter or utilities over the actual allowance for such purposes
 - regular and special pay and allowances of a member of armed services (whether or not living in the dwelling) who is the head of the family or spouse.
- LESS: Portion of above items which are income of a family member who is less than 18 years old or a full-time student

Note: The following items are not considered income: casual or sporadic gifts; amounts specifically for or in reimbursement of medical expenses; lump sum payment such as inheritances, insurance payments, capital gains and settlement for personal or property losses; educational scholarships paid directly to the student or educational institution; government

benefits to a veteran for education; special pay to a serviceman head of family away from home and under hostile fire; foster child care payments; value of coupon allotments for purpose of food under Food Stamp Act of 1964 which is in excess of amount actually charged the eligible household; relocation payments under Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; payments received pursuant to participation in the following programs: VISTA, Service Learning Programs, and Special Volunteer Programs, SCORE, ACE, Retired Senior Volunteer Program, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience.

Handicapped: *(Pursuant to Health and Safety Code Section 19903, 50072)* The term "handicapped" refers to a family in which the head of the household suffers from an orthopedic disability which impairs that person's mobility or ability to seek employment, or a developmental disability or mental disorder. It also refers to a single person with a physical disability which requires special care or facilities in the home.

Monitoring: *(Pursuant to Health and Safety Code Section 33418)* Agencies are required to obtain annual monitoring certifications of affordable units to determine whether properties or projects which have received Redevelopment Agency assistance are in income and/or occupancy compliance with the project requirements. In addition, per AB-987 effective January 1, 2008, agency's are required to prepare and annually update a database of all affordable housing units developed or otherwise assisted with moneys from the low- and moderate-income housing funds or otherwise counted towards fulfilling the agency's affordable housing production requirements pursuant to CRL Section 33413 (a) or (b), and to make the database available to the public on the Internet.

For **owner-occupied properties**, the monitoring requirement is to certify that the housing unit continues to be occupied by the household who received the assistance; the annual occupancy certification request is directed to each property owner who responds directly to Agency staff or program consultant.

For **multi-family rental projects**, the monitoring requirement is to verify that the project meets the affordability requirements stipulated by the affordable housing program. These requirements may include the provision that a specific number of units be rented to certain income categories at an affordable rent. The inquiry is directed to the property owner who is responsible for: a) obtaining annual income re-certifications from tenants; b) certifying that the project contains the appropriate percentage of the income categories and/or the number of units at affordable rent as stipulated by the project's controlling document (typically the DDA and Regulatory Agreement); and c) certifying that the project meets or exceeds the affordability requirements under the applicable agreements.

The **affordable housing database** must contain information for each owner-occupied or rental unit, or for each group of units if more than one unit is subject to the same covenant, that identifies:

1. the street address and parcel number of the property;
2. the size of each unit by number of bedrooms;
3. the year in which the construction or substantial rehabilitation was completed;
4. the date of recordation and document number of the affordability covenants or restrictions;

5. the date the covenants or restrictions expire; and,
6. for owner-occupied units that have changed ownership during the reporting year, the date and document number of the new affordability covenants or documents recorded to assure that the affordability restriction is enforceable and continues to run with the land.

Residence: *(Pursuant to Health and Safety Code Section 37912(k))* A residence is a real property which has been improved with a residential structure which may be single or multi-family construction. A mobile home is considered a residence. The term “residence” also includes condominiums, cooperative dwelling units, and resident hotels where not less than one-half of the occupied units are occupied on a non-transient basis.

III. Monitoring Process

Monitoring is an annual requirement that applies to all affordable housing programs or projects provided by the Agency using local, state and/or federal funding sources. The Agency is required to conduct annual monitoring and obtain certifications from tenants/owners of affordable units to determine whether properties or projects which have received Agency financial assistance are in income and/or occupancy compliance with applicable agreements and project requirements. Monitoring is performed to ensure that the funds expended are used for their intended purpose for the duration of the affordability provisions. In addition to the compliance aspect, another objective of monitoring is to provide evidence that the Agency has made a “best efforts” attempt to comply with the law in the event the housing program records are audited.

Per AB-987, effective January 1, 2008, redevelopment agency’s are also required to prepare and annually update a database of all affordable housing units developed or otherwise assisted with LMIHF money or otherwise counted towards fulfilling the agency’s affordable housing production requirements pursuant to CRL Section 33413 (a) or (b), and to make the database available to the public on the Internet.

The on-going monitoring process described on the following pages is based on the assumption that for each assisted housing unit or project the initial household eligibility review and qualification work was done correctly by the developer/owner and/or the Agency.

Owner-Occupied Properties

The monitoring process for owner-occupied properties pertains to households who received an Agency loan or grant to assist them to purchase a home or to rehabilitate a property they already own. Agency housing programs generally require that the financially assisted property be a single family residence or mobile home that is owner-occupied.

For **owner-occupied properties**, the monitoring requirement is to certify that the household who received the Agency financial assistance continues to own and occupy the property as its primary residence; that the owner is in compliance with other requirements under the applicable agreement(s); and that ownership has not changed without the Agency’s knowledge. However, in the event ownership has changed, monitoring is performed to ensure that 1) the gross income of the new owner falls within the qualifying income limit for the unit, 2) that the affordable housing cost does not exceed the applicable limit, and 3) that an enforceable affordability covenant is recorded for the property.

Monitoring Process and Timeline for Owner-Occupied Properties

Step 1: Compile a list of owner-occupied projects with Agency assistance.

Each affordable housing program or project should have a detailed list of the recipients of the assistance which provides at minimum: the property owner’s name, the address and parcel number, household size by number of persons, unit size by number of bedrooms, gross household income, income category, and any other information that will summarize the program’s requirements. Assuming that the initial household eligibility review and qualification work was done correctly, this information should be available.

Step 2: Prepare a letter and form for mailing to property owners.

Each year, the owner of each property that received assistance is to be mailed a cover letter and certification form; see the samples marked Exhibits 1a and 1b in the Attachment section of this Manual. The form is widely used by redevelopment agencies in their monitoring activities. If the affordable housing database is maintained on an MS Excel spreadsheet, as suggested, the mailing can be accomplished by merging specific data fields into the letter and/or form.

The form needs to be completed by the property owner and returned along with additional documentation to substantiate their continuing ownership and occupancy of the unit. Copies of the following documents may be requested as **verification of continuing ownership and program compliance**: a) the most recent property tax bill and evidence of payment; b) property insurance policy statement; or c) two most recent mortgage payment statements. These documents are usually mailed to the property owner's home of record and they also identify the subject property. In addition, the following documents should be requested as **verification of continuing occupancy**: a) copies of two most recent utility bills (electric and gas); and b) evidence of payment, both of which are also usually mailed to the property owner's home of record and identify the subject property. While this process may be conducted any time during the year, as an on-going activity based on the date the loan was provided, we recommend that all properties be mailed the monitoring forms on a specific date (April 1st) each year, which will allow for the publishing of the new HCD income limits, if applicable, and for the return of all certifications on or before the fiscal year end.

It is best to specify a short time period when the responses are to be returned. Experience indicates that if the return time is too long, the owner will set the form aside and forget to return it. A two (2) week response time should be established.

Step 3: Review responses to determine owners who have not responded.

For those who do not respond, a second request should be mailed and if a response is still not received, a telephone call to the owner could be made and verbal confirmation obtained.

Step 4: Staff reviews returned information.

The results of the continuing occupancy certification should be tabulated and summarized in a database spreadsheet and/or noted on the program assistance list.

Step 5: Try to contact owners who have not responded.

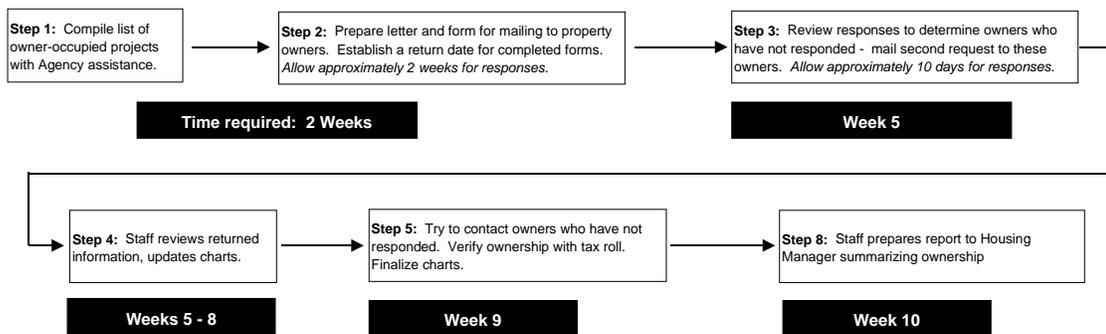
You will undoubtedly run into a percentage of property owners who do not (or will not) respond to information requests. They may even be unwilling or unable, due to age or medical problems, to provide the information you request. In these cases, you may determine that it is acceptable to ask them to provide whatever form of evidence of ownership they have available, or a telephone survey may be sufficient. Alternatively, it may be acceptable to check the property tax rolls with the County Assessor / Tax Collector's office to verify ownership and residency.

Step 6: Staff prepares report to Housing Manager summarizing ownership.

Staff should prepare a report summarizing the compliance status of all owner-occupied housing units. Again, the purpose of monitoring is to be able to demonstrate that the Agency has made a good faith effort to ensure continuing ownership, occupancy, and program compliance, thereby complying with the intent of the law. If an audit were conducted, staff would be able to demonstrate that all reasonable efforts to secure compliance had been made.

The following flow chart reflects the annual monitoring process and timeline for owner-occupied properties.

Monitoring Process (Owner-Occupied Properties)



Multi-Family Rental Properties:

The monitoring process for rental properties pertains to the developer or property owner of multi-family rental projects or mobile home parks that have received Agency financial assistance in exchange for the provision of a certain number of income-restricted units.

For **multi-family rental projects**, the monitoring requirement is to verify that the project meets the affordability requirements stipulated by the affordable housing program. These requirements may include the provision that a specific number of units be rented to certain income categories at an affordable rent. The Agency’s monitoring inquiries are directed to the property owner who is responsible for: a) obtaining annual income re-certifications from tenants; b) certifying that the project contains the appropriate percentage of the income categories and/or the number of units at affordable rent as stipulated by the project’s controlling document (typically the DDA and Regulatory Agreement); and c) certifying that the project meets or exceeds the affordability requirements under the applicable agreements.

Monitoring Process and Timeline for Multi-Family Rental Properties

Step 1: Compile a list of multi-family projects with Agency assistance.

As stated above, each affordable housing program or project should have a detailed list of the recipients of the assistance.

Step 2: Prepare letter and form for mailing to developer or property manager.

This monitoring process involves mailing a cover letter along with the tenant annual income re-certification forms and landlord rental certification form to the property owner who is responsible for obtaining the appropriate information and income certifications from the tenants and also responsible for providing the property owner's certification that:

- 1) each tenant's gross household income still meets the income limit criteria pursuant to the affordability covenants or restrictions;
- 2) the affordable rent amounts are appropriate to that household's income adjusted for family size appropriate to the unit size pursuant to the affordability covenants or restrictions applicable to that project, and
- 3) the project, as a whole, meets the project's affordability requirements pursuant to the applicable affordability documents.

The property owner is responsible for obtaining the necessary information and back-up documentation from the tenants and verifying its accuracy. The owner is also to complete the landlord certification form which is to be returned along with a current rent roll and tenant listing which details household size, number of bedrooms in the unit, gross household income and rent charged. Exhibits 2a, 2b and 2c in the Attachment section of this Manual provide a sample Tenant Income Certification Form, Property Owner/Manager Letter and Compliance Certification Form (all in English and Spanish language versions).

Step 3: Verify that all responses have been received.

Property owners of multi-family rental projects are usually responsive to the monitoring request because the project controlling document likely contains remedies for non-compliance and if the project is bond funded, such non-compliance will cause the bonds to be in default. Nonetheless, if property owners fail to provide timely responses to the monitoring letter, it may be necessary to reference the potential condition of default for their failure to provide the information requested.

While the monitoring process may be conducted any time during the year as an on-going activity based on the date the loan was provided, we recommend that all property owners be mailed the monitoring forms on a specific date (April, 1st) each year, which will allow for the publishing of the new HCD qualifying income limits and for the return of all certifications on or before the fiscal year end. This will also afford landlords the opportunity to provide tenants with notices for any rent increases to be reflected in the rent rolls which are limited in accordance with the new income limits promulgated by HCD.

Step 4: Staff reviews returned information.

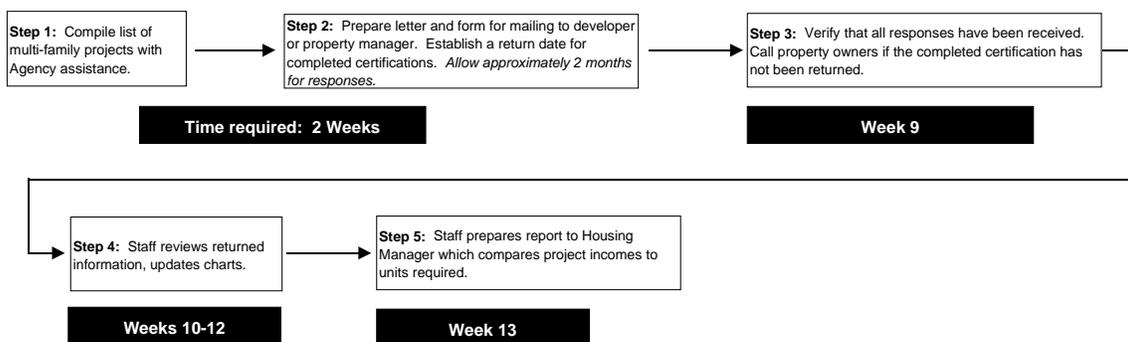
After responses have been received, they should be maintained in a manner that will provide accessibility for future reference.

Step 5: Staff prepares report to Housing Manager.

The report should summarize the compliance status of all rental properties that have received Agency assistance and should identify whether they meet the affordability requirements of the applicable affordability documents.

The following flow chart reflects the annual monitoring process and timeline for multifamily rental units.

Monitoring Process (Multi-Family Programs)



AB-987 Affordable Housing Database

As stated above, the Agency is required to prepare and annually update a database of all affordable housing units developed or otherwise assisted with LMIHF money or otherwise counted towards fulfilling the Agency's affordable housing production requirements. The Agency must make this database available to the public on the Internet.

The **affordable housing database** must contain information for each owner-occupied or rental unit, or for each group of units if more than one unit is subject to the same covenant, that identifies:

1. the street address and parcel number of the property;
2. the size of each unit by number of bedrooms;
3. the year in which the construction or substantial rehabilitation was completed;
4. the date of recordation and document number of the affordability covenants or restrictions;
5. the date the covenants or restrictions expire; and,

6. for owner-occupied units that have changed ownership during the reporting year, the date and document number of the new affordability covenants or documents recorded to assure that the affordability restriction is enforceable and continues to run with the land.

IV. Income and Housing Cost Limits

California Redevelopment Law

Since the properties addressed in this Manual have either received financial assistance by the Agency using LMIHF moneys or have been otherwise assisted by the Agency and counted toward fulfilling the affordable housing requirements of the Agency, applicable sections of the CRL must be applied. The State legislature determined that the provision of affordable housing is a fundamental purpose of redevelopment and included certain affordable housing production requirements and LIMHF expenditure limitations in the CRL. A summary of specific affordable housing requirements under the CRL is provided in the Appendix to this Manual.

The CRL requires that at least 20 percent of the Agency's total tax increment revenue generated in redevelopment project areas be deposited annually into a separate LMIHF to be used solely for the purpose of increasing, improving and preserving the community's supply of housing units available at an affordable housing cost for persons and families of low and moderate-income. The CRL also requires that at least 15 percent of new and substantially rehabilitated units produced within a project area be available to and for occupancy by persons and families at an affordable housing cost to a Low- and Moderate-Income household, of which not less than 40% are to be available to Very Low-Income households. If the new and substantially rehabilitated units are produced by a redevelopment agency, the forgoing production requirement is increased to 30% of the units to be affordable to Low- and Moderate-Income households of which not less than 50% must be available to Very Low-Income households. An agency may exercise any or all of its broad powers under the CRL for the construction, rehabilitation, or preservation of affordable housing units in the community.

The CRL identifies the methodology to be used in determining affordable housing eligibility and housing cost for Low- and Moderate-Income households. The approach involves two distinct, but related steps, as follows:

- **Step 1**: determine the household's eligibility to participate in affordable housing programs and projects of the City and Agency based on the adjusted qualifying income limits adjusted for family size for Very Low-, Low- and Moderate-Income households, as published by HCD (see "Affordable Housing Qualifying Income Limits" definition); and
- **Step 2**: determine the maximum affordable housing cost for an affordable unit adjusted for family size appropriate for the unit (see "Affordable Housing Cost" and "Affordable Rent" definitions), and determine the minimum housing cost in the case of Moderate-Income units.

Step 1: Determine Household's Eligibility to Participate

Area Median Income and Qualifying Income Limits

Table 1 below identifies the 2009 Los Angeles County area median incomes adjusted for family size and the corresponding adjusted qualifying income limits adjusted for family size for Very Low-, Low- and Moderate-Income households as established and published by HCD annually, typically in early spring. The adjusted qualifying income limits are the same for both owner and renter-occupied programs and projects. Note: the median incomes and qualifying income limits for each income category are subject to change annually.

Table 1
2009 Los Angeles County Qualifying Income Limits

Household Size	Area Median Income	Ext. Low-Income	VeryLow-Income	Low-Income	Moderate-Income
		Qualifying Income Limits	Qualifying Income Limits	Qualifying Income Limits	Qualifying Income Limits
1 Person	\$43,450	\$16,650	\$27,750	\$44,400	\$52,150
2 Person	\$49,700	\$19,050	\$31,700	\$50,750	\$59,600
3 Person	\$55,900	\$21,400	\$35,700	\$57,100	\$67,050
4 Person	\$62,100	\$23,800	\$39,650	\$63,450	\$74,500
5 Person	\$67,050	\$25,700	\$42,800	\$68,550	\$80,450
6 Person	\$72,050	\$27,600	\$46,000	\$73,600	\$86,400
7 Person	\$77,000	\$29,500	\$49,150	\$78,700	\$92,400
8 Person	\$81,950	\$31,400	\$52,350	\$83,750	\$98,350

Qualifying Income Limits reflect the maximum adjusted gross annual income of all members of the household for each household size and income category.

Qualifying Income Limits for Los Angeles County published by the Californing Department of Housing and Community Development

The table shows, for example purposes, that for a four-person household (highlighted), the area median income adjusted for household size is \$62,100 and the qualifying income limits are as follows:

- if a four-person household’s income is not more than 23,800, the household will qualify as Extremely Low-Income;
- if a four-person household’s gross annual income is more than \$23,800 but not greater than \$39,650, the household will qualify as Very Low-Income;
- if a four-person household’s gross annual income is more than \$39,650 but not greater than \$63,450, the household will qualify as Low-Income;
- if the four-person household’s annual gross income is more than \$63,450 but not greater than \$74,500, the household will qualify as Moderate-Income; and
- if the household’s gross annual income exceeds \$74,500, it would not be eligible to receive Agency assistance using moneys from the LMIHF.

Step 2: Determine the Maximum Affordable Housing Cost

Affordable Housing Cost for Owner-Occupied (Home Purchase) Programs:

Table 2 below identifies the maximum monthly housing costs for affordable owner-occupied housing units available to and for occupancy by Very Low-, Low- and Moderate-Income households pursuant to CRL Sections 50052.5 (b) (2), (3), and (4). Note: the monthly

affordable housing costs are subject to change annually based on changes to the area median incomes established by HCD.

Table 2

2009 Los Angeles County Affordable Owner Housing Cost Limits					
Unit Size	Imputed Household Size ^{1.}	Area Median Income	Very Low-Income	Low-Income	Moderate-Income
			Affordable Housing Cost ^{2.}	Affordable Housing Cost ^{3.}	Affordable Housing Cost ^{4.}
Studio	(1 Person)	\$43,450	\$543	\$760	\$1,394
1 Bedroom	(2 Person)	\$49,700	\$621	\$870	\$1,595
2 Bedrooms	(3 Person)	\$55,900	\$699	\$978	\$1,793
3 Bedrooms	(4 Person)	\$62,100	\$776	\$1,087	\$1,992
4 Bedrooms	(5 Person)	\$67,050	\$838	\$1,173	\$2,151
5 Bedrooms	(6 Person)	\$72,050	\$901	\$1,261	\$2,312
6 Bedrooms	(7 Person)	\$77,000	\$963	\$1,348	\$2,470

Monthly Housing Costs are rounded and include mortgage payments of principal and interest, mortgage and property insurance, property taxes, HOA fees, and Utilities

1. Imputed Household Size reflects "adjusted for family size appropriate for the unit" per H&S Code Section 50052.5(h).
2. Very Low-Income affordable housing cost calculated at 1/12 of 30% X 50% area median income per H&S Code 50052.5(b)(2)
3. Low-Income affordable housing cost computed at 1/12 of 30% X 70% area median income per H&S Code 50052.5(b)(3)
4. Moderate-Income affordable housing cost computed at 1/12 of 35% X 110% area median income (may not be less than 28% of household's income) per H&S Code 50052.5(b)(4)

2009 Area Median Incomes for Los Angeles County published by the Californian Department of Housing and Community Development

The table above identifies, for example purposes, the maximum monthly affordable housing cost for a family of any size occupying a three-bedroom unit (highlighted) based on an imputed four-person household size per CRL Section 50052. Based on the highlighted example, the affordable housing cost per income category would be as follows:

- the maximum affordable housing cost for a **Very Low-Income** three-bedroom unit would not exceed \$776, which reflects one-twelfth (1/12) of the product of 30 percent times 50 percent of area median income adjusted for household size (imputed as four persons) appropriate for the unit;
- the maximum affordable housing cost for a **Low-Income** three-bedroom unit would permit a total monthly housing cost of \$1,087, which reflects one-twelfth (1/12) of the product of 30 percent times 70 percent of area median income adjusted for household size appropriate for the unit;
- the maximum affordable housing cost for a **Moderate-Income** three-bedroom unit would permit a total monthly housing cost of \$1,992, which reflects one-twelfth (1/12) of the product of 35 percent times 110 percent of area median income adjusted for household size appropriate to the unit. However, total monthly housing costs for Moderate-Income households may not be less than one-twelfth (1/12) of the product of 28 percent of the actual gross income of the household.

It should be noted that monthly affordable housing cost is a factor used to calculate estimated **affordable housing prices** for Low and Moderate Income households. As shown in Exhibits 3a and 3b in the Attachments section of this Manual, affordable unit pricing is calculated based on the maximum monthly housing cost, which is then reduced per the CRL to reflect other housing related expenses, including real estate taxes, property insurance, allowance for utilities, HOA fees and other assessments, leaving the maximum amount available for payment of principal and interest on the primary loan amount. The primary (or performing) loan amount is

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

reflected as a loan on which both principal and interest is due and payable each month, which is typically reflected by a Promissory Note secured by a First Deed of Trust. The maximum amount available for debt service is used to calculate the maximum primary/performing loan amount based on the interest rate and amortization period of the loan. The primary loan amount coupled with the home buyer down payment and any other non-performing (deferred) loans including, but not limited to, an Agency deferred payment financing loan, is used to identify the maximum affordable housing price for the respective unit sizes and income categories.

EXAMPLES:

- 1) If a three-bedroom home were to be purchased for occupancy by a two-person Low-Income household, their qualifying income limit would be \$50,750 (Table 1). The three-bedroom home's affordable price would be based on an imputed four-person household reflecting total monthly housing costs of \$1,087 (Table 2). In order for the two-person Low-Income household to purchase the larger three-bedroom home, they would need to: a) make a down payment in an amount large enough to reduce their total monthly housing costs to \$870, or b) qualify for the higher loan amount and be able to make the higher \$1,087 monthly housing payments.
- 2) If the same three-bedroom home were to be purchased for occupancy by a five-person Low-Income household, their qualifying income limit would be \$68,550 (Table 1). The three-bedroom home price is based on an imputed four-person household reflecting a monthly housing cost of \$1,087 (Table 2). The five-person Low-Income household may purchase the three-bedroom unit on the basis of the lower monthly housing cost for the unit or purchase a four bedroom unit for which it may otherwise be qualified to purchase.
- 3) If a residential unit is income-restricted for Very Low-Income households by the Agency's program or project documents, a Low- or Moderate-Income household may not purchase the unit. However, if the unit were restricted for Moderate-Income households, a Very Low- or Low-Income household may purchase the unit but would likely need to pay the higher purchase price based on that which would be applicable to the unit size based on the imputed family size median income, if they were otherwise qualified by the lender's underwriting standards.

Affordable Housing Cost for Multi-family Rental Programs:

Table 3 below identifies the maximum net monthly rents after deductions for the multi-family rental monthly utility allowances based on the corresponding Los Angeles County 2009 area median incomes adjusted for family size. Note: the monthly affordable rents are subject to change annually based on changes to the area median incomes published by HCD.

Table 3

2009 Los Angeles County Affordable Rent Limits					
Unit Size	Imputed Household Size ^{1.}	Area Median Income	Very Low-Income	Low-Income	Moderate-Income
			Monthly Affordable Rent ^{2.}	Monthly Affordable Rent ^{3.}	Monthly Affordable Rent ^{4.}
Studio	(1 Person)	\$43,450	\$503	\$612	\$1,155
1 Bedroom	(2 Person)	\$49,700	\$569	\$694	\$1,315
2 Bedrooms	(3 Person)	\$55,900	\$633	\$773	\$1,471
3 Bedrooms	(4 Person)	\$62,100	\$694	\$850	\$1,626
4 Bedrooms	(5 Person)	\$67,050	\$746	\$914	\$1,752
5 Bedrooms	(6 Person)	\$72,050	\$767	\$947	\$1,847
6 Bedrooms	(7 Person)	\$77,000	\$804	\$996	\$1,959

Monthly Affordable Rent Limits exclude allowances for utilities.

1. Imputed Household Size reflects "adjusted for family size appropriate for the unit" per H&S Code Section 50052.5(h).
2. Very Low-Income affordable rent computed at 1/12 of 30% X 50% median income per H&S Code Section 50053(b)(2)
3. Low-Income affordable rent computed at 1/12 of 30% X 60% median income per H&S Code Section 50053(b)(3)
4. Moderate-Income affordable rent computed at 1/12 of 30% X 110% median income per H&S Code Section 50053(b)(4)

2009 Area Median Incomes for Los Angeles County published by the Californing Department of Housing and Community Development.

The table above identifies, for example purposes, the maximum net monthly affordable rent for a family of any size occupying a three-bedroom unit (highlighted) based on an imputed four-person household size per CRL Section 50052. Based on the highlighted example, the maximum net monthly affordable rent per income category would be as follows:

- the maximum affordable monthly rent for a three-bedroom unit (highlighted) available to and for occupancy by a **Very low-income** household would not exceed \$694, which reflects one-twelfth (1/12) of the product of 30 percent times 50 percent of area median income adjusted for household size (imputed as four persons) appropriate for the unit;
- the maximum affordable monthly rent for a three-bedroom unit available to and for occupancy by a **Low-income** household would permit a total monthly housing cost of \$850, which reflects one-twelfth (1/12) of the product of 30 percent times 60 percent of area median income adjusted for household size appropriate for the unit;
- the maximum affordable monthly rent for a three-bedroom unit available to and for occupancy by a **Moderate-income** household would permit a total monthly housing cost of \$1,626, which reflects one-twelfth (1/12) of the product of 30 percent times 110 percent of area median income adjusted for household size appropriate to the unit.

It should be noted that where Agency assistance is provided in conjunction with other state or federal assistance such as low income housing tax credits ("LIHTC"), the more restrictive of the respective program income limits and net monthly rents should be applied.

EXAMPLES:

1. If a three-bedroom unit were to be rented for occupancy by a two-person Low-Income household, the household qualifying income limit would be \$50,750 (Table 1). The three-bedroom unit's maximum permitted net monthly rent would be based on an imputed four-person household reflecting maximum net monthly rent of \$850. In order for the two-person household to rent the larger three-bedroom unit, they would need to: a) be able to make the higher \$850 monthly rent payments, or b) rent a less expensive unit or a smaller one-bedroom unit.

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

2. If the same three-bedroom unit were to be rented for occupancy by a five-person Low-Income household, their qualifying income limit would be \$68,550 (Table 1). The three-bedroom unit's maximum permitted net monthly rent is based on an imputed four-person household reflecting a maximum net monthly rent of \$850. The five-person low-income household may rent the three-bedroom unit on the basis of the lower net monthly rent for the unit or rent a four bedroom unit for which it may otherwise be qualified.
3. If a unit is income-restricted for very low-income households by the Agency's program or project documents, a Low-Income household may not rent the unit. However, if the unit were restricted for Moderate-Income households, a Very Low- or Low-Income household may rent the unit but would likely need to pay the higher net monthly rent that would be applicable to the unit size based on the imputed family size median income.

Attachments - Exhibits, Forms and Worksheets

**Exhibit 1a
Owner-Occupied Annual Recertification Cover Letter**

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

< Date >

< Owner >

< Address >

Carson, CA < Zip >

CITY OF CARSON HOME OWNER ASSISTANCE PROGRAM – ANNUAL RECERTIFICATION MONITORING

The Carson Redevelopment Agency (“Agency”) provided you with a second trust deed loan to assist you in purchasing or rehabilitating a single-family home in the City of Carson. Per California Community Redevelopment Law (“Redevelopment Law”), Article 8, Section 33418(a), annual certifications are required by owners participating in the Agency’s First Time Homebuyer Program and other affordable housing assistance programs to ensure continuing program compliance under Redevelopment Law and the Agreements between the Agency and home owners.

Please complete and return the enclosed monitoring form, and submit copies of your most recent utility bills. These documents must be returned by July 15, 2009. A return envelope is enclosed for your convenience.

In addition, effective January, 1, 2008, Agencies are required to compile and maintain a database of existing, new and substantially rehabilitated housing units developed or otherwise assisted with Agency housing funds. This data must be made available to the public on the Internet and updated on an annual basis. This is to inform you that the Agency is compiling the database and will be posting it on the City of Carson web page this year to comply with the requirements under the law. While the database must include, among other public information, the property address and assessor parcel number for every property receiving Agency assistance, the Agency will strive to keep information regarding the properties as confidential as permitted under the law.

Rosenow Spevacek Group, Inc. (“RSG”) is the Agency’s housing program consultant and in that capacity assists the Agency in meeting their annual monitoring requirements for affordable housing programs.

If you have any questions regarding this matter, please contact Becky Caha of RSG at (714) 316-2105.

Thank you for your cooperation.

< Fecha >

< Nombre >

< Domicilio >

Carson, CA < Zip >

CUIDAD DE CARSON - PROGRAMA MONITOR ANNUAL DE RECERTIFICACION DE CUBIERTA

La Agencia de Reconstrucción en la Ciudad de Carson le otorgo un segundo préstamo como acto de confianza para ayudarlo a comprar o rehabilitar un hogar unifamiliar en la Ciudad de Carson. Conforme al Artículo 8 de La Ley de Reconstrucción de la Comunidad de California, Sección 33418 (a), recertificación anual es requerida de los participantes del programa de vivienda y de La Ley de Reurbanización los acuerdos entre la Agencia y del Propietario

Por favor, complete y regresar el informe unido, junto con copias de las más reciente facturas de servicios públicos. Estos documentos deben regresar antes del 15 de julio de 2009. Un sobre con porte pagado esta incluido para su conveniencia.

Partir de enero, 1, de 2008, las agencias están obligadas a recopilar y mantener datos de las existentes, nuevas y rehabilitadas unidades de vivienda asistida o de otro tipo desarrollado con fondos de la Agencia de vivienda. Estos datos deben ser puestos a disposición del público en Internet y actualización sobre una base anual. Esto es para informarle de que la Agencia esta cumpliendo con los datos y será anunciado en la página Internet de la Ciudad de Carson este año para cumplir con los requisitos de La Ley. Los datos debe incluir la información pública de la propiedad y dirección, el número de tasador para cada propiedad de Agencia que recibir asistencia. La Agencia procurará mantener la información relativa a las propiedades confidencial como lo permita La Ley.

El Grupo Rosenow Spevacek, Inc. ("RSG") es el consultor de programa de cubierta de la Agencia, en esa capacidad asistimos a la Agencia en resolver sus requisitos anuales para programas de vivienda a costo razonables.

Si usted tiene alguna pregunta referente a este asunto, por favor entre en contacto con Becky Caha de RSG al (714) 316-2105.

Gracias por su cooperación.

**Exhibit 1b
Owner-Occupied Annual Monitoring Certification Form**

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

ANNUAL MONITORING CERTIFICATION FORM

Home Owner Name : _____

Property Address : _____

Please complete the form below and return in the enclosed self-addressed, stamped envelope.

Is this property occupied by you as your principal residence? Yes No

Were all property taxes and assessments paid before delinquency? Yes No

Please provide the name of your Insurance Carrier: _____
Home Owner Policy Number: _____

Please provide copies of your last two gas and electric bills which reflect the above address for services.

Please use the following lines or the back of this form for any necessary explanations:

I/We declare under penalty of perjury that the foregoing is true and correct.

Dated this _____ day of _____, 20__.

Homeowner's Signature

Homeowner's Signature

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

Ciudad de Carson
FORMA DE CERTIFICACIÓN DE PROPIETARIO-OCUPACIÓN

Dirección: _____ Numero de Unidad: _____
Nombre de Propiedad: _____ Número de Dormitorios: _____

Información del Hogar

(Todos Adultos & Niños que Residen en la Unidad)

Número de Miembro	Apellido	Nombre	Fecha de Nacimiento	Relación
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Certificación del Hogar y Firmas

Fecha de la Ocupación Inicial: _____

Yo/Nosotros hemos ocupado continuamente esta unidad durante el último período de 12 meses: Si No

Si ha contestado no a la declaración antedicha, proporcione por favor razón escrita para no ocupar la unidad durante el período.

Bajo penas del perjurio, Yo/Nosotros certificamos que la información presentada en esta certificación es verdad y exacta al mejor del conocimiento de mi/nuestra creencia. El infrascrito comprende aún más que el abastecimiento de representaciones falsas adjunto constituye un acto de fraude. La información falsa, engañosa o incompleta puede tener como resultado terminación del acuerdo de arrendamiento.

_____ (Firma)	_____ (Fecha)	_____ (Firma)	_____ (Firma)
_____ (Firma)	_____ (Fecha)	_____ (Firma)	_____ (Firma)

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

**Exhibit 2a
Tenant Annual Income Recertification Form**

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

City of Carson
TENANT INCOME CERTIFICATION FORM
(Required for Each Affordable Unit)

Address: _____ Unit Number: _____
Property Name: _____ Number of Bedrooms: _____
Monthly Rent: _____ Utilities Payments: _____ Other Payments: _____

Household Information
(All Adults & Children Residing in Unit)

Member Number	Last Name	First Name	Date of Birth	Relationship
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Monthly Income Information
(For all Adult Household Members)

Member Number	Salary/Wages	Social Security/Pensions	Public Assistance	Other Income
1.	\$ _____	\$ _____	\$ _____	\$ _____
2.	\$ _____	\$ _____	\$ _____	\$ _____
3.	\$ _____	\$ _____	\$ _____	\$ _____
4.	\$ _____	\$ _____	\$ _____	\$ _____
5.	\$ _____	\$ _____	\$ _____	\$ _____
6.	\$ _____	\$ _____	\$ _____	\$ _____
Totals:	\$ _____	\$ _____	\$ _____	\$ _____

Copies of most recent two pay stubs, last year W-2, and last year 1040 federal income tax return must be attached to verify income information.

Household Certification & Signatures

Under penalties of perjury, I/we certify that the information presented in this certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading, or incomplete information may result in the termination of the lease agreement.

_____ (Signature)	_____ (Date)	_____ (Signature)	_____ (Date)
_____ (Signature)	_____ (Date)	_____ (Signature)	_____ (Date)
_____ (Signature)	_____ (Date)	_____ (Signature)	_____ (Date)

Below for City of Carson Review Only.

Annual Household Income: _____ Income Eligibility Level: _____ Review Initial: _____

(Firma)

(Fecha)

(Firma)

(Firma)

(Firma)

(Fecha)

(Firma)

(Firma)

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

**Exhibit 2b
Owner/Landlord Annual Recertification Letter**

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

(Date)

< Developer Name / Address >
< >
< >
< >

AFFORDABLE HOUSING ANNUAL TENANT INCOME RECERTIFICATION

This is also to advise you that the fiscal year 20__-__ Annual Report is due on or before June 30, 20__.

Under Health and Safety Code Section 33418 (California Redevelopment Law) information must be provided annually by participating owners and managers of rental housing units assisted by the Agency enabling the Agency to determine that each tenant household's income and monthly rent payment continues to qualify for affordable housing assistance. Pursuant to the provisions of the Disposition and Development Agreement and Regulatory Agreement (collectively the "Agreement") between the Carson Redevelopment Agency (the "Agency") and <_Developer or Property Owner_>, which provided for financial assistance by the Agency from the Redevelopment Low and Moderate Income Housing Funds moneys, the Owner is responsible for obtaining from each household occupying an income-restricted unit an annual income recertification, which identifies the household's income, family size and monthly rental rate for the occupied unit.

The Landlord/Manager is to obtain the tenant household information for each income restricted unit using the enclosed Tenant Income Certification Form (Exhibit 1), which is to be completed by the tenants occupying the units. The Tenant Income Certifications are to be collected from the tenants and delivered to the Agency by the Landlord/Manager.

The Landlord/Manager is also to complete the enclosed Landlord/Manager Certification Forms (Exhibit 2) and the attached Certification of Continuing Program Compliance for each of the four fiscal years 2004-05 through 2007-08, which is to be returned along with the Tenant Income Certification Forms and copies of the tenant rental roll for each fiscal year which details household size, number of bedrooms in the unit, gross household income and rent charged. For fiscal year 2008-09, the Annual Report providing the rental recertification materials identified above are to be delivered to the Agency within 30 days following receipt of this letter

If you need to discuss this matter, please do not hesitate to call me at (310) <_number_>. Thank you for your cooperation and prompt attention to this matter.

Very truly yours,
CITY OF CARSON

(Name)
(Title)

Enclosures

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

Exhibit 2c
Landlord/Manager Annual Monitoring Certification Form

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

City of Carson
LANDLORD/MANAGER ANNUAL MONITORING CERTIFICATION FORM
(Required for Each Affordable Unit)

Address: _____ Unit Number: _____
Property Name: _____
Unit Household Income Restriction: (Very Low _____) (Low _____) (Moderate _____)
50% AMI 80% AMI 120% AMI

Determination of Income Eligibility

Total Number Household Members: _____ (Adults _____) (Children _____) Number Bedrooms: _____

Total Annual Household Income : \$ _____ Current Household Income Limit : \$ _____
(from all sources) (per household size)

Affordable Housing Cost Calculation

Tenant Paid Monthly Rent: _____
Rent Assistance Payments: _____
Other Non-Optional Charges: _____
Utilities Allowance: _____
Gross Monthly Housing Cost: _____ Max. Monthly Housing Cost: _____
(total of above) (adjusted for family size appropriate to unit)

Landlord/Manager Certification & Signatures

Based on the representations herein and relied upon proofs and documents required to be submitted by the affordable housing unit tenants, this Tenant is/are eligible under the provisions of the City of Carson Land Use Restrictions and Affordable Housing Covenants to live in the income-restricted unit in this Project, and the rental rate charged for this unit does not exceed the maximum permitted under the recorded Affordable Housing Covenant.

(Owner/Representative) (Date) (Owner/Representative) (Date)

Below for City of Carson Review Only
Annual Household Income: _____ Income Eligibility Level: _____ Review Initial: _____

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

Ciudad de Carson
FORMA DE CERTIFICACIÓN DE PROPIETARIO/ENCARGADO
(Requerido para CADA Unidad Económica)

Dirección: _____ Numero de Unidad: _____

Nombre de Propiedad: _____

Restricción de Ingresos Domésticos de la Unidad: (muy bajo _____) (bajo _____) (moderate _____)

50% AMI 80% AMI 120% AMI

Determinación de Elegibilidad de Ingresos

Número Total de Miembros del Hogar: _____ (Adultos _____) (Niños _____)

Número de Recamaras : _____

Totales de Ingresos Domésticos Anuales: \$ _____ Límite Actual de los Ingresos Domésticos: \$ _____

(de todas Fuentes)

(por tamaño del hogar)

Cálculo de Costo de Vivienda Razonable

Alquiler Mensual Pagado por el Incilino: _____

Pagos de Asistencia del Alquiler: _____

Otras Cargas No-Opcionales: _____

Concesión de Utilidades: _____

Coste de Cubierta Mensual Grueso: _____

(el suma de arriba)

Coste de Cubierta Mensual Máximo: _____

(ajustado según el tamaño de la familia apropiado a la unidad)

Certificación de Propietario/Encargado y Firmas

De acuerdo con las representaciones adjuntas y confiadas en las pruebas y los documentos requeridos para ser sometidos por los incilinos de la unidad de alojamiento, este incilino es/son elegible bajo las provisiones de Restricciones de Utilización de la Tierra y de los Convenios Comprables de la Ciudad de Carson, para vivir en la unidad de ingresos-restringidos en este proyecto, y la tarifa de alquiler para esta unidad no excede el máximo permitido bajo los convenios registrados para Viviendas de Bajos Recursos..

(Dueño/Representante)

(Fecha)

(Dueño/Representante)

(Fecha)

Exhibit 3a

Los Angeles County - 2009

Affordable Rental Housing Center City:

City	
Carson	

Area Median Income: \$62,100

Adj. Median Income	Utility Allowance	HUD FRM	Number of	
			Persons	Bedrooms
	Carson		H&S Code 50052.5 (h)	
\$43,450	\$37	\$904	One	Studio
\$49,700	\$48	\$1,090	Two	One
\$55,900	\$61	\$1,361	Three	Two
\$62,100	\$74	\$1,828	Four	Three
\$67,050	\$82	\$2,199	Five	Four
\$72,050	\$122	n.a.	Six	Five
\$77,000	\$144	n.a.	Seven	Six
\$81,950	\$168	n.a.	Eight	Seven

Very Low-Income (50% AMI)

Qualifying Income Limit	Max. Rent 30% X 50%
\$27,750	\$506.13
\$31,700	\$573.25
\$35,700	\$637.75
\$39,650	\$702.25
\$42,800	\$756.13
\$46,000	\$778.63
\$49,150	\$818.50
\$52,350	\$856.38

Low-Income (80% AMI)

Qualifying Income Limit	Maximum Rent Range	
	30% X 60%	30% X 80%
	H&S Code 50053.(b)(3)	
\$44,400	\$614.75	\$832.00
\$50,750	\$697.50	\$946.00
\$57,100	\$777.50	\$1,057.00
\$63,450	\$857.50	\$1,168.00
\$68,550	\$923.75	\$1,259.00
\$73,600	\$958.75	\$1,319.00
\$78,700	\$1,011.00	\$1,396.00
\$83,750	\$1,061.25	\$1,471.00

Moderate-Income (120% AMI)

Qualifying Income Limit	Maximum Rent Range	
	30% X 110%	30% X 120%
	H&S Code 50053.(b)(4)	
\$52,150	\$1,157.88	\$1,266.50
\$59,600	\$1,318.75	\$1,443.00
\$67,050	\$1,476.25	\$1,616.00
\$74,500	\$1,633.75	\$1,789.00
\$80,450	\$1,761.88	\$1,929.50
\$86,400	\$1,859.38	\$2,039.50
\$92,400	\$1,973.50	\$2,166.00
\$98,350	\$2,085.63	\$2,290.50

Note: Maximum Rent reflects net rent amount after deduction for utility allowance per July 2008 Los Angeles County Housing Authority Utility Allowance Schedule for Multi-Family Units
 Utility Allowance reflects use of Gas for Heating, Cooking and Water Heating per July 2008 Los Angeles County Housing Authority Utility Allowance Schedule for Multi-Family Units
 Highlighted cells for illustrative purposes only.

Los Angeles County - 2009

Ownership Housing Cost Limits

Area Median Income: \$62,100

Adj. Median Income	Utility Allowance	HUD FRM	Number of	
			Persons	Bedrooms
	Central		H&S Code 50052.5 (h)	
\$43,450	\$75	n.a.	One	Studio
\$49,700	\$88	n.a.	Two	One
\$55,900	\$104	n.a.	Three	Two
\$62,100	\$122	n.a.	Four	Three
\$67,050	\$135	n.a.	Five	Four
\$72,050	\$180	n.a.	Six	Five
\$77,000	\$207	n.a.	Seven	Six
\$81,950	\$236	n.a.	Eight	Seven

Very Low-Income (50% AMI)

Qualifying Income Limit	Max. Rent 30% X 50%
\$27,750	\$543.13
\$31,700	\$621.25
\$35,700	\$698.75
\$39,650	\$776.25
\$42,800	\$838.13
\$46,000	\$900.63
\$49,150	\$962.50
\$52,350	\$1,024.38

Low-Income (80% AMI)

Qualifying Income Limit	Affordable Housing Cost	
	30% X 70%	30% X 80%
	H&S Code 50052.5(b)(3)	
\$44,400	\$760.38	\$869.00
\$50,750	\$869.75	\$994.00
\$57,100	\$978.25	\$1,118.00
\$63,450	\$1,086.75	\$1,242.00
\$68,550	\$1,173.38	\$1,341.00
\$73,600	\$1,260.88	\$1,441.00
\$78,700	\$1,347.50	\$1,540.00
\$83,750	\$1,434.13	\$1,639.00

Moderate-Income (120% AMI)

Qualifying Income Limit	Affordable Housing Cost	
	35% X 110%	35% X 120%
	H&S Code 50052.5(b)(4)	
\$52,150	\$1,394.02	\$1,520.75
\$59,600	\$1,594.54	\$1,739.50
\$67,050	\$1,793.46	\$1,956.50
\$74,500	\$1,992.38	\$2,173.50
\$80,450	\$2,151.19	\$2,346.75
\$86,400	\$2,311.60	\$2,521.75
\$92,400	\$2,470.42	\$2,695.00
\$98,350	\$2,629.23	\$2,868.25

Note: Affordable Housing Cost reflects gross amount available for housing before deductions for utility allowance, RE Taxes & Insurance, HOA and other fees.
 Utility Allowance reflects use of Gas for Heating, Cooking and Water Heating per July 2008 Los Angeles County Housing Authority Utility Allowance Schedule for Single-Family Units
 Highlighted cells for illustrative purposes only.

Exhibit 3b

City of Carson - 2009 Affordable Ownership Unit Pricing Calculations

SUMMARY	Very Low-Income					Low-Income					Moderate-Income				
	Household Income Limits	\$31,700	\$35,700	\$39,650	\$42,800	\$46,000	\$50,750	\$57,100	\$63,450	\$68,550	\$73,600	\$59,600	\$67,050	\$74,500	\$80,450
Households Size	2 person	3 person	4 person	5 person	6 person	2 person	3 person	4 person	5 person	6 person	2 person	3 person	4 person	5 person	6 persons
Dwelling Unit Size	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms	5 Bedrooms	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms	5 Bedrooms	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms	5 Bedrooms
Max. Monthly Housing Cost	\$621.25	\$698.75	\$776.25	\$838.13	\$900.63	\$869.75	\$978.25	\$1,086.75	\$1,173.38	\$1,260.88	\$1,594.54	\$1,793.46	\$1,992.38	\$2,151.19	\$2,311.60
Less: Taxes (1.15%)	45.89	54.55	62.24	68.99	70.98	83.55	96.91	109.31	119.81	125.59	193.41	220.48	246.58	268.02	284.85
Insurance (0.3%)	30.52	34.88	43.59	47.95	52.31	30.52	34.88	43.59	47.95	52.31	30.52	34.88	43.59	47.95	52.31
HOA Fees & Other	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00
Utilities	88.00	104.00	122.00	135.00	180.00	88.00	104.00	122.00	135.00	180.00	88.00	104.00	122.00	135.00	180.00
Other Fees & Assmts.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Available For Debt Service	\$256.85	\$305.33	\$348.41	\$386.18	\$397.33	\$467.68	\$542.46	\$611.85	\$670.61	\$702.97	\$1,082.61	\$1,234.11	\$1,380.20	\$1,500.22	\$1,594.44

* Max. Low-Income Reflects 70% AMI

* Max. Moderate-Income Reflects 110% AMI

Max. Loan Amount	\$45,487	\$54,073	\$61,703	\$68,392	\$70,367	\$82,826	\$96,070	\$108,358	\$118,765	\$124,496	\$191,730	\$218,559	\$244,433	\$265,687	\$282,374
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@ Interest Rate: 5.45%

Amortized Years: 30

Affordable Housing Price	\$47,882	\$56,919	\$64,951	\$71,992	\$74,070	\$87,185	\$101,126	\$114,061	\$125,016	\$131,048	\$201,821	\$230,062	\$257,298	\$279,670	\$297,236
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Reflects 5% Down Payment Requirement

Note: Real Estate Taxes calculated on approximate Affordable Housing Prices; Insurance calculated on estimated replacement costs (75% Median New Home Price).

Affordable Housing Prices reflect the unit pricing by income category base on the CRL affordable monthly housing costs - does not include additional public subsidies including Agency assistance via silent second trust deed financing loans.

Appendix:

Statutory Requirements

(Including California Redevelopment Law)

California Code of Regulations Section 6914. Gross Income

“Gross income” shall mean the anticipated income of a person or family for the twelve-month period following the date of determination of income. If the circumstances are such that it is not reasonably feasible to anticipate a level of income over a twelve-month period, a shorter period may be used subject to a redetermination at the end of such a period. “Income” shall consist of the following:

- (a) Except as provided in subdivision (b), all payments from all sources received by the family head (even if temporarily absent) and each additional member of the family household who is not a minor shall be included in the annual income of a family. Income shall include, but not be limited to:
 - (1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses.
 - (2) The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
 - (3) Interest and dividends;
 - (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;
 - (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation and severance pay (but see subdivision (b)(3)).
 - (6) Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:
 - (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus
 - (B) The maximum amount which the public assistance agency could in fact allow for the family for shelter and utilities,
 - (7) Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

- (8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family or spouse (but see subdivision (b)(5)).

Where a family has net family assets in excess of \$5,000, income shall include the actual amount of income, if any, derived from all of the net family assets or 10 percent of the value of all such assets, whichever is greater. For purposes of this section, net family assets means value of equity in real property other than the household's full-time residence, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

- (b) The following items shall not be considered income:
- (1) Casual, sporadic or irregular gifts;
 - (2) Amounts which are specifically for or in reimbursement of the cost of medical expenses;
 - (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
 - (4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes of which are available for subsistence are to be included in income;
 - (5) The special pay to a serviceman head of a family away from home and exposed to hostile fire;
 - (6) Relocation payments made pursuant to federal, state, or local relocation law;
 - (7) Foster child care payments;
 - (8) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;
 - (9) Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:
 - (A) National Volunteer Antipoverty programs which include VISTA, Service Learning Programs and Special Volunteer Programs.
 - (B) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Programs, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

Health and Safety Code Section 19903. Elderly; Handicapped

As used in this part:

- (a) "Assistance" means direct financial assistance for a multifamily housing development, including, but not limited to, assistance provided pursuant to this division by the

department or agency, and mortgage and construction financing provided by a public agency.

- (b) "Dwelling" means all housing whether owned or rented.
- (c) "Elderly" shall have the same meaning as is given that term by Section 50067.
- (d) "Handicapped" shall have the same meaning as is given that term by Section 50072.
- (e) "Elderly or handicapped household" means, two or more persons who live together as a household, without regard to any specific relationship, and at least one of whom is an elderly or handicapped person or an elderly and handicapped person.
- (f) "Public agency" means the state, any county, city, city and county, district, redevelopment agency, housing authority, or any other political subdivision of the state. "Public agency" includes a federal agency if the requirements of this part would not conflict with, or be preempted by, the requirements of federal law.

Health and Safety Code Section 33334.13. Assistance to Mortgagors; Area Median Income; Limitations

- (a) Notwithstanding Sections 50079.5, 50093 and 50105, for purposes of providing assistance to mortgagors participating in a homeownership residential mortgage revenue bond program pursuant to Section 33750, or a home financing program pursuant to Section 52020, or a California Housing Finance Agency home financing program, "area median income" means the highest of the following:
 - (1) Statewide median household income.
 - (2) Countywide median household income.
 - (3) Median family income for the area, as determined by the United States Department of Housing and Urban Development with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

Nothing in Section 50093 shall prevent the agency from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for the programs of the agency.

Health and Safety Code Section 33418. Monitoring of Affordable Housing:

- (a) An agency shall monitor, on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to any provisions of this part. As part of this monitoring, an agency shall require owners or managers of the housing to submit an annual report to the agency. The annual reports shall include for each rental unit the rental rate and the income and family size of the occupants, and for each owner-occupied unit whether there was a change in ownership from the prior year and, if so, the income and family size of the new owners. The income information required by this section shall be supplied by the tenant in a certified statement on a form provided by the agency.
- (b) The data specified in subdivision (a) shall be obtained by the agency from owners and managers of the housing specified therein and current data shall be included in any reports required by law to be submitted to the Department of Housing and Community Development or the Controller. The information on income and family size that is required to be reported by the owner or manager shall be supplied by the tenant and shall be the only information on income or family size that the owner or manager shall be required to submit on his or her annual report to the agency.
- (c) The agency shall adequately fund its monitoring activities as needed to insure compliance of applicable laws and agreements in relation to affordable units. For purposes of defraying the cost of complying with the requirements of this section and the changes in reporting requirements of Section 33080.4 enacted by the act enacting this section, an agency may establish and impose fees upon owners of properties monitored pursuant to this section.
- (d) Effective January 1, 2008 per AB-987 (CRL Section 33418 (c)(1)), the agency shall compile and maintain a database of existing, new and substantially rehabilitated housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, or otherwise counted towards the requirements of subdivision (a) or (b) of Section 33413. The database shall be made available to the public on the Internet and updated on an annual basis.

Health and Safety Code Section 33742. Affordability Restrictions

“ ”

- (B) (i) With respect to multifamily rental developments that are not mobile home parks, the rental payments on the units required for occupancy by very low-income households paid by the persons occupying the units (excluding supplemental rental assistance from the state, the federal government, or any other public agency to those persons on behalf of those units) shall not exceed thirty (30) percent of an amount equal to fifty (50) percent of area median income adjusted for household size. If the nonprofit organization elects to establish a base rent for all or part of the units for lower income households and very low-income households, the base rents shall be adjusted for household size. In adjusting rents for household size for this purpose, it shall be assumed that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, four persons will occupy a three-bedroom unit, and five persons will occupy a four-bedroom unit.

- (ii) With respect to mobile home parks:
 - (I) Where a resident rents both the mobile home and the space occupied by the mobile home, for spaces and mobile homes required for occupancy by very low income households, the total rental payments paid by the household on the mobile home and the space occupied by the mobile home (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household or on behalf of that space and mobile home) shall not exceed 30 percent of an amount equal to 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.
 - (II) Where a resident is both the registered and legal owner of the mobile home, is not making mortgage payments for the purchase of that mobile home, and rents the space that the mobile home occupies, for spaces and mobile homes required for occupancy by very low income households, the total rental charge for occupancy of that space, excluding a reasonable allowance for other related housing costs determined at the time of acquisition of the mobile home park by the nonprofit corporation, excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household on behalf of that space and mobile home, shall not exceed 30 percent of 50 percent of the area median income, adjusted for household size as appropriate to the unit that occupies the space.
 - (III) Where a resident is the registered owner of the mobile home, is making mortgage payments for the purchase of that mobile home, and rents the space occupied by the mobile home, for spaces and mobile homes required for occupancy by very low income households, the rental charge for occupancy of a space by a mobile home, exclusive of any charges for utilities and storage (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household or on behalf of that space and mobile home) shall not exceed 15 percent of 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.
 - (IV) In adjusting rents for household size, either the occupancy standards established in clause (i) (of subparagraph (B) of paragraph (1) of subdivision (a) or the alternative standards that assume that one person will occupy a recreational vehicle, two persons will occupy a single-wide mobile home, and three persons will occupy a multi-sectional mobile home may be utilized.”

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

Health and Safety Code Section 37912(k). Residence

- (k) “Residence” means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood.

“Residence” also includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

“Residence” also includes residential hotels in which not less than one-half of the occupied dwelling units are occupied on a non-transient basis. A dwelling unit shall be deemed to be used on a non-transient basis for such purpose if the term of the tenancy is one month or longer or if the tenant has resided in the unit for more than 30 days. In a residential hotel, individual dwelling units shall lack either cooking facilities or individual sanitary facilities, or both. However, for purposes of this subdivision, a residential hotel does not include dormitories, fraternity and sorority houses, hospitals, sanitariums, rest homes, or trailer parks and courts.

Health and Safety Code Section 50052.5. Affordable Housing Cost

- (a) For any owner-occupied housing which receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, “affordable housing cost” with respect to lower income households shall not exceed 25 percent of gross income.
- (b) For any owner-occupied housing which receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, “affordable housing cost” shall not exceed the following:
- (1) For very low income households the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.
 - (2) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 30 percent of the gross income of the household.
 - (3) For moderate income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. In addition, for any moderate income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require

that affordable housing cost not exceed 35 percent of the gross income of the household.

- (c) The department shall, by regulation, adopt criteria defining, and providing for determination of, gross income, adjustments for family size appropriate to the unit, and housing cost for purposes of determining affordable housing cost under this section. These regulations may provide alternative criteria, where necessary to be consistent with pertinent federal statutes and regulations governing federally assisted housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing development.

With respect to moderate and lower income households who are tenants of rental housing developments and members or shareholders of cooperative housing developments, or limited equity cooperatives “affordable housing cost” has the same meaning as affordable rent, as defined in Section 50053.

Regulations of the department shall also include a method for determining the maximum construction cost, mortgage loan, or sales price that will make housing available to an income group at affordable housing cost.

For purposes of this section, “area median income” shall mean area median income as published by the department pursuant to Section 50093.

For purposes of this section, “moderate income household” shall have the same meaning as “persons and families of moderate income” as defined in Section 50093.

For purposes of this section, and provided there are no pertinent federal statutes applicable to a project or program, “adjusted for family size appropriate to the unit” shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

Health and Safety Code Section 50053. Affordable Rent

- (a) For any rental housing development which receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, “affordable rent” with respect to lower income households shall not exceed the percentage of the gross income of the occupant person or household established by regulation of the department which shall not be less than 15 percent of gross income nor exceed 25 percent of gross income.
- (b) For any rental housing development which receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, “affordable rent,” including a reasonable utility allowance, shall not exceed:
- (1) For very low income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

- (2) For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.
- (3) For moderate income households, the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those moderate income households whose gross incomes exceed 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.
- (c) The department's regulation shall permit alternative percentages of income for agency-assisted rental and cooperative housing developments pursuant to regulations adopted under subdivision (f) of Section 50462. The department shall, by regulation, adopt criteria defining and providing for determination of gross income, adjustments for family size appropriate to the unit, and rent for purposes of this section. These regulations may provide alternative criteria, where necessary, to be consistent with pertinent federal statutes and regulations governing federally assisted rental and cooperative housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing developments.

For purposes of this section, "area median income," "adjustments for family size appropriate to the unit," and "moderate income household" shall have the same meaning as provided in Section 50052.5.

Health and Safety Code Section 50067. Elderly

Elderly means a family in which the head of the household is 60 years of age or older, a single person who is 60 years of age or older, or an elderly or handicapped household as defined in Section 19903 and subject to Part 4.5 (commencing with Section 19902) of Division 13. The age may be adjusted by the agency to facilitate participation in other municipal, state, or federal programs.

Health and Safety Code Section 50072. Handicapped

"Handicapped" means a family in which the head of the household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment or a single person with such a physical disability, where the family or person requires special care or facilities in the home. "Handicapped" also includes a family in which the head of household suffers from a developmental disability specified in subdivision (a) of Section 38010 or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder. "Handicapped" also includes an elderly or handicapped household, as defined in Section 19903 and subject to part 4.5 (commencing with Section 19902) of Division 13.

Health and Safety Code Section 50079.5. Lower Income Households

Lower income households means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 7 of the United States Housing Act of 1937. The limits shall be published by the department in the California Administrative Code as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event such federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80% of the area median income, adjusted for family size and revised annually. As used in this section, "area median income" means the median family income of a geographic area of the state.

Health and Safety Code Section 50093. Persons and Families of Low or Moderate Income

"Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. However, the agency and the department jointly, or either acting with the concurrence of the Secretary of the Business and Transportation Agency, may permit the agency to use higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 50900) without subsidy.

"Persons and families of low or moderate income" includes very low income households, as defined in Section 50105 and lower income households as defined in Section 50079.5, and includes persons and families of low income, persons and families of moderate income, and middle-income families. As used in this division:

- (a) "Persons and families of low income" or "persons of low income" means persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.
- (b) "Persons and families of moderate income" or "middle-income families" means persons and families of low or moderate income whose income exceeds the income limit for lower income households.
- (c) "Persons and families of median income" means persons and families whose income does not exceed the area median income, as adjusted by the department for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

As used in this section, "area median income" means the median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. In the event

these federal determinations of area median income are discontinued, the department shall establish and publish as regulations income limits for persons and families of median income for all geographic areas of the state at 100 percent of area median income, and for persons and families of low or moderate income for all geographic areas of the state at 120 percent of area median income. These income limits shall be adjusted for family size and shall be revised annually.

For purposes of this section, the department shall file, with the Office of Administrative Law, any changes in area median income and income limits determined by the United States Department of Housing and Urban Development, together with any consequent changes in other derivative income limits determined by the department pursuant to this section. These filings shall not be subject to Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, but shall be effective upon filing with the Office of Administrative Law and shall be published as soon as possible in the California Regulatory Code Supplement and the California Code of Regulations.

The department shall establish and publish a general definition of income, including inclusions, exclusions, and allowances, for qualifying persons under the income limits of this section and Sections 50079.5 and 50105, to be used where no other federal or state definitions of income apply. This definition need not be established by regulation.

Nothing in this division shall prevent the agency or the department from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for programs of the agency or department, as the case may be.

Health and Safety Code Section 50105. Very-Low Income Households

Very low-income households means persons and families whose incomes do not exceed the qualifying limits for very-low-income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. Such income qualifying limits shall be published by the department in the California Administrative Code as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event such federal standards are discontinued, the department shall, by regulation, establish income limits for very low-income households for all geographic areas of the state at fifty (50) percent of area median income, adjusted for family size and revised annually. As used in this section, "area median income" means the median family income of a geographic area of the state.

UNIT INSPECTION CHECKLIST

Summary Decision On Unit (To be completed after form has been filled out)

- Pass Inspection – Date: March 12, 2012_____
- Inconclusive (i.e. electricity off) – Date: _____
- Fail Inspection – Date: _____
- Pass Re-inspection – Date: _____
- Pass Re-inspection – Date: _____

Living Room

__ Sleeping Area (SRO/Studio)

Item # 1		Pass	Fail	Incon- clusive	Comments:
1.1	Is LR present?	Yes	No		
1.2	Electricity	x			
1.3	Electrical Hazards	x			<input type="checkbox"/> N/A
1.6	Ceiling Condition	x			
1.7	Wall Condition	x			
1.8	Floor Condition	x			__tile __lino __x_carpet __other
1.5	Window Condition	x			
1.4	Security	x			

Kitchen

__ N/A

Item # 2		Pass	Fail	Incon- clusive	Comments:
2.1	Is Kitchen present?	Yes	No		
2.2	Electricity	x			
2.3	Electrical Hazards	x			<input type="checkbox"/> Not Applicable
2.6	Ceiling Condition	x			
2.7	Wall Condition	x			
2.8	Floor Condition	x			__tile __x_lino __other
2.10	Range	x			x Gas <input type="checkbox"/> Electric
2.10	Range Hood Light	x			<input type="checkbox"/> None
2.10	Range Hood Fan	x			<input type="checkbox"/> None
2.10	Microwave fan/light	x			<input type="checkbox"/> None
2.11	Refrigerator	x			
2.12	Sink	x			<input type="checkbox"/> repair leak
2.13	Space	x			for Storage, Preparation, and Serving of food
2.9	Garbage Disposal	x			<input type="checkbox"/> None
2.5	Window Condition	x			<input type="checkbox"/> None
2.4	Security	x			<input type="checkbox"/> None

NOTE: Must have operable window if no Range Hood Fan

Additional Comments:

Additional Comments:

<input type="checkbox"/> replace receptacle/missing cover plate
<input type="checkbox"/> repair water damage
<input type="checkbox"/> patch/cover hole
<input type="checkbox"/> repair tripping hazard
<input type="checkbox"/> repair/replace pane, frame, sill
<input type="checkbox"/> repair/replace broken lock, crank, handle

UNIT INSPECTION CHECKLIST**Bedroom # 1****N/A**

Item #		Pass	Fail	Incon- clusive	Comments: __ front __ center _x_ rear Floor Level: <u>upper</u>
4					
4.1	Location				<u>x</u> Right __ Center __ Left
4.2	Electricity	x			
4.3	Electrical Hazards	x			<input type="checkbox"/> Not Applicable
4.4	Security	x			
4.6	Ceiling Condition	x			Mold? __Y x__N
4.7	Wall Condition	x			Mold? __Y _x_N
4.8	Floor Condition	x			__tile __lino x_carpet __other
4.9	Closet Door(s)	x			<input type="checkbox"/> None
4.5	Window Condition	x			<input type="checkbox"/> None

Bedroom # 2**N/A**

Item #		Pass	Fail	Incon- clusive	Comments: __ front x__ center __ rear Floor Level: <u>upper</u>
4					
4.1	Location				__ Right __ Center _x_ Left
4.2	Electricity	x			
4.3	Electrical Hazards	x			<input type="checkbox"/> Not Applicable
4.4	Security	x			
4.6	Ceiling Condition	x			Mold? __Y x__N
4.7	Wall Condition	x			Mold? __Y x__N
4.8	Floor Condition	x			__tile __lino _x_carpet __other
4.9	Closet Door(s)	x			<input type="checkbox"/> None
4.5	Window Condition	x			<input type="checkbox"/> None

Bathroom # 2 located: x Hall Master other ___ N/A

Item #		Pass	Fail	Incon-clusive	Comments:
3					<u>1/2 bath</u> x <u>Full bath</u>
3.1	Bathroom present?	Yes	No		
3.2	Electricity	x			
3.3	Electrical Hazards	x			<input type="checkbox"/> Not Applicable
3.4	Door Security	x			
3.6	Ceiling Condition	x			Mold? __Y x__N
3.7	Wall Condition	x			Mold? __Y x__N
3.8	Floor Condition	x			x__tile __lino __carpet __other
3.10	Toilet / Caulking	x			Toilet rocks? __Y x__N
3.11	Sink / Plumbing	x			<input type="checkbox"/> repair leak
3.12	Tub or Shower	x			<input type="checkbox"/> None
3.13	Exhaust Fan	x			<input type="checkbox"/> None
3.5	Window Condition	x			<input type="checkbox"/> None

NOTE: Must have openable window if no Exhaust Fan

Bathroom # 3 located: x Hall Master other ___ N/A

Item #		Pass	Fail	Incon-clusive	Comments:
3					<u>1/2 bath</u> <u>Full bath</u>
3.1	Bathroom present?	Yes	No		
3.2	Electricity	X			
3.3	Electrical Hazards	X			<input type="checkbox"/> Not Applicable
3.4	Door Security	X			
3.6	Ceiling Condition	X			Mold? __Y x__N
3.7	Wall Condition	X			Mold? __Y x__N
3.8	Floor Condition	X			x__tile __lino __carpet __other
3.10	Toilet / Caulking	X			Toilet rocks? __Y x__N
3.11	Sink / Plumbing	X			<input type="checkbox"/> repair leak
3.12	Tub or Shower	X			<input type="checkbox"/> None
3.13	Exhaust Fan	X			<input type="checkbox"/> None
3.5	Window Condition	X			<input type="checkbox"/> None

NOTE: Must have openable window if no Exhaust Fan

Bedroom # 3 ___ N/A

Item #		Pass	Fail	Incon-clusive	Comments: __ front __ center _x_ rear
4					Floor Level: <u>upper</u>
4.1	Location				<u>x</u> Right __ Center __ Left
4.2	Electricity	x			
4.3	Electrical Hazards	x			<input type="checkbox"/> Not Applicable
4.4	Security	x			
4.6	Ceiling Condition	x			Mold? __Y x__N
4.7	Wall Condition	x			Mold? __Y x__N
4.8	Floor Condition	x			__tile __lino x__carpet __other
4.9	Closet Door(s)	x			<input type="checkbox"/> None
4.5	Window Condition	x			<input type="checkbox"/> None

Bedroom # 4**N/A**

Item #		Pass	Fail	Incon- clusive	Comments: __ front __ center __ rear Floor Level: _____
4					
4.1	Location				__ Right __ Center __ Left
4.2	Electricity				
4.3	Electrical Hazards				<input type="checkbox"/> Not Applicable
4.4	Security				
4.6	Ceiling Condition				Mold? __Y __N
4.7	Wall Condition				Mold? __Y __N
4.8	Floor Condition				__tile __lino __carpet __other
4.9	Closet Door(s)				<input type="checkbox"/> None
4.5	Window Condition				<input type="checkbox"/> None

Other Rooms used for Living and Halls**Circle Room Code: 1 2 3 4 5**

Item #		Pass	Fail	Incon- clusive	Comments: __ front __ center __ rear Floor Level: _____
4					
4.1	Location				__ Right __ Center __ Left
4.2	Electricity				
4.3	Electrical Hazards				<input type="checkbox"/> Not Applicable
4.4	Security				
4.6	Ceiling Condition				Mold? __Y __N
4.7	Wall Condition				Mold? __Y __N
4.8	Floor Condition				__tile __lino __carpet __other
4.9	Closet Door(s)				<input type="checkbox"/> None
4.5	Window Condition				<input type="checkbox"/> None

*** Room Codes:**

- 1= Bedroom
- 2 = Dining Room or Dining Area;
- 3 = Second Living Room, Family Room, Den, Playroom, TV Room;
- 4 = Entrance Halls, Corridors, Halls, Staircases;
- 5 = Other



ROSENOW SPEVACEK GROUP INC.
 309 WEST 4TH STREET
 SANTA ANA, CALIFORNIA
 92701-4502

T 714 541 4585
F 714 541 1175
E INFO@WEBRSG.COM
 WEBRSG.COM

November 14, 2012

Via First Class Mail

Ms. Velda Griffin
 Option House
 8996 Olive Street
 Fontana, CA 92335

**RESULTS OF ANNUAL COMPLIANCE REVIEW:
 Option House, 8996 Olive Street, Fontana, CA 92335**

Dear Ms. Griffin:

The Fontana Redevelopment Agency (the "Agency") has contracted with Rosenow Spevacek Group, Inc. ("RSG") to conduct compliance monitoring for the above-referenced project. The Agency has asked RSG, as an independent third party, to conduct unit inspections and a property inspection to ensure the owner's compliance with the Property Lease Agreement (dated May 1, 1997, "Agreement").

The results of this tenant file audit conclude that the Property is not in compliance with the requirements of the Agreement. Please find detailed findings provided below.

RSG will return to the Property at **10 am on Monday, December 17, 2012** to re-inspect the issues identified herein.

UNIT AND GROUNDS INSPECTION

On Tuesday, October 30, 2012, RSG conducted a grounds and unit inspection. During the inspection, RSG inspected the interior of all occupied units and community facilities. The following findings were documented during the inspections. Photographic evidence has been included as Attachment 1.

- Unit 1: the smoke detector battery needs replacement,
- Unit 2: the bathroom door does not unlock, no smoke detector is present, the microwave handle is broken/damaged, and the kitchen sink is broken/damaged,
- Unit 3: the smoke detector battery needs replacement, and the master bathroom wall is damaged/broken,
- Unit 7: the hallway floor is damaged,
- Unit 8 (Vacant): the smoke detector battery needs replacements, and the windows are missing screens/blinds.

COMMUNITY INVESTMENT & IMPROVEMENT
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 FINANCIAL ANALYSIS
 REAL ESTATE & DEVELOPMENT
 HOUSING

According to Section 7 of the Agreement, Option House is responsible for maintenance of the Property. Maintenance includes maintaining the units in compliance with Housing Quality Standards and all applicable laws.

FINDINGS

During the inspection, five (5) units were found to be out of compliance with the requirements of the Agreement. The remaining units, grounds and common areas were in satisfactory condition.

RECOMMENDATIONS

Please fulfill these recommendations in order to comply with the requirements of the Agreement:

- Repair, improve, or maintain the units pursuant to the inspection findings prior to the reinspection

I can be reached at (714) 316-2136 or bfender@webrsg.com or you can contact Becky Caha, Project Manager, at (714) 316-2105 or bcaha@webrsg.com

Sincerely,
ROSENOW SPEVACEK GROUP, INC.

Brandon Fender
Research Assistant

Cc: Brent Mickey, City of Fontana
David Edgar, City of Fontana
Becky Caha, RSG



ROSENOW SPEVACEK GROUP INC.
309 WEST 4TH STREET
SANTA ANA, CALIFORNIA
92701-4502

T 714 541 4585
F 714 541 1175
E INFO@WEBRSG.COM
WEBRSG.COM

Attachment 1: Photographic Evidence



Photo 1: Broken/damaged bathroom wall in Unit 3

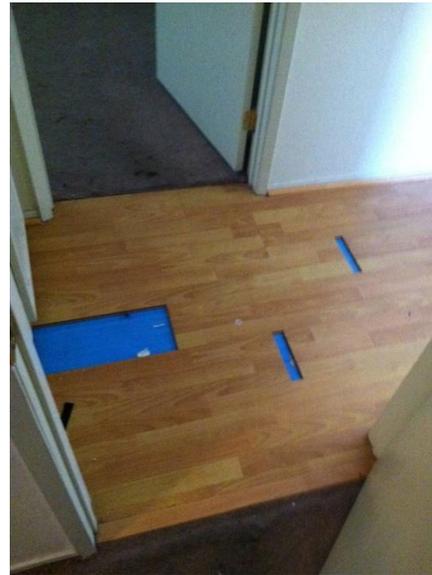


Photo 2: Damaged flooring in Unit 7 (similar, although less pronounced, conditions exist in other units)



Photo 3: Hanging light in Unit 6

Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

COMMUNITY INVESTMENT & IMPROVEMENT
LOCAL GOVERNMENT SOLUTIONS
FINANCIAL ANALYSIS
REAL ESTATE & DEVELOPMENT
HOUSING



ROSENOW SPEVACEK GROUP INC. T 714 541 4585
 309 WEST 4TH STREET F 714 541 1175
 SANTA ANA, CA E INFO@WEBRSG.COM
 92701-4502 WEBRSG.COM

Via Electronic Mail

May 7, 2012

Ms. Yolanda Dolezal-Guion, Compliance Resource Specialist
 CIC Management, Inc.
 5993 Avenida Encinas, Suite #101
 Carlsbad, CA 92008

RESULTS OF TENANT FILE MONITORING AND GROUNDS AND UNIT INSPECTIONS FOR LANDINGS I

Dear Ms. Dolezal-Guion:

Pursuant to the agreement between Rosenow Spevacek Group, Inc., ("RSG") and the City of Chula Vista ("City"), RSG has conducted an on-site review of the tenant files and an inspection of the common areas and apartment units for Landings I. RSG then completed a HOME Tenant File Review Checklist, HOME Property Standards Checklist, and a HOME Exterior, Grounds, Public Areas Checklist for the eleven (11) HOME-funded units in the project.

The purpose of the monitoring is to verify that Landings I is complying with all requirements established by the controlling documents and the City. In addition, the Department of Housing and Urban Development ("HUD") requires annual reporting for all HOME-funded affordable units.

The Property has ninety-two (92) units with affordability restrictions and eleven (11) units that were funded by HOME. On March 16, 2012, RSG conducted monitoring of a sample of fourteen (14) units, eleven (11) were HOME-funded units. RSG inspected the fourteen (14) tenant files, the fourteen (14) apartment units, and the project common areas.

The property inspection revealed that the Property is in compliance with all controlling documents and City requirements. In addition, all units passed the HOME Inspections. Detailed findings are below.

FINDINGS

Lease Files: The lease files appear to contain all required information: the application, credit reports, documentation to substantiate income, current and previous lease agreements, rent increase notices and violation notices. Management appears to keep the files very well-organized and complete.

Property Standards/Maintenance: Common areas were found to be in good condition. No deficiencies that would endanger health and safety were discovered. The property was well maintained.

COMMUNITY INVESTMENT & IMPROVEMENT
 LOCAL GOVERNMENT SOLUTIONS
 FINANCIAL ANALYSIS
 REAL ESTATE & DEVELOPMENT
 HOUSING

Ms. Yolanda Dolezal-Guion
CIC MANAGEMENT
May 7, 2012
Page 2

Apartment Units: All fourteen (14) apartment units were found to be in good living condition. There were several small deferred maintenance issues discovered, however, management ordered immediate repairs be made. Work orders are available upon request.

Recommendations: The property managers have done a very good job maintaining the property and complying with all requirements and there are no recommendations at this time.

If you have any questions please feel free to contact us.

Sincerely,
ROSENOW SPEVACEK GROUP, INC.



Becky Caha
Associate
714-316-2105



Jane Carlson
Analyst
714-316-2123

CC: Jose Dorado, City of Chula Vista

Non-Collusion Affidavit

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

On April 20, 2015 before me, **Rebecca Jo Caha**, Notary Public, personally appeared **JIM SIMON** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person 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.

Rebecca Jo Caha

Notary Public

[SEAL]



Attachment: RSG Proposal [Revision 2] (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES TO

Fee Proposal

RSG proposes to provide the services described in the Scope of Services on a time-and-materials basis not-to-exceed the following fees by Phases as outlined below. Our fee is based upon an estimate of the number of annual hours needed for each task. The table below provides a cost breakdown for the Fee Proposal.

AFFORDABLE MULTI-FAMILY RENTAL COMPLIANCE AND MONITORING PROGRAM AND PROCEDURE DEVELOPMENT				
Estimated Budget based on 1306 affordable units at approx 26 properties				
Staffing Position	Principal/ Director	Assoc.	Research Assistant	Total Cost
Hourly Rate	\$235	\$160	\$110	
<i>Estimated Hours by Activity</i>				
PHASE I ACTIVITIES - REVISION OF PROGRAM GUIDELINS				
Project Document Review	2	15	60	\$9,470
Revisions and provision of Final Guidelines	2	15	60	\$9,470
PHASE I TOTAL	4	30	120	\$18,940
PHASE II ACTIVITIES - WEB-BASED SOFTWARE DEVELOPMENT				
- Not a part of this proposal	0	0	0	\$0
PHASE II TOTAL	0	0	0	\$0
PHASE III ACTIVITIES - INITIAL COMPLIANCE MONITORING				
Project/Controlling	2	30	120	\$18,470
Document Review	2	15	70	\$10,570
Tenant File Recertification & Reporting	1	25	160	\$21,835
Property Inspections & Reporting	1	25	125	\$17,985
PHASE III TOTAL	6	95	475	\$68,860
PHASE IV ACTIVITIES - ONGOING COMPLIANCE MONITORING				
Tenant File Recertification & Reporting	1	15	160	\$20,235
Property Inspections & Reporting	1	15	125	\$16,385
PHASE IV TOTAL	2	30	285	\$36,620
TOTAL CONTRACT AMOUNT	10	125	595	\$124,420

If the tasks under the Methodology section are substantially changed in the future, RSG will notify the City and request a fee adjustment. The annual fee will be subject to an annual inflationary adjustment in accordance with the published Consumer Price Index pertinent to Orange County.

(Clarification provided by consultant: A 30% sample size was utilized for the purposes of preparing this estimate. The actual sample size for each development will be determined on a case-by-case basis, contingent upon the outcome of an analysis of each project's underlying documents, subject to approval by the City. Pricing based on actual required sample sizes by project, will be established prior to the commencement of Initial Compliance Monitoring.)

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

This Agreement is by and between the City of Moreno Valley, California, a municipal corporation, hereinafter described as "City," and [Rosenow Spevacek Group, Inc.](#) a [California corporation](#) hereinafter described as "Consultant." This Agreement is made and entered into effective on the date the City signs this Agreement.

RECITALS

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

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

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

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

WHEREAS, the Consultant is professionally qualified in California to perform the professional and technical services required for the Project, and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement;

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

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

DESCRIPTION OF PROJECT

1. The Project is described as [professional housing consulting services to update and streamline the existing monitoring program and procedures, and to conduct initial and ongoing annual monitoring and compliance activities](#)

SCOPE OF SERVICES

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

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

PAYMENT TERMS

4. The City agrees to pay the Consultant and the Consultant agrees to receive a "Not-to-Exceed" fee of [\\$87,800](#) in accordance with the payment terms provided on Exhibit "D" attached hereto and incorporated herein by this reference.

TIME FOR PERFORMANCE

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

6. [The Consultant shall perform the work described on Exhibit "A" & "B" and in accordance with the timing set forth in Exhibit "B" attached hereto and incorporated by this reference.](#)

7. This Agreement shall be effective from effective date and shall continue in full force and effect date through [November 16, 2016](#), subject to any earlier termination in accordance with this Agreement. The services of Consultant shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

completed prior to expiration of this Agreement.

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

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

SPECIAL PROVISIONS

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

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

11. The Consultant and the City agree to use reasonable care and diligence to perform their respective services under this Agreement.

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

13. To the extent required by controlling federal, state and local law, Consultant shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, Consultant agrees as follows:

(a) Consultant will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

(b) Consultant will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Consultant shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to Consultant's employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) Consultant will, in all solicitations or advertisements for employees placed

AGREEMENT FOR PROJECT RELATED SERVICES AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES

by or on behalf of Consultant in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

(d) If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall cause each subcontractor to also comply with the requirements of this Section 13.

14. To the furthest extent allowed by law (including California Civil Code section 2782.8 if applicable), Consultant shall indemnify, hold harmless and defend the City, the Moreno Valley Community Services District (“CSD”), the Moreno Valley Housing Authority (“Housing Authority”) and each of their officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall require each subcontractor to indemnify, hold harmless and defend City, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

15. Insurance.

(a) Throughout the life of this Agreement, Consultant shall pay for and

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

maintain in full force and effect all insurance as required in **Exhibit E** or as may be authorized in writing by the City Manager or his/her designee at any time and in his/her sole discretion.

(b) If at any time during the life of the Agreement or any extension, Consultant or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to Consultant shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this section shall in any way relieve Consultant of its responsibilities under this Agreement. The phrase “fail to maintain any required insurance” shall include, without limitation, notification received by City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the liability of Consultant, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Consultant, its principals, officers, agents, employees, persons under the supervision of Consultant, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) Upon request of City, Consultant shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all

AGREEMENT FOR PROJECT RELATED SERVICES AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES

endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

(e) If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall require each subcontractor to provide insurance protection in favor of City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of this section, except that any required certificates and applicable endorsements shall be on file with Consultant and City prior to the commencement of any services by the subcontractor.

16. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

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

18. (a) The Consultant shall deliver to the [Financial Resources Division Manager](#) or his designated representative, fully completed and detailed project-related documents , with the exception of Consultant's proprietary computer models, which shall become the property of the City. The Consultant may retain, for its files, copies of any and all material, including drawings, documents, and specifications, produced by the Consultant in performance of this Agreement.

(b) The Consultant shall be entitled to copies of all furnished materials for his files and his subconsultants, if any.

(c) The City agrees to hold the Consultant free and harmless from any claim

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

arising from any unauthorized use of computations, maps, and other documents prepared or provided by the Consultant under this Agreement, if used by the City on other work without the permission of the Consultant. Consultant acknowledges that Consultant work product, with the exception of Consultant's proprietary computer models, produced under this agreement may be public record under State law.

19. (a) This Agreement shall terminate without any liability of City to Consultant upon the earlier of: (i) Consultant's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against Consultant; (ii) 10 calendar days prior written notice with or without cause by City to Consultant; (iii) City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement. The written notice shall specify the date of termination. Upon receipt of such notice, the Consultant may continue services on the project through the date of termination, provided that no service(s) shall be commenced or continued after receipt of the notice, which is not intended to protect the interest of the City. The City shall pay the Consultant within thirty (30) days after the date of termination for all non-objected to services performed by the Consultant in accordance herewith through the date of termination. Consultant shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.

(b) In the event of termination due to failure of Consultant to satisfactorily perform in accordance with the terms of this Agreement, City may withhold an amount that would otherwise be payable as an offset to, but not in excess of, City's damages caused by such failure. In no event shall any payment by City pursuant to this Agreement constitute a waiver by City of any breach of this Agreement which may then exist on the part of Consultant, nor

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

shall such payment impair or prejudice any remedy available to City with respect to the breach.

(c) Upon any breach of this Agreement by Consultant, City may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is determined that City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

(d) Consultant shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of Consultant and without its fault or negligence such as, acts of God or the public enemy, acts of City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. Consultant shall notify City in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Administrator of the cessation of such occurrence.

20. This Agreement is binding upon the City and the Consultant and their successors and assigns. Except as otherwise provided herein, neither the City nor the Consultant shall assign, sublet, or transfer its interest in this Agreement or any part thereof without the prior written consent of the other.

21. A City representative shall be designated by the City and a Consultant representative shall be designated by the Consultant. The City representative and the Consultant representative shall be the primary contact person for each party regarding performance of this Agreement. The City representative shall cooperate with the Consultant,

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

and the Consultant's representative shall cooperate with the City in all matters regarding this Agreement and in such a manner as will result in the performance of the services in a timely and expeditious fashion.

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

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

24. The City and the Consultant agree, that to the extent permitted by law, until final approval by the City, all data shall be treated as confidential and will not be released to third parties without the prior written consent of both parties.

25. (a) Consultant shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

California Code of Regulations Section 18700 et. seq.). At any time, upon written request of City, Consultant shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, Consultant and the respective subcontractor(s) are in full compliance with all laws and regulations. Consultant shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, Consultant shall immediately notify City of these facts in writing.

(b) In performing the work or services to be provided hereunder, Consultant shall not employ or retain the services of any person while such person either is employed by City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.

(c) Consultant represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.

(d) Neither Consultant, nor any of Consultant's subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project unless fully disclosed to and approved by the City Manager, in advance and in writing. Consultant and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, Consultant shall remain responsible for complying with Section 25(a), above.

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

(e) If Consultant should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, Consultant shall include the provisions of this Section 25 in each subcontract and require its subcontractors to comply therewith.

(f) This Section 25 shall survive expiration or termination of this Agreement.

26. All Plans, drawings, Specifications, reports, logs, and other documents prepared by the Consultant in its performance under this Agreement with the exception of Consultant's proprietary computer models, shall, upon completion of the project, be delivered to and be the property of the City, provided that the Consultant shall be entitled, at its own expense, to make copies thereof for its own use.

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

28. Supplementary General Provisions. (For projects that are funded by Federal programs). The following provisions, pursuant to 44 Code of Federal Regulations, Part 13, Subpart C, Section 13.36, as it may be amended from time to time, are included in the Agreement and are required to be included in all subcontracts entered into by CONTRACTOR for work pursuant to the Agreement, unless otherwise expressly provided herein. These provisions supersede any conflicting provisions in the General Conditions and shall take precedence over the General Conditions for purposes of interpretation of the General Conditions. These provisions do not otherwise modify or replace General Conditions not in direct conflict with these provisions. Definitions used in these provisions are as contained in the General Conditions.

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

- a) CONTRACTOR shall be subject to the administrative, contractual, and legal remedies provided in the General Conditions in the event CONTRACTOR violates or breaches terms of the Agreement.
- b) CITY may terminate the Agreement for cause or for convenience, and CONTRACTOR may terminate the Agreement, as provided the General Conditions.
- c) CONTRACTOR shall comply with Executive Order 11246 of September 24, 1965, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by CITY and/or subcontracts in excess of \$10,000 entered into by CONTRACTOR.)
- d) CONTRACTOR shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and subcontracts for construction or repair.)
- e) CONTRACTOR shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a7) as supplemented by Department of Labor regulations (29 CFR Part 5).
- f) CONTRACTOR shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327330) as supplemented by Department of Labor regulations (29 CFR Part 5).
- g) CONTRACTOR shall observe CITY requirements and regulations pertaining to reporting included in the General Conditions.
- h) Patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Agreement shall be retained by the CITY.

**AGREEMENT FOR PROJECT RELATED SERVICES
AFFORDABLE HOUSING COMPLIANCE AND MONITORING SERVICES**

- i) Copyrights and rights in data developed in the course of or under the Agreement shall be the property of the CITY. FEMA/CalOES reserve a royalty-free, nonexclusive, irrevocable license to reproduce, publish or otherwise use or authorize to others to use for federal purposes a copyright in any work developed under the Agreement and/or subcontracts for work pursuant to the Agreement.
- j) CONTRACTOR shall provide access by the City, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- k) CONTRACTOR shall retain all required records for three years after CITY makes final payments and all other pending matters relating to the Agreement are closed.
- l) CONTRACTOR shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (This provision applies to contracts exceeding \$100,000 and to subcontracts entered into pursuant to such contracts.)
- m) CONTRACTOR shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163, 89 Stat. 871).

SIGNATURE PAGE FOLLOWS

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

City of Moreno Valley

Rosenow Spevaceck Group Inc.

BY: _____
Name:

TITLE: City Manager

Date

BY: _____
Name:

TITLE: _____
(President or Vice President)

Date

BY: _____
Name:

TITLE: _____
(Corporate Secretary)

Date

<u>INTERNAL USE ONLY</u>
APPROVED AS TO LEGAL FORM:
_____ City Attorney
_____ Date
RECOMMENDED FOR APPROVAL
_____ Department Head
_____ Date

Attachment: RSG Professional Consultant Services Agreement (1697 : AUTHORIZATION TO AWARD AGREEMENT FOR PROFESSIONAL

EXHIBIT C**CITY - SERVICES TO BE PROVIDED
TO CONSULTANT**

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

EXHIBIT C

EXHIBIT D

TERMS OF PAYMENT

1. The Consultant's compensation shall not exceed \$87,800.
2. The Consultant will obtain, and keep current during the term of this Agreement, the required City of Moreno Valley business license. Proof of a current City of Moreno Valley business license will be required prior to any payments by the City. Any invoice not paid because the proof of a current City of Moreno Valley business license has not been provided will not incur any fees, late charges, or other penalties. Complete instructions for obtaining a City of Moreno Valley business license are located at: http://www.moval.org/do_biz/biz-license.shtml
3. The Consultant will electronically submit an invoice to the City once a month for progress payments along with documentation evidencing services completed to date. The progress payment is based on actual time and materials expended in furnishing authorized professional services during the preceding calendar month. At no time will the City pay for more services than have been satisfactorily completed and the City Engineer's determination of the amount due for any progress payment shall be final. The consultant will submit all original invoices to Accounts Payable staff at AccountsPayable@moval.org
Accounts Payable questions can be directed to (951) 413-3073.
Copies of invoices may be submitted to the Finance Department at dianav@moval.org or calls directed to (951) 413-3463.
4. The Consultant agrees that City payments will be received via Automated Clearing House (ACH) Direct Deposit and that the required ACH Authorization form will be completed prior to any payments by the City. Any invoice not paid

because the completed ACH Authorization Form has not been provided will not incur any fees, late charges, or other penalties. The ACH Authorization Form is located at:

http://www.moval.org/city_hall/forms.shtml#bf

5. The minimum information required on all invoices is:
 - A. Vendor Name, Mailing Address, and Phone Number
 - B. Invoice Date
 - C. Vendor Invoice Number
 - D. City-provided Reference Number (e.g. Project, Activity)
 - E. Detailed work hours by class title (e.g. Manager, Technician, or Specialist), services performed and rates, explicit portion of a contract amount, or detailed billing information that is sufficient to justify the invoice amount; single, lump amounts without detail are not acceptable.
6. The City shall pay the Consultant for all invoiced, authorized professional services within thirty (30) days of receipt of the invoice for same.

EXHIBIT D

EXHIBIT E**INSURANCE REQUIREMENTS****Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, which shall include insurance for “bodily injury,” “property damage” and “personal and advertising injury” with coverage for premises and operations, products and completed operations, and contractual liability.
2. The most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, which shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers’ Compensation insurance as required by the California Labor Code and Employer’s Liability Insurance.
4. Professional Liability (Errors and Omissions) insurance appropriate to Consultant’s profession.

Minimum Limits of Insurance

Consultant shall maintain limits of liability of not less than:

1. General Liability:
 - \$1,000,000 per occurrence for bodily injury and property damage
 - \$1,000,000 per occurrence for personal and advertising injury
 - \$2,000,000 aggregate for products and completed operations
 - \$2,000,000 general aggregate
2. Automobile Liability:
 - \$1,000,000 per accident for bodily injury and property damage
3. Employer’s Liability:
 - \$1,000,000 each accident for bodily injury
 - \$1,000,000 disease each employee
 - \$1,000,000 disease policy limit

4. Professional Liability (Errors and Omissions):

\$1,000,000 per claim/occurrence
\$2,000,000 policy aggregate

Umbrella or Excess Insurance

In the event Consultant purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Deductibles and Self-Insured Retentions

Consultant shall be responsible for payment of any deductibles contained in any insurance policy(ies) required hereunder and Consultant shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers; or (ii) Consultant shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.

Other Insurance Provisions

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. City, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers are to be covered as additional insureds.
2. The coverage shall contain no special limitations on the scope of protection afforded to City, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers.
3. Consultant's insurance coverage shall be primary and no contribution shall be required of City.

The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: Consultant and its insurer shall waive any right of subrogation against City, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers.

If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by Consultant.
2. Insurance must be maintained and evidence of insurance must be provided for at least 3 years after any expiration or termination of the Agreement or, in the alternative, the policy shall be endorsed to provide not less than a 3-year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by Consultant, Consultant must purchase extended reporting coverage for a minimum of 3 years following the expiration or termination of the Agreement.
4. A copy of the claims reporting requirements must be submitted to City for review.
5. These requirements shall survive expiration or termination of the Agreement.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice by certified mail, return receipt requested, has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Consultant shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Consultant shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

Acceptability of Insurers

All policies of insurance required hereunder shall be placed with an insurance company(ies) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide; or authorized by the City Manager or his/her designee.

Verification of Coverage

Consultant shall furnish City with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.



Report to City Council

TO: Mayor and City Council

FROM: Ahmad R. Ansari, P.E., Public Works Director/City Engineer

AGENDA DATE: October 27, 2015

TITLE: PURSUANT TO A LANDOWNER PETITION, ANNEX ASSESSOR'S PARCEL NUMBERS ASSOCIATED WITH FR CAL MORENO VALLEY (P14-084 - NANDINA BUILDING A - SOUTHEAST OF HEACOCK ST. AND SAN MICHELE RD.) INTO COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) — AS AMENDMENT NO. 7

RECOMMENDED ACTION

Recommendation:

1. That the City Council acting as the legislative body of Community Facilities District No. 2014-01 (Maintenance Services) approve and adopt Resolution No. 2015-69. A Resolution of the City of Moreno Valley, California, ordering the annexation of territory to City of Moreno Valley Community Facilities District No. 2014-01 (Maintenance Services) and approving the amended map for said district.

SUMMARY

Approval of the proposed Resolution will certify the annexation of 2 parcels to Community Facilities District (CFD) No. 2014-01 (Maintenance Services) ("District"). The annexation was requested by the property owner/developer as a way to satisfy conditions of approval to provide an ongoing funding source for the street lights installed by the development. This action only affects 1 property owner, and not the general citizens or taxpayers of the City.

The City requires developers to mitigate the cost of certain impacts, such as the ongoing cost of street lighting, which will be created by their proposed development. The City established the District to provide a financing tool for developers to mitigate the financial impact for those services.

On January 27, 2015, the City Council designated the future annexation area for the District to provide a simplified process for the development community to satisfy conditions of approval on development projects. Upon receipt of a unanimous landowner owner petition requesting to annex the parcels into the District, an annexation can be ordered without additional public hearing. Once annexed, parcels will be subject to an annual special tax to fund the service they are receiving.

FR Cal Moreno Valley, the property owner of a proposed industrial building to be located on the southeast of Heacock St. and San Michele Rd. (P14-084 - Nandina Building A) has elected to utilize the financing tool and has submitted a landowner petition approving the annexation into the District. The special tax rate area, service provided, and maximum special tax for the project can be found in the table in the Fiscal Impact section of this report.

DISCUSSION

District Formation

The District was formed by adoption of Resolution No. 2014-25 to provide an alternative financing tool for the development community. The District provides funding for ongoing public landscape maintenance and street lighting services. The Rate and Method of Apportionment of Special Tax (RMA) for the District details the different special tax rate areas and the formula to calculate the special tax rates for the services provided. After approval by the property owners, the City is authorized to levy a special tax onto the annual property tax bills for the services they are receiving. Residential Tract 31618 (located on the southwest corner of Moreno Beach Drive and Bay Avenue) formed the original boundaries of the District. To date, six property owners have authorized the annex of their properties into the District.

Annexation to the District

By its Ordinance No. 889, the City Council designated the entire territory of the City a future annexation area for the District. As a result of this designation, development projects may be annexed to the District without additional public hearing as long as unanimous consent is provided by the landowner of the territory to be annexed.

Amendment No. 7

FR Cal Moreno Valley (the "Property Owner") proposes to construct an industrial building on the southeast of Heacock St. and San Michele Rd. The development is required to provide an ongoing funding source for the operation of street lights planned to be installed as part of the development. The following options are available to assist the Property Owner in satisfying this condition of approval:

- 1) Annex into the District and approve the special tax rate(s) applicable for that development to be levied annually on the property tax bills; or

- 2) Fund an endowment; or
- 3) Establish a property owners association to provide the ongoing maintenance and operation of the improvements.

The Property Owner has elected to annex into the District and authorize a special tax for the non-residential street light tax rate area to be levied on the annual property tax bill of the parcels associated with its development. The special tax rate approved by the Property Owner can be found in the table in the Fiscal Impact section of this report. A process chart showing the procedure the Property Owner followed to annex into the District is included as Attachment 3. Successful completion of the annexation satisfies the project's condition of approval to provide an ongoing funding source for the operation of the street lights installed by the development.

The Mello-Roos Community Facilities Act of 1982 states that if there are fewer than 12 registered voters living within the proposed annexation area, an election of the landowners may be held. On August 13, 2015, the Office of the Riverside County Registrar of Voters confirmed there were no registered voters residing at Assessor's Parcel Numbers (APNs) 316-180-012 and 316-180-014 (the "Parcels"), allowing for a special election of the landowners to be conducted.

Annexation materials were provided to the Property Owner on August 10, 2015. The annexation materials included a cover letter, Landowner Petition, RMA, and an envelope to return the petition.

The Property Owner submitted a completed landowner petition approving annexation into the District to the City Clerk. On September 24, 2015, the City Clerk reviewed the landowner petition and confirmed (Attachment 4) the Property Owner unanimously approved the annexation of the APNs associated with their development into the District. Adoption of the attached Resolution (Attachment 1) adds the subject property to the tax rate area for non-residential street lights (SL-02) within CFD No. 2014-01 and directs Amendment No. 7 to the boundary map and an amended notice of special tax lien be recorded on title for APNs 316-180-012 and 316-180-014.

ALTERNATIVES

1. **Adopt the proposed resolution to annex the Parcels to the District.** *This action annexes the Parcels into CFD No. 2014-01 and authorizes the levy of the special tax on the annual property tax bill for only those 2 parcels the Property Owner approved for annexation.*
2. **Do not adopt the proposed resolution to annex the Parcels to the District.** *If the attached resolution is not adopted, the City cannot annex the Parcels into CFD No. 2014-01 and will not have authority to levy the annual special tax onto the property tax bill per the Property Owner's request. The Property Owner would need to use a different funding mechanism to satisfy their conditions*

of approval, which may delay their development.

- 3. **Do not adopt the proposed resolution to annex the Parcels to the District but rather continue the item to a future Council meeting.** *This alternative may delay the development mentioned in this report.*

FISCAL IMPACT

The fiscal year (FY) 2015/16 maximum special tax rate for the Parcels annexing into the District’s SL-02 tax rate area is shown in the following table.

Amendment No. & Development	Assessor's Parcel Number	Services	Tax Rate Area	FY 2015/16 Maximum Special Tax	Estimated FY 2015/16 Maximum Special Tax *
Amendment No. 7 FR Cal Moreno Valley Nandina Blvd. A	316-180-012 316-180-014	Street Lighting Services	SL-02	\$3.41/proportional front foot	\$6,277.81

* The applied special tax may be lower than the maximum special tax and will be based on the final development of the project and the needs of the district.

The maximum special tax rate is subject to an annual inflation adjustment based on the change in the Consumer Price Index (CPI) or five percent (5%), whichever is greater. Prior to the annual levy of the special tax, the City Council must authorize any proposed CPI increase each year. The annual increases cannot exceed the annual inflationary adjustment without approval of the registered voters within the District. The annual special tax is collected on the Riverside County property tax bills.

Revenue received from the special taxes is restricted and can only be used to provide the services identified for and within each tax rate area. If the revenue projected at the maximum special tax rate exceeds what is necessary to fund the services within each tax rate area, then a lower amount will be applied to the property tax bills for all properties in the District subject to that tax rate area. The special tax for the District can only be collected on properties where property owners have previously approved the special tax to be levied on the annual property tax bill.

NOTIFICATION

On August 10, 2015, the Property Owner was provided a landowner petition for the annexation of APNs associated with their project to the District.

PREPARATION OF STAFF REPORT

Prepared by:
Jennifer Terry,
Senior Management Analyst

Department Head Approval:
Ahmad Ansari, P.E.,
Public Works Director/City Engineer

Concurred by:
Candace E. Cassel,
Special Districts Division Manager

CITY COUNCIL GOALS

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

Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

ATTACHMENTS

- 1. Resolution Ordering Annexation
- 2. Amendment No. 7 Boundary Map
- 3. Flowchart
- 4. Confirmation of Petition

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/05/15 8:57 AM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 3:42 PM
City Manager Approval	<u>✓ Approved</u>	

RESOLUTION NO. 2015-69

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ORDERING THE ANNEXATION OF TERRITORY TO CITY OF MORENO VALLEY COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) AND APPROVING THE AMENDED MAP FOR SAID DISTRICT

WHEREAS, by its Resolution No. 2014-25, the City Council established the City of Moreno Valley Community Facilities District No. 2014-01 (Maintenance Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*) (the "Act"); and

WHEREAS, by its Ordinance No. 874, the City Council levied an annual special tax against all non-exempt parcels of real property within the CFD (the "Special Tax") to fund street lighting services and landscape maintenance services; and

WHEREAS, in order to permit landowners to efficiently annex developing parcels to the CFD, the City Council, by its Ordinance No. 889 designated the entire territory of the City as a future annexation area for the CFD and approved the second amended and restated rate and method of apportionment for the Special Tax; and

WHEREAS, the landowner of the parcels listed on Exhibit A to this Resolution, which is attached hereto and incorporated herein by reference, has submitted to the City a petition requesting and approving annexation of the listed parcels (the "Annexation Parcels") to the CFD; and

WHEREAS, the Annexation Parcels comprise the territory shown on the following boundary map (the "Boundary Map") "Amendment No. 7 to Boundaries of City of Moreno Valley Community Facilities District No. 2014-01 (Maintenance Services), City of Moreno Valley, County of Riverside, State of California", which is on file in the office of the City Clerk, available for public inspection and incorporated herein by reference; and

WHEREAS, the City Council desires to annex the Annexation Parcels to the CFD.

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

1. Recitals. The above recitals are all true and correct and are herein incorporated.
2. Annexation Approved. The Annexation Parcels are hereby added to and part of the CFD with full legal effect. Each of the Annexation Parcels is subject to the

1
Resolution No. 2015-69
Date Adopted: October 27, 2015

Attachment: Resolution Ordering Annexation [Revision 3] (1694 : PURSUANT TO A LANDOWNER PETITION, ANNEX ASSESSOR'S PARCEL

Special Tax associated with the Tax Rate Area(s) indicated on Exhibit A to this Resolution.

3. Description of Services. The following is a general description of all services (the “Services”) provided in the CFD:

A. Landscape Maintenance Services: Maintaining, servicing, and operating landscape improvements and associated appurtenances located within the public right-of-way and within dedicated landscape easements for the CFD. These improvements may include but are not limited to parkways, medians, open space landscaping, fencing, monuments, ornamental lighting, drainage, turf, ground cover, shrubs, vines and trees, irrigation systems, and appurtenant facilities and structures. Fundable costs may include, but are not limited to: (i) contracting costs for landscape maintenance services, including litter removal, (ii) salaries and benefits of City staff, (iii) expenses related to equipment, apparatus, and supplies related to these services, (iv) City administrative and overhead costs associated with providing such services within the CFD, and (v) lifecycle costs associated with the repair and replacement of facilities.

B. Street Lighting Services: Maintaining, servicing, and operating street lights and appurtenant improvements. Fundable costs may include, but are not limited to: (i) contracting costs for street light maintenance, (ii) salaries and benefits of City staff, if the City directly provides street light maintenance services, (iii) utility expenses and the expense related to equipment, apparatus, and supplies related to these services and authorized by the Act, (iv) City administrative and overhead costs associated with providing such services for the CFD, and (v) lifecycle costs associated with the repair and replacement of facilities.

Each of the Annexation Parcels will only be provided with the services indicated on Exhibit A.

4. Amended Boundary Map. The Boundary Map attached hereto as Exhibit “B” is hereby approved. This map amends, and does not supersede, the existing maps of the CFD. The City Council directs that said map be filed with the Riverside County Recorder pursuant to Section 3113 of the Streets and Highways Code.

5. Notice of Special Tax Lien. The City Council directs that a revised notice of special tax lien be recorded pursuant to Section 3117.5 of the Streets and Highways Code with respect to the Annexation Parcels associated with the Boundary Map.

6. This Resolution shall be effective immediately upon adoption.

7. The City Clerk shall certify to the adoption of this Resolution, and shall maintain on file as a public record this Resolution.

2
Resolution No. 2015-69
Date Adopted: October 27, 2015

APPROVED AND ADOPTED this 27th day of October, 2015.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

3
Resolution No. 2015-69
Date Adopted: October 27, 2015

Attachment: Resolution Ordering Annexation [Revision 3] (1694 : PURSUANT TO A LANDOWNER PETITION, ANNEX ASSESSOR'S PARCEL

RESOLUTION JURAT

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

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2015-69 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 27th day of October, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

4
Resolution No. 2015-69
Date Adopted: October 27, 2015

EXHIBIT A

List of Annexation Parcels

Boundary Map Amendment No.	Assessor's Parcel Numbers	Services	Tax Rate Area & Maintenance Category
Amendment No. 7	316-180-012 316-180-014	Street Lighting Services	SL-02

Based on current development plans, it is anticipated that the Annexation Group will be in the Maintenance Category listed above; however all taxes will be calculated as set forth in the Rate and Method of Apportionment.

The parcels associated with the boundary map constitute a separate Annexation Group for purpose of calculating the applicable Maintenance Category (where applicable) for each Tax Rate Area. The anticipated Maintenance Category (where applicable) is shown in parenthesis following the Tax Rate Area. All capitalized terms in this paragraph have the meanings set forth in the Rate and Method of Apportionment.

Attachment: Resolution Ordering Annexation [Revision 3] (1694 : PURSUANT TO A LANDOWNER PETITION, ANNEX ASSESSOR'S PARCEL

5
Resolution No. 2015-69
Date Adopted: October 27, 2015

EXHIBIT B

SHEET 1 OF 1

**AMENDMENT NO. 7 TO BOUNDARIES
OF CITY OF MORENO VALLEY COMMUNITY
FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES)**

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

(This map amends, by adding the additional territory shown hereon, the boundary map for City of Moreno Valley Community Facilities District No. 2014-01 (Maintenance Services), City of Moreno Valley, Riverside County, State of California, prior recorded at Book 75 of Maps of Assessment and Community Facilities Districts at page 69, in the office of the County Recorder for the County of Riverside, State of California.)




FILED IN THE OFFICE OF THE CITY CLERK THIS _____ DAY OF _____ 2015.

CITY CLERK
CITY OF MORENO VALLEY

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING AMENDED BOUNDARIES OF CITY OF MORENO VALLEY COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES), CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____ 2015, BY ITS RESOLUTION NO. _____.

CITY CLERK
CITY OF MORENO VALLEY

FILED THIS _____ DAY OF _____ 2015
AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ PAGE(S) _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AND INSTRUMENT NO. _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

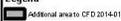
COUNTY RECORDER
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

REFERENCE IS MADE TO THAT BOUNDARY MAP OF THE COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) OF THE CITY OF MORENO VALLEY RECORDED WITH THE RIVERSIDE COUNTY RECORDER'S OFFICE ON FEBRUARY 20, 2014 IN BOOK 76 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, PAGE 69 AS INSTRUMENT NO. 2014-008114.

REFERENCE IS FURTHER MADE TO ANNEXATION MAP NO. 2 OF COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) OF CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, CALIFORNIA TERRITORY PROPOSED FOR ANNEXATION IN THE FUTURE, WITH THE CONDITION THAT PARCELS WITHIN THAT TERRITORY MAY BE ANNEXED ONLY WITH THE UNANIMOUS APPROVAL OF THE OWNER OR OWNERS OF EACH PARCEL OR PARCELS AT THE TIME THAT PARCEL OR THOSE PARCELS ARE ANNEXED RECORDED WITH THE RIVERSIDE COUNTY RECORDER'S OFFICE ON DECEMBER 17, 2014 IN BOOK 77, PAGE 78 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AS INSTRUMENT NO. 2014-081134, WHICH DESIGNATED THE TERRITORY SHOWN HEREIN AS TERRITORY FOR FUTURE ANNEXATION TO THE COMMUNITY FACILITIES DISTRICT REFERENCED THEREON.

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

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

Legend
 Additional area to CPD 2014-01



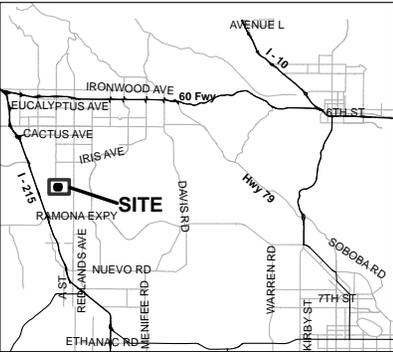
Attachment: Resolution Ordering Annexation [Revision 3] (1694 : PURSUANT TO A LANDOWNER PETITION, ANNEX ASSESSOR'S PARCEL

**AMENDMENT NO. 7 TO BOUNDARIES
OF CITY OF MORENO VALLEY COMMUNITY
FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES)**

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

(This map amends, by adding the additional territory shown hereon, the boundary map for City of Moreno Valley Community Facilities District No. 2014-01 (Maintenance Services), City of Moreno Valley, Riverside County, State of California, prior recorded at Book 76 of Maps of Assessment and Community Facilities Districts at page 69, in the office of the County Recorder for the County of Riverside, State of California.)

VICINITY MAP



FILED IN THE OFFICE OF THE CITY CLERK THIS _____ DAY OF _____, 201____.

CITY CLERK
CITY OF MORENO VALLEY

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING AMENDED BOUNDARIES OF CITY OF MORENO VALLEY COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES), CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 201____. BY ITS RESOLUTION NO. _____

CITY CLERK
CITY OF MORENO VALLEY

FILED THIS _____ DAY OF _____, 201____, AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ PAGE(S) _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICT AND INSTRUMENT NO. _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

COUNTY RECORDER
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

REFERENCE IS MADE TO THAT BOUNDARY MAP OF THE COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) OF THE CITY OF MORENO VALLEY RECORDED WITH THE RIVERSIDE COUNTY RECORDER'S OFFICE ON FEBRUARY 20, 2014 IN BOOK 76 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, PAGE 69 AS INSTRUMENT NO. 2014-0066114.

REFERENCE IS FURTHER MADE TO ANNEXATION MAP NO. 2 OF COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) OF CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, CALIFORNIA (TERRITORY PROPOSED FOR ANNEXATION IN THE FUTURE, WITH THE CONDITION THAT PARCELS WITHIN THAT TERRITORY MAY BE ANNEXED ONLY WITH THE UNANIMOUS APPROVAL OF THE OWNER OR OWNERS OF EACH PARCEL OR PARCELS AT THE TIME THAT PARCEL OR THOSE PARCELS ARE ANNEXED) RECORDED WITH THE RIVERSIDE COUNTY RECORDER'S OFFICE ON DECEMBER 17, 2014 IN BOOK 77, PAGE 78 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AS INSTRUMENT NO. 2014-0481134, WHICH DESIGNATED THE TERRITORY SHOWN HEREIN AS TERRITORY FOR FUTURE ANNEXATION TO THE COMMUNITY FACILITIES DISTRICT REFERENCED THEREON.

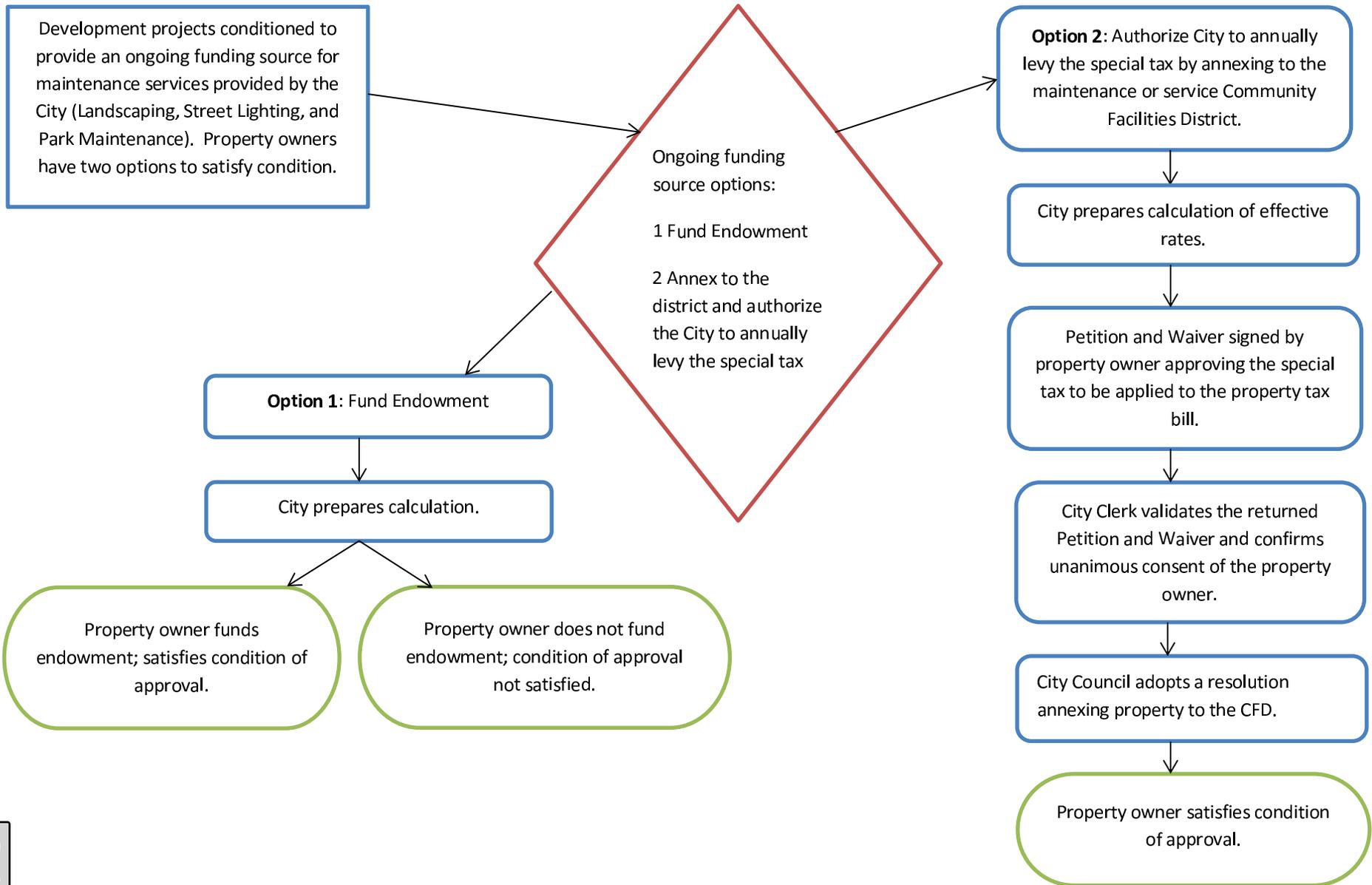
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THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

Legend
[Shaded Box] Additional area to CFD 2014-01



Process Flow for Property Owners/Developers to Satisfy Funding Requirement for Existing Maintenance or Service Tax Rates Areas in Community Facilities District No. 2014-01



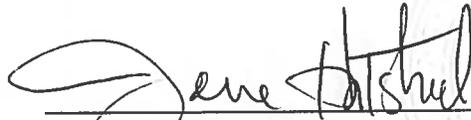
**CERTIFICATE OF ELECTION OFFICIAL
AND CONFIRMATION OF LANDOWNER PETITION**

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

The undersigned, Election Official of the City of Moreno Valley, County of Riverside, State of California, Does Hereby Certify that on September 24, 2015, I did verify the completeness of the Landowner Petition for the annexation of property into

CITY OF MORENO VALLEY COMMUNITY FACILITIES DISTRICT NO. 2014-01
(MAINTENANCE SERVICES) – AMENDMENT NO. 7

WITNESS my hand this 24th day of September, 2015.



ELECTION OFFICIAL
CITY OF MORENO VALLEY
STATE OF CALIFORNIA





Report to City Council

TO: Mayor and City Council

FROM: Richard Teichert, Chief Financial Officer

AGENDA DATE: October 27, 2015

TITLE: APPROVE 2016 ANNUAL SYSTEM RESOURCE ADEQUACY PLAN FOR MORENO VALLEY ELECTRIC UTILITY (MVU)

RECOMMENDED ACTION

Recommendation:

1. Approve the Annual System Resource Adequacy Plan for 2016.

SUMMARY

This report recommends that the City Council approve the Moreno Valley Utility (MVU) Annual System Resource Adequacy Plan (Plan) for 2016. The Plan represents the amount of capacity that is guaranteed from Direct Energy. Direct Energy's guarantee to provide the required electricity capacity to MVU is established in the confirmation agreement included as Attachment 1. The commitment agreement was executed in September 2015, and is effective January 1, 2016 through December 31, 2016.

DISCUSSION

The System Resource Adequacy Program has been developed to comply with the requirements of the California Independent System Operator's (CAISO). CAISO, the agency responsible for the reliable operation of the electric transmission system in California, requires utilities to have a plan which ensures system operators will be able to purchase enough electric capacity resources to meet their customers' demands for electricity. An annual report identifying the System Resource Adequacy (System RA) is required to be developed each year for the following year and sent to CAISO by October 31.

The capacity requirement is calculated based upon a percentage of the utility's monthly forecasted peak load. The reserve requirement needed to comply with the CAISO Tariff

for 2016 is set at 92% of MVU's forecasted monthly peak demand. The "System RA" row included in the following table is the reserve requirement for 2016 and is the Annual System Resource Adequacy Plan for 2016. The Plan is also documented in the attached commitment agreement.

2016	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Peak (MW)	30	31	32	32	35	41	51	51	53	38	34	33
System RA (MW)	28	29	29	29	32	38	47	47	49	35	31	30

MVU ensures compliance with the requirement to meet the capacity needs of its customer by purchasing power from suppliers. The suppliers must be able to guarantee delivery to be in compliance with the CAISO requirements. In September 2015, a solicitation was made for offers for energy capacity that will meet MVU's requirements for Resource Adequacy for 2016. The low bidder is Direct Energy at \$1.32 per kW-month. Following are the bids received:

Direct Energy	\$1.32 per kW-month = \$559,680 total
Shell Energy North America	\$1.42 per kW-month = \$602,080 total
Tenaska Power Services	\$1.58 per kW-month = \$669,920 total
Noble Americas Energy Solutions	Did not to respond

Direct Energy is the lowest bidder for the commitment agreement to ensure MVU's energy supply needs will be met for calendar year 2016. The commitment agreement (attached) acts like insurance for energy delivery. If demand significantly exceeds MVU's forecasted demand, Direct Energy will supply electricity at the real-time market price at that time. Similar to insurance policies, these energy commitment agreements are rarely called upon to deliver energy.

The annual plan was presented to the Finance Subcommittee on October 15, 2015. The Subcommittee recommends approval of the Plan to the City Council.

The annual plan for 2016 was presented to and approved by the Utilities Commission at the October 16, 2015 meeting.

ALTERNATIVES

1. Approve the 2016 Annual Resource Adequacy Plan as described above for Moreno Valley Utility. *Staff recommends this alternative as it will keep Moreno Valley Utility in compliance with CAISO requirements.*

- 2. Do not approve the 2016 Annual Resource Adequacy Plan for Moreno Valley Utility. *Staff does not recommend this alternative. MVU will not have a 2016 annual plan in place to comply with the CAISO Reliability Requirement Tariff and may be subject to a penalty of \$500 per day for each day it is late.*

FISCAL IMPACT

Staff has included funding for the energy resource commitment agreement in the FY 2015/16 and FY 2016/17 budgets. There are funds available in account 6010-30-80-45510-710146. For FY 15/16, the fiscal impact to MVU will be \$244,200. For FY 16/17, the fiscal impact will be \$315,480.

NOTIFICATION

Posting of the Agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Jeannette Olko
Electric Utility Division Manager

Department Head Approval:
Richard Teichert
Chief Financial Officer

CITY COUNCIL GOALS

None

ATTACHMENTS

- 1. Direct Energy Confirmation

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/20/15 10:36 AM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 1:58 PM
City Manager Approval	<u>✓ Approved</u>	



Energy America, LLC
12 Greenway Plaza, Suite 200
Houston, TX 77046
Telephone: 713-877-3500

**CONFIRMATION
BETWEEN
CITY OF MORENO VALLEY
AND
ENERGY AMERICA, LLC**

This Confirmation Letter including all appendices hereto ("Confirmation") confirms the Transaction between City of Moreno Valley ("Seller") and Energy America, LLC ("Buyer"), each individually a "Party" and together the "Parties", dated as of September 16, 2015 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation, in the amounts described in this Confirmation. This Transaction is governed by the Western Systems Power Pool Agreement ("WSPP"), effective as of April 11, 2015, along with any amendments and annexes thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement, or, if not defined in the Master Agreement, in the Tariff (defined herein below).

**ARTICLE 1
TRANSACTION**

1.1 Contingent Firm RA Product

Subject to Article 2, Seller shall provide Buyer with Product in the amount of the applicable Contract Quantity for each day of each month of the Delivery Period.

1.2 Delivery Period

The Delivery Period shall be January 1, 2016 to December 31, 2016, inclusive, unless terminated earlier in accordance with the terms of this Agreement.

1.3 Contract Quantity

Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
28	29	29	29	32	38	47	47	49	35	31	30



ARTICLE 2
DELIVERY OBLIGATIONS

2.1 Adjustments to Contract Quantity

- (a) Planned Outages: Seller's obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller's option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month for the applicable days of such Planned Outages; provided, (i) Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer's Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

In the event Seller is unable to provide the applicable Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portion of such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 2.2.

- (b) Reductions in Unit NQC: Seller's obligation to deliver the applicable Contract Quantity for each Showing Month may also be excused in the event the Unit experiences a reduction in Unit NQC as determined by the CAISO. In the event the Unit experiences such a reduction in Unit NQC, Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product, or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 2.2.

2.2 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one or more of the reasons specified in Section 2.1, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no additional cost to Buyer, provide Buyer with replacement Product from one or more Replacement Units in an amount such that the total amount of Product provided to Buyer from the Unit and Replacement Units for each day of the Showing Month is not more than the Contract Quantity for the applicable Showing Month, provided that in each case:

- (a) Seller shall notify Buyer of its intent to provide replacement Product and identify Replacement Units meeting the above requirements no later than the later of (i) fifteen (15) Business Days before the relevant initial submission deadlines for Buyer's Compliance Showings related to such Showing Month, and (ii) three (3) Business Days after the Confirmation Effective Date, but in no event later than three (3) Business Days prior to the relevant final submission deadline for Buyer's Compliance Showings related to such Showing Month; and
- (b) the designation of any Replacement Unit by Seller shall be subject to Buyer's prior written approval, which shall not be unreasonably withheld; provided that so long as the Replacement Unit is a resource south of Path 26 (in SP15) and provides to Buyer Capacity Attributes equivalent to those that were provided by the original Unit, then Buyer's prior approval shall not be required.



Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.2 and Buyer has approved such Replacement Units (if required), then any such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month. Notwithstanding anything to the contrary in this Confirmation, failure to properly provide Alternate Capacity pursuant to the requirements of this Section 2.2, including Seller's obligation to identify Replacement Units no later than the relevant deadlines specified in Section 2.2(a), will not constitute a breach of Seller's obligations under this Confirmation, but may result, if applicable, in the calculation of damages under Section 2.4 and/or the indemnification of Buyer against any penalties, fines or costs under Section 2.5.

2.3 Delivery of Product

Seller shall provide Buyer with the Expected Contract Quantity of Product for each day of each Showing Month consistent with the following:

- (a) Seller shall, on a timely basis, submit, or cause the Unit's SC to submit, Supply Plans in accordance with the Tariff to identify and confirm the Expected Contract Quantity provided to Buyer for each day of each Showing Month so that the total amount of Expected Contract Quantity identified and confirmed for each day of such Showing Month equals the Expected Contract Quantity for such day of such Showing Month, unless specifically requested not to do so by the Buyer.
- (b) Seller shall, or shall cause the Unit's SC to, (i) submit written notification to Buyer, no later than the later of (i) fifteen (15) Business Days before the applicable Compliance Showing initial submission deadlines for each Showing Month, and (ii) three (3) Business Days after the Confirmation Effective Date, but in no event later than one (1) Business Day prior to the relevant final submission deadline for Buyer's Compliance Showings related to such Showing Month, that Buyer will be credited with the Expected Contract Quantity for each day of such Showing Month in the Unit's SC Supply Plan so that the Expected Contract Quantity for each day of the Showing Month credited equals the Expected Contract Quantity for such day of such Showing Month.

2.4 Damages for Failure to Provide Capacity

If Seller fails to provide Buyer with the Expected Contract Quantity of Product for any day of any Showing Month, in accordance with Sections 2.1, 2.2 and 2.3 or Article 7, in each case as applicable, then the following shall apply:

- (a) Buyer may, but shall not be required to, replace any portion of the Expected Contract Quantity not provided by Seller for any day of any Showing Month with capacity having equivalent Capacity Attributes as the portion of the Expected Contract Quantity not provided by Seller for such day, or if capacity having equivalent Capacity Attributes is not available for any day of any Showing Month for which Seller has not provided a portion of the Expected Contract Quantity, Buyer may replace such portion of the Expected Contract Quantity with capacity having Capacity Attributes in excess of Capacity Attributes associated with the portion of the Expected Contract Quantity not provided by Seller for such day ("Replacement Capacity"). Buyer may enter into purchase transactions with one or more parties to purchase Replacement Capacity to replace any portion of Expected Contract Quantity not provided by Seller for any day of any Showing Month. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party for any day of any Showing Month for which Seller has not provided a portion of the Expected Contract Quantity, and such arrangements shall be considered the



procurement of Replacement Capacity. Buyer shall act in a commercially reasonable manner in procuring any Replacement Capacity. In no event shall the quantity of MW of Replacement Capacity for any day exceed the quantity of MW of the Expected Contract Quantity not provided by Seller for such day.

- (b) Seller shall pay to Buyer at the time set forth in Section 21.3 of the Master Agreement, the following damages in lieu of damages specified in Section 21.3 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, including any transaction costs and expenses incurred in connection with such procurement, plus (B) each Capacity Replacement Price times the aggregate amount of the Expected Contract Quantity neither provided by Seller nor purchased by Buyer for all applicable portions of the applicable Showing Month pursuant to Section 2.4(a), and (ii) the aggregate amount of Expected Contract Quantity not provided for all applicable portions of the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Section 28.3 of the Master Agreement.

2.5 Indemnities for Failure to Deliver Expected Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer (or, consistent with Section 2.6 below, any purchaser of Resold Product to the extent that Seller is liable for such amounts pursuant to Section 2.6 below) by the CPUC or the CAISO, resulting from any of the following:

- (a) Seller's failure to provide any portion of the Expected Contract Quantity for any portion of the Delivery Period;
- (b) Seller's failure to provide notice of the non-availability of any portion of the Expected Contract Quantity for any portion of the Delivery Period as required under Section 2.3;
- (c) A Unit's SC's failure to timely submit Supply Plans that identify Buyer's right to the Expected Contract Quantity purchased hereunder for each day of the Delivery Period; or
- (d) A Unit SC's failure to submit accurate Supply Plans that identify Buyer's right to the Expected Contract Quantity purchased hereunder for each day of the Delivery Period.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines and costs. Notwithstanding anything to the contrary in this Section 2.5, Seller's aggregate liability under Section 2.4 and 2.5 in respect of any portion of the Expected Contract Quantity to which the events and conditions specified in clauses (a) through (d) of this Section 2.5 applied for a given time period, shall not exceed the greater of the monetary penalties or fines (x) assessed against Buyer (or, consistent with Section 2.6 below, any purchaser of Resold Product to the extent that Seller is liable for such amounts pursuant to Section 2.6 below) by the CPUC or the CAISO for such time period and (y) that may or would have been assessed against Buyer (or, consistent with Section 2.6 below, any purchaser of Resold Product to the extent that Seller would have been or is liable for such amounts pursuant to Section 2.6 below) by the CPUC or the CAISO in the absence of the purchase of any Replacement Capacity for such portion of the Expected Contract Quantity and for such time period. Seller will have no obligation to Buyer (or, consistent with Section 2.6 below, any purchaser of Resold Product to the extent that Seller is liable for such amounts pursuant to Section 2.6 below) under this Section 2.5 in respect of the



portion of the Expected Contract Quantity for any portion of the Delivery Period for which Seller has paid damages for Replacement Capacity under Section 2.4. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

2.6 Buyer's Re-Sale of Product

Buyer may re-sell all or a portion of the Product acquired under this Confirmation, provided, that such resale shall not relieve Buyer of any of its obligations under this Confirmation. In the event Buyer re-sells all or a portion of the Product acquired under this Confirmation ("Resold Product"), Seller agrees, and agrees to cause the Unit's SC, to follow Buyer's instructions with respect to providing such Resold Product to the subsequent purchasers of such Product; provided, however, that Seller shall not be obligated to follow any instructions (a) that Seller would not, in the absence of a resale of the Product, be obligated to follow to provide the Product to Buyer in accordance with the terms of this Agreement or (b) that would cause Seller to incur any material additional expense or material additional burden that it would not have incurred in the absence of a resale. Seller further agrees, and agrees to cause the Unit's SC, to take all commercially reasonable actions and execute any and all commercially reasonable documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product. Buyer acknowledges and agrees that any Resold Product delivered in accordance with the requirements of this Agreement to a subsequent purchaser designated by Buyer, as if such subsequent purchaser was Buyer, shall be deemed to have been Product delivered to Buyer for purposes of this Agreement. Buyer further acknowledges and agrees that Buyer shall be fully responsible for all acts and omissions of any and all subsequent purchasers of Resold Product to the same extent that Buyer would be responsible under this Agreement for such acts or omissions if taken or omitted by Buyer directly. Seller acknowledges and agrees that with respect to any Resold Product, if Buyer incurs any liability to any purchaser of such Resold Product due to the failure of Seller to comply with, or cause the Unit's SC to comply with, as applicable, the terms of this Agreement, and Seller would have had liability to such subsequent purchaser under this Agreement for such failure if such subsequent purchaser was Buyer hereunder, then Seller shall be liable to Buyer under this Agreement, including without limitation, pursuant to Sections 2.4, 2.5 and Section 7.3, for the amounts that it would have been liable for under this Agreement to such subsequent purchaser if such subsequent purchaser was Buyer hereunder.

2.7 Post-Showing Replacement Capacity

In the event the CAISO determines, in accordance with the Tariff, that any portion of the Expected Contract Quantity for any portion of a Showing Month which was shown by Buyer in its Compliance Showings requires outage replacement in accordance with Section 40.7 of the Tariff ("Shortfall Capacity"), (i) Seller's Monthly Payment will be reduced in accordance with Section 3.1 below, and neither Seller, nor the Unit's SC (unless the Unit's SC is Buyer), shall have the right to provide Buyer with RA Replacement Capacity with respect to such Shortfall Capacity unless Buyer consents to the provision of such RA Replacement Capacity, (ii) Seller shall have no liability under Sections 2.4 or 2.5 above with respect to such Shortfall Capacity, except to the extent described in Section 7.3 below, and (iii) Seller shall have no liability to Buyer for any costs which are allocated to Buyer by the CAISO for any Backstop Capacity procured by CAISO that was related to such Shortfall Capacity, except to the extent described in Section 7.3 below.

ARTICLE 3 PAYMENT

3.1 Monthly Payment

In accordance with the terms of Section 9 of the Master Agreement, Buyer shall make a Monthly Payment to Seller, after the applicable Showing Month, as follows:



Monthly Payment = (A x B x 1,000)

where:

A = applicable Contract Price for that Showing Month

B = \sum_i^n [(C_i - D_i) \times (\frac{1}{n})]

C = Expected Contract Quantity provided by Seller to Buyer pursuant to and consistent with Section 2.3 and Article 7 for the applicable day of the Showing Month

D = Aggregate megawatts of Shortfall Capacity associated with the applicable day of the Showing Month

i = Each day of Showing Month

n = number of days in the Showing Month

The Monthly Payment calculation shall be rounded to two decimal places.

CONTRACT PRICE TABLE

Table with 2 columns: Showing Month, RA Contract Price (\$/kW-month). Row 1: January 2016 - December 2016, \$1.32

3.2 Allocation of Other Payments and Costs

- (a) Seller shall retain any revenues it may receive from and pay all costs charged by the CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, including without limitation Flexible Ramping Constraint capacity compensation, (iii) energy sales, and (iv) any revenues for black start or reactive power services.
(b) Buyer shall be entitled to receive and retain all revenues associated with the Contract Quantity for each Showing Month (including any capacity revenues from RMR Contracts for the Unit, Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, and any revenues associated with the Unit providing Backstop Capacity under the Tariff, but excluding payments described in Section 3.2(a)(i)-(iv)), provided, however, that to the extent Seller receives capacity revenue from the CAISO because the Unit has been designated during the Delivery Period to provide capacity pursuant to the Capacity Procurement Mechanism, or its successor, or has been designated as Backstop Capacity, Buyer shall only be entitled to a pro rata portion of such capacity revenue based on the ratio of the portion of such period of designation occurring during the Delivery Period to the total period of such designation.
(c) In accordance with Section 3.1 of this Confirmation and Section 9 of the Master Agreement,



- (i) all such Buyer revenues described in this Section 3.2, but received by Seller, or a Unit's SC, owner, or operator shall be credited to Buyer in the applicable monthly invoice provided by Seller to Buyer under Section 9 of the Master Agreement. If the revenues credited to Buyer in any given month exceed the amounts owed to Seller by Buyer in that month, then Seller shall pay such excess revenues to Buyer in that same month in accordance with Section 28.3 of the Master Agreement. In order to verify the accuracy of such revenues, Buyer shall have the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the revenues described in Section 3.2(b); and
- (ii) all such Seller revenues described in this Section 3.2, but received by Buyer shall be remitted to Seller. If Buyer fails to pay such revenues to Seller, Seller may offset any amounts owing to it for such revenues pursuant to Section 28.3 of the Master Agreement against any future amounts it may owe to Buyer under this Confirmation.
- (d) If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day of each Showing Month provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues; provided, however, that if participation in the centralized capacity market causes Seller to incur material additional costs or to forgo revenues that Seller would have otherwise received but for its participation in the centralized capacity market, then Buyer shall indemnify and hold Seller harmless from and against those material additional Seller costs or foregone Seller revenues associated with participation in the centralized capacity market.
- (e) Seller agrees that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated

under Section 40.9 of the Tariff. Furthermore, the Parties agree that any Availability Incentive Payments are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges are the responsibility of the Seller and for Seller's account.

**ARTICLE 4
PLANNED OUTAGES**

Upon the Confirmation Effective Date and, if applicable, no later than thirty (30) days before the applicable year-ahead Compliance Showing required to be made by Buyer pursuant to the CPUC Decisions and the Tariff, Seller shall submit, or cause the Unit's SC to submit to Buyer, the portion of the Unit's schedule of proposed Planned Outages, if any, ("Outage Schedule") for the Delivery Period. In addition, Seller shall provide Buyer an updated Outage Schedule no later than January 1, April 1, July 1 and October 1 for the remainder of the current calendar year or until the end of the Delivery Period, whichever is shorter.



ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller’s and Buyer’s Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity for each Showing Month during the Delivery Period for the sole benefit of Buyer and, subject to Section 2.6, any applicable subsequent purchaser of Resold Product. The Parties further agree to negotiate in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations, so as to maintain the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

5.2 Seller’s Representations, Warranties and Covenants

Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

- (a) Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit, and shall furnish Buyer, CAISO, CPUC or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;
- (b) No portion of the Aggregate Contract Quantity has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets, other than pursuant to an RMR Contract between the CAISO and either Seller or the Unit’s owner or operator;
- (c) The Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;
- (d) Seller shall, and the Unit’s SC, owner and operator is obligated to, comply with Applicable Laws, including the Tariff, relating to the Product;

Buyer shall have no liability for the failure of Seller or the failure of the Unit’s SC, owner, or operator to comply with such Tariff provisions, including any penalties, charges or fines imposed on Seller or the Unit’s SC, owner, or operator for such noncompliance.
- (e) If Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for any Unit does not exceed the Unit NQC for that Unit;
- (f) Seller has notified the SC of the Unit that Seller has transferred the Contract Quantity with respect to each day of each Showing Month to Buyer, the SC is obligated to deliver the Supply Plans in accordance with the Tariff, and the Seller is obligated to cause the SC of the Unit to take certain actions pursuant to this Confirmation; and
- (g) Seller has notified the SC of the Unit that Seller is obligated to cause the Unit’s SC to provide to the Buyer, at least fifteen (15) Business Days before the relevant initial submission deadlines for each Compliance Showing, the applicable Expected Contract Quantity of the Unit for each day of such Showing Month that is to be submitted in the Supply Plan associated with this Agreement for the applicable period.



5.3 Designation as Backstop Capacity.

- (a) Seller shall, or shall cause the Unit's SC to, (i) promptly (and in any event within one (1) Business Day following its receipt of notification of designation from the CAISO) notify Buyer in the event the CAISO designates any portion of the Contract Quantity for any Showing Month as Backstop Capacity and (ii) in the event the CAISO makes such a designation, to not accept any such designation by the CAISO unless and until Buyer has agreed to accept such designation.
- (b) To the extent permitted by the Tariff, Buyer shall have the exclusive right to offer the Contract Quantity applicable to a Showing Month, or any portion thereof, to the CAISO as Backstop Capacity by designating the Expected Contract Quantity as Non-Specified RA Capacity in its Compliance Showing for that Showing Month and indicating its willingness to offer the Expected Contract Quantity from the applicable Unit as Backstop Capacity. Seller shall, and shall cause the Unit's SC to, not offer any portion of the Contract Quantity for such Showing Month to the CAISO as Backstop Capacity or accept any designation of any portion of the Contract Quantity as Backstop Capacity unless requested by Buyer in accordance with Article 7 of this Confirmation.

**ARTICLE 6
CONFIDENTIALITY**

Notwithstanding Section 30 of the Master Agreement, the Parties agree that Buyer may disclose the terms of this Transaction, including, without limitation, the Aggregate Contract Quantity or any applicable portion of the Aggregate Contract Quantity under this Transaction, to any Governmental Body, the CPUC, the CAISO in order to support its Compliance Showings, if applicable, and Seller may (a) disclose this Agreement to its affiliates, lenders, investors, an entity purchasing all, or substantially all of Seller or Seller's assets, and each of their employees, officers, agents, attorneys and advisors or Governmental Body, and (b) disclose the transfer of the Aggregate Contract Quantity and the applicable Contract Quantity and Expected Contract Quantity for each day of each Showing Month under this Transaction to the SC of the Unit in order for such SC to timely submit accurate Supply Plans; provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or SC to further disclose such information. In addition, in the event

Buyer resells all or any portion of the Aggregate Contract Quantity to another party, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

**ARTICLE 7
UNIT SUBSTITUTION**

7.1 Substitute Capacity

No later than five (5) Business Days before the relevant initial submission deadlines for each Compliance Showing during the Delivery Period, Buyer may request that Seller not list, or cause the Unit's SC not to list, a portion or all of a Unit's applicable Expected Contract Quantity for any portion(s) of a Showing Month on the Supply Plan. The amount of Expected Contract Quantity that is the subject of such a request shall be known as "Substitute Capacity" and, for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant



to Section 2.4 or 2.5, be deemed Expected Contract Quantity provided consistent with Section 2.3. Furthermore, Buyer shall be permitted to list any portion of the Expected Contract Capacity as Specified RA Replacement Capacity or Non-Specified RA Capacity in its Compliance Showings, provided, that Buyer shall provide notice to Seller at least five (5) Business Days prior to the beginning of the applicable Showing Month of any listing so made in a Compliance Showing. The amount of Expected Contract Quantity that is so listed shall be known as “Non-Designated Capacity” and, for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.4 and 2.5, be deemed Expected Contract Quantity provided consistent with Section 2.3.

7.2 Seller’s Obligations With Respect to Substitute Capacity

- (a) If Buyer makes a request for Seller to provide Substitute Capacity using the substitution rules found in Section 40.9.4.2.1 of the Tariff (“Substitution Rules”), Seller shall (i) make such Substitute Capacity available to Buyer during the applicable Showing Month in order to allow Buyer to utilize the Substitution Rules; and (ii) take all action, or cause the Unit’s SC to take all action, required of a generating unit’s owner, operator, or SC under the Substitution Rules to allow Buyer to utilize the Substitution Rules, including, but not limited to, ensuring that the Substitute Capacity will qualify, subject to any discretionary powers of the CAISO under the last sentence of Section 40.9.4.2.1(1) of the Tariff or under the last sentence of Section 40.9.4.2.1(2) of the Tariff, for substitution under the Substitution Rules and providing Buyer with all information needed to utilize the Substitution Rules. Seller agrees that with respect to all Substitute Capacity that is utilized under the Substitution Rules, Seller shall either schedule or cause the Unit’s SC to schedule with, or make available to, the CAISO such Substitute Capacity, as if the capacity had been included on the Supply Plan, in compliance with and subject to the Tariff.
- (b) If the CAISO notifies the Unit’s SC that any portion of the Non-Designated Capacity included in a Compliance Showing has been selected as RA Replacement Capacity by the CAISO, Seller agrees that (i) such portion of the Non-Designated Capacity will be provided to the CAISO as RA Replacement Capacity, (ii) Seller shall, or shall cause the Unit’s SC to, verify to the CAISO, within the time period required by the CAISO, that such amount of the Non-Designated Capacity will be provided as RA Replacement Capacity, (iii) during any such time that the Non-Designated Capacity has been designated as RA

Replacement Capacity, Seller shall either schedule or cause the Unit’s SC to schedule with, or make available to, the CAISO such Non-Designated Capacity, as if the capacity had been included on the Supply Plan, in compliance with and subject to the Tariff, and (iv) during any such time that the Non-Designated Capacity has been designated as RA replacement Capacity, the Unit will be subject to all of the availability, dispatch, testing, reporting, verification and any other applicable requirements imposed on Resource Adequacy Resources by the Tariff, including the must-offer obligations in Section 40.6 of the Tariff and the Availability Incentive Payments and Non-Availability Charges in Section 40.9 of the Tariff for the Megawatt amount and duration of the time such Unit is providing RA Replacement Capacity, which includes the full day of the start date and the full day of the end date of such period. Any such Availability Incentive Payments and Non-Availability Charges will be governed by Section 3.2(e) of this Confirmation.



- (c) In the event the CAISO designates any portion of the Non-Designated Capacity as Backstop Capacity, Seller shall, or shall cause the Unit's SC to, promptly (and in any event within one (1) Business Day of the time Seller receives notification of such designation from the CAISO) notify Buyer of such occurrence. In such an event, Seller shall, and shall cause the Unit's SC to, not accept any such designation by the CAISO unless and until Buyer has agreed to accept such designation. If Buyer notifies Seller that it wishes to accept CAISO's designation of any portion of the Non-Designated Capacity as Backstop Capacity, or if Buyer offers the Expected Contract Quantity for any Showing Month, or any portion thereof, to the CAISO as Backstop Capacity by designating it as Non-Specified RA Capacity and indicating its willingness to offer the Expected Contract Quantity as Backstop Capacity, then in each such case, Seller shall, or shall cause the Unit's SC to, (i) notify the CAISO, within the time period required by the CAISO, that the Unit's SC accepts the designation of such Non-Designated Capacity as Backstop Capacity, (ii) make such amount of the Non-Designated Capacity available to the CAISO as Backstop Capacity in accordance with the Tariff, (iii) take all action to allow such portion of the Non-Designated Capacity to be used as Backstop Capacity in accordance with the Tariff, including, but not limited to, providing Buyer with all information needed to utilize such applicable portion of the Non-Designated Capacity as Backstop Capacity, (iv) schedule with the CAISO such portion of the Non-Designated Capacity in compliance with the applicable provisions of the Tariff relating to the applicable type of Backstop Capacity, and (v) otherwise perform, or cause the Unit's owner, or operator, as applicable, to perform all other obligations under the Tariff and comply with all Applicable Laws, in each case that are associated with provision of Backstop Capacity by such portion of the Non-Designated Capacity. Seller agrees that during any time period during which the CAISO designates any portion of the Non-Designated Capacity as Backstop Capacity, the Unit may be subject to all of the availability, dispatch, testing, reporting, verification and any other applicable requirements imposed on Resource Adequacy Resources by the Tariff, including the must-offer obligations in Section 40.6 of the Tariff and the Availability Incentive Payments and Non-Availability Charges in Section 40.9 of the Tariff for the Megawatt amount and duration of the time such Unit is providing Backstop Capacity, which includes the full day of the start date and the full day of the end date of such period. Any such Availability Incentive Payments and Non-Availability Charges will be governed by Section 3.2(e) of this Confirmation.

7.3 Failure to Provide Substitute Capacity

- (a) If Seller fails to provide Substitute Capacity or Buyer is unable to utilize the Substitute Capacity under the Substitution Rules due to Seller's failure to comply with its obligations under this Confirmation (a "Substitute Capacity Failure"), then Seller shall, (i) for that portion of the Substitute Capacity in respect of which a Substitute Capacity Failure has occurred and Buyer did not purchase Replacement Capacity, pay for any and all Non-Availability Charges incurred by Buyer for such failure or inability to utilize the Substitution Rules and (ii) for that portion of the Substitute Capacity in respect of which a Substitute Capacity Failure has occurred and Buyer purchased Replacement Capacity, Seller shall be subject to Section 2.4 above; provided, that if Seller fails to provide Substitute Capacity or Buyer is unable to utilize the Substitution Rules, in each case, because the Substitute Capacity does not qualify for substitution under the last sentence of Section 40.9.4.2.1(1) of the Tariff or under the last sentence of Section 40.9.4.2.1(2) of the Tariff, then Seller shall not be responsible for any



such Non-Availability Charges described in this Section 7.3 associated with such inability or Replacement Capacity costs pursuant to Section 2.4 associated with such inability. If Seller fails to pay any Non-Availability Charges under this Section 7.3 or, subject to the foregoing limitation, amounts owing under Section 2.4 above, then Buyer may offset those amounts owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Section 28.3 of the Master Agreement.

- (b) In addition, if Seller fails to provide or otherwise comply with its obligations under Section 7.2(b) in respect of Non-Designated Capacity and any costs are allocated to Buyer by the CAISO for Backstop Capacity related to such failure of Seller ("Backstop Charges") or Seller is otherwise liable, pursuant to Section 2.6, for such Backstop Charges allocated to a subsequent purchaser of Resold Product, then Seller shall pay or reimburse Buyer, as applicable for any and all such Backstop Charges notwithstanding that such Backstop Charges may apply to periods in excess of the duration of the Planned Outage giving rise to the applicable replacement obligation. If Seller fails to pay any Backstop Charges under this Section 7.3, then Buyer may offset those charges owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Section 28.3 of the Master Agreement.
- (c) Subject to the following sentence, in the event the CAISO designates any portion of the Non-Designated Capacity as Backstop Capacity and Seller (i) fails to comply with the terms of Section 7.2(c), or (ii) Seller fails to provide such Non-Designated Capacity as Backstop Capacity after Buyer timely notifies Seller that it wishes to accept CAISO's designation as Backstop Capacity, then Seller shall pay to Buyer, at the time set forth in Section 9 of the Master Agreement, an amount equal to the amount of revenues or credits, as applicable, that Buyer would have received from Seller pursuant to Section 3.2(b) of this Confirmation for such Backstop Capacity, which amount shall be in lieu of the damages specified in Section 9 of the Master Agreement. Notwithstanding anything to the contrary in Section 7.2(c) or this Section 7.3(c) of this Confirmation, if Seller is unable to comply with the obligations set forth in Section 7.2(c) of this Confirmation as a result of Buyer's failure to timely provide direction regarding acceptance of a designation as Backstop Capacity or timely provide any other information required for Seller to perform such obligations, then Seller shall have no liability under this Agreement for such inability to comply with its obligations under Section 7.2(c) of this Confirmation.

ARTICLE 8 MARKET BASED RATE AUTHORITY

Seller agrees, in accordance with FERC Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR § 35.42. Seller also agrees that it will not, in any filings, if any, made subject to FERC Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

ARTICLE 9 COLLATERAL REQUIREMENTS

The Parties agree that the credit and collateral provisions of the Master Agreement shall govern this Transaction.



**ARTICLE 10
OTHER**

10.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the amount payable in respect of an Early Termination Date in respect of this Transaction in accordance with Section 22.3 of the Master Agreement and the associated definitions of this Confirmation, provided that, with respect to this Transaction only, the following language is added at the end of Section 22.3 of the Master Agreement:

“If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur any penalties, fines or costs from the CPUC, the CAISO, or any Governmental Body having jurisdiction or otherwise have liability for any damages pursuant to Section 2.6 of the Confirmation, because Buyer or a subsequent purchaser is not able to include the applicable Expected Contract Quantity in any applicable Compliance Showing during the Delivery Period due to the termination of this Transaction following Seller’s Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines and costs or damages pursuant to Section 2.6 of the Confirmation and include this estimate in its determination of the amount payable in respect of an Early Termination Date in respect of this Transaction, subject to accounting to Seller when those penalties, fines and costs or damages pursuant to Section 2.6 of the Confirmation are finally ascertained. If this accounting establishes that Buyer’s estimate exceeds the actual amount of penalties, fines, and costs, Buyer shall promptly remit to Seller the excess amount. If this accounting establishes that Buyer’s estimate is less than the actual amount of penalties, fines, and costs, Seller shall promptly pay to Buyer the positive difference between the estimate and the actual amount. The rights and obligations with respect to determining and paying any such amount, and any dispute resolution provisions with respect thereto, shall survive the termination of this Transaction and shall continue until after those penalties, fines and costs are finally ascertained and the foregoing accounting is satisfied.”



ACKNOWLEDGED AND AGREED TO AS OF the Confirmation Effective Date:

Energy America, LLC
 By: [Signature]
 Name: Darron Giron
 Title: Senior Director, Product Control
9/17/2015

City of Moreno Valley
 By: [Signature]
 Name: Jeannette Olko
 Title: Electric Utility Division Manager

APPROVED AS TO FORM
 DATE 9-16-15
 BY [Signature]
 CITY ATTORNEY
 CITY OF MORENO VALLEY



APPENDIX A DEFINED TERMS

"Aggregate Contract Quantity" means the aggregate amount of Product (in MW's) set forth in the table in Section 1.3 which Seller has agreed to provide to Buyer from the Unit throughout the entire term of the Delivery Period.

"Alternate Capacity" means replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 2.2.

"Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

"Availability Incentive Payments" has the meaning set forth in the Tariff.

"Availability Standards" has the meaning set forth in the Tariff.

"Backstop Capacity" means any backstop or other replacement capacity, however defined or described and including capacity procured pursuant to the Capacity Procurement Mechanism set forth in Section 43 of the Tariff, procured by CAISO pursuant to the Tariff and for such period as is required or permitted under the Tariff in connection with the mechanism used by CAISO to replace any Capacity Attributes of a Unit that are (a) specified in a Compliance Showing made by an LSE and (b) designated by CAISO as requiring replacement due to a Planned Outage of that Unit.

"Backstop Charges" has the meaning specified in Section 7.3(b).

"Buyer" has the meaning specified in the introductory paragraph of this Confirmation.

"CAISO" means the California Independent System Operator or any successor entity performing the same functions.

"Capacity Attributes" means, with respect to a Unit, any and all of the following, in each case which are attributed to or associated with the Unit at any time throughout the Delivery Period:

- (a) resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;
- (b) resource adequacy attributes or other locational attributes for the Unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward a Local RAR; and
- (c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes shall exclude all flexible capacity resource adequacy attributes, characteristics, certificates, tags, credits, or accounting constructs, howsoever entitled associated with the Unit, as such flexible capacity resource adequacy attributes, characteristics, certificates, tags, credits or accounting constructs are described in the CPUC Decisions and the Tariff.

"Capacity Replacement Price" means the market price for the quantity of Product not provided by Seller under this Confirmation as determined by Buyer in a commercially reasonable manner. For purposes of Section 4 of the Master Agreement, "Capacity Replacement Price" shall be deemed the "Replacement Price" for this Transaction.

"Compliance Obligations" means the RAR and Local RAR.



"Compliance Showings" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), and (b) RAR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, to the CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

"Confirmation Effective Date" has the meaning specified in the introductory paragraph of this Confirmation.

"Contract Price" means, for any Showing Month, the price specified in the Contract Price Table in Section 3.1 for such period.

"Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MW's) set forth in the table in Section 1.3 which Seller has agreed to provide to Buyer from the Unit for each day of such Showing Month.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

"CPUC Filing Guide" is the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.

"Delivery Period" has the meaning specified in Section 1.2.

"Expected Contract Quantity" means, with respect to any particular day of any Showing Month of the Delivery Period, the Contract Quantity of Product for such day of such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity with respect to for such day, but not including any portion of the Contract Quantity for such day with respect to which Seller's obligations are excused pursuant to Section 2.1 and with respect to which Seller has not elected to provide Alternate Capacity.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

"Local Capacity Area" has the meaning set forth in the Tariff.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"LSE" means load-serving entity.

"Master Agreement" has the meaning specified in the introductory paragraph of this Confirmation.

"Monthly Payment" has the meaning specified in Section 3.1.

"Net Qualifying Capacity" has the meaning set forth in the Tariff.

"Non-Availability Charges" has the meaning set forth in the Tariff.

"Non-Designated Capacity" has the meaning set forth in Section 7.1.

"Non-Specified RA Capacity" has the meaning set forth in the Tariff.



"Planned Outage" means, an Approved Maintenance Outage (as defined in the Tariff), but does not include a RA Maintenance Outage With Replacement (as defined in the Tariff), a Short-Notice Opportunity RA Maintenance Outage (as defined in the Tariff) or an Off-Peak Opportunity RA Maintenance Outage (as defined in the Tariff).

"Product" means the Capacity Attributes of the Unit, provided that:

- (a) Product does not include any right to the energy or ancillary services from the Unit;
- (b) any change by the CAISO, CPUC or other Governmental Body that defines new or re-defines existing Local Capacity Areas that results in a decrease or increase in the amount of Capacity Attributes related to a Local Capacity Area provided hereunder will not result in a change in payments made pursuant to this Transaction; and
- (c) the Parties agree that, under this Confirmation, if the CAISO, CPUC or other Governmental Body defines new or re-defines existing Local Capacity Areas whereby the Unit subsequently qualifies for a Local Capacity Area, the Product shall include all Capacity Attributes related to such Local Capacity Area.

"RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

"RA Replacement Capacity" has the meaning set forth in the Tariff.

"Replacement Capacity" has the meaning specified in Section 2.4.

"Replacement Unit" means a generating unit meeting the requirements specified in Section 2.2.

"Resource Category" shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

"SC" has the meaning set forth in the Tariff.

"Seller" has the meaning specified in the introductory paragraph of this Confirmation.

"Shortfall Capacity" has the meaning set forth in Section 2.7.

"Showing Month" shall be the calendar month of the Delivery Period that is the subject of the Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Specified RA Replacement Capacity" has the meaning set forth in the Tariff.

"Substitute Capacity" has the meaning set forth in Section 7.1.

"Substitute Capacity Failure" has the meaning set forth in Section 7.3(a).

"Substitution Rules" has the meaning set forth in Section 7.2.

"Supply Plan" has the meaning set forth in the Tariff.

"Tariff" means the tariff and protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," as amended or supplemented from time to time, of the CAISO.

"Term" shall have the following meaning: The "Term" of this Transaction shall commence upon the Confirmation Effective Date and shall continue until the later of (a) the expiration of the Delivery Period or (b) the date the Parties' obligations under this Agreement have been satisfied.



"Unit" shall mean the generation assets described in Appendix B (including any Replacement Units), from which Product is provided by Seller to Buyer.

"Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. The Parties agree that if the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, that for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Net Qualifying Capacity.



**APPENDIX B
UNIT INFORMATION**

Name:	Pastoria Energy Facility
Location:	Lebec, CA
CAISO Resource ID:	LEBECs_2_UNITS
Unit NQC as of the Confirmation Effective Date:	Varies by month
Resource Type:	I_Phys_Res
Resource Category (1, 2, 3 or 4):	4
Point of interconnection with the CAISO Controlled Grid ("Substation"):	LEBEC
Path 26 (North, South or None):	South
Local Capacity Area if any as of Confirmation Effective Date:	N/A
Deliverability restrictions if any, as described in most recent CAISO deliverability assessment:	None



Report to City Council

TO:

FROM: Chris Paxton, Administrative Services Director

AGENDA DATE: October 27, 2015

TITLE: LIST OF PERSONNEL CHANGES

RECOMMENDED ACTION

Recommendation:

1. Ratify the list of personnel changes as described.

DISCUSSION

The attached list of personnel changes scheduled since the last City Council meeting are presented for City Council ratification.

FISCAL IMPACT

All position changes are consistent with appropriations previously approved by the City Council.

PREPARATION OF STAFF REPORT

Prepared By:
Chris Paxton
Administrative Services Director

Department Head Approval:
Chris Paxton
Administrative Services Director

CITY COUNCIL GOALS

None

ATTACHMENTS

1. List of Personnel Changes

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/14/15 12:44 PM
City Attorney Approval	<u>✓ Approved</u>	10/14/15 12:51 PM
City Manager Approval	<u>✓ Approved</u>	

City of Moreno Valley Personnel Changes

New Hires

None

Promotions

Sandra Contreras

From: Management Analyst, Financial & Management Services Department

To: Senior Management Analyst, Parks & Community Services Department

Jeremy Hamilton

From: Accounting Assistant, Financial & Management Services Department/Treasury Operations

To: Business License Liaison, Financial & Management Services Department/Treasury Operations

Amy Nesmith

From: Temporary Senior Office Assistant, Financial & Management Services Department/Financial Resources

To: Management Aide, Financial & Management Services Department/Financial Resources

Felicia London

From: Management Analyst, Financial & Management Services Department/Financial Resources

To: Senior Accountant, Financial & Management Services Department/Financial Operations

Griselda Espino-Salcedo

From: Administrative Assistant, Community Development Services/Planning

To: Permit Technician, Community Development Services/Planning

Transfers

None

Separations

None



Report to City Council

TO: Mayor and City Council Acting in its Capacity as President and Members of the Board of Directors of the Moreno Valley Community Services District (CSD)

FROM: Ahmad R. Ansari, P.E., Public Works Director/City Engineer

AGENDA DATE: October 27, 2015

TITLE: DECLARING INTENTION TO ANNEX TENTATIVE TRACT 31592 (LOCATED ON THE EAST SIDE OF PERRIS BLVD. NORTH OF MANZANITA AVE.) TO COMMUNITY FACILITIES DISTRICT NO. 1 (PARK MAINTENANCE)

RECOMMENDED ACTION

Recommendations: That the CSD:

1. Acting as the legislative body of Community Facilities District No. 1 (Park Maintenance) approve and adopt Resolution No. CSD 2015-31. A Resolution of the Moreno Valley Community Services District of the City of Moreno Valley, California, Declaring its Intention to Annex Territory (Tentative Tract 31592) to its Community Facilities District No. 1 (Park Maintenance).

SUMMARY

This report recommends adoption of the proposed resolution to declare intent to annex Tentative Tract 31592 into Community Facilities District No. 1 ("CFD No. 1" or "District") and schedules the Public Hearing for Tuesday, December 8, 2015 for this annexation. The Public Hearing will be held in the City Council Chamber located at 14177 Frederick St, Moreno Valley at 6:00 p.m. or as soon thereafter as the matter may be called. This action only affects 1 property owner, and not the general citizens and taxpayers of the City.

The City requires new development to mitigate the cost of certain impacts as a condition of approval of such development. New residential development is required to provide an ongoing funding source for the cost of maintaining parks. CFD No. 1 was created to

allow property owners to elect to annex into the District and authorize the City to levy a special tax onto the property tax bills of their development to satisfy the condition. The property owners must elect to annex into CFD No. 1 through a special election process prior to the special tax being applied on the property tax bill.

Revenue received from CFD No. 1 special taxes supports the ongoing maintenance and/or repair of parks, trails, park improvements, and all efforts by Park Rangers in CFD No. 1. It preserves Community Services District (CSD) Zone A funds to be used for recreation programs and the maintenance of parks constructed prior to July 8, 2003, the date of CFD No. 1's formation. The fiscal year (FY) 2015/16 maximum special tax rate is \$158.44 per dwelling unit; however, the special tax applied to the property tax bill is \$124.84 per dwelling unit. The maximum special tax is subject to an annual Consumer Price Index (CPI) adjustment, which must be approved by the CSD Board each year. The annual increase cannot exceed the terms of the rate and method of apportionment of special taxes (RMA) without approval of the registered voters within CFD No. 1.

CV Communities, the property owner of Tentative Tract 31592, (east of Perris Blvd. north of Manzanita Ave.) intends to satisfy their conditions of approval to provide a funding source for CFD No. 1 by annexing into the District and requesting the annual special tax be applied to the property tax bill. The property is not currently within the future annexation area boundaries ("Future Annexation Area") previously established by the City and requires a Public Hearing process to allow its annexation. This is the first step in the annexation process for property not within the Future Annexation Area.

DISCUSSION

History

The CSD established zones to fund and account for the costs of specific public services provided by the City to properties receiving benefit from those services. Revenue from the CSD Zone A program funds the maintenance of parks, park facilities, and multi-use trails constructed prior to July 3, 2003, as well as recreation program services, which serve the residents of Moreno Valley. CSD Zone A's parcel tax has remained fixed at \$87.50 per parcel, per year (or per dwelling unit for multifamily parcels) since FY 1992/93. Zone A's parcel tax alone is insufficient to fund expenses for the operation and maintenance of both existing and future parks and community services.

On July 8, 2003, the CSD formed CFD No. 1 to fund the maintenance and/or repair of parks, trails, park improvements, and all efforts by Park Rangers within the District, for those park facilities constructed after the date of its formation. New residential development projects are required to provide an ongoing funding source to support CFD No. 1 as a condition of approval for the project. Residential housing Tracts 30924, 30998, and 31050 formed the original boundaries of CFD No. 1. Since formation of the District, the CSD Board has certified and approved an additional 69 property owner requests to annex their residential developments into CFD No. 1.

At the time CFD No. 1 was formed, the CSD Board authorized the Future Annexation Area to provide subsequent developments a simplified process to annex into CFD No. 1, if they elected to do so. When established, the Future Annexation Area mirrored the boundaries of the City at that point in time.

Annexation to CFD No. 1

As a condition of development, Tentative Tract 31529 has been conditioned to provide an ongoing funding source to support maintenance and operation of CFD No. 1 park facilities and services. Detailed parcel information for the parcels subject to the conditions of approval is shown in the table below.

Property Owner/Project	Assessor's Parcel Numbers	Location	FY 2015/16 CFD No. 1 Maximum Special Tax
CV Communities Tentative Tract 31592 P13-078	474-040-032, 474-490-024, and 474-490-025	east of Perris Blvd., north of Manzanita Ave.	\$158.44/dwelling unit

To satisfy conditions of approval for development of Tentative Tract 31592, CV Communities (the "Property Owner"), has two options: 1) annex into CFD No. 1 and authorize the special tax to be levied on the annual Riverside County property tax bill or 2) fund an endowment that will be used to satisfy the annual requirement. The Property Owner has elected to annex into CFD No. 1 and authorize the annual special tax to be levied on the Riverside County property tax bill.

Assessor's Parcel Number (APN) 474-040-032, one of the parcels associated with Tentative Tract 31592, was annexed into the City after the Future Annexation Area for the District was established. Therefore, the parcel is not included within the District's Future Annexation Area and cannot be annexed to the CFD using the simplified procedure which is applicable to parcels that have already been designated for future annexation. Tentative Tract 31592 needs to annex into the District using a two-step process. Approval of a resolution declaring intent to annex Tentative Tract 31592 into the District and set Tuesday, December 8, 2015 as the date of the Public Hearing is the first step in the process.

The Mello-Roos Community Facilities Act of 1982 states that if there are fewer than 12 registered voters living within the proposed annexation area, an election of the landowners may be held. On August 13, 2015, the Office of the Riverside County Registrar of Voters confirmed there were no registered voters residing at Assessor's Parcel Numbers 474-040-032, 474-490-024, and 474-490-025 (the "Parcels"), allowing for a special election of the landowners to be conducted.

Annexation materials will be provided to the Property Owner the week of November 9, 2015. The annexation materials will include a cover letter, Consent and Waiver form, Rate and Method of Apportionment of Special Tax, landowner petition, and an envelope to return the petition. The completed petition needs to be returned to the City

Clerk prior to the close of the Public Hearing, tentatively scheduled for December 8, 2015.

ALTERNATIVES

1. **Recommend approval of the proposed Resolution of Intention** to begin the process for Tentative Tract 31592 to annex into CFD No. 1 and set Tuesday, December 8, 2015 as the date for the Public Hearing for this annexation. *Approving the proposed Resolution will begin the process to annex Tentative Tract 31592 into the District.*
2. **Do not recommend approval of the Resolution of Intention** to begin the process for Tentative Tract 31592 to annex into CFD No. 1 and set Tuesday, December 8, 2015 as the date for the Public Hearing for this annexation. *If the proposed resolution is not adopted, the City cannot begin the process for Tentative Tract 31592 to annex into CFD No. 1, per the Property Owner's request. The Property Owner will need to use a different funding mechanism to satisfy their conditions of approval, which may delay their development.*
3. **Continue the item to a future Council meeting.** *This alternative may delay the development of Tentative Tract 31592, as recordation of the tract map is contingent upon satisfying the funding requirement for the District.*

FISCAL IMPACT

The FY 2015/16 maximum special tax rate is \$158.44 per dwelling unit; however, the special tax applied to the property tax bill is \$124.84 per dwelling unit. The annual special tax is levied on the Riverside County property tax bills. As outlined in the RMA for CFD No. 1, the maximum special tax is subject to an annual inflation adjustment by the percentage increase for the prior fiscal year in the CPI or by two percent (2%), whichever is greater. The CSD Board must authorize any proposed CPI increase each year, prior to the special tax being levied on the property tax bills. The annual increase cannot exceed the terms outlined in the RMA without approval of the registered voters within CFD No. 1.

Tentative Tract 31592 is approved to construct 139 residential lots. Based on the FY 2015/16 applied special tax rate, this project would contribute \$17,352.76 in additional revenue to be used for the benefit of CFD No. 1. The use of CFD No. 1 special taxes is restricted to the maintenance and operation of CFD No. 1 park facilities and services and such taxes are only collected on properties where property owners have previously approved the special tax to be levied on their annual property tax bill.

NOTIFICATION

The Property Owner will be mailed annexation materials the week of November 9, 2015. Additionally, a notice will be published in the newspaper on Wednesday, November 25, 2015.

PREPARATION OF STAFF REPORT

Prepared by:
Jennifer Terry,
Senior Management Analyst

Department Head Approval:
Ahmad Ansari, P.E.,
Public Works Director/City Engineer

Concurred by:
Candace E. Cassel,
Special Districts Division Manager

Concurred by:
Betsy Adams,
Parks & Community Services Director

CITY COUNCIL GOALS

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

Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

ATTACHMENTS

- 1. Resolution of Intent for TT 31592
- 2. CFD1 ANNEXATION MAP 2015-37

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/19/15 5:42 PM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 3:18 PM
City Manager Approval	<u>✓ Approved</u>	

RESOLUTION NO. CSD 2015-31

A RESOLUTION OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, DECLARING ITS INTENTION TO ANNEX TERRITORY (TENTATIVE TRACT NO. 31592) TO ITS COMMUNITY FACILITIES DISTRICT NO. 1

WHEREAS, by its Resolution No. CSD 2003-23, the Board of Directors of the Moreno Valley Community Services District (CSD) established the CSD's Community Facilities District No. 1 (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*) (the "Act"); and

WHEREAS, by its Ordinance No. 41, the Board of Directors levied an annual special tax against all non-exempt parcels of real property within the CFD (the "Special Tax") to fund parks and park improvements; and

WHEREAS, by its Resolution No. CSD 2003-26, the Board of Directors designated all territory within the City of Moreno Valley to be a Future Annexation Area for the CFD; and

WHEREAS, such designation permits the annexation to the CFD of parcels within the Future Annexation Area via an accelerated process with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed; and

WHEREAS, a portion of Tentative Tract No. 31592 was annexed to the City of Moreno Valley after the adoption of Resolution No. CSD 2003-26, and therefore was not included in the Future Annexation Area and cannot be annexed via the accelerated process; and

WHEREAS, the landowner of Tentative Tract No. 31592 has requested that the Board of Directors annex Tentative Tract No. 31592 to the CFD; and

WHEREAS, the public convenience and necessity require that Tentative Tract No. 31592 be added to the CFD; and

WHEREAS, the Board of Directors desires to initiate proceedings pursuant to Section 53339 *et seq.* of the Act to annex Tentative Tract No. 31592 to the CFD.

NOW, THEREFORE, THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. Recitals. The above recitals are all true and correct and are herein incorporated.

1
Resolution No. CSD 2015-31
Date Adopted: October 27, 2015

2. Initiation of Proceedings. The City Council declares its intention to annex Tentative Tract No. 31592 to the CFD.
3. Name of CFD. The name of the CFD is "Community Facilities District No. 1" of the Moreno Valley Community Services District.
4. Future Annexation Area. The territory on the map titled "Annexation Map No. 2015-37 of Community Facilities District No. 1 of Moreno Valley Community Service District, County of Riverside, California," which is on file in the office of the City Clerk, available for public inspection and incorporated herein by reference (the "Annexation Map") is proposed for annexation to the CFD. A reduced copy of the annexation map is attached hereto as Exhibit A.
5. Description of Services. The following is a general description of the services (the "Services") provided in the CFD:

The maintenance and/or repair of Parks and Park Improvements including, but not limited to, the planting, replanting, mowing, trimming, irrigation and fertilization of grass, trees, shrubs, and other ornamental plants and vegetation, the operation, maintenance, repair, and replacement of irrigation systems associated with Parks and Park Improvements, and all the effort by Park Rangers that is devoted to the maintenance of the Parks and Park Improvements and public safety. "Parks and Park Improvement" means parks and park improvements which are to be developed, constructed, installed, and maintained within and in the area of the CSD and which will be owned and operated by the CSD for the benefit of the residents of the CFD.

Such maintenance shall include, but not be limited to, the provision of all labor, material, administration, personnel, equipment and utilities necessary to maintain such Parks and Park Improvements.

It is the intention of the Board of Directors to finance all direct, administrative and incidental annual costs and expenses necessary to provide the authorized maintenance and services.

6. Special Tax. Except where funds are otherwise available, special taxes, secured by recordation of a continuing lien against all non-exempt real property in the CFD, are hereby authorized, subject to voter approval, to be levied annually within the amended boundaries of such CFD to finance the services described in Section 5 above. Under no circumstances will the special tax be increased, as a consequence of delinquency or default by the owner of any other parcel or parcels used for private residential purposes, by more than 10 percent. For further particulars as to the rate and method of apportionment of the special tax proposed to be levied within the CFD, reference is made to the attached and incorporated as Exhibit "B," which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within the CFD to clearly estimate the maximum amount that such person will have to pay for such services. The special taxes herein authorized shall be collected in the same manner as

ad valorem property taxes and shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency, as applicable for ad valorem taxes; however, as applicable, this legislative body may, by resolution, establish and adopt an alternate or supplemental procedure as necessary. Any special taxes that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer of the Moreno Valley Community Services District of the City of Moreno Valley, acting for and on behalf of the CFD.

7. Relationship to Existing Territory. The annexed territory will be taxed on the same basis as territory within the existing boundaries of the CFD. The services to be funded are the same as in the existing CFD. No change is proposed that will affect any parcels currently located within the CFD.

8. Public Hearing. On December 8, 2015, at 6:00 PM (or as soon thereafter as practical), in the City Council Chamber located at 14177 Frederick Street, Moreno Valley, California 92553, the City Council will hold a public hearing on proposed annexation. At the hearing, the testimony of all interested persons or taxpayers will be heard. At the Hearing, protests against the annexation to the CFD may be made in writing by any interested person or taxpayer. If a written majority protest against the designation is filed (as determined in accordance with Section 53339.6 of the Act), the proceedings shall be abandoned.

9. Public Interest. Pursuant to Section 53329.5(c) of the Act, the City Council finds that the public interest will not be served by allowing property owners in the CFD to enter into a contract pursuant to Section 53329.5(a) of the Act.

10. This Resolution shall be effective immediately upon adoption.

11. The City Clerk shall certify to the adoption of this Resolution, and shall maintain on file as a public record this Resolution.

APPROVED AND ADOPTED this 27th day of October, 2015.

Mayor of the City of Moreno Valley,
Acting in the capacity of President of the
Moreno Valley Community Services District

ATTEST:

City Clerk, acting in the capacity of
Secretary of the Moreno Valley

3
Resolution No. CSD 2015-31
Date Adopted: October 27, 2015

Community Services District

APPROVED AS TO FORM:

City Attorney, acting in the capacity
of General Counsel of the Moreno
Valley Community Services District

4
Resolution No. CSD 2015-31
Date Adopted: October 27, 2015

Attachment: Resolution of Intent for TT 31592 [Revision 2] (1626 : DECLARING INTENTION TO ANNEX TENTATIVE TRACT 31592 (LOCATED ON

RESOLUTION JURAT

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

I, Jane Halstead, Secretary of the Moreno Valley Community Services District, Moreno Valley, California do hereby certify that Resolution No. CSD 2015-31 was duly and regularly adopted by the Board of Directors of the Moreno Valley Community Services District at a regular meeting held on the 27th day of October, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Boardmembers, Vice-President and President)

SECRETARY

5
Resolution No. CSD 2015-31
Date Adopted: October 27, 2015

Attachment: Resolution of Intent for TT 31592 [Revision 2] (1626 : DECLARING INTENTION TO ANNEX TENTATIVE TRACT 31592 (LOCATED ON

(SEAL)

Resolution No. CSD 2015-31⁶
Date Adopted: October 27, 2015

Attachment: Resolution of Intent for TT 31592 [Revision 2] (1626 : DECLARING INTENTION TO ANNEX TENTATIVE TRACT 31592 (LOCATED ON

EXHIBIT A

Annexation Map No. 2015-37

SHEET 1 OF 1

VICINITY MAP

**ANNEXATION MAP NO. 2015-37 OF
COMMUNITY FACILITIES DISTRICT NO. 1**
MORENO VALLEY COMMUNITY SERVICES DISTRICT
OF THE CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

MAP REFERENCE NUMBER	ASSESSOR'S PARCELS NUMBER
1	434-940-032
2	478-400-024
3	434-940-032

FILED IN THE OFFICE OF THE CITY CLERK THIS _____ DAY OF _____ 2015.

CITY CLERK
CITY OF MORENO VALLEY

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1 ANNEXATION NO. 2015-37 OF THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY OF MORENO VALLEY AT A REGULAR MEETING HELD ON THE _____ DAY OF _____ 2015.

CITY CLERK
CITY OF MORENO VALLEY

FILED THIS _____ DAY OF _____ 2015
AT THE HOUR OF _____ P.M. IN BOOK _____ OF RECORDS AND COMMUNITY FACILITIES DISTRICT MAPS AND INSTRUMENTS IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

COUNTY RECORDER
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

REFERENCE IS MADE TO THAT BOUNDARY MAP OF THE COMMUNITY FACILITIES DISTRICT NO. 1 OF THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, RECORDED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ON JULY 17, 2011 IN BOOK 92 OF RECORDS AND COMMUNITY FACILITIES DISTRICT MAPS AND INSTRUMENTS NO. 2003-52424.

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

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

Legend

MAP No. 1, Annexation 2015-37

MAP REFERENCE NUMBER

N.A.P. = NOT A PART OF ANNEXATION AREA

Attachment: Resolution of Intent for TT 31592 [Revision 2] (1626 : DECLARING INTENTION TO ANNEX TENTATIVE TRACT 31592 (LOCATED ON

7
Resolution No. CSD 2015-31
Date Adopted: October 27, 2015

EXHIBIT B
Rates and Method of Apportionment of the Special Tax

**RATES AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR
COMMUNITY FACILITIES DISTRICT NO. 1
OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT
OF THE CITY OF MORENO VALLEY**

A Special Tax (the "Special Tax") shall be levied on and collected from each Parcel (defined below) in Community Facilities District No. 1 (the "District"), in each Fiscal Year, (defined below), commencing in the Fiscal Year beginning July 1, 2003, in an amount determined by the Board of Directors of the Moreno Valley Community Services District of the City of Moreno Valley, acting in its capacity, as the legislative body of the District (hereinafter as the "Board"), by applying the rates and method of apportionment set forth below. All of the real property in the District, unless exempted by law or by the provisions herein, shall be taxed for the purposes, to the extent and in the manner provided herein.

A. DEFINITIONS

"Administrative Expense" means costs and expenses which are expected to be incurred by the District and the Community Services District in the apportioning and levying the Special Tax and providing the Services during each Fiscal Year, including the estimated cost or value of the time of the City's personnel in accomplishing the levy of the Special Tax and providing the Services, costs incurred by the District and the Community Services District for the services of an engineer or a special tax consultant in connection with the apportionment and levy of the Special Tax for each Fiscal Year, costs incurred by the District and the Community Services District for the services of its attorneys in connection with the levy of the Special Tax for each Fiscal Year and any other similar cost or expense which is expected to be incurred by the District or the Community Services District with respect to any Fiscal Year.

"Board" has the meaning set forth in the preamble.

"City" means the City of Moreno Valley.

"Commercial/Industrial Property" means any Parcel that is used for the purpose of the sale, distribution, or manufacture of a product or service.

"Community Services District" has the meaning set forth in the preamble. The Community Services District provides parks and recreation, street lighting and landscaping services to those properties receiving benefit from the services provided. The boundary of the Community Services District is coterminous with the City boundary.

"Contingency Reserve" means a reserve to be established, replenished and maintained for the District in an amount equal to ten percent (10%) of the estimated costs of providing the Services and estimated associated Administrative Expenses for any Fiscal Year to provide for the payment of unexpected costs which may be incurred in the Fiscal Year.

"District" has the meaning set forth in the preamble.

“Dwelling Unit” means a single-family residential lot or the equivalent or a multi-family residential unit or the equivalent. All other property, not classified as Exempt Property, is assigned two (2) Dwelling Units per acre.

“Exempt Property” means all property classified as Commercial/Industrial Property and publicly owned or dedicated property not subject to Special Tax and includes sliver parcels, common lots, open space, or any other property that cannot be developed.

“Fiscal Year” means the period from and including July 1st of any year to and including the following June 30th.

“Land Use Category” means any of the categories contained in Table 1 hereof to which a Parcel is assigned consistent with the land use approvals that have been received or proposed for the Parcel as of March 1 preceding the beginning of a Fiscal Year.

“Maximum Special Tax Rate(s)” means the Maximum Special Tax Rate per Dwelling Unit that can be levied by the Board in any Fiscal Year. The Maximum Special Tax Rate for Fiscal Year 2003-2004 is \$115 per Dwelling Unit. The Maximum Special Tax Rates per Dwelling Unit for Parcels in all Maintenance Categories shall be increased by the percentage increase in the Consumer Price Index (All Items) for Los Angeles – Riverside – Orange County (1982-84 = 100) since the beginning of the preceding Fiscal Year, or by two percent (2%), whichever is greater, on July 1, 2004 for Fiscal Year 2004-05 and on each subsequent July 1 for the Fiscal Year then commencing.

“Multi-family Residential Property” means any Parcel of Residential Property that consists of a building or buildings comprised of attached residential units available for rental, but not purchase, by the general public and under common management.

“Parcel” means a lot or Parcel, any portion of which lies within the boundaries of CFD No. 1, and which is shown on the then current applicable Assessor’s Parcel Map(s) with an assigned parcel number in the Tax Assessment Roll of the County Assessor of the County of Riverside.

“Parks and Park Improvement” means Parks and Park Improvements which are to be developed, constructed, installed, and maintained within and in the area of CFD No. 1 and which will be owned and operated by the District for the benefit of the residents of CFD No. 1.

“Services” means the maintenance and/or repair of Parks and Park Improvements including, but not limited to, the planting, replanting, mowing, trimming, irrigation and fertilization of grass, trees, shrubs, and other ornamental plants and vegetation, the operation, maintenance, repair, and replacement of irrigation systems associated with Parks and Park Improvements, and all the effort by Park Rangers that is devoted to the maintenance of the Parks and Park Improvements and public safety.

“Single-family Residential Property” means any residential property that consists of a building comprised of attached or detached residential units available for purchase or rent by the general public.

“Special Tax(es)” means the Special Tax to be levied in each Fiscal Year on each Parcel of Taxable Property.

B. ASSIGNMENT TO LAND USE CATEGORY

The Special Tax shall be levied upon and collected from a Parcel for each Fiscal Year according to the Land Use Category contained in Table 1 to which the Parcel has been assigned.

**TABLE 1
Land Use Category**

<u>Land Use Category</u>	<u>Description</u>	<u>Dwelling Unit(s)</u>
1	Single-family Residential and Multi-family Residential	One (1) / Residence or Residential Unit
2	All Other Property	Two (2) / Acre

No Special Tax shall be levied on property which, at the time of adoption of the Resolution of Formation for the District, is classified as Commercial/Industrial Property or property that is owned by or dedicated or otherwise conveyed to a public agency, is a common lot, or is dedicated as open space.

C. METHOD OF APPORTIONMENT OF ANNUAL SPECIAL TAX

For each Fiscal Year, the Board shall determine the total amount of the Special Tax to be levied and collected to pay (a) the estimated costs of providing the Services during the Fiscal Year, (b) the amount estimated to be necessary to pay Administrative Expenses during the Fiscal Year, and (c) the amount required to fund or replenish the Contingency Reserve (the “Total Special Tax”), and shall levy the Special Tax on all Parcels in the District (except Parcels of Exempt Property) in an amount per Dwelling Unit, determined by the Land Use Categories to which the Parcels are assigned, which will provide an amount equal to the Total Special Tax; providing that the amount of Special Tax to be levied on any Parcel shall not exceed the amount determined by multiplying the Dwelling Units for the Parcel by the Maximum Special Tax Rate for the Fiscal Year.

D. FUTURE ANNEXATIONS

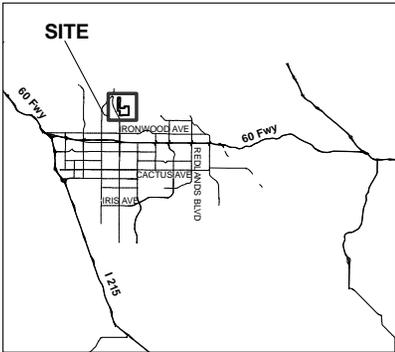
It is anticipated that additional properties will be annexed to the District from time to time. As each annexation is proposed, the property to be annexed will be assigned to the appropriate Land Use Category contained in Table 1.

E. DURATION OF SPECIAL TAX LEVIES

All Parcels of Taxable Property within the District shall continue to be subject to the levy and collection of the Special Tax to satisfy the Special Tax Requirement as long as the District operates and maintains Parks and Park Improvements within and for the benefit of the residents of CFD No. 1.

**ANNEXATION MAP NO. 2015-37 OF
COMMUNITY FACILITIES DISTRICT NO. 1**
OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

VICINITY MAP



FILED IN THE OFFICE OF THE CITY CLERK THIS _____ DAY OF _____, 201__.

CITY CLERK
CITY OF MORENO VALLEY

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF ANNEXATION NO. 2015-37 TO COMMUNITY FACILITIES DISTRICT NO. 1 OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA WAS APPROVED BY THE BOARD OF DIRECTORS OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT AT A REGULAR MEETING THEREOF HELD ON THE _____ DAY OF _____, 201__ BY ITS RESOLUTION NO. _____.

CITY CLERK
CITY OF MORENO VALLEY

FILED THIS _____ DAY OF _____, 201__
AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ PAGE(S) _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICT AND INSTRUMENT NO. _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

COUNTY RECORDER
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

REFERENCE IS MADE TO THAT BOUNDARY MAP OF THE COMMUNITY FACILITIES DISTRICT NO. 1 OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT, CITY OF MORENO VALLEY RECORDED WITH THE RIVERSIDE COUNTY RECORDER'S OFFICE ON JULY 17, 2003 IN BOOK 53 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, PAGES 46 THROUGH 48 AS INSTRUMENT NO. 2003-534249.

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

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

Legend

CFD No. 1, Annexation 2015-37

MAP REFERENCE NUMBER

N.A.P. = NOT A PART OF ANNEXATION AREA





Report to City Council

TO: Mayor and City Council

FROM: Michelle Dawson, City Manager
Jane Halstead, City Clerk

AGENDA DATE: October 27, 2015

TITLE: RESOLUTION AMENDING THE RULES OF PROCEDURE FOR COUNCIL MEETINGS TO PROVIDE ADDITIONAL TIME FOR PUBLIC REVIEW OF AGENDA MATERIALS

RECOMMENDED ACTION

Recommendations: That the City Council:

1. Adopt Resolution No. 2015-70. A Resolution of the City Council of the City of Moreno Valley, California, Amending the Adopted Rules of Procedure for City Council Meetings and Related Functions and Activities by Requiring the Posting of Agenda Materials in Advance of Regularly Scheduled City Council Meetings, to reflect the period of time as determined by the City Council.

SUMMARY

This report recommends adoption of a Resolution amending Section 1.1.2.3. and adding Section 1.1.2.4 to the Rules of Procedure for City Council Meetings. The proposed amendments would enhance the public's ability to review agenda materials further in advance of the meetings during which the City Council will discuss, deliberate, and take action on matters affecting the City.

This report presents several options for the Council's consideration. Resolution No. 2015-70 can be adopted to reflect the Council's determination as to when the agenda for regular City Council meetings would be posted. The current rules indicate that the agenda shall be posted "on the Thursday preceding the Tuesday meeting," providing for publication 5 days in advance of each meeting.

DISCUSSION

Numerous municipalities throughout the State have established standards to enhance

the public's access to local government records. Often referred to as "Sunshine Ordinances," these local laws supplement the Ralph M. Brown Act established in California Government Code section 54950-54963, which states:

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The Brown Act requires that legislative bodies "post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting" at least 72 hours before the regular meeting. The City of Moreno Valley's existing standard for posting the agenda materials, as specified in the Council-adopted Rules of Procedures, requires publication 5 days in advance of each meeting.

The Council may wish to consider several options to modify current procedures:

1. Post the Agenda for each Regular Meeting of the City Council no later than 12 days in advance;
2. Post the Agenda for each Regular Meeting of the City Council no later than 8 days in advance;
3. Determine, through Council deliberation, when the City will post the Agenda for each Regular Meeting of the City Council.

The proposed resolution would make the following revisions to incorporate the Council's decision:

1.1.2.3. DELIVERY AND POSTING OF AGENDA

Barring insurmountable difficulties, the agenda for each regular meeting of the City Council, and reports and other documentation related thereto, shall be delivered to the Council members and made available to the public ~~on the Thursday~~ **no later than [redacted] days** preceding the Tuesday meeting to which the agenda pertains. The agenda shall conform to, and be posted in accordance with, applicable requirements of the California Government Code. Agendas shall be posted at least ~~72 hours~~ **[redacted] days** prior to the time scheduled for the meeting on the bulletin board outside the City Council Chambers at City Hall and at such other places within the City as the City Council has designated for posting notices of City Council meetings.

Should the agenda posting date fall on an observed holiday, the agenda shall be posted on the following business day.

To preserve some flexibility to add time-sensitive items to the Regular Meeting Agenda after its publication, the Council may also consider adding provisions to the Meeting Rules (as shown below) to allow addition of such items with the consent of four

members of the Council.

1.1.2.4 ADDITION OF ITEMS FOLLOWING POSTING OF AGENDA

Notwithstanding the provisions of this subsection, if a Council Member believes that an urgent item should be added to the City Council's Regular Meeting Agenda after the Agenda has been posted, said item can be added to the Regular Meeting Agenda only with the consent of three other Council Members.

Items may be added to the Closed Session Agenda after the meeting has been posted at the City Attorney's discretion and in full compliance with California Government Code section 54954.2.

Staff notes that it is not uncommon to receive a request or direction during a regular Council meeting for the placement of an item on the agenda for the next subsequent meeting. Should the Council direct 12-day advance posting of agenda materials, this would require posting of the next meeting's agenda only 2 days after the prior Council meeting. In such instances, it is unlikely that staff would have sufficient time to research, write and acquire the necessary approvals to place such "last minute" items on the agenda immediately following a regular Council meeting. Notwithstanding this potential concern, Staff believes that the public benefits to be derived from earlier agenda publication are most compelling and supersede any administrative concerns which can certainly be addressed.

It should also be noted that the proposed revisions to Moreno Valley's Rules of Procedure would not limit the Council's ability to call Special Meetings or address emergency situations as prescribed by California Government Code section 54956 et seq.

Should the City Council amend the Rules of Procedure to increase the amount of time available for public review of posted agenda materials, staff recommends that the change take effect with the Council's first Regular Meeting in December 2015.

ALTERNATIVES

1. Adopt Resolution No. 2015-70 amending the Rules of Procedure for Council Meetings and Related Functions and Activities by Requiring the Posting of Agenda Materials in Advance of Regularly Scheduled City Council Meetings, to reflect the period of time as determined by the City Council.

Staff recommends this alternative. The City of Moreno Valley is committed to transparency and open government and the increased amount of time will allow the public further opportunity to review the agendas for the City Council's regular meetings.

2. Not Adopt Resolution No. 2015-70 amending the Rules of Procedure for Council

Meetings and Related Functions and Activities.

Staff does not recommend this alternative.

FISCAL IMPACT

This item would have no fiscal impact.

PREPARATION OF STAFF REPORT

Prepared By:
Michelle Dawson
City Manager

Concurred By:
Jane Halstead
City Clerk

CITY COUNCIL GOALS

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

ATTACHMENTS

- 1. Proposed Resolution

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/21/15 3:30 PM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 3:44 PM
City Manager Approval	<u>✓ Approved</u>	

RESOLUTION NO. 2015-70

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING THE ADOPTED RULES OF PROCEDURE FOR CITY COUNCIL MEETINGS AND RELATED FUNCTIONS AND ACTIVITIES BY REQUIRING THE POSTING OF AGENDA MATERIALS IN ADVANCE OF REGULARLY SCHEDULED CITY COUNCIL MEETINGS, TO REFLECT THE PERIOD OF TIME AS DETERMINED BY THE CITY COUNCIL

WHEREAS, Section 2.04.040 of the City of Moreno Valley Municipal Code requires that the City Council adopt Rules of Procedure to govern the procedures and conduct of its meetings; and

WHEREAS, the City Council has previously adopted, repealed and re-adopted the City of Moreno Valley City Council Rules of Procedure for City Council Meetings and Related Functions and Activities pursuant to Resolution No. 84-17, Resolution No. 99-53, Resolution No. 2001-55, Resolution No. 2003-017, Resolution No. 2011-117, Resolution 2013-10 and Resolution 2015-30; and

WHEREAS, pursuant to the Rules of Procedure for Council Meetings and Related Functions and Activities, agendas for Council Meetings are posted “on the Thursday preceding the Tuesday meeting”; and

WHEREAS, numerous municipalities throughout the State have established standards to enhance the public’s access to local government records which are often referred to as “Sunshine Ordinances” which supplement the Ralph M. Brown Act established in California Government Code section 54950-54963; and

WHEREAS, the public benefits to be derived from earlier agenda publication are most compelling.

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

Section 1. Recitals

That the recitals set forth hereinabove are true and correct.

Section 2. Amendment

That the Rules of Procedure for Council Meetings and Related Functions and Activities shall be amended as follows:

1
Resolution No. 2015-70
Date Adopted: October 27, 2015

Attachment: Proposed Resolution [Revision 5] (1735 : RESOLUTION AMENDING THE RULES OF PROCEDURE FOR COUNCIL MEETINGS TO

1.1.2.3 DELIVERY AND POSTING OF AGENDA

Barring insurmountable difficulties, the agenda for each regular meeting of the City Council, and reports and other documentation related thereto, shall be delivered to the Council members and made available to the public ~~on the Thursday~~ **no later than [redacted] days** preceding the Tuesday meeting to which the agenda pertains. The agenda shall conform to, and be posted in accordance with, applicable requirements of the California Government Code. Agendas shall be posted at least ~~72 hours~~ **[redacted] days** prior to the time scheduled for the meeting on the bulletin board outside the City Council Chambers at City Hall and at such other places within the City as the City Council has designated for posting notices of City Council meetings.

Should the agenda posting date fall on an observed holiday, the agenda shall be posted on the following business day.

1.1.2.4 ADDITION OF ITEMS FOLLOWING POSTING OF AGENDA

Notwithstanding the provisions of this subsection, if a Council Member believes that an urgent item should be added to the City Council's Regular Meeting Agenda after the Agenda has been posted, said item can be added to the Regular Meeting Agenda only with the consent of three other Council Members.

Items may be added to the Closed Session Agenda after the meeting has been posted at the City Attorney's discretion and in full compliance with California Government Code section 54954.2.

Section 3. Severability

That should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 4. Repeal of Conflicting Resolutions

That all the provisions of any existing resolution as heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Attachment: Proposed Resolution [Revision 5] (1735 : RESOLUTION AMENDING THE RULES OF PROCEDURE FOR COUNCIL MEETINGS TO

Section 5. Effective Date

That this Resolution shall take effect upon publication of the Agenda for the City Council's first regular meeting in December 2015.

Section 6. Passage and Adoption

That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original resolutions of the City of Moreno Valley and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council of City of Moreno Valley in the minutes of the meeting at which the same is passed and adopted.

APPROVED AND ADOPTED this 27th day of October, 2015.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

4
Resolution No. 2015-70
Date Adopted: October 27, 2015

Attachment: Proposed Resolution [Revision 5] (1735 : RESOLUTION AMENDING THE RULES OF PROCEDURE FOR COUNCIL MEETINGS TO

RESOLUTION JURAT

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

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2015-70 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 27th day of October, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

5
Resolution No. 2015-70
Date Adopted: October 27, 2015

Attachment: Proposed Resolution [Revision 5] (1735 : RESOLUTION AMENDING THE RULES OF PROCEDURE FOR COUNCIL MEETINGS TO



Report to City Council

TO: Mayor and City Council

FROM: Steve Quintanilla, Interim City Attorney

AGENDA DATE: October 27, 2015

TITLE: PROPOSED CHANGE IN REGULARLY SCHEDULED DAYS FOR REGULAR MEETINGS AND STUDY SESSIONS OF THE CITY COUNCIL AND AFFILIATED LEGISLATIVE BODIES

RECOMMENDED ACTION

Recommendations: That the City Council:

That pursuant to City Council direction at a prior Study Session, the City Council:

1. Adopt Resolution No. 2015-71. A Resolution of the City Council of the City of Moreno Valley, California, Amending the Rules of Procedure for Council Meetings and Related Functions and Activities, changing the schedule of Regular Meetings from the Second (2nd) and Fourth (4th) Tuesdays of each month to the First (1st) and Third (3rd) Tuesdays of each month, eliminating the second Regular Study Session of each month and moving the remaining first Regular Study Session from the First (1st) Tuesday of each month to Second (2nd) Tuesday of each month for the purpose of eliminating the current conflict between the Moreno Valley City Council and Moreno Valley School District Board of Education Regular Meetings schedules.

SUMMARY

Pursuant to the Rules of Procedure for Council Meetings and Related Functions and Activities, which was last amended February 12, 2013, "**Regular Meetings**" of the City Council are held on the **Second (2nd) and Fourth (4th) Tuesdays** of each month at 6:00 p.m. and "**Regular Study Sessions**" are held on the **First (1st) and Third (3rd) Tuesdays** of each month at 6:00 p.m.

At a prior City Council Study Session, the City Council directed staff to formally present to the City Council at a subsequent City Council meeting, a change in the City Council's

Regular Meetings schedule since it overlapped with the Regular Meetings of the Moreno Valley School District Board of Education (“School Board”). This overlap has caused some frustration for various members of the public who have publicly expressed a desire to attend both the City Council Regular Meetings and School Board Regular Meetings to address matters of public concern within the subject matter jurisdiction of the respective decision-making bodies. The School Board’s Bylaws provides that the **School Board** holds two **Regular Meetings** each month, on the **Second (2nd) and Fourth (4th) Tuesdays** at 7:00 p.m., at the Moreno Valley Unified School District Board Room located at 25634 Alessandro Boulevard in Moreno Valley. (Note: In 2015, the School Board has frequently held only one Regular Meeting a month.)

In addition to changing the City Council’s Regular Meetings schedule, the City Council expressed an interest in eliminating one of its monthly Regular Study Sessions.

DISCUSSION

The attached resolution reflects the following proposed revisions:

1. Moving the City Council’s Regular Meetings from the Second (2nd) and Fourth (4th) Tuesdays of each month at 6:00 p.m. to the First (1st) and Third (3rd) Tuesdays of each month at 6:00 p.m.;
2. Eliminating the Second (2nd) City Council Regular Study Session of each month; and
3. Moving the remaining First (1st) City Council Regular Study Session of each month from the Second (2nd) Tuesday of each month to the First (1st) Tuesday of each month.

The above changes would result in the following monthly schedule:

TUESDAYS	MEETING
First (1 st)	City Council Regular Meeting
Second (2 nd)	City Council Regular Study Session <i>MVSD Board Regular Meeting</i>
Third (3 rd)	City Council Regular Meeting
Fourth (4 th)	<i>MVSD Board Regular Meeting</i>

The above change would allow members of the public to attend both Regular Meetings of the City Council and Regular Meetings of the School Board each month, since their Regular Meetings would no longer overlap. The only remaining conflict would be the School Board Regular Meeting that will overlap with the City Council’s only monthly Regular Study Session on the Second (2nd) Tuesday of each month.

Although the above schedule change will result in a scheduling conflict with Interim City Attorney Steven Quintanilla’s other long-standing regularly scheduled Desert Hot Springs City Council meetings, his office will be able to provide a substitute attorney to attend the City Council’s newly scheduled City Council’s Regular Meetings on his behalf

– subject to the City Council’s approval. Mr. Quintanilla, however, would be available to attend the newly scheduled City Council Regular Study Sessions.

ALTERNATIVES

1. Adopt the proposed Resolution Amending the Rules of Procedure for Council Meetings and Related Functions and Activities which would: (a) change the schedule of Regular Meetings from the Second (2nd) and Fourth (4th) Tuesdays or each month to the First (1st) and Third (3rd) Tuesdays of each month, (b) eliminate second the Regular Study Session of each month; and (c) move the remaining first Regular Study Session from the First (1st) Tuesday or each month to Second (2nd) Tuesday of each month ***for the purpose of eliminating the current conflict between the Moreno Valley City Council and Moreno Valley School District Board of Education Regular Meetings schedules***; or
2. Adopt the proposed Resolution Amending the Rules of Procedure for Council Meetings and Related Functions and Activities which would: (a) change the schedule of Regular Meetings from the Second (2nd) and Fourth (4th) Tuesdays or each month to the First (1st) and Third (3rd) (***Monday? or Wednesday?***) of each month; (b) eliminate the second the Regular Study Session of each month; and (c) move the remaining first Regular Study Session from the First (1st) Tuesday of each month to the Second (2nd) (***Monday? or Wednesday?***) of each month ***for the purpose of eliminating the current conflict between the Moreno Valley City Council and Moreno Valley School District Board of Education Regular Meetings schedules***; or
3. Do not adopt the proposed Resolution Amending the Rules of Procedure for Council Meetings and Related Functions and Activities which would maintain the same schedule for Regular Meetings and Regular Study Sessions of the City Council.

FISCAL IMPACT

De minimus.

NOTIFICATION

Posting of the agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Steve Quintanilla
Interim City Attorney

Department Head Approval:
Steve Quintanilla
Interim City Attorney

CITY COUNCIL GOALS

None

ATTACHMENTS

- 1. Proposed Resolution

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/21/15 9:26 AM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 1:59 PM
City Manager Approval	<u>✓ Approved</u>	

RESOLUTION NO. 2015-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING THE ADOPTED RULES OF PROCEDURE FOR CITY COUNCIL MEETINGS AND RELATED FUNCTIONS AND ACTIVITIES REGARDING MONTHLY SCHEDULE OF REGULAR MEETINGS AND REGULAR STUDY SESSIONS

WHEREAS, Section 2.04.040 of the City of Moreno Valley Municipal Code requires that the City Council adopt Rules of Procedure to govern the procedures and conduct of its meetings; and

WHEREAS, the City Council has previously adopted, repealed and re-adopted the City of Moreno Valley City Council Rules of Procedure for City Council Meetings and Related Functions and Activities pursuant to Resolution No. 84-17, Resolution No. 99-53, Resolution No. 2001-55, Resolution No. 2003-017, Resolution No. 2011-117, Resolution 2013-10 and Resolution 2015-30; and

WHEREAS, pursuant to the Rules of Procedure for Council Meetings and Related Functions and Activities, "Regular Meetings" of the City Council are held on the second (2nd) and fourth (4th) Tuesdays of each month at 6:00 p.m. and "Regular Study Sessions" are held on the first (1st) and third (3rd) Tuesdays of each month at 6:00 p.m.; and

WHEREAS, at a City Council Study Session, the City Council directed staff to formally present to the City Council at a subsequent City Council meeting, a change in the City Council's Regular Meetings schedule since it overlapped with the Regular Meetings of the Moreno Valley School District Board of Education ("School Board"), which has caused some frustration for various members of the public who have publicly expressed a desire to attend both the City Council Regular Meetings and School Board Regular Meetings to address matters of public concern within the subject matter jurisdiction of the respective decision-making bodies; and

WHEREAS, at a City Council Study Session, the City Council expressed an interest in eliminating one of its monthly Regular Study Sessions.

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

Section 1. Recitals

That the recitals set forth hereinabove are true and correct.

Section 2. Amendment

1
Resolution No. 2015-71
Date Adopted: October 27, 2015

That the Rules of Procedure for Council Meetings and Related Functions and Activities shall be amended as follows:

1.1.1.1.1. Regular Time and Place.

Regular meetings of the City Council shall be held on the ~~second~~ **first** and ~~fourth~~ **third** Tuesdays of each month at 6:00 p.m. in the City Council Chambers of City Hall or such other time and place as shall be specified by resolution of the City Council.

1.4.4. Time and Place.

Regular study sessions of the City Council shall be held on the ~~first and third~~ **second** Tuesday of each month at 6:00 p.m. in the City Council Chambers of City Hall or such other time and place as specified by resolution of the City Council.

Section 3. **Severability**

That should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 4. **Repeal of Conflicting Resolutions**

That all the provisions of any existing resolution as heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 5. **Effective Date**

That this Resolution shall take effect December 1, 2015.

Section 6. **Passage and Adoption**

That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original resolutions of the City of Moreno Valley and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council of City of Moreno Valley in the minutes of the meeting at which the same is passed and adopted.

APPROVED AND ADOPTED this 27th day of October, 2015.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Attachment: Proposed Resolution [Revision 2] (1739 : PROPOSED CHANGE IN REGULARLY SCHEDULED DAYS FOR REGULAR MEETINGS

RESOLUTION JURAT

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

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2015-71 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 27th day of October, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)



Report to City Council

TO: Mayor and City Council

FROM: Ahmad R. Ansari, P.E., Public Works Director/City Engineer

AGENDA DATE: October 27, 2015

TITLE: AMENDMENT TO THE POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS

RECOMMENDED ACTION

Recommendations: That the City Council and CSD:

1. Staff recommends the Mayor and Members of the Moreno Valley City Council approve and adopt Resolution No. 2015-72. A Resolution of the City of Moreno Valley, California, to amend Legislative Policy #1.12, Policy For Conducting Mail Ballot Proceedings.
2. Staff recommends the City Council, acting in the capacity as the Board of Directors of the Moreno Valley Community Services District ("CSD Board"), approve and adopt Resolution No. CSD 2015-32. A Resolution of the Moreno Valley Community Services District of the City of Moreno Valley, California, to amend Legislative Policy #1.12, Policy For Conducting Mail Ballot Proceedings.

SUMMARY

This report recommends adoption of the proposed resolutions to amend Legislative Policy #1.12, Policy For Conducting Mail Ballot Proceedings (the "Policy"). The Policy provides guidelines and standards for conducting property owner mail ballot proceedings in accordance with Proposition 218.

In 2014, the City and Community Services District (CSD) created a Community Facilities District (CFD) and Landscape and Lighting Maintenance Districts (LMD). These districts allow for the collection of revenues for the ongoing operation of street light services and maintenance of public landscaping which benefit the properties within these districts. The proposed amendments to the Policy will incorporate references to these new

districts.

In addition to the Policy, the City also utilizes a Special District Financing Policy, Fiscal Policy #3.07. This policy was most recently amended in 2014 to account for the various special financing districts utilized by the City. The proposed amendment to the Policy will ensure consistency between the two policies and the City's current practices.

DISCUSSION

In 1996, California voters passed Proposition 218, which created state-mandated legislation requiring local governments to provide property owners sufficient notice and an opportunity to approve or oppose any new, extended, or increased tax, property related assessment, fee, or charge. On January 9, 2001, the City Council and CSD Board approved the Policy. The Policy provides standards and procedures for conducting property owner mail ballot proceedings for zones of benefit within the City's CSDs, in accordance with Proposition 218. Following initial approval, several amendments to the Policy have been approved, as summarized in the following table.

Date	Resolution Nos.	Reason for Amendment
01/22/2002	No. 2002-07 and No. CSD 2002-02	Clarified calculation of annual adjustments, announcing of ballot results, ballot retention terms, designated staff for tabulating and validating ballot proceedings.
01/24/2006	No. 2006-08 and No. CSD 2006-03	Further clarified annual adjustments, time frame for returning petitions and surveys, handling of invalid ballots, signature on ballot, and amount listed on the ballot.
04/28/2009	No. 2009-26 and No. CSD 2009-03	Refined language regarding annual adjustments, tabulation process, when results are announced, and grammatical errors.
02/23/2010	No. 2010-13 and No. CSD 2010-05	Added directions for tabulation outside of a normal Council meeting, City Council/CSD Board may provide direction to rebalot a service area, and minor grammatical errors.

The Policy was originally created to mirror the requirements of Proposition 218 and provide supplemental information on how the City is to address situations that are not covered within Proposition 218. For example, the Policy outlines the necessary steps when initiating a property owner mail ballot proceeding, ballot marking instructions and outlines the information to be provided to property owners in the mail ballot documents.

Over the years, the laws have changed related to property related charges. In order to clarify the status of its CSD Zone B (residential street lighting) and certain CSD Zone E (extensive landscape maintenance) districts, the CSD formed Lighting Maintenance District 2014-01 and Landscape Maintenance District 2014-02 in 2014 and transitioned Zone B and certain Zone E districts into the new districts, respectively. Also in 2014, the City formed Community Facilities District (CFD) 2014-01 for new development to

use as a financing mechanism to provide a revenue stream for the operation of street lights and maintenance of public landscaping installed as a condition of their development.

The proposed changes to the Policy include and provide guidance for all types of property owner mail ballot proceedings the City utilizes, including its new districts. For example, the existing Policy refers to conducting a Public Hearing for property related charges at the time the property owner elects to have the charge applied to their property tax bill. However, legislation that governs the process for annexation into the City's CFD 2014-01 generally does not require a Public Hearing process at the time each property owner elects to annex into the CFD. The Public Hearing for CFD 2014-01 was conducted when the future annexation boundaries for the CFD were adopted, providing a simplified annexation process for a property owner within the future annexation boundaries.

The proposed Policy will serve as a supplement to the legislation which governs each specific district (e.g. the Landscaping and Lighting Maintenance Act of 1972) rather than a duplication of the law. Further, deletion to specific references already contained within the legislation will minimize potential conflicts between state law and the Policy.

The proposed Policy does not reduce the City's commitment to provide more information than is legally required to property owners who are participating in a property owner mail ballot proceeding. For example, it continues to require that information be available in Spanish. It also continues to outline the processes to be followed in those areas which are not defined in the governing legislation (e.g. notification of property owner for a reduction in service level). Below are examples of where the Policy supplements and adds specifics to existing legislation. Attachment 4 provides a redline of the proposed changes to the Policy.

Section	Page	Subject
III	2-3	Petition/survey requirements
VI	4	Documents available in Spanish
VI	4	Expanded language on proposed and current charge
VI	5	Prepaid return envelopes
VI	6	Videotaping tabulation of returned ballots outside of a normal Council meeting
VI	7	Detailed information on how to mark the ballot
VI	8	A ballot result of tie equals a loss
VI	9	Property owner notification for an unfavorable ballot result or for a change in service

ALTERNATIVES

1. **Adopt the proposed resolutions to amend the Policy.** Adoption of the proposed resolutions will provide simplified guidelines for conducting property owner mail ballot proceedings and elections and ensure the City provides

supplemental information and processes, which are not outlined within state law.

- 2. **Do not adopt the proposed resolutions to amend the Policy.** By not adopting the proposed resolutions, there will be inconsistencies with state law and no reference outlining the City’s process for districts formed under the Landscape and Lighting Maintenance Act of 1972 or CFDs.

FISCAL IMPACT

The Policy provides procedural guidelines for conducting property owner mail ballot proceedings and elections conducted in accordance with Proposition 218 legislation. There is no fiscal impact on the General Fund for approving and adopting the amended Policy.

NOTIFICATION

N/A

PREPARATION OF STAFF REPORT

Prepared by:
Jennifer Terry,
Senior Management Analyst

Department Head Approval:
Ahmad Ansari, P.E.,
Public Works Director/City Engineer

Concurred by:
Candace E. Cassel,
Special Districts Division Manager

CITY COUNCIL GOALS

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

ATTACHMENTS

- 1. City Resolution Approving Amended Policy
- 2. CSD Resolution Approving Amended Policy
- 3. Proposed Mail Ballot Policy
- 4. Redline of Mail Ballot Policy

APPROVALS

Budget Officer Approval	<u> ✓ Approved </u>	10/19/15 5:44 PM
City Attorney Approval	<u> ✓ Approved </u>	10/21/15 5:16 PM
City Manager Approval	<u> ✓ Approved </u>	

RESOLUTION NO. 2015-72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, TO ADOPT AN AMENDED POLICY FOR CONDUCTING CERTAIN MAIL BALLOT PROCEEDINGS AND PROPERTY-OWNER ELECTIONS

WHEREAS, in 1996, California voters passed Proposition 218 (Articles XIII C and D of the California Constitution), requiring agencies to provide record owners of property with notification and opportunity to approve or oppose certain new, increased, and extended assessments, charges, fees, and taxes; and

WHEREAS, in 2001, the City Council and the City Council, acting in the capacity as the Board of Directors of the Moreno Valley Community Services District ("CSD Board"), adopted the Policy For Conducting Mail Ballot Proceedings (Legislative Policy#1.12) which provides written guidelines and standards for conducting mail ballot proceedings consistent with the mandates of state legislation. On January 22, 2002, the City Council and the CSD Board approved Resolution No. 2002-07 and Resolution No. CSD 2002-02, amending the Policy For Conducting Mail Ballot Proceedings. On January 24, 2006, the City Council and the CSD Board approved Resolution No. 2006-08 and Resolution No. CSD 2006-03, for additional modifications to the Policy For Conducting Mail Ballot Proceedings. On April 28, 2009, the City Council and the CSD Board approved Resolution No. 2009-26 and Resolution No. CSD 2009-03, for additional modifications to the Policy For Conducting Mail Ballot Proceedings. On February 23, 2010, the City Council and the CSD Board approved Resolution No. 2010-13 and Resolution No. CSD 2010-05, for additional modifications to the Policy For Conducting Mail Ballot Proceedings; and

WHEREAS, the City Council desires to update the policy.

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

1. The above recitals are true and correct.
2. The revised policy, as set forth in Exhibit "A" hereto is hereby approved and adopted, and the policies previously adopted and set forth in the recitals are hereby repealed. A copy of the policy shall be kept on file in the Office of the City Clerk.
3. This resolution shall become effective upon its adoption.

1
Resolution No. 2015-72
Date Adopted: October 27, 2015

APPROVED AND ADOPTED this 27th day of October, 2015.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

2
Resolution No. 2015-72
Date Adopted: October 27, 2015

Attachment: City Resolution Approving Amended Policy [Revision 1] (1695 : AMENDMENT TO THE POLICY FOR CONDUCTING MAIL BALLOT

RESOLUTION JURAT

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

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2015-72 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 27th day of October, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

3
Resolution No. 2015-72
Date Adopted: October 27, 2015

Attachment: City Resolution Approving Amended Policy [Revision 1] (1695 : AMENDMENT TO THE POLICY FOR CONDUCTING MAIL BALLOT

EXHIBIT A

City of Moreno Valley

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POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

ESTABLISHMENT: To ensure that mail ballot proceedings are conducted in a uniform manner consistent with the mandates of Proposition 218.

I. PURPOSE

The purpose of this policy is to establish procedures for certain mail ballot proceedings and elections conducted by the City to comply with Proposition 218 (Articles XIII C and XIII D of the California Constitution).

Article XIII D, Section 4, of the California Constitution requires that the City hold mail ballot proceedings in connection with the imposition, increase, or extension of a benefit assessment against real property. Article XIII D, Section 6(c) of the California Constitution requires that the City conduct elections for approval of certain "property-related fees" and permits the City to opt to conduct such an election as a property-owner election. This policy applies to all mail ballot proceedings conducted pursuant to Article XIII D, Section 4 of the California Constitution and all property-owner elections conducted pursuant to Article XIII D, Section 6(c) of the California Constitution.

The City also conducts landowner-ballot special tax elections pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*). This policy applies to such elections.

This policy applies only to landowner (or property-owner) elections and proceedings. It does not apply to registered voter elections or to protest proceedings (such as water, sewer, or refuse fee protest proceedings) that do not involve mailed ballots.

II. INTERACTION WITH STATE LAW

When the City imposes a tax, assessment, or property-related fee, it generally does so pursuant to a specific procedural law, such as the Landscape and Lighting Act of 1972 or the Mello-Roos Community Facilities Act of 1982. This policy is intended to fill in "gaps" in the procedures set forth in these procedural laws and to provide for additional public information and participation. To the extent any requirement of this policy is inconsistent with the requirements of the applicable procedural law, the procedural law shall govern.

In certain situations, state law permits the annexation of territory to an assessment or special tax district without conducting an election or mail ballot proceeding. This occurs only if the owners of 100% of the parcels being annexed consent in writing to annexation (landowner petition). In such cases, where an election or mail ballot proceeding is not held, this policy does not apply.

III. INITIATING A MAIL BALLOT PROCEEDING

- A. A mail ballot proceeding may be initiated as a result of any one of the following:
1. To approve or not approve benefit services in a new development, area, or district;
 2. To serve as a process for approving or not approving a cost adjustment to cover an increase in maintenance and operation expenses to fund an existing benefit service program; or
 3. If significant interest by record owners of property in an area exists to warrant the conducting of a mail ballot proceeding.
- B. Significant interest can be demonstrated through either a petition or survey process. The petition process shall be used unless City staff determines that the survey process would be more effective.

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1. **PETITION**-- A petition is required when a record owner of property or record owners of properties for an area are requesting special benefit service(s) or a rebalot for existing services (see Section VII - Reballoting).
 - a. Any record owner of property may request a petition if the proposed project area lies within the record owner of property's area or district. Only record owners of property within the area or district can utilize the petition process.
 - b. It is the responsibility of the requesting record owner of property to circulate a petition among the other record owner(s) of property within a defined project area as provided in the fact sheet accompanying the petition document.
 - c. For areas requesting the inclusion of new services, signatures from a minimum number of 25% of the properties owned in the area requesting service(s) must be provided on a petition form.
 - d. Signatures must be valid. To be valid, signatures must be that of the record owner(s) of property for the area to receive the benefit service(s). Only one property owner per parcel may sign the petition. Petitions signed by residents who are non-record owner(s) of property for the project area will not be counted toward the 25% requisite number of required signatures to conduct a mail ballot proceeding.
 - e. Signed petitions must be returned to the City of Moreno Valley, Special Districts Division of the Public Works Department. Unless signed petitions are returned with the valid requisite number of signatures required and within the required timeline (see Section IIIB3), a mail ballot proceeding cannot be conducted.
 - f. Petition Package includes:
 - (1) Cover letter explaining and/or describing:
 - i. The location of the project area;
 - ii. The service(s) to be provided;
 - iii. Cost estimates for maintenance, administration, utilities, and other third party costs per parcel, which may also include capital costs;
 - iv. Duration and frequency of the change(s);
 - v. Statement pertaining to the annual inflation adjustment, if applicable;
 - vi. Percentage and number of required signatures;
 - vii. Estimated dates for mailing ballot packet, conducting the Public Hearing, and the estimated time for implementation;
 - viii. Contact information for further information or questions pertaining to the project area; and
 - ix. The deadline to return the petition.
 - (2) Fact sheet
 - (3) Petition
 - (4) Return envelope

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2. **SURVEY:** A survey may be utilized in addition to or in lieu of a petition at the discretion of City staff. The City Department responsible for administering the benefit service program shall prepare and mail a survey to record owners of property in a proposed project area. A survey is used to determine if significant interest exists to provide or change benefit services for a defined project area. If a survey form is used in addition to a petition, the combined total number of returned signed surveys and petition signatures must be at least 25% of the total record owners of properties in a proposed project area who are in agreement with (either approving or not approving) the action of conducting a mail ballot proceeding. A survey package consists of a cover letter and a survey document.
 - a. The cover letter shall include the following information:
 - i. The location of the project area;
 - ii. The service(s) to be provided;
 - iii. Cost estimates for maintenance, administration, utilities, and other third party costs per parcel, which may also include capital costs;
 - iv. Duration and frequency of the change(s);
 - v. Statement pertaining to the annual inflation adjustment, if applicable;
 - vi. Percentage and number of required returned surveys;
 - vii. Estimated dates for mailing ballot packet, conducting the Public Hearing, and the estimated time for implementation;
 - viii. Contact information for further information or questions pertaining to the project area; and
 - ix. The deadline to return the petition.
 - b. The survey document shall include the following:
 - i. Title of survey;
 - ii. Purpose of project and project area and/or description of project area;
 - iii. A statement of approving;
 - iv. A statement of not approving; and
 - v. Signature and date lines for record owner of property.
3. Petitions and/or Surveys must be returned within 60 days from the date of the letter from the City of Moreno Valley. Petitions and/or Surveys that are returned later than the due date listed on the cover letter shall not be considered.
- C. This Section III shall apply only in cases where the applicable state procedural law does not impose a specific (and mandatory) petitioning requirement for the initiation of proceedings.

IV. NOTICE

- A. Notice and ballots for assessment ballot proceedings and property-related fee elections shall be mailed to property owners in the manner set forth in Government Code Section 53750 *et seq.* For elections held pursuant to the Mello-Roos Community Facilities Act of 1982, notices and election materials shall be handled and distributed as set forth in that Act.
- B. Each notice for the proposed assessment, charge, fee, or tax shall include (in addition to any other information required by applicable law):

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1. Tract, street, and/or parcel identification, the total amount of the district's (service area's) proposed charge, and the individual parcel charge to the record owner(s) of property. If the assessment, charge, fee, or tax is proposed to be increased from any previous year, the notice shall separately state both the existing amount and the proposed increase;
2. Statement of the type of service(s) to be rendered;
3. Statement providing for an annual inflation adjustment;
4. The duration of the annual levy;
5. An explanation as to the reason for the new or increase in an assessment, charge, fee, or tax, and the basis upon which the amount was calculated;
6. Date, time, and location of the Public Hearing;
7. Defined logistics and/or map of the parcel(s), area, or district, subject to the new or increase in the assessment, charge, fee, or tax;
8. Specific directions on how to mark the ballot for approval or non-approval of a measure;
9. The phone number and address of an individual or department that interested person(s) may contact to receive additional information related to the proposed special benefit service(s); and
10. A statement in Spanish that the notice and balloting information is available upon request in Spanish.

V. PUBLIC HEARING

- A. A Public Hearing shall be held at least 45 days after a ballot has been mailed to record owner(s) of property.
- B. The purpose of the Public Hearing is to allow record owner(s) of property an opportunity to submit or withdraw their mail ballot, and/or present oral/written objections, protests, or testimony on the balloted measure.
- C. The City Clerk/Secretary of the Board of Directors of the Moreno Valley Community Services District (CSD Board) and his/her staff will tabulate and validate all ballots received and not withdrawn prior to the close of the Public Hearing, in compliance with Section VI.E. All valid ballots will be counted toward approval or non-approval of the matter being heard. All ballots shall be counted and recorded as received and retained for public record by the City Clerk's/Secretary's office.
- D. Ballots received and not withdrawn prior to the close of the Public Hearing for the matter being heard shall be retained for a term of 12 months (1 year) from the date of the Public Hearing or such longer period as required by law or as designated by the City Clerk/Secretary of the CSD Board.
- E. This Section V does not apply to elections conducted in connection with the Mello-Roos Community Facilities Act of 1982, which has specific public hearing requirements that are different from those applicable to assessments and property-related fees.

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VI. MAIL BALLOT

- A. Ballots shall be weighted either as one ballot per parcel (for property-related fee elections) in accordance to the proportional financial obligation of the affected property (for assessment mail ballot proceedings), or as required by the Mello-Roos Community Facilities Act of 1982 (for elections conducted pursuant to that Act).
- B. Each mail ballot shall include the following with regard to the proposed assessment, charge, fee, or tax:
1. Identification of the area to be serviced;
 2. A brief description of the service(s) to be rendered;
 3. The amount to be imposed per parcel, if the measure is approved;
 4. Statement providing for an annual inflation adjustment, if applicable;
 5. The frequency and method of collection;
 6. The fiscal year for which the assessment, charge, fee, or tax will commence;
 7. A box will be provided next to the word YES or APPROVED, meaning approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of acceptance for the measure being balloted. A box will be provided next to the word NO or NOT APPROVED, meaning non-approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of non-acceptance for the measure being balloted;
 8. Statement in Spanish that ballot information is available upon request in Spanish;
 9. Signature and date line for the record owner of property;
 10. Date, time, and place of the Public Hearing; and
 11. Address where ballots are to be submitted. Ballots may be mailed or delivered, in person, to the City Clerk's office at the address listed for return on the ballot. All ballots must be sent to the attention of the City Clerk/Secretary of the CSD Board and received by the City Clerk's office PRIOR to the conclusion of public testimony at the Public Hearing in order to be included in the ballot tabulation.
 12. For elections conducted pursuant to the Mello-Roos Community Facilities Act of 1982, the information required by this Section may be included on the ballot or on accompanying materials.
- C. A return envelope with prepaid postage shall be provided by the agency for record owners of property to submit their ballot. If a return envelope is omitted or lost, the ballot may be accepted if returned in a sealed envelope delivered to the City Clerk's office at the address listed on the ballot.

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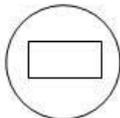
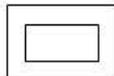
- D. The City, its employees, volunteers, and contractors shall not be held liable nor responsible for mail ballot packages sent out to record owner(s) of property that are not delivered or not delivered within the required time due to a U.S. Postal Service error, or are returned by the U.S. Postal Service for inability to deliver due to inaccurate, incomplete, and/or outdated record owner of property information as received from the County of Riverside Tax Assessor's office.
- E. Ballot Tabulation and Validation
1. Tabulation and validation of all returned ballots shall be conducted by the City Clerk/Secretary of the CSD Board and his/her staff, provided that no person having a conflict of interest under state law shall participate. If the City Clerk/Secretary has a conflict of interest under state law, the duties of tabulation and validation shall be assigned to the Deputy City Clerk and his/her staff. If the Deputy City Clerk has a conflict of interest under state law, then the City Council/CSD Board shall appoint an Acting City Clerk/Secretary who does not have a conflict of interest under state law to tabulate and validate the ballots that are returned and not withdrawn prior to the close of the Public Hearing.
 2. At the discretion of the City Clerk/Secretary of the CSD Board, tabulation and validation of mail ballot results for Public Hearings may be postponed until the next regularly scheduled City Council/CSD Board meeting. The City Clerk/Secretary shall inform the City Council/CSD Board at the close of the Public Hearing of such postponement. The City Council/CSD Board shall confirm postponement and the designated location and time during which ballots shall be tabulated and validated. Tabulation of the ballots occurring outside a regularly scheduled City Council meeting shall be open to the public and may only occur during regular City Hall business hours.
 3. All ballots shall remain in the custody of the City Clerk/Secretary of the CSD Board, or other duly authorized and appointed person as identified in VIE1, and shall be secured from unauthorized access until the close of the Public Hearing for which the mail ballot proceeding is being heard and validation of the tabulated ballots.
 4. Ballot tabulations occurring outside of regularly scheduled City Council meetings shall be video recorded and made available to the public for viewing.
 5. Ballots shall be made available for public inspection after ballot validation and City Council announcement of the results but not before the close of the Public Hearing.
 6. Valid ballots shall be appropriately marked as specified in the instructions included as part of the mail ballot proceeding package sent to record owner(s) of property for a proposed project area.
 7. Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:

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- a.  A check mark substantially inside a box;
- b.  An X mark substantially inside a box;
- c.  A dot or oval mark substantially inside a box;
- d.  A completely shaded or filled mark substantially inside a box;
- e.  A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;
- f.  A circle around the box and/or associated clause; or
- g.  A square or rectangle around the box and/or associated clause.

8. Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area.
9. Ballots returned with markings other than those provided in Section VIE7 of this policy, including ballots lacking any mark and/or lacking a signature from the record owner of property, shall be considered invalid. All invalid ballots shall be recorded as returned. Invalid ballots will not be counted as either approving or not approving the proposed project and associated charges.
10. In the case of a mail ballot proceeding with a single property owner, who returns an invalid ballot (either unsigned or unmarked), the City Council and/or the CSD Board shall continue the item for the invalid ballots to the next regularly scheduled City Council/CSD Board meeting in an effort to obtain a valid ballot from the property owner. Where multiple mail ballot proceedings are included on one staff report, only the mail ballot with the invalid ballot shall be continued and each other proceeding shall be tabulated as set forth in these procedures.

F. Ballot Mark Revisions (Changes)

1. An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the top right corner of the revised selection.

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2. Any revision that is not initialed by the record owner(s) of property and/or contains marks other than those as listed in Section VIE7 of this policy shall be counted as an invalid ballot.

G. Ballot Results

1. Final results of the mail ballot proceeding shall be made available for public inspection upon the finalization of ballot validation and announcement of the results by the City Council.
2. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the City will make such determination from the last equalized assessment roll and any evidence of ownership submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.
3. In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the City may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.
4. A simple majority (50%+1) of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of:
 - a. A new or expanded service area; or
 - b. A change in service level; and/or
 - c. An increase in an assessment, charge, fee, or general tax.
5. A two-thirds majority of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of a special tax.
6. In mail ballot proceedings where the required majority of valid ballots returned in support (favor) of the balloted issue is not reached or the ballot count is tied, the proposed service and associated levy or increase in the levy will not be approved.
7. Ballots received prior to the conclusion of the Public Hearing for the matter being heard shall be retained for a period of 1 year (12 months) from the date of the Public Hearing or such longer period as required by law. The ballots shall be kept in the City Clerk's office, the Office of Record.
8. **Areas APPROVING NEW district formation and/or an assessment, charge, fee, or tax**

In an area which has approved a new district formation and the associated levy, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose, by resolution, an amount that is less than or equal to the maximum amount authorized and approved by the requisite record owners of property.

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9. **Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**
- a. For any local levy which has received approval by the record owner(s) of property based upon the requisite number of valid approving ballots returned during a mail ballot proceeding for that purpose, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose by resolution an amount that is less than or equal to the maximum amount approved.
 - b. Area(s) or property(ies) approving an increase will not receive formal written notification of the outcome of their mail ballot proceeding.
10. **Areas NOT APPROVING NEW district formation nor the associated assessment, charge, fee, or tax**
- a. Results of all mail ballot proceedings shall be made available for public inspection upon conclusion of the validation of returned ballots. No new service shall be provided and the area will not be levied for the proposed special benefit.
 - b. Areas not approving shall not receive formal written notification as new service(s) has/have not been created to constitute a change in service level to require notification.
11. **Areas NOT APPROVING an INCREASE in an assessment, charge, fee, or tax**
- a. A letter shall be sent to notify record owners of property and will serve as notice that the current level of service(s) will be reduced not less than 30 days prior to the implementation of the reduction in service level. This letter shall include the following information:
 - (1) APN and Tract No., or description of project or project area ;
 - (2) Explanation and/or description of the service(s) balloted upon;
 - (3) Amount of proposed increase;
 - (4) Date which mail ballots were sent out to record owners of property;
 - (5) Total number of ballots mailed to the district;
 - (6) A statement that a majority of the ballots returned (either 50%+1 or two-thirds) was required for approval;
 - (7) Number of ballots returned;
 - (8) Number and percentage of valid ballots approving;
 - (9) Number and percentage of valid ballots not approving;
 - (10) Statement that the increase was not approved;

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- (11) A statement as to the continuation of the charge and the amount to be levied;
- (12) Explanation and/or description of service(s) to be changed; and
- (13) Date which the change(s) in service level will be implemented.

VII. REBALLOTING

- A. A rebaloting may occur for any of the following:
 - 1. If it is determined that a defined area of service benefits more parcels than supports the cost to maintain a benefit service.
 - 2. Upon City Council/CSD Board direction.
 - 3. Areas that either approve or do not approve a prior ballot for a new or increase in an assessment, charge, fee, or tax may be provided the opportunity, by request, to have their area rebalotted as follows, provided the rebalot is not for a prior rebaloting that was conducted within a 1 year (12 month) period.
 - a. Record owner(s) of property in areas where mail ballot proceedings were conducted, that either approved or did not approve a new or increase in an assessment, charge, fee, or tax, may oppose the results of their mail ballot proceeding. This option shall remain viable for up to one (1) calendar year from the date of the Public Hearing for the proceeding being challenged.
 - b. In order for record owner(s) of property to successfully challenge the results of a mail ballot proceeding, they must establish that significant interest exists in having their area/district rebalotted. This may be accomplished, either through a request for petition and/or survey process as follows:
 - (1) The petition and/or survey process shall follow the guidelines set forth in Section IIIB of this policy, with the following notable exceptions:
 - i. The number of required signatures for a petition or survey (or combination thereof) must equal either a number not less than 100%+1 of the total number of ballots returned from the previous mail ballot proceeding or not more than a majority (50%+1) of the total number of ballots sent out in the previous mail ballot proceeding, whichever is less; and
 - ii. For the purpose of rebaloting, significant interest may refer to a request to maintain service at the present level by agreeing to support the necessary charge increase (full cost recovery amount) to continue the current maintenance service level.
 - (2) Petitions and/or surveys must be returned to the City of Moreno Valley by the date requested in the survey cover letter and/or on the circulated petition. Petitions and/or surveys that are not returned or returned after the requested return date shall be considered invalid for the purposes of conducting a rebaloting.

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- (3) Notification and mail ballots for subsequent mail ballot proceedings shall be conducted as outlined in Sections IV through VI of this policy.
4. Areas or districts where the revenues generated to provide benefit services fall below the level of full cost recovery to provide such services may be subject to rebalancing. Areas or districts wherein record owner(s) of property support benefit services at a reduced level may be subjected to a mail ballot proceeding once every year (or 12 months). The rebalot would provide record owner(s) of property an opportunity to approve or not approve an increase in the charge equal to, or less than, that needed to provide for full cost recovery to maintain and operate the benefit service(s) program.
- B. Rebalancing Results
1. **REBALLOTTED Area(s) APPROVING NEW district formation and the associated assessment, charge, fee, or tax**

Upon adoption of an ordinance and/or resolution by the governing body of the adopting local government (Moreno Valley City Council/CSD Board), areas approving a rebalot measure shall have a district formed and be subject to an imposed amount at any rate that is less than or equal to the maximum authorized amount.
 2. **REBALLOTTED Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**
 - a. The governing body of the adopting local government (Moreno Valley City Council/CSD Board) may impose, by resolution, a levy which has received approval by the record owner(s) of property in a rebalot proceeding based upon the requisite number of valid ballots returned (50%+1 or two-thirds majority). The amount of the levy imposed shall be an amount that is less than or equal to the maximum amount authorized and approved by the record owner(s) of property.
 - b. The area(s) or property(ies) approving an increase will not receive formal written notification of the outcome of their rebalot proceeding.
 3. **REBALLOTTED Area(s) NOT APPROVING NEW district formation and the associated assessment, charge, fee, or tax**
 - a. Results of all rebalot proceedings shall be made available for public inspection upon the conclusion of the Public Hearing and validation of the returned ballots for the matter being considered. Areas that do not approve district formation nor the new assessment, fee, charge, or tax will receive no change in current service level. No new service shall be provided, thus no cost to provide service will be levied to this area.
 - b. These areas shall not receive formal written notification as new service(s) has/have not been created or changed.
 - c. These areas shall have the opportunity to be rebalotted. A subsequent rebalancing will be conducted no sooner than one (1) calendar year or (12) twelve months from the date of the prior rebalotted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

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- 4. **REBALLOTTED Area(s) NOT APPROVING an INCREASE in an assessment, charge, fee, or tax**
 - a. Area(s) shall be sent a notification letter.
 - b. This letter shall be sent, not less than 30 days prior to the implementation of the change in service level. This letter shall detail the services to be reduced, changed and/or eliminated and provide the time frame for implementation by including the same information as defined in VIG11a.
 - c. These areas shall have the opportunity to be rebalotted. A subsequent rebalotting will be conducted no sooner than one calendar year or (12 months) from the date of the prior rebalotted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

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RESOLUTION NO. CSD 2015-32

A RESOLUTION OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, TO ADOPT AN AMENDED POLICY FOR CONDUCTING CERTAIN MAIL BALLOT PROCEEDINGS AND PROPERTY-OWNER ELECTIONS

WHEREAS, in 1996, California voters passed Proposition 218 (Articles XIII C and D of the California Constitution), requiring agencies to provide record owners of property with notification and opportunity to approve or oppose certain new, increased, and extended assessments, charges, fees, and taxes; and

WHEREAS, in 2001, the City Council and the City Council, acting in the capacity as the Board of Directors of the Moreno Valley Community Services District (“CSD Board”), adopted the Policy For Conducting Mail Ballot Proceedings (Legislative Policy#1.12) which provides written guidelines and standards for conducting mail ballot proceedings consistent with the mandates of state legislation. On January 22, 2002, the City Council and the CSD Board approved Resolution No. 2002-07 and Resolution No. CSD 2002-02, amending the Policy For Conducting Mail Ballot Proceedings. On January 24, 2006, the City Council and the CSD Board approved Resolution No. 2006-08 and Resolution No. CSD 2006-03, for additional modifications to the Policy For Conducting Mail Ballot Proceedings. On April 28, 2009, the City Council and the CSD Board approved Resolution No. 2009-26 and Resolution No. CSD 2009-03, for additional modifications to the Policy For Conducting Mail Ballot Proceedings. On February 23, 2010, the City Council and the CSD Board approved Resolution No. 2010-13 and Resolution No. CSD 2010-05, for additional modifications to the Policy For Conducting Mail Ballot Proceedings; and

WHEREAS, the CSD Board desires to update the policy.

NOW, THEREFORE, THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. The above recitals are true and correct.
2. The revised policy, as set forth in Exhibit “A” hereto is hereby approved and adopted, and the policies previously adopted and set forth in the recitals are hereby repealed. A copy of the policy shall be kept on file in the Office of the City Clerk.
3. This resolution shall become effective upon its adoption.

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APPROVED AND ADOPTED this 27th day of October, 2015.

Mayor of the City of Moreno Valley,
Acting in the capacity of President of the
Moreno Valley Community Services District

ATTEST:

City Clerk, acting in the capacity of
Secretary of the Moreno Valley
Community Services District

APPROVED AS TO FORM:

City Attorney, acting in the capacity
of General Counsel of the Moreno
Valley Community Services District

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Attachment: CSD Resolution Approving Amended Policy [Revision 1] (1695 : AMENDMENT TO THE POLICY FOR CONDUCTING MAIL BALLOT

RESOLUTION JURAT

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

I, Jane Halstead, Secretary of the Moreno Valley Community Services District, Moreno Valley, California do hereby certify that Resolution No. CSD 2015-32 was duly and regularly adopted by the Board of Directors of the Moreno Valley Community Services District at a regular meeting held on the 27th day of October, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Boardmembers, Vice-President and President)

SECRETARY

(SEAL)

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EXHIBIT A

City of Moreno Valley

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POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

ESTABLISHMENT: To ensure that mail ballot proceedings are conducted in a uniform manner consistent with the mandates of Proposition 218.

I. PURPOSE

The purpose of this policy is to establish procedures for certain mail ballot proceedings and elections conducted by the City to comply with Proposition 218 (Articles XIII C and XIII D of the California Constitution).

Article XIII D, Section 4, of the California Constitution requires that the City hold mail ballot proceedings in connection with the imposition, increase, or extension of a benefit assessment against real property. Article XIII D, Section 6(c) of the California Constitution requires that the City conduct elections for approval of certain “property-related fees” and permits the City to opt to conduct such an election as a property-owner election. This policy applies to all mail ballot proceedings conducted pursuant to Article XIII D, Section 4 of the California Constitution and all property-owner elections conducted pursuant to Article XIII D, Section 6(c) of the California Constitution.

The City also conducts landowner-ballot special tax elections pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*). This policy applies to such elections.

This policy applies only to landowner (or property-owner) elections and proceedings. It does not apply to registered voter elections or to protest proceedings (such as water, sewer, or refuse fee protest proceedings) that do not involve mailed ballots.

II. INTERACTION WITH STATE LAW

When the City imposes a tax, assessment, or property-related fee, it generally does so pursuant to a specific procedural law, such as the Landscape and Lighting Act of 1972 or the Mello-Roos Community Facilities Act of 1982. This policy is intended to fill in “gaps” in the procedures set forth in these procedural laws and to provide for additional public information and participation. To the extent any requirement of this policy is inconsistent with the requirements of the applicable procedural law, the procedural law shall govern.

In certain situations, state law permits the annexation of territory to an assessment or special tax district without conducting an election or mail ballot proceeding. This occurs only if the owners of 100% of the parcels being annexed consent in writing to annexation (landowner petition). In such cases, where an election or mail ballot proceeding is not held, this policy does not apply.

III. INITIATING A MAIL BALLOT PROCEEDING

- A. A mail ballot proceeding may be initiated as a result of any one of the following:
1. To approve or not approve benefit services in a new development, area, or district;
 2. To serve as a process for approving or not approving a cost adjustment to cover an increase in maintenance and operation expenses to fund an existing benefit service program; or
 3. If significant interest by record owners of property in an area exists to warrant the conducting of a mail ballot proceeding.
- B. Significant interest can be demonstrated through either a petition or survey process. The petition process shall be used unless City staff determines that the survey process would be more effective.

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January 9, 2001

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1. **PETITION**-- A petition is required when a record owner of property or record owners of properties for an area are requesting special benefit service(s) or a rebalot for existing services (see Section VII - Reballoting).
 - a. Any record owner of property may request a petition if the proposed project area lies within the record owner of property's area or district. Only record owners of property within the area or district can utilize the petition process.
 - b. It is the responsibility of the requesting record owner of property to circulate a petition among the other record owner(s) of property within a defined project area as provided in the fact sheet accompanying the petition document.
 - c. For areas requesting the inclusion of new services, signatures from a minimum number of 25% of the properties owned in the area requesting service(s) must be provided on a petition form.
 - d. Signatures must be valid. To be valid, signatures must be that of the record owner(s) of property for the area to receive the benefit service(s). Only one property owner per parcel may sign the petition. Petitions signed by residents who are non-record owner(s) of property for the project area will not be counted toward the 25% requisite number of required signatures to conduct a mail ballot proceeding.
 - e. Signed petitions must be returned to the City of Moreno Valley, Special Districts Division of the Public Works Department. Unless signed petitions are returned with the valid requisite number of signatures required and within the required timeline (see Section IIIB3), a mail ballot proceeding cannot be conducted.
 - f. Petition Package includes:
 - (1) Cover letter explaining and/or describing:
 - i. The location of the project area;
 - ii. The service(s) to be provided;
 - iii. Cost estimates for maintenance, administration, utilities, and other third party costs per parcel, which may also include capital costs;
 - iv. Duration and frequency of the change(s);
 - v. Statement pertaining to the annual inflation adjustment, if applicable;
 - vi. Percentage and number of required signatures;
 - vii. Estimated dates for mailing ballot packet, conducting the Public Hearing, and the estimated time for implementation;
 - viii. Contact information for further information or questions pertaining to the project area; and
 - ix. The deadline to return the petition.
 - (2) Fact sheet
 - (3) Petition
 - (4) Return envelope

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2. **SURVEY:** A survey may be utilized in addition to or in lieu of a petition at the discretion of City staff. The City Department responsible for administering the benefit service program shall prepare and mail a survey to record owners of property in a proposed project area. A survey is used to determine if significant interest exists to provide or change benefit services for a defined project area. If a survey form is used in addition to a petition, the combined total number of returned signed surveys and petition signatures must be at least 25% of the total record owners of properties in a proposed project area who are in agreement with (either approving or not approving) the action of conducting a mail ballot proceeding. A survey package consists of a cover letter and a survey document.
 - a. The cover letter shall include the following information:
 - i. The location of the project area;
 - ii. The service(s) to be provided;
 - iii. Cost estimates for maintenance, administration, utilities, and other third party costs per parcel, which may also include capital costs;
 - iv. Duration and frequency of the change(s);
 - v. Statement pertaining to the annual inflation adjustment, if applicable;
 - vi. Percentage and number of required returned surveys;
 - vii. Estimated dates for mailing ballot packet, conducting the Public Hearing, and the estimated time for implementation;
 - viii. Contact information for further information or questions pertaining to the project area; and
 - ix. The deadline to return the petition.
 - b. The survey document shall include the following:
 - i. Title of survey;
 - ii. Purpose of project and project area and/or description of project area;
 - iii. A statement of approving;
 - iv. A statement of not approving; and
 - v. Signature and date lines for record owner of property.
3. Petitions and/or Surveys must be returned within 60 days from the date of the letter from the City of Moreno Valley. Petitions and/or Surveys that are returned later than the due date listed on the cover letter shall not be considered.
- C. This Section III shall apply only in cases where the applicable state procedural law does not impose a specific (and mandatory) petitioning requirement for the initiation of proceedings.

IV. NOTICE

- A. Notice and ballots for assessment ballot proceedings and property-related fee elections shall be mailed to property owners in the manner set forth in Government Code Section 53750 *et seq.* For elections held pursuant to the Mello-Roos Community Facilities Act of 1982, notices and election materials shall be handled and distributed as set forth in that Act.
- B. Each notice for the proposed assessment, charge, fee, or tax shall include (in addition to any other information required by applicable law):

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1. Tract, street, and/or parcel identification, the total amount of the district's (service area's) proposed charge, and the individual parcel charge to the record owner(s) of property. If the assessment, charge, fee, or tax is proposed to be increased from any previous year, the notice shall separately state both the existing amount and the proposed increase;
2. Statement of the type of service(s) to be rendered;
3. Statement providing for an annual inflation adjustment;
4. The duration of the annual levy;
5. An explanation as to the reason for the new or increase in an assessment, charge, fee, or tax, and the basis upon which the amount was calculated;
6. Date, time, and location of the Public Hearing;
7. Defined logistics and/or map of the parcel(s), area, or district, subject to the new or increase in the assessment, charge, fee, or tax;
8. Specific directions on how to mark the ballot for approval or non-approval of a measure;
9. The phone number and address of an individual or department that interested person(s) may contact to receive additional information related to the proposed special benefit service(s); and
10. A statement in Spanish that the notice and balloting information is available upon request in Spanish.

V. PUBLIC HEARING

- A. A Public Hearing shall be held at least 45 days after a ballot has been mailed to record owner(s) of property.
- B. The purpose of the Public Hearing is to allow record owner(s) of property an opportunity to submit or withdraw their mail ballot, and/or present oral/written objections, protests, or testimony on the balloted measure.
- C. The City Clerk/Secretary of the Board of Directors of the Moreno Valley Community Services District (CSD Board) and his/her staff will tabulate and validate all ballots received and not withdrawn prior to the close of the Public Hearing, in compliance with Section VI.E. All valid ballots will be counted toward approval or non-approval of the matter being heard. All ballots shall be counted and recorded as received and retained for public record by the City Clerk's/Secretary's office.
- D. Ballots received and not withdrawn prior to the close of the Public Hearing for the matter being heard shall be retained for a term of 12 months (1 year) from the date of the Public Hearing or such longer period as required by law or as designated by the City Clerk/Secretary of the CSD Board.
- E. This Section V does not apply to elections conducted in connection with the Mello-Roos Community Facilities Act of 1982, which has specific public hearing requirements that are different from those applicable to assessments and property-related fees.

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VI. MAIL BALLOT

- A. Ballots shall be weighted either as one ballot per parcel (for property-related fee elections) in accordance to the proportional financial obligation of the affected property (for assessment mail ballot proceedings), or as required by the Mello-Roos Community Facilities Act of 1982 (for elections conducted pursuant to that Act).
- B. Each mail ballot shall include the following with regard to the proposed assessment, charge, fee, or tax:
1. Identification of the area to be serviced;
 2. A brief description of the service(s) to be rendered;
 3. The amount to be imposed per parcel, if the measure is approved;
 4. Statement providing for an annual inflation adjustment, if applicable;
 5. The frequency and method of collection;
 6. The fiscal year for which the assessment, charge, fee, or tax will commence;
 7. A box will be provided next to the word YES or APPROVED, meaning approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of acceptance for the measure being balloted. A box will be provided next to the word NO or NOT APPROVED, meaning non-approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of non-acceptance for the measure being balloted;
 8. Statement in Spanish that ballot information is available upon request in Spanish;
 9. Signature and date line for the record owner of property;
 10. Date, time, and place of the Public Hearing; and
 11. Address where ballots are to be submitted. Ballots may be mailed or delivered, in person, to the City Clerk's office at the address listed for return on the ballot. All ballots must be sent to the attention of the City Clerk/Secretary of the CSD Board and received by the City Clerk's office PRIOR to the conclusion of public testimony at the Public Hearing in order to be included in the ballot tabulation.
 12. For elections conducted pursuant to the Mello-Roos Community Facilities Act of 1982, the information required by this Section may be included on the ballot or on accompanying materials.
- C. A return envelope with prepaid postage shall be provided by the agency for record owners of property to submit their ballot. If a return envelope is omitted or lost, the ballot may be accepted if returned in a sealed envelope delivered to the City Clerk's office at the address listed on the ballot.

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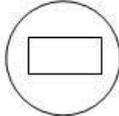
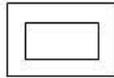
- D. The City, its employees, volunteers, and contractors shall not be held liable nor responsible for mail ballot packages sent out to record owner(s) of property that are not delivered or not delivered within the required time due to a U.S. Postal Service error, or are returned by the U.S. Postal Service for inability to deliver due to inaccurate, incomplete, and/or outdated record owner of property information as received from the County of Riverside Tax Assessor's office.
- E. Ballot Tabulation and Validation
1. Tabulation and validation of all returned ballots shall be conducted by the City Clerk/Secretary of the CSD Board and his/her staff, provided that no person having a conflict of interest under state law shall participate. If the City Clerk/Secretary has a conflict of interest under state law, the duties of tabulation and validation shall be assigned to the Deputy City Clerk and his/her staff. If the Deputy City Clerk has a conflict of interest under state law, then the City Council/CSD Board shall appoint an Acting City Clerk/Secretary who does not have a conflict of interest under state law to tabulate and validate the ballots that are returned and not withdrawn prior to the close of the Public Hearing.
 2. At the discretion of the City Clerk/Secretary of the CSD Board, tabulation and validation of mail ballot results for Public Hearings may be postponed until the next regularly scheduled City Council/CSD Board meeting. The City Clerk/Secretary shall inform the City Council/CSD Board at the close of the Public Hearing of such postponement. The City Council/CSD Board shall confirm postponement and the designated location and time during which ballots shall be tabulated and validated. Tabulation of the ballots occurring outside a regularly scheduled City Council meeting shall be open to the public and may only occur during regular City Hall business hours.
 3. All ballots shall remain in the custody of the City Clerk/Secretary of the CSD Board, or other duly authorized and appointed person as identified in VIE1, and shall be secured from unauthorized access until the close of the Public Hearing for which the mail ballot proceeding is being heard and validation of the tabulated ballots.
 4. Ballot tabulations occurring outside of regularly scheduled City Council meetings shall be video recorded and made available to the public for viewing.
 5. Ballots shall be made available for public inspection after ballot validation and City Council announcement of the results but not before the close of the Public Hearing.
 6. Valid ballots shall be appropriately marked as specified in the instructions included as part of the mail ballot proceeding package sent to record owner(s) of property for a proposed project area.
 7. Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:

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- a.  A check mark substantially inside a box;
- b.  An X mark substantially inside a box;
- c.  A dot or oval mark substantially inside a box;
- d.  A completely shaded or filled mark substantially inside a box;
- e.  A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;
- f.  A circle around the box and/or associated clause; or
- g.  A square or rectangle around the box and/or associated clause.

8. Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area.
9. Ballots returned with markings other than those provided in Section VIE7 of this policy, including ballots lacking any mark and/or lacking a signature from the record owner of property, shall be considered invalid. All invalid ballots shall be recorded as returned. Invalid ballots will not be counted as either approving or not approving the proposed project and associated charges.
10. In the case of a mail ballot proceeding with a single property owner, who returns an invalid ballot (either unsigned or unmarked), the City Council and/or the CSD Board shall continue the item for the invalid ballots to the next regularly scheduled City Council/CSD Board meeting in an effort to obtain a valid ballot from the property owner. Where multiple mail ballot proceedings are included on one staff report, only the mail ballot with the invalid ballot shall be continued and each other proceeding shall be tabulated as set forth in these procedures.

F. Ballot Mark Revisions (Changes)

1. An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the top right corner of the revised selection.

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2. Any revision that is not initialed by the record owner(s) of property and/or contains marks other than those as listed in Section VIE7 of this policy shall be counted as an invalid ballot.

G. Ballot Results

1. Final results of the mail ballot proceeding shall be made available for public inspection upon the finalization of ballot validation and announcement of the results by the City Council.
2. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the City will make such determination from the last equalized assessment roll and any evidence of ownership submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.
3. In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the City may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.
4. A simple majority (50%+1) of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of:
 - a. A new or expanded service area; or
 - b. A change in service level; and/or
 - c. An increase in an assessment, charge, fee, or general tax.
5. A two-thirds majority of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of a special tax.
6. In mail ballot proceedings where the required majority of valid ballots returned in support (favor) of the balloted issue is not reached or the ballot count is tied, the proposed service and associated levy or increase in the levy will not be approved.
7. Ballots received prior to the conclusion of the Public Hearing for the matter being heard shall be retained for a period of 1 year (12 months) from the date of the Public Hearing or such longer period as required by law. The ballots shall be kept in the City Clerk's office, the Office of Record.
8. **Areas APPROVING NEW district formation and/or an assessment, charge, fee, or tax**

In an area which has approved a new district formation and the associated levy, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose, by resolution, an amount that is less than or equal to the maximum amount authorized and approved by the requisite record owners of property.

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9. **Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**
- a. For any local levy which has received approval by the record owner(s) of property based upon the requisite number of valid approving ballots returned during a mail ballot proceeding for that purpose, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose by resolution an amount that is less than or equal to the maximum amount approved.
 - b. Area(s) or property(ies) approving an increase will not receive formal written notification of the outcome of their mail ballot proceeding.
10. **Areas NOT APPROVING NEW district formation nor the associated assessment, charge, fee, or tax**
- a. Results of all mail ballot proceedings shall be made available for public inspection upon conclusion of the validation of returned ballots. No new service shall be provided and the area will not be levied for the proposed special benefit.
 - b. Areas not approving shall not receive formal written notification as new service(s) has/have not been created to constitute a change in service level to require notification.
11. **Areas NOT APPROVING an INCREASE in an assessment, charge, fee, or tax**
- a. A letter shall be sent to notify record owners of property and will serve as notice that the current level of service(s) will be reduced not less than 30 days prior to the implementation of the reduction in service level. This letter shall include the following information:
 - (1) APN and Tract No., or description of project or project area ;
 - (2) Explanation and/or description of the service(s) balloted upon;
 - (3) Amount of proposed increase;
 - (4) Date which mail ballots were sent out to record owners of property;
 - (5) Total number of ballots mailed to the district;
 - (6) A statement that a majority of the ballots returned (either 50%+1 or two-thirds) was required for approval;
 - (7) Number of ballots returned;
 - (8) Number and percentage of valid ballots approving;
 - (9) Number and percentage of valid ballots not approving;
 - (10) Statement that the increase was not approved;

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- (11) A statement as to the continuation of the charge and the amount to be levied;
- (12) Explanation and/or description of service(s) to be changed; and
- (13) Date which the change(s) in service level will be implemented.

VII. REBALLOTING

- A. A rebaloting may occur for any of the following:
1. If it is determined that a defined area of service benefits more parcels than supports the cost to maintain a benefit service.
 2. Upon City Council/CSD Board direction.
 3. Areas that either approve or do not approve a prior ballot for a new or increase in an assessment, charge, fee, or tax may be provided the opportunity, by request, to have their area rebalotted as follows, provided the rebalot is not for a prior rebaloting that was conducted within a 1 year (12 month) period.
 - a. Record owner(s) of property in areas where mail ballot proceedings were conducted, that either approved or did not approve a new or increase in an assessment, charge, fee, or tax, may oppose the results of their mail ballot proceeding. This option shall remain viable for up to one (1) calendar year from the date of the Public Hearing for the proceeding being challenged.
 - b. In order for record owner(s) of property to successfully challenge the results of a mail ballot proceeding, they must establish that significant interest exists in having their area/district rebalotted. This may be accomplished, either through a request for petition and/or survey process as follows:
 - (1) The petition and/or survey process shall follow the guidelines set forth in Section IIIB of this policy, with the following notable exceptions:
 - i. The number of required signatures for a petition or survey (or combination thereof) must equal either a number not less than 100%+1 of the total number of ballots returned from the previous mail ballot proceeding or not more than a majority (50%+1) of the total number of ballots sent out in the previous mail ballot proceeding, whichever is less; and
 - ii. For the purpose of rebaloting, significant interest may refer to a request to maintain service at the present level by agreeing to support the necessary charge increase (full cost recovery amount) to continue the current maintenance service level.
 - (2) Petitions and/or surveys must be returned to the City of Moreno Valley by the date requested in the survey cover letter and/or on the circulated petition. Petitions and/or surveys that are not returned or returned after the requested return date shall be considered invalid for the purposes of conducting a rebaloting.

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- (3) Notification and mail ballots for subsequent mail ballot proceedings shall be conducted as outlined in Sections IV through VI of this policy.
4. Areas or districts where the revenues generated to provide benefit services fall below the level of full cost recovery to provide such services may be subject to rebalancing. Areas or districts wherein record owner(s) of property support benefit services at a reduced level may be subjected to a mail ballot proceeding once every year (or 12 months). The rebalot would provide record owner(s) of property an opportunity to approve or not approve an increase in the charge equal to, or less than, that needed to provide for full cost recovery to maintain and operate the benefit service(s) program.
- B. Rebalancing Results
1. **REBALLOTTED Area(s) APPROVING NEW district formation and the associated assessment, charge, fee, or tax**

Upon adoption of an ordinance and/or resolution by the governing body of the adopting local government (Moreno Valley City Council/CSD Board), areas approving a rebalot measure shall have a district formed and be subject to an imposed amount at any rate that is less than or equal to the maximum authorized amount.
 2. **REBALLOTTED Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**
 - a. The governing body of the adopting local government (Moreno Valley City Council/CSD Board) may impose, by resolution, a levy which has received approval by the record owner(s) of property in a rebalot proceeding based upon the requisite number of valid ballots returned (50%+1 or two-thirds majority). The amount of the levy imposed shall be an amount that is less than or equal to the maximum amount authorized and approved by the record owner(s) of property.
 - b. The area(s) or property(ies) approving an increase will not receive formal written notification of the outcome of their rebalot proceeding.
 3. **REBALLOTTED Area(s) NOT APPROVING NEW district formation and the associated assessment, charge, fee, or tax**
 - a. Results of all rebalot proceedings shall be made available for public inspection upon the conclusion of the Public Hearing and validation of the returned ballots for the matter being considered. Areas that do not approve district formation nor the new assessment, fee, charge, or tax will receive no change in current service level. No new service shall be provided, thus no cost to provide service will be levied to this area.
 - b. These areas shall not receive formal written notification as new service(s) has/have not been created or changed.
 - c. These areas shall have the opportunity to be rebalotted. A subsequent rebalancing will be conducted no sooner than one (1) calendar year or (12) twelve months from the date of the prior rebalotted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

 Approved by: City Council and CSD Board
January 9, 2001

Revised 1/22/02; 1/24/06; 04/28/09, 02/23/10, 10/27/15

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Resolution No. CSD 2015-32
Date Adopted: October 27, 2015

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POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

4. **REBALLOTTED Area(s) NOT APPROVING an INCREASE in an assessment, charge, fee, or tax**
 - a. Area(s) shall be sent a notification letter.
 - b. This letter shall be sent, not less than 30 days prior to the implementation of the change in service level. This letter shall detail the services to be reduced, changed and/or eliminated and provide the time frame for implementation by including the same information as defined in VIG11a.
 - c. These areas shall have the opportunity to be rebalotted. A subsequent rebalotting will be conducted no sooner than one calendar year or (12 months) from the date of the prior rebalotted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

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Resolution No. CSD 2015-32
Date Adopted: October 27, 2015

POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

ESTABLISHMENT: To ensure that mail ballot proceedings are conducted in a uniform manner consistent with the mandates of Proposition 218.

I. PURPOSE

The purpose of this policy is to establish procedures for certain mail ballot proceedings and elections conducted by the City to comply with Proposition 218 (Articles XIII C and XIII D of the California Constitution).

Article XIII D, Section 4, of the California Constitution requires that the City hold mail ballot proceedings in connection with the imposition, increase, or extension of a benefit assessment against real property. Article XIII D, Section 6(c) of the California Constitution requires that the City conduct elections for approval of certain “property-related fees” and permits the City to opt to conduct such an election as a property-owner election. This policy applies to all mail ballot proceedings conducted pursuant to Article XIII D, Section 4 of the California Constitution and all property-owner elections conducted pursuant to Article XIII D, Section 6(c) of the California Constitution.

The City also conducts landowner-ballot special tax elections pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*). This policy applies to such elections.

This policy applies only to landowner (or property-owner) elections and proceedings. It does not apply to registered voter elections or to protest proceedings (such as water, sewer, or refuse fee protest proceedings) that do not involve mailed ballots.

II. INTERACTION WITH STATE LAW

When the City imposes a tax, assessment, or property-related fee, it generally does so pursuant to a specific procedural law, such as the Landscape and Lighting Act of 1972 or the Mello-Roos Community Facilities Act of 1982. This policy is intended to fill in “gaps” in the procedures set forth in these procedural laws and to provide for additional public information and participation. To the extent any requirement of this policy is inconsistent with the requirements of the applicable procedural law, the procedural law shall govern.

In certain situations, state law permits the annexation of territory to an assessment or special tax district without conducting an election or mail ballot proceeding. This occurs only if the owners of 100% of the parcels being annexed consent in writing to annexation (landowner petition). In such cases, where an election or mail ballot proceeding is not held, this policy does not apply.

III. INITIATING A MAIL BALLOT PROCEEDING

- A. A mail ballot proceeding may be initiated as a result of any one of the following:
1. To approve or not approve benefit services in a new development, area, or district;
 2. To serve as a process for approving or not approving a cost adjustment to cover an increase in maintenance and operation expenses to fund an existing benefit service program; or
 3. If significant interest by record owners of property in an area exists to warrant the conducting of a mail ballot proceeding.
- B. Significant interest can be demonstrated through either a petition or survey process. The petition process shall be used unless City staff determines that the survey process would be more effective.

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POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

1. **PETITION**-- A petition is required when a record owner of property or record owners of properties for an area are requesting special benefit service(s) or a rebalot for existing services (see Section VII - Reballoting).
 - a. Any record owner of property may request a petition if the proposed project area lies within the record owner of property's area or district. Only record owners of property within the area or district can utilize the petition process.
 - b. It is the responsibility of the requesting record owner of property to circulate a petition among the other record owner(s) of property within a defined project area as provided in the fact sheet accompanying the petition document.
 - c. For areas requesting the inclusion of new services, signatures from a minimum number of 25% of the properties owned in the area requesting service(s) must be provided on a petition form.
 - d. Signatures must be valid. To be valid, signatures must be that of the record owner(s) of property for the area to receive the benefit service(s). Only one property owner per parcel may sign the petition. Petitions signed by residents who are non-record owner(s) of property for the project area will not be counted toward the 25% requisite number of required signatures to conduct a mail ballot proceeding.
 - e. Signed petitions must be returned to the City of Moreno Valley, Special Districts Division of the Public Works Department. Unless signed petitions are returned with the valid requisite number of signatures required and within the required timeline (see Section IIIB3), a mail ballot proceeding cannot be conducted.
 - f. Petition Package includes:
 - (1) Cover letter explaining and/or describing:
 - i. The location of the project area;
 - ii. The service(s) to be provided;
 - iii. Cost estimates for maintenance, administration, utilities, and other third party costs per parcel, which may also include capital costs;
 - iv. Duration and frequency of the change(s);
 - v. Statement pertaining to the annual inflation adjustment, if applicable;
 - vi. Percentage and number of required signatures;
 - vii. Estimated dates for mailing ballot packet, conducting the Public Hearing, and the estimated time for implementation;
 - viii. Contact information for further information or questions pertaining to the project area; and
 - ix. The deadline to return the petition.
 - (2) Fact sheet
 - (3) Petition
 - (4) Return envelope

POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

2. **SURVEY:** A survey may be utilized in addition to or in lieu of a petition at the discretion of City staff. The City Department responsible for administrating the benefit service program shall prepare and mail a survey to record owners of property in a proposed project area. A survey is used to determine if significant interest exists to provide or change benefit services for a defined project area. If a survey form is used in addition to a petition, the combined total number of returned signed surveys and petition signatures must be at least 25% of the total record owners of properties in a proposed project area who are in agreement with (either approving or not approving) the action of conducting a mail ballot proceeding. A survey package consists of a cover letter and a survey document.
- a. The cover letter shall include the following information:
- i. The location of the project area;
 - ii. The service(s) to be provided;
 - iii. Cost estimates for maintenance, administration, utilities, and other third party costs per parcel, which may also include capital costs;
 - iv. Duration and frequency of the change(s);
 - v. Statement pertaining to the annual inflation adjustment, if applicable;
 - vi. Percentage and number of required returned surveys;
 - vii. Estimated dates for mailing ballot packet, conducting the Public Hearing, and the estimated time for implementation;
 - viii. Contact information for further information or questions pertaining to the project area; and
 - ix. The deadline to return the petition.
- b. The survey document shall include the following:
- i. Title of survey;
 - ii. Purpose of project and project area and/or description of project area;
 - iii. A statement of approving;
 - iv. A statement of not approving; and
 - v. Signature and date lines for record owner of property.
3. Petitions and/or Surveys must be returned within 60 days from the date of the letter from the City of Moreno Valley. Petitions and/or Surveys that are returned later than the due date listed on the cover letter shall not be considered.
- C. This Section III shall apply only in cases where the applicable state procedural law does not impose a specific (and mandatory) petitioning requirement for the initiation of proceedings.

IV. NOTICE

- A. Notice and ballots for assessment ballot proceedings and property-related fee elections shall be mailed to property owners in the manner set forth in Government Code Section 53750 *et seq.* For elections held pursuant to the Mello-Roos Community Facilities Act of 1982, notices and election materials shall be handled and distributed as set forth in that Act.
- B. Each notice for the proposed assessment, charge, fee, or tax shall include (in addition to any other information required by applicable law):

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1. Tract, street, and/or parcel identification, the total amount of the district's (service area's) proposed charge, and the individual parcel charge to the record owner(s) of property. If the assessment, charge, fee, or tax is proposed to be increased from any previous year, the notice shall separately state both the existing amount and the proposed increase;
2. Statement of the type of service(s) to be rendered;
3. Statement providing for an annual inflation adjustment;
4. The duration of the annual levy;
5. An explanation as to the reason for the new or increase in an assessment, charge, fee, or tax, and the basis upon which the amount was calculated;
6. Date, time, and location of the Public Hearing;
7. Defined logistics and/or map of the parcel(s), area, or district, subject to the new or increase in the assessment, charge, fee, or tax;
8. Specific directions on how to mark the ballot for approval or non-approval of a measure;
9. The phone number and address of an individual or department that interested person(s) may contact to receive additional information related to the proposed special benefit service(s); and
10. A statement in Spanish that the notice and balloting information is available upon request in Spanish.

V. PUBLIC HEARING

- A. A Public Hearing shall be held at least 45 days after a ballot has been mailed to record owner(s) of property.
- B. The purpose of the Public Hearing is to allow record owner(s) of property an opportunity to submit or withdraw their mail ballot, and/or present oral/written objections, protests, or testimony on the balloted measure.
- C. The City Clerk/Secretary of the Board of Directors of the Moreno Valley Community Services District (CSD Board) and his/her staff will tabulate and validate all ballots received and not withdrawn prior to the close of the Public Hearing, in compliance with Section VIE. All valid ballots will be counted toward approval or non-approval of the matter being heard. All ballots shall be counted and recorded as received and retained for public record by the City Clerk's/Secretary's office.
- D. Ballots received and not withdrawn prior to the close of the Public Hearing for the matter being heard shall be retained for a term of 12 months (1 year) from the date of the Public Hearing or such longer period as required by law or as designated by the City Clerk/Secretary of the CSD Board.
- E. This Section V does not apply to elections conducted in connection with the Mello-Roos Community Facilities Act of 1982, which has specific public hearing requirements that are different from those applicable to assessments and property-related fees.

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VI. MAIL BALLOT

- A. Ballots shall be weighted either as one ballot per parcel (for property-related fee elections) in accordance to the proportional financial obligation of the affected property (for assessment mail ballot proceedings), or as required by the Mello-Roos Community Facilities Act of 1982 (for elections conducted pursuant to that Act).
- B. Each mail ballot shall include the following with regard to the proposed assessment, charge, fee, or tax:
1. Identification of the area to be serviced;
 2. A brief description of the service(s) to be rendered;
 3. The amount to be imposed per parcel, if the measure is approved;
 4. Statement providing for an annual inflation adjustment, if applicable;
 5. The frequency and method of collection;
 6. The fiscal year for which the assessment, charge, fee, or tax will commence;
 7. A box will be provided next to the word YES or APPROVED, meaning approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of acceptance for the measure being balloted. A box will be provided next to the word NO or NOT APPROVED, meaning non-approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of non-acceptance for the measure being balloted;
 8. Statement in Spanish that ballot information is available upon request in Spanish;
 9. Signature and date line for the record owner of property;
 10. Date, time, and place of the Public Hearing; and
 11. Address where ballots are to be submitted. Ballots may be mailed or delivered, in person, to the City Clerk's office at the address listed for return on the ballot. All ballots must be sent to the attention of the City Clerk/Secretary of the CSD Board and received by the City Clerk's office PRIOR to the conclusion of public testimony at the Public Hearing in order to be included in the ballot tabulation.
 12. For elections conducted pursuant to the Mello-Roos Community Facilities Act of 1982, the information required by this Section may be included on the ballot or on accompanying materials.
- C. A return envelope with prepaid postage shall be provided by the agency for record owners of property to submit their ballot. If a return envelope is omitted or lost, the ballot may be accepted if returned in a sealed envelope delivered to the City Clerk's office at the address listed on the ballot.

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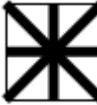
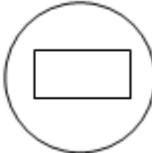
POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

- D. The City, its employees, volunteers, and contractors shall not be held liable nor responsible for mail ballot packages sent out to record owner(s) of property that are not delivered or not delivered within the required time due to a U.S. Postal Service error, or are returned by the U.S. Postal Service for inability to deliver due to inaccurate, incomplete, and/or outdated record owner of property information as received from the County of Riverside Tax Assessor's office.
- E. Ballot Tabulation and Validation
1. Tabulation and validation of all returned ballots shall be conducted by the City Clerk/Secretary of the CSD Board and his/her staff, provided that no person having a conflict of interest under state law shall participate. If the City Clerk/Secretary has a conflict of interest under state law, the duties of tabulation and validation shall be assigned to the Deputy City Clerk and his/her staff. If the Deputy City Clerk has a conflict of interest under state law, then the City Council/CSD Board shall appoint an Acting City Clerk/Secretary who does not have a conflict of interest under state law to tabulate and validate the ballots that are returned and not withdrawn prior to the close of the Public Hearing.
 2. At the discretion of the City Clerk/Secretary of the CSD Board, tabulation and validation of mail ballot results for Public Hearings may be postponed until the next regularly scheduled City Council/CSD Board meeting. The City Clerk/Secretary shall inform the City Council/CSD Board at the close of the Public Hearing of such postponement. The City Council/CSD Board shall confirm postponement and the designated location and time during which ballots shall be tabulated and validated. Tabulation of the ballots occurring outside a regularly scheduled City Council meeting shall be open to the public and may only occur during regular City Hall business hours.
 3. All ballots shall remain in the custody of the City Clerk/Secretary of the CSD Board, or other duly authorized and appointed person as identified in VIE1, and shall be secured from unauthorized access until the close of the Public Hearing for which the mail ballot proceeding is being heard and validation of the tabulated ballots.
 4. Ballot tabulations occurring outside of regularly scheduled City Council meetings shall be video recorded and made available to the public for viewing.
 5. Ballots shall be made available for public inspection after ballot validation and City Council announcement of the results but not before the close of the Public Hearing.
 6. Valid ballots shall be appropriately marked as specified in the instructions included as part of the mail ballot proceeding package sent to record owner(s) of property for a proposed project area.
 7. Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:

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- a.  A check mark substantially inside a box;
- b.  An X mark substantially inside a box;
- c.  A dot or oval mark substantially inside a box;
- d.  A completely shaded or filled mark substantially inside a box;
- e.  A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;
- f.  A circle around the box and/or associated clause; or
- g.  A square or rectangle around the box and/or associated clause.
8. Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area.
9. Ballots returned with markings other than those provided in Section VIE7 of this policy, including ballots lacking any mark and/or lacking a signature from the record owner of property, shall be considered invalid. All invalid ballots shall be recorded as returned. Invalid ballots will not be counted as either approving or not approving the proposed project and associated charges.
10. In the case of a mail ballot proceeding with a single property owner, who returns an invalid ballot (either unsigned or unmarked), the City Council and/or the CSD Board shall continue the item for the invalid ballots to the next regularly scheduled City Council/CSD Board meeting in an effort to obtain a valid ballot from the property owner. Where multiple mail ballot proceedings are included on one staff report, only the mail ballot with the invalid ballot shall be continued and each other proceeding shall be tabulated as set forth in these procedures.
- F. Ballot Mark Revisions (Changes)
1. An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the top right corner of the revised selection.

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2. Any revision that is not initialed by the record owner(s) of property and/or contains marks other than those as listed in Section VIE7 of this policy shall be counted as an invalid ballot.

G. Ballot Results

1. Final results of the mail ballot proceeding shall be made available for public inspection upon the finalization of ballot validation and announcement of the results by the City Council.
2. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the City will make such determination from the last equalized assessment roll and any evidence of ownership submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.
3. In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the City may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.
4. A simple majority (50%+1) of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of:
 - a. A new or expanded service area; or
 - b. A change in service level; and/or
 - c. An increase in an assessment, charge, fee, or general tax.
5. A two-thirds majority of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of a special tax.
6. In mail ballot proceedings where the required majority of valid ballots returned in support (favor) of the balloted issue is not reached or the ballot count is tied, the proposed service and associated levy or increase in the levy will not be approved.
7. Ballots received prior to the conclusion of the Public Hearing for the matter being heard shall be retained for a period of 1 year (12 months) from the date of the Public Hearing or such longer period as required by law. The ballots shall be kept in the City Clerk's office, the Office of Record.
8. **Areas APPROVING NEW district formation and/or an assessment, charge, fee, or tax**

In an area which has approved a new district formation and the associated levy, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose, by resolution, an amount that is less than or equal to the maximum amount authorized and approved by the requisite record owners of property.

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9. **Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**
- a. For any local levy which has received approval by the record owner(s) of property based upon the requisite number of valid approving ballots returned during a mail ballot proceeding for that purpose, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose by resolution an amount that is less than or equal to the maximum amount approved.
 - b. Area(s) or property(ies) approving an increase will not receive formal written notification of the outcome of their mail ballot proceeding.
10. **Areas NOT APPROVING NEW district formation nor the associated assessment, charge, fee, or tax**
- a. Results of all mail ballot proceedings shall be made available for public inspection upon conclusion of the validation of returned ballots. No new service shall be provided and the area will not be levied for the proposed special benefit.
 - b. Areas not approving shall not receive formal written notification as new service(s) has/have not been created to constitute a change in service level to require notification.
11. **Areas NOT APPROVING an INCREASE in an assessment, charge, fee, or tax**
- a. A letter shall be sent to notify record owners of property and will serve as notice that the current level of service(s) will be reduced not less than 30 days prior to the implementation of the reduction in service level. This letter shall include the following information:
 - (1) APN and Tract No., or description of project or project area ;
 - (2) Explanation and/or description of the service(s) balloted upon;
 - (3) Amount of proposed increase;
 - (4) Date which mail ballots were sent out to record owners of property;
 - (5) Total number of ballots mailed to the district;
 - (6) A statement that a majority of the ballots returned (either 50%+1 or two-thirds) was required for approval;
 - (7) Number of ballots returned;
 - (8) Number and percentage of valid ballots approving;
 - (9) Number and percentage of valid ballots not approving;
 - (10) Statement that the increase was not approved;

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- (11) A statement as to the continuation of the charge and the amount to be levied;
- (12) Explanation and/or description of service(s) to be changed; and
- (13) Date which the change(s) in service level will be implemented.

VII. REBALLOTING

- A. A rebaloting may occur for any of the following:
 - 1. If it is determined that a defined area of service benefits more parcels than supports the cost to maintain a benefit service.
 - 2. Upon City Council/CSD Board direction.
 - 3. Areas that either approve or do not approve a prior ballot for a new or increase in an assessment, charge, fee, or tax may be provided the opportunity, by request, to have their area rebaloted as follows, provided the rebalot is not for a prior rebaloting that was conducted within a 1 year (12 month) period.
 - a. Record owner(s) of property in areas where mail ballot proceedings were conducted, that either approved or did not approve a new or increase in an assessment, charge, fee, or tax, may oppose the results of their mail ballot proceeding. This option shall remain viable for up to one (1) calendar year from the date of the Public Hearing for the proceeding being challenged.
 - b. In order for record owner(s) of property to successfully challenge the results of a mail ballot proceeding, they must establish that significant interest exists in having their area/district rebaloted. This may be accomplished, either through a request for petition and/or survey process as follows:
 - (1) The petition and/or survey process shall follow the guidelines set forth in Section IIIB of this policy, with the following notable exceptions:
 - i. The number of required signatures for a petition or survey (or combination thereof) must equal either a number not less than 100%+1 of the total number of ballots returned from the previous mail ballot proceeding or not more than a majority (50%+1) of the total number of ballots sent out in the previous mail ballot proceeding, whichever is less; and
 - ii. For the purpose of rebaloting, significant interest may refer to a request to maintain service at the present level by agreeing to support the necessary charge increase (full cost recovery amount) to continue the current maintenance service level.
 - (2) Petitions and/or surveys must be returned to the City of Moreno Valley by the date requested in the survey cover letter and/or on the circulated petition. Petitions and/or surveys that are not returned or returned after the requested return date shall be considered invalid for the purposes of conducting a rebaloting.

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- (3) Notification and mail ballots for subsequent mail ballot proceedings shall be conducted as outlined in Sections IV through VI of this policy.
4. Areas or districts where the revenues generated to provide benefit services fall below the level of full cost recovery to provide such services may be subject to reballoting. Areas or districts wherein record owner(s) of property support benefit services at a reduced level may be subjected to a mail ballot proceeding once every year (or 12 months). The reballot would provide record owner(s) of property an opportunity to approve or not approve an increase in the charge equal to, or less than, that needed to provide for full cost recovery to maintain and operate the benefit service(s) program.
- B. Reballoting Results
1. **REBALLOTTED Area(s) APPROVING NEW district formation and the associated assessment, charge, fee, or tax**
- Upon adoption of an ordinance and/or resolution by the governing body of the adopting local government (Moreno Valley City Council/CSD Board), areas approving a reballot measure shall have a district formed and be subject to an imposed amount at any rate that is less than or equal to the maximum authorized amount.
2. **REBALLOTTED Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**
- a. The governing body of the adopting local government (Moreno Valley City Council/CSD Board) may impose, by resolution, a levy which has received approval by the record owner(s) of property in a reballot proceeding based upon the requisite number of valid ballots returned (50%+1 or two-thirds majority). The amount of the levy imposed shall be an amount that is less than or equal to the maximum amount authorized and approved by the record owner(s) of property.
- b. The area(s) or property(ies) approving an increase will not receive formal written notification of the outcome of their reballot proceeding.
3. **REBALLOTTED Area(s) NOT APPROVING NEW district formation and the associated assessment, charge, fee, or tax**
- a. Results of all reballot proceedings shall be made available for public inspection upon the conclusion of the Public Hearing and validation of the returned ballots for the matter being considered. Areas that do not approve district formation nor the new assessment, fee, charge, or tax will receive no change in current service level. No new service shall be provided, thus no cost to provide service will be levied to this area.
- b. These areas shall not receive formal written notification as new service(s) has/have not been created or changed.
- c. These areas shall have the opportunity to be reballoted. A subsequent reballoting will be conducted no sooner than one (1) calendar year or (12) twelve months from the date of the prior reballoted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

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4. **REBALLOTTED Area(s) NOT APPROVING an INCREASE in an assessment, charge, fee, or tax**
 - a. Area(s) shall be sent a notification letter.
 - b. This letter shall be sent, not less than 30 days prior to the implementation of the change in service level. This letter shall detail the services to be reduced, changed and/or eliminated and provide the time frame for implementation by including the same information as defined in VIG11a.
 - c. These areas shall have the opportunity to be rebalotted. A subsequent rebaloting will be conducted no sooner than one calendar year or (12 months) from the date of the prior rebalotted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

ESTABLISHMENT: To ensure that mail ballot proceedings are conducted in a uniform manner consistent with the mandates of Proposition 218.

DEFINITIONS:

A. Agency:

~~Any local government including county, city, any special district, or any other local or regional government entity.~~

B. Assessment:

~~Any levy or charge upon real property by an agency for a distinct benefit conferred upon the real property by a public improvement or service, that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service being provided. An assessment includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment," and "special assessment tax."~~

C. Capital Cost:

I. PURPOSE

~~The cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.~~

D. Charge or Fee:

~~As defined in Proposition 218, also known as the Right to Vote On Taxes Act, a charge or fee is any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service.~~

E. Community Facilities District (CFD):

~~Entity legislated by local government to finance public services and/or capital facilities.~~

F. Community Services District (CSD):

~~A limited purpose form of local government established this policy is to provide establish procedures for certain services or facilities within a limited boundary.~~

G. District:

~~An area that is determined by an agency to contain all of the parcels that will receive a benefit from a proposed public improvement or property related service.~~

H. Full Cost Recovery:

~~The fee or charge imposed upon designated parcel(s) or person(s) as an incident of property ownership shall not exceed the comprehensive costs to provide the capital facilities or property related service and shall not be used for any purpose other than that for which the fee or charge was imposed.~~

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~~I. Inflation Adjustment:~~

~~An annual adjustment, based upon the percentage change calculated for the prior calendar year in the Los Angeles Riverside Orange County Regional Consumer Price Index (CPI) All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics or any other clearly defined formula as per Government Code Section 53739.~~

~~J. Mail Ballot or Mail Ballot Proceeding:~~

~~The process of balloting to approve or not approve a request for extended or new distinct benefit(s) and the associated cost and/or a cost increase to fund existing benefit(s) by marking and signing a ballot form that lists the assessor parcel number, location, benefit to be received, the associated costs, and terms.~~

~~K. Maintenance and Operation expenses:~~

~~The cost of rent, repair, replacement, rehabilitation, fuel, utilities, upkeep, and supervision necessary to properly operate and maintain a permanent public improvement.~~

~~L. Notice:~~

~~A printed announcement informing the record owner(s) of property of some necessary or requested proposed change that may cause a direct or an indirect impact. A notice shall describe: area(s) to be impacted, basis for implementing or making a change, service(s) and/or level of service(s) to be provided, associated cost, date, time, and place of forum to discuss topic of notice.~~

~~M. Proposition 218:~~

~~California State Constitutional amendment, Articles XIIC and XIID, which requires voter approval for any new, extended, or increased general or special tax, property related assessment, fee, and/or charge.~~

~~N. Reballot or Reballot Procedure:~~

~~A subsequent mail ballot proceeding whereby the results of the previous mail ballot were challenged and successful demonstration occurred or the City Council/CSD Board provided direction that resulted in having the issue put to another mail ballot proceeding proceedings and elections conducted by the City to comply with Proposition 218 (Articles XIII C and XIII D of the California Constitution).~~

~~O. Record Owner of Property:~~

~~The owner of a parcel or parcels whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the City of Moreno Valley, the County of Riverside, the State of California, or the United States or any of a number of other public or non-profit organizations at the address of that entity known to the agency.~~

~~P. Special Benefit or Benefit Services:~~

~~A particular and distinct benefit over and above general benefits, conferred on real property. General enhancement of property value does not constitute "special benefit."~~

~~Q. Special District:~~

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~~An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.~~

~~R. Special Tax:~~

~~A tax imposed by local government for specific purposes. Requires a two thirds majority approval.~~

~~I. LEGAL REQUIREMENT~~

~~Article XIII C (Voter Approval for Local Tax Levies XIII D, Section 4, of the California Constitution requires that the City hold mail ballot proceedings in connection with the imposition, increase, or extension of a benefit assessment against real property. Article XIII D, Section 6(c) of the California Constitution generally requires majority approval by the electorate for a local government to impose, extend, or increase any general tax and a two thirds majority approval by the electorate to impose, extend, or increase any special tax and permits the use of the initiative to affect local taxes, assessments, fees, and charges. Article XIII D (Assessment and Property Related Fee Reform) of the California Constitution generally requires that taxes, assessments, fees, and charges be submitted to property owners the City conduct elections for approval or rejection after the provision of written notice and certain "property-related fees" and permits the holding of a Public Hearing.~~

~~II. PROVISIONS FOR CONDUCTING A MAIL BALLOT PROCEEDING~~

~~Any local, special, or consolidated City to opt to conduct such an election may beas a property-owner election. This policy applies to all mail ballot proceedings conducted wholly by mail provided that all of the following conditions apply:~~

- ~~A. The governing body of the local agency authorizes the use of mailed ballots for the mail ballot proceeding;~~
- ~~B. The mail ballot proceeding does not occur on the same date as a statewide direct primary election or statewide general election; and~~
- ~~C. The mail ballot proceeding is one of the following:

 - ~~1. A mail ballot proceeding in which no more than 1,000 registered voters are eligible to participate.~~
 - ~~2. A maximum property tax rate election as provided for in Section 2287.5 of the Revenue and Taxation Code.~~
 - ~~3. A mail ballot proceeding on a measure or measures restricted to:

 - ~~a. The imposition of special taxes;~~
 - ~~b. Expenditure limitation overrides; or,~~
 - ~~e. Both (a) and (b), in a city, county, or special district with 5,000 or less registered voters calculated as of the time of the last report of registration by the county elections official to the Secretary of State.~~~~~~

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~~Any election or assessment ballot proceeding required or authorized by pursuant to Article XIII C or XIII D, Section 4 of the California Constitution and all property-owner elections conducted pursuant to Article XIII D, Section 6(c) of the California Constitution. However, when an assessment ballot proceeding is conducted by mail pursuant to this section, the following rules shall apply:~~

The ~~proceeding~~City also conducts landowner-ballot special tax elections pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*). This policy applies to such elections.

This policy applies only to landowner (or property-owner) elections and proceedings. It does not apply to registered voter elections or to protest proceedings (such as water, sewer, or refuse fee protest proceedings) that do not involve mailed ballots.

II. INTERACTION WITH STATE LAW

When the City imposes a tax, assessment, or property-related fee, it generally does so pursuant to a specific procedural law, such as the Landscape and Lighting Act of 1972 or the Mello-Roos Community Facilities Act of 1982. This policy is intended to fill in "gaps" in the procedures set forth in these procedural laws and to provide for additional public information and participation. To the extent any requirement of this policy is inconsistent with the requirements of the applicable procedural law, the procedural law shall be denominated "govern."

In certain situations, state law permits the annexation of territory to an assessment or special tax district without conducting an election or mail ballot proceeding. This occurs only if the owners of 100% of the parcels being annexed consent in writing to annexation (landowner petition). In such cases, where an election or mail ballot proceeding "rather than an election" is not held, this policy does not apply.

~~d. — Ballots shall be denominated "assessment ballots."~~

I.III. INITIATING A MAIL BALLOT PROCEEDING

A. A mail ballot proceeding may be initiated as a result of any one of the following:

1. To approve or not approve benefit services in a new development, area, or district;
2. To serve as a process for approving or not approving a cost adjustment to cover an increase in maintenance and operation expenses to fund an existing benefit service program; or
3. If significant interest by record owners of property in an area exists to warrant the conducting of a mail ballot proceeding.

B. Significant interest can be demonstrated through either a petition or survey process. The petition process shall be used unless City staff determines that the survey process would be more effective.

1. **PETITION**-- A petition is required when a record owner of property or record owners of properties for an area are requesting special benefit service(s) or a rebalot for existing services (see Section VIII - Reballoting).
 - a. Any record owner of property may request a petition if the proposed project area lies within the record owner of property's area or district. ~~Only record owners~~ of property within the area or district can utilize the petition process.

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- b. It is the responsibility of the requesting record owner of property to circulate a petition among the other record owner(s) of property within a defined project area as provided in the fact sheet accompanying the petition document.
- c. For areas requesting the inclusion of new services, signatures from a minimum number of 25% of the properties owned in the area requesting service(s) must be provided on a petition form.
- d. Signatures must be valid. To be valid, signatures must be that of the record owner(s) of property for the area to receive the benefit service(s). Only one property owner per parcel may sign the petition. Petitions signed by residents who are non-record owner(s) of property for the project area will not be counted toward the 25% requisite number of required signatures to conduct a mail ballot proceeding.
- e. Signed petitions must be returned to the City of Moreno Valley, Special Districts Division of the Public Works Department. Unless signed petitions are returned with the valid requisite number of signatures required and within the required timeline (see Section IIIB3), a mail ballot proceeding cannot be conducted.
- f. Petition Package includes:
- (1) Cover letter explaining and/or describing:
 - i. The location of the project area;
 - ii. The service(s) to be provided;
 - iii. Cost estimates ~~for maintenance, administration, utilities, and other~~ third party costs per parcel, which may also include capital costs;
 - iv. Duration and frequency of the change(s);
 - ~~iv-v.~~ Statement pertaining to the annual inflation adjustment, if applicable;
 - ~~v-vi.~~ Percentage and number of required signatures;
 - ~~vi-vii.~~ Estimated dates for mailing ballot packet, conducting ~~Public Meeting and the~~ Public Hearing, and the estimated time for implementation; ~~and~~
 - viii. Contact information for further information or questions pertaining to the project area; and
 - ~~vii-ix.~~ The deadline to return the petition.
 - (2) Fact sheet
 - (3) Petition
 - (4) Return envelope
2. **SURVEY**: A survey may be utilized in addition to or in lieu of a petition at the discretion of City staff. The City Department responsible for administrating the benefit service program shall prepare and mail a survey to record owners of property in a proposed project area. A survey is used to determine if significant interest exists to provide or change benefit services for a defined project area. If a survey form is used in addition to a petition, the combined total number of returned signed surveys and petition signatures must be at least 25% of the total record owners of properties in a proposed project area who are in agreement with (either approving or not approving) the action of conducting a mail ballot proceeding. A survey package consists of a cover letter and a survey document.
- a. The cover letter shall include the following information:

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- i. ~~Description~~The location of the project area ~~(Tract No.[s] and/or street name[s]);~~
 - ii. ~~Information concerning the benefit~~The service(s) to be ~~offered~~provided;
 - iii. Cost ~~estimate(s)~~ estimates for maintenance, administration, utilities, and other third party costs per parcel, which may also include capital costs and/or the benefit service(s);
 - iv. Duration and frequency of ~~charge~~the change(s);
 - ~~(1) Estimated time of construction and/or implementation;~~
 - v. Statement pertaining to the annual inflation adjustment, if applicable;
 - ~~vi. City Division and Departmental contact~~Percentage and number of required returned surveys;
 - ~~vii. Estimated dates for mailing ballot packet, conducting the Public Hearing, and the estimated time for implementation;~~
 - ~~viii. Contact~~ information for further information or questions ~~relevant~~pertaining to the ~~proposed~~project area; and
 - ~~ix. The deadline to return the~~ surveypetition.
- b. The survey document shall include the following:
- i. Title of survey;
 - ii. Purpose of project and project area and/or description
 - iii. of project area;
 - iv. A statement of approving;
 - v. A statement of not approving; and
 - vi. Signature and date lines for record owner of property.
3. Petitions and/or Surveys must be returned within 60 days from the date of the letter from the City of Moreno Valley. Petitions and/or Surveys that are returned later than the due date listed on the cover letter shall not be considered.

~~D. If it has been determined that a mail ballot proceeding shall be conducted, legal notification concerning the mail ballot proceeding shall be published, in accordance with Section IV. A mail ballot proceeding package will be sent to all record owners of property in the project area or district. The package includes a letter describing the basis for conducting the mail ballot proceeding, legal notification, mail ballot, return envelope with prepaid postage, and other ancillary documents, which provide additional information concerning the matter being balloted.~~

C. This Section III shall apply only in cases where the applicable state procedural law does not impose a

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POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONSspecific (and mandatory) petitioning requirement for the initiation of proceedings.H-IV. NOTICE

~~E. A notice shall be mailed to the record owner(s) of property for each identified parcel subject to a new, extended or an increase in an assessment, charge, fee, or tax. Notices to record owner(s) of property shall be sent via U.S. mail as required by Article XIII C or XIII D of the California Constitution and shall be deemed given when so deposited with the United States Postal Service. Notice by mail may be included in any other mailing to the record owner(s) of property.~~

~~F. Notices for the Public Meeting and/or Public Hearing shall be published in a newspaper of general circulation for three weeks.~~

~~A. Notice and ballots for assessment ballot proceedings and property-related fee elections shall be mailed to property owners in the manner set forth in Government Code Section 53750 *et seq.* For elections held pursuant to the Mello-Roos Community Facilities Act of 1982, notices and election materials shall be handled and distributed as set forth in that Act.~~

~~B. Each notice for the proposed assessment, charge, fee, or tax shall include: (in addition to any other information required by applicable law):~~

- ~~1. Tract, street, and/or parcel identification, the total amount of the district's (service area's) proposed charge, and the individual parcel charge to the record owner(s) of property. If the assessment, charge, fee, or tax is proposed to be increased from any previous year, the notice shall separately state both the existing amount and the proposed increase;~~
- ~~2. Statement of the type of service(s) to be rendered;~~
- ~~3. Statement providing for an annual inflation adjustment;~~
- ~~4. The duration of the ~~payments~~ annual levy;~~
- ~~5. An explanation as to the reason for the new or increase in an assessment, charge, fee, or tax, and the basis upon which the amount was calculated;~~
- ~~6. Date, time, and location of ~~both the Public Meeting and the~~ Public Hearing;~~
- ~~7. Defined logistics and/or map of the parcel(s), area, or district, subject to the new or increase in the assessment, charge, fee, or tax;~~

~~1. Each mailed notice shall include, in a conspicuous place thereon:~~

~~a. A summary of the procedures for the completion, return, and tabulation of the ballot; and~~

~~b. A statement that the proposed assessment, charge, fee, or tax shall not be imposed if the ballots submitted in opposition exceed the ballots submitted in favor;~~

~~8. Specific directions on how to mark the ballot for approval or non-approval of a measure;~~

~~9. The phone number and address of an individual or department that interested person(s) may contact to receive additional information related to the proposed special benefit service(s);~~

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and

- 10. A statement in Spanish that the notice and balloting information is available upon request in Spanish.

~~G. Notice for a mail ballot proceeding shall be mailed, along with a cover letter and mail ballot, at least 45 days PRIOR to the date of the Public Hearing.~~

~~III. PUBLIC MEETING~~

~~A. A Public Meeting shall be held to allow record owner(s) of property a forum for presenting comments and questions related to the proposed special benefit service(s) and/or the mail ballot proceeding process.~~

~~B. The mail ballot proposal and comments related to the mail ballot proceeding shall be heard before the governing body of the adopting local government.~~

~~C. The Public Meeting shall take place no earlier than 10 days after mailing the ballot packet.~~

~~III.V. PUBLIC HEARING~~

A. A Public Hearing shall be held at least 45 days after a ~~notice~~ballot has been mailed to record owner(s) of property.

B. The purpose of the Public Hearing is to allow record owner(s) of property an opportunity to submit or withdraw their mail ballot, and/or present oral/written objections, protests, or testimony on the balloted measure.

C. The City Clerk/Secretary of the Board of Directors of the Moreno Valley Community Services District (CSD Board) and his/her staff will tabulate and validate all ballots received and not withdrawn prior to the close of the Public Hearing, in compliance with Section ~~VHE~~VI. All valid ballots will be counted toward approval or non-approval of the matter being heard. All ballots shall be counted and recorded as received and retained for public record by the City Clerk's/Secretary's office.

D. Ballots received and not withdrawn prior to the close of the Public Hearing for the matter being heard shall be retained for a term of 12 months (1 year) from the date of the Public Hearing or such longer period as required by law or as designated by the City Clerk/Secretary of the CSD Board.

E. This Section V does not apply to elections conducted in connection with the Mello-Roos Community Facilities Act of 1982, which has specific public hearing requirements that are different from those applicable to assessments and property-related fees.

~~IV.VI. MAIL BALLOT~~

A. Ballots shall be weighted either as one ballot per parcel ~~or (for property-related fee elections)~~ in accordance to the proportional financial obligation of the affected property ~~or (for assessment mail ballot proceedings), or as required by the Mello-Roos Community Facilities Act of 1982 (for elections conducted pursuant to that Act).~~

B. Each mail ballot shall include the following with regard to the proposed assessment, charge, fee,

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Attachment: Redline of Mail Ballot Policy (1695 : AMENDMENT TO THE POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS)

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or tax:

1. Identification of the area to be serviced;
2. A brief description of the service(s) to be rendered;
3. The amount to be imposed per parcel, if the measure is approved;
4. Statement providing for an annual inflation adjustment, if applicable;
5. The frequency and method of collection;
6. The fiscal year for which the assessment, charge, fee, or tax will commence;
7. A box will be provided next to the word YES or APPROVED, meaning approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of acceptance for the measure being balloted. A box will be provided next to the word NO or NOT APPROVED, meaning non-approval of a new service, a change in service level, or proposed increase in an existing assessment, charge, fee, or tax followed by a statement of non-acceptance for the measure being balloted;
8. Statement [in Spanish](#) that ballot information is available upon request in Spanish;
9. Signature and date line for the record owner of property;
10. Date, time, and place of the Public Hearing; and
11. Address where ballots are to be submitted. Ballots may be mailed or delivered, in person, to the City Clerk's office at the address listed for return on the ballot. All ballots must be sent to the attention of the City Clerk/Secretary of the CSD Board and received by the City Clerk's office PRIOR to the conclusion of public testimony at the Public Hearing in order to be included in the ballot tabulation.
12. [For elections conducted pursuant to the Mello-Roos Community Facilities Act of 1982, the information required by this Section may be included on the ballot or on accompanying materials.](#)

C. A return envelope with prepaid postage shall be provided by the agency for record owners of property to submit their ballot. If a return envelope is omitted or lost, the ballot may be accepted if returned in a sealed envelope delivered to the City Clerk's office at the address listed on the ballot. ~~A MAIL BALLOT SHALL NOT BE ACCEPTED UNLESS IT IS RETURNED IN A SEALED ENVELOPE.~~

E.D. The City, its employees, volunteers, and contractors shall not be held liable nor responsible for mail ballot packages sent out to record owner(s) of property that are not delivered or not delivered within the required time due to a U.S. Postal Service error, or are returned by the U.S. Postal Service for inability to deliver due to inaccurate, incomplete, and/or outdated record owner of property information as received from the County of Riverside Tax Assessor's office.

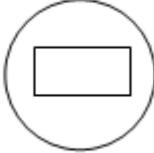
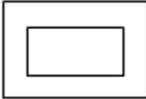
D.E. Ballot Tabulation and Validation

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1. Tabulation and validation of all returned ballots shall be conducted by the City Clerk/Secretary of the CSD Board and his/her staff, provided that no person having a conflict of interest under state law shall participate. If the City Clerk/Secretary has a conflict of interest under state law, the duties of tabulation and validation shall be assigned to the ~~Assistant~~Deputy City Clerk and his/her staff. If the ~~Assistant~~Deputy City Clerk has a conflict of interest under state law, then the City Council/CSD Board shall appoint an Acting City Clerk/Secretary who does not have a conflict of interest under state law to tabulate and validate the ballots that are returned and not withdrawn prior to the close of the Public Hearing.
2. At the discretion of the City Clerk/Secretary of the CSD Board, tabulation and validation of mail ballot results for Public Hearings ~~having more than 2,000 mail ballot packages mailed to record owners of property~~ may ~~have the results of the proceeding~~be postponed until the next regularly scheduled City Council/CSD Board meeting. ~~The City Clerk/Secretary shall inform the City Council/CSD Board at the close of the Public Hearing of such postponement.~~ The City Council/CSD Board shall confirm postponement and the designated location and time during which ballots shall be tabulated and validated. Tabulation of the ballots occurring outside a regularly scheduled City Council meeting shall be open to the public and may only occur during regular City Hall business hours.
3. All ballots shall remain in the custody of the City Clerk/Secretary of the CSD Board, or other duly authorized and appointed person as identified in ~~VHE+VIE~~1, and shall be secured from unauthorized access until the close of the Public Hearing for which the mail ballot proceeding is being heard and validation of the tabulated ballots.
4. Ballot tabulations occurring outside of regularly scheduled City Council meetings shall be video recorded and ~~made available to the public for viewing.~~
5. Ballots shall be made available for public inspection after ballot validation and City Council announcement of the results but not before the close of the Public Hearing.
6. Valid ballots shall be appropriately marked as specified in the instructions included as part of the mail ballot proceeding package sent to record owner(s) of property for a proposed project area.
7. Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:

- a.  A check mark substantially inside a box;
- b.  An X mark substantially inside a box;
- c.  A dot or oval mark substantially inside a box;
- d.  A completely shaded or filled mark substantially inside a box;

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- e.  A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;
- f.  A circle around the box and/or associated clause; or
- g.  A square or rectangle around the box and/or associated clause.
8. Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area.
9. Ballots returned with markings other than those provided in Section ~~VII~~VIE6VIE7 of this policy, including ballots lacking any mark and/or lacking a signature from the record owner of property, shall be considered invalid. All invalid ballots shall be recorded as returned. Invalid ballots will not be counted as either approving or not approving the proposed project and associated charges.
10. In the case of a mail ballot proceeding with a single property owner, who returns an invalid ballot (either unsigned or unmarked), the City Council and/or the CSD Board shall continue the item for the invalid ballots to the next regularly scheduled City Council/CSD Board meeting in an effort to obtain a valid ballot from the property owner. ~~Separate and distinct ballots for the same~~ Where multiple mail ballot ~~proceeding which~~proceedings are ~~deemed valid~~included on one staff report, only the mail ballot with the invalid ballot shall be ~~approved and not~~continued and each other proceeding shall be tabulated as set forth in these procedures.

E.F. Ballot Mark Revisions (Changes)

1. An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the top right corner of the revised selection.
2. Any revision that is not initialed by the record owner(s) of property and/or contains marks other than those as listed in Section ~~VII~~VIE67 of this policy shall be counted as an invalid ballot.

E.G. Ballot Results

1. Final results of the mail ballot proceeding shall be made available for public inspection upon the finalization of ballot validation and announcement of the results by the City Council.
2. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the City will make such determination from the last equalized assessment roll and any evidence of ownership submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other

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evidence as to ownership of property and its determination of ownership will be final and conclusive.

3. In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the City may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the City prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.

2-4. A simple majority (50%+1) of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of:

- a. A new or expanded service area that requires an increase in an assessment, charge, fee, or general tax; or
- b. A change in service level that requires an increase in an assessment, charge, fee, or general tax; and/or
- c. An increase in an assessment, charge, fee, or general tax.

3-5. A two-thirds majority of the valid ballots returned marked in support (favor) of the balloted issue is required for approval of a special tax.

4-6. In mail ballot proceedings where the required majority of valid ballots returned in support (favor) of the balloted issue is not reached or the ballot count is tied, the proposed service and associated levy or increase in the levy will not be approved.

5-7. Ballots received prior to the conclusion of the Public Hearing for the matter being heard shall be retained for a period of 1 year (12 months) from the date of the Public Hearing or such longer period as required by law. The ballots shall be kept in the City Clerk's office, the Office of Record.

6-8. **Areas APPROVING NEW district formation and/or an assessment, charge, fee, or tax**

In an area which has approved a new district formation and the associated levy, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose, by resolution, an amount that is less than or equal to the maximum amount authorized and approved by the requisite record owners of property.

7-9. **Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**

- a. For any local levy which has received approval by the record owner(s) of property based upon the requisite number of valid approving ballots returned during a mail ballot proceeding for that purpose, the governing body of the adopting local government (Moreno Valley City Council/CSD Board) may thereafter impose by resolution an amount that is less than or equal to the maximum amount approved.
- b. Area(s) ~~-or -property(ies) -approving -an -increase -will -not -receive -formal-~~ written notification of the outcome of their mail ballot proceeding.

Approved by: City Council
January 9, 2001

Revised 1/22/02; 1/24/06; 04/28/09, 02/23/10

POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS**8-10. Areas NOT APPROVING NEW district formation nor the associated assessment, charge, fee, or tax**

- a. Results of all mail ballot proceedings shall be made available for public inspection upon conclusion of the validation of returned ballots. No new service shall be provided and the area will not be levied for the proposed special benefit.
- b. Areas not approving shall not receive formal written notification as new service(s) has/have not been created to constitute a change in service level to require notification.

9-11. Areas NOT APPROVING an INCREASE in an assessment, charge, fee, or tax

- a. A letter shall be sent to notify record owners of property and will serve as notice that the current level of service(s) will be reduced not less than 30 days prior to the implementation of the reduction in service level. This letter shall include the following information:
 - (1) APN and Tract No., or description of project or project area ;
 - (2) Explanation and/or description of the service(s) balloted upon;
 - (3) Amount of proposed increase;
 - (4) Date which mail ballots were sent out to record owners of property;
 - (5) Total number of ballots mailed to the district;
 - (6) A statement that a majority of the ballots returned (either 50%+1 or two-thirds) was required for approval;
 - (7) Number of ballots returned;
 - (8) Number and percentage of valid ballots approving;
 - (9) Number and percentage of valid ballots not approving;
 - (10) Statement that the increase was not approved;
 - (11) A statement as to the continuation of the charge and the amount to be levied;
 - (12) Explanation and/or description of service(s) to be changed; and
 - (13) Date which the change(s) in service level will be implemented.

VIII. REBALLOTING**VII. REBALLOTING**

- A. A rebaloting may occur for any of the following:

POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

1. If it is determined that a defined area of service benefits more parcels than supports the cost to maintain a benefit service.
2. Upon City Council/CSD Board direction.
3. Areas that either approve or do not approve a prior ballot for a new or increase in an assessment, charge, fee, or tax may be provided the opportunity, by request, to have their area rebalotted as follows, provided the rebalot is not for a prior rebalotting that was conducted within a 1 year (12 month) period.
 - a. Record owner(s) of property in areas where mail ballot proceedings were conducted, that either approved or did not approve a new or increase in an assessment, charge, fee, or tax, may oppose the results of their mail ballot proceeding. This option shall remain viable for up to one (1) calendar year from the date of the Public Hearing for the proceeding being challenged.
 - b. In order for record owner(s) of property to successfully challenge the results of a mail ballot proceeding, they must establish that significant interest exists in having their area/district rebalotted. This may be accomplished, either through a request for petition and/or survey process as follows:
 - (1) The petition and/or survey process shall follow the guidelines set forth in Section IIIB of this policy, with the following notable exceptions:
 - i. The number of required signatures for a petition or survey (or combination thereof) must equal either a number not less than 100%+1 of the total number of ballots returned from the previous mail ballot proceeding or not more than a majority (50%+1) of the total number of ballots sent out in the previous mail ballot proceeding, whichever is less; and
 - ii. For the purpose of rebalotting, significant interest may refer to a request to maintain service at the present level by agreeing to support the necessary charge increase (full cost recovery amount) to continue the current maintenance service level.
 - (2) Petitions and/or surveys must be returned to the City of Moreno Valley by the date requested in the survey cover letter and/or on the circulated petition. Petitions and/or surveys that are not returned or returned after the requested return date shall be considered invalid for the purposes of conducting a rebalotting.
 - (3) Notification and mail ballots for subsequent mail ballot proceedings shall be conducted as outlined in Sections IV through ~~VHVI~~ of this policy.
4. Areas or districts where the revenues generated to provide benefit services fall below the level of full cost recovery to provide such services may be subject to rebalotting. Areas or districts wherein record owner(s) of property support benefit services at a reduced level may be subjected to a mail ballot proceeding once every year (or 12 months). The rebalot would provide record owner(s) of property an opportunity to approve or not approve an increase in the charge equal to, or less than, that needed to provide for full cost recovery to maintain and operate the benefit service(s) program.

Approved by: City Council

January 9, 2001

Revised 1/22/02; 1/24/06; 04/28/09, 02/23/10

POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

B. Reballoting Results

1. **REBALLOTTED ~~Area(s)~~ ~~APPROVING~~ ~~NEW~~ ~~district formation~~ ~~and~~ ~~the~~ associated assessment, charge, fee, or tax**

Upon adoption of an ordinance and/or resolution by the governing body of the adopting local government (Moreno Valley City Council/CSD Board), areas approving a rebalot measure shall have a district formed and be subject to an imposed amount at any rate that is less than or equal to the maximum authorized amount.

2. **REBALLOTTED Area(s) APPROVING an INCREASE in an assessment, charge, fee, or tax**

- a. The governing body of the adopting local government (Moreno Valley City Council/CSD Board) may impose, by resolution, a levy which has received approval by the record owner(s) of property in a rebalot proceeding based upon the requisite number of valid ballots returned (50%+1 or two-thirds majority). The amount of the levy imposed shall be an amount that is less than or equal to the maximum amount authorized and approved by the record owner(s) of property.

- b. The area(s) or property(ies) approving an increase will not receive formal written notification of the outcome of their rebalot proceeding.

3. **REBALLOTTED Area(s) NOT APPROVING NEW district formation and the associated assessment, charge, fee, or tax**

- a. Results of all rebalot proceedings shall be made available for public inspection upon the conclusion of the Public Hearing and validation of the returned ballots for the matter being considered. Areas that do not approve district formation nor the new assessment, fee, charge, or tax will receive no change in current service level. No new service shall be provided, thus no cost to provide service will be levied to this area.

- b. These areas shall not receive formal written notification as new service(s) has/have not been created or changed.

- c. These areas shall have the opportunity to be rebalotted. A subsequent reballoting will be conducted no sooner than one (1) calendar year or (12) twelve months from the date of the prior rebalotted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

4. **REBALLOTTED Area(s) NOT APPROVING an INCREASE in an assessment, charge, fee, or tax**

- a. Area(s) shall be sent a notification letter.

- b. This letter shall be sent, not less than 30 days prior to the implementation of the change in service level. This letter shall detail the services to be reduced, changed and/or eliminated and provide the time frame for implementation by including the same information as defined in ~~VHG9a~~[VIG11a](#).

Approved by: City Council

January 9, 2001

Revised 1/22/02; 1/24/06; 04/28/09, 02/23/10

POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS AND ELECTIONS

- c. These areas shall have the opportunity to be reballoted. A subsequent rebaloting will be conducted no sooner than one calendar year or (12 months) from the date of the prior reballoted proceeding and shall be balloted at an amount necessary to provide full cost recovery to the project/service area.

Attachment: Redline of Mail Ballot Policy (1695 : AMENDMENT TO THE POLICY FOR CONDUCTING MAIL BALLOT PROCEEDINGS)



Report to City Council

TO: Mayor and City Council
 Mayor and City Council Acting in its Capacity as Chairman
 and Commissioners of the Moreno Valley Housing Authority
 (HA)

FROM: Richard Teichert, Chief Financial Officer

AGENDA DATE: October 27, 2015

TITLE: FOURTH AMENDMENT TO OWNER PARTICIPATION BY
 AND AMONG MORENO VALLEY HOUSING AUTHORITY,
 CITY OF MORENO VALLEY, HEACOCK COTTONWOOD
 LIMITED PARTNERSHIP AND MORENO VALLEY
 COTTONWOOD 1R PARTNERS, LP

RECOMMENDED ACTION

Recommendations: That the City Council and Housing Authority:

1. Approve the Fourth Amendment to the Owner Participation Agreement (OPA) by and among the Moreno Valley Housing Authority, City of Moreno Valley, Heacock Cottonwood Limited Partnership and Moreno Valley Cottonwood 1R Partners, LP.
2. Approve the Subordination and Intercreditor Agreement by and among the City of Moreno Valley, Moreno Valley Housing Authority, Citibank, N.A. and Moreno Valley Cottonwood 1R Partners, LP.
3. Authorize the City Manager and Executive Director of the Housing Authority to execute project-related documents upon approval as to form by City Attorney.
4. Approve necessary budget appropriations as set forth in the fiscal impact section.

SUMMARY

This report recommends approval of the Fourth Amendment to the Owner Participation Agreement (OPA) and the Subordination and Intercreditor Agreement which allow Heacock Cottonwood Limited Partnership ("Owner") to resyndicate the first phase of the

Cottonwood Place by securing a new allocation of tax credits. As part of the resyndication process, the project will change ownership and will be acquired by the Moreno Valley Cottonwood 1R Partners, LP (“Successor”). The tax credit proceeds will be used to fund required capital improvements and repay \$900,000 of the Moreno Valley Housing Authority’s existing loan.

DISCUSSION

In 1998, Palm Communities (formerly known as Palm Desert Development Company, herein referred to as “Developer”) developed the first phase of Cottonwood Place, located at the southeast corner of Cottonwood Avenue and Heacock. Cottonwood Place – Phase I (“Project”) is the City’s first affordable housing project funded with tax credits provided through the California’s Tax Credit Allocation Committee (CTCAC) program. The overall Project is comprised of four phases and 270 units serving households earning between 30% and 60% of Area Median Income (AMI); the first phase consists of 109 units (55 three-bedroom and 54 four-bedroom), of which all of the units of this phase – with the exception of the manager’s unit – are restricted to serve households earning up to 46% of AMI. Currently, rents range from \$716 to \$786.

At the time of Project development, the Developer, a member of the limited partnership which is the Owner of the Project, secured various funding sources in addition to the tax credit allocation. The initial method of Project financing included loans provided by the City totaling \$2.25M (\$1.7M of former RDA funds and \$550k of City HOME funds). The City’s investment was secured by 55-year affordability covenants against 54 of the units and an agreement to receive payments to the loans in the form of residual receipts, which are moneys that exceed amounts needed to operate a property on a monthly basis, meet debt obligations, maintain a reserve for replacement funds and make predetermined, allowable payments to the Owner. While the Project is well-maintained and in good condition, the Owner is proposing to resyndicate the tax credits (apply for new credits by way of selling the property to a new owner) via the bond financing to fund capital improvements identified as needed improvements. Some of the more comprehensive and substantial rehabilitation is proposed to include:

- Upgrading building systems, common areas and community spaces;
- Upgrading landscaping to drought tolerant materials to minimize water use;
- Upgrading walkways, pathways, parking lot/parking lot lighting to conform to federal ADA accessibility requirements;
- Re-stuccoing building exterior and repainting building exteriors and interiors;
- Upgrading appliances and plumbing fixtures to increase energy and water efficiency;
- Repair and/or replacement of existing playground equipment (where applicable).

In addition to the tax credits, the Developer is proposing to use various funding sources. Below is a summary of the permanent sources of financing:

Sources	Amount ¹
Tax Credit Equity – Citibank Loan ²	\$ 4,532,000
Developer's Fee	\$ 1,743,000
Citibank Soft Loan	\$ 1,635,000
Seller Carryback	\$ 2,591,000
City of Moreno Valley RDA	\$ 530,000
City of Moreno Valley HOME	\$ 646,000
Deferred Developer Fee	\$ 605,000
Pre-stabilized Income	\$ 336,000
Total	\$12,618,000

Based upon the financing structure as proposed by the Developer, a portion of the previous fund provided by the City is required to fully fund the resyndication. The Developer is proposing the City subordinates its current loan to the new tax credit and/or debt secured as part of the transaction. The Developer will make a lump sum payment of \$900,000 on the exiting former RDA loan, reducing the debt by approximately 43%. Below is a summary of the City's loan balances after payment:

Loan to Developer	Current Balance	Proposed Payment	Balance After Repayment ¹
City of Moreno Valley RDA	\$ 1,430,000	(\$900,000)	\$530,000
City of Moreno Valley HOME	\$ 646,000	\$0	\$646,000
Total	\$ 2,076,000³	(\$900,000)	\$1,176,000

The proposed Project financing was initially reviewed in September 2015 by independent third-party economist, Keyser Marston Association (KMA), for analysis and feasibility assessment. Based upon KMA's analysis, it was concluded that the Developer's proposed financial structure as presented at that time and the request for the City to subordinate its existing HOME and former RDA loans are feasible. At resyndication, the loan terms and affordability will be extended 17 years and will reach maturity in October 2070. The City's loan will be subordinate to the Citibank tax credit equity loan.

The Developer has agreed to defer \$605,000 (approximately 33%) of its developer's fee, which will be paid with residual receipts. During the repayment period of the deferred fee, the Developer will receive 100% of the residual receipts generated by the Project; the deferred fee will be paid at about year 12 of the new loan. After the fee has been fully satisfied, the residual receipts allocation will adjust to seventy-five percent (75%) to the City and twenty-five percent (25%) to the Successor. The City's allocation

¹ Amounts rounded; exact amounts to be determined at the close of escrow

² Senior in priority to the City's HOME and MV Housing Authority's (RDA) loans

³ Includes accrued interest

will be split between the City (37.5%) and Housing Authority (37.5%) for repayment to the HOME and RDA loans, respectively. As per the terms of the original loans, both loans will continue to accrue 1% simple interest, annually, until fully repaid.

In addition to the \$900,000 repayment of the former RDA loan, the City has negotiated covenants to be placed on all 108 units of the phase. As mentioned earlier, the Developer –by way of managerial policy– rents all of the 108 units at levels that qualify for affordability but only 54 of the units have enforceable covenants. Increasing the covenanted unit count directly benefits the City affordable units as it relates to the Regional Housing Needs Assessment (RHNA) and extends enforceability, if necessary.

ALTERNATIVES

1. Approve the Fourth Amendment to the Owner Participation Agreement; approve the Subordination and Intercreditor Agreement; authorize the City Manager and Executive Director of the Housing Authority to execute project-related documents upon approval as to form by City Attorney; and approve necessary revenue appropriations and authorize the Chief Financial Officer to process appropriations. **Staff recommends this alternative; it allows the Owner to secure tax credits, refinance the Project to complete required capital improvements, and make a payment to the Housing Authority’s existing loan.**

2. Do not approve the Fourth Amendment to the Owner Participation Agreement; do not approve the Subordination and Intercreditor Agreement; do not authorize the City Manager and Executive Director of the Housing Authority to execute project-related documents; and do not approve necessary revenue appropriations and do not authorize the Chief Financial Officer to process appropriations. **Staff does not recommend this alternative. Failure to take the above actions would jeopardize Owner’s ability to secure tax credits and refinance the Project to complete required capital improvements. It will also jeopardize the Housing Authority’s ability to receive payment to its existing loan.**

FISCAL IMPACT

There will be no impact to the City’s General Fund. There will be a positive impact to the City’s Housing Authority fund in the amount of the \$900,000 loan repayment.

Description	Fund	GL Account No.	Type	FY 15/16 Budget	Proposed Adjustment	FY 15/16 Amended Budget
Receipt of Principal Repayment	Housing Authority	8884-30-33-20601-461090	Rev	\$17,000	\$900,000	\$917,000

NOTIFICATION

Publication of the agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Shanikqua Freeman
Housing Program Coordinator

Department Head Approval:
Richard Teichert
Chief Financial Officer

Concurred By:
Marshall Eyeran
Financial Resources Division Manager

CITY COUNCIL GOALS

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

Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

ATTACHMENTS

- 1. Fourth Amendment to Owner Participation Agreement

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/20/15 3:10 PM
City Attorney Approval	<u>✓ Approved</u>	10/21/15 3:28 PM
City Manager Approval	<u>✓ Approved</u>	

Recording Requested by and
When Recorded Return to

City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92553
Attn: Financial Resources
Division

APN: 482-180-071-3

SPACE ABOVE THIS LINE FOR RECORDER'S USE
(This document is exempt from the payment of a recording fee
pursuant to Government Code Section 27383.)

FOURTH AMENDMENT TO OWNER PARTICIPATION AGREEMENT

This **FOURTH AMENDMENT TO OWNER PARTICIPATION AGREEMENT** (the "Fourth Amendment"), dated, for identification purposes only, as of October 27, 2015 (the "Fourth Amendment Date"), is entered into by and among the **MORENO VALLEY HOUSING AUTHORITY**, a public body, corporate and politic ("Authority"), the **CITY OF MORENO VALLEY**, a public agency of the State of California (the "City"), **HEACOCK COTTONWOOD LIMITED PARTNERSHIP**, a California limited partnership ("Original Participant" or "Declarant") and **MORENO VALLEY COTTONWOOD 1R PARTNERS, LP**, a California limited partnership (the "New Participant"). As of the Fourth Amendment Date, Declarant is fee owner of that certain property referred to herein as the "Site"; the "Site" consists of that land described in Exhibit "A" hereto (the "Site Description") and improvements situated thereon. This Fourth Amendment shall be recorded among the official land records of the County Recorder of the County of Riverside ("Official Records").

RECITALS

A. The Community Redevelopment Agency of the City of Moreno Valley ("Agency") was a California redevelopment agency acting under the California Community Redevelopment Law, Part 1 of Division 24 of the Health and Safety Code (the "Redevelopment Law").

B. The Agency and Original Participant entered into an Owner Participation Agreement dated as of December 1, 1997 (the "Original OPA"), which provided for Original Participant (referred to therein as "Participant") to acquire and develop, for affordable rental housing purposes, certain real property described therein as the "Site". Under the Original OPA, the Original Participant was required to accomplish the development of improvements described in the Scope of

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

Development which was Attachment No. 4 to the Original OPA; the construction of such improvements has been accomplished. The Original OPA required that the improvements include a residential apartment building, consisting of one hundred nine (109) rental units (“Units”) including fifty-four (54) three-bedroom Units and an additional fifty-four (54) four-bedroom Units. Under the Original OPA, at least fifty-three (53) Units (the “Original Very Low Income Units”) including at least twenty-six (26) of the four-bedroom Units, were required to be restricted for availability for occupancy “Very Low Income Households”: “Very Low Income Households” means households with income not in excess of fifty percent (50%) of area median income as defined under Health & Safety Code section 50105. Rent for the Original Very Low Income Units is limited to thirty percent (30%) of fifty percent of median income (“Very Low Income Rent”), as provided under Health & Safety Code sections 50052.5 and 50053. The Original Participant was required by the Original OPA to maintain all of the Units in accordance with certain property maintenance standards for a period of fifty-five (55) years commencing as of September 23, 1998 and ending as of September 23, 2053 (the [“Original Affordability Period”]), with the Original Very Low Income Units required to be available to and occupied by Very Low Income Households throughout the Original Affordability Period at rent that does not exceed Very Low Income Rent pursuant to the Original AHA. The Original AHA was recorded January 30, 1998 as Instrument No. 98-33164 among the Official Records.

As part of the Original OPA, the Agency agreed to originate a loan (the “Agency Loan”) to the Original Participant in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) (the “Original Agency Loan Amount”) and for the purposes set forth in the Original OPA, which was required to be repaid by the Original Participant as more fully set forth in the Original OPA.

C. The City and the Original Participant entered into an agreement entitled “Loan Agreement”, dated as of July 22, 1998 (the “City Loan Agreement”) and recorded on September 23, 1998 as Instrument No. 98-405168 of Official Records. The City Loan Agreement generally provided for the Original Participant (referred to in the City Loan Agreement as “Developer”) to develop the same improvements described in the Original OPA, and to restrict eleven (11) units (the “HOME Units” or “HOME-Assisted Units”) to availability to households of limited income at affordable rents, to be maintained in conformity with “HOME Program Requirements” as set forth in Attachment No. 5 to the City Loan Agreement. The City loaned the Original Participant the sum of Five Hundred Fifty Thousand Dollars (\$550,000.00) (the “City Loan Amount”) pursuant to the City Loan Agreement, which was evidenced by a promissory note in the form of Exhibit 2-B to the City Loan Agreement (the “City Note”), payment of which was secured by a deed of trust which was recorded on September 23, 1998 as Instrument No. 98-405169 among Official Records (the “City Deed of Trust”). The Original Participant and the Site remain subject to the City Loan Agreement, including without limitation the HOME Program Requirements, the City Note and the City Deed of Trust.

D. The Original Participant and the Agency entered into an Agreement entitled “First Amendment to Owner Participation Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership” dated as of May 12, 1998 (the “First Amendment”); a copy of the First Amendment was recorded among Official Records on May 26, 1998 as Instrument No. 98-210933. The First Amendment amended the project budget, the form of Agency promissory note, the form of Agency deed of trust and the instrument entitled “Method of Financing” which appeared as Attachment No. 2 to the First Amendment, all as more particularly set forth in the First Amendment.

E. The Original Participant and the Agency entered into a “Second Amendment to Owner Participation Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership” dated as of May 25, 1999 (the “Second Amendment”), a copy of which is on file as Instrument No. 1999-286795 among Official Records as recorded June 28, 1999. By the Second Amendment, the parties thereto modified the amount of the Agency Loan from the Original Agency Loan Amount to One Million Seven Hundred Thousand Dollars (\$1,700,000.00) (the “First Amendment Agency Loan Amount”). The Agency Loan as so modified was evidenced by a promissory note in the form prescribed by Exhibit 2 to the First Amendment (the “First Amendment Agency Note”), and payment was secured by a deed of trust as recorded June 30, 1999 as Instrument No. 99-291927 of Official Records (the “Agency Deed of Trust”).

F. The County of Riverside (“County”) entered into an agreement entitled “HOME Agreement”, dated as of September 15, 1988 (the “County Agreement”) with the Original Participant (therein referred to as “Developer”) under which the County agreed to loan to Original Participant the original principal amount of Five Hundred Fifty Thousand Dollars (\$550,000.00) (the “County Loan Amount”). Payment of the County Loan Amount was secured by a deed of trust recorded September 24, 1998 as Instrument No. 98-406362 among Official Records (the “County Deed of Trust”).

G. In implementation of the Original OPA, the First Amendment, the Second Amendment, the City Loan Agreement and the County Loan Agreement, the Original Participant obtained a loan to defray certain costs of the project in original principal amount of Two Million Nine Hundred Thousand Dollars (\$2,900,000.00) by the Savings Associations Mortgage Company, Inc., a California corporation (“SAMCO”); such loan is referred to herein as the “SAMCO Loan.”

H. The Agency and the Original Participant entered into an agreement entitled “Third Amendment to Owner Participant Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership” dated as of November 26, 2002 (the “Third Amendment”), a copy of which was recorded on January 8, 2003 as Instrument No. 2003-013862 among Official Records. Under the Third Amendment, the Original Participant obtained new financing from ARCS Commercial Mortgage (“ARCS”) in the original principal amount of Three Million Three Hundred Eighteen Thousand Dollars (\$3,318,000.00) (the “ARCS Loan”); upon the funding of the ARCS Loan, the SAMCO Loan was satisfied in full and ceased to constitute an encumbrance as to the Site.

I. The Agency, as well as all other redevelopment agencies in the State of California, was dissolved under ABx1, 26, Chapter 5, Statutes of 2011 (“AB 26”). In connection with the implementation of AB 26, the City was designated as the successor agency to the Agency (in such capacity, the “Successor Agency”) and an oversight board was established for the Successor Agency in conformity with AB 26 (the “Oversight Board”). The Successor Agency designated the Authority as the housing successor entity (“Housing Successor Entity”) to the Agency for the purposes of receiving the housing assets of the Agency; the designation of the Authority and the transfer of all housing assets of the Agency (including without limitation the rights of the Agency under each of the Original OPA, the Regulatory Agreement, the First Amendment, the First Amendment City Note, the Agency Deed of Trust, the Second Amendment, and the Third Amendment [the “Agency Site Instruments”]) was approved by the Oversight Board and recognized by the California Department of Finance (“DOF”). Consequently, the Authority holds all rights of the Agency under the Agency Site Instruments.

J. The general partner of the Original Participant, which was Palm Desert Development Company, a California corporation, has been replaced by Palm Communities, a California corporation. The Original Participant has not changed nor has the identity of the individuals having ownership and exercising control of the Original Participant.

K. The New Participant has informed Authority that New Participant desires to obtain new private financing to replace the ARCS Loan, and in connection with which the New Participant shall cause certain improvements to be made to the Site (the “New Improvements”, which are described in Exhibit B hereto [the “List of New Improvements”]). In connection with such refinancing, the New Participant and Original Participant have proposed certain modifications to: (i) the Original OPA, as modified by the First Amendment, the Second Amendment and the Third Amendment (as so modified, the “Existing OPA”), and (ii) the City Loan Agreement, all as set forth herein.

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

1. Capitalized terms shall have the meanings established under the Existing OPA and, to the extent the context requires, the City Loan Agreement, excepting only to the extent as otherwise expressly provided under this Fourth Amendment.

2. New Participant has proposed that it shall obtain moneys in the form of 4% tax credits (“Tax Credits”) and a new loan (“Citi Loan”) from the California Statewide Communities Development Authority, a joint exercise of powers agency duly organized and existing under the laws of the State of California, which loan shall be assigned to Citibank, N.A., a national banking association (“Citi”) in the original principal amount of Nine Million Six Hundred Three Thousand and Two Hundred Five Dollars (\$9,603,205) (the “New Loan Amount”); as originated, the “Construction Loan.” Payment of the New Loan Amount shall be secured by a deed of trust (the “Citi Deed of Trust”). The Authority agrees to subordinate the Agency Deed of Trust to the Citi Deed of Trust. The City agrees to subordinate the City Deed of Trust to the Citi Deed of Trust. Citi may also originate a second, soft money loan to New Participant in the approximate amount of One Million Six Hundred Fifty Thousand Dollars (\$1,650,000.00)(the “Soft Money Loan”); the security, if any, for the Soft Money Loan shall be subordinate to the each of the City Deed of Trust and the Agency Deed of Trust and there shall be no subordination by Authority or City of either to the Soft Money Loan. It is contemplated by the parties hereto that conversion of the construction loan will convert to permanent on or before January 30, 2017. New Participant represents to City and Authority that the Construction Loan will convert to permanent on or before January 30, 2019. Upon conversion of the Construction Loan to permanent the amount secured by the Citi Deed of Trust shall be not in excess of Four Million Two Hundred Fifty Two Thousand and Two Hundred Ninety Nine Dollars (\$4,532,299).

The transfer of the project and the Site from Original Participant to New Participant shall be accomplished concurrent with the recording among Official Records of the Citi Deed of Trust (the “Closing”).

3. As a material inducement for Authority and City to enter into this Fourth Amendment, and but for which neither City nor Authority would have approved the Fourth Amendment, Original Participant shall be responsible to pay to Authority the aggregate sum of Nine Hundred Thousand Dollars (\$900,000.00) (the “Authority Fourth Amendment Amount”) prior to or

concurrent with the Closing. Upon payment of the Authority Fourth Amendment Amount to Authority, the amount outstanding and payable to City under the City Loan Agreement as of October 27, 2015 (following the Closing) shall be deemed to be Six Hundred Forty Six Thousand Two Hundred Fifty Dollars (\$646,250.00) and the amount outstanding and payable to Authority under the Agency Loan as of October 27, 2015 (following the Closing) shall be deemed to be Five Hundred Twenty Nine Thousand Five Hundred Forty Six Dollars and Twenty Two Cents (\$529,546.22); each of such loans shall continue to bear interest at the rate of one percent (1%) per annum. Payment of the Authority Fourth Amendment Amount shall satisfy any obligation Original Participant has pursuant to Section 311(f) of the City Loan Agreement to pay any Surplus Refinancing Proceeds to the City in connection with the refinancing described in Section 1 hereof (but without regard to obligations of the New Participant in connection with future or other refinancings).

4. The payment of the Authority Fourth Amendment Amount takes into account the circumstance that the Original Participant did not fully pay when due to Agency or Authority amounts payable under the Agency Loan and amounts payable to City under the City Loan. In receiving the Authority Fourth Amendment Amount and in approving this Fourth Amendment, neither Authority nor City are approving accounting methodologies, conventions or reporting previously made by the Original Participant, nor is Authority or City acquiescing in the continuation of such methodologies or practices. However, upon receipt of the Fourth Amendment Payment Amount following satisfaction of the Authority Conditions Precedent, and subject to the recognition by Original Participant and New Participant that the amounts remaining payable under the City Loan Agreement and the Agency Loan shall be as set forth in Section 3 hereof (including with respect to the future accrual of interest), Original Participant and New Participant shall be deemed released and exonerated from responsibility for underpayments as to the City Loan and the Agency Loan prior to the Fourth Amendment Date.

5. As an additional material inducement for Authority and City to enter into this Fourth Amendment, and but for which neither City nor Authority would have entered into the Fourth Amendment, not fewer than one hundred eight (108) (the “Required Affordable Units”) of the Units shall be restricted to occupancy by Very Low Income Households at rent which does not exceed Affordable Rent for a period commencing as of the Fourth Amendment Date and continuing until the fifty-fifth anniversary thereof, such 55-year period constituting the “New Required Affordability Period.” The provisions of this Section 5 shall run with the land.

6. The New Participant intends to receive a loan from the Original Participant or an affiliate (the “Related Entity Loan”) payment of which may be secured by a deed of trust on the Site securing payment thereof (the “Related Entity Deed of Trust”). The Related Entity Deed of Trust shall be subordinate to each of the Agency Deed of Trust and the City Deed of Trust.

7. Effective as of the Closing, each of the Agency Loan and the City Loan shall be deemed assumed by New Participant and each of the Agency Loan and the City Loan shall be modified as follows:

(a) The scheduled maturity of each of the City Loan and the Agency Loan shall be modified to be October 27, 2070 (provided that the remaining terms of each of the City Note and the First Amendment Agency Note shall remain in full force and effect in accordance with their respective terms excepting only as expressly provided to contrary effect in the remainder of this Section 7).

(b) Notwithstanding anything set forth in the City Loan Agreement, Surplus Refinancing Proceeds, as that term is defined in the City Loan Agreement shall be deemed to mean cash from a refinancing after (i) payment of all reasonable and customary expenses associated with the refinancing and (ii) repayment of the Citi Loan.

(c) “Residual Receipts” shall have the meaning set forth in Exhibit “F” attached hereto but with these modifications:

(i) all references to SAMCO shall be replaced with Citi;

(ii) debt service for the New Loan, which replaces the ARCS Loan shall be made above the determination of Residual Receipts;

(iii) subject to ongoing compliance by New Participant with Section 15 hereof, (i) Special Limited Partner Fees in the amount of \$5,000 per year, increasingly annually by the consumer price index, for a period of fifteen (15) years following the Closing, (ii) Administrative General Partner Fees in the amount of \$5,000 per year, increasing annually by the consumer price index, for a period of fifteen (15) years following the Closing, and (iii) Managing General Partner fees or the amount of \$15,000 per year, increasing annually by the consumer price index, for a period of fifteen (15) years following the Closing shall be considered part of Annual Operating Expenses;

(iv) repayment of loans made by any partner in the New Participant after January 1, 2016 for the purpose of funding Annual Operating Expenses shall be made above the determination of Residual Receipts;

(v) the City and the Authority hereby approve funding by the New Participant from its moneys initially of an operating reserve in the amount of \$266,676 and agree that deposits necessary fund the operating reserve and maintain the operating reserve at that level shall be made above the determination of Residual Receipts;

(vi) there shall be no reduction above the computation of Residual Receipts based upon the Related Entity Loan or any other loans not accounted for in the Existing OPA or this Fourth Amendment;

(vii) all references to County and County Loan are deleted; and

(viii) the New Participant; in connection with its structuring of Tax Credits and the New Loan, is to receive a deferred developer fee in connection with construction of the New Improvements in the amount of \$1,795,211.00 (the “New Developer Fee”, a portion of which shall be deferred at Closing). A portion of the New Developer Fee will be deferred and paid from Residual Receipts (the “New Deferred Developer Fee”). The New Deferred Developer Fee shall not be less than \$605,145.00. Until the New Participant (or Original Participant) has received the New Deferred Developer Fee, the allocation of Residual Receipts shall be 100% to New Participant or its designee (to satisfy the New Deferred Developer Fee). After the New Deferred Developer Fee has been received in full, the allocation of Residual Receipts shall be 25% to New Participant (or its designee), 37.5% to City and 37.5% to Authority.

8. Effective as of the Closing, the Site shall be subject to the following nondiscrimination provision: “There shall be no discrimination against or segregation of, any person

or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.” The foregoing portion of this Section 8 shall not limit the effect of any covenants of record as to the Site as of the Fourth Amendment Date, including without limitation nondiscrimination covenants.

9. The obligations of each of Authority and City to approve of the replacement of the Original Participant by the New Participant and to approve of the transfer of the Project from the Original Participant for all purposes of the Existing OPA, the City Loan Agreement and this Fourth Amendment is subject to satisfaction of each of the following items (a) through (d) (the “Authority Conditions Precedent”):

(a) The County Loan shall have been satisfied in full and the County Deed of Trust shall be released and reconveyed and evidence thereof shall be provided to the Executive Director of the Authority (the “Executive Director”);

(b) The ARCS Loan shall have been satisfied in full and the ARCS Deed of Trust shall be released and reconveyed and evidence thereof will be provided to the Executive Director;

(c) New Participant shall, at its cost, cause First American Title Company, or another mutually acceptable title insurance (“Title Insurer”) to deliver to Authority a lender’s ALTA policy of title insurance, insuring Authority, which is the holder of the First Amendment Agency Note, as beneficiary under the Agency Deed of Trust, subject only to the senior encumbrances set forth in the commitment for title insurance by First American Title Company dated as of April 24, 2015 (the “Title Commitment”) (but not the County Deed of Trust, the financing statement showing SAMCO as the secured party, or the deed of trust securing repayment of the ARCS Loan), and (ii) the Citi Deed of Trust; and

(d) New Participant and Original Participant shall execute and cause to be recorded among Official Records this Fourth Amendment and the “Subordination Agreement” (substantially in the form described in Section 11, below).

10. New Participant shall establish an escrow with First American Title Company or another mutually acceptable escrow holder (“Escrow Holder”) to implement the recording of this Fourth Amendment and any other documents to the extent provided herein. The parties shall cooperate with the preparation of escrow instructions consistent with the terms thereof.

11. Authority and City will, subject to satisfaction of the Authority Conditions Precedent, execute an intercreditor agreement substantially in the form of Exhibit “C” hereto (the “Subordination Agreement”) to be recorded concurrent with the Closing.

12. Original Participant remakes and reaffirms each and every representation and each and every warranty as made herein and by Original Participant in the Existing OPA (including the

Original OPA, the First Amendment, the Second Amendment and the Third Amendment) and the City Loan Agreement.

13. New Participant shall accomplish at its cost, without contribution by City or Authority, the New Improvements on or before the first anniversary of the Fourth Amendment Date.

14. All capitalized terms shall have the respective meanings established therefor in this Fourth Amendment, and, if not expressly defined herein, shall have the respective meanings established therefor in the Existing OPA. In the event of conflict, later agreements entered into by the Agency or Authority shall take precedence over definitions in earlier agreements. Provisions shall be considered in accordance with their common meaning before effect to the obligations of Original Participant and New Participant under this Fourth Amendment, the Existing OPA and the City Loan Agreement (as the Existing OPA and City Loan Agreement are amended by this Fourth Amendment).

15. Commencing on August 1, 2016 and continuing on each anniversary thereof, throughout the New Required Affordability Period, New Participant, at its expense, shall submit to each of the Authority and the City as an annual report (“Annual Report”) which shall include a certification by New Participant that the materials submitted are true, correct, accurate and complete and may be relied upon by each of Authority and City:

(a) Housing Compliance Reports.

(i) the reports described by Health and Safety Code Section 33418; such reports shall be made in the form as prescribed from time to time by the Authority and as further described in the remainder of this Section 15;

(ii) the “Annual Project Compliance Report: Rental Housing” in the form of Exhibit “E” hereto as to the HOME Units (the “HOME Report”) and as further described in the remainder of this Section 15; and

(iii) any reports submitted by New Participant to one or more of the California Tax Credit Allocation Committee, the tax credit investor, Citi or another institutional lender.

Each annual report shall cover the immediately preceding fiscal year. With regard to the HOME Units, rents shall be at the lower of (aa) the rents described in Recital B hereof or (bb) the rents allowed under the HOME Program Requirements, including the regulations adopted to implement the HOME Program, as to such Units.

The New Participant shall maintain on file each tenant’s executed lease and Income verification and rental records for the Required Affordable Units. The New Participant shall maintain complete and accurate records pertaining to the Required Affordable Units and will permit any duly authorized representative of the Authority to inspect the books and records of the New Participant pertaining to Existing OPA as amended by the Fourth Amendment and the Required Affordable Units. The New Participant shall prepare and submit to the Agency (or its designee) annually commencing August 1, 2016 and continuing each anniversary thereof throughout the New Required Affordability Period, a “Certificate of Continuing Program Compliance” in the form of Exhibit “D” and an “Annual Project Compliance Report: Rental Housing (HOME Units)” in the form

of Exhibit “E.” Such documentation shall state for each Required Affordable Unit the unit size, the rental amount, the number of occupants, and the income of the occupants and any other information which may be used to determine compliance with the terms of Existing OPA as amended by the Fourth Amendment. The New Participant shall additionally provide such other information and records as requested from time to time by the Authority using such forms as may be prescribed by Authority for verification of compliance and/or for the submittal of Authority reports to the State of California. The New Participant shall additionally provide such other information and records as requested from time to time by the City using such forms as may be prescribed by the City for verification of compliance with one or more of the regulations governing the HOME Program (“HOME Regulations”) and the HOME Program Requirements under the Existing OPA, the City Loan Agreement and the Fourth Amendment (including all attachments to such agreements) and/or for the submittal of City reports to HUD or such other agencies as may be reputable for administration of moneys made available under the HOME Program.

(b) Financial Reports.

As part of each Annual Report, the New Participant shall include a statement of amounts payable by New Participant under this Fourth Amendment supported by an audited financial statement (prepared by an independent accounting firm reasonably acceptable to the Authority and the City) which sets forth information in detail sufficient for adequate review by the Authority and the City for the purposes of confirming those amounts payable by the New Participant to the City under the City Note as modified by Section 7 of this Fourth Amendment and amounts payable to Authority under the First Amendment Agency Note as modified by Section 7 of this Fourth Amendment (“Annual Financial Report”) and any reports submitted by New Participant to one or more of the California Tax Credit Allocation Committee, the tax credit investor, Citi or another institutional lender. Each Annual Financial Report shall include, without limitation, a profit and loss statement showing gross revenues, operating expenses, debt service, operating reserve, capital replacement reserve, amounts paid as a developer fee and the outstanding balance of the Deferred developer fee, rental receipts and any other revenues generated at the Site (including without limitation laundry revenues), all certified by the Audited Financial Statement. In the event the amounts reported or paid deviate by three percent (3%) or more from that amount determined to be owing upon review of the New Participant’s submittal, New Participant shall reimburse Authority and, if applicable, the City, for its cost to review (which may require engagement of auditors and attorneys) and collect the amounts owing (including attorney fees); such amounts shall, until paid, be added to the amount payable under the First Amendment Agency Note (as modified by Section 7 of this Fourth Amendment) and, as applicable, the moneys payable to the City under the City Note (as modified by Section 7 of this Fourth Amendment).

16. Original Participant represents and warrants that as of the Fourth Amendment Date (but assuming for purposes of this Section 16 the payment of the Authority Fourth Amendment Amount):

(a) there are no defaults if any party under the City Loan Agreement, the County Loan Agreement and the Existing OPA and no event has occurred with which the passage of time could constitute a default; and

(b) Original Participant received in full the Developer Fee (as such capitalized term is referred to in the First Amendment).

17. New Participants represents and warrants that as of the Fourth Amendment Date (but assuming for purposes of this Section 17 the payment of the Authority Fourth Amendment Amount): there are no agreements and no materials facts concerning the refinancing proposed by Original Participant and New Participant which have not been provided to and disclosed in writing to each of City and Authority prior to the Fourth Amendment Date

18. Each of Original Participant and the New Participant, agrees to defend (by counsel satisfactory to Authority), indemnify and save harmless the Authority, the City and their officers, agents and employees from and against any claims, damages, demands, actions, losses, liabilities, costs, expenses (including, without limitation, attorneys' fees and court costs) arising from or relating to this Fourth Amendment.

19. Each of the City Loan Agreement and the Existing OPA, as modified by this Fourth Amendment, shall remain in full force and effect. This Fourth Amendment shall be interpreted to effectuate the terms of the City Loan Agreement and the Existing OPA as expressly modified by this Fourth Amendment, in accordance with the laws of the State of California, and as if prepared and reviewed equally by all parties hereto.

20. Each person executing this Fourth Amendment warrants that he or she has the authority to so execute this Fourth Amendment and that no further approval of any kind is necessary to bind the parties hereto.

21. Each of the Existing OPA (including the Original OPA, the First Amendment, the Second Amendment, and the Third Amendment) and the City Loan Agreement is on file with the Authority as a public record. This Fourth Amendment shall be maintained on file with the Authority as a public record.

22. This Fourth Amendment shall be interpreted as if equally prepared by each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Amendment to be executed as of _____, 2015.

ORIGINAL PARTICIPANT:

HEACOCK COTTONWOOD LIMITED PARTNERSHIP,
a California limited partnership

By: PALM COMMUNITIES, a California corporation, as successor to Palm Desert Development Company, a California corporation
(Its: General Partner)

By: _____
Dan Horn
Its: President

NEW PARTICIPANT:

MORENO VALLEY COTTONWOOD 1R PARTNERS, LP, a California limited partnership

By: PC MV Cottonwood 1R Developers LLC, a California limited liability company, its administrative general partner

By: Palm Communities, a California corporation, its sole member and manager

By: _____
Danavon L. Horn, President

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

HOUSING AUTHORITY:

MORENO VALLEY HOUSING AUTHORITY, a public body, corporate and politic

By: _____
Executive Director

CITY:

CITY OF MORENO VALLEY, a municipal corporation

By: _____
City Manager

EXHIBIT "A"**LEGAL DESCRIPTION OF THE SITE**

Real property in the City of Moreno Valley, County of Riverside, State of California, described as follows:

PARCEL ONE:

PARCEL "1" AS SHOWN BY LOT LINE ADJUSTMENT NO. 868/ AND CERTIFICATE OF COMPLIANCE RECORDED OCTOBER 06, 1997 AS INSTRUMENT NO. 363277 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF LOTS 3 AND 4 AND HEACOCK STREET IN BLOCK 98, MAP NUMBER 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, AS SHOWN BY MAP ON FILE IN BOOK 11 OF MAPS AT PAGE 10, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 4100-39 AS SAID PARCEL IS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON APRIL 11, 1967 IN BOOK 50 OF RECORDS OF SURVEY AT PAGES 49 THROUGH 53, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY;

THENCE, SOUTH 18° 43' 53" WEST ALONG THE WEST LINE OF SAID PARCEL FOR A DISTANCE OF 123.67 FEET TO AN ANGLE POINT IN SAID WEST LINE;

THENCE, SOUTH 06° 25' 24" WEST ALONG SAID WEST LINE FOR A DISTANCE OF 56.35 FEET TO AN ANGLE POINT IN SAID WEST LINE;

THENCE, SOUTH 18° 43' 53" WEST ALONG SAID WEST LINE FOR A DISTANCE OF 367.69 FEET;

THENCE, AT RIGHT ANGLES TO SAID WEST LINE, NORTH 71° 16' 07" WEST FOR A DISTANCE OF 119.17 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, SOUTH 18° 43' 53" WEST FOR A DISTANCE OF 18.00 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, NORTH 71° 16' 07" WEST FOR A DISTANCE OF 72.45 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, NORTH 18° 43' 53" EAST FOR A DISTANCE OF 17.89 FEET TO THE INTERSECTION THEREOF WITH A LINE PARALLEL TO, AND DISTANT 500.00 FEET SOUTHERLY FROM, THE CENTERLINE OF COTTONWOOD AVENUE (80.00 FEET WIDE) AS SHOWN ON SAID RECORD OF SURVEY;

THENCE, ALONG SAID PARALLEL LINE, NORTH 89° 59' 40" WEST FOR A DISTANCE OF 411.08 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, NORTH 00° 00' 20" EAST FOR A DISTANCE OF 500.00 FEET TO THE INTERSECTION THEREOF WITH SAID CENTERLINE;

THENCE, SOUTH 89° 59' 40" EAST ALONG SAID CENTERLINE FOR A DISTANCE OF 776.57 FEET TO THE INTERSECTION THEREOF WITH THE WEST LINE OF PARCEL 4100-1G AS SAID PARCEL IS SHOWN ON SAID RECORD OF SURVEY;

THENCE, SOUTH 26° 27' 20" WEST ALONG LAST SAID WEST LINE FOR A DISTANCE OF 44.75 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

INTENTIONALLY DELETED PARCEL

THREE:

INTENTIONALLY DELETED PARCEL

FOUR:

INTENTIONALLY DELETED PARCEL

FIVE:

EASEMENT FOR SEWER, WATER, DRAINAGE, ACCESS AND USAGE AS CREATED BY DOCUMENT ENTITLED "EASEMENT AND SHARED IMPROVEMENTS AGREEMENT", RECORDED FEBRUARY 23, 2005 AS INSTRUMENT NO. 2005-0143659 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 482-180-071-3

EXHIBIT “B”
LIST OF NEW IMPROVEMENTS

[to come]

EXHIBIT "C"**SUBORDINATION AGREEMENT**

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Citibank, N.A.
Transaction Management Group/ Post Closing
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Tanya Jimenez
Re: Cottonwood Place Phase 1 Deal No. 23164

SUBORDINATION AND INTERCREDITOR AGREEMENT

This **SUBORDINATION AND INTERCREDITOR AGREEMENT** (this "**Agreement**") dated as of November 1, 2015, is made by and among the **CITY OF MORENO VALLEY**, a municipal corporation in the State of California ("**City**"), the **MORENO VALLEY HOUSING AUTHORITY**, a public body corporate and politic ("**Authority**" and together with City, "**Junior Lender**"), **CITIBANK, N.A.**, a national banking association ("**Senior Lender**"), **MORENO VALLEY COTTONWOOD 1R PARTNERS LP**, a California limited partnership ("**Borrower**").

RECITALS:

A. Borrower has applied to California Statewide Communities Development Authority, a joint exercise of powers agency duly organized and existing under the laws of the State of California ("**Governmental Lender**"), for a loan (the "**Senior Loan**") for the acquisition, construction, rehabilitation, development, equipping and/or operation of a 109-unit multifamily residential project located in the City of Moreno Valley, Riverside County, California, known or to be known as Cottonwood Place Phase 1 (the "**Mortgaged Property**").

B. The Senior Loan is evidenced by (i) that certain Multifamily Note (Fixed Rate) dated as of the Closing Date in the maximum principal amount of \$[4,200,000] made by Borrower payable to the order of Governmental Lender (the "**Construction/Permanent Note**"), and (ii) that certain Multifamily Note (Variable Rate) dated as of the Closing Date in the maximum principal amount of \$[3,820,000] made by Borrower payable to the order of Governmental Lender (the "**Construction Note**" and together with the Construction/Permanent Note, the "**Senior Note**"), and (iii) that certain Senior Loan Agreement dated as of the date hereof between Borrower and Governmental Lender (the "**Senior Loan Agreement**"). As a condition to conversion of the Senior Loan to its permanent phase Borrower shall be required to repay the Construction Note in full.

C. The Senior Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof executed by Borrower for the benefit of Governmental Lender (the "**Security Instrument**"), which Security Instrument encumbers the Mortgaged Property.

D. Borrower has requested that Senior Lender enter into that certain Funding Loan Agreement dated as of the date hereof, between Governmental Lender and Senior Lender, pursuant

to which Senior Lender will make a loan to Governmental Lender (the “**Funding Loan**”), the proceeds of which will be used to make the Senior Loan pursuant to the Senior Loan Agreement to Borrower. The Senior Loan will be advanced to Borrower pursuant to that certain Construction Funding Agreement dated as of the date hereof between Borrower and Senior Lender (the “**Construction Funding Agreement**”; together with the Senior Note, the Security Instrument, the Senior Loan Agreement and all other documents executed in connection with the Senior Loan, including this Agreement, the “**Senior Loan Documents**”).

E. The Senior Note, the Security Instrument and the Senior Loan Agreement shall each be assigned by Governmental Lender to Senior Lender to secure the Funding Loan.

F. City has made a loan (the “**Junior City Loan**”) to Heacock Cottonwood Limited Partnership, a California limited partnership (“**Heacock**”), in the original principal amount of \$550,000, which Junior City Loan is (i) evidenced by that certain Loan Agreement, dated July 22, 1998, recorded in the Official Records of Riverside County (the “**Official Records**”) as Document No. 405168, by and between Heacock and City (the “**Junior City Loan Agreement**”), (ii) evidenced by that certain Promissory Note to the City of Moreno Valley, dated as of July 22, 2015, to City (the “**Junior City Note**”), and (iii) secured by that certain Subordinated Deed of Trust Security Agreement and Fixture Filing (With Assignment of Rents), dated as of July 22, 1998, recorded in the Official Records as Document No. 405169 (the “**Junior City Security Instrument**”).

G. The Community Redevelopment Agency of the City of Moreno Valley (“**CRA**”), has made a loan (the “**Junior CRA Loan**”, together with the Junior City Loan, the “**Junior Loan**”) to Heacock, in the original principal amount of \$1,700,000, which Junior CRA Loan is (i) evidenced by that certain Owner Participation Agreement, dated November 26, 1997, recorded in the Official Records as Document No. 033164, by and between Heacock and CRA (the “**Original CRA Agreement**”, as amended by each of: (a) that certain First Amendment to Owner Participation Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership, dated as of May 12, 1998 (the “**First Amendment**”), a copy of which was recorded among Official Records on May 26, 1998 as Instrument No. 98-210933, (b) that certain Second Amendment to Owner Participation Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership, dated as of May 25, 1999 (the “**Second Amendment**”), a copy of which is on file as Instrument No. 1999-286795 among Official Records as recorded June 28, 1999, (c) that certain Third Amendment to Owner Participant Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership, dated as of November 26, 2002 (the “**Third Amendment**”), a copy of which was recorded on January 8, 2003 as Instrument No. 2003-013862 among Official Records, and (d) that certain Fourth Amendment to Owner Participation Agreement, by and among Heacock, City, Authority and Borrower, a copy of which is being recorded of even date herewith, as so amended, the “**Junior CRA Loan Agreement**”, together with the Junior City Loan Agreement, the “**Junior Loan Agreement**”), (ii) evidenced by that certain Promissory Note to the Community Redevelopment Agency of the City of Moreno Valley, dated as of November 26, 1997, to CRA (the “**Junior CRA Note**”, together with the Junior City Note, the “**Junior Note**”), (iii) secured by that certain Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) dated as of May 25, 1999, recorded in the Official Records as Document No. 1999-291927, encumbering the Property (the “**Junior CRA Security Instrument**”, together with the Junior City Security Instrument, the “**Junior Security Instrument**”).

H. The Junior Loan is assumed by Borrower pursuant to the Fourth Amendment, dated on or about the date hereof, to be recorded in the Official Records, by and between Junior Lender and Borrower (which is also referred to herein as the “**Junior Loan Assumption Agreement**”).

I. The Senior Security Instrument is intended to be recorded in the Official Records.

J. As a condition to the making of the Senior Loan, Senior Lender requires that Junior Lender execute and deliver this Agreement prior to the granting of the Junior Security Instrument by Borrower.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce the making of the Senior Loan and to induce Senior Lender to consent to the Junior Loan and the Junior Security Instrument, Junior Lender hereby agrees as follows:

1. **Definitions.** Capitalized terms used but not defined in this Agreement shall have the meanings ascribed thereto in the Senior Security Instrument. As used in this Agreement, the terms set forth below shall have the respective meanings indicated:

“**Bankruptcy Proceeding**” means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

“**Casualty**” means the occurrence of damage to or loss of any of the Property by fire or other casualty.

“**Condemnation**” means any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Property, whether direct or indirect.

“**Enforcement Action**” means any exercise of any of Junior Lender’s remedies under the Junior Security Instrument or any of the other Junior Loan Documents, including, without limitation, any of the following: (i) the acceleration of all or any part of the Junior Indebtedness, (ii) the commencement of any judicial or non-judicial action of proceeding to enforce any obligation of Borrower under any of the Junior Loan Documents, collect any monies payable to Borrower or have a receiver appointed to collect any monies payable to Borrower, or foreclose the lien(s) created by the Junior Security Instrument, (iii) the filing or joining in the filing of any involuntary Bankruptcy Proceeding against Borrower or any person or entity which owns a direct or indirect interest in Borrower, (iv) the advertising of or commencement of any foreclosure or trustee’s sale proceedings, (v) the exercise of any power of sale, (vi) the acceptance of a deed or assignment in lieu of foreclosure or sale, (vii) the collecting of Rents, (viii) the obtaining of or seeking of the appointment of a receiver, (ix) the seeking of default interest, (x) the taking of possession or control of any of the Property, (xi) the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Junior Note or any other of the Junior Loan Documents, (xii) the exercise of any banker’s lien or rights of set-off or recoupment, or (xiii) the taking of any other enforcement action against Borrower, any other party liable for any of the Junior Indebtedness or obligated under any of the Junior Loan Documents, or the Property.

“**Enforcement Action Notice**” means a written notice from Junior Lender to Senior Lender, given following a Junior Loan Default and the expiration of any notice or cure periods provided for such Junior Loan Default in the Junior Loan Documents, setting forth in reasonable detail the Enforcement Action proposed to be taken by Junior Lender.

“**Junior Loan Default**” means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Junior Security Instrument.

“**Junior Loan Documents**” means, collectively, the Junior Note, the Junior Loan Agreement, the Junior Security Instrument, the Junior Loan Assumption Agreement and all other documents evidencing, securing or delivered in connection with the Junior Loan, all of which are listed on Schedule A attached hereto, together with such modifications, amendments and supplements thereto as are approved in writing by Senior Lender prior to their execution.

“**Loan Agreement**” means that certain Construction Loan Agreement dated as of the date hereof by and between Borrower and Senior Lender relating to the Senior Loan.

“**Loss Proceeds**” means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.

“**Property**” means (i) the land and improvements known or to be known as Cottonwood Place Phase 1, located in the City of Moreno Valley, Riverside County, State of California, which Property is more particularly described on Exhibit A attached hereto, and (ii) all furniture, fixtures and equipment located at such apartments and other property, accounts, deposits and rights and interests of Borrower encumbered by the Senior Security Instrument and/or the other Senior Loan Documents.

“**Senior Indebtedness**” means all indebtedness of any kind at any time evidenced or secured by, or arising under, the Senior Loan Documents, whether incurred, arising or accruing before or after the filing of any Bankruptcy Proceeding.

“**Senior Loan Default**” means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Senior Security Instrument.

“**Senior Loan Documents**” means, collectively, the Senior Security Instrument, the Senior Note, the Loan Agreement and all of the other documents, instruments and agreements now or hereafter evidencing, securing or otherwise executed in connection with the Senior Loan, as the same may from time to time be extended, consolidated, substituted for, modified, increased, amended and supplemented in accordance with the provisions of this Agreement.

“**Senior Note**” means the Note, as defined by the Senior Security Instrument, as the same may from time to time be extended, consolidated, substituted for, modified, increased, amended and supplemented.

“**Senior Security Instrument**” means that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof, made by Borrower for the

benefit of Senior Lender, as the same may from time to time be extended, consolidated, substituted for, modified, increased, amended and supplemented.

“**Servicer**” shall mean the Servicer contracting with or appointed by the Senior Lender to service the Senior Loan.

2. Junior Loan and Junior Loan Documents are Subordinate; Acts by Senior Lender do not Affect Subordination.

(a) Junior Lender hereby covenants and agrees on behalf of itself and its successors and permitted assigns that the Junior Indebtedness is and shall at all times continue to be, subordinate, subject and inferior (in payment and priority) to the prior payment in full of the Senior Indebtedness, and that the liens, rights, payment interests, priority interests and security interests granted to Junior Lender in connection with the Junior Loan and under the Junior Loan Documents are, and are hereby expressly acknowledged to be in all respects and at all times, subject, subordinate and inferior in all respects to the liens, rights, payment, priority and security interests granted to Senior Lender under the Senior Loan and the Senior Loan Documents and the terms, covenants, conditions, operations and effects thereof.

(b) Except as expressly set forth herein, repayment of the Junior Indebtedness, is and shall be postponed and subordinated to repayment in full of the Senior Loan. Prior to a Senior Loan Default (regardless of whether such Default occurs prior to or during the pendency of a Bankruptcy Proceeding), Junior Lender shall be entitled to receive and retain payments made pursuant to and in accordance with the terms of the Junior Loan Documents; provided, however, that no such payment is made more than ten (10) days in advance of the due date thereof. Junior Lender agrees that from and after such time as it has received from either Senior Lender or Borrower written notice that a Senior Loan Default then exists (which has not been expressly waived in writing by Senior Lender) or otherwise has actual knowledge of such a Senior Loan Default, Junior Lender shall not receive or accept any payments under the Junior Loan. If (i) Junior Lender receives any payment, property, or asset of any kind or in any form on account of the Junior Indebtedness (including, without limitation, any proceeds from any Enforcement Action) after a Senior Loan Default of which Junior Lender has actual knowledge or has been given notice, or (ii) Junior Lender receives, voluntarily or involuntarily, by operation of law or otherwise, any payment, property, or asset in or in connection with any Bankruptcy Proceeding, such payment, property, or asset will be received and held in trust for Senior Lender. Junior Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets to Senior Lender. Senior Lender shall apply any payment, asset, or property so received from Junior Lender to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Senior Lender shall determine in its sole and absolute discretion.

(c) Without limiting the complete subordination of the Junior Indebtedness to the payment in full of the Senior Indebtedness, in any Bankruptcy Proceeding, upon any payment or distribution (whether in cash, property, securities, or otherwise) to creditors (i) the Senior Indebtedness shall first be paid in full in cash before Junior Lender shall be entitled to receive any payment or other distribution on account of or in respect of the Junior Indebtedness, and (ii) until all of the Senior Indebtedness is paid in full in cash, any payment or distribution to

which Junior Lender would be entitled but for this Agreement (whether in cash, property, or other assets) shall be made to Senior Lender.

(d) The subordination of the Junior Indebtedness shall continue in the event that any payment under the Senior Loan Documents (whether by or on behalf of Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to Borrower or its insolvent estate, or avoided, set aside or required to be paid to Borrower, a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law. In such event, the Senior Indebtedness or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of the Senior Indebtedness had not been made.

(e) The subordination of the Junior Loan Documents and of the Junior Indebtedness shall apply and continue notwithstanding (i) the actual date and time of execution, delivery, recording, filing or perfection of the Senior Security Instrument and other Senior Loan Documents and of the Junior Security Instrument and other Junior Loan Documents, and (ii) the availability of any collateral to Senior Lender, including the availability of any collateral other than the Property.

(f) By reason of, and without in any way limiting, the full subordination of the Junior Indebtedness and the Junior Loan Documents provided for in this Agreement, all rights and claims of Junior Lender under the Junior Security Instrument or under the Junior Loan Documents in or to the Property or any portion thereof, the proceeds thereof, the Leases thereof, the Rents, issues and profits therefrom, and the Loss Proceeds payable with respect thereto, are expressly subject and subordinate in all respects to the rights and claims of Senior Lender under the Senior Loan Documents in and to the Property or any portion thereof, the proceeds thereof, the Leases thereof, the Rents, issues and profits therefrom, and the Loss Proceeds payable with respect thereto.

(g) If Junior Lender, by indemnification, subrogation or otherwise, shall acquire any lien, estate, right or other interest in any of the Property, that lien, estate, right or other interest shall be fully subject and subordinate to the receipt by Senior Lender of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Junior Indebtedness and the Junior Loan Documents are subordinate pursuant to this Agreement.

(h) In confirmation, and not as a condition, of the subordination of the Junior Indebtedness and the Junior Loan Documents provided for in this Agreement, the Junior Note shall be deemed subordinate to the Senior Indebtedness without necessity of any amendment to the Junior Note.

(i) Junior Lender hereby acknowledges and agrees that Senior Lender may, without the consent or approval of Junior Lender, agree with Borrower to extend, consolidate, modify, increase or amend any or all the Senior Loan Documents and otherwise act or fail to act with respect to any matter set forth in any Senior Loan Document (including, without limitation, the exercise of any rights or remedies, waiver, forbearance or delay in enforcing any rights or remedies, the declaration of acceleration, the declaration of defaults or events of default, the release, in whole or in part, of any collateral or other property, and

any consent, approval or waiver), and all such extensions, consolidations, modifications, amendments acts and omissions shall not release, impair or otherwise affect Junior Lender's obligations and agreements hereunder. Notwithstanding the foregoing, the Junior Lender's consent shall be required with respect to any extension of the maturity date for the permanent term of the Senior Loan as set forth in the Senior Loan Documents or an increase in the Senior Loan amount during the permanent term to an amount above \$[4,200,000], except on account of (a) increases due to advances made by Senior Lender to protect or preserve the Mortgaged Property, the lien of the Senior Security Instrument or to cure a Junior Loan Default, or (b) a shortening of the maturity date for the Senior Loan as set forth in the Senior Loan Documents.

3. **Junior Lender Agreements.**

(a) Without the prior written consent of Senior Lender in each instance, Junior Lender shall not (i) amend, modify, waive, extend, renew or replace any provision of any of the Junior Loan Documents, or (ii) pledge, assign, transfer, convey, or sell any interest in the Junior Indebtedness or any of the Junior Loan Documents; or (iii) accept any payment on account of the Junior Indebtedness other than a regularly scheduled payment of interest or principal and interest made not earlier than ten (10) days prior to the due date thereof; or (iv) take any action which has the effect of increasing the Junior Indebtedness; or (v) appear in, defend or bring any action in connection with the Property; or (vi) take any action concerning environmental matters affecting the Property. Regardless of any contrary provision in the Junior Loan Documents, Junior Lender shall not collect payments for the purpose of escrowing for any cost or expense related to the Property or for any portion of the Junior Indebtedness.

(b) Junior Lender hereby agrees that Senior Lender may, at its option (but without any obligation to do so), at any time (including during the pendency of a Bankruptcy Proceeding), purchase the Junior Loan at par (and without liability for any prepayment premiums or liquidated damages set forth in the Junior Loan Documents). Such transfer and assignment of the Junior Loan shall be without representation or recourse, except that Junior Lender shall represent that it is the sole holder of the Junior Loan, that it has authority to assign and convey the Junior Loan Documents, that, to the best of its knowledge, there are no defaults or breaches under the Junior Loan Documents, and as to the total amount then outstanding under the Junior Loan. Additionally, Senior Lender shall have the right, but shall not have any obligation, to cure any Junior Loan Default until ninety (90) days following Senior Lender's receipt of an Enforcement Action Notice given by Junior Lender as a consequence of the Junior Loan Default. Senior Lender shall not be subrogated to the rights of Junior Lender under the Junior Loan Documents by reason of Senior Lender having cured any Junior Loan Default. However, Junior Lender acknowledges that all amounts advanced or expended by Senior Lender to cure a Junior Loan Default shall be added to and become a part of the Senior Indebtedness pursuant to the terms of the Senior Security Instrument.

(c) In the event and to the extent that each of Senior Lender and Junior Lender have under their respective loan documents certain approval or consent rights over the same subject matters (regardless of whether the obligations or rights are identical or substantially identical), Junior Lender agrees that Senior Lender shall exercise such approval rights on behalf of both Senior Lender and Junior Lender, and Junior Lender shall have no right to object to any such action or approval taken by Senior Lender and shall consent thereto and be

bound thereby. Without limiting the generality of the foregoing, Senior Lender shall have all approval, consent and oversight rights in connection with any insurance claims relating to the Property, any decisions regarding the use of insurance proceeds after a casualty loss or condemnation awards, the hiring or firing of property managers, or otherwise related in any way to the Property, and Junior Lender shall have no right to object to any such action or approval taken by Senior Lender and shall consent thereto and be bound thereby.

(d) Junior Lender agrees that in any action commenced to enforce the obligation of Borrower to pay any portion of the Junior Indebtedness, the judgment shall not be enforceable personally against Borrower or Borrower's assets, and the recourse of Junior Lender for the collection of the Junior Indebtedness shall be limited to actions against the Property and the rents, profits, issues, products, and income from the Property.

(e) Junior Lender shall not commence or join with any other creditor in commencing any Bankruptcy Proceeding involving Borrower, and Junior Lender shall not initiate and shall not be a party to any action, motion or request, in a Bankruptcy Proceeding not joined in by Senior Lender involving any other person or entity, which seeks the consolidation of some or all of the assets of Borrower into such Bankruptcy Proceeding. In the event of any Bankruptcy Proceeding relating to Borrower or the Property or, in the event of any Bankruptcy Proceeding relating to any other person or entity into which (notwithstanding the covenant in the first sentence of this clause) the assets or interests of Borrower are consolidated, then in either event, the Senior Loan shall first be paid in full before Junior Lender shall be entitled to receive and retain any payment or distribution in respect to the Junior Loan. Junior Lender agrees that (i) Senior Lender shall receive all payments and distributions of every kind or character in respect of the Junior Loan to which Junior Lender would otherwise be entitled, but for the subordination provisions of this Agreement (including without limitation, any payments or distributions during the pendency of a Bankruptcy Proceeding involving Borrower or the Property), and (ii) the subordination of the Junior Loan and the Junior Loan Documents shall not be affected in any way by Senior Lender electing, under Section 1111(b) of the federal bankruptcy code, to have its claim treated as being a fully secured claim. In addition, Junior Lender hereby covenants and agrees that, in connection with a Bankruptcy Proceeding involving Borrower, neither Junior Lender nor any of its affiliates shall (i) make or participate in a loan facility to or for the benefit of Borrower on a basis that is senior to or *pari passu* with the liens and interests held by Senior Lender pursuant to the Senior Loan Documents, (ii) not vote affirmatively in favor of any plan of reorganization or liquidation unless Senior Lender has also voted affirmatively in favor of such plan, and (iii) not contest the continued accrual of interest on the Senior Indebtedness, in accordance with and at the rates specified in the Senior Loan Documents, both for periods before and for periods after the commencement of such Bankruptcy Proceedings. Junior Lender shall execute and deliver to Senior Lender powers of attorney, assignments or other instruments as may be requested by Senior Lender in order to enable it to exercise the above-described authority or powers with respect to any or all of the Junior Loan Documents, and to collect and receive any and all payments or distributions which may be payable or deliverable at any time upon or with respect to any of the Junior Loan Documents to Junior Lender.

(f) Junior Lender covenants and agrees that the effectiveness of this Agreement and the rights of Senior Lender hereunder shall be in no way impaired, affected, diminished or released by any renewal or extension of the time of payment of the Senior Loan, by any

delay, forbearance, failure, neglect or refusal of Senior Lender in enforcing payment thereof or in enforcing the lien of or attempting to realize upon the Senior Loan Documents or any other security which may have been given or may hereafter be given for the Senior Loan, by any waiver or failure to exercise any right or remedy under the Senior Loan Documents, or by any other act or failure to act by Senior Lender. Junior Lender acknowledges that Senior Lender, at its sole option, may release all or any portion of the Property from the lien of the Senior Security Instrument, and may release or waive any guaranty, surety or indemnity providing additional collateral to Senior Lender, and Junior Lender hereby waives any legal or equitable right in respect of marshaling it might have, in connection with any release of all or any portion of the Property by Senior Lender, to require the separate sales of any portion of the Property or to require Senior Lender to exhaust its remedies against any portion of the Property or any other collateral before proceeding against any other portion of the Property or other collateral (including guarantees) for the Senior Loan. Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Junior Lender. At any time or from time to time and any number of times, without notice to Junior Lender and without affecting the liability of Junior Lender, (a) the time for payment of the Senior Indebtedness may be extended or the Senior Indebtedness may be renewed in whole or in part; (b) the time for Borrower's performance of or compliance with any covenant or agreement contained in the Senior Loan Documents, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived; (c) the maturity of the Senior Indebtedness may be accelerated as provided in the Senior Loan Documents; (d) any Senior Loan Document may be modified or amended by Senior Lender and Borrower in any respect, including, but not limited to, an increase in the principal amount; and (e) any security for the Senior Indebtedness may be modified, exchanged, surrendered or otherwise dealt with or additional security may be pledged or mortgaged for the Senior Indebtedness. If, after the occurrence of a Senior Loan Default, Senior Lender acquires title to any of the Property pursuant to a mortgage foreclosure conducted in accordance with applicable law, the lien, operation, and effect of the Junior Security Instrument and other Junior Loan Documents automatically shall terminate with respect to such Property upon Senior Lender's acquisition of title.

(g) Junior Lender acknowledges that it entered into the transactions contemplated by the Junior Loan Documents and made the Junior Loan to Borrower without reliance upon any information or advice from Senior Lender. Junior Lender made its own underwriting analysis in connection with the Junior Loan, its own credit review of Borrower, and investigated all matters pertinent, in Junior Lender's judgment, to its determination to make the Junior Loan to Borrower. Junior Lender acknowledges that it is a sophisticated, experienced commercial lender, and was represented by competent counsel in connection with this Agreement.

(h) Junior Lender hereby represents and warrants that, as of the date hereof, the entire proceeds of the Junior Loan have been disbursed to Borrower. Junior Lender hereby further represents and warrants that: (i) Junior Lender is now the owner and holder of the Junior Loan Documents (City as to the Junior City Note and Authority as to the Junior CRA Note); (ii) the Junior Loan Documents are now in full force and effect; (iii) the Junior Loan Documents have not been modified or amended except as provided under the First Amendment, Second Amendment, Third Amendment and Fourth Amendment; (iv) except to the extent set forth in the Fourth Amendment and subject to the satisfaction of the Authority

Conditions Precedent as set forth therein, no default or event which, with the passing of time or giving of notice would constitute a default, under the Junior Loan Documents has occurred; (v) the current principal balance of the Junior Indebtedness is \$[646,250.00 as to the Junior City Note and \$529,546.22 as to the Junior CRA Note]; (vi) excepting for the payment to Authority of \$900,000 as provided under Section 3 of the Fourth Amendment, no scheduled monthly payments under the Junior Note have been or will be prepaid except with the prior written consent of Senior Lender; (vii) none of the rights of Junior Lender under any of the Junior Loan Documents are subject to the rights of any third parties, by way of subrogation, indemnification or otherwise; and (viii) there are no other Junior Loan Documents other than those listed on Exhibit B hereto. Borrower further represents and warrants that it has provided to Senior Lender a true, complete, and correct copy of all the Junior Loan Documents.

(i) Junior Lender hereby agrees that notwithstanding anything to the contrary in the Junior Loan Documents, for so long as the Senior Loan is outstanding, (i) the maturity date of the Junior Note shall occur no earlier than one (1) month after the maturity date of the Senior Note, and (ii) Borrower shall not be obligated to pay more than seventy-five percent (75%) of Residual Receipts as defined in the Fourth Amendment to the Owner Participation Agreement in payments under the Junior Note. For the purposes hereof, the following definitions shall apply:

4. Standstill Agreement; Right to Cure Senior Loan Default.

(a) Until such time as any of the Senior Indebtedness has been repaid in full and the Senior Security Instrument has been released and discharged, Junior Lender shall not without the prior written consent of Senior Lender, which may be withheld in Senior Lender's sole and absolute discretion, take any Enforcement Action, including, without limitation, (i) accelerate the Junior Loan, (ii) exercise any of Junior Lender's remedies under the Junior Security Instrument or any of the other Junior Loan Documents (including, without limitation, the commencement of any judicial or non-judicial action of proceeding (a) to enforce any obligation of Borrower under any of the Junior Loan Documents, (b) to collect any monies payable to Borrower, (c) to have a receiver appointed to collect any monies payable to Borrower; or (d) to foreclose the lien(s) created by the Junior Security Instrument) or (iii) file or join in the filing of any involuntary Bankruptcy Proceeding against Borrower or any person or entity which owns a direct or indirect interest in Borrower; provided, however, that such limitation on the remedies of Junior Lender shall not derogate or otherwise limit Junior Lender's rights, following an event of default under the Junior Loan Documents to (a) compute interest on all amounts due and payable under the Junior Loan at the default rate described in the Junior Loan Documents, (b) compute prepayment premiums and late charges, and (c) enforce against any person, other than Borrower and any guarantors or indemnitors under the Senior Loan Documents, any guaranty of the obligations of Borrower under the Junior Loan.

(b) Senior Lender shall, simultaneously with the sending of any notice of a Senior Loan Default to Borrower, send to Junior Lender a copy of said notice under the Senior Loan Documents; provided, however, failure to do so shall not affect the validity of such notice or any obligation of Borrower to Senior Lender and shall not affect the relative priorities between the Senior Loan and the Junior Loan as set forth herein. Borrower covenants and agrees to forward to Junior Lender, within three (3) business days of

Borrower's receipt thereof, a copy of any notice of a Senior Loan Default Borrower receives from Senior Lender.

(c) Junior Lender shall have the right, but shall have no obligation, to cure any Senior Loan Default; provided, if Junior Lender shall elect to cure any such Default, it shall so notify Senior Lender and shall commence and complete such curing within any applicable notice or grace period, if any, as Borrower is permitted by the terms of the Senior Loan Documents to cure such Senior Loan Default. Junior Lender shall not be subrogated to the rights of Senior Lender under the Senior Loan Documents by reason of Junior Lender having cured any Senior Loan Default. However, Senior Lender acknowledges that, to the extent so provided in the Junior Loan Documents, amounts advanced or expended by Junior Lender to cure a Senior Loan Default may be added to and become a part of the Junior Indebtedness.

(d) Junior Lender agrees that, notwithstanding any contrary provision contained in the Junior Loan Documents, a Senior Loan Default shall not constitute a default under the Junior Loan Documents if no other default occurred under the Junior Loan Documents.

(e) Junior Lender acknowledges that any conveyance or other transfer of title to the Property pursuant to a foreclosure of the Junior Security Instrument (including a conveyance or other transfer of title pursuant to the exercise of a power of sale contained in the Junior Security Instrument), or any deed or assignment in lieu of foreclosure or similar arrangement, shall be subject to the transfer provisions of the Senior Loan Documents; and the person (including Junior Lender) who acquires title to the Property pursuant to the foreclosure proceeding (or pursuant to the exercise of a power of sale contained in the Junior Security Instrument) shall not be deemed to be automatically approved by Senior Lender.

5. **Insurance.** Junior Lender agrees that all original policies of insurance required pursuant to the Senior Security Instrument shall be held by Senior Lender. The preceding sentence shall not preclude Junior Lender from requiring that it be named as a loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Property, provided such action does not affect the priority of payment of the proceeds of property damage insurance under the Senior Security Instrument, or that it be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Property.

6. **Default.** Junior Lender and Borrower acknowledge and agree that a default by either such party under this Agreement shall, at the sole option of Senior Lender, constitute a default under the Senior Loan Documents. Each party hereto acknowledges that in the event any party fails to comply with its obligations hereunder, the other parties shall have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief. No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder.

7. **Enforcement Costs.** Borrower and Junior Lender agree to reimburse Senior Lender for any and all costs and expenses (including reasonable attorneys' fees) incurred by Senior Lender in connection with enforcing its rights against Junior Lender under this Agreement.

8. **Notices.** Any notice which any party hereto may be required or may desire to give hereunder shall be deemed to have been given and shall be effective only if it is in writing and (i) delivered personally, (ii) mailed, postage prepaid, by United State registered or certified mail, return receipts requested, (iii) delivered by overnight express courier or (iv) sent by telecopier, in each instance addressed as follows:

To Junior Lender: City of Moreno Valley and Moreno Valley Housing Authority
14177 Frederick Street
Moreno Valley, California 92553
Attention: City Manager and Executive Director
Facsimile: (951) 413-3459

To Senior Lender: Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Transaction Management Group
Re: Cottonwood Place Phase 1 Deal No. 23164
Facsimile: (212) 723-8209

AND

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Re: Cottonwood Place Phase 1 Deal No. 23164
Facsimile: (805) 557-0924

Prior to the Conversion Date, with a copy to: Citibank, N.A.
787 W. Fifth Street, 29th Floor
Los Angeles, California 90071
Attention: Account Specialist
Re: Cottonwood Place Phase 1 Deal No. 23164
Facsimile: (213) 624-3380

Following the Conversion Date, with a copy to: Citibank, N.A.
c/o Berkadia Commercial Servicing Department
323 Norristown Road, Suite 300
Ambler, Pennsylvania 19002
Attention: Client Relations Manager
Re: Cottonwood Place Phase 1 Deal No. 23164
Facsimile: (215) 328-0305

And a copy of any notices of default sent to: Citibank, N.A.
388 Greenwich Street
New York, New York 10013
Attention: General Counsel's Office
Re: Cottonwood Place Phase 1 Deal No. 23164
Facsimile: (646) 219-5754

or at such other addresses or to the attention of such other persons as may from time to time be designated by the party to be addressed by written notice to the other in the manner herein provided. Notices, demands and requests given in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder when received or when delivery is refused or when the same are returned to sender for failure to be called for.

9. **WAIVER OF TRIAL BY JURY.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF THE PARTIES HERETO (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

10. **Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Junior Loan Documents, other than by reason of payments which Junior Lender is obligated to remit to Senior Lender pursuant to the terms hereof; (iii) the acquisition by Senior Lender of title to the Property pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale contained in) the Senior Security Instrument; or (iv) the acquisition by Junior Lender of title to the Property pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale contained in) the Junior Security Instrument, but only if such acquisition of title does not violate any of the terms of this Agreement.

11. **Miscellaneous.**

(a) Junior Lender shall, within ten (10) business days following a request from Senior Lender, provide Senior Lender with a written statement setting forth the then current outstanding principal balance of the Junior Loan, the aggregate accrued and unpaid interest under the Junior Loan, and stating whether, to the knowledge of Junior Lender, any default or event of default exists under the Junior Loan, and containing such other information with respect to the Junior Indebtedness as Senior Lender may require. Upon notice from Senior Lender from time to time, Junior Lender shall execute and deliver such additional instruments and documents, and shall take such actions, as are required by Senior Lender in order to further evidence or effectuate the provisions and intent of this Agreement.

(b) Junior Lender shall give Senior Lender a concurrent copy of each notice of a Junior Loan Default or other material notice given by Junior Lender under the Junior Loan Documents.

(c) This Agreement shall bind and inure to the benefit of all successors and assigns of Junior Lender and Senior Lender. Senior Lender may assign its interest in the Senior Loan Documents without notice to or consent of Junior Lender. Junior Lender may

only assign its rights and interests hereunder following the prior written consent of Senior Lender, which consent may be withheld or conditioned in its sole and absolute discretion.

(d) Senior Lender hereby consents to the Junior Loan and the Junior Loan Documents; provided, however, that this Agreement does not constitute an approval by Senior Lender of the terms of the Junior Loan Documents. Junior Lender hereby consents to the Senior Loan and the Senior Loan Documents; provided, however, that this Agreement does not constitute an approval by Junior Lender of the terms of the Senior Loan Documents.

(e) This Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

(f) IN ALL RESPECTS, INCLUDING, WITHOUT LIMITATION, MATTERS OF CONSTRUCTION AND PERFORMANCE OF THIS AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER, THIS AGREEMENT HAS BEEN ENTERED INTO AND DELIVERED IN, AND SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY, THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED, WITHOUT GIVING EFFECT TO ANY PRINCIPLES OF CONFLICTS OF LAW.

(g) Time is of the essence in the performance of every covenant and agreement contained in this Agreement.

(h) If any provision or remedy set forth in this Agreement for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or remedy of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or remedy had never been set forth herein, but only to the extent of such invalidity, illegality or unenforceability.

(i) Each party hereto hereby represents and warrants that this Agreement has been duly authorized, executed and delivered by it and constitutes a legal, valid and binding agreement enforceable in all material respects in accordance with its terms.

(j) Borrower hereby acknowledges and consents to the execution of this Agreement, and agrees to be bound by the provisions hereof that are applicable to Borrower. Solely as between Senior Lender and Junior Lender, all of the signatories below hereby agree that to the extent of any conflict between the terms and provisions of this Agreement and the terms and provisions of the Senior Loan Documents and/or the Junior Loan Documents respectively, the terms and provisions of this Agreement shall govern and control. By executing this Agreement in the place provided below, Borrower hereby (i) acknowledges the provisions hereof, (ii) agrees not to take any action inconsistent with Senior Lender's rights or Junior Lender's rights under this Agreement, (iii) waives and relinquishes to the maximum extent permitted by law any and all rights, defenses and claims now existing or hereinafter accruing relating to Junior Lender's forbearance from exercising any rights and remedies pursuant to Section 4 of this Agreement, including, without limitation, any defenses based on the statute of limitations or any equitable defenses, such as laches, and (iv) acknowledges and agrees that (A) this Agreement is entered into for the sole protection and benefit of Senior

Lender and Junior Lender (and their respective successors, assigns and participants), and no other person (including Borrower) shall have any benefits, rights or remedies under or by reason of this Agreement, (B) nothing in this Agreement is intended, or shall be construed to, relieve or discharge the obligations or liabilities of any third party (including Borrower under the Senior Loan Documents and the Junior Loan Documents), (c) neither of them nor any of their affiliates shall be, or be deemed to be, beneficiaries of any of the provisions hereof or have any rights hereunder whatsoever, and (D) no provision of this Agreement is intended to, or shall be construed to, give any such third party (including Borrower) any right subrogating to the rights of, or action against, Senior Lender or Junior Lender.

(k) No amendment, supplement, modification, waiver or termination of this Agreement shall be effective against any party unless such amendment, supplement, modification, waiver or termination is contained in a writing signed by such party.

(l) No party other than Senior Lender and Junior Lender shall have any rights under, or be deemed a beneficiary of any of the provisions of, this Agreement.

(m) Nothing herein or in any of the Senior Loan Documents or Junior Loan Documents shall be deemed to constitute Senior Lender as a joint venturer or partner of Junior Lender.

12. **Disbursement Provisions.** N/A

13. **Attached Exhibits.**

The following Exhibits are attached to this Agreement and are incorporated by reference herein as if more fully set forth in the text hereof:

Exhibit A – Legal Description

Exhibit B – Junior Loan Documents

Exhibit C – Modifications to Subordination and Intercreditor Agreement

The terms of this Agreement are modified and supplemented as set forth in said Exhibits. To the extent of any conflict or inconsistency between the terms of said Exhibits and the text of this Agreement, the terms of said Exhibits shall be controlling in all respects.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Subordination and Intercreditor Agreement or caused this Subordination and Intercreditor Agreement to be duly executed and delivered by their respective authorized representatives as of the date first set forth above. The undersigned intend that this instrument shall be deemed to be signed and delivered as a sealed instrument.

CITY:

CITY OF MORENO VALLEY, a municipal corporation in the State of California

By: _____
Name:
Title:

AUTHORITY:

MORENO VALLEY HOUSING AUTHORITY, a public body corporate and politic

By: _____
Name:
Title:

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

SENIOR LENDER:

CITIBANK, N.A.

By: _____

Name: Bryan Barker

Title: Vice President

ACKNOWLEDGED AND AGREED AS OF THE DATE FIRST SET FORTH ABOVE:

BORROWER:

**MORENO VALLEY COTTONWOOD 1R
PARTNERS LP,**

a California limited partnership

By: PC MV Cottonwood 1R Developers LLC, a
California limited liability company, its
administrative general partner

By: Palm Communities, a California
corporation, its sole member and
manager

By: _____

Name: Danavon L. Horn

Its: President

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

EXHIBIT A**LEGAL DESCRIPTION**

Real property in the City of Moreno Valley, Riverside County, California, described as follows:

PARCEL ONE:

PARCEL "1" AS SHOWN BY LOT LINE ADJUSTMENT NO. 868/ AND CERTIFICATE OF COMPLIANCE RECORDED OCTOBER 06, 1997 AS INSTRUMENT NO. 363277 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF LOTS 3 AND 4 AND HEACOCK STREET IN BLOCK 98, MAP NUMBER 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, AS SHOWN BY MAP ON FILE IN BOOK 11 OF MAPS AT PAGE 10, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 4100-39 AS SAID PARCEL IS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON APRIL 11, 1967 IN BOOK 50 OF

RECORDS OF SURVEY AT PAGES 49 THROUGH 53, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY;

THENCE, SOUTH 18° 43' 53" WEST ALONG THE WEST LINE OF SAID PARCEL FOR A DISTANCE OF 123.67 FEET TO AN ANGLE POINT IN SAID WEST LINE;

THENCE, SOUTH 06° 25' 24" WEST ALONG SAID WEST LINE FOR A DISTANCE OF 56.35 FEET TO AN ANGLE POINT IN SAID WEST LINE;

THENCE, SOUTH 18° 43' 53" WEST ALONG SAID WEST LINE FOR A DISTANCE OF 367.69 FEET;

THENCE, AT RIGHT ANGLES TO SAID WEST LINE, NORTH 71° 16' 07" WEST FOR A DISTANCE OF 119.17 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, SOUTH 18° 43' 53" WEST FOR A DISTANCE OF 18.00 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, NORTH 71° 16' 07" WEST FOR A DISTANCE OF 72.45 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, NORTH 18° 43' 53" EAST FOR A DISTANCE OF 17.89 FEET TO THE INTERSECTION THEREOF WITH A LINE PARALLEL TO, AND DISTANT 500.00 FEET SOUTHERLY FROM, THE CENTERLINE OF COTTONWOOD AVENUE (80.00 FEET WIDE) AS SHOWN ON SAID RECORD OF SURVEY;

THENCE, ALONG SAID PARALLEL LINE, NORTH 89° 59' 40" WEST FOR A DISTANCE OF 411.08 FEET;

THENCE, AT RIGHT ANGLES TO LAST SAID LINE, NORTH 00° 00' 20" EAST FOR A DISTANCE OF 500.00 FEET TO THE INTERSECTION THEREOF WITH SAID CENTERLINE;

THENCE, SOUTH 89° 59' 40" EAST ALONG SAID CENTERLINE FOR A DISTANCE OF 776.57 FEET TO THE INTERSECTION THEREOF WITH THE WEST LINE OF PARCEL 4100-1G AS SAID PARCEL IS SHOWN ON SAID RECORD OF SURVEY;

THENCE, SOUTH 26° 27' 20" WEST ALONG LAST SAID WEST LINE FOR A DISTANCE OF 44.75 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

INTENTIONALLY DELETED PARCEL

THREE:

INTENTIONALLY DELETED PARCEL

FOUR:

INTENTIONALLY DELETED PARCEL

FIVE:

EASEMENT FOR SEWER, WATER, DRAINAGE, ACCESS AND USAGE AS CREATED BY DOCUMENT ENTITLED "EASEMENT AND SHARED IMPROVEMENTS AGREEMENT", RECORDED FEBRUARY 23, 2005 AS INSTRUMENT NO. 2005-0143659 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 482-180-071-3

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

EXHIBIT B**JUNIOR LOAN DOCUMENTS**

- A. Loan Agreement, dated July 22, 1998, recorded in the Official Records as Document No. 405168, by and between Heacock and Junior Lender.
- B. Promissory Note to the City of Moreno Valley, dated as of July 22, 2015, to Junior Lender.
- C. Deed of Trust Security Agreement and Fixture Filing (With Assignment of Rents), dated as of July 22, 1998, recorded in the Official Records as Document No. 405169.
- D. Owner Participation Agreement, dated November 26, 1997, recorded in the Official Records as Document No. 033164, by and between Heacock and CRA.
- E. Promissory Note to the Community Redevelopment Agency of the City of Moreno Valley, dated as of November 26, 1997, to CRA.
- F. Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) dated as of May 25, 1999, recorded in the Official Records as Document No. 1999-291927.
- G. First Amendment to Owner Participation Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership dated as of May 12, 1998, a copy of which was recorded in the Official Records on May 26, 1998 as Instrument No. 98-210933.
- H. Second Amendment to Owner Participation Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership dated as of May 25, 1999, a copy of which is on file as Instrument No. 1999-286795 in the Official Records as recorded June 28, 1999.
- I. Third Amendment to Owner Participant Agreement by and between the Community Redevelopment Agency of the City of Moreno Valley and Heacock Cottonwood Limited Partnership dated as of November 26, 2002, a copy of which was recorded on January 8, 2003 as Instrument No. 2003-013862 in the Official Records.
- J. Fourth Amendment to Owner Participation Agreement by and among Heacock, City, Authority and Borrower, a copy of which is being dated on or about the date hereof, to be recorded of even date hereof in the Official Records.

EXHIBIT C
MODIFICATIONS TO
SUBORDINATION AND INTERCREDITOR AGREEMENT

The following modifications are made to the text of the Agreement that precedes this Exhibit:

None.

Capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Agreement.

EXHIBIT "D"

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

To: City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552-0805
Attention: City Manager

And: Moreno Valley Housing Authority
14177 Frederick Street
Moreno Valley, California 92552-0805
Attention: Executive Director

The undersigned, _____, being duly authorized to execute this Certificate of Continuing Program Compliance (this "Certificate") on behalf of Moreno Valley Cottonwood 1R Partners, LP, a California limited partnership (the "New Participant"), hereby represents and warrants that:

1. He has read and is thoroughly familiar with the provisions of the Fourth Amendment to Owner Participant ("Fourth Amendment") by and among the City, the Authority, Heacock Cottonwood Limited Partnership, a California limited partnership ("Original Participant") and New Participant dated as of October 27, 2015, as well as the instruments referenced therein (including without limitation the "Original OPA", the "First Amendment", the "Second Amendment", the "Third Amendment", the "City Loan Agreement", the "First Amendment Agency Note", all as defined therein). Capitalized terms used herein shall have the same meaning as that set forth in the Fourth Amendment; and

2. As of the date of this Certificate, the following number of completed residential units at the Site: (i) are currently occupied by Very Low Income Households at Affordable Rent; (ii) are currently occupied by Lower Income Households at Affordable Rent; or (iii) are currently vacant and being held available for occupancy by a Very Low Income Household and have been so held continuously since the date a Very Low Income Household vacated such unit:

Occupied at an Affordable Rent by:

Very Low Income Households (50%)	# of Units, Nos.:
Lower Income Households (60%)	# of Units, Nos.:

Vacant:

a. Held for occupancy by:

i. Very Low Income Households (50%)	# of Units, Nos.:
ii. Lower Income Households (60%)	# of Units, Nos.:

b. Last occupied by:

i. Very Low Income Households (50%)	# of Units, Nos.:
ii. Lower Income Households (60%)	# of Units, Nos.:

3. At no time since the date of filing of the last Certification of Continuing Program Compliance have less than one hundred percent (100%) of the Required Affordable Units as completed units in the Development been occupied by, or been last occupied, or have been available for occupancy by Very Low Income Households at an Affordable Rent.

4. The New Participant is not in default under the terms of the Fourth Amendment, including without limitation “Original OPA”, the “First Amendment”, the “Second Amendment”, the “Third Amendment”, the “City Loan Agreement”, the “First Amendment Agency Note”, all as defined therein.

NEW PARTICIPANT:

MORENO VALLEY COTTONWOOD 1R PARTNERS, LP, a California limited partnership

By: PC MV Cottonwood 1R Developers LLC, a California limited liability company, its administrative general partner

By: Palm Communities, a California corporation, its sole member and manager

By: _____
Danavon L. Horn, President

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

EXHIBIT “E”
ANNUAL PROJECT COMPLIANCE REPORT: RENTAL HOUSING
(HOME UNITS)

[See Attached]

Exhibit “E”

ANNUAL PROJECT COMPLIANCE REPORT: RENTAL HOUSING

(This report is to be completed by the project owner or manager; reviewed and certified for compliance by the City or County; submit signed copy to HCD-HOME)

Owner Name: _____	Project Name: _____	___ HUD project based RA ___ TCAC ___ HUD 811 ___ HUD 202 ___ USDA-RD ___ Other: _____
HOME Contract #: _____	Project Address: _____	
Total # Units: _____	# HOME Units: _____	County: _____ Date Prepared: _____ Prepared by: _____

General Info.		Rent Information for HOME-Assisted Units							Income Information for HOME-Assisted Units				Recertification	
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Unit #	Unit BR Size	Unit: HOME Rent designation High or Low	Enter HUD's High or Low HOME Rent Amount	Tenant's Share of Rent	Rental Assistance (if applicable enter amount of rental subsidy)	Utility Allowance	Total (E+F+G)	Does (H) exceed (D) ? Yes or No	Tenant Name	Number in Household	Annual Gross Household Income	Is Income?: L: VL; or Over 80%	Initial Occupancy Date (mm/dd/yy)	Eff. Date of Last "Annual" Income Certification (mm/dd/yy)
			\$	\$	\$	\$	\$				\$			
			\$	\$	\$	\$	\$				\$			
			\$	\$	\$	\$	\$				\$			
			\$	\$	\$	\$	\$				\$			
			\$	\$	\$	\$	\$				\$			
			\$	\$	\$	\$	\$				\$			
			\$	\$	\$	\$	\$				\$			

NOTE: Column C, If a single-room occupancy (SRO) unit has neither kitchen nor bathroom, or only one, enter SRO
 NOTE: Column D "HOME Rent Amount" should reflect the same year in column O "Date of Last Income Certification."

State Recipient Certification of Compliance:

1. I certify that the above information is true and correct. Name: _____	Title: _____	Date: _____
2. (for projects with 5 or more HOME-assisted units) I certify that at least 20% of the HOME-assisted units are occupied by very low-income (50% ami) households paying rents not exceeding the allowable Low (50%) HOME rent level. Name: _____	Title: _____	Date: _____

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
FINANCIAL ASSISTANCE DIVISION
HOME AND HOMEOWNERSHIP SECTION**

HOME Program

1800 Third Street, Suite 390-3
Sacramento, CA 95811
(916) 322-0356
FAX (916) 322-2904



**Instructions - Annual Project Compliance Report
(form revised September 2007)**

Introduction

HOME-assisted rental projects carry rent and occupancy requirements throughout the period of affordability. Owners or Property Managers must complete and submit a Project Compliance Report to the State Recipient City or County at least annually. City / County monitoring staff will review these reports to verify their accuracy. As part of the verification process, the monitoring staff must also annually request a copy of the project's:

1. utility allowance schedule with the effective date noted.
2. current tenant rent roll (or similar document) identifying at a minimum the HOME-assisted household unit numbers, number of bedrooms, amount of rent paid, tenant name, household sizes, gross income, and the occupancy / income certification dates.

The latest version of the Project Compliance Report is available online at:

<http://www.hcd.ca.gov/fa/home/monitoringforms.html>

Overview

The Annual Project Compliance Report form is in Microsoft Word. Download the latest version from the above website to your hard drive, disc, or CD and enter all the information for the rental project. The owner / manager must then save the Word document (ie, HOME PCR 2007) and print a copy for submission to the State Recipient City or County monitoring staff person.

Please do not modify this document in any way. This report was designed to elicit specific information for a HOME Program compliance review by City / County monitoring staff. Annually data entered by owners or managers will be verified and analyzed, for example:

- did the owner / manager correctly enter data from the utility allowance schedule and rent roll?
- if not, did the error result in an overcharge to the HOME-assisted household?
- did the rent limit entered in column D correspond to the income certification date in column O?
- if the household income exceeded the 80% limit, was the correct amount of rent charged based upon whether the unit was fixed, floating, or TCAC?
- was the project compliant with the 20% rule? (for projects with 5 or more HOME-assisted units; Are at least 20% of the HOME-assisted units very-low income (50% ami) households with a Low (50%) HOME rent designation?)
- was the project in compliance with HOME occupancy standards? (see Management Memo 08-03 dated June 16, 2008 or the HOME Contract Management Manual, Chapter IX)
- are the gross rent figures in column H calculated correctly? (E + F + G = H)
- based on the information entered in columns K & L, did the owner / manager correctly note the income level for each household in column M?

Getting Started

This report is to be completed by the project owner or manager and submitted to the State Recipient City or County monitoring staff person for review. Complete each of the following fields in the heading:

- Owner Name: Enter the full name of the current project owner
- Project Name: Enter the project's current full name
- HOME Contract #: Enter the number assigned by HOME to this project in standard format YY-HOME-####
- Project Address: Enter in the street address, city, and zip.
- Total # Units: Enter the total number of rental units in the project
- # HOME Units: Enter the number of HOME-assisted units only & whether "fixed" or "floating"
- County: Enter the county that the project is located
- Date Prepared: Enter the date that the report was completed in the standard date format of MM/DD/YYYY. If it is completed over multiple days, enter the last day of its completion.
- Prepared by: Enter the name of the person who completed the report.
- Check the appropriate box if this project also has TCAC units or units assisted with federal or State project-based rental subsidy, i.e., HUD-S8; HUD 811; HUD 202; or USDA-RD. Enter any other programs in the "Other" field. Note: HOME is not a "project-based rental subsidy" program.

General Information:

Column A: enter the unit numbers for all HOME-assisted units including vacant HOME-assisted units

Column B: enter the number of bedrooms for each HOME-assisted unit

Rent Information for HOME-Assisted Units:

Column C: enter the "Low" or "High" HOME rent designation for each unit; Note: if a single room occupancy (SRO) unit has neither kitchen nor bathroom, or only one, enter "SRO"

Column D: enter the corresponding Low or High HOME rent amount for the year based upon the county that the project is located and the date entered in column O.

Column E: enter the amount of the household's share of monthly rent (exclude any rental assistance)

Column F: If the household in the HOME-assisted unit also receives rental assistance, enter the amount of the rental subsidy; if not, enter \$0

Column G: enter the utility allowance based upon unit bedroom size, type of unit (apartment, house, duplex, townhouse), and combination of owner / tenant paid utilities (Note: if the owner pays all tenant utilities including electricity and gas, enter \$0 for the utility allowance)

Column H: add the amounts together for columns E + F + G and enter the total in column H

Column I: this is a red flag column: compare the total in Column H with the HUD rent limit in column D; the answer should always be "No" unless the unit also receives "project-based rental assistance"

Income Information for HOME-Assisted Units:

Column J: enter the head-of-house first and last name; if the unit is vacant, enter "vacant"

Column K: enter the number of household members determined during the last income certification (effective date of that examination entered in Column O)

Column L: enter the gross annual income determined during the last income certification (effective date of that examination entered in Column O); if this is a new household with no annual recertification, enter the move-in income

Column M: enter the HOME income limit based on the gross annual income entered in column L: Low (80% ami), Very-low (50% ami), or "OVER" when the household income exceeds the 80% limit

Recertification:

Column N: enter the household’s initial date of occupancy for the unit # entered in Column A

Column O: enter the effective date of the last annual income certification (do not enter the date for any interim adjustment that may have occurred); if this is a new household with no annual recertification, enter “NEW”

State Recipient Certification of Compliance:

1. The State Recipient monitoring staff person must sign and date the report to certify that the information contained in the report has been verified and the information is true and correct.
2. The State Recipient monitoring staff person must sign and date the report to certify compliance with the HOME Program 20% occupancy rule.

The Project Compliance Report is not to be submitted to HOME with errors or issues of non-compliance.

HOME Program Basics

Income

Property owners and managers must ensure that prospective tenants of HOME-assisted units are income eligible prior to their occupancy.

Income Certification

The owner or manager is required to use the Section 8 Program definition of annual gross income for initial and annual income certifications.

Occupancy Rule

At all times during the affordability period, (for rental projects with five or more HOME-assisted units) at least 20% of the HOME-assisted units must be occupied by very-low income (50% ami) households with rents no greater than the “Low” (50%) HOME rent limit. Note: when calculating 20%, round up, for example, 20% of 11 units = 3

Occupancy Standards

The following minimum and maximum occupancy standards are a requirement of the HOME Program:

	<u>Minimum</u>		<u>Maximum</u>	
0 Bedroom	1	to	2	people
1 Bedroom	1	to	4	people
2 Bedrooms	2	to	6	people
3 Bedrooms	4	to	8	people
4 Bedrooms	6	to	10	people
5 Bedrooms	8	to	12	people

The “minimum” standards are effective for all rental projects awarded funds on or after September 29, 2003. The “maximum” occupancy standards apply to all rental projects.

Over-Income Tenants

When a household’s income exceeds the 80% income limit at recertification, HOME defers to TCAC rules.

Rent adjustments for over-income tenants in non-TCAC “fixed” or “floating” units shall be handled as follows:

- “Fixed” unit projects: Over-income tenants, (those with incomes over 80% of the area median), in HOME-assisted “fixed” units must pay the lesser of the amount payable by the tenant under State or local law (rent control) or 30% of the household’s adjusted income for rent. There is no rent cap for “fixed” units.
- “Floating” unit projects: Over-income tenants in HOME-assisted “floating” units must pay 30% of their adjusted income for rent. However, the rent may not exceed the market rent for comparable unassisted units in the neighborhood.

Rents

Generally, the rents for HOME-assisted units cannot exceed the HUD-prescribed maximum High HOME rent limits. However, there is one situation in which the owner or manager may set rents exceeding the HOME rent limits. It is when the property has HUD Section 8 subsidies or a similar subsidy program that is tied to the development and, therefore, households receive a project-based rental subsidy.

In other words, households receiving project-based rental subsidies are subject to rents allowable under the federal or State project-based rental subsidy program, not the HOME rent limits.

When a HOME-assisted household receives instead “tenant-based rental assistance” (TBRA) (under the Section 8 Program or any similar program), the HOME rent limits apply.

Under the HOME Program, the total gross rent for households receiving TBRA includes:

- the tenant’s share of rent;
- the subsidy payment; and
- the utility allowance

The total of these three amounts can’t exceed the allowable HOME rent.

Rent Amount Errors

- Section 8 (TBRA) households:
Reduce the gross rent (tenant share, subsidy, and utility allowance) to the allowable HOME rent effective on the next interim or annual recertification.
- Non-section 8 households:
The owner / manager must correct any errors resulting in a tenant rent overcharge. Reimburse or credit the household retroactive to the effective date of the rent increase.

Single Room Occupancy (SRO) Housing

- If the unit has neither food preparation nor sanitary facilities, or only one, rents may not exceed 75% of the FMR for a 0 bedroom unit (the “lesser of” standard does not apply)
- If the unit has both food preparation and sanitary facilities, “High HOME Rents” and “Low HOME rents” for a 0 bedroom unit apply

Utility Allowance

The HOME rent limits include a utility allowance. Generally, utility allowance schedules are obtained from the local housing authority. The schedules are used to calculate rent regardless of whether the actual utility bills paid by the tenant are higher or lower than the allowance. A utility allowance calculation error causing an overcharge must be corrected as described above under “Rent Amount Errors.”

EXHIBIT "F"

INTERCREDITOR AGREEMENT

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

RECORDING REQUESTED PURSUANT
AND WHEN RECORDED MAIL TO:

City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92253
Attention: City Manager

No fee for recording pursuant to
Government Code Section 27383

INTERCREDITOR AGREEMENT

This Intercreditor Agreement (this "Agreement") is made as of _____, 1999, by and among the Community Redevelopment Agency of the City of Moreno Valley, a public body, corporate and politic (the "Agency"), the City of Moreno Valley, a municipal corporation (the "City"), the County of Riverside, a political subdivision of the State of California (the "County"), Savings Associations Mortgage Company, Inc., a California corporation ("SAMCO") and Heacock Cottonwood Limited Partnership, a California Limited Partnership (the "Borrower"), with reference to the following facts:

A. Borrower has constructed one hundred eight (108) units of multifamily rental housing (the "Development") in Moreno Valley, California, on the real property described on the attached Exhibit A (the "Property").

B. Among other things, this Agreement is intended to specify (1) the sources of funds available for payment of the Agency Loan, the City Loan and the County Loan, prior to the maturity of each such loan; and (2) provisions to be followed hereunder in the event of a default under the SAMCO Loan, the Agency Loan, the City Loan or the County Loan, including without limitation the order of priority of the deeds of trust securing each of those loans.

C. SAMCO has made a loan to Borrower in the amount of \$2,900,000 (the "SAMCO Loan"). Concurrently with the making of the SAMCO Loan, the loan made by Farmers and Merchants Bank of Long Beach, a California corporation ("Farmers") has

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

May 9, 1999

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

been paid in full and Farmers has reconveyed its security interest in the Property to Borrower.

D. Pursuant to the Owner Participation Agreement dated as of December 1, 1997 between the Agency and Borrower, as amended by a First Amendment to Owner Participation Agreement dated as of July 22, 1998 and a Second Amendment to Owner Participation Agreement dated as of _____, 1999, the Agency has loaned to Borrower the principal amount of One Million Seven Hundred Thousand Dollars (\$1,700,000) (the "Agency Loan"). The Agency Loan is evidenced by a promissory note by the Borrower in favor of the Agency, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference (the "Agency Note"). The Borrower's obligation to repay the Agency Loan, as evidenced by the Agency Note, is secured by that certain deed of trust by Borrower as trustor in favor of the Agency as beneficiary recorded concurrently herewith (the "Agency Deed of Trust").

E. Pursuant to the Loan Agreement dated as of July 22, 1998 between the City and the Borrower (the "City Loan Agreement"), the City has loaned to Borrower the principal amount of Five Hundred Fifty Thousand Dollars (\$550,000) (the "City Loan"). The City Loan is evidenced by a promissory note by the Borrower in favor of the City, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference (the "City Note"). The Borrower's obligation to repay the City Loan, as evidenced by the City Note, is secured by a deed of trust recorded September 23, 1998 as Instrument No. 405169 of the Official Records of Riverside County (the "City Deed of Trust").

F. Pursuant to the Loan Agreement dated as of September 15, 1998 between the County and the Borrower (the "County Loan Agreement"), the County has loaned to Borrower the principal amount of Five Hundred Fifty Thousand Dollars (\$550,000) (the "County Loan"). The County Loan is evidenced by a promissory note by the Borrower in favor of the County, a copy of which is attached hereto as Exhibit D and incorporated herein by this reference (the "County Note"). The Borrower's obligation to repay the County Loan, as evidenced by the County Note, is secured by that certain deed of trust recorded September 24, 1998 as Instrument No. 40637 of the Official Records of Riverside County (the "County Deed of Trust").

G. The Agency, Borrower and Farmers entered into that certain Intercreditor Agreement dated as of December 1, 1997 (the "Original Agreement"). The Agency, the City, the County, Borrower and Farmers entered into that certain Amended and Restated Intercreditor Agreement dated as of July 22, 1998 (the "Amended and Restated Agreement"). The Original Agreement was superseded by the Amended and Restated Agreement. The Amended and Restated Agreement is superseded by this Agreement.

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

2

May 5, 1999

NOW, THEREFORE, SAMCO, the Agency, the City, the County and Borrower agree as follows:

1. **Definitions.** The following terms shall have the following meanings in this Agreement:

a. **Prorate Percentages.** "Prorate Percentages" means: (i) for the Agency, 60.7%; (ii) for the City, 19.65%; (iii) for the County, 19.65%.

b. **Residual Receipts.** "Residual Receipts" means, in a particular calendar year, the amount by which Gross Revenue (as defined below) exceeds Annual Operating Expenses (as defined below), as determined by an audit to be completed within 120 days after the end of each calendar year by an independent certified public accountant first approved in writing by SAMCO, the Agency, the City and the County, using generally accepted accounting principles and based on the accrual method (the "Audit").

(i) **Gross Revenue.** "Gross Revenue," with respect to a particular calendar year, shall mean all revenue, income, receipts, and other consideration actually received from operation of leasing of the Development. "Gross Revenue" shall include, but not be limited to: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Development; and condemnation awards for a taking of part or all of the Development for a temporary period. "Gross Revenue" shall also include the fair market value of any goods or services provided in consideration for the leasing or other use of any portion of the Development, except that the value of services provided by on-site manager(s) shall not be treated as "Gross Revenue" if no more than one Unit is leased to or otherwise used by on-site manager(s). "Gross Revenue" shall not include tenants' security deposits, loan proceeds from the SAMCO Loan, the Agency Loan, the City Loan or the County Loan, capital contributions or similar advances.

(ii) **Annual Operating Expenses.** "Annual Operating Expenses," with respect to a particular calendar year shall mean the following costs reasonably and actually incurred for operation and maintenance of the

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

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May 5, 1999

Development to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles; property and other taxes and assessments imposed on the Development; premiums for property damage and liability insurance; utility services not paid for directly or reimbursed by tenants, including but not limited to water, sewer, trash collection, gas and electricity; maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial, supplies, and similar customary utility services (but excluding any amounts paid from a capital reserve fund); any annual license or certificate of occupancy fees required for operation of the Development; general administrative expenses including but not limited to advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns for the limited partnership, and similar customary administrative expenses; property management fees and reimbursements including on-site manager expenses, not to exceed fees and reimbursements which are standard in the industry and pursuant to a management contract approved by the Agency and the City; partnership management fees in amounts approved by the tax credit investor not to exceed fifteen thousand dollars (\$15,000) in the first year and increased thereafter at a reasonable rate and upon a reasonable basis, all as approved by the Agency, the City and the County from time to time; cash deposited into a reserve for capital replacements of Development improvements and an operating reserve in such reasonable amounts as are required by Development lenders, the Tax Credit Allocation Committee, and the tax credit investor, and approved by the City, the Agency and the County from time to time; debt service payments (excluding debt service due from residual receipts or surplus cash of the Development) on loans associated with the Development and approved by the Agency, the City and the County; and all other payments, charges and other amounts becoming due under the SAMCO Deed of Trust. "Annual Operating Expenses" shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account.

2. Repayment.

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a. Subject to the provisions of paragraph b. below, the Agency, the City and the County agree that the Borrower may first utilize not more than seventy percent (70%) of Residual Receipts with respect to a particular calendar year to pay the sponsors of the Development the theretofore unpaid portion of the Developer Fee, as defined in Section 6.1 of the Amended and Restated Agreement of Limited Partnership by and among Palm Desert Development Company, Inc., a California corporation, Housing Corporation of America, a Utah non-profit corporation, Related Corporate SLP, L.P., a Delaware limited partnership, and Related Corporate Partners V, a Delaware limited partnership dated as of December 1, 1997, in a cumulative amount not to exceed six hundred thousand dollars (\$600,000) (the "Otherwise Unpaid Developer Fee"). In addition to any amounts payable pursuant to paragraph b. below, thirty percent (30%) of all Residual Receipts with respect to any calendar year prior to payment in full of the Otherwise Unpaid Developer Fee, and all Residual Receipts after payment in full of the Otherwise Unpaid Developer Fee, shall be used first for repayment of the Agency Loan, the City Loan and the County Loan in accordance with the Prorate Percentages (applied first to accrued unpaid interest and then to principal due with respect to the calendar year to which the Residual Receipts pertain). Subject to the provisions of paragraph b. below, after payment in full of the annual payment of the Agency Loan (as specified in the Agency Note), the City Loan (as specified in the City Note) and the County Loan (as specified in the County Note), and payment of any deferred amounts payable under the Agency Note, the City Note and/or the County Note, any remaining Residual Receipts with respect to such calendar year shall be retained by the Borrower. In the event that Borrower makes any lump sum pre-payment of the Agency Loan, the City Loan or the County Loan, the Agency, the City and the County agree to divide such pre-payment amount among themselves in accordance with the Prorate Percentages. Notwithstanding any provision in this Agreement to the contrary, (i) prior to performance in full of all of Borrower's obligations under the Agency Note, amounts payable to the Agency under this Agreement shall be based on the combined Prorate Percentages of the Agency and the City, and the City shall receive nothing; and (ii) upon performance in full of all of Borrower's obligations under the Agency Note, amounts payable to the City under this Agreement shall be based on the combined Prorate Percentages of the Agency and the City, and the Agency shall receive nothing.

b. In the event the amount of principal and interest paid in connection with the SAMCO Loan exceeds two hundred seventy-two thousand dollars (\$272,000) in any calendar year prior to payment in full of the Otherwise Unpaid Developer Fee, the Agency, the City and the County each shall receive a payment from Residual Receipts, in addition to the amounts payable to the Agency, the City and the County with respect to such calendar year pursuant to a. above, in an amount equal to (i) the amount by which principal and interest paid in connection with the SAMCO Loan exceeds \$272,000, multiplied by (ii) 30% of the respective Prorate Percentages of the Agency, the City and the County. The amount of Residual Receipts to be applied to payment of the Otherwise

EXHIBIT 4
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May 5, 1999

Unpaid Developer Fee with respect to any such calendar year shall be reduced by an amount equal to the aggregate amount payable to the Agency, the City and the County pursuant to this paragraph b. For purposes of illustration only, if the principal and interest paid in connection with the SAMCO Loan in a particular calendar year were \$282,000, the amount payable to the Agency pursuant to this paragraph b. would be \$1,821.00 (30% of 60.7% of \$10,000), the amount payable to the City pursuant to this paragraph b. would be \$589.50 (30% of 19.65% of \$10,000) and the amount payable to the County pursuant to this paragraph b. would be \$589.50 (30% of 19.65% of \$10,000), and the amount of Residual Receipts to be applied to the Otherwise Unpaid Developer Fee with respect to such calendar year would be reduced by \$3,000 (the aggregate amount of the payments to the Agency, the City and the County pursuant to this paragraph b.).

c. The Agency Loan shall be repaid by the Borrower pursuant to the repayment terms in the OPA, the Agency Note, and this Section 3. The Agency shall not consent to any subordination of the Agency Loan (except for the Agency Subordination Agreement, hereinafter defined) or any amendment or waiver of the Agency Loan's repayment terms (i) that might reasonably be considered to impair the City's security under the City Loan without the City's prior written approval, which the City may withhold in its sole discretion; or (ii) that might reasonably be considered to impair the County's security under the County Loan without the County's prior written approval, which the County may withhold in its sole discretion.

d. The City Loan shall be repaid by the Borrower pursuant to the repayment terms in the City Loan Agreement, the City Note, and this Section 3. The City shall not consent to any subordination of the City Loan (except for the City Subordination Agreement, hereinafter defined) or any amendment or waiver of the City Loan's repayment terms (i) that might reasonably be considered to impair the Agency's security under the Agency Loan without the Agency's prior written approval, which the Agency may withhold in its sole discretion; or (ii) that might reasonably be considered to impair the County's security under the County Loan without the County's prior written approval, which the County may withhold in its sole discretion.

e. The County Loan shall be repaid by the Borrower pursuant to the repayment terms in the County Loan Agreement, the County Note, and this Section 3. The County shall not consent to any subordination of the County Loan (except for the County Subordination Agreement, hereinafter defined) or any amendment or waiver of the County Loan's repayment terms (i) that might reasonably be considered to impair the Agency's security under the Agency Loan without the Agency's prior written approval, which the Agency may withhold in its sole discretion; or (ii) that might reasonably be considered to impair the City's security under the City Loan without the City's prior written approval, which the City may withhold in its sole discretion.

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1. The Agency, the City and the County hereby acknowledge (i) that each of their security interests under their respective deeds of trust are subject and subordinate to the security interests of SAMCO under the SAMCO Deed of Trust; and (ii) that prior to the maturity date under each of their respective promissory notes (regardless of whether the maturity date occurs as a result of a default, the expiration of the anticipated term of the loan or any other reason), Borrower's obligation to make payments to the Agency, the City and the County shall be conditioned upon the availability of (and shall be payable solely from) Residual Receipts.

3. Default Under Loan Documents

a. Security and Priority. SAMCO has secured the SAMCO Loan with the SAMCO Deed of Trust. The Agency has secured the Agency Loan with the Agency Deed of Trust. The City has secured the City Loan with the City Deed of Trust. The County has secured the County Loan with the County Deed of Trust. Without regard to the recording order of the SAMCO Deed of Trust relative to the Agency Deed of Trust, the Agency Deed of Trust shall be subordinate to the SAMCO Deed of Trust to the extent and in the manner provided in that certain Subordination Agreement of even date herewith by and among SAMCO, Borrower and the Agency (the "Agency Subordination Agreement"). Without regard to the recording order of the SAMCO Deed of Trust relative to the City Deed of Trust, the City Deed of Trust shall be subordinate to the SAMCO Deed of Trust to the extent and in the manner provided in that certain Subordination Agreement of even date herewith by and among SAMCO, Borrower and the City (the "City Subordination Agreement"). Without regard to the recording order of the SAMCO Deed of Trust relative to the County Deed of Trust, the County Deed of Trust shall be subordinate to the SAMCO Deed of Trust to the extent and in the manner provided in that certain Subordination Agreement of even date herewith by and among SAMCO, Borrower and the County (the "County Subordination Agreement"). Without regard to the recording order of the Agency Deed of Trust, the City Deed of Trust and the County Deed of Trust, the three deeds of trust shall be of equal priority and the Agency, the City and the County agree to share foreclosure proceeds as set forth in paragraph d. below.

b. Notice of Default. Each Party shall notify the other Parties promptly upon declaring a default or learning of the occurrence of any material event of default, or any event which with the lapse of time would become a material event of default, under its respective loan documents for the SAMCO Loan, the Agency Loan, the City Loan and the County Loan.

c. Cooperation Following Default. Pursuant to the Agency Subordination Agreement, the City Subordination Agreement and the County Subordination Agreement, SAMCO has agreed to provide the Agency, the City and the County written notice of any

EXHIBIT 4 FORM OF INTERCREDITOR AGREEMENT

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default by Borrower under the SAMCO Loan and an opportunity to cure such default. SAMCO hereby further agrees that upon a default by Borrower under the SAMCO Loan, SAMCO shall (i) use diligent efforts to give its default notices to the Agency, the City and the County simultaneously, so as to facilitate coordination among the Agency, the City and the County; (ii) accept a joint cure of the subject default; and (iii) use reasonably diligent efforts to meet and confer with the Agency, the City and the County, upon request, in order to address the subject default. The foregoing provisions of this paragraph c. shall not be construed (a) as any limitation upon SAMCO to file and record any notices of default required by law or under the SAMCO Loan, to take any and all actions necessary to appoint a receiver with respect to the Property, and/or to otherwise initiate and proceed with any foreclosure actions and other proceedings, as SAMCO shall determine in its discretion; or (b) as a waiver, alteration, or modification of any of the rights and remedies of SAMCO under the SAMCO Loan or as provided by law.

d. Foreclosure Proceeds. If there is a foreclosure, or any other action, judicial or nonjudicial, under any or all of the Agency Deed of Trust, the City Deed of Trust and/or the County Deed of Trust (including without limitation the giving of a deed in lieu of foreclosure), the Agency, the City and the County shall be entitled to share based on the Prorata Percentages in any proceeds which shall ensue from such action, after SAMCO has been satisfied and after payment of all reasonable expenses of the Agency, the City and/or the County incurred in connection with the action.

e. Priority of Deeds of Trust. This paragraph e. pertains solely to the Agency Deed of Trust, the City Deed of Trust and the County Deed of Trust, which are intended to be of equal priority. As among those three deeds of trust, if any deed of trust is considered senior to either or both of the other two deeds of trust, then notwithstanding the otherwise applicable effects of the California Civil Code and the California Code of Civil Procedure,

i. upon foreclosure of the senior deed of trust and the elimination of the security interest created by the junior deeds of trust, the holder of the foreclosing senior deed of trust shall share the foreclosure sale proceeds with the holders of the junior deeds of trust based on the Prorata Percentages, and

ii. upon foreclosure of a junior deed of trust, the holder of the foreclosing junior deed of trust shall share the foreclosure sale proceeds with the holder of the other two deeds of trust based on the Prorata Percentages, and the holder of the senior deed(s) of trust shall reconvey the senior deed(s) of trust.

f. Title to Property Following Foreclosure. If the Agency, the City or the County is entitled to title to the Property as a consequence of the Borrower's default, then

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

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title shall be held in tenancy in common by the Agency, the City and the County, with the percentage ownership of each based on the Prorate Percentages. Subsequent decisions to hold or sell the Property shall be made by joint decision of the Agency, the City and the County.

5. **Notices.** Formal notices, demands, and communications between the Parties shall be deemed given only if dispatched by certified mail, return receipt requested, or express delivery service with a delivery receipt, or personal delivery with a delivery receipt, to the principal office of the Parties as follows:

SAMCO: Savings Associations Mortgage Company, Inc.
152 North Third Street, Suite 805
San Jose, California 95112
Attention: Senior Credit Officer

Agency: Community Redevelopment Agency of
the City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92253
Attention: Executive Director

City: City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92253
Attention: City Manager

County: County of Riverside
3525 14th Street
Riverside, California 92261
Attention: Housing Division

Borrower: Heacock Cottonwood Limited Partnership
c/o Palm Desert Development Company
73081 El Paseo, Suite 214
Palm Desert, California 92261
Attention: Danavon L. Horn

Such written notices, demands, and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate as provided in this Section 11. Receipt shall be deemed to have occurred on the date marked

**EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT**

May 5, 1999

on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

6. Titles. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

7. California Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California, other than the laws of that state governing choice of law.

8. Severability. If any term of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, then the remaining terms shall continue in full force unless the rights and obligations of the Parties have been materially altered by such holding of invalidity.

9. Attorney Fees. If any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach of this Agreement, then the Party prevailing in any such action shall be entitled to recover against the Party not prevailing all reasonable attorneys' fees and costs incurred in such action.

10. Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

11. Amendments. This Agreement shall not be modified except by written instrument executed by and between the Parties.

12. Prior Agreements Superseded. This Agreement supersedes the Amended and Restated Intercreditor Agreement by and among the Agency, the City, the County, Farmers and Borrower dated as of July 22, 1998. The Amended and Restated Intercreditor Agreement superseded the Intercreditor Agreement by and between the Agency and Farmers dated as of December 1, 1997.

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

SAMCO: Savings Associations Mortgage Company, Inc., a California corporation

By: _____

Its: _____

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

May 8, 1999

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

City: City of Moreno Valley, a municipal corporation

By: _____

Its: _____

Approved as to Form:

City Attorney of the City of Moreno Valley

By: _____

Date: _____

Agency: Community Redevelopment Agency of the City of Moreno Valley, a public body, corporate and politic

By: _____

Its: _____

Approved as to Form:
Agency General Counsel

By: _____

Date: _____

Agency Special Counsel

By: _____

Date: _____

County: County of Riverside, a political subdivision of the State of California

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

May 3, 1999

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

By: _____

Its: _____

Approved as to Form:
County Counsel

By: _____

Date: _____

Borrower: Heacock Cottonwood Limited Partnership, a California Limited Partnership

By: Palm Desert Development Company, a California corporation, its general partner

By: _____

Its: _____

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT

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May 8, 1999

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

By: _____
Its: _____

Approved as to Form:
County Counsel

By: _____
Date: _____

Borrower: Heacock Cottonwood Limited Partnership, a California Limited Partnership

By: Palm Desert Development Company, a California corporation, its general partner

By: _____
Its: _____

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT
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May 8, 1990

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

Exhibit A	Legal Description of the Property
Exhibit B	Agency Note
Exhibit C	City Note
Exhibit D	County Note

EXHIBIT 4
FORM OF INTERCREDITOR AGREEMENT
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May 3, 1999

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Title Or Type Of Document

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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Title(s)

- Partner(s) Limited General
- Attorney-In-Fact
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) ss.
COUNTY OF _____)

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(Print Name of Notary Public)

personally appeared _____

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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DESCRIPTION OF ATTACHED DOCUMENT

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- Corporate Officer

Title(s)

- Partner(s) Limited General
- Attorney-In-Fact
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Signer is representing:
Name Of Person(s) Or Entity(ies)

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STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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

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DESCRIPTION OF ATTACHED DOCUMENT

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- Corporate Officer

Title(s)

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title Or Type Of Document

Number Of Pages

Date Of Documents

Signer(s) Other Than Named Above

Attachment: Fourth Amendment to Owner Participation Agreement [Revision 2] (1648 : FOURTH AMENDMENT TO OWNER PARTICIPATION BY



Report to City Council

TO: Mayor and City Council

FROM: Betsy Adams, Parks & Community Services Director

AGENDA DATE: October 27, 2015

TITLE: ADOPT ORDINANCE NO. 907, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, REPEALING ORDINANCE NO. 860 AND DELETING CHAPTER 2.4 OF TITLE 2 OF THE MORENO VALLEY MUNICIPAL CODE RELATING TO THE JULY 4TH ADVISORY BOARD (RECEIVED INTRODUCTION AND FIRST READING ON OCTOBER 13, 2015 BY A 3-2 VOTE, GUTIERREZ AND PRICE ABSENT)

RECOMMENDED ACTION

Recommendation: That the City Council:

1. Adopt Ordinance No. 907. An Ordinance of the City Council of the City of Moreno Valley, California, Repealing Ordinance No. 860 and Deleting Chapter 2.64 of Title 2 of the City of Moreno Valley Municipal Code Relating to the July 4th Advisory Board.

CITY COUNCIL GOALS

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

ATTACHMENTS

1. Ordinance No. 907

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/23/15 5:17 PM
City Attorney Approval	<u>✓ Approved</u>	10/07/15 12:03 PM

City Manager Approval

✓ Approved

10/07/15 1:48 PM

HISTORY:

10/13/15
Next: 10/27/15

City Council

FIRST READING OF ORDINANCE

ORDINANCE NO. 907

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, REPEALING ORDINANCE NO. 860 AND DELETING CHAPTER 2.64 OF TITLE 2 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE RELATING TO THE JULY 4TH ADVISORY BOARD

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

SECTION 1. FINDINGS:

1.1 The City Council adopted Ordinance No. 860 of the City of Moreno Valley establishing a July 4th Advisory Board on February 26, 2013. As a result of the July 4th Advisory Board's inability to meet eight times in Fiscal Year 2014-2015 due to a lack of quorum, it is the intent of the City Council to dissolve the July 4th Advisory Board and to remove all references to the July 4th Advisory Board from the City of Moreno Valley Municipal Code.

SECTION 2. REPEAL OF PRIOR ENACTMENTS:

2.1 Ordinance No. 860 of the City of Moreno Valley is hereby repealed and Chapter 2.64 of Title 2 of the City of Moreno Valley Municipal Code is hereby deleted in its entirety.

SECTION 3. SEVERABILITY

3.1 That the City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

SECTION 4. REPEAL OF CONFLICTING PROVISIONS

4.1 That all the provisions of the Municipal Code as heretofore adopted by the City of Moreno Valley that are in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. EFFECT OF ENACTMENT:

5.1 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 6. NOTICE OF ADOPTION:

6.1 Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 7. EFFECTIVE DATE:

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

APPROVED AND ADOPTED this 27th day of October, 2015.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Attachment: Ordinance No. 907 [Revision 1] (2015-83 : INTRODUCE ORDINANCE NO. 907, AN ORDINANCE OF THE CITY COUNCIL OF THE

ORDINANCE JURAT

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

I, JANE HALSTEAD, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. 907 had its first reading on October 13, 2015 and had its second reading on October 27, 2015, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 27th day of October, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)