



****REVISED 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**

September 20, 2016

REGULAR MEETING – 6:00 PM

City Council Study Sessions

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

City Council Meetings

Special Presentations – 5:30 P.M.

First & Third Tuesday 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 72 hours before the meeting. The 72-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Jeffrey J. Giba, Mayor Pro Tem
Jesse L. Molina, Council Member

Dr. Yxstian A. Gutierrez, Mayor

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

AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
September 20, 2016

CALL TO ORDER - 5:30 PM

SPECIAL PRESENTATIONS

1. North Ridge Elementary School - Mayoral Proclamation

2. Officer of the 1st Quarter - Officer Yesenia Hernandez

3. Class of 1966 - 50 Year Anniversary

4. Fire Prevention Week - Proclamation

**REVISED 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
SEPTEMBER 20, 2016**

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

Dr. Dale Lacquement, Faith Baptist Church

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 Sergeant-at-Arms. 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. SUPPORT OF THE LEAGUE OF CALIFORNIA CITIES RESOLUTION FOR VISION ZERO (Report of: Public Works)

Recommendations:

1. That the City Council takes a support position for the League of California Cities resolution for Vision Zero, toward zero deaths, and other programs or initiatives to make safety a top priority for transportation projects.
2. Direct the City of Moreno Valley delegate to represent the City's position at the League's Annual Conference held on October 5-7, 2016

- A.3. AWARD OF CONTRACT TO REPLACE AIR CONDITIONING IN THE CITY HALL SERVER ROOM (Report of: Administrative Services)

Recommendations:

1. Approve the Agreement for Professional Construction Services with United Mechanical Contractors to provide Air Conditioning Equipment and Installation Services.
2. Authorize the City Manager to execute the Agreement for Professional Construction Services with United Mechanical Contractors in the amount of \$349,650 to provide Air Conditioning Equipment and Installation Services.
3. Authorize the Purchasing and Facilities Division Manager to issue a Purchase Order to United Mechanical Contractors in the amount of \$349,650 to provide Air Conditioning Equipment and Installation Services.
4. Authorize the City Manager to execute any subsequent related amendments or change orders as included in the Agreement, subject to the approval of the City Attorney and provided sufficient funding appropriations and program approvals have been granted by the City

Council.

- A.4. PA11-0009 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING THOSE PORTIONS OF IRIS AVENUE, WEST OF OLIVER STREET ASSOCIATED WITH THIS PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM DEVELOPER: KAISER FOUNDATION HEALTH PLAN & KAISER FOUNDATION HOSPITALS (Report of: Public Works)

Recommendations:

1. Adopt Resolution No. 2016-65, a Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Public Improvements as Complete within Project PA11-0009 and Acceptance of those Portions of Iris Avenue, West of Oliver Street Associated with this Project into the City's Maintained Street System.
2. Authorize the City Engineer to execute a 90% reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens on file with the City Clerk, and exonerate the final 10% of the Faithful Performance Bond in one year when all clearances are received.

- A.5. AUTHORIZATION TO AWARD CONSTRUCTION CONTRACT FOR THE EDMONT NEIGHBORHOOD PAVEMENT REHABILITATION – PROJECT NO. 801 0070 (Report of: Public Works)

Recommendations:

1. Award the construction contract to Hardy & Harper, Inc., 1312 E. Warner Avenue, Santa Ana, CA 92705, the lowest responsible bidder for the Edgemont Neighborhood Pavement Rehabilitation Project.
2. Authorize the City Manager to execute a contract with Hardy & Harper, Inc.
3. Authorize the issuance of a Purchase Order to Hardy & Harper, Inc. in the amount of \$440,450.00 (\$383,000.00 bid amount plus 15% contingency) when the contract has been signed by all parties.
4. Authorize the Public Works Director/City Engineer to execute any subsequent related minor change orders to the contract with Hardy & Harper, Inc. up to, but not exceeding, the 15% contingency amount of \$57,450.00, subject to the approval of the City Attorney.

- A.6. PURSUANT TO LANDOWNER PETITION, ANNEX ONE PARCEL INTO COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) — AS AMENDMENT NO. 15 (Report of: Public Works)

Recommendation:

1. Acting as the legislative body of Community Facilities District No. 2014-01 (Maintenance Services), adopt Resolution No. 2016-66, 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.

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

Recommendation:

1. Ratify the list of personnel changes as described.

- A.8. RESCIND RESOLUTION NO. 2014-44 AND ADOPT RESOLUTION 2016-67 DESIGNATING AND AUTHORIZING CERTAIN CITY OFFICIALS TO EXECUTE APPLICATIONS AND DOCUMENTS FOR THE PURPOSES OF OBTAINING FEDERAL FINANCIAL ASSISTANCE PROVIDED BY THE FEDERAL DEPARTMENT OF HOMELAND SECURITY AND SUB-GRANTED THROUGH THE STATE OF CALIFORNIA (Report of: Fire Department)

Recommendation:

1. Adopt Resolution No. 2016-67, a Resolution of the City Council of the City of Moreno Valley, California, Rescinding Resolution No. 2014-44 and Designating and Authorizing Certain City Officials to Execute Applications and Documents for the Purposes of Obtaining Federal Financial Assistance Provided by the Federal Department of Homeland Security and Sub-granted through the State of California.

- A.9. ORDINANCE NO. 913, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 8.42 TO TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE ESTABLISHING THE EXPEDITED PERMITTING PROCEDURE FOR ELECTRIC VEHICLE CHARGING STATION SYSTEMS (RECEIVED INTRODUCTION AND FIRST READING ON SEPTEMBER 6, 2016 BY A 5-0 VOTE) (Report of: Community Development) **Second reading of Ordinance**

Recommendation: That the City Council:

1. Adopt Ordinance No. 913, an Ordinance of the City Council of the City

of Moreno Valley, California, Adding Chapter 8.42 to Title 8 of the City of Moreno Valley Municipal Code Establishing the Expedited Permitting Procedure for Electrical Vehicle Charging Station Systems.

- A.10. ORDINANCE NO. 914 AMENDING SECTION 5.02.010 OF THE MUNICIPAL CODE DEFINING THE TERM "EMPLOYEE" (RECEIVED INTRODUCTION AND FIRST READING ON SEPTEMBER 6, 2016 BY A 5-0 VOTE) (Report of: Financial & Management Services) **Second reading of Ordinance**

Recommendations: That the City Council:

1. Adopt Ordinance No. 914, an Ordinance of the City Council of the City of Moreno Valley, California, Amending Section 5.02.010 of Title 5 of the City of Moreno Valley Municipal Code Relating to Definition of "Employee".

- A.11. APPROVAL OF EMPLOYMENT AGREEMENT BETWEEN CITY OF MORENO VALLEY AND MARTIN KOCZANOWICZ FOR THE POSITION OF CITY ATTORNEY (Report of: City Attorney)

Recommendation:

1. Approve the Employment Agreement between the City of Moreno Valley and Martin Koczanowicz for the position of City Attorney.

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. APPROVE AND EXECUTE AGREEMENT FOR EXCHANGE OF REAL PROPERTY ASSOCIATED WITH TENTATIVE TRACT MAP 31592 (Report of: Parks & Community Services)

Recommendations:

1. Approve the Agreement for Exchange of Property for the .86 acres located within the Markborough park site for 1.45 acres located within Tentative Tract Map 31592.
2. Authorize the President of the Board of Directors to execute the Agreement in the form attached hereto upon concurrence by the property owner, and authorize the Parks and Community Services Director to approve any changes that may be requested by the property owner or the City of Moreno Valley Parks and Community Services Department "CSD," subject to the approval of the Legal

Counsel.

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.

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.

E. PUBLIC HEARINGS

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

Those wishing to speak should complete and submit a GOLDENROD speaker slip to the Sergeant-at-Arms.

- E.1. PUBLIC HEARING FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM MAIL BALLOT PROCEEDING (Report of: Public Works)

Recommendations: That the City Council:

1. Conduct the Public Hearing and accept public testimony regarding the mail ballot proceeding for Focus Day Street for approval of the National Pollutant Discharge Elimination System (NPDES) maximum commercial/industrial regulatory rate to be applied to the property tax bill.
2. Direct the City Clerk to count the returned NPDES ballot.
3. Verify and accept the results of the mail ballot proceeding as maintained by the City Clerk on the Official Tally Sheet.
4. Receive and file the Official Tally Sheet with the City Clerk's office.
5. If approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate to the Assessor's Parcel Number mentioned in this report.

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)

Box Springs Mutual Water District (BSMWD)

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

Recommendations: That the City Council:

1. Appoint those applicants who receive a majority vote by the City Council.
2. 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.

G.3. CODE OF ETHICS DISCUSSION (Report of: City Attorney)

G.4. CITY MANAGER'S REPORT

(Informational Oral Presentation - not for Council action)

G.5. 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 - NONE

H.3. ORDINANCES - URGENCY ORDINANCES - NONE

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

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, Marie Macias, Interim 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

Marie Macias, MMC
Interim City Clerk

Date Posted: September 8, Revised September 9 and Revised September 15, 2016



Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: September 20, 2016

TITLE: SUPPORT OF THE LEAGUE OF CALIFORNIA CITIES
RESOLUTION FOR VISION ZERO

RECOMMENDED ACTION

Recommendations:

1. That the City Council takes a support position for the League of California Cities resolution for Vision Zero, toward zero deaths, and other programs or initiatives to make safety a top priority for transportation projects.
2. Direct the City of Moreno Valley delegate to represent the City's position at the League's Annual Conference held on October 5-7, 2016

SUMMARY

This report requests that the City Council support the League of California Cities resolution for Vision Zero, toward zero deaths, and other programs or initiatives to make safety a top priority for transportation projects.

DISCUSSION

In 1997, Sweden initiated Vision Zero, a program focused on the idea that "Life and health can never be exchanged for other benefits within the society." The intent of the program is to eliminate all traffic fatalities and severe injuries using a multi-disciplinary approach including education, enforcement, and engineering strategies. Cities around the world have adopted traffic safety projects that emphasize that traffic deaths are both unacceptable and preventable.

Policy development is a key process within the League of California Cities. The process allows for consideration of issues in a dynamic environment and assures city officials the opportunity to both initiate and influence policy decisions. The League policy

decisions are developed through any of the eight standing policy committees and their Board of Directors. League policies are adopted at their Annual Conference.

This year, the Transportation, Communication, and Public Works Policy Committee is bringing forth a resolution in support of Vision Zero. The League has requested that all cities determine a position and ask their voting delegate to represent the City's position at their Annual Conference. This year's Annual Conference is being held in Long Beach California on October 5-7, 2016 and this is the only resolution provided to cities for consideration in advance of the conference.

Staff presented the League of California Cities proposed resolution in support of Vision Zero to the Traffic Safety Commission (TSC) at their regular meeting on September 7, 2016. The TSC unanimously approved supporting the League of California Cities resolution and recommended the item to the City Council for consideration.

ALTERNATIVES

1. Approve and authorize the recommended actions as presented in this report. *This alternative, as recommended by staff, allows the City's delegate to affirm Moreno Valley's position at the League Annual conference in support of Vision Zero.*
2. Do not approve and authorize the recommended actions. *This alternative, not recommended by staff, precludes the City of Moreno Valley's delegate from taking a position in support of the League Vision Zero resolution.*

FISCAL IMPACT

There are no fiscal impact associated with these actions.

NOTIFICATION

Publication of agenda

PREPARATION OF STAFF REPORT

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

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

CITY COUNCIL GOALS

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

ATTACHMENTS

- 1. League of Cities Vision Zero Resolution

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/06/16 1:50 PM
City Attorney Approval	<u>✓ Approved</u>	9/06/16 2:04 PM
City Manager Approval	<u>✓ Approved</u>	9/06/16 2:17 PM

1. RESOLUTION COMMITTING THE LEAGUE OF CALIFORNIA CITIES TO SUPPORTING VISION ZERO, TOWARD ZERO DEATHS, AND OTHER PROGRAMS OR INITIATIVES TO MAKE SAFETY A TOP PRIORITY FOR TRANSPORTATION PROJECTS AND POLICY FORMULATION, WHILE ENCOURAGING CITIES TO PURSUE SIMILAR INITIATIVES

Source: City of San Jose

Concurrence of five or more cities/city officials: Cities: Fremont; Los Angeles; Sacramento; San Diego; San Francisco; Santa Monica; and West Hollywood

Referred to: Transportation, Communication and Public Works Policy Committees

Recommendation to General Resolution Committee:

WHEREAS, each year more than 30,000 people are killed on streets in the United States in traffic collisions; and

WHEREAS, traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people; with pedestrians and cyclists accounting for a disproportionate share; and

WHEREAS the Centers for Disease Control recently indicated that America’s traffic death rate per person was about double the average of peer nations; and

WHEREAS Vision Zero and Toward Zero Deaths are comprehensive strategies to eliminate all traffic fatalities and severe injuries using a multi-disciplinary approach, including education, enforcement and engineering measures; and

WHEREAS a core principal of Vision Zero and Toward Zero Deaths is that traffic deaths are preventable and unacceptable; and

WHEREAS cities across the world have adopted and implemented Vision Zero and Toward Zero Deaths strategies and successfully reduced traffic fatalities and severe injuries occurring on streets and highways; and

WHEREAS safe, reliable and efficient transportation systems are essential foundations for thriving cities.

RESOLVED that the League of California Cities commits to supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety;

AND encourage cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways;

AND encourage the State of California to consider adopting safety as a top priority for both transportation projects and policy formulation.

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Background Information on Resolution to Support Transportation Safety Programs

Each year more than 30,000 people are killed on streets in the United States in traffic collisions. Traffic fatalities in America hit a seven-year high in 2015 and are estimated to have exceeded 35,000 people, with children, seniors, people of color, low-income and persons with disabilities accounting for a disproportionate share. The Centers for Disease Control recently reported that the traffic death rate per

person in the United States was about double the average of peer nations, with close to 10% of these deaths occurring in California (3,074 in 2014). California's largest city, Los Angeles, has *the* highest rate of traffic death among large U.S. cities, at 6.27 per 100,000 people.

Cities around the world have adopted traffic safety projects and policies that underscore that traffic deaths are both unacceptable and preventable. In 1997, Sweden initiated a program called Vision Zero that focused on the idea that "Life and health can never be exchanged for other benefits within the society." The World Health Organization has officially endorsed Vision Zero laying out traffic safety as an international public health crisis and the United Nations General Assembly introduced the Decade of Action for Road Safety 2011-2020 and set the goal for the decade: "to stabilize and then reduce the forecast level of road traffic fatalities around the world" by 50% by 2020.

As of this writing, 18 U.S. cities have adopted Vision Zero programs (including New York City, Boston, Ft. Lauderdale, Austin, San Antonio, Washington DC, and Seattle) to reduce the numbers of fatal crashes occurring on their roads (<http://visionzeronetwork.org/map-of-vision-zero-cities/>). California cities lead the way, with the cities of San Jose, San Francisco, San Mateo, San Diego, Los Angeles, Long Beach and Fremont having adopted Vision Zero strategies and many others are actively considering adoption.

In 2009 a national group of traffic safety stakeholders launched an effort called "Toward Zero Deaths: A National Strategy on Highway Safety". This initiative has been supported by the Federal Highway Administration (FHWA) (<http://safety.fhwa.dot.gov/tzd/>) and states throughout the United States, including California (http://www.ots.ca.gov/OTS_and_Traffic_Safety/About_OTS.asp).

This past January the U.S. Department of Transportation launched its "Mayors' Challenge for Safer People and Safer Streets." This effort calls on elected officials to partner with the USDOT and raise the bar for safety for people bicycling and walking by sharing resources, competing for awards, and taking action. The California cities of Beverly Hills, Davis, Maywood, Cupertino, Culver City, Rialto, Santa Monica, Porterville, Los Angeles, San Jose, Monterey, Glendale, Irvine, Oakland, Palo Alto, Alameda, West Hollywood and Fullerton signed on to this effort. Additionally, the Institute of Transportation Engineers (ITE), a leading organization for transportation professionals, recently launched a new initiative to aggressively advance the Vision Zero and Towards Zero Deaths movements (<http://library.ite.org/pub/ed59a040-caf4-5300-8ffc-35deb33ce03d>).

Ultimately all of these programs share the fundamental belief that a data-driven, systems-level, interdisciplinary approach can prevent severe and fatal injuries on our nation's roadways. They employ proven strategies, actions, and countermeasures across education, enforcement and engineering. Support for many of these life-saving programs extends far beyond government agencies, and includes National Association of City Transportation Officials (NACTO), American Association of State Highway and Transportation Officials (AASHTO), Kaiser Permanente, AARP, the National Safe Routes to School Partnership, and the International Association of Chiefs of Police, among many others.

There is wide-spread recognition that cities and towns need safe, efficient transportation systems to be economically prosperous. A resolution by the League of California Cities to support transportation safety policies like Vision Zero and Toward Zero Deaths, and encourage implementation of projects and programs that prioritize safety will help California elevate the health and safety of its residents and position us as a leader in national efforts to promote a culture of safe mobility for all.

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Report to City Council

TO: Mayor and City Council

FROM: Terrie Stevens, Administrative Services Director

AGENDA DATE: September 20, 2016

TITLE: AWARD OF CONTRACT TO REPLACE AIR CONDITIONING IN THE CITY HALL SERVER ROOM

RECOMMENDED ACTION

Recommendations:

1. Approve the Agreement for Professional Construction Services with United Mechanical Contractors to provide Air Conditioning Equipment and Installation Services.
2. Authorize the City Manager to execute the Agreement for Professional Construction Services with United Mechanical Contractors in the amount of \$349,650 to provide Air Conditioning Equipment and Installation Services.
3. Authorize the Purchasing and Facilities Division Manager to issue a Purchase Order to United Mechanical Contractors in the amount of \$349,650 to provide Air Conditioning Equipment and Installation Services.
4. Authorize the City Manager to execute any subsequent related amendments or change orders as included in the Agreement, subject to the approval of the City Attorney and provided sufficient funding appropriations and program approvals have been granted by the City Council.

SUMMARY

This report recommends approval of a contract to replace the air conditioning systems in the City Hall Server Room. The project is funded with Facilities Replacement Reserve Funds available in Fund 7320.

DISCUSSION

The City Hall Server Room air conditioning systems are the original units installed when the City moved into the City Hall facility in 1995. The expected life of this type of air conditioning system is 15 years, which makes replacement of these units a requirement as they are six years past due for the typical replacement cycle. The City Hall Server Room has grown considerably over the years as equipment has been added. The City Hall Server Room houses major components of the City's communication, Internet, and software systems; it functions on a 24/7 basis.

Air conditioning system specifications were prepared by a mechanical engineer to meet load needs for future growth of the server room. On July 12, 2016 a bid was let on Planet Bids with a due date of August 1, 2016. Three bids were received. One bid was deemed unresponsive as it did not contain values for all items requested and did not list the specialty sub-contractor as required in the bid document. Of the two remaining responsive bids received, the lowest bid was from United Mechanical Contractors in the amount of Three Hundred and Thirty Three Thousand dollars (\$333,000). The scope of work will include removal of the two existing air conditioning systems and installation of two larger air conditioning systems.

ALTERNATIVES

1. Approve the Agreement for Professional Construction Services with United Mechanical Contractors to provide Air Conditioning Equipment and Installation Services; authorize the City Manager to execute the Agreement for Professional Construction Services with United Mechanical Contractors in the amount of \$349,650 (\$333,000 plus a 5% contingency of \$16,650) to provide Air Conditioning Equipment and Installation Services; authorize the Purchasing and Facilities Division Manager to issue a Purchase Order to United Mechanical Contractors in the amount of \$349,650 to provide Air Conditioning Equipment and Installation Services; and, authorize the City Manager to execute any subsequent related amendments or change orders as included in the Agreement, subject to the approval of the City Attorney and provided sufficient funding appropriations and program approvals have been granted by the City Council. *Staff recommends this alternative because it will ensure the proper operation of the main server room located within City Hall.*
2. Do not approve the Agreement for Professional Construction Services with United Mechanical Contractors to provide Air Conditioning Equipment and Installation Services; do not authorize the City Manager to execute the Agreement for Professional Construction Services with United Mechanical Contractors in the amount of \$349,650 (\$333,000 plus a 5% contingency of \$16,650) to provide Air Conditioning Equipment and Installation Services; do not authorize the Purchasing and Facilities Division Manager to issue a Purchase Order to United Mechanical Contractors in the amount of \$349,650 to provide Air Conditioning Equipment and Installation Services; and, do not authorize the City Manager to execute any subsequent related amendments or change orders as included in the Agreement, subject to the approval of the City Attorney and provided sufficient funding

appropriations and program approvals have been granted by the City Council. *Staff does not recommend this alternative because it may negatively affect the main server room located within City Hall.*

FISCAL IMPACT

The fiscal impact of the City Hall Server Room air conditioning project is \$349,650 (\$333,000; material and labor plus a 5% contingency of \$16,650). The Facilities Maintenance Fund (7320) has a balance of \$2.7 million.

Description	Fund	GL Account No.	Type (Rev/Exp)	FY 16/17 Budget	Proposed Adjustments	FY 16/17 Amended Budget
Server Room Project	7320	7320-18-40-18410	Exp	\$0	\$349,650	\$349,650

PREPARATION OF STAFF REPORT

Prepared By:
Rix Skonberg
Purchasing & Facilities Division Manager

Department Head Approval:
Terrie Stevens
Administrative Services Director

Concurred By:
Steve Hargis
Technology Services Division Manager

CITY COUNCIL GOALS

Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

ATTACHMENTS

1. United Mechanical Contractors Contract

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/08/16 10:31 AM
City Attorney Approval	<u>✓ Approved</u>	9/08/16 8:40 AM
City Manager Approval	<u>✓ Approved</u>	9/08/16 1:09 PM

City of Moreno Valley

AGREEMENT FOR ON-SITE AND/OR PROFESSIONAL SERVICES

This Agreement is made by and between the City of Moreno Valley, California, a municipal corporation, with its principal place of business at 14177 Frederick Street, Moreno Valley, CA 92552, hereinafter referred to as the “City”, and United Mechanical Contractors, Inc, a Corporation with its principal place of business at 794 E. Los Angeles Ave. Simi Valley, CA 93065 hereinafter referred to as the “Contractor,” based upon City policies and the following legal citations:

RECITALS

- A. Government Code Section 53060 authorizes the engagement of persons to perform special services as independent contractors;
- B. Contractor desires to perform and assume responsibility for the provision of professional replacement of the existing data server room HVAC equipment contracting services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing professional replacement of the existing data server room HVAC equipment contracting services, is licensed in the State of California, if applicable;
- C. City desires to engage Contractor to render such services for the professional replacement of the existing data server room HVAC equipment as set forth in this Agreement;
- D. The public interest, convenience, necessity and general welfare will be served by this Agreement; and
- E. This Agreement is made and entered into effective the date the City signs this Agreement.

TERMS

1. CONTRACTOR INFORMATION:

Contractor’s Name: United Mechanical Contractors, Inc.
 Address: 794 E. Los Angeles Ave.
 City: Simi Valley State: CA Zip: 93065
 Business Phone: (805) 558-4213 Fax No. (805) 582-1126
 Other Contact Number: N/A
 Business License Number:
 Federal Tax I.D. Number: 37-1474019

2. CONTRACTOR SERVICES, FEES, AND RELEVANT DATES:

- A. The Contractor’s scope of service is described in Exhibit “A” attached hereto and incorporated herein by this reference.

Attachment: United Mechanical Contractors Contract (2248 : AWARD OF CONTRACT TO REPLACE AIR CONDITIONING IN THE CITY HALL

- B. The City's responsibilities, other than payment, are described in Exhibit "B" attached hereto and incorporated herein by this reference.
- C. Payment terms are provided in Exhibit "C" attached hereto and incorporated herein by this reference.
- D. The term of this Agreement shall be from October 1, 2016 to June 30, 2017 unless terminated earlier as provided herein. The City acknowledges that it will not unreasonably withhold approval of the Contractor's requests for extensions of time in which to complete the work required. The Contractor shall not be responsible for performance delays caused by others or delays beyond the Contractor's reasonable control (excluding delays caused by non-performance or unjustified delay by Contractor, his/her/its employees, or subcontractors), and such delays shall extend the time for performance of the work by the Contractor.
3. **STANDARD TERMS AND CONDITIONS:**
- A. Control of Work. Contractor is solely responsible for the content and sequence of the work, and will not be subject to control and direction as to the details and means for accomplishing the anticipated results of services. The City will not provide any training to Contractor or his/her/its employees.
- B. Intent of Parties. Contractor is, and at all times shall be, an independent contractor and nothing contained herein shall be construed as making the Contractor or any individual whose compensation for services is paid by the Contractor, an agent or employee of the City, or authorizing the Contractor to create or assume any obligation or liability for or on behalf of the City, or entitling the Contractor to any right, benefit, or privilege applicable to any officer or employee of the City.
- C. Labor Laws and Prevailing Wages; Subcontracting. Contractor may retain or subcontract for the services of other necessary contractors with the prior written approval of the City. Payment for such services shall be the responsibility of the Contractor. Any and all subcontractors shall be subject to the terms and conditions of this Agreement, with the exception that the City shall have no obligation to pay for any subcontractor services rendered. Contractor shall be responsible for paying prevailing wages where required by law [See California Labor Code Sections 1770 through 1777.7].
All work or services performed within the State of California pursuant to this Agreement by Contractor, Contractor's employees and independent contractors, or Contractor's subcontractors and its subcontractors' employees and independent contractors shall be performed by individuals lawfully permitted to perform such work or services in the State of California and/or the United States of America pursuant to all applicable State and/or Federal labor laws, rules and regulations including, but not limited to, any State or Federal law, rule or regulation prohibiting the employment of undocumented workers or any other person not lawfully permitted to perform said work or services in the State of California or the United States of America.

Contractor represents that it is an equal opportunity employer and shall not discriminate against any subcontractor, employee, or applicant (“person”) for employment because of denial of family and medical care leave; race; religious creed (including religious dress and grooming practices); color; national origin (including language use restrictions); ancestry; physical disability or mental disability (including HIV and Aids); medical condition (cancer and genetic characteristics); genetic information; military or veteran status; marital status; gender, gender identity, and gender expression; sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding); age or sexual orientation. Unless otherwise permitted under the law, Contractor shall not refuse to hire or employ any such person or refuse to select any such person for a training program leading to employment, or bar or discharge any such person from employment or from a training program leading to employment, or otherwise discriminate against any such person in compensation or in terms, conditions, or privileges of employment.

Contractor and all of Contractor’s subcontractors, if any, shall pay each employee engaged in all applicable trades or occupation not less than the prevailing hourly wage rate for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work. In accordance with the provisions of Section 1770 of the California Labor Code (“Labor Code”), the Director of Department of Industrial Relations of the State of California has determined the general prevailing rates of wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Labor Code Section 1773.8, apprenticeship or other training programs authorized by Labor Code Section 3093 and similar purposes applicable to the work to be done. Said wages are available through the California Department of Industrial Relations’ Internet website at <http://www.dir.ca.gov/dlsr/PWD/index.htm> and are on file at City Hall, as provided in Section 1773.2 of the Labor Code. Said rates shall be posted at the Project site where work is to be performed, in accordance with Labor Code Section 1773.2. Contractor shall access a copy of the wage rate determination and shall make all subcontractors, if any, aware of the determination. As the wage determination for each craft reflects an expiration date, it shall be the Contractor’s responsibility to ensure that the prevailing wage rates of concern are current and paid. Subject to the safe harbor provisions of Labor Code Section 1775, Contractor shall forfeit to the CITY an amount not to exceed two hundred dollars (\$200) for each calendar day or portion thereof, as set by the Labor Commissioner in accordance with the terms of Labor Code section 1775, for each laborer, workmen or mechanics employed that is paid less than the general prevailing rate of wages herein referred to and stipulated for any work done under the proposed contract, by him, or by any subcontractor under him, in violation of the provisions of the Labor Code, and in particular, Sections 1770 to 1781 inclusive. Contractor and any and all or its subcontractors shall forfeit to the CITY twenty-five

dollars (\$25) for each worker employed in the performance of this Agreement for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Section 1813 of the Labor Code. In the event the total cost of the Project is thirty thousand dollars (\$30,000.00) or more, Contractor shall further comply with provisions set forth in Labor Code Section 1777.5 pertaining to employment of properly registered apprentices, including without limitation the obligation to (i) pay employed apprentices the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of craft or trade to which he or she is registered; (ii) employ apprentices in at least the ratio as set forth in said section; (iii) submit contract award information to an applicable apprenticeship program; and (iv) contribute to California Apprenticeship Council.

Contractor and all subcontractors hired to perform any work under the Project shall keep accurate payroll records, including the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each worker, in accordance with Section 1776 of the Labor Code. Payroll records shall be on forms provided by the Division of Labor Standards Enforcement (“DLSE”) or in a manner containing the same information as the forms provided by the DLSE. Failure to comply with the above may result in monetary penalties to the Contractor or affected subcontractor. Payroll records shall be verified by written declaration made under penalty of perjury, that the information contained in the records is true and correct. Contractor and any and all subcontractors shall make a certified copy of all payroll records available for inspection by DLSE, the CITY or any member of the public and otherwise provide certified copies of such records to any of the foregoing within ten (10) days of Contractor’s and subcontractor’s receipt of written request therefor. Failure to comply with the above may result in monetary penalties, in accordance with Labor Code Section 1776(d) and (h).

Notwithstanding anything else to the contrary, Contractor hereby acknowledges that all contractors must be registered with the Department of Industrial Relations (“Department”) pursuant to Labor Code Section 1725.5 in order to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract, including this Agreement, that is subject to the payment of prevailing wages. Contractor represents and warrants that Contractor is registered with the Department in the manner prescribed by the Department and has paid the requisite application fee, as required by Labor Code Section 1725.5. Moreover, prior to Contractor entering into any contracts with any subcontractor, Contractor shall obtain proof that all such subcontractors have also registered with the Department in accordance with Section 1725.5.

- D. Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

- E. Substitution of Key Personnel. Contractor has represented to City that certain key personnel will perform and coordinate the services under this Agreement. Should one or more of such personnel become unavailable, Contractor may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Contractor cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the project or a threat to the safety of persons or property, shall be promptly removed from the project by the Contractor at the request of the City. The key personnel for performance of this Agreement are as follows: **Jeremy Yablan.**
- F. City's Representative. The City hereby designates the City Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.
- G. Contractor's Representative. Contractor hereby designates **Jeremy Yablan**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the services under this Agreement.
- H. Legal Considerations. The Contractor shall comply with applicable federal, state, and local laws in the performance of this Agreement. Contractor shall be liable for all violations of such laws and regulations in connection with services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. Contractor shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.
- I. Standard of Care; Performance of Employees. Contractor shall perform all services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the profession necessary to perform the services. Contractor warrants that all employees and subcontractor shall have sufficient skill and experience to perform the services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all

licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any employee of the Contractor or its subcontractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the services in a manner acceptable to the City, shall be promptly removed from the project by the Contractor and shall not be re-employed to perform any of the services or to work on the project.

- J. Contractor Indemnification. Contractor shall indemnify, defend and hold the City, the Moreno Valley Housing Authority, and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all claims, damages, losses, causes of action and demands, including, without limitation, the payment of all consequential damages, expert witness fees, reasonable attorney's fees and other related costs and expenses, incurred in connection with or in any manner arising out of Contractor's performance of the work contemplated by this Agreement and this Agreement. Acceptance of this Agreement signifies that the Contractor is not covered under the City's general liability insurance, employee benefits, or worker's compensation. It further establishes that the Contractor shall be fully responsible for such coverage. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees.
- K. Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section "J" that may be brought or instituted against City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.
- L. Insurance Requirements. The Contractor will comply with the following insurance requirements at its sole expense. Insurance companies shall be rated (A Minus: VII—Admitted) or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct business in the State of California:

The Contractor shall procure and maintain, at its sole expense, Workers' Compensation Insurance in such amounts as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor and the City, the Housing Authority and CSD against any loss, claim, or damage arising from any injuries or occupational diseases happening to any worker employed by the Contractor in the course of carrying out the Agreement. This coverage may be waived if the Contractor is determined to be functioning as a sole proprietor and the city provided form "Exception to Worker's Compensation Coverage" is signed, notarized and attached to this Agreement

✘ General Liability Insurance—to protect against loss from liability imposed by law for damages on account of bodily injury, including death, and/or property damage suffered or alleged to be suffered by any person or persons whomever, resulting directly or indirectly from any act or activities of the Contractor, sub-Contractor, or any person acting for the Contractor or under its control or direction. Such insurance shall be maintained in full force and effect throughout the terms of the Agreement and any extension thereof in the minimum amounts provided below:

Bodily Injury	\$1,000,000 per occurrence/ \$2,000,000 aggregate
Property Damage	\$500,000 per occurrence/ \$500,000 aggregate

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

✘ A Certificate of Insurance and appropriate additional insured endorsement evidencing the above applicable insurance coverage shall be submitted to the City prior to the execution of this Agreement. The Certificate of Insurance or an appropriate binder shall bear an endorsement containing the following provisions:

Solely as respect to services done by or on behalf of the named insured for the City of Moreno Valley, it is agreed that the City of Moreno Valley, the Moreno Valley Housing Authority, and the Moreno Valley Community Services District, their officers, employees and agents are included as additional insured under this policy and the coverage(s) provided shall be primary insurance and not contributing with any other insurance available to the City of Moreno Valley, the Moreno Valley Housing Authority, and the Moreno Valley Community Services District, its officers, employees and agents, under any third party liability policy

The terms of the insurance policy or policies issued to provide the above coverage shall neither be amended to reduce the required insurance limits and coverages nor shall such policies be canceled by the carrier without thirty (30) days prior written notice by certified or registered mail of amendment or cancellation to the City, except that cancellation for non-payment of premium shall require ten (10) days prior written notice by certified or registered mail. In the event the insurance is canceled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in the amounts established.

- M. Intellectual Property. Any system or documents developed, produced or provided under this Agreement, including any intellectual property discovered or developed by Contractor in the course of performing or otherwise as a result of its work, shall become the sole property of the City unless explicitly stated otherwise in this Agreement. The Contractor may retain copies of any and all material, including drawings, documents, and specifications, produced by the Contractor in performance of this Agreement. The City and the Contractor agree that to the extent permitted by law, until final approval by the City, all data shall be treated as confidential and will not be released to third parties without the prior written consent of both parties.
- N. Entire Agreement. This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations of warranties, expressed or implied, not specified in this Agreement. This Agreement applies only to the current proposal as attached. This Agreement may be modified or amended only by a subsequent written Agreement signed by both parties. Assignment of this Agreement is prohibited without prior written consent.
- O. (a) The City may terminate the whole or any part of this Agreement at any time without cause by giving at least ten (10) days written notice to the Contractor. The written notice shall specify the date of termination. Upon receipt of such notice, the Contractor may continue work through the date of termination, provided that no work or service(s) shall be commenced or continued after receipt of the notice which is not intended to protect the interest of the City. The City shall pay the Contractor within thirty (30) days after receiving any invoice after the date of termination for all non-objected to services performed by the Contractor in accordance herewith through the date of termination.
- (b) Either party may terminate this Agreement for cause. In the event the City terminates this Agreement for cause, the Contractor shall perform no further work or service(s) under the Agreement unless the notice of termination authorizes such further work.
- (c) If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished documents and data and other information of any kind prepared by Contractor in connection with the performance of services under this Agreement. Contractor shall be required to provide such documents and other information within fifteen (15) days of the request.

(d) In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, similar to those terminated.

- P. Payment. Payments to the Contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. The City will not withhold any sums from compensation payable to Contractor. Contractor is independently responsible for the payment of all applicable taxes. Where the payment terms provide for compensation on a time and materials basis, the Contractor shall maintain adequate records to permit inspection and audit of the Contractor’s time and materials charges under the Agreement. Such records shall be retained by the Contractor for three (3) years following completion of the services under the Agreement.
- Q. Restrictions on City Employees. The Contractor shall not employ any City employee or official in the work performed pursuant to this Agreement. No officer or employee of the City shall have any financial interest in this Agreement in violation of federal, state, or local law.
- R. Choice of Law and Venue. The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement, and shall govern the interpretation of this Agreement. Any legal proceeding arising from this Agreement shall be brought in the appropriate court located in Riverside County, State of California.
- S. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor:

United Mechanical Contractors, Inc.
794 E. Los Angeles Ave.
Simi Valley, CA 93065
Attn: Jeremy Yablan

City:

City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
Attn: Purchasing & Facilities Division Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

- T. Time of Essence. Time is of the essence for each and every provision of this Agreement.
- U. City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this project.
- V. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.
- W. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
- X. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the parties.
- Y. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.
- Z. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- AA. Assignment or Transfer. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.
- BB Supplementary General Conditions (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.
1. 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.
 2. CITY may terminate the Agreement for cause or for convenience, and CONTRACTOR may terminate the Agreement, as provided the General Conditions.
 3. 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.)

4. 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.)

5. 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).

6. 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).

7. CONTRACTOR shall observe CITY requirements and regulations pertaining to reporting included in the General Conditions.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.)

13. 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 TO FOLLOW

Attachment: United Mechanical Contractors Contract (2248 : AWARD OF CONTRACT TO REPLACE AIR CONDITIONING IN THE CITY HALL

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

City of Moreno Valley

United Mechanical Contractors, Inc.

BY: _____
Mayor

BY: _____
Jeremy Yablan
Officer

Date

Date

INTERNAL USE ONLY

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney

Date

RECOMMENDED FOR APPROVAL:

Department Head

Date

Attachment: United Mechanical Contractors Contract (2248 : AWARD OF CONTRACT TO REPLACE AIR CONDITIONING IN THE CITY HALL

**EXHIBIT A
CONTRACTOR'S SCOPE OF SERVICES**

- A. This Agreement between the City of Moreno Valley and Contractor is for the replacement of the existing data server room HVAC equipment in accordance with **Bid No. 2017-08**.
- B. Basic Scope of Work
1. Demolition and disposal of two (2) existing Liebert split cooling only systems along with air distribution, a section of refrigerant piping, water lines for humidifiers, condensate piping and secondary drain pan. The existing ceiling mounted fan coils are located in the data room and the two (2) existing condenser units are located on the roof.
 2. Purchase and Installation of two (2) new split type Liebert AC units (15 tons each), including connected ductwork, air distribution outlets, supports, refrigerant piping, water lines for humidifiers, condensate piping, stands, platforms, power, etc.
 3. Connection of new split units to existing building automation system.
 4. System air balancing.
 5. Removal and re-installation of the ceiling tiles and grids in second floor, required for refrigerant piping and electrical conduit routing and installation.
 6. Removal and re-installation of the floor tiles and grids or replacement of grid and tiles in Data Room, required for installation of indoor fan coil units.
 7. Patching of existing Tremco roof. For installation of new condensers, platforms, refrigerant piping, and electrical conduit.
 8. Removal of existing electrical installation associated with existing two (2) fan coil units located in Data Room and existing two (2) condensing units located on roof.
 9. Power to two (2) new floor mounted fan coil units located in Data Room and two (2) new condenser units located on roof.
 10. Fire Alarm connection to two (2) new floor mounted fan coil units located in Data Room.
 11. One AC unit and the rover must be running at all times during the project.
 12. Work hours shall be Monday – Friday, 7:00am – 5:00pm. Crane work shall only be done on Friday's.

- C. Work may include, but is not limited to replacement, installation, repair, service, testing, and/or maintenance of HVAC package units, ducts, condensers, compressors, filters, swamp coolers, air handlers, economizers, heating units, roof curbs and all related components, including gas lines, electrical lines, and drain lines. All work is to be performed in accordance with manufacturers' recommendations, as well as all federal, state, country, and local regulations.
- D. This scope of work excludes any work other than incidental (less than 10 square feet) of any material containing asbestos. The contractor will immediately stop work if any encountered material is suspected to be asbestos and report the finding of the Purchasing & Facilities Division Manager.
- F. All materials and completed work must meet local, county, state, and federal codes and regulations.
- G. Submission of Material Safety Data Sheets (MSDS) are mandatory for any supply or material used on the job or supplied in the course of this Agreement prior to receipt of or with the first shipment of hazardous material. Also, at any time the content of an MSDS is revised, the Contractor is required to provide new information relevant to the specific material.
- H. The Contractor shall provide manufacturer's warranties and warranty workmanship, operation and performance as described within this Agreement.

**EXHIBIT B
CITY'S RESPONSIBILITIES**

- A. The City of Moreno Valley is responsible for providing requests for service, access to sites to perform estimates and/or work, and organizing site visits.
- B. Provide escorts at sites that require the presence of a City employee during work periods.
- C. Provide purchase orders or other written authorization to confirm the approval of work.
- D. Provide materials when the scope of work so indicates.
- E. Fund all required City permits, excluding a City of Moreno Valley business license.

EXHIBIT C

TERMS OF PAYMENT

- The Contractor's compensation shall not exceed \$349,650 over the total time period of the Agreement unless modified by an Amendment signed by all parties.

CITY OF MORENO VALLEY
 Bid No. 2017-08

BIDDER'S PROPOSAL – BID SCHEDULE

Bid NO. 2017-08
REPLACE THE EXISTING DATA SERVER ROOM HVAC EQUIPMENT (CITY HALL)

COMPANY NAME: United Mechanical Contractors

BASE BID ITEMS AS FOLLOWS:

ITEM NO.	DESCRIPTION OF ITEMS	ESTIMATED QUANTITY	UNIT PRICE (FIGURES)	TOTAL PRICE (FIGURES)
	Parts & Materials	1	----->	205,250
	Labor	1	----->	127,750
TOTAL <u>BASE</u> BID PRICE				\$ 333,000
(Based on estimated quantities of items 1 through 2)				

Note: Estimated quantities are for the purpose of Bid comparison only; payments will be made on the basis of actual measurement of Work completed, except for lump sum (LS) and final pay (F) quantities. (S) denotes a specialty item. The Bid Price shall include, but not be limited to, sales tax and all other applicable taxes and fees.

Attachment: United Mechanical Contractors Contract (2248 : AWARD OF CONTRACT TO REPLACE AIR CONDITIONING IN THE CITY HALL

2. The Contractor 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 Contractor will electronically submit an invoice to the City on a monthly basis 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 since the last invoice. At no time will the City pay for more services than have been satisfactorily completed and the City's determination of the amount due for any progress payment shall be final. The Contractor 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 Facility Department at

jasminr@moval.org or calls directed to (951) 413-3740.

3. The Contractor 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
4. 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 Contractor for all invoiced, authorized professional services within thirty (30) days of receipt of the invoice for same.
7. Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.
8. Maintenance and Inspection. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.



Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: September 20, 2016

TITLE: PA11-0009 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING THOSE PORTIONS OF IRIS AVENUE, WEST OF OLIVER STREET ASSOCIATED WITH THIS PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM DEVELOPER: KAISER FOUNDATION HEALTH PLAN & KAISER FOUNDATION HOSPITALS

RECOMMENDED ACTION

Recommendations:

1. Adopt Resolution No. 2016-65, a Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Public Improvements as Complete within Project PA11-0009 and Acceptance of those Portions of Iris Avenue, West of Oliver Street Associated with this Project into the City's Maintained Street System.
2. Authorize the City Engineer to execute a 90% reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens on file with the City Clerk, and exonerate the final 10% of the Faithful Performance Bond in one year when all clearances are received.

SUMMARY

This report recommends acceptance of the improvements associated with PA11-0009 into the City's maintained street system. The project is located on the north side of Iris Avenue, west of Oliver Street. This report also recommends authorizing the City Engineer to execute a 90% security reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens

on file with the City Clerk, and exonerate the final 10% warranty portion of the Faithful Performance Bond in one year, subject to completion of any defective work during this period.

DISCUSSION

On July 14, 2011, the Planning Commission of the City of Moreno Valley approved project PA11-0009. The developer proposed to develop a 74,425 square foot 3 story medical office building located adjacent to the existing Kaiser Hospital.

The project is located on the north side of Iris Avenue, west of Oliver Street and was conditionally approved requiring construction of certain public improvements. The public improvements included asphalt, base, curb, gutter, sidewalk, parkway landscaping, raised landscape median, traffic signal, striping and signage, water and sewer. Those improvements received on-going inspection during the construction process. Upon completion of the improvements, Public Works Department/Land Development performed an inspection, and a punch list was generated. The required corrective actions have been completed, and the improvements are now eligible for acceptance into the City's maintained street system.

In accordance with the Streets and Highway Code, the method for acceptance of improvements, per Section 1806 (a) and (b), is by action of the governing body ("City Council"), by resolution. It is therefore appropriate to accept those improvements into the City's maintained street system and to provide a 90% reduction to the Faithful Performance Bond of \$522,000 issued by Travelers Casualty and Surety Company of America. Ninety days after City Council approves the Faithful Performance Bond reduction, the Material and Labor security will be exonerated by the City Engineer provided there are no stop notices or liens on file with the City Clerk. The remaining 10% of the security will be held for the one-year guarantee and warranty period. At the end of the guarantee and warranty period the security will be released by the City Engineer subject to completion of any defective work that may have appeared during this period.

ALTERNATIVES

1. Approve and authorize the recommended actions as presented in this staff report. *Staff recommends this alternative as this alternative will allow the City to be in compliance with the Streets and Highways Code Section 1806 (a) and (b) in becoming improvements. Accepting them into the city street system results in City maintenance of public improvements.*
2. Do not approve and authorize the recommended actions as presented in this Staff Report. *Staff does not recommend this alternative because this alternative will not allow the streets, per the Streets and Highways Code Section 1806 (a) and (b), to become public improvements for public use, and the City would not be able to maintain the improvements as public infrastructure to meet City Council's Goals.*

FISCAL IMPACT

The acceptance of these street improvements into the City’s maintained street system will create an additional fiscal impact to the street maintenance program of the City Fund 2000-Gas Tax and Fund 2001-Measure A. Fund 2000 is restricted to the construction and maintenance of streets and roadways. Fund 2001 is restricted for transportation projects only for the purposes of construction, maintenance and operation of streets and roadways. Annual average costs associated with traffic signal maintenance are approximately \$3,500 per traffic signal. Although actual maintenance costs may vary, this cost is based on the City’s historical maintenance costs for traffic signals.

NOTIFICATION

Publication of agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Zara Terrell
Management Analyst

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

Concurred By:
Vince Giron
Associate Engineer

Concurred By:
Michael Lloyd, P.E.
Engineering Division Manager

CITY COUNCIL GOALS

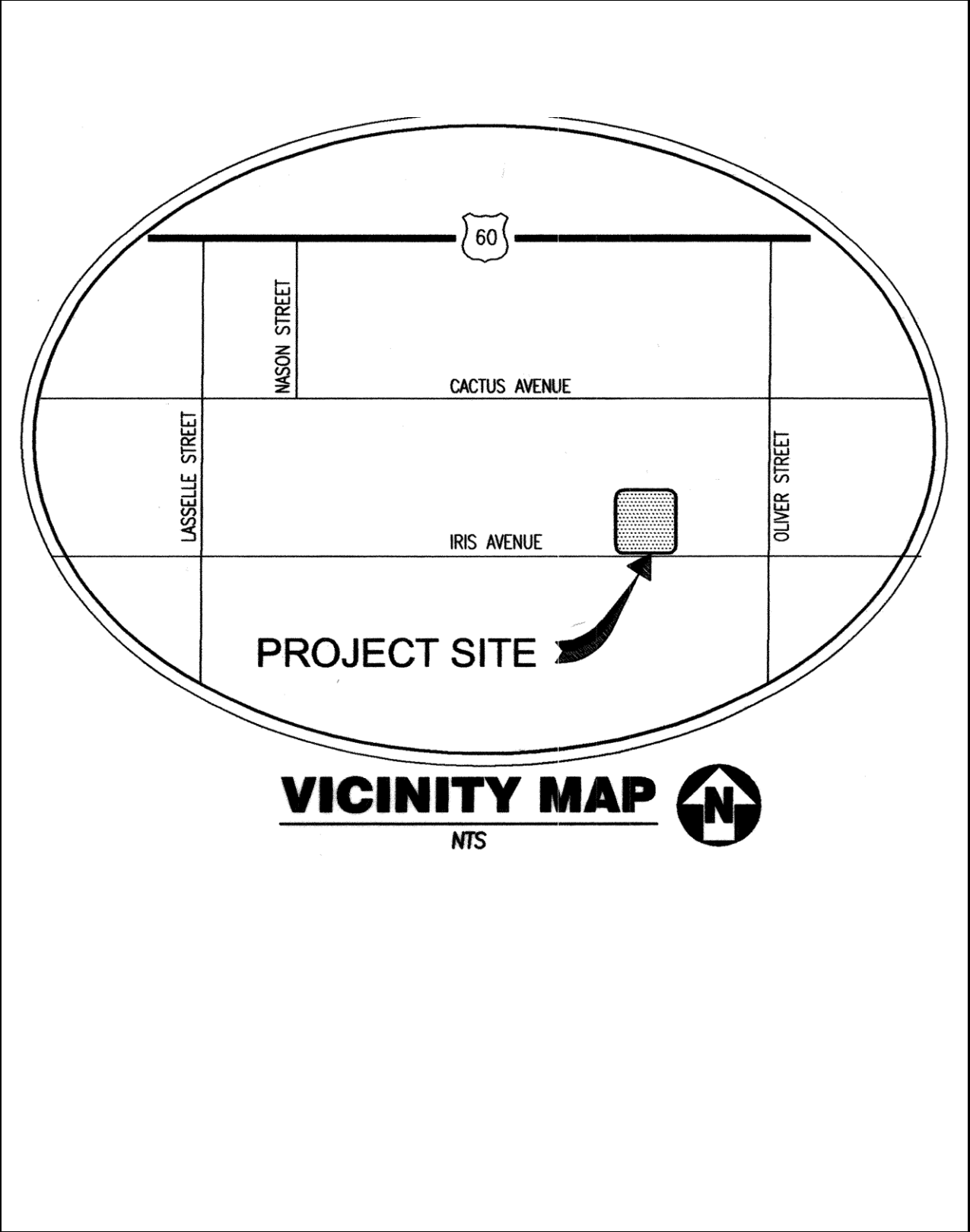
Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

ATTACHMENTS

- 1. Vicinity Map - PA11-0009
- 2. Resolution 2016-65 - PA11-0009

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/06/16 4:02 PM
City Attorney Approval	<u>✓ Approved</u>	9/08/16 2:27 PM
City Manager Approval	<u>✓ Approved</u>	9/08/16 2:38 PM



CITY OF MORENO VALLEY
 PUBLIC WORKS DEPARTMENT –
 LAND DEVELOPMENT

PA11-0009

W:\LandDev\MANAGEMENT ASSISTANT\Staff Reports\2012\6-26-12 - PA11-0009 - Exhibit A.doc

Attachment: Vicinity Map - PA11-0009 (2236 : PA11-0009 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT)

RESOLUTION NO. 2016-65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AUTHORIZING THE ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE WITHIN PROJECT PA11-0009 AND ACCEPTANCE OF THOSE PORTIONS OF IRIS AVENUE, WEST OF OLIVER STREET ASSOCIATED WITH THIS PROJECT INTO THE CITY'S MAINTAINED SYSTEM

WHEREAS, the City Engineer has determined that the public improvements constructed by Kaiser Foundation Health Plan, Inc. & Kaiser Foundation Hospitals on those portions of the north side of Iris Avenue, west of Oliver Street associated with this project were constructed according to the approved plans on file with the City of Moreno Valley; and

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

WHEREAS, the City Engineer has requested that the City Council authorize the acceptance of said public improvements as complete within project PA11-0009 and acceptance of those portions of Iris Avenue, west of Oliver Street associated with this project into the City's maintained street system; and

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

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

Section 1.

That the public improvements within PA11-0009 are complete, and those portions of Iris Avenue, west of Oliver Street associated with this project are accepted into the City's maintained street system.

Section 2. Recordation.

The City Clerk is hereby authorized and directed to cause a certified copy of this Resolution, in recordable form, attested by the City Clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the Official Records of the County of Riverside.

Section 3. Severability.

1
Resolution No. 2016-65
Date Adopted: September 20, 2016

That the City Council declares 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 Provisions.

That all the provisions 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 upon its adoption.

Section 6. Certification.

That the City Clerk shall certify to the passage of this Resolution and enter it into the book of original resolutions.

APPROVED AND ADOPTED this 20th day of September, 2016.

Mayor of the City of Moreno Valley

ATTEST:

Interim City Clerk

APPROVED AS TO FORM:

City Attorney

2
Resolution No. 2016-65
Date Adopted: September 20, 2016

Attachment: Resolution 2016-65 - PA11-0009 [Revision 2] (2236 : PA11-0009 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT)

RESOLUTION JURAT

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

I, Marie Macias, Interim City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2016-65 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 20th day of September 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

3
Resolution No. 2016-65
Date Adopted: September 20, 2016

Attachment: Resolution 2016-65 - PA11-0009 [Revision 2] (2236 : PA11-0009 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT)



Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: September 20, 2016

TITLE: AUTHORIZATION TO AWARD CONSTRUCTION CONTRACT FOR THE EDGEMONT NEIGHBORHOOD PAVEMENT REHABILITATION – PROJECT NO. 801 0070

RECOMMENDED ACTION

Recommendations:

1. Award the construction contract to Hardy & Harper, Inc., 1312 E. Warner Avenue, Santa Ana, CA 92705, the lowest responsible bidder for the Edgemont Neighborhood Pavement Rehabilitation Project.
2. Authorize the City Manager to execute a contract with Hardy & Harper, Inc.
3. Authorize the issuance of a Purchase Order to Hardy & Harper, Inc. in the amount of \$440,450.00 (\$383,000.00 bid amount plus 15% contingency) when the contract has been signed by all parties.
4. Authorize the Public Works Director/City Engineer to execute any subsequent related minor change orders to the contract with Hardy & Harper, Inc. up to, but not exceeding, the 15% contingency amount of \$57,450.00, subject to the approval of the City Attorney.

SUMMARY

This report recommends approval of a contract with Hardy & Harper, Inc. to construct the Edgemont Neighborhood Pavement Rehabilitation project that includes Dracaea Avenue, Bay Avenue, Abington Place, and Berkshire Lane. The project is funded with Measure A and has been approved in the FY 16/17 Capital Improvement Plan (CIP).

DISCUSSION

On May 17, 2016 the City Council approved the funding plan to rehabilitate certain distressed streets in the Edgemont neighborhood and directed staff to include the Edgemont Pavement Rehabilitation project in the FY 16/17 CIP.

On June 21, 2016 the City Council adopted the FY 16/17 CIP that provided funding for pavement rehabilitation of Dracaea Avenue (500 feet west of Edgemont Street to Day Street), Bay Avenue (Day Street to Frederick Street), Abington Place, and Berkshire Lane (at Pan Am Boulevard) in the Edgemont area. These streets were selected based on pavement conditions, daily traffic volumes, and opportunities to complete entire street segment lengths. The pavement rehabilitation work includes either slurry seal application or removal/replacement of the existing asphalt concrete surface. Slurry seal is an application of a thin layer of mixture made from oil and fine aggregate on the existing pavement surface. For very distressed pavement, a layer of the existing pavement is removed and replaced with new asphalt concrete surface. Pavement rehabilitation could enhance safety and drivability while extending the service life of the road. This project also includes other related street improvement work such as construction of asphalt concrete driveway approaches to match new pavement, reestablishment of traffic striping, and adjustment of utility covers.

The Planning Division of the Community and Economic Development Department determined on July 15, 2016 that this project qualifies for a Class 1 Categorical Exemption as defined in Section 15301C of the California Environmental Quality Act (CEQA) and Section 4.6B of the City’s Rules and Procedures for implementation of CEQA.

The design and bid documents were completed in July 2016 by in-house engineering staff as a cost savings solution for the City. The Notice Inviting Bids was advertised on August 4, 2016 and formal bidding procedures have been followed in conformance with the Public Contract Code. Bids were received via the electronic bid management system, PlanetBids, on August 24, 2016, and five (5) bids were received as follows:

<u>CONTRACTORS</u>	<u>Total Bid Amounts</u>
1. Hardy and Harper, Inc.	\$383,000.00
2. Hillcrest Contracting	\$434,879.00
3. NPG, Inc.	\$445,273.20
4. R.J. Noble Company	\$447,461.20
5. All American Asphalt	\$487,487.00

The bid results received show higher construction costs than budgeted due to small quantities for slurry seal included in the project. In addition, the original scope of the work for the project as included in the adopted CIP had to be adjusted to include asphalt concrete paving of forty seven (47) residential driveway transitions along Dracaea Avenue and Bay Avenue. The majority of these driveway approaches currently are either dirt or broken asphalt approaches. During the design and extensive field review, it was found to be necessary to pave these approaches to match with new roadway pavement elevations to provide continuous and drivable access to each residential home from these two streets.

The lowest responsible bidder was determined by comparing the cumulative total Bid Prices as stipulated in the Bidding Documents. Staff has reviewed the bid by Hardy & Harper, Inc. and found it to be the lowest responsible bidder in possession of a valid license and bid bond. No outstanding issues were identified through review of the references submitted by Hardy & Harper, Inc. in their bid. Staff recommends the City Council award the construction contract to Hardy & Harper, Inc.

ALTERNATIVES

1. Approve and authorize the recommended actions as presented in this staff report. *This alternative will provide for the timely construction of the pavement rehabilitation and related street improvements for the selected streets in the Edgemont neighborhood.*
2. Do not approve and authorize the recommended actions as presented in this staff report. *This alternative will delay construction of the pavement rehabilitation and related street improvements for the selected streets in the Edgemont neighborhood.*

FISCAL IMPACT

This project is included in the adopted FY 16/17 CIP and funded by Measure A. Budget supplements in Measure A funding come from the Citywide Annual Pavement Resurfacing Program (Project No. 801 0003 70 77) to cover remaining construction costs, inspection, project administration, and construction engineering costs. **There is no impact to the General Fund.**

Staff recommends that the City Council authorize the issuance of a Purchase Order to Hardy & Harper, Inc. in the amount of \$440,450.00 (bid amount plus 15% contingency). The contingency is added to the account for any unforeseen subsurface conditions encountered during construction which may result in changes in costs. Unforeseen conditions may include unsuitable soils, unknown or shallow conflicting utilities, or hazardous waste which need to be properly processed and removed. At the completion

of the project, any remaining funds will be returned to the project budget's fund balance.

Once constructed, street maintenance costs over a 20 year period are estimated to average approximately \$12,000 per year. Maintenance costs are typically funded by Measure A or Gas Tax monies that the City receives on an annual basis

AVAILABLE FUNDS FOR CONSTRUCTION:

Measure A (Acct. No. 2001-70-77-80001, Project No. 801 0070)	\$ 270,000.00
Measure A (Acct. No. 2001-70-77-80001, Project No. 801 0003 70 77)	\$ <u>200,450.00</u>
Total	\$470,450.00

ESTIMATED CONSTRUCTION COSTS:

Construction Contract (Including contingency)	\$440,450.00
Surveying and Materials Testing	\$15,000.00
Project Administration and Inspection*	\$ <u>15,000.00</u>
Total	\$ 470,450.00

**City staff will provide Project Management and Inspection Services.*

ANTICIPATED CONSTRUCTION SCHEDULE:

Start Construction	Early October 2016
Complete Construction	November 2016

NOTIFICATION

During the design phase all utilities were notified of the project. Prior to construction starting, adjacent property owners, business owners, law enforcement, fire department, and other emergency services responders in the area will be notified of the construction.

Changeable message signs will be placed in advance of construction zones to provide notification to commuters at least one week before start of work or changes in traffic configuration during construction.

PREPARATION OF STAFF REPORT

Prepared By:
Quang Nguyen
Senior Engineer, P.E.

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

Concurred By:
Margery Lazarus
Interim Capital Projects Manager/Assistant City Engineer

CITY COUNCIL GOALS

Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

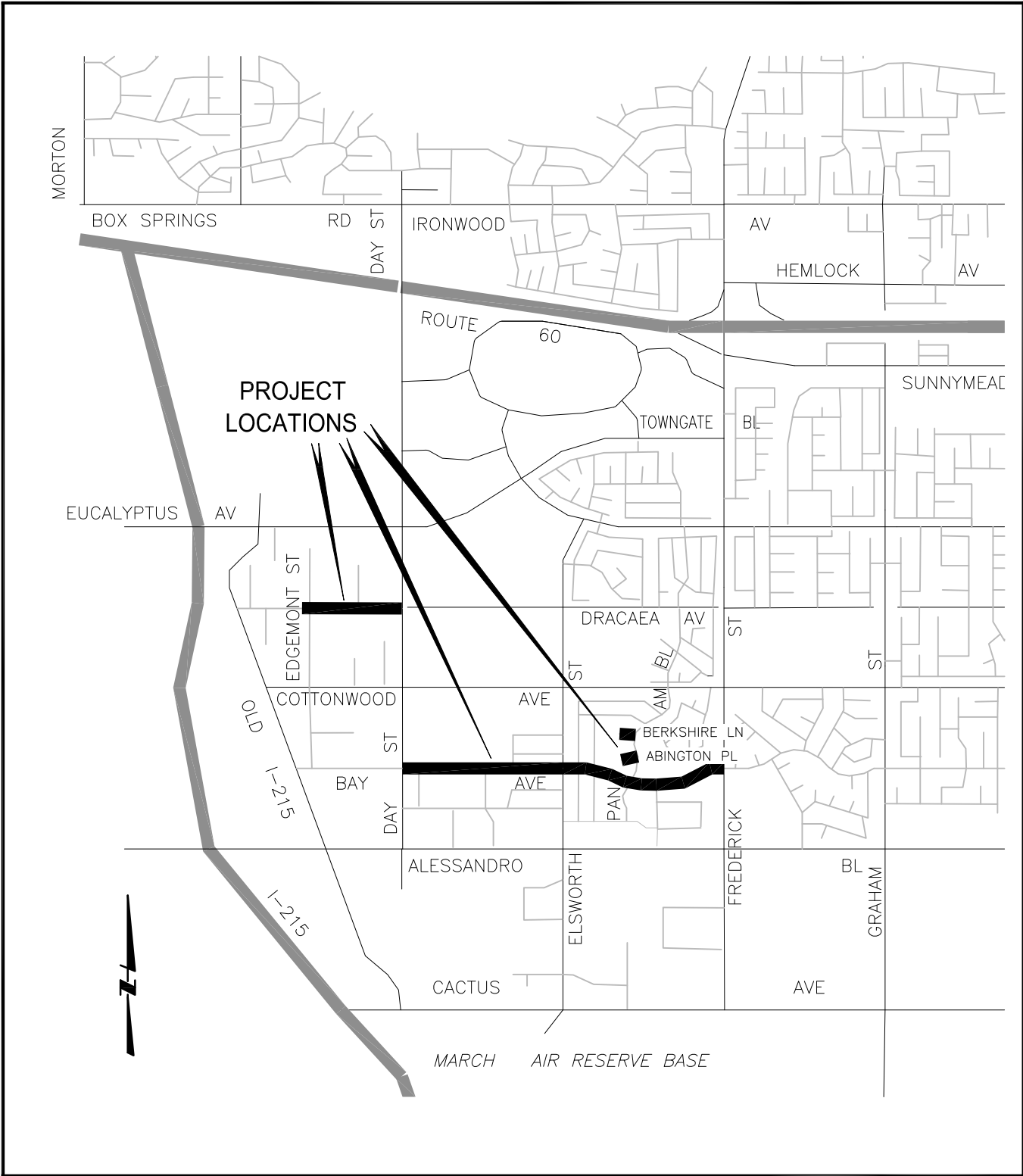
Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood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

ATTACHMENTS

- 1. Location Map
- 2. Contractor Agreement

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/06/16 9:12 AM
City Attorney Approval	<u>✓ Approved</u>	9/06/16 2:06 PM
City Manager Approval	<u>✓ Approved</u>	9/06/16 2:33 PM



PROJECT
LOCATIONS



LOCATION MAP

Public Works Department
Capital Projects Division

EDGEMONT NEIGHBORHOOD
PAVEMENT REHABILITATION PROJECT

PROJECT NO. 801 0070

Attachment: Location Map (2228 : AUTHORIZATION TO AWARD CONSTRUCTION CONTRACT FOR EDGEMONT NEIGHBORHOOD PAVEMENT

Agreement No. _____

AGREEMENT**PROJECT NO. 801 0070
EDGEMONT NEIGHBORHOOD PAVEMENT REHABILITATION
Dracaea Avenue, Bay Avenue, Berkshire Lane and Abington Place**

THIS Agreement, effective as of the date signed by the City of Moreno Valley by and between the City of Moreno Valley, a municipal corporation, County of Riverside, State of California, hereinafter called the "City" and **Hardy & Harper, Inc.**, hereinafter called the "Contractor."

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

1. CONTRACT DOCUMENTS. The Contract Documents consist of the following, which are incorporated herein by this reference:

- A. Governmental approvals, including, but not limited to, permits required for the Work
- B. Any and all Contract Change Orders issued after execution of this Agreement
- C. This Agreement
- D. Addendum No. 1 inclusive, issued prior to the opening of the Bids
- E. City Special Provisions, including the General Provisions and Technical Provisions
- F. Standard Specifications for Public Works Construction ("Greenbook") – latest edition in effect at the Bid Deadline, as modified by the City Special Provisions
- G. Reference Specifications/Reference Documents other than those listed in paragraph 2, below
- H. Project Plans
- I. City Standard Plans
- J. Caltrans Standard Plans
- K. Other Agency Standard Plans
- L. The bound Bidding Documents
- M. Contractor's Certificates of Insurance and Additional Insured Endorsements
- N. Contractor's Bidder's Proposal and Subcontractor Listing

In the event of conflict between any of the Contract Documents, the provisions placing a more stringent requirement on the Contractor shall prevail. The Contractor shall provide the better quality or greater quantity of Work and/or materials unless otherwise directed by City in writing. In the event none of the Contract Documents place a more stringent requirement or greater burden on the Contractor, the controlling provision shall be that which is found in the document with higher precedence in accordance with the above order of precedence.

2. REFERENCE DOCUMENTS. The following Reference Documents are not considered Contract Documents and are made available to the Contractor for informational purposes:

None

3. SCOPE OF WORK. The Contractor shall perform and provide all materials, tools, equipment, labor, and services necessary to complete the Work described in the Contract

Documents, except as otherwise provided in the Plans, Standard Specifications, or City Special Provisions to be the responsibility of others.

4. PAYMENT.

4.1. **Contract Price and Basis for Payment.** In consideration for the Contractor's full, complete, timely, and faithful performance of the Work required by the Contract Documents, the City shall pay Contractor for the actual quantity of Work required under the Bid Items awarded by the City performed in accordance with the lump sum prices and unit prices for Bid Items and Alternate Bid Items, if any, set forth the Bidder's Proposal submitted with the Bid. The sum of the unit prices and lump sum prices for the Bid Items awarded by the City is **Three Hundred Eighty Three Thousand Dollars (\$383,000.00)** ("Contract Price"). It is understood and agreed that the quantities set forth in the Bidder's Proposal for which unit prices are fixed are estimates only and that City will pay and Contractor will accept, as full payment for these items of work, the unit prices set forth in the Bidder's Proposal multiplied by the actual number of units performed, constructed, or completed as directed by the City Engineer.

4.2. **Payment Procedures.** Based upon applications for payment submitted by the Contractor to the City, the City shall make payments to the Contractor in accordance with Article 9 of the Standard Specifications, as modified by Article 9 of the City Special Provisions.

5. CONTRACT TIME.

A. Initial Notice to Proceed. After the Agreement has been fully executed by the Contractor and the City, the City shall issue the "Notice to Proceed to Fulfill Preconstruction Requirements." The date specified in the Notice to Proceed to Fulfill Preconstruction Requirements constitutes the date of commencement of the Contract Time of **Thirty (30) Working Days**. The Contract Time includes the time necessary to fulfill preconstruction requirements, and to complete construction of the Project (except as adjusted by subsequent Change Orders).

The Notice to Proceed to Fulfill Preconstruction Requirements shall further specify that Contractor must complete the preconstruction requirements within **Five (5) Working Days** after the date of commencement of the Contract Time; this duration is part of the Contract Time.

Critical preconstruction requirements include, but are not limited to, the following:

- Submitting and obtaining approval of the Storm Water Pollution Prevention Plan (SWPPP)/Water Pollution Control Plan (WPCP)
- Submitting and obtaining approval of critical required submittals
- Obtaining an approved no fee Encroachment Permit
- Notifying all agencies, utilities, residents, schools, as outlined in the Bidding Documents

If the City's issuance of a Notice to Proceed to Fulfill Preconstruction Requirements is delayed due to Contractor's failure to return the fully executed Agreement and insurance and bond documents within ten (10) Working Days after Contract award, then Contractor agrees to the deduction of one (1) Working Day from the number of days to complete the Project for every Working Day of delay in the City's receipt of said documents. This right is in addition to and does not affect the City's right to demand forfeiture of Contractor's Bid Security if Contractor persistently delays in providing the required documentation.

B. Notice to Proceed with Construction. After all preconstruction requirements are met in accordance with the Notice to Proceed to Fulfill Preconstruction Requirements, the City shall issue the "Notice to Proceed with Construction," at which time the Contractor shall diligently prosecute the Work, including corrective items of Work, day to day thereafter, within the remaining Contract Time.

6. LIQUIDATED DAMAGES

6.1. **Liquidated Damages.** The Contractor and City (collectively, the "Parties") have agreed to liquidate damages with respect to Contractor's failure to fulfill the preconstruction requirements, and/or failure to complete the Work within the Contract Time. The Parties intend for the liquidated damages set forth herein to apply to this Contract as set forth in Government Code Section 53069.85. Contractor acknowledges and agrees that the liquidated damages are intended to compensate the City solely for Contractor's failure to meet the deadline for completion of the Work and will not excuse Contractor from liability from any other breach, including any failure of the Work to conform to the requirements of the Contract Documents.

In the event that Contractor fails to fulfill the preconstruction requirements and/or fails to complete the Work within the Contract Time, Contractor agrees to pay the City **\$500.00 per Calendar day** that completion of the Work is delayed beyond the Contract Time, as adjusted by Contract Change Orders. The Contractor will not be assessed liquidated damages for delays occasioned by the failure of the City or of the owner of a utility to provide for the removal or relocation of utility facilities.

The Contractor and City acknowledge and agree that the foregoing liquidated damages have been set based on an evaluation of damages that the City will incur in the event of late completion of the Work. The Contractor and City acknowledge and agree that the amount of such damages are impossible to ascertain as of the date of execution hereof and have agreed to such liquidated damages to fix the City's damages and to avoid later disputes. It is understood and agreed by Contractor that liquidated damages payable pursuant to this Agreement are not a penalty and that such amounts are not manifestly unreasonable under the circumstances existing as of the date of execution of this Agreement.

It is further mutually agreed that the City will have the right to deduct liquidated damages against progress payments or retainage and that the City will issue a Change Order or Construction Change Directive and reduce the Contract Price accordingly. In the event the remaining unpaid Contract Price is insufficient to cover the full amount of liquidated damages, Contractor shall pay the difference to the City.

6.2. Any work completed by the Contractor after the issuance of a Stop Work Notice by the City shall be rejected and/or removed and replaced as specified in Section 2-11 of the Special Provisions.

6.3. **Owner is Exempt from Liability for Early Completion Delay Damages.** While the Contractor may schedule completion of all of the Work, or portions thereof, earlier than the Contract Time, the Owner is exempt from liability for and the Contractor will not be entitled to an adjustment of the Contract Sum or to any additional costs, damages, including, but not limited to, claims for extended general conditions costs, home office overhead, jobsite overhead, and management or administrative costs, or compensation whatsoever, for use of float time or for Contractor's inability to complete the Work earlier than the Contract Time for any reason whatsoever, including but not limited to, delay cause by Owner or other Excusable Compensable Delay. See Section 6-6 of the Standard Specifications and City Special Provisions regarding compensation for delays.

7. INSURANCE.

7.1. **General.** The Contractor shall procure and maintain at its sole expense and throughout the term of this Agreement, any extension thereof, Commercial General Liability, Automobile Liability, and Workers' Compensation Insurance with such coverage limits as described herein.

7.2. **Additional Insured Endorsements.** The Contractor shall cause the insurance required by the Contract Document to include the City of Moreno Valley, the City Council and each member thereof, the Moreno Valley Housing Authority (MVHA), and the Moreno Valley Community Services District (CSD), and their respective officials, employees, commission members, officers, directors, agents, employees, volunteers and representatives as additional insureds. For the Commercial General Liability coverage, said parties shall be named as additional insureds utilizing either:

1. Insurance Services Office ("ISO") Additional Insured endorsement CG 20 10 (11/85); or
2. ISO Additional Insured endorsement CG 20 10 (10/01) and Additional Insured Completed Operations endorsement CG 20 37 (10/01); or
3. substitute endorsements providing equivalent coverage, approved by the City.

The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The coverage shall contain no special limitations on the scope of protection afforded to such additional insureds. Coverage for such additional insureds does not extend to liability to the extent prohibited by Insurance Code Section 11580.4.

7.3. **Waivers of Subrogation.** All policies of insurance required by the Contract Documents shall include or be endorsed to provide a waiver by the insurers of any rights of recovery or subrogation that the insurers may have at any time against the City of Moreno Valley, the City Council and each member thereof, the Moreno Valley Housing Authority (MVHA), and the Moreno Valley Community Services District (CSD), and their respective officials, employees, commission members, officers, directors, agents, employees, volunteers and representatives.

7.4. **Primary Coverage.** All policies and endorsements shall stipulate that the Contractor's (and the Subcontractors') insurance coverage shall be primary insurance as respects the City of Moreno Valley, the City Council and each member thereof, the Moreno Valley Housing Authority (MVHA), and the Moreno Valley Community Services District (CSD), and their respective officials, employees, commission members, officers, directors, agents, employees, volunteers and representatives, and shall be excess of the Contractor's (and its Subcontractors') insurance and shall not contribute with it.

7.5. **Coverage Applies Separately to Each Insured and Additional Insured.** Coverage shall state that the Contractor's (and its Subcontractors') insurance shall apply separately to each insured or additional insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage shall apply to any claim or suit brought by an additional insured against a named insured or other insured.

7.6. **Self-Insurance.** Any self-insurance (including deductibles or self-insured retention in excess of \$50,000) in lieu of liability insurance must be declared by Contractor and approved by the City in writing prior to execution of the Agreement. The City's approval of self-insurance, if any, is within the City's sole discretion and is subject to the following conditions:

1. Contractor must, at all times during the term of the Agreement and for a period of at least **one (1)** year after completion of the Project, and any extension of the one-year correction guarantee period in accordance with Section 6-8.1 of the City Special Provisions, maintain and upon Owner's reasonable request provide evidence of:
 - (a) Contractor's "net worth" (defined as "total assets" [defined as all items of value owned by the Contractor including tangible items such as cash, land, personal property and equipment and intangible items such as copyrights and business goodwill]) minus total outside liabilities must be reflected in a financial statement for the prior fiscal year reflecting sufficient income and budget for Contractor to afford at least one loss in an amount equal to the amount of self-insurance;
 - (b) financial statements showing that Contractor has funds set aside/budgeted to finance the self-insured fund (i.e., Contractor has a program that fulfills functions that a primary insurer would fill; and
 - (c) a claims procedure that identifies how a claim is supposed to be tendered to reach the financing provided by the self-insured fund.
2. If at any time after such self-insurance has been approved Contractor fails to meet the financial thresholds or otherwise fails to comply with the provisions set forth in this Paragraph 7, at the option of the City:
 - (a) the Contractor shall immediately obtain and thereafter maintain the third party insurance required under this Paragraph 7 and otherwise on the terms required above; or
 - (b) the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or
 - (c) the Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration, and defense expenses.

7.7. **Insurer Financial Rating.** Insurance companies providing insurance hereunder shall be rated A:VII or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct insurance business in the State of California.

7.8. **Notices to City of Cancellation or Changes.** Each insurance policy described in this Paragraph 7 shall contain a provision or be endorsed to state that coverage will not be cancelled without **thirty (30) days'** prior written notice by certified or registered mail to the City (this obligation may be satisfied in the alternative by requiring such notice to be provided by Contractor's insurance broker and set forth on its Certificate of Insurance provided to the City), except that

cancellation for non-payment of premium shall require (10) days prior written notice by certified or registered mail. If an insurance carrier cancels any policy or elects not to renew any policy required to be maintained by Contractor pursuant to the Contract Documents, Contractor agrees to give written notice to the City at the address indicated on the first page of the Agreement. Contractor agrees to provide the same notice of cancellation and non-renewal to the City that is required by such policy(ies) to be provided to the First Named Insured under such policy(ies). Contractor shall provide confirmation that the required policies have been renewed not less than seven (7) days prior to the expiration of existing coverages and shall deliver renewal or replacement policies, certificates and endorsements to the City Clerk within fourteen (14) days of the expiration of existing coverages. Contractor agrees that upon receipt of any notice of cancellation or alteration of the policies, Contractor shall procure within five (5) days, other policies of insurance similar in all respects to the policy or policies to be cancelled or altered. Contractor shall furnish to the City Clerk copies of any endorsements that are subsequently issued amending coverage or limits within fourteen (14) days of the amendment.

7.9. **Commercial General Liability.** Coverage shall be written on an ISO Commercial General Liability “occurrence” form CG 00 01 (10/01 or later edition) or equivalent form approved by the City for coverage on an occurrence basis. The insurance shall cover liability, including, but not limited to, that arising from premises operations, stop gap liability, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The policy shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 (11/85). Coverage shall contain no contractors’ limitation or other endorsement limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground (x, c, u) property damage. Contractor shall provide Products/Completed Operations coverage to be maintained continuously for a minimum of **one (1) year** after Final Acceptance of the Work, and any extension of the one-year correction guarantee period in accordance with Section 6-8.1 of the City Special Provisions.

Contractor shall maintain Commercial General Liability insurance with the following minimum limits: \$1,000,000 per occurrence / \$2,000,000 aggregate / \$2,000,000 products-completed operations.

7.10. **Business Automobile Liability.** Coverage shall be written on ISO form CA 00 01 (12/93 or later edition) or a substitute form providing equivalent coverage for owned, hired, leased and non-owned vehicles, whether scheduled or not, with \$1,000,000 combined single limit per accident for bodily injury and property damage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

7.11. **Workers’ Compensation.** Contractor shall comply with the applicable sections of the California Labor Code concerning workers’ compensation for injuries on the job. Compliance is accomplished in one of the following manners:

1. Provide copy of permissive self-insurance certificate approved by the State of California; or
2. Secure and maintain in force a policy of workers’ compensation insurance with statutory limits and Employer’s Liability Insurance with a minimal limit of **\$1,000,000** per accident; or
3. Provide a “waiver” form certifying that no employees subject to the Labor Code’s Workers’ Compensation provision will be used in performance of this Contract.

7.12. **Subcontractors' Insurance.** The Contractor shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

8. **BONDS.** The Contractor shall furnish a satisfactory Performance Bond meeting all statutory requirements of the State of California on the form provided by the City. The bond shall be furnished as a guarantee of the faithful performance of the requirements of the Contract Documents as may be amended from time to time, including, but not limited to, liability for delays and damages (both direct and consequential) to the City and the City's Separate Contractors and consultants, warranties, guarantees, and indemnity obligations, in an amount that shall remain equal to one hundred percent (100%) of the Contract Price.

The Contractor shall furnish a satisfactory Labor and Materials Payment Bond meeting all statutory requirements of the State of California on the form provided by the City in an amount that shall remain equal to one hundred percent (100%) of the Contract Price to secure payment of all claims, demands, stop notices, or charges of the State of California, of material suppliers, mechanics, or laborers employed by the Contractor or by any Subcontractor, or any person, firm, or entity eligible to file a stop notice with respect to the Work.

All bonds shall be executed by a California-admitted surety insurer. Bonds issued by a California-admitted surety insurer listed on the latest version of the U.S Department of Treasury Circular 570 shall be deemed accepted unless specifically rejected by the City. Bonds issued by sureties not listed in Treasury Circular 570 must be accompanied by all documents enumerated in California Code of Civil Procedure Section 995.660(a). The bonds shall bear the same date as the Contract. The attorney-in-fact who executes the required bonds on behalf of the surety shall affix thereto a certified and current copy of the power of attorney. In the event of changes that increase the Contract Price, the amount of each bond shall be deemed to increase and at all times remain equal to the Contract Price. The signatures shall be acknowledged by a notary public. Every bond must display the surety's bond number and incorporate the Contract for construction of the Work by reference. The terms of the bonds shall provide that the surety agrees that no change, extension of time, alteration, or modification of the Contract Documents or the Work to be performed thereunder shall in any way affect its obligations and shall waive notice of any such change, extension of time, alteration, or modification of the Contract Documents. The surety further agrees that it is obligated under the bonds to any successor, grantee, or assignee of the City.

Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

Should any bond become insufficient, or should any of the sureties, in the opinion of the City, become non-responsible or unacceptable, the Contractor shall, within ten (10) Calendar Days after receiving notice from the City, provide written documentation to the Satisfaction of the City that Contractor has secured new or additional sureties for the bonds; otherwise the Contractor shall be in default of the Contract. No further payments shall be deemed due or will be made under Contract until a new surety(ies) qualifies and is accepted by the City.

Contractor agrees that the Labor and Materials Payment Bond and Faithful Performance Bond attached to this Agreement are for reference purposes only, and shall not be considered a part of this Agreement. Contractor further agrees that said bonds are separate obligations of the Contractor and its surety, and that any attorney's fee provision contained in any payment bond or

performance bond shall not apply to this Agreement. In the event there is any litigation between the parties arising from the breach of this Agreement, each party will bear its own attorneys' fees in the litigation.

9. RECORDS. The Contractor and its Subcontractors shall maintain and keep books, payrolls, invoices of materials, and Project records current, and shall record all transactions pertaining to the Contract in accordance with generally acceptable accounting principles. Said books and records shall be made available to the City of Moreno Valley, Riverside County, the State of California, the Federal Government, and to any authorized representative thereof for purposes of audit and inspection at all reasonable times and places. All such books, payrolls, invoices of materials, and records shall be retained for at least three (3) years after Final Acceptance.

10. INDEMNIFICATION.

10.1. General. To the fullest extent permitted by law, the Contractor assumes liability for and agrees, at the Contractor's sole cost and expense, to promptly and fully indemnify, protect, hold harmless and defend (even if the allegations are false, fraudulent, or groundless), the City of Moreno Valley, its City Council, the Moreno Valley Housing Authority (MVHA), and the Moreno Valley Community Services District (CSD), and all of their respective officials, officers, directors, employees, commission members, representatives and agents ("Indemnitees"), from and against any and all claims, allegations, actions, suits, arbitrations, administrative proceedings, regulatory proceedings, or other legal proceeds, causes of action, demands, costs, judgments, liens, stop notices, penalties, liabilities, damages, losses, anticipated losses of revenues, and expenses (including, but not limited to, any fees of accountants, attorneys, experts or other professionals, or investigation expenses), or losses of any kind or nature whatsoever, whether actual, threatened or alleged, arising out of, resulting from, or in any way (either directly or indirectly), related to the Work, the Project or any breach of the Contract by Contractor or any of its officers, agents, employees, Subcontractors, Sub-subcontractors, or any person performing any of the Work, pursuant to a direct or indirect contract with the Contractor ("Indemnity Claims"). Such Indemnity Claims include, but are not limited to, claims for:

- A. Any activity on or use of the City's premises or facilities;
- B. Any liability incurred due to Contractor acting outside the scope of its authority pursuant to the Contract, whether or not caused in part by an Indemnified Party;
- C. The failure of Contractor or the Work to comply with any Applicable Law, permit or orders;
- D. Any misrepresentation, misstatement or omission with respect to any statement made in the Contract Documents or any document furnished by the Contractor in connection therewith;
- E. Any breach of any duty, obligation or requirement under the Contract Documents, including, but not limited to any breach of Contractor's warranties, representations or agreements set forth in the Contract Documents;
- F. Any failure to coordinate the Work with City's Separate Contractors;
- G. Any failure to provide notice to any party as required under the Contract Documents;
- H. Any failure to act in such a manner as to protect the Project from loss, cost, expense or liability;
- I. Bodily or personal injury, emotional injury, sickness or disease, or death at any time to any persons including without limitation employees of Contractor;

- J. Damage or injury to real property or personal property, equipment and materials (including, but without limitation, property under the care and custody of the Contractor or the City) sustained by any person or persons (including, but not limited to, companies, corporations, utility company or property owner, Contractor and its employees or agents, and members of the general public);
- K. Any liability imposed by Applicable Law including, but not limited to criminal or civil fines or penalties;
- L. Any dangerous, hazardous, unsafe or defective condition of, in or on the Site, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the Site by Contractor, its officers, agents, employees, or Subcontractors;
- M. Any operation conducted upon or any use or occupation of the Site by Contractor, its officers, agents, employees, or Subcontractors under or pursuant to the provisions of the Contract or otherwise;
- N. Any acts, errors, omission or negligence of Contractor, its officers, agents, employees, or Subcontractors;
- O. Infringement of any patent rights, licenses, copyrights or intellectual property which may be brought against the Contractor or Owner arising out of Contractor's Work, for which the Contractor is responsible; and
- P. Any and all claims against the City seeking compensation for labor performed or materials used or furnished to be used in the Work or alleged to have been furnished on the Project, including all incidental or consequential damages resulting to the City from such claims.

10.2. **Effect of Indemnitees' Active Negligence.** Contractor's obligations to indemnify and hold the Indemnitees harmless exclude only such portion of any Indemnity Claim which is attributable to the active negligence or willful misconduct of the Indemnitee, provided such active negligence or willful misconduct is determined by agreement of the parties or by findings of a court of competent jurisdiction. In instances where an Indemnitee's active negligence accounts for only a percentage of the liability for the Indemnity Claim involved, the obligation of Contractor will be for that entire percentage of liability for the Indemnity Claim not attributable to the active negligence or willful misconduct of the Indemnitee(s). Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 11. Subject to the limits set forth herein, the Contractor, at its own expense, shall satisfy any resulting judgment that may be rendered against any Indemnitee resulting from an Indemnity Claim. The Indemnitees shall be consulted with regard to any proposed settlement.

10.3. **Independent Defense Obligation.** The duty of the Contractor to indemnify and hold harmless the Indemnitees includes the separate and independent duty to defend the Indemnitees, which duty arises immediately upon receipt by Contractor of the tender of any Indemnity Claim from an Indemnitee. The Contractor's obligation to defend the Indemnitee(s) shall be at Contractor's sole expense, and not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines that the Contractor is not liable. This duty to defend shall apply whether or not an Indemnity Claim has merit or is meritless, or which involves claims or allegations that any or all of the Indemnitees were actively, passively, or concurrently negligent, or which otherwise asserts that the Indemnitees are responsible, in whole or in part, for any Indemnity Claim. The Contractor shall respond within thirty (30) Calendar Days to the tender of any Indemnity Claim for defense and/or indemnity by an Indemnitee, unless the Indemnitee agrees

in writing to an extension of this time. The defense provided to the Indemnitees by Contractor shall be by well qualified, adequately insured and experienced legal counsel acceptable to the City.

10.4. Intent of Parties Regarding Scope of Indemnity. It is the intent of the parties that the Contractor and its Subcontractors of all tiers shall provide the Indemnitees with the broadest defense and indemnity permitted by Applicable Law. In the event that any of the defense, indemnity or hold harmless provisions in the Contract Documents are found to be ambiguous, or in conflict with one another, it is the parties' intent that the broadest and most expansive interpretation in favor of providing defense and/or indemnity to the Indemnitees be given effect.

10.5. Waiver of Indemnity Rights Against Indemnitees. With respect to third party claims against the Contractor, to the fullest extent permitted by law, the Contractor waives any and all rights to any type of express or implied indemnity against the Indemnitees.

10.6. Subcontractor Requirements. In addition to the requirements set forth hereinabove, Contractor shall ensure, by written subcontract agreement, that each of Contractor's Subcontractors of every tier shall protect, defend, indemnify and hold harmless the Indemnitees with respect to Indemnity Claims arising out of, in connection with, or in any way related to each such Subcontractors' Work on the Project in the same manner in which Contractor is required to protect, defend, indemnify and hold the Indemnitees harmless. In the event Contractor fails to obtain such defense and indemnity obligations from others as required herein, Contractor agrees to be fully responsible to the Indemnitees according to the terms of this Paragraph 11.

10.7. No Limitation or Waiver of Rights. Contractor's obligations under this Paragraph 11 are in addition to any other rights or remedies which the Indemnitees may have under the law or under the Contract Documents. Contractor's indemnification and defense obligations set forth in this Paragraph 11 are separate and independent from the insurance provisions set forth in the Contract Documents, and do not limit, in any way, the applicability, scope, or obligations set forth in such insurance provisions. The purchase of insurance by the Contractor with respect to the obligations required herein shall in no event be construed as fulfillment or discharge of such obligations. In any and all claims against the Indemnitees by any employee of the Contractor, any Subcontractor, any supplier of the Contractor or Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the obligations under this Paragraph 11 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor or any supplier of either of them, under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. Failure of the City to monitor compliance with these requirements imposes no additional obligations on the City and will in no way act as a waiver of any rights hereunder.

10.8. Withholding to Secure Obligations. In the event an Indemnity Claim arises prior to final payment to Contractor, the City may, in its sole discretion, reserve, retain or apply any monies due Contractor for the purpose of resolving such Indemnity Claims; provided, however, the City may release such funds if the Contractor provides the City with reasonable assurances of protection of the Indemnitees' interests. The City shall, in its sole discretion, determine whether such assurances are reasonable.

10.9. Survival of Indemnity Obligations. Contractor's obligations under this Paragraph 11 are binding on Contractor's and its Subcontractors' successors, heirs and assigns and shall survive the completion of the Work or termination of the Contractor's performance of the Work.

11. SUCCESSORS AND ASSIGNS. The Parties bind themselves, their heirs, executors, administrators, successors and assigns the covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not, either voluntarily or by action of law, assign any right or obligation of the Contractor under the Contract Documents without prior written consent of the City.

(SIGNATURE PAGE FOLLOWS)

Attachment: Contractor Agreement (2228 : AUTHORIZATION TO AWARD CONSTRUCTION CONTRACT FOR EDGEMONT NEIGHBORHOOD

CITY OF MORENO VALLEY, Municipal Corporation

Hardy & Harper, Inc.

BY: _____
City Manager

License No./
Classification: _____

DATE: _____

Expiration Date: _____

Federal I.D. No.: _____

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

City Attorney

Date
RECOMMENDED FOR APPROVAL:

Public Works Director/City Engineer <i>(if contract exceeds \$15,000)</i>

Date

Chief Financial Officer / City Treasurer <i>(only needed if CDBG funds)</i>

Date

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

SIGNING INSTRUCTIONS TO THE CONTRACTOR:

Signature(s) must be accompanied by a completed notary certificate of acknowledgement attached hereto. A general partner must sign on behalf of a partnership. **Two (2)** corporate officers must sign on behalf of a corporation unless the corporation has a corporate resolution that allows one person to sign on behalf of the corporation; if applicable, said resolution must be attached hereto. The corporate seal may be affixed hereto.

Attachment: Contractor Agreement (2228 : AUTHORIZATION TO AWARD CONSTRUCTION CONTRACT FOR EDGEMONT NEIGHBORHOOD



Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: September 20, 2016

TITLE: PURSUANT TO LANDOWNER PETITION, ANNEX ONE PARCEL INTO COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES) — AS AMENDMENT NO. 15

RECOMMENDED ACTION

Recommendation:

1. Acting as the legislative body of Community Facilities District No. 2014-01 (Maintenance Services), adopt Resolution No. 2016-66, 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.

SUMMARY

Approval of the proposed resolution will certify annexation of one parcel into Community Facilities District (CFD) No. 2014-01 (Maintenance Services) ("District"). This action affects one property owner, not the general citizens or taxpayers of the City.

The City requires property owners of new development projects to mitigate the cost of certain impacts created by the proposed development (i.e. the ongoing cost for operation and maintenance of public landscaping and/or street lights installed by the development). As a condition of approval, the property owner is required to provide an ongoing funding source to maintain those improvements. The City created CFD No. 2014-01 to provide the development community with a financing mechanism to assist in satisfying the requirement. After a property owner elects to annex their property into the District, the City can levy a special tax on the property tax bills of the annexed parcels. Revenue generated by the District provides a funding source to operate and maintain only those improvements within the District.

Luis Valenzuela, property owner of Assessor's Parcel Number (APN) 291-294-024 (north side of Alessandro Blvd., west of Frederick St.) ("Property Owner"), has elected to annex into the District. Annexing into the District will satisfy the condition to provide a funding source for the ongoing maintenance of the landscaped median adjacent to the property. A landowner petition approving the annexation was submitted and confirmed by the City Clerk.

DISCUSSION

District Formation

The District was formed by adoption of Resolution No. 2014-25 to provide an alternative financing tool for the development community. It provides a mechanism to fund the operation and maintenance of street lighting services and maintenance of public landscaping. After approval by a landowner to annex their property into the District and approval of the applicable special tax rate area(s), the City is authorized to levy a special tax onto the annual property tax bill(s). Residential Tract 31618 (southwest corner of Moreno Beach Dr. and Bay Ave.) formed the original boundaries of the District. Since formation of the District, twelve additional landowners have authorized annexation of their properties into the District.

The Rate and Method of Apportionment of Special Tax (RMA) for the District describes the different special tax rate areas, services provided, and the formula to calculate the special tax rate for each of the tax rate areas. Several special tax rate layers were created to accommodate a variety of scenarios to ensure costs are fairly shared between property owners. For example, there is a tax rate layer for single-family residential street lighting and one for street lighting for property other than single-family residential (e.g. commercial, industrial, or multifamily projects). Different tax rate layers are needed for street lighting because the spacing and size of lights differ based on the type of development. Likewise, there are several tax rate areas for maintenance of public landscaping. A property owner's proportionate share of landscape maintenance costs will vary depending upon the total square footage of landscaping to be maintained for that development and the number of properties sharing in the cost.

Annexation to the District

On February 10, 2015, the City Council adopted Ordinance No. 889, which designated the entire territory of the City a future annexation area for the District. Adoption of that Ordinance provides a simplified process for the development community to voluntarily annex into the District. Annexations can occur without an additional public hearing as long as the annexing landowner provides unanimous consent. Once annexed, parcels are subject to the annual special tax to fund the service(s) they are receiving.

The Property Owner plans to expand the existing commercial building located on APN 291-294-024 (north side of Alessandro Blvd., west of Frederick St.). The Property Owner has two options to satisfy the condition of approval:

- 1) Submit a landowner petition approving annexation of the parcel into the District. Approval of the petition and special tax rate allows the City to annually levy the special tax on the property tax bill. This option is only available if there are fewer than 12 registered voters living within the proposed annexation area. On August 4, 2016, the Office of the Riverside County Registrar of Voters confirmed there were no registered voters residing at APN 291-294-024 (“Subject Property”) allowing for a special election of the landowner to be conducted; or
- 2) Establish a homeowners or property owners association to provide the ongoing maintenance and operation of the improvements.

The Property Owner elected to annex the Subject Property into CFD No. 2014-01 and submitted a completed landowner petition to the City Clerk. On August 18, 2016, the City Clerk reviewed the landowner petition and confirmed the Property Owner unanimously approved the annexation of the Subject Property into the District (Attachment 3). Adoption of the attached resolution (Attachment 1) adds the Subject Property to Tax Rate Area LM-02B within CFD No. 2014-01, and directs the recordation of the boundary map for Amendment No. 15 (Attachment 2) and the amended notice of special tax lien.

Successful completion of the annexation satisfies the Property Owner’s condition of approval to provide an ongoing funding source for their share of the maintenance and operation of the median landscaping adjacent to their property.

ALTERNATIVES

1. Adopt the proposed resolution. *Staff recommends this alternative, as it will annex the parcel into CFD No. 2014-01 at the Property Owner’s request and satisfy their condition of approval for the proposed development.*
2. Do not adopt the proposed resolution. *Staff does not recommend this alternative as it is contrary to the Property Owner’s request, will not satisfy the condition of approval, and may delay development of the project.*
3. Do not adopt the proposed resolution but rather continue the item to a future City Council meeting. *Staff does not recommend this alternative as it will delay the Property Owner from satisfying the project’s condition of approval and may delay development of the project.*

FISCAL IMPACT

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

Property Owner/Project	Services/ Tax Rate Area	Proposed Front Linear Footage ¹	FY 2016/17 Maximum Special Tax per Front Linear Foot	Estimated FY 2016/17 Maximum Special Tax for the Project ²
Luis Valenzuela P13-102	Landscaping for Property Other than Single- Family Residential LM-02B	92	\$6.02	\$553.84

¹ Proposed front linear footage based on current parcel configuration. The actual special tax calculation will be based on final parcel configuration.

² 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 rates are subject to an annual inflation adjustment based on the change in the Consumer Price Index (CPI) or five percent (5%), whichever is greater. Each year, the City Council must authorize any proposed CPI adjustment prior to the levy of the special tax onto the property tax bills. Increases to the maximum special tax rate cannot exceed the annual inflationary adjustment without a 2/3rds approval of the registered voters within the affected tax rate area.

NOTIFICATION

The annexation materials were mailed to the Property Owner on July 26, 2016. A cover letter, Landowner Petition, RMA, and an envelope to return the completed petition were included in the annexation materials.

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 No. 2016-66, Ordering Amendment No. 15 for CFD No. 2014-01
2. Amendment No. 15 Boundary Map
3. Certificate of Election Official - Amendment No. 15

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/06/16 9:15 AM
City Attorney Approval	<u>✓ Approved</u>	9/08/16 2:24 PM
City Manager Approval	<u>✓ Approved</u>	9/08/16 2:38 PM

RESOLUTION NO. 2016-66

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 parcel 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 parcel (the "Annexation Parcel") to the CFD; and

WHEREAS, the Annexation Parcel is comprised of the territory shown on the boundary map (the "Boundary Map") "Amendment No. 15 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 included as Exhibit B to this Resolution, and incorporated herein by this reference; and

WHEREAS, the City Council desires to annex the Annexation Parcel 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 Parcel is hereby added to and part of the CFD with full legal effect. The Annexation Parcel is subject to the 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.

The Annexation Parcel 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 Parcel 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.

8. Severability. That the City Council declares 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.

9. Repeal of Conflicting Provisions. That all the provisions heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

APPROVED AND ADOPTED this 20th day of September, 2016.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

3
Resolution No. 2016-66
Date Adopted: September 20, 2016

Attachment: Resolution No. 2016-66, Ordering Amendment No. 15 for CFD No. 2014-01 [Revision 2] (2212 : PURSUANT TO LANDOWNER

RESOLUTION JURAT

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

I, Marie Macias, Interim City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2016-66 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 20th day of September, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

4
Resolution No. 2016-66
Date Adopted: September 20, 2016

Attachment: Resolution No. 2016-66, Ordering Amendment No. 15 for CFD No. 2014-01 [Revision 2] (2212 : PURSUANT TO LANDOWNER

EXHIBIT A

List of Annexation Parcels

Boundary Map Amendment No.	Assessor's Parcel Number	Services	Tax Rate Area & Maintenance Category
Amendment No. 15	291-294-024	Landscape Maintenance Services	LM-02B

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 this annexation 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 No. 2016-66, Ordering Amendment No. 15 for CFD No. 2014-01 [Revision 2] (2212 : PURSUANT TO LANDOWNER

5
Resolution No. 2016-66
Date Adopted: September 20, 2016

EXHIBIT B

**AMENDMENT NO. 15 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 INTENDS, BY ADJOINING THE ADEQUATE TERRITORY SHOWN HEREON, TO RECONSTRUCT THE MAP FOR THE CITY OF MORENO VALLEY COMMUNITY FACILITIES DISTRICT NO. 2014-01 (MAINTENANCE SERVICES), CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FROM RECORDS IN BOOK 78 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AS FILED IN THE OFFICE OF THE COUNTY RECORDER FOR THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

SHEET 1 OF 1

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 ADEQUATE 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, 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 MAP 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 HEREON.

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 COVER FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

MAP REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER
1	291-294-024

Legend
 ○ Map Reference Number
 □ Additional Area to CFD 2014-01

1 inch = 30 feet

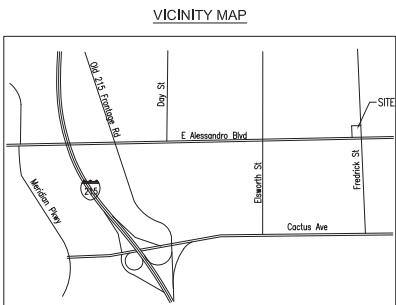
Attachment: Resolution No. 2016-66, Ordering Amendment No. 15 for CFD No. 2014-01 [Revision 2] (2212 : PURSUANT TO LANDOWNER

6
Resolution No. 2016-66
Date Adopted: September 20, 2016

AMENDMENT NO. 15 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).



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 MAP 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.

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.

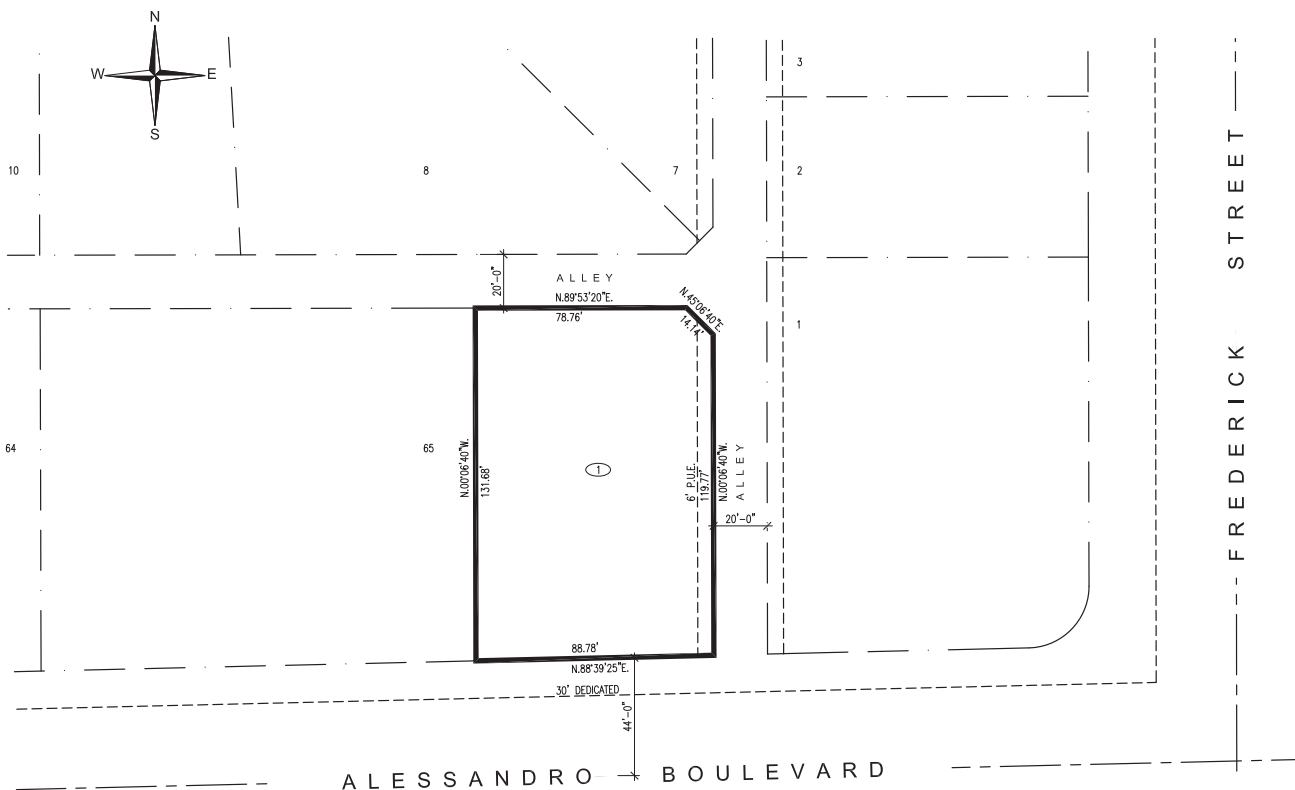
THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

MAP REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER
1	291-294-024

Legend
① Map Reference Number

Additional Area to CFD 2014-01

1 inch = 30 feet



**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 August 18, 2016, 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. 15

WITNESS my hand this 18th day of August, 2016.

Maui Macias MMC
ELECTION OFFICIAL
CITY OF MORENO VALLEY
STATE OF CALIFORNIA



Report to City Council

TO: Mayor and City Council

FROM: Terrie Stevens, Administrative Services Director

AGENDA DATE: September 20, 2016

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:
Terrie Stevens
Administrative Services Director

Department Head Approval:
Terrie Stevens
Administrative Services Director

CITY COUNCIL GOALS

None

ATTACHMENTS

1. Personnel Changes

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/06/16 1:26 PM
City Attorney Approval	<u>✓ Approved</u>	9/06/16 2:07 PM
City Manager Approval	<u>✓ Approved</u>	9/06/16 2:18 PM

**City of Moreno Valley
Personnel Changes
September 20, 2016**

New Hires

Daryl Brawley
Animal Services Field Supervisor, Administrative Services Department

Regina Flores
Administrative Assistant, City Clerk/Council Office

Promotions

None

Transfers

None

Separations

None



Report to City Council

TO: Mayor and City Council

FROM: Abdul Ahmad, Fire Chief

AGENDA DATE: September 20, 2016

TITLE: RESCIND RESOLUTION NO. 2014-44 AND ADOPT RESOLUTION 2016-67 DESIGNATING AND AUTHORIZING CERTAIN CITY OFFICIALS TO EXECUTE APPLICATIONS AND DOCUMENTS FOR THE PURPOSES OF OBTAINING FEDERAL FINANCIAL ASSISTANCE PROVIDED BY THE FEDERAL DEPARTMENT OF HOMELAND SECURITY AND SUB-GRANTED THROUGH THE STATE OF CALIFORNIA

RECOMMENDED ACTION

Recommendation:

1. Adopt Resolution No. 2016-67, a Resolution of the City Council of the City of Moreno Valley, California, Rescinding Resolution No. 2014-44 and Designating and Authorizing Certain City Officials to Execute Applications and Documents for the Purposes of Obtaining Federal Financial Assistance Provided by the Federal Department of Homeland Security and Sub-granted through the State of California.

SUMMARY

This report recommends City Council adopt the proposed Resolution, which will rescind Resolution No. 2014-44 as well as designate and authorize certain City officials to execute applications and documents for the purposes of obtaining federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California.

DISCUSSION

To apply for and receive federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California, the City of

Moreno Valley is required to designate certain City officials who are authorized to execute all pertinent grant applications and related documents. This authority must be renewed every three years.

On June 10, 2014, the City of Moreno Valley City Council adopted Resolution No. 2014-44 which rescinded a previous resolution authorizing officials and designated and authorized updated City officials.

This report will rescind the previous resolution and designate and authorize certain City officials to execute all grant applications and related documents necessary for the purpose of obtaining federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California.

ALTERNATIVES

1. Adopt the proposed Resolution rescinding Resolution No. 2014-44 and designating and authorizing certain City officials to execute grant applications and related documents for the purposes of obtaining federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California. *Staff recommends this alternative as it will continue to allow the City to apply for grant money and federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California.*
2. Decline to adopt the proposed Resolution rescinding Resolution No. 2014-44 and designating and authorizing certain City officials to execute grant applications and related documents for the purposes of obtaining federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California. *Staff does not recommend this alternative as the City would no longer be eligible to apply for or receive federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California.*

FISCAL IMPACT

Without a new Resolution, the City would not be eligible to apply for or receive federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California.

NOTIFICATION

Publication of City Council agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Steve Wilkinson
Management Analyst

Department Head Approval:
Abdul R. Ahmad
Fire Chief

Concurred By:
Alia Rodriguez
Emergency Management Program 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.

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

ATTACHMENTS

1. Resolution No. 2016-67, Designate and Authorize City Officials

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	8/18/16 1:08 PM
City Attorney Approval	<u>✓ Approved</u>	9/08/16 3:11 PM
City Manager Approval	<u>✓ Approved</u>	9/08/16 3:13 PM

RESOLUTION NO. 2016-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, RESCINDING RESOLUTION NO. 2014-44 AND DESIGNATING AND AUTHORIZING CERTAIN CITY OFFICIALS TO EXECUTE APPLICATIONS AND DOCUMENTS FOR THE PURPOSES OF OBTAINING FEDERAL FINANCIAL ASSISTANCE PROVIDED BY THE FEDERAL DEPARTMENT OF HOMELAND SECURITY AND SUB-GRANTED THROUGH THE STATE OF CALIFORNIA

WHEREAS, the City Council of the City of Moreno Valley heretofore adopted Resolution NO. 2014-44 designating and authorizing certain City officials to execute said applications and documents; and

WHEREAS, the California Governor's Office of Emergency Services has required that the Moreno Valley City Council update Resolution No. 2014-44 in order to be eligible to apply for and receive federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California.

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

1. That the City Manager, Assistant City Manager, Public Works Director/City Engineer, or Fire Chief is hereby authorized to execute for and on behalf of the City of Moreno Valley, a local government established under the laws of the State of California, applications and other related documents for the purpose of obtaining federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of California.
2. Severability.

That the City Council declares 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.

3. Repeal of Conflicting Provisions.

That all the provisions heretofore adopted by the City or the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

1
Resolution No. 2016-67
Date Adopted: September 20, 2016

4. Effective Date.

That this Resolution shall take effect upon its adoption.

5. Certification.

That the City Clerk shall certify to the passage of this resolution and enter it into the book of original resolutions.

APPROVED AND ADOPTED this 20th day of September, 2016.

Mayor of the City of Moreno Valley

ATTEST:

Interim City Clerk

APPROVED AS TO FORM:

Interim City Attorney

2
Resolution No. 2016-67
Date Adopted: September 20, 2016

Attachment: Resolution No. 2016-67, Designate and Authorize City Officials [Revision 2] (2250 : ADOPT RESOLUTION NO. 2016-67

RESOLUTION JURAT

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

I, Marie Macias, Interim City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2016-67 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 20th day of September, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

Resolution No. 2016-67³
Date Adopted: September 20, 2016

Attachment: Resolution No. 2016-67, Designate and Authorize City Officials [Revision 2] (2250 : ADOPT RESOLUTION NO. 2016-67



Report to City Council

TO: Mayor and City Council

FROM: Allen Brock, Community Development Director

AGENDA DATE: September 20, 2016

TITLE: ORDINANCE NO. 913, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 8.42 TO TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE ESTABLISHING THE EXPEDITED PERMITTING PROCEDURE FOR ELECTRIC VEHICLE CHARGING STATION SYSTEMS

RECOMMENDED ACTION

Recommendation: That the City Council:

1. Introduce Ordinance No. 913, an Ordinance of the City Council of the City of Moreno Valley, California, Adding Chapter 8.42 to Title 8 of the City of Moreno Valley Municipal Code Establishing the Expedited Permitting Procedure for Electrical Vehicle Charging Station Systems.

SUMMARY

This report recommends adoption of an Ordinance to expedite permitting of electrical vehicle charging stations as mandated by Section 65850.7 of the California Government Code.

DISCUSSION

On October 8, 2015, Governor Brown signed Assembly Bill 1236 into law requiring every city and county with a population of 200,000 or more residents to adopt on or before September 30, 2016, an ordinance that creates an expedited, streamlined permitting process for electrical vehicle charging station systems. These provisions were created to address the statewide concern for consistent standards to achieve timely and cost-effective installation of electric vehicle charging station systems.

California Government Code Section 65850.7 has been added to provide the following provisions of the Bill including:

- Accept permit applications electronically (electronic mail, internet or facsimile)
- Adopt checklist(s) for all requirements for electric vehicle charging stations
- Applicant verification of standard electrical specifications
- Qualifying applications receive timely inspections
- Applications satisfying checklists shall be deemed complete and approved

The City currently expedites electric vehicle charging station applications. This is accomplished by performing the plan review in-house and utilizing a handout created in 2014 to substitute the need for separate plans required for the permit application. This review and approval streamlines the process and accelerates the overall permit issuance process.

The adoption of this Ordinance will satisfy all requirements mandated by California Government Code Section 65850.7.

ALTERNATIVES

1. Adopt the proposed Ordinance as mandated by California Government Code Section 65850.7. *This alternative is recommended by staff.*
2. Do not adopt the proposed Ordinance thus violating the mandate of California Government Code Section 65850.7. *This alternative is not recommended by staff.*

FISCAL IMPACT

This Ordinance will not have a fiscal impact as permit fees will continue to be collected to recover costs for service.

NOTIFICATION

Posting of the agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Allen D. Brock
Community Development Director

Department Head Approval:
Allen D. Brock
Community Development Director

CITY COUNCIL GOALS

None

ATTACHMENTS

- 1. Ordinance No. 913 - EVCS
- 2. Residential EVCS Expedited Checklist
- 3. Multi Unit EVCS Expedited Checklist
- 4. Non-Res EVCS Expedited Checklist

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	8/04/16 1:18 PM
City Attorney Approval	<u>✓ Approved</u>	8/25/16 1:56 PM
City Manager Approval	<u>✓ Approved</u>	8/25/16 2:37 PM

HISTORY:

09/06/16 City Council FIRST READING OF ORDINANCE
 Next: 09/20/16

ORDINANCE NO. 913

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 8.42 TO TITLE 8 OF THE MUNICIPAL CODE ESTABLISHING THE EXPEDITED PERMITTING PROCEDURE FOR ELECTRIC VEHICLE CHARGING STATION SYSTEMS

WHEREAS, Subsection (a) of Section 65850.7 of the California Government Code provides that it is the policy of the state to promote and encourage the use of electric vehicle charging stations and limit obstacles to their use and by minimizing the permitting costs of such systems; and

WHEREAS, Subdivision (g)(1) of Section 65850.7 of the California Government Code provides that, on or before September 30, 2016, every city, county, or city and county with a population of 200,000 or more residents shall adopt an ordinance, consistent with the goals and intent of subdivision (a) of Section 65850.7, that creates an expedited, streamlined permitting process for electric vehicle charging station systems.

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

SECTION 1.

Moreno Valley Municipal Code, Chapter 8.42, "Electric Vehicle Charging Station Review Process," is added to read as follows:

Chapter 8.42 ELECTRIC VEHICLE CHARGING STATION REVIEW PROCESS

8.42.010 Purpose.

The purpose of this Chapter is to establish an expedited permitting procedure for electric vehicle charging station systems to assist with timely and cost-effective installations.

8.42.020 Definitions.

The following definitions shall govern all terms of this Chapter and shall supersede any term otherwise defined in this Chapter:

"*Electronic submittal*" means the utilization of one or more of the following:

1. electronic mail or email,
2. the internet,
3. facsimile.

“Electric vehicle charging station or charging station” means any level of vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, as it reads on January 1, 2016, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

8.42.030 Duties of the Building Safety Division and Building Official.

- A. All documents required for the submission of an expedited electric vehicle charging station application shall be made available on the city’s internet website.
- B. Electronic submittal of the required permit application and documents by email shall be made available to all electric vehicle charging station permit applicants.
- C. The electronic signature of an applicant, engineer, architect, or contractor shall be accepted on all forms, applications, and other documents in lieu of a wet signature.
- D. The Building Safety Division shall develop a checklist of all requirements that electric vehicle charging stations must comply with to be eligible for expedited review.

8.42.040 Application, Permit, and Inspection Requirements.

- A. Applicant shall verify the electric vehicle charging station meets all applicable safety and performance standards established by the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.
- B. For a project complying with the checklist for electric vehicle charging station the applicant may submit the permit application and associated documentation to the city’s building safety division by personal, mailed, or electronic submittal.
- C. An application that satisfies the information requirements in the checklist, as determined by the building official, shall be deemed complete. Upon receipt of an incomplete application, the building official shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.
- D. Upon confirmation by the building official of the application and supporting documentation being complete and meeting the requirement of the checklist, the building official shall administratively approve the application and issue all required permits or authorizations. Such approval shall not

include any necessary approval or permission by a local utility provider to connect the electric vehicle charging station to the provider's electricity grid. The applicant is responsible for obtaining such approval or permission from the local utility provider.

Section 2. SEVERABILITY

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 3. REPEAL OF CONFLICTING PROVISIONS

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 4. EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after its second reading.

Section 5. CERTIFICATION

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

APPROVED AND ADOPTED this 20th day of September, 2016.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ORDINANCE JURAT

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

I, Marie Macias, Interim City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. 913 had its first reading on September 6, 2016 and had its second reading on September 20, 2016, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 20th day of September, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)



Community Development Department
Building Safety Division
14177 Frederick Street, Moreno Valley, CA 92552
Office 951.413.3350 Fax 951.413.3363

Eligibility Checklist for Expedited
Electric Vehicle Charging Station
Residential Permitting

*This checklist is provided to determine if your application is eligible for expedited EVCS processing.
If any item is checked NO, revise design, otherwise application must go through standard review process.*

Type of Charging Station(s) Proposed	Power Levels (proposed circuit rating)	Check one
Level 1	110/120 volt alternating current (VAC) at 15 or 20 Amps	<input type="checkbox"/>
Level 2 - 3.3 kilowatt (kW) (low)	208/240 VAC at 20 or 30 Amps	<input type="checkbox"/>
Level 2 – 6.6kW (medium)	208/240 VAC at 40 Amps	<input type="checkbox"/>
Level 2 – 9.6kW (high)	208/240 VAC at 50 Amps	<input type="checkbox"/>
Level 2 – 19.2kW (highest)	208/240 VAC at 100 Amps	<input type="checkbox"/>
Other (provide detail)	Provide rating	<input type="checkbox"/>

PERMIT APPLICATION

- A. Is the application complete with the following information: Project address, parcel #, builder/owner name, contractor name, valid contractor license #, phone numbers etc. Y N
- B. Does the application include EVCS manufacturer's specs and installation guidelines Y N

ELECTRIC LOAD CALCULATION WORKSHEET

- A. Is an electrical load calculation worksheet included (CEC 220) Y N
- B. Based on the load calculation worksheet, is a new electrical service panel upgrade required
 - 1) If yes, do plans include the electrical service panel upgrade Y N
- C. Is the charging circuit appropriately sized for a continuous load (125%) Y N
- D. If charging equipment proposed is a Level 2 - 9.6kW station with a circuit rating of 50 amps or higher, is a completed circuit card with electrical calculations included with the single-line diagram Y N

SITE PLAN & SINGLE LINE DRAWING

- A. Is a site plan and electrical plan with a single-line diagram included with the permit application
 - 1) If mechanical ventilation requirements are triggered for indoor venting requirements (CEC 625.29 (D)), is a mechanical plan included with the permit application Y N
- C. Is the site plan fully dimensioned and drawn to scale
 - 1) Showing location, size, and use of all structures Y N
 - 2) Showing location of electrical panel to charging system Y N
 - 3) Showing type of charging system and mounting Y N

COMPLIANCE WITH 2013 CALIFORNIA ELECTRICAL CODE (TITLE 24, PART 3)

- A. Does the plan include EVCS manufacturer's specs and installation guidelines Y N
- B. Does the electrical plan identify the amperage and location of existing electrical service panel
 - 1) If yes, does the existing panel schedule show room for additional breakers Y N
- C. Is the charging unit rated more than 60 amps or more than 150V to ground
 - If yes, are disconnecting means provided in a readily accessible location in line of site and within 50' of EVCS (CEC 625.23) Y N
- D. Does the charging equipment have a Nationally Recognized Testing Laboratory (NRTL) approved listing mark? (UL 2202/UL 2200) Y N
- E. If trenching is required, is the trenching detail called out
 - 1) Is the trenching in compliance with electrical feeder requirements from structure to structure (CEC 225) Y N
 - 2) Is the trenching in compliance of minimum cover requirements for wiring methods or circuits (18" for direct burial per CEC 300) Y N

Attachment: Residential EVCS Expedited Checklist (2016-150 : ORDINANCE NO. 913, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF



**Community Development Department
Building Safety Division**
14177 Frederick Street, Moreno Valley, CA 92552
Office 951.413.3350 Fax 951.413.3363

**Eligibility Checklist for Expedited
Electric Vehicle Charging Station
Multi-Unit Dwelling Permitting**

*This checklist is provided to determine if your application is eligible for expedited EVCS processing.
If any item is checked NO, revise design, otherwise application must go through standard review process.*

Type of Charging Station(s) Proposed	Power Levels (proposed circuit rating)	Check one
Level 1	110/120 volt alternating current (VAC) at 15 or 20 Amps	<input type="checkbox"/>
Level 2 - 3.3 kilowatt (kW) (low)	208/240 VAC at 20 or 30 Amps	<input type="checkbox"/>
Level 2 – 6.6kW (medium)	208/240 VAC at 40 Amps	<input type="checkbox"/>
Level 2 – 9.6kW (high)	208/240 VAC at 50 Amps	<input type="checkbox"/>
Level 2 – 19.2kW (highest)	208/240 VAC at 100 Amps	<input type="checkbox"/>
DC Fast Charging	440 or 480 VAC	<input type="checkbox"/>
Other (provide detail)	Provide ratings	<input type="checkbox"/>

PERMIT APPLICATION

- A. Is the application complete with the following information: Project address, parcel #, builder/owner name, contractor name, valid contractor license #, phone numbers etc. Y N
- B. Does the application include EVCS manufacturer's specs and installation guidelines Y N

ELECTRIC LOAD CALCULATION WORKSHEET

- A. Is an electrical load calculation worksheet included (CEC 220) Y N
- B. Based on the load calculation worksheet, is a new electrical service panel upgrade required
 - 1) If yes ,do plans include the electrical service panel upgrade Y N
- C. Is the charging circuit appropriately sized for a continuous load (125%) Y N
- D. If charging equipment proposed is a Level 2 - 9.6kW station with a circuit rating of 50 amps or higher, is a completed circuit card with electrical calculations included with the single-line diagram Y N

SITE PLAN & SINGLE LINE DRAWING

- A. Is a site plan and electrical plan with a single-line diagram included with the permit application Y N
 - 1) If mechanical ventilation requirements are triggered for indoor venting requirements (CEC 625.29 (D)), is a mechanical plan included with the permit application Y N
- C. Is the site plan fully dimensioned and drawn to scale
 - 1) Showing location, size, and use of all structures Y N
 - 2) Showing location of electrical panel to charging system Y N
 - 3) Showing type of charging system and mounting Y N

COMPLIANCE WITH 2013 CALIFORNIA ELECTRICAL CODE (TITLE 24, PART 3)

- A. Does the plan include EVCS manufacturer's specs and installation guidelines Y N
- B. Does the electrical plan identify the amperage and location of existing electrical service panel
 - 1) If yes, does the existing panel schedule show room for additional breakers Y N
- C. Is the charging unit rated more than 60 amps or more than 150V to ground
 - If yes, are disconnecting means provided in a readily accessible location in line of site and within 50' of EVCS. (CEC 625.23) Y N
- D. Does the charging equipment have a Nationally Recognized Testing Laboratory (NRTL) approved listing mark. (UL 2202/UL 2200) Y N
- E. If trenching is required, is the trenching detail called out Y N

Attachment: Multi Unit EVCS Expedited Checklist (2016-150 : ORDINANCE NO. 913, AN ORDINANCE OF THE CITY OF

1) Is the trenching in compliance with electrical feeder requirements from structure to structure? (CEC 225)

Y N

2) Is the trenching in compliance of minimum cover requirements for wiring methods or circuits (18" for direct burial per CEC 300)

Y N

COMPLIANCE WITH 2013 MANDATORY CALGREEN CODE FOR NEW CONSTRUCTION

A. Do CAL Green EV Readiness installation requirements apply to this project

Y N
 Y N

1) Should be identified during plan review. (4.106.4.1 &4.106.4.1.1)

2) Do the plans demonstrate conformance with mandatory measures for 3% of total parking spaces, but no less than one, for new multifamily dwellings with 17+ units that must be EV capable

Y N

* **2016 CAL Green proposed mandatory requirements** for new construction include measures for 5% of total parking spaces, but no less than one, for new multifamily dwellings with 17+ units that must be EV capable (effective January 1, 2017)



**Community Development Department
Building Safety Division**
14177 Frederick Street, Moreno Valley, CA 92552
Office 951.413.3350 Fax 951.413.3363

**Eligibility Checklist for Expedited
Electric Vehicle Charging Station
Non-Residential Permitting**

*This checklist is provided to determine if your application is eligible for expedited EVCS processing.
If any item is checked NO, revise design, otherwise application must go through standard review process.*

Type of Charging Station(s) Proposed	Power Levels (proposed circuit rating)		Check one
Level 1	110/120 volt alternating current (VAC) at 15 or 20 Amps	Commercial office building	<input type="checkbox"/>
Level 2 - 3.3 kilowatt (kW) (low)	208/240 VAC at 20 or 30 Amps	Multi-unit dwelling	<input type="checkbox"/>
Level 2 – 6.6kW (medium)	208/240 VAC at 40 Amps	Com. office Building	<input type="checkbox"/>
Level 2 – 9.6kW (high)	208/240 VAC at 50 Amps	Public access	<input type="checkbox"/>
Level 2 – 19.2kW (highest)	208/240 VAC at 100 Amps		<input type="checkbox"/>
DC Fast Charging	440 or 480 VAC	Public Access	<input type="checkbox"/>
		Large Com. Office Building or parks	<input type="checkbox"/>
		Hospitality & recreation	<input type="checkbox"/>
Other (provide detail)	Provide ratings		<input type="checkbox"/>

PERMIT APPLICATION

- A. Is the application complete with the following information: Project address, parcel #, builder/owner name, contractor name, valid contractor license #, phone numbers etc. Y N
- B. Does the application include EVCS manufacturer's specs and installation guidelines Y N

ELECTRIC LOAD CALCULATION WORKSHEET

- A. Is an electrical load calculation worksheet included? (CEC 220) Y N
- B. Based on the load calculation worksheet, is a new electrical service panel upgrade required
1) If yes, do plans include the electrical service panel upgrade Y N
- C. Is the charging circuit appropriately sized for a continuous load (125%) Y N
- D. If charging equipment proposed is a Level 2 - 9.6kW station with a circuit rating of 50 amps or higher, is a completed circuit card with electrical calculations included with the single-line diagram Y N

SITE PLAN & SINGLE LINE DRAWING

- A. Is a site plan and electrical plan with a single-line diagram included with the permit application
1) If mechanical ventilation requirements are triggered for indoor venting requirements (CEC 625.29 (D)), is a mechanical plan included with the permit application Y N
- C. Is the site plan fully dimensioned and drawn to scale
1) Showing location, size, and use of all structures Y N
2) Showing location of electrical panel to charging system Y N
3) Showing type of charging system and mounting Y N

COMPLIANCE WITH 2013 CALIFORNIA ELECTRICAL CODE (TITLE 24, PART 3)

- A. Does the plan include EVCS manufacturer's specs and installation guidelines Y N
- B. Does the electrical plan identify the amperage and location of existing electrical service panel
1) If yes, does the existing panel schedule show room for additional breakers Y N
- C. Is the charging unit rated more than 60 amps or more than 150V to ground
If yes, are disconnecting means provided in a readily accessible location in line of site and within 50' of EVCS. (CEC 625.23) Y N
- D. Does the charging equipment have a Nationally Recognized Testing Laboratory (NRTL) approved listing mark. (UL 2202/UL 2200) Y N

Attachment: Non-Res EVCS Expedited Checklist (2016-150 : ORDINANCE NO. 913, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF

- E. If trenching is required, is the trenching detail called out Y N
- 1) Is the trenching in compliance with electrical feeder requirements from structure to structure? (CEC 225) Y N
- 2) Is the trenching in compliance of minimum cover requirements for wiring methods or circuits (18" for direct burial per CEC 300) Y N

COMPLIANCE WITH 2013 MANDATORY CALGREEN CODE FOR NEW CONSTRUCTION

- A. Do CAL Green EV Readiness installation requirements apply to this project Y N
- 1) Should be identified during plan review. (5.106.5.3) Y N
- 2) Do the plans demonstrate conformance with mandatory measures for 3% of total parking spaces in lots with 51+ must be EV capable Y N
- * **2016 CAL Green proposed mandatory requirements** for new construction include measures for 6% of total parking spaces in lots with 10+ spaces being EV capable (effective January 1, 2017)



Report to City Council

TO: Mayor and City Council

FROM: Marshall Eyerman, Chief Financial Officer

AGENDA DATE: September 20, 2016

TITLE: INTRODUCTION OF AN ORDINANCE NO. 914 AMENDING SECTION 5.02.010 OF THE MUNICIPAL CODE DEFINING THE TERM "EMPLOYEE"

RECOMMENDED ACTION

Recommendations: That the City Council:

1. Introduce Ordinance No. 914, an Ordinance of the City Council of the City of Moreno Valley, California, Amending Section 5.02.010 of Title 5 of the City of Moreno Valley Municipal Code Relating to Definition of "Employee".

SUMMARY

This report recommends adoption of an Ordinance to amend the definition of "Employee" as it relates the application of the business license taxes and fee.

Under current general provisions of section 5.02 of the Moreno Valley Municipal Code, employees, working under the provisions of their employment contract, are covered under the business license of the employing entity and are not required to get an additional business license for the services they provide based on that employment. Persons designated as "independent contractors" are responsible to get a business license for their business. The current criteria used to determine employee vs. independent contractor is the form of reporting that they receive for their taxes, either a 1099 or W-2. Based on legal interpretations of the California Labor Code Section 3200 et seq., we are looking to expand the definition of "Employee" in Section 5.02.010 of Title 5 of the municipal code to include any person who is regarded as an employee for the purposes of worker's compensation laws of the State of California. This expanded definition of "Employee" would generally include real estate agents working under a real estate broker and would exempt them from needing their own business license.

DISCUSSION

Under the current provisions of the business license rules, which are defined in the Moreno Valley Municipal Code Section 5.02, all businesses are required to pay the business license tax and fees. In determining if a person is operating a business rather than merely acting as an employee, staff have applied what we call the “IRS test”. Employee compensation is reported to the IRS by means of a W-2 form as compared to a 1099 form which is used to report compensation for independent contractors. This standard is used by most cities throughout the state to determine employment status. We are looking to expand this test to include provisions from the California State Labor Code as it relates to workers compensation insurance. We are proposing that the definition of the term “Employee” included in Section 5.02.010 of the Municipal Code be modified to read

“Employee” means, in relation to a business, (1) any and all owners, or members of the owner’s family, partners or associates or individuals, to whom the business pays a wage, and **(2) any person who is regarded as an employee of a business for purposes of the workers compensation laws of the State of California (including without limitation, a real estate agent working for, or engaged by, a real estate broker)**, all of whom shall be included in the computation of the average number of employees of the business.

By adding the highlighted language to the Municipal Code we will add to the current “IRS Test” a “Worker Compensation Insurance Test”. This means that if a person (an independent contractor) is covered under the workers compensation insurance of an entity they will be included in the definition of “Employee”. This relationship is most commonly seen in the relationship between a real estate broker and a real estate agent. Under our existing definition each real estate agent would require a separate business license since they are considered independent contractors and have their compensation reported to the IRS on a 1099. Under the expanded definition since the real estate broker that they work under is required to provide worker’s compensation insurance for them they would now fit into the definition of “employee” and only the broker would need a business license.

ALTERNATIVES

1. Adopt the Ordinance and modify the definition of “Employee” in Municipal Code Section 5.02.010. *Recommended by staff since this will match current California labor laws.*
2. Do not adopt the Ordinance and provide staff with additional direction. Not recommended by staff since this will impact how Section 5.02.010 of the Municipal Code is applied and could result in an uneven or unfair application of the business license taxes and fees.

FISCAL IMPACT

There will be no fiscal impact of this action. There are currently no real estate agents participating in the business license program. Real estate brokers would continue to pay the business license tax and fees.

NOTIFICATION

Agenda publication

PREPARATION OF STAFF REPORT

Prepared By:
Brooke McKinney
Treasury Operations Division Manager

Department Head Approval:
Marshall Eyerman
Chief Financial Officer/City Treasurer

CITY COUNCIL GOALS

None

ATTACHMENTS

- 1. Ordinance No. 914

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	8/04/16 1:50 PM
City Attorney Approval	<u>✓ Approved</u>	8/24/16 9:15 AM
City Manager Approval	<u>✓ Approved</u>	8/25/16 9:56 AM

HISTORY:

09/06/16	City Council	FIRST READING OF ORDINANCE
Next: 09/20/16		

ORDINANCE NO. 914

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 5.02.010 OF TITLE 5 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE RELATING TO THE DEFINITION OF "EMPLOYEE"

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

SECTION 1. AMENDMENT OF THE DEFINITION OF THE TERM "EMPLOYEE" AS DEFINED IN SECTION 5.02.010 OF TITLE 5 OF THE MORENO VALLEY MUNICIPAL CODE

5.02.010 "Employee" means, in relation to a business, (1) any and all owners, or members of the owner's family, partners or associates or individuals, to whom the business pays a wage, and (2) any person who is regarded as an employee of a business for purposes of the workers compensation laws of the State of California (including without limitation, a real estate agent working for, or engaged by, a real estate broker), all of whom shall be included in the computation of the average number of employees of the business.

SECTION 2. SEVERABILITY

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 3. REPEAL OF CONFLICTING PROVISIONS

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 4. EFFECT OF ENACTMENT:

Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 5. NOTICE OF ADOPTION:

Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the City.

1
Ordinance No. 914
Date Adopted: September 20, 2016

Attachment: Ordinance No. 914 [Revision 2] (2016-151 : ORDINANCE NO. 914 AMENDING SECTION 5.02.010 OF THE MUNICIPAL CODE

SECTION 6. EFFECTIVE DATE:

This ordinance shall take effect thirty days after its second reading by the City Council.

APPROVED AND ADOPTED this 20th day of September, 2016.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

2
Ordinance No. 914
Date Adopted: September 20, 2016

Attachment: Ordinance No. 914 [Revision 2] (2016-151 : ORDINANCE NO. 914 AMENDING SECTION 5.02.010 OF THE MUNICIPAL CODE

ORDINANCE JURAT

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

I, Marie Macias, Interim City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. 914 had its first reading on September 6, 2016 and had its second reading on September 20, 2016, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 20th day of September, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

3
Ordinance No. 914
Date Adopted: September 20, 2016

Attachment: Ordinance No. 914 [Revision 2] (2016-151 : ORDINANCE NO. 914 AMENDING SECTION 5.02.010 OF THE MUNICIPAL CODE



Report to City Council

TO: Mayor and City Council

FROM: Steve Quintanilla, Interim City Attorney
Paul Early, Assistant City Attorney

AGENDA DATE: September 20, 2016

TITLE: APPROVAL OF EMPLOYMENT AGREEMENT BETWEEN CITY OF MORENO VALLEY AND MARTIN KOCZANOWICZ FOR THE POSITION OF CITY ATTORNEY

RECOMMENDED ACTION

Recommendation:

1. Approve the Employment Agreement between the City of Moreno Valley and Martin Koczanowicz for the position of City Attorney.

DISCUSSION

On September 13, 2016, the City Council appointed Martin Koczanowicz to serve as the City Attorney with an effective start date of September 30, 2016. An employment Agreement was presented to Mr. Koczanowicz which was consistent with Personnel Policy 514. During the negotiation some minor changes were made to the agreement to reflect a proposed salary of \$235,000 annually and a provision that restricts the ability to terminate the agreement within ninety (90) days of the seating of a new Councilmember. The agreement may be terminated "for cause" at any time.

ALTERNATIVES

1. Approve the Employment Agreement
2. Do not approve the Employment Agreement

FISCAL IMPACT

The funding for the City Attorney position is currently budgeted in the City's General Fund.

PREPARATION OF STAFF REPORT

Prepared By:
Paul Early
Assistant City Attorney

CITY COUNCIL GOALS

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

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

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

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

ATTACHMENTS

- 1. City Attorney Contract - Martin Koczanowicz

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/14/16 1:41 PM
City Attorney Approval	<u>✓ Approved</u>	9/14/16 11:59 AM
City Manager Approval	<u>✓ Approved</u>	9/14/16 2:05 PM

EMPLOYMENT AGREEMENT

This Employment Agreement (hereafter referred to herein as "Agreement") is made and entered into this 30th day of September, 2016, by and between the City of Moreno Valley, California (hereafter referred to herein as "CITY"), a California municipal corporation and general law city, and Martin David Koczanowicz (hereafter referred to herein as "EMPLOYEE"), an individual, on the following terms and conditions:

RECITALS

A. CITY, by and through the City Council, desires to employ the services of EMPLOYEE as City Attorney of the CITY; and

B. EMPLOYEE desires to accept employment as City Attorney in consideration of and subject to the terms and conditions set forth in this Agreement.

OPERATIVE PROVISIONS

In consideration of the promises and covenants contained herein, the parties agree as follows:

1. Position and Duties.

1.1 Position. EMPLOYEE accepts employment with CITY as its City Attorney and shall perform all functions, duties and services as set forth in this Agreement. EMPLOYEE shall provide services at the direction and under the supervision of the City Council of CITY.

1.2 Duties. The duties of EMPLOYEE shall be as determined by the State Law, Municipal Code and City Council, generally in conformance with the job description attached hereto and incorporated herein as though set forth in full as Attachment A to this Agreement. EMPLOYEE shall devote his best efforts and full-time attention to the performance of these duties.

1.3 Hours of Work. EMPLOYEE shall devote the time necessary to adequately perform his assigned duties. The work schedule shall be the same as the schedule in place for all other Executive Managers of CITY, provided the schedule of such hours provides adequate availability during normal business hours and for the performance of his duties in conducting CITY business. The position of City Attorney shall be deemed an exempt position under applicable wage and hour law. EMPLOYEE hereby acknowledges that he shall not be entitled to any compensation for overtime.

1.4 Professional Activity. The City Council desires EMPLOYEE to be reasonably active in national, statewide, regional and professional organizations that will contribute to his professional development and standing and that will contribute to the advancement of the CITY'S interests and standing. Toward that end, EMPLOYEE may, upon advance notice to the City Council, undertake such activities as are directly related to his professional development and that advance the interests and standing of the CITY, provided that such activities do not in any way interfere with or adversely affect his employment as City Attorney or the performance of his duties as provided herein. CITY agrees to reimburse

EMPLOYEE'S reasonable and necessary travel, business and subsistence expenses for his activities as provided for in the CITY'S Administrative Policies.

1.5 Other Activity. In accordance with Government Code Section 1126, during the period of his employment, EMPLOYEE shall not accept, without the express prior written consent of the City Council, any other employment or engage, directly or indirectly, in any other business, commercial, or professional activity (except as permitted under Section 1.4 [Professional Activity]), regardless of whether for pecuniary advantage, that is or may be competitive with the CITY, that might cause a conflict-of-interest with the CITY, or that otherwise might interfere with the business or operation of the CITY or the satisfactory performance of EMPLOYEE'S duties.

1.6 Performance Evaluation. Council will hold an EMPLOYEE'S initial evaluation session within the first six months of employment. After the initial evaluation session, City Council shall annually review the performance of the EMPLOYEE subject to a process, form, criteria, and format for the evaluation, which shall be mutually agreed upon by the City Council and EMPLOYEE. Nothing in this section prevents the City Council from holding more frequent evaluations of the EMPLOYEE if desired.

2. Term.

2.1 Term. The term of this Agreement shall commence on September 30, 2016, upon being executed by EMPLOYEE and approved by the City Council. This Agreement shall remain in effect until such time as this Agreement is terminated pursuant to Section 4, below.

2.2 At-Will Employment. EMPLOYEE acknowledges that he is an at-will employee of CITY who shall serve at the pleasure of the City Council at all times during the period of his service under this Agreement. The terms and provisions of CITY'S personnel rules, policies, procedures, ordinances and resolutions applicable to at-will employees shall also apply to EMPLOYEE, and he shall be entitled to all benefits and rights afforded to other Executive Management (as defined in the CITY'S Personnel Rules) of CITY, except to the extent provided by this Agreement, and, in the case of any conflict between this Agreement, and the Personnel Rules, policies, procedures, ordinances and resolution, the terms of this Agreement shall prevail. Notwithstanding the application of the CITY'S Personnel Rules to this Agreement, and without limitation, EMPLOYEE shall have no rights under sections 9, 10, 11 and 12 of the Personnel Rules. Nothing in this Agreement is intended to, or does, confer upon EMPLOYEE any right to any property interest in continued employment, or any due process right to a hearing before or after a decision by the City Council to terminate his employment, except as is expressly provided in Section 4 [Termination] of this Agreement. Nothing in this Agreement shall limit any rights afforded EMPLOYEE related to constitutional protections under either federal or state law in continued employment or termination in accordance with the terms of this Agreement. Nothing contained in this Agreement shall in any way prevent, limit or otherwise interfere with the right of CITY to terminate the services of EMPLOYEE as provided in Section 4 [Termination]. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from this position with CITY, subject only to the provisions set forth in Section 4 [Termination] of this Agreement. This at-will employment Agreement shall be expressly subject to the rights and obligations of CITY and EMPLOYEE, as set forth in this Agreement.

3. Compensation.

3.1 Salary. For all services performed by EMPLOYEE as the City Attorney under this Agreement, CITY shall pay EMPLOYEE compensation in accordance with the adopted salary schedule for the position, plus all other compensation benefits afforded by CITY to other full time Executive Management employees. EMPLOYEE shall be entitled to all cost of living and other salary and benefit adjustments implemented by the CITY as applicable to other full time Executive Management employees, to include CITY'S employee furlough program and eligibility for Merit Increases. The starting annual salary shall be Two Hundred Thirty-Five Thousand Dollars (\$235,000.00), paid bi-weekly according to the payroll schedule in place for CITY employees. All compensation, benefits and leave policies applicable to Executive Management employees as contained in CITY'S Personnel Rules and Regulations shall apply.

3.2 Annual Leave. All compensation and leave policies applicable to Executive Management as contained in the CITY'S Personnel Rules and Regulations, Sections 7 and 14, shall apply. EMPLOYEE shall annually accrue 296 hours of Annual Leave. Annual Leave shall be subject to CITY'S Personnel Rules and Regulations as they apply to other Executive Management employees.

3.3 Automobile Allowance. EMPLOYEE shall be entitled to an automobile allowance as compensation for the use of personal automobile(s) for CITY business as provided for in CITY policies. This monthly allowance shall equal the amount provided to other Executive Management employees, and is currently Five Hundred Dollars (\$500) per month. In addition, EMPLOYEE shall be entitled to excess mileage reimbursement according to adopted CITY policies for any qualifying trip in the course and scope of employment.

4. Termination.

4.1 The City Council may terminate EMPLOYEE'S employment, and this Agreement "for cause" at any time upon written notice. "For cause" is defined as any of the following: (i) an act in bad faith and to the detriment of the CITY; (ii) refusal or failure to act in accordance with any specific lawful direction or order of the City Council; (iii) unfitness or unavailability for service that exceeds thirty (30) consecutive calendar days and is not the result of any excused illness, approved leave or medical condition; (iv) commission of an act involving moral turpitude or other acts which harm the reputation of or interests of the CITY; (v) habitual neglect of responsibilities, or incompetence; (vi) a conviction of a felony in the jurisdiction involved (or entry of a plea of guilty or *nolo contendere* with respect to any such crime); (vii) possession of, use of, or working while under the influence of alcoholic beverages or other non-prescribed controlled substances or abuse/misuse of lawfully prescribed controlled substances during working hours; (viii) engaging in an actual conflict of interest; (ix) commission of acts of theft, embezzlement, or fraud; (x) acceptance of bribes or extortion; (xi) material breach of this Agreement by EMPLOYEE. If this Agreement is terminated by the City Council "for cause," EMPLOYEE'S employment shall be deemed immediately terminated and EMPLOYEE shall surrender all CITY keys, computer passwords, and other CITY property entrusted to EMPLOYEE for the purposes of the discharge of his duties. Upon termination for cause, EMPLOYEE shall have no administrative recourse under this Agreement or any administrative procedure for purposes of challenging the termination action.

4.2 In the event EMPLOYEE is terminated "without cause" or asked to resign during such time that EMPLOYEE is willing and able to perform the Duties under this Agreement, then CITY agrees, upon receipt of a Comprehensive General Release and Settlement Agreement in the standard form signed by EMPLOYEE, to pay EMPLOYEE a lump sum cash payment equal to six (6) months of Salary and benefits [Section 3] as severance pay.

4.3 EMPLOYEE shall receive a lump sum payout of any unpaid accruals of Annual Leave and Sick Leave upon termination of employment for any reason pursuant to CITY policies.

4.4 EMPLOYEE shall not be entitled to any increases in Salary or benefits afforded by CITY to other Executive Management employees following the date of termination.

4.5 This Agreement may be terminated by EMPLOYEE at any time upon 45 days written notice to the City Council. If such written notice is given, the CITY has the option to ask EMPLOYEE to leave his position sooner than the expiration of 45 days, but, if it does so, the CITY will continue to honor its obligations under this Agreement until expiration of the 45-day period.

4.6 EMPLOYEE'S employment and this Agreement shall terminate automatically upon EMPLOYEE'S death. In this event, the CITY shall pay the beneficiary designated by EMPLOYEE in writing, or in the absence of such designation, EMPLOYEE'S estate, his accrued and unpaid compensation, and all accrued but unused benefits, if any, through the date of EMPLOYEE'S death.

4.7 If EMPLOYEE becomes disabled and requires accommodation to permit him to perform the essential functions of the position, the CITY shall provide reasonable accommodation if possible and unless doing so creates undue hardship for the CITY.

4.8 Council may not terminate this Agreement, other than for cause, within 90 days of any council member being seated on the Council.

5. Proprietary Information.

"Proprietary Information" is all information and any idea pertaining to any economic development engaged in or contemplated by the CITY (or any CITY affiliate), including marketing plans and development projects. Proprietary Information shall include, without limitation, trade secrets (as further defined in Uniform Trade Secrets Act, Civil Code §3426 et seq.), ideas, inventions, processes, formulae, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, and forecasts. During his employment by CITY, EMPLOYEE shall only use Proprietary Information for the benefit of CITY and as is or may be necessary to perform his job responsibilities under this Agreement. Following termination, EMPLOYEE shall not use or disclose any Proprietary Information for the benefit of himself or any third party, except with the express written consent of CITY. EMPLOYEE'S obligations under this Section shall survive the termination of his employment and the termination of this Agreement.

6. Conflict Of Interest.

EMPLOYEE represents and warrants to CITY that he presently has no interest, and represents that he will not acquire any interest, direct or indirect, financial or otherwise, which would conflict

in any manner or interfere in any way with performance of his services under this Agreement.

7. General Provisions.

7.1 Vehicle Operation. EMPLOYEE shall operate any vehicle used in connection with the performance of his duties in a safe manner and otherwise in reasonable observance of all established traffic safety laws and ordinances and shall maintain a valid California automobile's driver's license during the period of employment. In addition, EMPLOYEE shall maintain in full force and effect during the Term of this Agreement, valid automobile liability insurance providing coverage for collision, personal injury and medical reimbursement, in accordance with the CITY'S Administrative Policy.

7.2 Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to CITY at the address below, and at the last known address maintained in EMPLOYEE'S personnel file. EMPLOYEE agrees to notify CITY in writing of any change in his address during his employment with CITY. Notice of change of address shall be effective only when accomplished in accordance with this Section.

CITY'S Notice Address: City of Moreno Valley c/o City Council
P.O. Box 88005, 14177 Frederick Street, Moreno Valley, CA 92552-0805

EMPLOYEE'S Address: Martin D. Koczanowicz
280 South Avenida Caballeros, #132, Palm Springs, CA 92262

7.3 Indemnification. Subject to, in accordance with, and to the extent provided by the California Tort Claims Act [Government Code Section 810 *et seq.*] the CITY will indemnify, defend, and hold EMPLOYEE harmless from and against any action, demand, suit, monetary judgment or other legal or administrative proceeding, and any liability, injury, loss or other damages, arising out of any act or omission associated with EMPLOYEE'S performance of functions, duties and services set forth in this Agreement.

7.4 Bonding. The CITY shall bear the full cost of any fidelity or other bonds required of EMPLOYEE under any law or ordinance.

7.5 Integration. This Agreement is intended to be the final, complete, and exclusive statement of the terms of EMPLOYEE'S employment by CITY. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of EMPLOYEE, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of CITY, now or in the future, apply to EMPLOYEE and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

7.6 Amendments. This Agreement may not be amended, altered or modified, except in a written document signed by EMPLOYEE, and signed by the City Council.

7.7 Waiver. Failure to exercise any right under this Agreement shall not constitute a waiver of such right.

7.8 Assignment. EMPLOYEE shall not assign any rights or obligations under this Agreement. CITY may, upon prior written notice to EMPLOYEE, assign its rights and obligations hereunder.

7.9 Severability. If a court holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

7.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, with venue proper only in Riverside County, State of California.

7.11 Interpretation. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit or against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement.

7.12 Acknowledgment. EMPLOYEE acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

IN WITNESS WHEREOF, the CITY COUNCIL has caused this Agreement to be signed and executed on its behalf by its Mayor , and EMPLOYEE has signed and executed this Agreement, as of the date first indicated above.

Date: 09.10.16



Employee

CITY OF MORENO VALLEY

Date: _____

By: _____
Mayor



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: Gabriel Garcia, Parks & Community Services Director

AGENDA DATE: September 20, 2016

TITLE: APPROVE AND EXECUTE AGREEMENT FOR EXCHANGE OF REAL PROPERTY ASSOCIATED WITH TENTATIVE TRACT MAP 31592

RECOMMENDED ACTION

Recommendations:

1. Approve the Agreement for Exchange of Property for the .86 acres located within the Markborough park site for 1.45 acres located within Tentative Tract Map 31592.
2. Authorize the President of the Board of Directors to execute the Agreement in the form attached hereto upon concurrence by the property owner, and authorize the Parks and Community Services Director to approve any changes that may be requested by the property owner or the City of Moreno Valley Parks and Community Services Department "CSD," subject to the approval of the Legal Counsel.

SUMMARY

This report recommends approval and execution of agreement for exchange of real property associated with Tentative Tract Map 31592.

DISCUSSION

With the approval of Tentative Tract Map 31592, Land Development requires that the developer, CV Communities, LLC (CVC), provide a third access point to their proposed development. The property they require for this third access point is currently owned by

the CSD. The CSD has expressed a desire for a trailhead, consisting of off-street parking, to access the multi-use trail that is to be developed as part of TTM 31592. The location the CSD desires is located in the southern portion of TTM 31592, in what is proposed to be open space.

The City has developed an Agreement for Exchange of Real Property in which the CVC has agreed to exchange 1.45 acres of open space to the CSD in exchange for .86 acres required for third access point. CVC has agreed to deed the open space property to the City with existing EMWD easements as well as grade the trailhead.

ALTERNATIVES

1. Approve the Agreement for Exchange of Property for the .86 acres located within the Markborough park site for 1.45 acres located within TTM 31592, and authorize the Executive Director to execute the Agreement in the form attached hereto upon concurrence by the property owner, and authorize the Parks and Community Services Director to approve any changes that may be requested by the property owner or the Parks and Community Services "CSD," subject to the approval of the City Attorney. ***Staff recommends this alternative as it will result in acquisition of land required for approval of Tract 31592.***
2. Do not approve the Agreement for Exchange of Property for the .86 acres located within the Markborough park site for 1.45 acres located within TTM 31592, and do not authorize the Executive Director to execute the Agreement in the form attached hereto upon concurrence by the property owner, and do not authorize the Parks and Community Services Director to approve any changes that may be requested by the property owner or the Parks and Community Services "CSD," subject to the approval of the City Attorney. ***Staff does not recommend this alternative as it will result in delaying acquisition of land required for approval of Tract 31592.***

FISCAL IMPACT

There is no impact to the General Fund or CSD. CV Communities will be funding the costs of the exchange.

NOTIFICATION

Posting of the agenda.

PREPARATION OF STAFF REPORT

Prepared By:
Tony Hetherman
Parks Projects Coordinator

Department Head Approval:
Gabriel P. Garcia
Parks and Community Services Director

CITY COUNCIL GOALS

Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

ATTACHMENTS

- 1. Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley
- 2. Map

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/06/16 5:27 PM
City Attorney Approval	<u>✓ Approved</u>	9/07/16 2:10 PM
City Manager Approval	<u>✓ Approved</u>	9/07/16 5:37 PM

**EXCHANGE AGREEMENT
(Covey Ranch/Moreno Valley)**

THIS EXCHANGE AGREEMENT (the "**Agreement**") is made and entered into as of the ___ day of _____, 2016, by and between MORENO VALLEY COMMUNITY SERVICES DISTRICT, a district formed pursuant to California Community Services District law ("**Moreno Valley**"), and COVEY RANCH 1 INV, LLC, a Delaware limited liability company ("**Covey Ranch**").

RECITALS :

A. Covey Ranch is the fee simple owner of certain real property located in the City of Moreno Valley, County of Riverside, State of California, which real property is more particularly described in Exhibit "A-1" attached hereto, and together with all of the appurtenances, hereditaments and tenements belonging thereto, is hereinafter referred to as the "**Covey Ranch Exchange Parcel**". The Covey Ranch Exchange Parcel is depicted on Exhibit "A-2" attached hereto.

B. Moreno Valley is the fee simple owner of certain real property located in the City of Moreno Valley, County of Riverside, State of California, which is more particularly described in Exhibit "B-1" attached hereto, and together with all of the appurtenances, hereditaments and tenements belonging thereto, is hereinafter referred to as the "**Moreno Valley Exchange Parcel**". The Moreno Valley Exchange Parcel is also depicted on Exhibit "B-2" attached hereto. The Covey Ranch Exchange Parcel and the Moreno Valley Exchange Parcel are sometimes individually referred to herein as a "**Parcel**". The parties acknowledge and agree that the Covey Ranch Exchange Parcel and the Moreno Valley Exchange Parcel are of equal value.

C. Covey Ranch desires to transfer the Covey Ranch Exchange Parcel to Moreno Valley in exchange for the Moreno Valley Exchange Parcel, and Moreno Valley desires to transfer the Moreno Valley Exchange Parcel to Covey Ranch in exchange for the Covey Ranch Exchange Parcel (the "**Exchange Transaction**"), subject in each case to and in accordance with the terms, conditions and other provisions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein, the parties hereto agree as follows:

AGREEMENT :

1. **Incorporation of Recitals.** The foregoing recitals are incorporated herein by this reference as though set forth herein at length.
2. **Agreement to Exchange.** Covey Ranch agrees to exchange and transfer to Moreno Valley the Covey Ranch Exchange Parcel, and Moreno Valley agrees to exchange and transfer to Covey Ranch the Moreno Valley Exchange Parcel, subject to the terms and conditions of this Agreement.

3. **The Closing.** The closing of the Exchange Transaction (the "**Closing**") shall occur on or before the date which is ten (10) days following the mutual execution of this Agreement by Moreno Valley and Covey Ranch.

4. **Conveyance of Properties at Closing.**

(a) On the Closing, Moreno Valley shall convey the Moreno Valley Exchange Parcel unto Covey Ranch, by a Grant Deed in the form of attached Exhibit "C-1" (the "**Moreno Valley Deed**").

(b) On the Closing, Covey Ranch shall convey the Covey Ranch Exchange Parcel unto Moreno Valley, by a Grant Deed in the form of attached Exhibit "C-2" (the "**Covey Ranch Deed**").

5. **"As-Is, Where-Is" Condition.**

(a) **EXCEPT FOR THE EXPRESS REPRESENTATIONS, WARRANTIES AND COVENANTS OF COVEY RANCH CONTAINED IN THIS AGREEMENT, MORENO VALLEY SHALL ACQUIRE THE COVEY RANCH EXCHANGE PARCEL ON THE CLOSING DATE IN AN "AS-IS, WHERE-IS" CONDITION, SOLELY IN RELIANCE ON MORENO VALLEY'S OWN INVESTIGATION, ANALYSIS AND INSPECTION OF THE COVEY RANCH EXCHANGE PARCEL, WITHOUT ANY REPRESENTATIONS OR WARRANTIES EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND WHATSOEVER, BY COVEY RANCH, ITS AGENTS, CONSULTANTS, COUNSEL, EMPLOYEES, OFFICERS OR DIRECTORS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MORENO VALLEY ACKNOWLEDGES THAT COVEY RANCH EXPRESSLY DISCLAIMS AND NEGATES ANY IMPLIED OR EXPRESS WARRANTY WITH RESPECT TO THE CONDITION OF THE COVEY RANCH EXCHANGE PARCEL, ITS SUITABILITY FOR MORENO VALLEY'S INTENDED USE, ITS COMPLIANCE WITH ANY ZONING OR OTHER RULES, REGULATIONS, LAWS OR STATUTES APPLICABLE TO THE COVEY RANCH EXCHANGE PARCEL, OR ANY OTHER MATTER OR THING RELATING TO THE COVEY RANCH EXCHANGE PARCEL. THE PROVISIONS OF THIS SUBSECTION SHALL SURVIVE THE CLOSING.**

Initials:

Moreno Valley

(b) **EXCEPT FOR THE EXPRESS REPRESENTATIONS, WARRANTIES, AND COVENANTS OF MORENO VALLEY CONTAINED IN THIS AGREEMENT, COVEY RANCH SHALL ACQUIRE THE MORENO VALLEY EXCHANGE PARCEL ON THE CLOSING DATE IN AN "AS-IS, WHERE-IS" CONDITION, SOLELY IN RELIANCE ON COVEY RANCH'S OWN INVESTIGATION, ANALYSIS AND INSPECTION OF THE MORENO VALLEY EXCHANGE PARCEL, WITHOUT ANY REPRESENTATIONS OR WARRANTIES EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND WHATSOEVER, BY MORENO VALLEY, ITS AGENTS, CONSULTANTS, COUNSEL, EMPLOYEES, OFFICERS, DIRECTORS, OR TRUSTEES.**

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, COVEY RANCH ACKNOWLEDGES THAT MORENO VALLEY EXPRESSLY DISCLAIMS AND NEGATES ANY IMPLIED OR EXPRESS WARRANTY WITH RESPECT TO THE CONDITION OF THE MORENO VALLEY EXCHANGE PARCEL, ITS SUITABILITY FOR COVEY RANCH'S INTENDED USE, ITS COMPLIANCE WITH ANY ZONING OR OTHER RULES, REGULATIONS, LAWS OR STATUTES APPLICABLE TO THE MORENO VALLEY EXCHANGE PARCEL, OR ANY OTHER MATTER OR THING RELATING TO THE MORENO VALLEY EXCHANGE PARCEL. THE PROVISIONS OF THIS SUBSECTION SHALL SURVIVE THE CLOSING.

Initials:

Covey Ranch

6. **Closing Conditions.** At or before Closing, each party shall have executed (as applicable) and delivered or cause to be executed and delivered to the Title Company (as defined in Section 8(b) below) originals of the following documents and shall perform its respective following covenants, and all of the following are conditions to the obligation of the parties to Close this transaction:

(a) The Title Company shall have committed in writing to issue its policies of title insurance, if requested, as set forth below in Section 7.

(b) Moreno Valley shall deliver to the Title Company the Moreno Valley Deed for the Moreno Valley Exchange Parcel.

(c) Covey Ranch shall deliver to the Title Company the Covey Ranch Deed for the Covey Ranch Exchange Parcel.

(d) As a condition to Covey Ranch obligation to close the Exchange Transaction, all of Moreno Valley's representations in this Agreement shall be true and accurate in all material respects as of the Closing, and as a condition to Moreno Valley's obligation to close the Exchange Transaction, all of Covey Ranch's representations in this Agreement shall be true and accurate in all material respects as of the Closing.

In the event that all such conditions to the Closing are not fulfilled by the Closing Date, through no fault or failure of the party responsible for the accomplishment thereof, this Agreement shall terminate with no further liability on the part of either party except for liability which may have accrued prior to such termination.

7. **Title Insurance.** Each party may obtain from the Title Company, at each party's sole cost and expense, an owner's policy of title insurance in form and substance satisfactory to such party in its sole discretion, insuring title in the Parcel the party is acquiring (and any appurtenances and easements thereto belonging) and providing for such endorsements, "gap coverage" and closing protection letters issued by the Title Company, all as such party may require.

8. Operations Prior to Closing & Closing.

(a) Covey Ranch and Moreno Valley covenant and agree with the other that after the date hereof until the Closing or termination of this Agreement, each party shall conduct its business involving their respective Parcels as follows:

(i) Neither Covey Ranch nor Moreno Valley shall permit any changes in the zoning of, or transfer title to, the Covey Ranch Exchange Parcel or the Moreno Valley Exchange Parcel, as applicable, or create any easements or mortgages encumbering such property or enter into any leases, subleases or occupancy agreements affecting the Parcel to be conveyed to the other party that will survive the Closing.

(ii) Subject to Section 8(a)(iii) below, neither party shall enter into or amend any contracts affecting their respective Exchange Parcel, such as service or construction contracts ("**Contracts**"), other than entered into in the ordinary course of business and which are cancelable by said party prior to the Closing. Moreno Valley and Covey Ranch shall terminate all Contracts with respect their respective Parcel and pay any penalty or fee associated with such termination, at or prior to the Closing.

(iii) Without limiting the provisions of Section 8(a)(ii), each party shall maintain or cause to be maintained its respective Parcel in the ordinary course of business and in good condition, taking into account, however, the anticipated use of the Parcels after the Closing.

(iv) Prior to the Closing, Covey Ranch and Moreno Valley shall promptly deliver to the other copies of any notices received by such party from any governmental authority alleging any violation of any applicable law or ordinance with respect to the Parcel such party is required to convey hereunder.

(b) The Closing shall occur through First American Title Insurance Company (the "**Title Company**") (Title Officer: Steven Clark, 1250 Corona Pointe Court, Suite 201, Corona, California 92879, Email: sclark@firstam.com, Phone: (951) 256-5878, in accordance with this Agreement, and shall take place on the date of the Closing, or on such other date as the parties may agree.

9. No Proration of Current Taxes. Covey Ranch and Moreno Valley shall pay all real estate taxes and assessments with respect to the Covey Ranch Exchange Parcel and the Moreno Valley Exchange Parcel, respectively, accrued for fiscal tax years through and including the Closing, and therefore real estate taxes and assessments for the fiscal tax year of Closing shall not be prorated. Covey Ranch reserves the right to request and obtain a refund from the appropriate taxing authority for all real estate taxes and assessments paid in connection with the Covey Ranch Exchange Parcel for the time period occurring on and after the Closing through June 30, 2016.

10. Possession.

(a) Moreno Valley Exchange Parcel. Moreno Valley shall deliver possession of the Moreno Valley Exchange Parcel to Covey Ranch on the Closing.

(b) Covey Ranch Exchange Parcel. Covey Ranch shall deliver possession of the Covey Ranch Exchange Parcel to Moreno Valley on the Closing.

11. **Inspections**. Each party has previously reviewed and inspected the other party's Parcel and is satisfied with the condition of the other party's Parcel, including without limitation, the environmental condition. In this regard, each party represents to the other that it has no knowledge of any release of hazardous materials having occurred on its Exchange Parcel for which remediation would be required by law or by a reasonably prudent institutional property owner, except release (if any) for which remediation has been fully performed in compliance with all applicable laws.

12. **Closing Costs**. The transfer taxes and recording fees associated with the conveyances of the Moreno Valley Exchange Parcel and the Covey Ranch Exchange Parcel shall be borne by Covey Ranch; however, Covey Ranch and Moreno Valley shall bear their own attorney's fees. All parties acknowledge that Moreno Valley is exempt from payment of documentary transfer taxes.

13. **Default**. In the event of a default by a party under any of the terms, conditions and provisions of this Agreement (a "**Default**"), the non-defaulting party's sole and exclusive remedies under this Agreement, at law and at equity, shall be to (a) seek specific performance, (b) terminate this Agreement or (c) waive such Default and proceed to Closing.

14. **Condemnation**. In case of any condemnation or threatened condemnation of the Covey Ranch Exchange Parcel or the Moreno Valley Exchange Parcel or any material part thereof prior to any Closing, each party shall have the right to terminate this Agreement.

15. **Notice**. Any notice, demand, consent, refusal, approval, certification, statement, report or request given, served, made or obtained, or required to be given, served, made or obtained hereunder (collectively, "**Notice**") shall be in writing and shall be deemed to have been given when mailed by United States registered or certified mail, postage prepaid, return receipt requested or by a national overnight carrier providing proof of receipt to the other party at the address stated below or at the last changed address given by the party to be notified as hereinafter specified:

To Moreno Valley:

City of Moreno Valley
Parks and Community Services Department
14075 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92553
Attn: Tony Hetherman

with a copy to:

City of Moreno Valley
14075 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92553
Attn: City Clerk

To Covey Ranch:

Covey Ranch 1 INV, LLC
 c/o Quail Capital Investments, LLC
 3121 Michelson Drive, Suite 150
 Irvine, CA 92612
 Attn: R. Mark Buckland

with a copy to:

Allen Matkins Leck Gamble Mallory & Natsis LLP
 1900 Main Street, 5th Floor
 Irvine, California 92614-7321
 Attention: Matthew R. Fogt, Esq.

Any party may, however, at any time change its address for the above purposes by mailing, as aforesaid, a notice stating the change and setting forth the new address. All notice addresses must be in the United States of America. The time period within which a party must respond to a notice shall run from the date of receipt or refusal of delivery. At the request of any party, the other parties agree to serve additional copies (not in excess of three (3) additional copies at any one time) of any such Notice by the methods described in this Section, postage prepaid, to such other persons at such addresses as shall from time to time be requested by the requesting party.

16. **Miscellaneous.**

(a) **Representations.** Moreno Valley and Covey Ranch each represents and warrants to the other that it has the full power, authority and capacity to enter into this Agreement and to execute this Agreement and that the entering into, execution of and performance under this Agreement does not violate any contractual covenants or restrictions between such party and any third party, including, without limitation, any collateral assignee or mortgagee or beneficiary and/or trustee, nor is it required to obtain the consent of any other person, firm or entity, whether governmental or private, which it has not already obtained. Neither Covey Ranch nor Moreno Valley makes any representation or warranty whatsoever, express or implied, as to the physical condition of the Covey Ranch Exchange Parcel or the Moreno Valley Exchange Parcel, respectively, including without limitation as to environmental matters, except as provided in Section 11.

(b) **Termination.** Each of Covey Ranch and Moreno Valley agree that, except as specifically set forth herein to the contrary, this Agreement shall terminate upon the Closing.

(c) **Commissions.** Each party represents and warrants to the other that no commissions or other expenses of real estate brokers or agents shall accrue from the transfers. Moreno Valley and Covey Ranch covenant and agree, each to the other, to indemnify and hold the other party harmless against and from any fees, commissions, other compensation, loss, liability, costs, claims, demands, damages, actions, causes of action, and suits arising out of or in any manner related to the alleged employment or use by the indemnifying party of any real estate broker, finder, intermediary or agent in connection with this transaction (including, without

limitation, the cost of attorneys' fees in connection therewith). The provisions of this subsection shall survive the Closing.

(d) Non-Assignability. Moreno Valley and Covey Ranch agree that they shall not in any fashion assign or transfer or attempt to assign or transfer its interest under this Agreement, other than to a party which acquires the entire interest in the assigning party's Parcel and assumes all of the assigning party's obligations hereunder.

(e) Counterparts. This Agreement may be executed in one or more counterparts, at different times and places, including the transmission of counterparts via electronic means, any one of which shall be deemed an original, but all of which together shall constitute but one and the same document.

(f) Successors. This Agreement shall be binding upon the personal representatives, successors and assigns of the respective parties hereto, subject to Section 16(d) above.

(g) Further Assurances. Before or after the Closing, Moreno Valley and Covey Ranch shall execute and deliver to the other party or the Title Company all such documents as may be reasonably necessary to effect, confirm or otherwise perfect the transfer of property contemplated by this Agreement.

(h) Headings. The section and subsection headings are inserted for convenience only and are in no way intended to interpret, define or limit the scope or content of this Agreement or any provision of this Agreement.

(i) Governing Law. This Agreement shall be construed and interpreted in accordance with laws of the State of California.

(j) Severability. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, then such provision shall be deemed severed from the remainder of this Agreement and the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby and the parties shall thereupon amend this Agreement to legally and most closely embody the spirit and intent of the invalid provisions.

(k) Amendment. This Agreement may not be altered, amended changed, waived or modified in any respect unless the same shall be in writing and signed by both parties.

(l) Waiver. A waiver by any party of a breach under this Agreement shall not be deemed a waiver of any other or subsequent breach.

(m) Time of Performance. Whenever the time for performance of an obligation under this Agreement occurs or expires on a day other than a business day, the time for performance thereof shall be extended to the next business day. For the purpose of this Agreement, "**business day**" shall mean any day other than Saturday, Sunday, U.S. national holiday, or holiday in the State of California.

(n) Intentionally Omitted.

(o) Recording. Neither this Agreement nor any memorandum hereof shall be recorded or filed in any public records of any jurisdiction, and any attempt to do so may be treated by the other party as a material breach of this Agreement.

(p) Attorneys' Fees. If either party commences an action against the other to enforce any of the terms of this Agreement or because of the breach by either party of any of the terms hereof, the prevailing party shall be entitled to recover, as an element of its costs of suit and not as damages, reasonable attorneys' fees to be fixed by the court, costs and expenses incurred in connection with the prosecution or defense of such action. The "**prevailing party**" shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorneys' fees.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the day and year first above written.

COVEY RANCH:

COVEY RANCH 1 INV, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

MORENO VALLEY:

MORENO VALLEY COMMUNITY SERVICES
DISTRICT, a district formed pursuant to California
Community Services District law

By: _____
Name: _____
Title: President of the Board of Directors

EXHIBIT "A-1"**COVEY RANCH EXCHANGE PARCEL**

All that certain real property located in the City of Moreno Valley, County of Riverside, State of California, described as follows:

A PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 29;

THENCE NORTH 89°38'46" EAST ALONG THE SOUTH LINE OF SAID SECTION 29, A DISTANCE OF 1514.86 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 11°36'30" EAST, A DISTANCE OF 36.78 FEET;

THENCE NORTH 23°07'03" EAST, A DISTANCE OF 72.67 FEET;

THENCE NORTH 45°59'12" EAST, A DISTANCE OF 53.29 FEET;

THENCE NORTH 89°38'46" EAST, A DISTANCE OF 150.73 FEET;

THENCE NORTH 33°45'15" EAST, A DISTANCE OF 5.01 FEET;

THENCE NORTH 00°28'27" WEST, A DISTANCE OF 10.03 FEET;

THENCE NORTH 59°31'33" EAST, A DISTANCE OF 12.97 FEET;

THENCE SOUTH 33°45'15" WEST, A DISTANCE OF 27.18 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 7.38 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, AND A RADIUS OF 325.00 FEET, SAID RADIUS HAVING A RADIAL BEARING OF NORTH 89°38'46" EAST;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 43°30'00", A DISTANCE OF 246.75 FEET;

THENCE NORTH 43°08'46" EAST, A DISTANCE OF 160.00 FEET;

THENCE SOUTH 46°51'14" EAST, A DISTANCE OF 45.00 FEET;

THENCE SOUTH 43°08'46" WEST, A DISTANCE OF 80.45 FEET;

THENCE SOUTH 46°56'33" EAST, A DISTANCE OF 5.00 FEET;

THENCE SOUTH 43°08'46" WEST, A DISTANCE OF 79.56 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, AND A RADIUS OF 275.00 FEET, SAID RADIUS HAVING A RADIAL BEARING OF SOUTH 46°51'14" EAST;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 43°30'00", A DISTANCE OF 208.79 FEET;

THENCE SOUTH 03°20'41" EAST, A DISTANCE OF 59.41 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 55.49 FEET;

THENCE SOUTH 28°22'31" EAST, A DISTANCE OF 72.73 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 10.98 FEET TO A POINT LYING ON SAID SOUTH LINE OF SECTION 29;

THENCE SOUTH 89°38'46" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 342.37 FEET, MORE OR LESS, TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION

THE ABOVE DESCRIPTION CONTAINS 1.45 ACRES, PLUS OR MINUS.

EXHIBIT "A-2"

SITE PLAN OF COVEY RANCH EXCHANGE PARCEL

CC

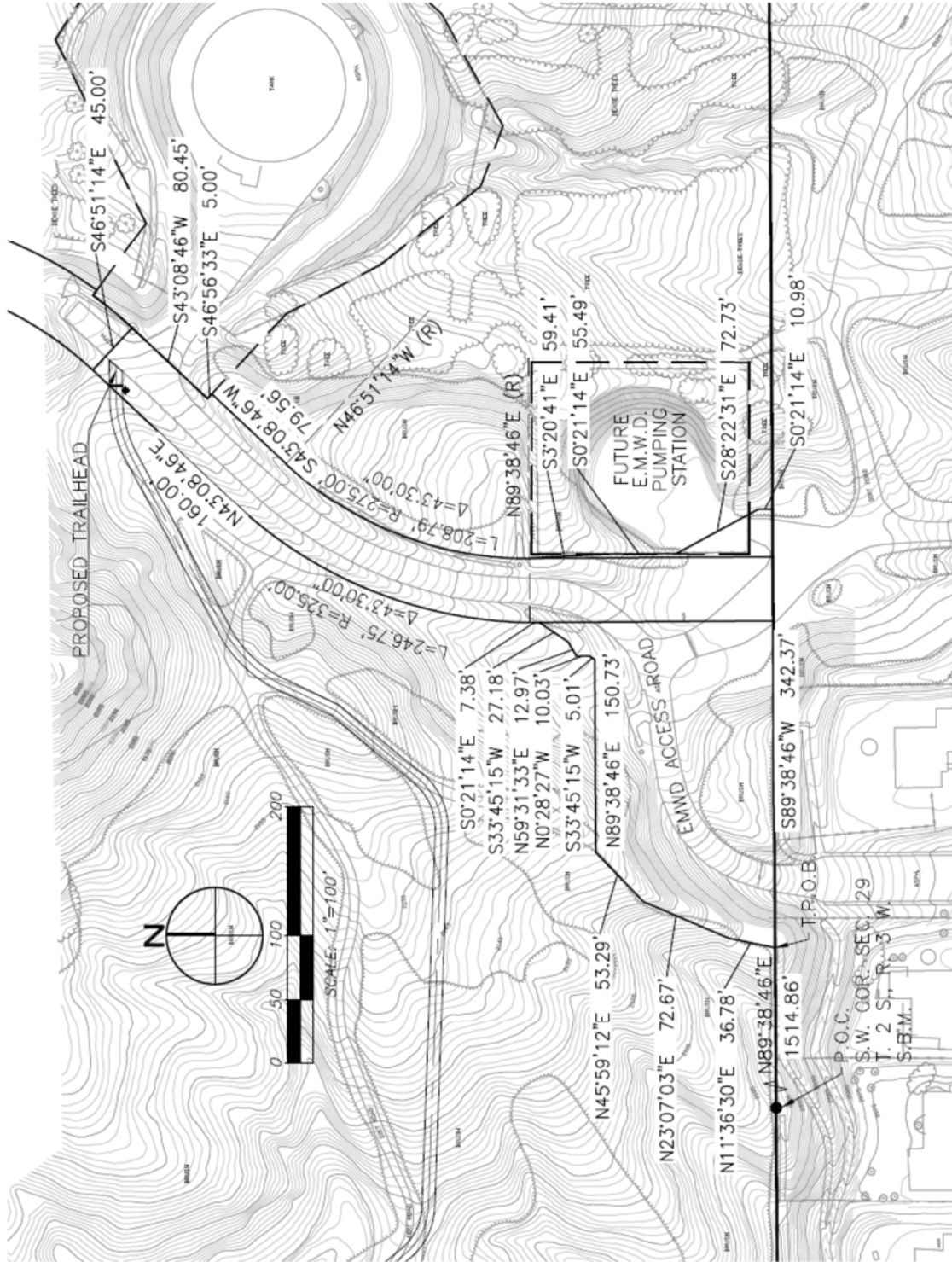


EXHIBIT "B-1"

MORENO VALLEY EXCHANGE PARCEL

All that certain real property located in the City of Moreno Valley, County of Riverside, State of California, described as follows:

THAT PORTION OF LOT 31 OF TRACT MAP 17947 AS SHOWN BY MAP ON FILE IN BOOK 135, PAGES 35 THROUGH 49 INCLUSIVE, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, ALSO BEING A PORTION OF SECTION 30, T. 2 S., R. 3 W., S.B.M.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 31;

THENCE NORTH 01°17'23" EAST, ALONG THE EAST LINE OF SAID LOT 31, A DISTANCE OF 168.76 FEET;

THENCE LEAVING SAID EAST LINE, NORTH 88°10'55" WEST, A DISTANCE OF 85.65 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 95.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°17'48", A DISTANCE OF 17.07 FEET;

THENCE NORTH 77°53'07" WEST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 71.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 115°12'03", A DISTANCE OF 142.75 FEET;

THENCE SOUTH 13°05'09" EAST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 95.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°11'51", A DISTANCE OF 8.62 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 333.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°31'05", A DISTANCE OF 8.82 FEET;

THENCE SOUTH 09°24'24" EAST, A DISTANCE OF 35.35 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 31;

THENCE SOUTH 88°42'37" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 204.97 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

THE ABOVE DESCRIPTION IS 37,330 SQUARE FEET, PLUS OR MINUS.

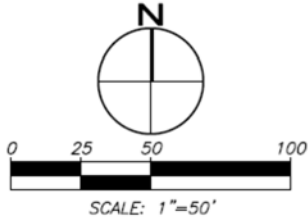


Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

EXHIBIT "B-2"

SITE PLAN OF MORENO VALLEY EXCHANGE PARCEL

OFFSITE DESCRIPTION PLAT



LOT 31
TRACT 17947
M.B.
135/35-49

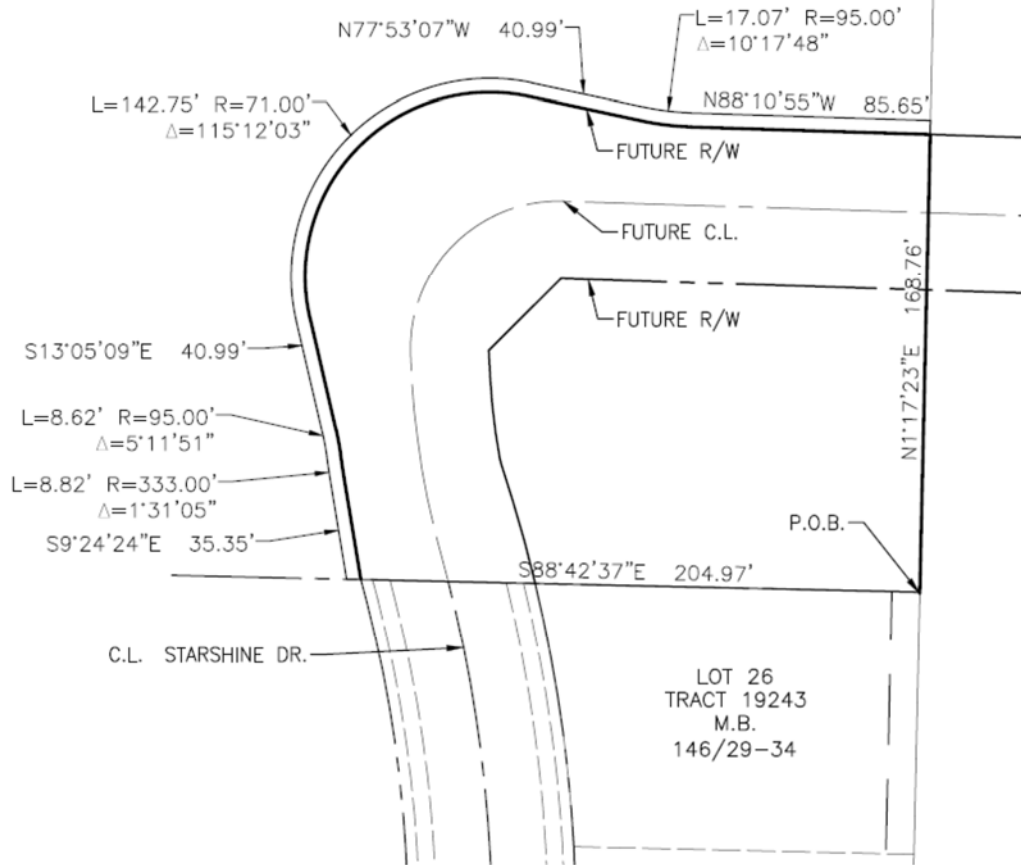


EXHIBIT "C-1"

FORM OF DEED FROM MORENO VALLEY TO COVEY RANCH

[MORENO VALLEY DEED ON NEXT PAGE]

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Quail Capital Investments, LLC
3121 Michelson Drive, Suite 150
Irvine, CA 92612
Attention: R. Mark Buckland

(Space Above For Recorder's Use)

APN: _____

The undersigned grantor declares:

DOCUMENTARY TRANSFER TAX \$ _____

___ computed on full value of property conveyed, or

___ computed on full value less liens and encumbrances remaining at time of sale.

___ Unincorporated Area ___ City of Moreno Valley

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, MORENO VALLEY COMMUNITY SERVICES DISTRICT, a district formed pursuant to California Community Services District law ("**Grantor**"), hereby GRANTS to COVEY RANCH 1 INV, LLC, a Delaware limited liability company ("**Grantee**") that certain real property which is more particularly described on Exhibit A attached hereto ("**Property**"), together with all improvements thereon and all of Grantor's interest in all rights, privileges, easements and appurtenances benefiting or otherwise appurtenant to the Property or such improvements.

[SIGNATURE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor has executed this Grant Deed on the day and year hereafter written.

Dated: _____, 2016

"GRANTOR"

MORENO VALLEY COMMUNITY SERVICES DISTRICT,
a district formed pursuant to California Community Services District law

By: _____

Name: _____

Title: President of the Board of Directors

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

ACKNOWLEDGMENT

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)
County of _____)

On _____, before me, _____,
(insert name of notary)

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 _____

(Seal)

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

EXHIBIT A**LEGAL DESCRIPTION OF PROPERTY**

All that certain real property located in the City of Moreno Valley, County of Riverside, State of California, described as follows:

THAT PORTION OF LOT 31 OF TRACT MAP 17947 AS SHOWN BY MAP ON FILE IN BOOK 135, PAGES 35 THROUGH 49 INCLUSIVE, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, ALSO BEING A PORTION OF SECTION 30, T. 2 S., R. 3 W., S.B.M.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 31;

THENCE NORTH 01°17'23" EAST, ALONG THE EAST LINE OF SAID LOT 31, A DISTANCE OF 168.76 FEET;

THENCE LEAVING SAID EAST LINE, NORTH 88°10'55" WEST, A DISTANCE OF 85.65 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 95.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°17'48", A DISTANCE OF 17.07 FEET;

THENCE NORTH 77°53'07" WEST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 71.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 115°12'03", A DISTANCE OF 142.75 FEET;

THENCE SOUTH 13°05'09" EAST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 95.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°11'51", A DISTANCE OF 8.62 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 333.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°31'05", A DISTANCE OF 8.82 FEET;

THENCE SOUTH 09°24'24" EAST, A DISTANCE OF 35.35 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 31;

THENCE SOUTH 88°42'37" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 204.97 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

THE ABOVE DESCRIPTION IS 37,330 SQUARE FEET, PLUS OR MINUS.

EXHIBIT "C-2"

FORM OF DEED FROM COVEY RANCH TO MORENO VALLEY

[COVEY RANCH DEED ON NEXT PAGE]

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City Clerk
City of Moreno Valley
14075 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92553-0805

(Space Above For Recorder's Use)

APN: _____

The undersigned grantor declares:
DOCUMENTARY TRANSFER TAX \$ -0-
(Exempt pursuant to California Revenue and Taxation Code Section 11922)

GRANT DEED TOGETHER WITH RESERVATION OF EASEMENTS

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, COVEY RANCH 1 INV, LLC, a Delaware limited liability company ("**Grantor**"), hereby grants to MORENO VALLEY COMMUNITY SERVICES DISTRICT, a district formed pursuant to California Community Services District law ("**Grantee**"), the following described real property in the City of Moreno Valley, County of Riverside, State of California ("**Property**"); together with (i) all appurtenant rights to the Property, including privileges, tenements, estates, interests and easements; and (ii) all improvements on and under such Property:

SEE EXHIBIT A ATTACHED HERETO

SUBJECT TO:

1. A permanent and perpetual access easement (the "**Access Easement**") over, on, under, in, across, along and through the Property for the benefit of the property ("**Benefitted Property**") more fully described in Exhibit B attached hereto and incorporated herein.

2. A temporary and non-exclusive construction easement and right of way (the "**Temporary Construction Easement**" and collectively with the Access Easement, the "**Easements**") over, on, under, in, across, along and through the Property for the purposes of constructing a temporary parking lot. The Temporary Construction Easement shall expire ("**Expiration Date**") upon the earlier of (i) the completion of construction of Grantor's project on the Benefitted Property ("**Project**"), and (ii) the date that is five (5) years from the date this instrument is recorded in the Official Records.

The Easements shall include, without limitation, the right and privilege of Grantor and its employees, agents, representatives, contractors, subcontractors, and workmen to: (a) perform all activities as may be reasonably necessary to facilitate the purposes of the Easements; (b) have reasonable access to, ingress to, and egress through the Property; (c) use and temporarily place and operate tools, equipment, machinery, and materials on the Property; and (d) trim, cut, or clear away

any trees, brush, or other vegetation or flora, including the roots thereof, located within the Property that interfere with the purposes of the Easements hereunder.

3. All other covenants, conditions, restrictions, reservations, rights, rights-of-way, dedications, offers of dedication and easements of record and all matters that would be disclosed by a survey and inspection of the Property.

[SIGNATURE ON THE FOLLOWING PAGE]

**SIGNATURE PAGE TO
GRANT DEED TOGETHER WITH RESERVATION OF EASEMENTS**

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on the date set forth below.

Dated: _____

GRANTOR:

COVEY RANCH 1 INV, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

ACKNOWLEDGMENT

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)
County of _____)

On _____, before me, _____,
(insert name of notary)

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 _____

(Seal)

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property, more specifically described on Exhibit A attached hereto, conveyed by the attached Grant Deed Together with Reservation of Easements dated _____, 2016 from Covey Ranch 1 Inv, LLC, a Delaware limited liability company, to the Moreno Valley Community Services District of the City of Moreno Valley, is hereby accepted by order of the Moreno Valley City Council, acting in its capacity as the governing body of the Moreno Valley Community Services District, on _____, 2016, and the grantee consents to recordation thereof.

Date: _____

MORENO VALLEY COMMUNITY SERVICES DISTRICT, a district formed pursuant to California Community Services District law

By: _____
Name: _____
Title: President of the Board of Directors

ACKNOWLEDGMENT

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)
County of _____)

On _____, before me, _____,
(insert name of notary)

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 _____

(Seal)

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

EXHIBIT A**LEGAL DESCRIPTION OF THE PROPERTY**

All that certain real property located in the City of Moreno Valley, County of Riverside, State of California, described as follows:

A PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 29;

THENCE NORTH 89°38'46" EAST ALONG THE SOUTH LINE OF SAID SECTION 29, A DISTANCE OF 1514.86 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 11°36'30" EAST, A DISTANCE OF 36.78 FEET;

THENCE NORTH 23°07'03" EAST, A DISTANCE OF 72.67 FEET;

THENCE NORTH 45°59'12" EAST, A DISTANCE OF 53.29 FEET;

THENCE NORTH 89°38'46" EAST, A DISTANCE OF 150.73 FEET;

THENCE NORTH 33°45'15" EAST, A DISTANCE OF 5.01 FEET;

THENCE NORTH 00°28'27" WEST, A DISTANCE OF 10.03 FEET;

THENCE NORTH 59°31'33" EAST, A DISTANCE OF 12.97 FEET;

THENCE SOUTH 33°45'15" WEST, A DISTANCE OF 27.18 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 7.38 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, AND A RADIUS OF 325.00 FEET, SAID RADIUS HAVING A RADIAL BEARING OF NORTH 89°38'46" EAST;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 43°30'00", A DISTANCE OF 246.75 FEET;

THENCE NORTH 43°08'46" EAST, A DISTANCE OF 160.00 FEET;

THENCE SOUTH 46°51'14" EAST, A DISTANCE OF 45.00 FEET;

THENCE SOUTH 43°08'46" WEST, A DISTANCE OF 80.45 FEET;

THENCE SOUTH 46°56'33" EAST, A DISTANCE OF 5.00 FEET;

THENCE SOUTH 43°08'46" WEST, A DISTANCE OF 79.56 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, AND A RADIUS OF 275.00 FEET, SAID RADIUS HAVING A RADIAL BEARING OF SOUTH 46°51'14" EAST;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 43°30'00", A DISTANCE OF 208.79 FEET;

THENCE SOUTH 03°20'41" EAST, A DISTANCE OF 59.41 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 55.49 FEET;

THENCE SOUTH 28°22'31" EAST, A DISTANCE OF 72.73 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 10.98 FEET TO A POINT LYING ON SAID SOUTH LINE OF SECTION 29;

THENCE SOUTH 89°38'46" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 342.37 FEET, MORE OR LESS, TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION

THE ABOVE DESCRIPTION CONTAINS 1.45 ACRES, PLUS OR MINUS.

EXHIBIT A
to EXHIBIT "C-2"

EXHIBIT B

LEGAL DESCRIPTION OF BENEFITTED PROPERTY

Real property in the City of Moreno Valley, County of Riverside, State of California, described as follows:

PARCEL 1:

PARCEL 1 OF LOT LINE ADJUSTMENT NO. 9621 RECORDED JUNE 23, 2005 AS INSTRUMENT NO. 2005-498850 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 30;

THENCE SOUTH 00° 45' 22" WEST, ALONG THE EAST LINE OF SAID SECTION 30, A DISTANCE OF 1056.28 FEET TO A POINT THEREON;

THENCE NORTH 89° 18' 10" WEST, A DISTANCE OF 660.00 FEET TO A POINT ON THE WEST LINE OF SAID EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30;

THENCE NORTH 00° 45' 22" WEST, ALONG SAID WEST LINE, A DISTANCE OF 1062.87 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 30;

THENCE SOUTH 88° 43' 50" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 660.03 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

PARCEL 2:

PARCEL 2 OF LOT LINE ADJUSTMENT NO. 9621 RECORDED JUNE 23, 2005 AS INSTRUMENT NO. 2005-0498850 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHERLY RECTANGULAR 1320 FEET OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF;

TOGETHER WITH THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF;

EXCEPTING THEREFROM THAT PORTION OF THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 30; THENCE SOUTH 00° 45' 22" WEST, ALONG THE EAST LINE OF SAID SECTION 30, A DISTANCE OF 1056.28 FEET TO A POINT THEREON; THENCE NORTH 89° 18' 10" WEST, A DISTANCE OF 660.00 FEET TO A POINT ON THE WEST LINE OF SAID EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30; THENCE NORTH 00° 45' 22" WEST, ALONG SAID WEST LINE, A DISTANCE OF 1062.87 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 30; THENCE SOUTH 88° 43' 50" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 660.03 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

PARCEL 3:

PARCEL 2 OF LOT LINE ADJUSTMENT NO. 05088 RECORDED NOVEMBER 08, 2006 AS INSTRUMENT NO. 2006-0823600 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN SAID SOUTHWEST QUARTER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 00° 45' 22" EAST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 845.25 FEET TO A POINT THEREON; THENCE NORTH 88° 53' 33" EAST, A DISTANCE OF 1303.07 FEET; THENCE SOUTH 00° 30' 13" WEST, A DISTANCE OF 1335.26 FEET; THENCE SOUTH 88° 54' 01" WEST, A DISTANCE OF 1308.84 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 00° 44' 37" EAST, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 490.01 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT IN DEED RECORDED ON JANUARY 25, 1991 AS INSTRUMENT NUMBER 027950 OFFICIAL RECORDS OF RIVERSIDE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT IN DEED RECORDED ON AUGUST 08, 1995 AS INSTRUMENT NUMBER 258684 OFFICIAL RECORDS OF RIVERSIDE COUNTY.

PARCEL 4:

PARCEL 1 OF LOT LINE ADJUSTMENT NO. 05088 RECORDED NOVEMBER 08, 2006 AS INSTRUMENT NO. 2006-823600 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN SAID NORTHWEST QUARTER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF SECTION 29;

THENCE NORTH 00° 45' 22" EAST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 845.25 FEET TO A POINT THEREON;

THENCE NORTH 88° 53' 33" EAST, A DISTANCE OF 1303.07 FEET;

THENCE SOUTH 00° 30' 13" WEST, A DISTANCE OF 1335.26 FEET;

THENCE SOUTH 88° 54' 01" WEST, A DISTANCE OF 1308.84 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29;

THENCE NORTH 00° 44' 37" EAST ALONG SAID WEST LINE, A DISTANCE OF 490.00 FEET TO THE POINT OF BEGINNING.

APN: 474-490-024-0, 474-490-025-1, 474-040-032-6 and 474-040-030-4

EXHIBIT B
to EXHIBIT "C-2"

-3-

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Quail Capital Investments, LLC
3121 Michelson Drive, Suite 150
Irvine, CA 92612
Attention: R. Mark Buckland

(Space Above For Recorder's Use)

APN: _____

The undersigned grantor declares:

DOCUMENTARY TRANSFER TAX \$ _____

___ computed on full value of property conveyed, or

___ computed on full value less liens and encumbrances remaining at time of sale.

___ Unincorporated Area ___ City of Moreno Valley

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, MORENO VALLEY COMMUNITY SERVICES DISTRICT, a district formed pursuant to California Community Services District law ("**Grantor**"), hereby GRANTS to COVEY RANCH 1 INV, LLC, a Delaware limited liability company ("**Grantee**") that certain real property which is more particularly described on Exhibit A attached hereto ("**Property**"), together with all improvements thereon and all of Grantor's interest in all rights, privileges, easements and appurtenances benefiting or otherwise appurtenant to the Property or such improvements.

[SIGNATURE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor has executed this Grant Deed on the day and year hereafter written.

Dated: _____, 2016

"GRANTOR"

MORENO VALLEY COMMUNITY SERVICES DISTRICT,
a district formed pursuant to California Community Services District law

By: _____

Name: _____

Title: President of the Board of Directors

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

ACKNOWLEDGMENT

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)
County of _____)

On _____, before me, _____,
(insert name of notary)

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 _____

(Seal)

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

EXHIBIT A**LEGAL DESCRIPTION OF PROPERTY**

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THAT PORTION OF LOT 31 OF TRACT MAP 17947 AS SHOWN BY MAP ON FILE IN BOOK 135, PAGES 35 THROUGH 49 INCLUSIVE, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, ALSO BEING A PORTION OF SECTION 30, T. 2 S., R. 3 W., S.B.M.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 31;

THENCE NORTH 01°17'23" EAST, ALONG THE EAST LINE OF SAID LOT 31, A DISTANCE OF 168.76 FEET;

THENCE LEAVING SAID EAST LINE, NORTH 88°10'55" WEST, A DISTANCE OF 85.65 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 95.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°17'48", A DISTANCE OF 17.07 FEET;

THENCE NORTH 77°53'07" WEST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 71.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 115°12'03", A DISTANCE OF 142.75 FEET;

THENCE SOUTH 13°05'09" EAST, A DISTANCE OF 40.99 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 95.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°11'51", A DISTANCE OF 8.62 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 333.00 FEET;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°31'05", A DISTANCE OF 8.82 FEET;

THENCE SOUTH 09°24'24" EAST, A DISTANCE OF 35.35 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 31;

THENCE SOUTH 88°42'37" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 204.97 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

THE ABOVE DESCRIPTION IS 37,330 SQUARE FEET, PLUS OR MINUS.

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City Clerk
City of Moreno Valley
14075 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92553-0805

(Space Above For Recorder's Use)

APN: _____

The undersigned grantor declares:
DOCUMENTARY TRANSFER TAX \$ -0-
(Exempt pursuant to California Revenue and Taxation Code Section 11922)

GRANT DEED TOGETHER WITH RESERVATION OF EASEMENTS

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, COVEY RANCH 1 INV, LLC, a Delaware limited liability company ("**Grantor**"), hereby grants to MORENO VALLEY COMMUNITY SERVICES DISTRICT, a district formed pursuant to California Community Services District law ("**Grantee**"), the following described real property in the City of Moreno Valley, County of Riverside, State of California ("**Property**"); together with (i) all appurtenant rights to the Property, including privileges, tenements, estates, interests and easements; and (ii) all improvements on and under such Property:

SEE EXHIBIT A ATTACHED HERETO

SUBJECT TO:

4. A permanent and perpetual access easement (the "**Access Easement**") over, on, under, in, across, along and through the Property for the benefit of the property ("**Benefitted Property**") more fully described in Exhibit B attached hereto and incorporated herein.

5. A temporary and non-exclusive construction easement and right of way (the "**Temporary Construction Easement**" and collectively with the Access Easement, the "**Easements**") over, on, under, in, across, along and through the Property for the purposes of constructing a temporary parking lot. The Temporary Construction Easement shall expire ("**Expiration Date**") upon the earlier of (i) the completion of construction of Grantor's project on the Benefitted Property ("**Project**"), and (ii) the date that is five (5) years from the date this instrument is recorded in the Official Records.

The Easements shall include, without limitation, the right and privilege of Grantor and its employees, agents, representatives, contractors, subcontractors, and workmen to: (a) perform all activities as may be reasonably necessary to facilitate the purposes of the Easements; (b) have reasonable access to, ingress to, and egress through the Property; (c) use and temporarily place and

operate tools, equipment, machinery, and materials on the Property; and (d) trim, cut, or clear away any trees, brush, or other vegetation or flora, including the roots thereof, located within the Property that interfere with the purposes of the Easements hereunder.

6. All other covenants, conditions, restrictions, reservations, rights, rights-of-way, dedications, offers of dedication and easements of record and all matters that would be disclosed by a survey and inspection of the Property.

[SIGNATURE ON THE FOLLOWING PAGE]

**SIGNATURE PAGE TO
GRANT DEED TOGETHER WITH RESERVATION OF EASEMENTS**

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on the date set forth below.

Dated: _____

GRANTOR:

COVEY RANCH 1 INV, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

ACKNOWLEDGMENT

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)
County of _____)

On _____, before me, _____,
(insert name of notary)

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 _____

(Seal)

Attachment: Execution Documents - Covey Ranch-Moreno Valley - Exchange Agreement - Grant Deed-Covey Ranch - Grant Deed-Moreno Valley

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property, more specifically described on Exhibit A attached hereto, conveyed by the attached Grant Deed Together with Reservation of Easements dated _____, 2016 from Covey Ranch 1 Inv, LLC, a Delaware limited liability company, to the Moreno Valley Community Services District of the City of Moreno Valley, is hereby accepted by order of the Moreno Valley City Council, acting in its capacity as the governing body of the Moreno Valley Community Services District, on _____, 2016, and the grantee consents to recordation thereof.

Date: _____

MORENO VALLEY COMMUNITY SERVICES DISTRICT, a district formed pursuant to California Community Services District law

By: _____
Name: _____
Title: President of the Board of Directors

ACKNOWLEDGMENT

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)
County of _____)

On _____, before me, _____,
(insert name of notary)

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 _____

(Seal)

EXHIBIT A**LEGAL DESCRIPTION OF THE PROPERTY**

All that certain real property located in the City of Moreno Valley, County of Riverside, State of California, described as follows:

A PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 29;

THENCE NORTH 89°38'46" EAST ALONG THE SOUTH LINE OF SAID SECTION 29, A DISTANCE OF 1514.86 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 11°36'30" EAST, A DISTANCE OF 36.78 FEET;

THENCE NORTH 23°07'03" EAST, A DISTANCE OF 72.67 FEET;

THENCE NORTH 45°59'12" EAST, A DISTANCE OF 53.29 FEET;

THENCE NORTH 89°38'46" EAST, A DISTANCE OF 150.73 FEET;

THENCE NORTH 33°45'15" EAST, A DISTANCE OF 5.01 FEET;

THENCE NORTH 00°28'27" WEST, A DISTANCE OF 10.03 FEET;

THENCE NORTH 59°31'33" EAST, A DISTANCE OF 12.97 FEET;

THENCE SOUTH 33°45'15" WEST, A DISTANCE OF 27.18 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 7.38 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, AND A RADIUS OF 325.00 FEET, SAID RADIUS HAVING A RADIAL BEARING OF NORTH 89°38'46" EAST;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 43°30'00", A DISTANCE OF 246.75 FEET;

THENCE NORTH 43°08'46" EAST, A DISTANCE OF 160.00 FEET;

THENCE SOUTH 46°51'14" EAST, A DISTANCE OF 45.00 FEET;

THENCE SOUTH 43°08'46" WEST, A DISTANCE OF 80.45 FEET;

THENCE SOUTH 46°56'33" EAST, A DISTANCE OF 5.00 FEET;

THENCE SOUTH 43°08'46" WEST, A DISTANCE OF 79.56 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST, AND A RADIUS OF 275.00 FEET, SAID RADIUS HAVING A RADIAL BEARING OF SOUTH 46°51'14" EAST;

THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 43°30'00", A DISTANCE OF 208.79 FEET;

THENCE SOUTH 03°20'41" EAST, A DISTANCE OF 59.41 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 55.49 FEET;

THENCE SOUTH 28°22'31" EAST, A DISTANCE OF 72.73 FEET;

THENCE SOUTH 00°21'14" EAST, A DISTANCE OF 10.98 FEET TO A POINT LYING ON SAID SOUTH LINE OF SECTION 29;

THENCE SOUTH 89°38'46" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 342.37 FEET, MORE OR LESS, TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION

THE ABOVE DESCRIPTION CONTAINS 1.45 ACRES, PLUS OR MINUS.

EXHIBIT B

LEGAL DESCRIPTION OF BENEFITTED PROPERTY

Real property in the City of Moreno Valley, County of Riverside, State of California, described as follows:

PARCEL 1:

PARCEL 1 OF LOT LINE ADJUSTMENT NO. 9621 RECORDED JUNE 23, 2005 AS INSTRUMENT NO. 2005-498850 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 30;

THENCE SOUTH 00° 45' 22" WEST, ALONG THE EAST LINE OF SAID SECTION 30, A DISTANCE OF 1056.28 FEET TO A POINT THEREON;

THENCE NORTH 89° 18' 10" WEST, A DISTANCE OF 660.00 FEET TO A POINT ON THE WEST LINE OF SAID EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30;

THENCE NORTH 00° 45' 22" WEST, ALONG SAID WEST LINE, A DISTANCE OF 1062.87 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 30;

THENCE SOUTH 88° 43' 50" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 660.03 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

PARCEL 2:

PARCEL 2 OF LOT LINE ADJUSTMENT NO. 9621 RECORDED JUNE 23, 2005 AS INSTRUMENT NO. 2005-0498850 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHERLY RECTANGULAR 1320 FEET OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF;

TOGETHER WITH THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF;

EXCEPTING THEREFROM THAT PORTION OF THE EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 30; THENCE SOUTH 00° 45' 22" WEST, ALONG THE EAST LINE OF SAID SECTION 30, A DISTANCE OF 1056.28 FEET TO A POINT THEREON; THENCE NORTH 89° 18' 10" WEST, A DISTANCE OF 660.00 FEET TO A POINT ON THE WEST LINE OF SAID EASTERLY RECTANGULAR 660 FEET OF THE NORTHEAST QUARTER OF SECTION 30; THENCE NORTH 00° 45' 22" WEST, ALONG SAID WEST LINE, A DISTANCE OF 1062.87 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 30; THENCE SOUTH 88° 43' 50" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 660.03 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION.

PARCEL 3:

PARCEL 2 OF LOT LINE ADJUSTMENT NO. 05088 RECORDED NOVEMBER 08, 2006 AS INSTRUMENT NO. 2006-0823600 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST SAN BERNARDINO MERIDIAN.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN SAID SOUTHWEST QUARTER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 00° 45' 22" EAST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 845.25 FEET TO A POINT THEREON; THENCE NORTH 88° 53' 33" EAST, A DISTANCE OF 1303.07 FEET; THENCE SOUTH 00° 30' 13" WEST, A DISTANCE OF 1335.26 FEET; THENCE SOUTH 88° 54' 01" WEST, A DISTANCE OF 1308.84 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 00° 44' 37" EAST, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 490.01 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT IN DEED RECORDED ON JANUARY 25, 1991 AS INSTRUMENT NUMBER 027950 OFFICIAL RECORDS OF RIVERSIDE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT IN DEED RECORDED ON AUGUST 08, 1995 AS INSTRUMENT NUMBER 258684 OFFICIAL RECORDS OF RIVERSIDE COUNTY.

PARCEL 4:

PARCEL 1 OF LOT LINE ADJUSTMENT NO. 05088 RECORDED NOVEMBER 08, 2006 AS INSTRUMENT NO. 2006-823600 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN SAID NORTHWEST QUARTER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF SECTION 29;

THENCE NORTH 00° 45' 22" EAST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 845.25 FEET TO A POINT THEREON;

THENCE NORTH 88° 53' 33" EAST, A DISTANCE OF 1303.07 FEET;

THENCE SOUTH 00° 30' 13" WEST, A DISTANCE OF 1335.26 FEET;

THENCE SOUTH 88° 54' 01" WEST, A DISTANCE OF 1308.84 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29;

THENCE NORTH 00° 44' 37" EAST ALONG SAID WEST LINE, A DISTANCE OF 490.00 FEET TO THE POINT OF BEGINNING.

APN: 474-490-024-0, 474-490-025-1, 474-040-032-6 and 474-040-030-4

CSD to Covey Ranch 1 Parcel



NAP

Covey Ranch 1 to CSD Parcel



Future Trail per RGP

Attachment: Map (2188 : APPROVE AND EXECUTE AGREEMENT FOR EXCHANGE OF



Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: September 20, 2016

TITLE: PUBLIC HEARING FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM MAIL BALLOT PROCEEDING

RECOMMENDED ACTION

Recommendations: That the City Council:

1. Conduct the Public Hearing and accept public testimony regarding the mail ballot proceeding for Focus Day Street for approval of the National Pollutant Discharge Elimination System (NPDES) maximum commercial/industrial regulatory rate to be applied to the property tax bill.
2. Direct the City Clerk to count the returned NPDES ballot.
3. Verify and accept the results of the mail ballot proceeding as maintained by the City Clerk on the Official Tally Sheet.
4. Receive and file the Official Tally Sheet with the City Clerk's office.
5. If approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate to the Assessor's Parcel Number mentioned in this report.

SUMMARY

The action before the City Council is to conduct a Public Hearing for a National Pollutant Discharge Elimination System (NPDES) mail ballot proceeding. The process to accept one parcel into the City's NPDES program affects one property owner, not the general citizens or taxpayers of the City.

The City requires property owners of new development projects to mitigate the cost of certain impacts created by the proposed development, such as the cost of complying

with the Federal NPDES requirements. The City offers the NPDES program as a financing mechanism to assist property owners in satisfying the requirement. After a property owner elects to participate in the program and approves the NPDES rate through a mail ballot proceeding, the City can levy the NPDES rate on the property tax bill of the authorized parcel(s). Attachment 2 outlines the steps to participate in the City's NPDES program.

The revenue generated by the NPDES program provides a funding source for pollution control of storm water runoff into municipally owned drainage facilities, lessening the financial impact of compliance with the federal requirements on the general taxpayer in Moreno Valley.

Focus Day Street, property owner of proposed retail and restaurant buildings (east side of Day St., south of Gateway Dr.), has requested the City conduct a mail ballot proceeding which, if approved, will satisfy the project's condition of approval.

DISCUSSION

New development projects are subject to the current NPDES Permit requirements for storm water management as mandated by the 1972 Federal Clean Water Act (the "Act"). Public agencies are required to obtain NPDES Permits to discharge urban storm water runoff from municipally owned drainage facilities, including streets, highways, storm drains, and flood control channels. To comply with the Act and account for the increase in compliance activities related to new development, the Land Development Division (Public Works Department) requires property owners of new development projects to provide an ongoing funding source for the NPDES program as a condition of approval of the project. The additional funding lessens the impact to the General Fund to ensure compliance with the federal requirements. The City Council adopted a NPDES residential regulatory rate on June 10, 2003, and the commercial/industrial regulatory rate on January 10, 2006.

With revenue received from the NPDES commercial/industrial regulatory rate, the City annually inspects site design, source and treatment control Best Management Practices, monitors maintenance records for those on-site facilities that require periodic monitoring, and performs annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

Focus Day Street plans to construct retail and restaurant buildings on the east side of Day St., south of Gateway Dr. and is required to provide an ongoing funding source for the NPDES program. Detailed parcel information for the property subject to the NPDES condition of approval is listed in the following table.

Property Owner/Project	Assessor's Parcel Number	Location	FY 2016/17 Maximum Commercial/Industrial Rate
Focus Day Street PA14-0073 and PA14-0074	291-650-021	east side of Day St., south of Gateway Dr.	\$232.28/parcel

The property owner has two options to satisfy the condition of approval:

- 1) Approve the NPDES rate and authorize the City to collect it on the annual Riverside County property tax bill through a mail ballot proceeding; or
- 2) Fund an endowment that will be used to satisfy the parcel's annual requirement.

The property owner has elected to authorize the City to annually levy the rate on its property tax bill. A mail ballot proceeding is a legally required process to approve new charges or an increase to existing charges on the property tax bills (Proposition 218). A notice explaining the purpose of the proposed charge and how the charge will be determined annually was mailed to the property owner along with a ballot to cast their vote (Attachment 1). The property owner must be provided 45 days to review the notice and an opportunity to address the City Council. The ballot is due to the City Clerk prior to the close of the Public Hearing. At the close of the Public Hearing, the ballot can be opened and counted, and results announced.

Approval of the NPDES rate and the annual levy satisfies the project's condition of approval to provide an ongoing funding source for the NPDES program. In the event the property owner does not approve the ballot, does not return the ballot, or returns an invalid ballot (unmarked or unsigned), this condition of approval will remain unsatisfied and may cause a delay in the development.

ALTERNATIVES

1. Conduct the Public Hearing and upon its close, count and verify the returned ballot and accept the results. *Staff recommends this alternative as will satisfy the condition of approval if the property owner approves the ballot.*
2. Open the Public Hearing and continue it to a future regular City Council meeting. *Staff does not recommend this alternative as it will delay announcement of the ballot results and may delay development of the project.*
3. Do not conduct the Public Hearing. *Staff does not recommend this alternative as it will delay the property owner from satisfying the condition of approval and may delay the development of the project. Additional costs will be incurred to start the 45-day noticing period over.*

4. Do not conduct the Public Hearing at this time but reschedule it to a date certain during a regular City Council meeting. *Staff does not recommend this alternative as it may delay development of the project and additional costs will be incurred for the 45-day noticing period to start over.*

FISCAL IMPACT

The fiscal year (FY) 2016/17 NPDES maximum commercial/industrial regulatory rate is \$232.28 per parcel, and any division thereof. The NPDES maximum regulatory rate for FY 2017/18 and each subsequent FY is subject to an annual inflationary adjustment, provided the City Council approves such increase each year. The annual increases cannot exceed the annual inflationary adjustment without approval of the property owners subject to the charge.

Revenue received from the NPDES rate is restricted and can only be used within the Storm Water Management program. The revenue is used to offset the current NPDES Permit expenses and reduce the level of General Fund support necessary to remain in compliance with unfunded federal mandates, as administered by the State. The NPDES rate is only applied to the property tax bills of those parcels where the property owner previously approved the rate to be applied to the property tax bill.

NOTIFICATION

The property owner was provided the required 45-day noticing period to review the ballot documents. The documents included a notice to the property owner, map of the project area, NPDES ballot, NPDES commercial/industrial rate schedule, instructions for marking and returning the ballot, and a postage paid return envelope addressed to the City Clerk.

Newspaper advertising for the September 20, 2016 Public Hearing was published in The Press-Enterprise on September 1, 2016 and again on September 8, 2016.

PREPARATION OF STAFF REPORT

Prepared by:
Jennifer Terry,
Senior Management Analyst

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

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

Concurred by:
Michael Lloyd,
Land Development 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.

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. Focus Day Street Ballot Documents
- 2. Flowchart

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	8/17/16 9:13 AM
City Attorney Approval	<u>✓ Approved</u>	8/17/16 12:51 PM
City Manager Approval	<u>✓ Approved</u>	8/24/16 9:52 AM

TEL: 951.413.3480
 FAX: 951.413.3498
 WWW.MOVAL.ORG



14331 FREDERICK STREET, SUITE 2
 P. O. BOX 88005
 MORENO VALLEY, CA 92552-0805

Focus Day Street
 Attn: Steven Ursell
 7938 Ivanhoe Ave, Suite 200
 La Jolla Ca, 92037

August 4, 2016

NOTICE TO PROPERTY OWNER-MAIL BALLOT PROCEEDING FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) MAXIMUM COMMERCIAL/INDUSTRIAL REGULATORY RATE FOR APN 291-650-021

******* OFFICIAL BALLOT ENCLOSED *******

Introduction

In November of 1996, California voters passed Proposition 218 (“The Right to Vote on Taxes Act”). As a result, any new or proposed increase in a property-related charge requires approval by the property owner of record. In compliance with Proposition 218 legislation, the City of Moreno Valley Special Districts Division is conducting a mail ballot proceeding to provide the owner of Assessor’s Parcel Number (APN) 291-650-021 the opportunity to express support for or opposition to the approval of the NPDES Maximum Commercial/Industrial Regulatory Rate and services. Approval of the NPDES Maximum Commercial/Industrial Regulatory Rate through a mail ballot proceeding fulfills Land Development Division’s Condition of Approval LD27 to provide a funding source for the NPDES program.

Background

The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from all development types. The City provides the services necessary to meet mandates of the Federal Clean Water Act related to the NPDES permit. NPDES Maximum Commercial/Industrial Regulatory Rate provides financial support for inspecting site design, source and treatment control Best Management Practices, monitoring maintenance records for those facilities that require periodic maintenance, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements.

Services Provided

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source and treatment control Best Management Practices, verify monitoring and maintenance records for those facilities that require periodic maintenance, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements.

How is the Amount of the Charge Determined?

Each fiscal year (FY), the City of Moreno Valley determines the type of services necessary to comply with NPDES Permit requirements and levies the rate applicable for that service, not to exceed the rate previously approved by the property owner.

Proposed Charge

For FY 2016/17, the NPDES Maximum Commercial/Industrial Regulatory Rate is \$232.28 per parcel. The total amount of the NPDES rates levied for FY 2016/17 for the program as a whole was \$460,001.98.

Annual Adjustment

Beginning in FY 2017/18, the NPDES Maximum Commercial/Industrial Regulatory Rate will be subject to an annual adjustment based on the percentage change calculated for the previous year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

Duration of the Charge

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APN 291-650-021 (and any division thereof) and shall be placed on the Riverside County property tax bill or included as a monthly charge on a utility bill. The NPDES Maximum Commercial/Industrial Regulatory Rate will be levied each following year at the proposed rate, which includes an annual inflation adjustment.

Public Hearing

To provide information concerning this mail ballot proceeding the City has scheduled a Public Hearing, which will be held at the **Moreno Valley City Hall Council Chamber located at 14177 Frederick Street, Moreno Valley.**

Public Hearing

Tuesday, September 20, 2016
6:00 P.M.
(Or As Soon Thereafter As The
Matter May Be Called)

Tabulation of returned ballots will commence after the close of the public testimony portion of the Public Hearing. All ballots received shall be tabulated under the direction of the City Clerk in compliance with the City's Policy For Conducting Mail Ballot Proceedings Policy #1.12.

Effect if the Charge is Approved

Approval of the NPDES Maximum Commercial/Industrial Regulatory Rate will be confirmed if the ballot is marked in favor of the NPDES rate. Approving the NPDES Maximum Commercial/Industrial Regulatory Rate through a mail ballot proceeding will fulfill the Land Development Division's Condition of Approval LD27 to provide an ongoing funding source for the NPDES program.

Effect if the Charge is Not Approved

Not approving the NPDES Maximum Commercial/Industrial Regulatory Rate to meet federally mandated NPDES Permit requirements will not satisfy the Land Development Division's

Condition of Approval LD27 to provide a funding source for the NPDES program. If the returned ballot is marked "No", the NPDES rate will not be levied on the property tax bill.

Effect if the Ballot is Deemed Invalid or Incomplete

Not marking the corresponding box on the ballot next to the APN (in support of or opposition to the proposed program and annual rate) and/or not signing the ballot will result in an invalid ballot. In order to satisfy the Land Development Division's Condition of Approval LD27 by placement of the NPDES rate on the annual property tax bill, the mail ballot proceeding and 45-day noticing period will need to start over. Reinitiating the process will require payment of the mail ballot proceeding fee.

For More Information

If you have any questions about the mail ballot proceeding process, please contact Jennifer Terry, Senior Management Analyst, with the City's Special Districts Division at 951.413.3505 or via email at JenniferT@moval.org during the City's business hours.

Questions regarding the NPDES program, the annual rate, or the Land Development Division's Conditions of Approval should be directed to the Land Development Division at 951.413.3120 or via email at landdevelopment@moval.org during the City's business hours.

The City's business hours are Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday from 7:30 a.m. to 4:30 p.m.

Completing Your Ballot

Please follow the instructions below to complete and return your ballot. Procedures for the completion, return, and tabulation of the ballot are also on file in the City Clerk's office.







1. Mark the enclosed ballot in support of or opposition to the proposed program and annual rate **by placing a mark in the corresponding box next to the APN.** Ballots received without a designated vote will be considered invalid.
2. Sign your name on the ballot. Ballots received without signature(s) will be considered invalid *and will not be counted.*
3. Mail or personally deliver your completed ballot in a sealed envelope to the City Clerk's office, 14177 Frederick Street, Moreno Valley, California, 92553. For your convenience, a postage-paid envelope has been included for return of the ballot.
4. Ballot(s) must be **received** by the City Clerk prior to the close of the public testimony portion of the Public Hearing scheduled for **Tuesday, September 20, 2016**, at the Moreno Valley City Hall Council Chamber. The Public Hearing will be held at 6:00 p.m. or as soon thereafter as the matter may be called. Ballots received after the close of the Public Hearing cannot be legally counted.

Ballot Marks

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;

-  An X mark substantially inside a box;
-  A dot or oval mark substantially inside a box;
-  A completely shaded or filled mark substantially inside a box;
-  A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;
-  A circle around the box and/or associated clause; or
-  A square or rectangle around the box and/or associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

Ballot Mark Revisions (Changes): An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. **The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.**





COMMON INTEREST, COMMERCIAL, INDUSTRIAL AND QUASI-PUBLIC USE NPDES RATE SCHEDULE
 Adopted by the City Council on January 10, 2006

LEVEL 1			LEVEL II		
NPDES Administration			Site Design, Source Control and Treatment Control BMPs Monitoring and Maintenance		
<i>(Not covered by CSA 152)</i>					
Costs associated with personnel, administration and management of the storm water management program. Administrative tasks include development and filing of various stormwater reports and data collection and management. Level I is levied on all parcels conditioned for the NPDES Rate Schedule.			Costs associated with stormwater and non-stormwater runoff monitoring, inspection of the project's site design, source control and treatment control BMPs; evaluation of site stormwater compliance activities, review of site-specific technical reports and treatment control BMP maintenance records.		
Fiscal Year (FY) 2005/2006 - Base Year Calculation, subject to an annual inflation factor based on the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics					
PARCEL RATE	Per Month \$3.39	Per Year \$40.62	PARCEL RATE	Per Month \$15.97	Per Year \$191.66

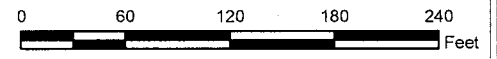
Inflation Factor Adjustments

- FY 2006/2007 - 4.5% = (\$33.00 & \$158.00)
- FY 2007/2008 - 3.1% = (\$34.00 & \$163.00)
- FY 2008/2009 - 4.2% = (\$35.00 & \$170.00)
- FY 2009/2010 - no change = (\$35.00 & \$170.00)
- FY 2010/2011 - no change = (\$35.00 & \$170.00)
- FY 2011/2012 - 3.8% = (\$36.00 & \$176.00)
- FY 2012/2013 - 2.7% = (\$37.00 & \$181.00)
- FY 2013/2014 - 2.0% = (\$38.00 & \$185.00) rounded to the nearest dollar
- FY 2014/2015 - 1.14% = (\$39.52 & \$186.49) Pursuant to City Council approval on June 10, 2014.
- FY 2015/2016 - 0.73% = (\$39.81 & \$187.85)
- FY 2016/2017 - 2.03% = (\$40.62 & \$191.66)

Focus Day Street Proposed Retail and Restaurant Spaces PA14-0073 and PA14-0074

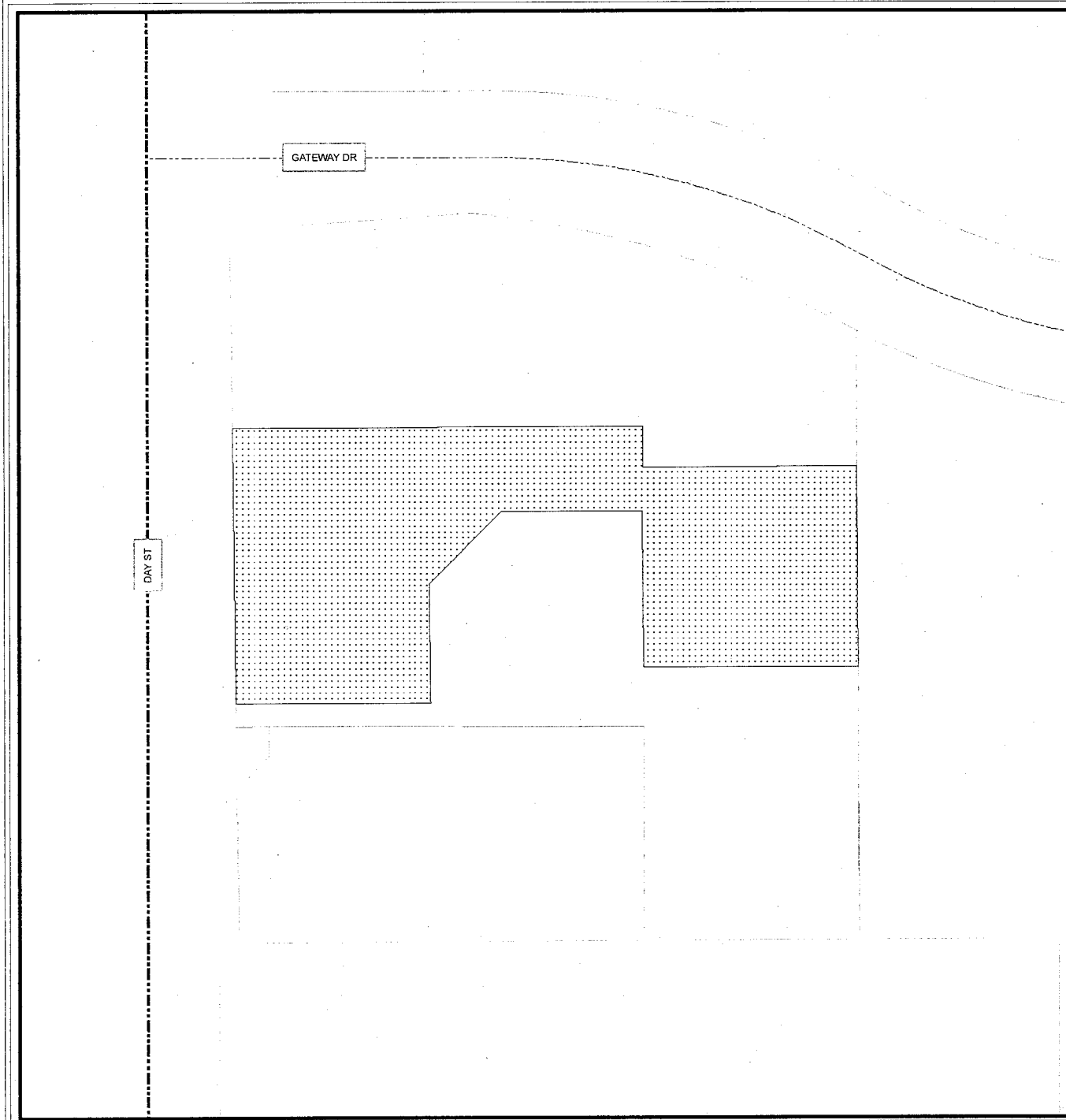
-  291-650-021
-  Roads
-  Parcels
-  City Boundary

Map reflects all changes indicated
on Riverside County Assessor Maps
as of July 26, 2016.



G:\V\VP\SDA\PA14-0073_0074.mxd

The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Data and information on this map is subject to update and modification. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map. This map is not to be recycled or resold.



**OFFICIAL MAIL BALLOT for
Assessor's Parcel Number (APN) 291-650-021
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate**

YES* — as property owner of APN 291-650-021, **I approve** the NPDES Maximum Commercial/Industrial Regulatory Rate and services. For fiscal year (FY) 2016/17, the NPDES Maximum Commercial/Industrial Regulatory Rate is \$232.28 per parcel. Upon approval of the maximum regulatory rate, the annual levy amount shall be placed on the annual Riverside County property tax bill or included as a monthly charge on a utility bill. Beginning FY 2017/18, the maximum regulatory rate will be subject to an annual adjustment based on the percentage change calculated for the previous year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The City will annually inspect site design, source and treatment control Best Management Practices, verify monitoring and maintenance records for those facilities that require periodic maintenance, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

NO** — as property owner of APN 291-650-021, **I do not approve** the NPDES Maximum Commercial/Industrial Regulatory Rate and services. I understand that not approving the NPDES Maximum Commercial/Industrial Regulatory Rate to fund federally mandated NPDES Permit requirements will not satisfy the project's Conditions of Approval. The NPDES maximum commercial/industrial regulatory rate will not be levied on the annual Riverside County property tax bill.

Assessor's Parcel Number	YES*	NO**	Fiscal Year 2016/17 NPDES Maximum Commercial/Industrial Regulatory Rate
291-650-021 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$232.28

This ballot must be received by the City Clerk of the City of Moreno Valley prior to the close of the public testimony portion of the Public Hearing to be held on September 20, 2016, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:00 p.m. or as soon thereafter as the matter may be called.

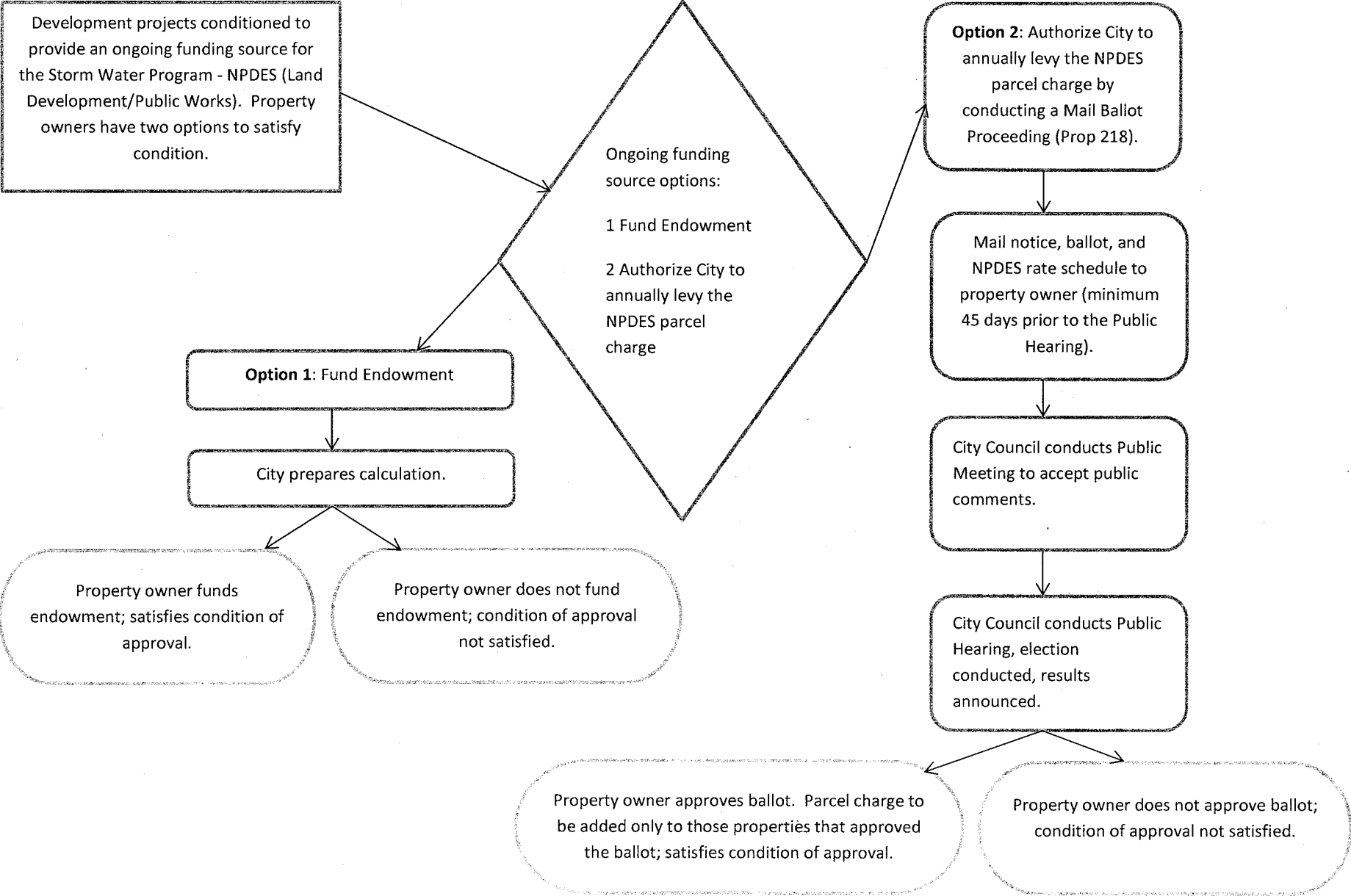
PROPERTY OWNER SIGNATURE

DATE

Please remember to mark the appropriate box, sign and date the ballot, and return to the City Clerk's office in the enclosed envelope prior to the close of the public testimony portion of the September 20, 2016 Public Hearing.

Ballot(s) deemed invalid or incomplete will be discarded and a new process must be initiated in order to place the charge on the annual Riverside County property tax bill, which includes payment of the mail ballot fee.

Process Flow for Property Owners/Developers to Satisfy Funding Requirement for the Storm Water Program



This process flow is simplified for illustration purposes. Contact the Special Districts Division at 951.413.3480 for the detailed process.

November 12, 2014

Attachment: Flowchart (2213 : PUBLIC HEARING FOR THE NATIONAL POLLUTANT DISCHARGE



Report to City Council

TO: Mayor and City Council

FROM: Marie Macias, Interim City Clerk

AGENDA DATE: September 20, 2016

TITLE: APPOINTMENTS TO THE CITY COUNCIL ADVISORY
BOARDS AND COMMISSIONS

RECOMMENDED ACTION

Recommendations: That the City Council:

1. Appoint those applicants who receive a majority vote by the City Council.
2. 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.

SUMMARY

Applications were accepted by the City Clerk's Office to fill vacancies for the various City Council Boards and Commissions, with certain terms expiring June 30, 2016.

Members with expiring terms were advised of the need to submit a new application to be considered for reappointment. Appropriate time frames with respect to posting notices of vacancies were followed.

As provided in the City's Municipal Code, the appointees will serve without compensation for designated terms.

Pursuant to City of Moreno Valley Administrative Policy #1.11, adopted on June 7, 2016, appointments to Boards and Commissions must be discussed and made in an open session meeting of the City Council, and appointments must be reported in an open session meeting of the City Council on the day of the appointment.

Nominations may be made by any member of the City Council. Each selection shall be by three or more votes in the selection process.

DISCUSSION

Pursuant to Municipal Code Subsection 2.06.010(e), "Unless otherwise specifically provided by the action establishing the body or appointing its initial members, no person shall be at the same time a member of more than one citizens' advisory body created by ordinance or resolution of the City Council." This section of the code is waived for members of the Accessibility Appeals Board. Christin Walters applied for the Library Commission and the Traffic Safety Commission. Irick Hale applied for the Parks and Recreation Commission and the Recreational Trails Board. Jonathan Glen Vaughn applied for the Parks and Recreation Commission and the Traffic Safety Commission.

Per the Council-adopted policy, prospective applicants are required to attend at least one meeting of their desired board or commission prior to appointment. Marisa Gonzalez, an applicant to the Arts Commission, was not able to attend any of the Commission's meetings. Christin Walters, an applicant to the Traffic Safety Commission, is planning to attend the Traffic Safety Commission meeting on September 7, 2016. Luis Antonio Testa, an applicant to the Recreational Trails Board, was not able to attend any of the Board's meetings. The Recreational Trails Board meets each odd-numbered month.

Per City Council adopted Administrative Policy #1.11, "A Board, Commission or committee member shall be a registered voter of the City and maintain his or her principal place of residence within the City throughout his or her term, unless otherwise provided by the formation ordinance or resolution for certain boards, commissions and committees that permit non-residents or minors to serve as members." Staff has verified that all applicants are registered voters in the City of Moreno Valley.

In addition, applicants shall be subject to a criminal background check, which will be conducted following the appointments.

The vacancies to be filled are as follows:

ACCESSIBILITY APPEALS BOARD

Two (2) terms expiring June 30, 2019
Physically Challenged Representatives

Applicant(s): Dr. Mary E. McBean*

ARTS COMMISSION

One (1) term expiring June 30, 2018
One (1) term expiring June 30, 2019

Applicant(s): Fernando Guzman Aparicio
Stephanie Godoy
Marisa Gonzalez ***
Eric von Mizener*

Lindsay Robinson
Dumitru Sandru

ENVIRONMENTAL AND HISTORICAL PRESERVATION BOARD

Three (3) terms expiring June 30, 2019

Applicant(s): Arlen Henry Gaynor*
Naeem M. Qureshi*

LIBRARY COMMISSION

Two (2) terms expiring June 30, 2019

Applicant(s): Anna Chase
James Otis Harris, Jr.
Christin Walters **

PARKS AND RECREATION COMMISSION

Three (3) terms expiring June 30, 2019

Applicant(s): James C. Baker*
Juanita Maria Barnes*
Virgil Chancy*
Irick V. Hale **
Jonathan Glen Vaughn **

RECREATIONAL TRAILS BOARD

One (1) term expiring June 30, 2017
One (1) term expiring June 30, 2018
Three (3) terms expiring June 30, 2019

Applicant(s): Irick V. Hale **
Sarah Martinez *
John Menke*
Luis Antonio Testa ***

SENIOR CITIZENS' BOARD

Three (3) terms expiring June 30, 2019

Applicant(s): Miguel Arciniega*
Felipe Delao
Dr. Mary E. McBean *

TRAFFIC SAFETY COMMISSION

Two (2) terms expiring June 30, 2019

Applicant(s): Margaret Park-Robinson
 Anita Robinson
 Jonathan Vaughn **
 Christin Walters **/**

UTILITIES COMMISSION

One (1) term expiring June 30, 2019
 Customer of Moreno Valley Utility

None

One (1) term expiring June 30, 2019
 Business Customer of Moreno Valley Utility

None

*Incumbent

** Applied for more than one board/commission

*** Was not able to attend any of the board/commission meetings

The Accessibility Appeals Board conducts hearings on written appeals regarding Title 24 accessibility issues brought by any person aggrieved by enforcement action taken by the Building Division of the Community Development Department of the City of Moreno Valley, and renders decisions regarding accessibility "hardship" cases as prescribed by the State's Title 24 Accessibility Regulations.

The Arts Commission considers matters pertaining, but not limited, to the planning for the arts in the City; facilitating interaction among artists; promoting arts activities and education; and researching possible sources of funding, in addition to public funds for potential City public art projects.

The Environmental and Historical Preservation Board considers matters pertaining to the preservation of the City's heritage and cultures, including the designation of landmarks and review of all restoration, rehabilitation, alteration and demolition projects in preservation areas; and matters of environmental concern, including matters pertaining to hazardous materials and waste within or affecting the City.

The Library Commission considers matters pertaining to the administration, operation, development, improvement and maintenance of library services within the City.

The Parks and Recreation Commission considers matters pertaining to the administration, operation, development, improvement and maintenance of parks, recreation facilities, and parks and recreation programs within the City.

The Recreational Trails Board considers matters pertaining to single-use and multi-use recreational trails, including bicycle, jogging and equestrian trails within or affecting the City.

The Senior Citizens' Board considers matters pertaining to senior citizens, senior citizens programs, including policies for the Moreno Valley Senior Community Center.

The Traffic Safety Commission considers matters pertaining to traffic safety within the City; evaluates proposals for traffic control devices; and evaluates the need for striping, signing or other measures not of a regulatory nature. The Commission educates the public on traffic issues and responds to public concerns regarding traffic and pedestrian safety.

The Utilities Commission has the general power and duty to act in an advisory capacity to the City Council and staff in all matters pertaining to Moreno Valley Utility (MVU), pertaining to other utility services such as water, sewer, gas, and the investor-owned electric utility serving parts of the City, and in addition, particular powers and duties including reviewing the budget for the Moreno Valley Utility, making recommendations with respect thereto to the City Council, reviewing and making recommendations on all Moreno MVU capital improvements and rates, and responding to requests and concerns of the public relating to utility issues.

ALTERNATIVES

Members of the Council appointed boards and commissions serve in an advisory capacity to the City Council. Choosing to appoint members to the above-mentioned boards and commissions would result in increased participation from residents. This option is consistent with the City Council goal of creating a positive environment for the development of Moreno Valley's future. Therefore, staff recommends that the City Council make the appointments.

FISCAL IMPACT

N/A

NOTIFICATION

1. Posting of Notices of Openings
2. Personal notification to existing board members and commissioners
3. Publication of the agenda
4. Report and agenda emailed to applicants

PREPARATION OF STAFF REPORT

Prepared By:
Ewa Lopez
Deputy City Clerk, CMC

Department Head Approval:
Marie Macias
Interim City Clerk, MMC

CITY COUNCIL GOALS

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

ATTACHMENTS

None

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	9/06/16 1:27 PM
City Attorney Approval	<u>✓ Approved</u>	9/06/16 1:48 PM
City Manager Approval	<u>✓ Approved</u>	9/06/16 2:06 PM

STANDARDS OF ETHICS

PURPOSE: The purpose of this Administrative Policy is to establish guidelines for ethical standards of conduct which shall govern City of Moreno Valley officials and employees.

This policy is intended to provide general guidelines for ethical conduct, by setting forth those acts or actions that are incompatible with the best interests of the City and provide positive direction in order to prevent potential conflicts of interests and breach of ethical standards. The guiding principle to be observed is that conflicts of interest are to be avoided in the first instance.

DEFINITIONS: City Official: Any person holding a position by election in the service of the City, whether paid or unpaid, and members of any board, committee, or commission thereof.

Employee: Any person, other than a City official, holding a position by appointment or employment in the service of the City, whether paid or unpaid and whether full-time or part-time, career or temporary.

Conflict of Interest: A situation in which an employee or City official makes a decision, participates in making a decision, or uses his or her position to influence the outcome of a decision when it is reasonably likely that the decision will materially affect the financial interest of the employee or City official or a member of their immediate family in a manner different from the way the decision affects the public generally, whether positively or negatively.

Disclosure: Revealing and making known information and/or interest.

Financial interest: Has the meaning set out in Section 87103 of the Government Code.

Official Act or Action: Refers to any legislative, administrative, appointive or discretionary act of any City employee or official performed as part of his or her City duties in the course of work performed for the City.

POLICY:

I Organizations Affected:

- A. All City officials and employees and all other City of Moreno Valley entities including commissions, Redevelopment Agency and Community Services District.

II Responsibilities of City Office:

- A. The policy of the City is that City officials and employees shall observe the highest standards of ethics and discharge faithfully the duties of their offices regardless of personal considerations, recognizing that the public interest must be their primary concern.
- B. City officials or employees shall conduct themselves with honesty and integrity so as to maintain public confidence in their performance and public trust in the government they represent. City officials and employees should avoid any participation in transactions or services involving their City duties that could reasonably be perceived to place their personal financial interests in conflict

Approved by: City Council
06/22/2010

STANDARDS OF ETHICS

with the City's interests or result in personal financial gain or loss. They shall avoid any appearance of conflict between their City duties and their personal interests.

III Policy Guidelines:

- A. Officials and employees of a public entity are vested with a public trust to which such individuals owe the highest degree of fidelity. The ethical operation of democratic government requires that public officials and employees be independent, impartial and responsible to the citizens. All decisions and policies must be made in the proper channels of the government structure, and public office may not be used for personal gain.
- B. City officials and employees shall not perform, participate in or advise regarding any official act or action in which they know or have reason to know that they have a personal financial interest, including, but not limited to any such act that would be a conflict of interest under the California Fair Political Practices Act and/or any regulation adopted pursuant thereto. A City official or employee will excuse themselves from participating in decisions when their personal or immediate family's financial interests may be affected by their decision.
- C. City officials and employees shall request, use, permit the use of City property or resources, including the work of City officials or employees, only to carry out the duties of their City employment or position, or as authorized by City ordinances, resolutions or written policies.
- D. City officials and employees will treat each other and the public with patience, courtesy and civility, even when there are disagreements on what is best for the community.
- E. All individuals and organizations shall receive fair and equal treatment. A City official or employee shall not grant to any member of the public or any other organization any consideration, treatment or advantage that is not available to any other member of the public or other organization except in accordance with City policies regarding partnerships, joint ventures and/or sponsorships officially recognized by the City. This provision shall not be construed to prohibit City officials and employees from responding to requests from colleagues as a matter of professional courtesy.
- F. City officials and employees will promote full participation and public involvement in the City's decision-making processes and will obey and encourage compliance with all laws and regulations relating to open meetings and access to public records. All persons will be treated in a fair and equitable manner and decisions will be based on the merits of the issue. All substantive information that is relevant to a matter under consideration from sources outside the public decision-making process will be shared with all governing board members and staff. City officials and employees will contribute to a strong organization that exemplifies transparency and open communication.
- G. City officials and employees will not knowingly use false or inaccurate information to support any position or opinion. All will safeguard the ability to make independent, objective, fair and impartial judgments by avoiding financial relationships and transactions that may compromise or give the appearance of compromising objectivity, independence and honesty.
- H. City officials and employees should act reasonably to avoid either the actuality or the appearance of undue influence, conflicts of interest, nepotism or favoritism.

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06/22/2010

STANDARDS OF ETHICS

IV. Conflicts of Interests:

- A. Specific conflicts of interest are enumerated below for the guidance of employees and City officials. This list is merely illustrative and not exclusive:
1. **Gifts and Favors.** City officials and employees shall not take special advantage of services or opportunities for personal gain, by virtue of their position with the City, which is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits that would violate the law or might compromise their independence of judgment or action to give the impression of being compromised.
 2. **Confidential or Privileged Information.** City officials and employees shall respect the confidentiality of information and shall refrain from disclosing confidential or privileged information without legal authority, nor use such information to advance their financial or other private interests. (Gov. Code Section 1098)
 3. **Outside or Incompatible Employment.** City officials and employees are expected to devote their best efforts to the interests of the work of the City. Therefore, City officials and employees who are paid in whole or in part by the City shall not engage in or accept other employment or render services to other interests when such employment or service would be incompatible with or would create a conflict of loyalties with regard to the proper discharge of his or her official City duties.
 4. **Use of Public Resources.** City officials and employees will not use public resources such as staff time, equipment, supplies or facilities for private gain or personal purposes. All will demonstrate concern for the proper use of City assets and follow established procedures for their use.
 5. **Future Employment.** A former City official or employee shall not, within one year after termination of service or employment, appear before any board, commission, committee, or agency of the City in relation to any case, proceeding, application or contact in which he or she personally participated during the period of his or her service or employment, except in representation or furtherance of the interests of the City.
 6. **Political Activity.** A City official or employee shall not promise an appointment to any position with the City as a reward for any political activity. No official or employee shall solicit or participate in soliciting any assessment, subscription or contribution to any political party during working hours or on the premises of any governmental property owned by the City and shall at all times conform to the provisions of all applicable state and federal laws regarding political activities.
 7. **Contracts with the City.** City officials and employees cannot be involved in any way, with any contract or sale in which they have a financial interest. This means that officials and employees shall not exercise any decision-making authority over, nor make any recommendations on behalf of or to the City, or otherwise participate in or attempt to influence any City decision with respect to any contract or sale involving the City if that employee is directly or indirectly financially interested in the contract or sale.
 8. **Personal Investments.** It shall be improper to make personal investments which could reasonably be expected to create a conflict between private interests and public interests. If

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06/22/2010

STANDARDS OF ETHICS

a City official or employee has a financial interest in a matter coming before him or her, or before the department in which he or she is employed, the person should disqualify themselves from any participation in the matter.

9. **Representing the Interest of Others.** City officials or employees shall not appear before any agency of the City on behalf of other interests for pay.
10. **Use of Public Resources.** Officials and employees shall not use public resources not available to the public in general, for private or political purposes. Officials and employees will use their title(s) only when conducting official City business. Public resources should only be used for a community event or activity when authorized by the City Council and/or City Manager or his or her designee and only when there is a benefit to the City for the use of such resources.
11. **Cost Control.** To effectively conserve City resources, officials and employees will attempt to use the most economical and cost efficient transportation, lodging, meals, telecommunication, and parking when traveling to conduct City business for which the City may reimburse them.

V Procedures:
A. Where to seek advice:

1. City officials or employees who have questions about the ethics of an action or situation should discuss the matter with their supervisors, Human Resources staff, City Manager, Assistant City Manager, Deputy City Manager or City Attorney.

B. What To Do If Uncertain:

1. An ethical issue may not arise until a situation is underway. In such cases, there may not be time to contact someone for advice. Rather than risk a violation of the ethics policy, the safest course of action for the City official or employee is simply to declare that a conflict may exist that prevents him or her from participating, then follow the procedures of this policy to receive guidance on the proper course of action.

C. How To Declare a Possible Conflict of Interest:

1. Officials or Employees who believe they may have a conflict of interest should immediately advise their supervisor, Human Resources staff, City Manager, Assistant City Manager, Deputy City Manager or City Attorney.
2. City officials or employees who believe they may have a conflict of interest should immediately announce the possible conflict in the official records of the City and refrain from any further participation in the matter.

D. How To Handle or Report a Possible Conflict of Interest:

1. City officials and employees have a duty to prevent and report possibly unethical or illegal action. City officials and employees who know of such action and do nothing also act

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06/22/2010

STANDARDS OF ETHICS

unethically. Therefore, City officials and employees are obligated to counsel an official or employee who is engaged or is about to engage in unethical behavior. If counseling is not effective, City officials and employees are obligated to report the unethical behavior.

- a. City employees should notify their supervisor or other management staff within the department, Human Resources staff, City Manager, Assistant City Manager, Deputy City Manager or City Attorney. City officials should notify the City Manager, Assistant City Manager, Deputy City Manager or City Attorney.
- b. City Officials and employees shall never attempt to use their authority or influence for the purpose of intimidating, threatening, or influencing any person with the intent of interfering with the individual's duty to disclose unethical or illegal actions. Further, City officials or employees shall not attempt to use their authority or influence for the purpose of retaliation against another City official or employee who reports unethical or illegal behavior.
- c. All attempts will be made to keep confidential the identity of a City official or employee who reports unethical behavior, however, there can be no guarantees in the event of administrative, criminal or civil proceedings and/or investigations.

VI Accountability:

A. Adherence to the standards of ethics:

1. Will be considered in evaluating the job performance of City employees and those City officials who are subjected to performance reviews. Violations of the standards of this policy will be measured against a "reasonable person" standard. Violations of this policy may subject City officials and employees to a variety of penalties, including employee discipline or termination of employment, depending on the specifics of the situation.

Approved by: City Council
06/22/2010



MORENO VALLEY
WHERE DREAMS SOAR

G.3.b

Standards of Ethics Policy 5.20

April 7, 2015

Attachment: Ethics Standards PowerPoint 4-1-15 study

Packet Pg. 182

- **Policy 5.20 adopted by City Council 6/22/10**
- **“Establishes guidelines for ethical standards of conduct which shall govern City of Moreno Valley officials and employees”**

Definitions

- ***Guiding Principle:*** “conflicts of interest are to be avoided in the first instance”
- **City Official:**
 - **Elected**
 - **Paid/Unpaid**
 - **Members of any board, committee, or commission**

- **Employee:**
 - **Anyone other than a City official, holding a position by appointment or employment**
 - **Paid or unpaid**
 - **Full-time, part-time, career or temporary**

- **Conflict of Interest:** “A situation in which an employee or City official makes a decision, participates in making a decision, or uses his or her position to influence the outcome of a decision when it is reasonably likely that the decision will materially affect the financial interest of the employee or City official or a member of their immediate family in a manner different from the way the decision affects the public generally, whether positively or negatively.”

Responsibilities

- **“City officials or employees shall conduct themselves with honesty and integrity”**
- **Maintain public confidence**
- **Maintain public trust**
- **Avoid conflict between personal financial interests and City’s interests**
- ***“Avoid any appearance of conflict”***

Policy Guidelines

- **“Officials and employees of a public entity are vested with a public trust to which such individuals owe the highest degree of fidelity.”**
- **Officials and employees must be:**
 - **Independent**
 - **Impartial**
 - **Responsible to the citizens**

- **Public office may not be used for personal gain**
- **Do not participate in decisions when personal or immediate family's financial interests may be affected**
- **Use City resources and staff for City business**
- **Treat each other and public with “patience, courtesy and civility”**

- **Ensure fair & equal treatment for all**
- **Promote public involvement in decision-making process**
- **Obey all laws & regulations**
- **Base decisions on “merits of the issue”**
- **Share info among all governing board members and City staff**
- **Exemplify Transparency**

- **“Not knowingly use false or inaccurate information to support any position or opinion”**
- **Avoid undue influence, conflicts of interest, nepotism or favoritism (actual or perceived)**

Conflicts of Interest

- **Gifts & Favors: Nothing beyond what is available to general public**
- **No personal use of confidential or privileged info**
- **No incompatible outside employment**
- **No personal use of City resources**

- **Future employment**
 - **1 Year period before appearances before City boards, commissions, agencies (related to prior work as a City employee)**

- **Political Activities**
 - **No appointments based on political activities**
 - **No political activity during work hours or on City property**

- **No participation in City contracts or sales involving personal interest**
- **No conflicts between personal investments and City's interests**
- **No paid appearances before City agencies**
- **No use of public resources for private purposes (Titles to be used only when conducting City business)**

Procedures

- **Notifications (of conflicts), questions to:**
 - **Employee Supervisors**
 - **Human Resources**
 - **City Manager**
 - **Assistant City Manager**
 - **City Attorney**

If in doubt, follow safest course of action:

- **Declare a potential conflict and do not participate in any related City activities**

Duties (all employees & officials):

- **Prevent possibly unethical or illegal action**
- **Counsel officials or employees about potential violations**
- **Report violations**

- **City Officials and employees shall never interfere with any individual's duty to disclose unethical or illegal actions, or to retaliate for disclosure**

“City officials and employees who know of such [unethical or illegal] action and do nothing also act unethically.”

Accountability

- **Compliance to be addressed in Employee Performance review**
- **Violations “will be measured against a reasonable person standard”**
- **Violations may result in variety of penalties, including:**
 - **Discipline**
 - **Termination**



MORENO VALLEY

WHERE DREAMS SOAR

Attachment: Ethics Standards PowerPoint 4-1-15 study