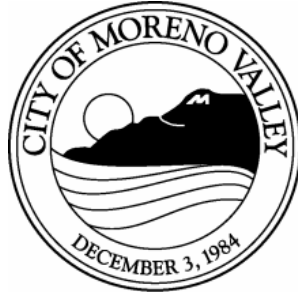

PLANNING COMMISSIONERS

BRIAN LOWELL
Chair

JEFFREY SIMS
Vice-Chair

RAY L. BAKER
Commissioner



JEFFREY BARNES
Commissioner

CARLOS RAMIREZ
Commissioner

PATRICIA KORZEC
Commissioner

MELI VAN NATTA
Commissioner

PLANNING COMMISSION

Regular Meeting

Agenda

Thursday, February 25, 2016 at 7:00 PM
City Hall Council Chamber – 14177 Frederick Street

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Approval of Agenda

CONSENT CALENDAR

All matters listed under Consent Calendar are considered to be routine and all will be enacted by one roll call vote. There will be no discussion of these items unless Members of the Planning Commission request specific items be removed from the Consent Calendar for separate action.

APPROVAL OF MINUTES

None

PUBLIC COMMENTS PROCEDURE

Any person wishing to address the Commission on any matter, either under the Public Comments section of the Agenda or scheduled items or public hearings, must fill out a "Request to Speak" form available at the door. The completed form must be submitted to the Secretary prior to the Agenda item being called by the Chairperson. In speaking to the Commission, member of the public may be limited to three minutes per person, except for the applicant for entitlement. The Commission may establish an overall time limit for comments on a particular Agenda item. Members of the public must direct their questions to the Chairperson of the Commission and not to other members of the Commission, the applicant, the Staff, or the audience.

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.

NON-PUBLIC HEARING ITEMS

None

PUBLIC HEARING ITEMS

1.

Case: PA15-0042 (CUP)

Applicant: Verizon Wireless

Owner: Oasis Community Church

Representative: Smartlink LLC (James Rogers)

Location: 23750 Alessandro Blvd (Oasis Community Church)

Case Planner: Claudia Manrique

Council District: 5

Proposal: Conditional Use Permit (PA15-0042) for a new wireless facility

STAFF RECOMMENDATION

Recommend the Planning Commission **APPROVE** Resolution No. 2016-02.

1. **CERTIFY** that the proposed Verizon wireless telecommunications facility is exempt from the provisions of the California Environmental Quality Act (CEQA), as a Class 3 Categorical Exemption, CEQA Guidelines, Section 15303 for New Construction or Conversion of Small Structures; and
2. **APPROVE** Conditional Use Permit PA15-0042 based on the findings contained in Planning Commission Resolution 2016-02, subject to the conditions of approval included as Exhibit A of the Resolution.

2.

Case: P15-108

Applicant: Highland Fairview

Owner: Highland Fairview

Representative: Wayne Peterson

Location: South of Iris Avenue to Cactus Avenue

Case Planner: Julia Descoteaux

Council District: 3

RECOMMENDED ACTION

Recommendations:

1. That the Planning Commission recommends that the City Council accept the Aquabella Development Agreement Annual Report as submitted by Highland Fairview finding that the property owner has complied in good faith with the terms, obligations and conditions of the Aquabella Development Agreement, and
2. That the Planning Commission recommends that the City Council authorize the Mayor to sign the Extension of Term Agreement for the Aquabella Development Agreement to approve a five year extension of the Development Agreement extending the term to January 12, 2021, as provided for in Section 2.3.2 of the Development Agreement adopted by Ordinance No. 704.

Proposal: EXTENSION OF TERM FOR THE AQUABELLA DEVELOPMENT AGREEMENT FOR FIVE YEARS AS PROVIDED FOR IN THE AGREEMENT AND THE ANNUAL REVIEW OF THE AGREEMENT.

ALTERNATIVES

1. That the Planning Commission recommends that the City Council Accept the Aquabella Development Agreement Annual Report as submitted by Highland Fairview finding that the property owner has complied in good faith with the terms, obligations and conditions of the Aquabella Development Agreement, and **(Staff recommendation)**
2. That the Planning Commission recommends that the City Council Authorizes the Mayor to sign the Extension of Term (Attachment 1) Agreement for the Aquabella Development Agreement to approve a five year extension of the Development Agreement extending the term to January 12, 2021, as provided for in Section 2.3.2 of the Development Agreement adopted by Ordinance No. 704. **(Staff recommendation)**
3. That the Planning Commission recommends that the City Council Reject the Annual Report based on evidence that the developer is in default. **(Staff does not recommend this alternative)**

4. That the Planning Commission recommends that the City Council Reject the request for an Extension of Term of the Aquabella Development Agreement.
(Staff does not recommend this alternative)

5. That the Planning Commission recommends that the City Council Modify the request for an Extension of Term of the Aquabella Development Agreement for a period of less than five (5) years.
(Staff does not recommend this alternative)

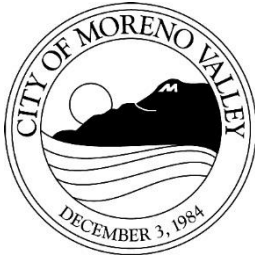
OTHER COMMISSION BUSINESS

STAFF COMMENTS

PLANNING COMMISSIONER COMMENTS

ADJOURNMENT

Next Meeting: Planning Commission Regular Meeting, **March 24, 2016 at 7:00 P.M.**, City of Moreno Valley, City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, CA 92553



PLANNING COMMISSION

STAFF REPORT

Meeting Date: February 25, 2016

CONDITIONAL USE PERMIT (PA15-0042) FOR A NEW WIRELESS FACILITY

Case: PA15-0042 (CUP)
Applicant: Verizon Wireless
Owner: Oasis Community Church
Representative: Smartlink LLC (James Rogers)
Location: 23750 Alessandro Blvd (Oasis Community Church)
Case Planner: Claudia Manrique
Council District: 5

SUMMARY

A Conditional Use Permit (CUP) for a new wireless communications facility designed as a 70 foot tall Mono-Broadleaf (Elm Tree) tower. The tower will be located adjacent to the parking area and adjacent vacant lot, behind the trash enclosure for the Oasis Community Church. The project site is located within a Neighborhood Commercial (NC) zoning district.

PROJECT DESCRIPTION

Verizon Wireless is proposing a Wireless Communication Facility (WCF) consisting of a 70 foot faux mono-broadleaf (elm tree) tower. The WCF is proposed to be located at 23750 Alessandro Blvd (APN: 296-300-005), which is the site of Oasis Church (Attachment 1).

The design of the mono-broadleaf is intended to mask its appearance as a tower and blend with existing parking trees around the site (Attachment 2). The stealth WCF will consist of three sectors, each with four antennas, for a total of twelve (12) antennas. Twelve (12) Remote Radio Units (RRU) and two (2) raycaps are also proposed to be installed on the mono-broadleaf. The antenna arrays and panels will be covered with foliage socks to mimic leaves; helping to blend the equipment with the faux elm tree.

Verizon's new Modular Control Equipment (MCE) designs do not require an equipment shelter and allows for a smaller footprint. A fourteen (14) by sixteen (16) foot lease area will house two (2) equipment cabinets, one (1) meter pedestal and a stand-by generator along with the mono-broadleaf (elm tree) tower. The lease area will be screened by an eight (8) foot tubular steel fence with climbing vines planted along the perimeter. The lease area will also be screened from the south by the existing trash enclosure structure.

The design of the mono-broadleaf tree blends in with the existing tree species on site. Three (3) additional trees are required to be planted onsite, twenty (20) feet in height and suitable for Moreno Valley's climate. The applicant has prepared photographic simulations of the proposed installation from multiple perspectives, which are included as Attachment 3.

Verizon Wireless has determined that radio signal strength of greater than 75 dBm (decibel-milliwatt) is necessary to provide reliable and consistent voice and data services to customers both outside and inside buildings. The site analysis for this project identified a significant gap in coverage within the area near the Alessandro Boulevard and Heacock Street intersection and the proposed 70 foot tall mono-broadleaf will fill a gap in cell coverage capacity.

Site/Surrounding Area

The project site is located at 23750 Alessandro Blvd. The site is currently developed with an existing church.

The parcel is within a Neighborhood Commercial (NC) zoning district (Attachment 4). The areas surrounding the project site to the east and west are developed commercial retail centers and zoned Neighborhood Commercial (NC) as well. To the north of the site are Residential 5 (R5) and Residential 20 (R20) zoned parcels and Business Park (BP) zoned parcels are to the south.

The proposed wireless tower has been evaluated against General Plan policy 7.7.6 and Section 9.09.040 (Communication facilities, antennas and satellite dishes) of the City Municipal Code and staff has confirmed that the proposed project does not conflict with any of the goals, objectives, policies, and programs of the General Plan.

Access

Vehicular access to the site will be from Alessandro Boulevard through the church's parking lot to the lease area via an existing driveway to the lease area. The applicant will use one unassigned parking space next to the lease area and mono-broadleaf for maintenance purposes.

Review Process

This project was submitted in October 2015. City staff from various departments including the Fire Prevention Bureau reviewed the proposal and worked with the applicant to resolve the issues and interests raised.

ENVIRONMENTAL

Planning staff, as is typical with all planning projects, has reviewed the request in accordance with the latest edition of the California Environmental Quality Act (CEQA) Guidelines and has determined the project will not result in any significant effect on the environment and qualifies for an exemption under the provisions of the CEQA as a Class 3 Categorical Exemption, CEQA Guidelines, Section 15303 for New Construction or Conversion of Small Structures.

NOTIFICATION

In accordance with Section 9.02.200 of the Municipal Code, public notification was sent to all property owners of record within 300' of the proposed project site on February 13, 2016 (Attachment 5). In addition, the public hearing notice for this project was posted on the project site on February 13, 2016, and published in the Press Enterprise newspaper on February 13, 2016.

STAFF RECOMMENDATION

Recommend the Planning Commission **APPROVE** Resolution No. 2016-02.

1. **CERTIFY** that the proposed Verizon wireless telecommunications facility is exempt from the provisions of the California Environmental Quality Act (CEQA), as a Class 3 Categorical Exemption, CEQA Guidelines, Section 15303 for New Construction or Conversion of Small Structures; and
2. **APPROVE** Conditional Use Permit PA15-0042 based on the findings contained in Planning Commission Resolution 2016-02, subject to the conditions of approval included as Exhibit A of the Resolution.

Prepared by:
Claudia Manrique
Associate Planner

Approved by:
Allen Brock
Community Development Director

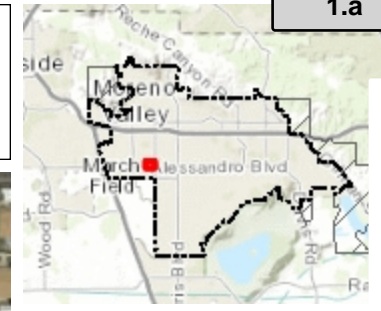
ATTACHMENTS

1. Aerial Photograph
2. Site Plan
3. Simulation Photos
4. Zoning
5. Public Hearing Notice
6. Reso 2016-02
7. Exhibit A - Conditions of Approval



Aerial Photograph PA15-0042

1.a



Legend

- Public Facilities
 - Public Facilities
 - ★ Fire Stations
- Parcels

Notes

CUP for wireless facility at 23750 Alessandro Blvd (Oasis Church). APN: 296-300-005

540.2 0 270.12 540.2 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

Print Date: 2/1/2016

DISCLAIMER: The information shown on this map was compiled from the City of Moreno Valley GIS and Riverside County GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map.



Attachment: Aerial Photograph (1912 : Conditional Use Permit (PA15-0042) for a new wireless facility.)



Know what's below.
Call 811 before you dig.

AT LEAST THREE WORKING DAYS BEFORE DIGGING

OVERALL HEIGHT
70'-0"



TOBY (MCE DESIGN)
CANDIDATE A- OASIS COMMUNITY CHURCH
23750 ALESSANDRO BLVD.
MORENO VALLEY, CA 92553
RIVERSIDE COUNTY



15505 SAND CANYON AVENUE
BUILDING 'D', 1ST FLOOR
IRVINE, CA 92618

THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY & CONFIDENTIAL TO VERIZON WIRELESS ANY USE OR DISCLOSURE OTHER THAN AS IT RELATES TO VERIZON WIRELESS IS STRICTLY PROHIBITED



18401 VON KARMAN AVENUE
SUITE 400
IRVINE, CA 92612
TEL: (949) 861-2201
FAX: (949) 387-1275

PROJECT TEAM

PLANNING

COMPANY: SMARTLINK, LLC
ADDRESS: 18401 VON KARMAN AVE, SUITE 400
CITY, STATE, ZIP: IRVINE, CA 92612
CONTACT: JAMES ROGERS
PHONE: (949) 295-9031
E-MAIL: james.rogers@smartlinkllc.com

SITE ACQUISITION

COMPANY: SMARTLINK, LLC
ADDRESS: 18401 VON KARMAN AVE, SUITE 400
CITY, STATE, ZIP: IRVINE, CA 92612
CONTACT: DANIEEN WILDER
PHONE: (714) 936-1030
E-MAIL: daneen.wilder@smartlinkllc.com

ENGINEER

COMPANY: SMARTLINK, LLC
ADDRESS: 18401 VON KARMAN AVE, SUITE 400
CITY, STATE, ZIP: IRVINE, CA 92612
CONTACT: JAMES GONZALEZ
PHONE: (510) 772-7415
E-MAIL: james.gonzalez@smartlinkllc.com

PROJECT SURVEYOR

COMPANY: FLOYD SURVEYING
ADDRESS: 28936 OLD TOWN FRONT ST. SUITE 203
CITY, STATE, ZIP: TEMECULA, CA 92590
CONTACT: DAVID FLOYD
PHONE: (951) 694-8647
E-MAIL: fs@floydsurveying.com

PROJECT SUMMARY

APPLICANT/LESSEE

COMPANY: VERIZON WIRELESS
ADDRESS: 15505 SAND CANYON AVE, BUILDING "D", 1ST FLOOR
CITY, STATE, ZIP: IRVINE, CA 92618
PHONE: (949) 286-7000

APPLICANT'S REPRESENTATIVE

COMPANY: SMARTLINK, LLC
ADDRESS: 18401 VON KARMAN AVE, SUITE 400
CITY, STATE, ZIP: IRVINE, CA 92612
CONTACT: JAMES ROGERS
PHONE: (949) 295-9031
E-MAIL: james.rogers@smartlinkllc.com

PROPERTY OWNER:

NAME: OASIS COMMUNITY CHURCH
ADDRESS: 23750 ALESSANDRO BLVD.
CITY, STATE, ZIP: MORENO VALLEY, CA 92553
CONTACT: LEE JOHNSON
PHONE: (951) 719-9165

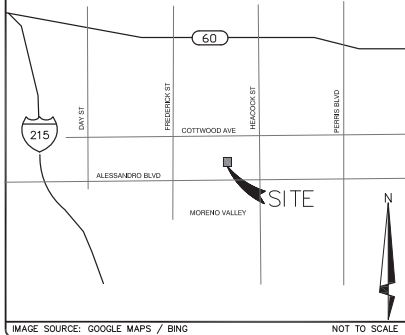
PROPERTY INFORMATION:

LEGAL DESCRIPTION: SEE LS-1
APN #: 296-300-005 & 007
COUNTY: RIVERSIDE
JURISDICTION: CITY OF MORENO VALLEY
CURRENT ZONING: NC (NEIGHBORHOOD COMMERCIAL)

CONSTRUCTION INFORMATION:

AREA OF CONSTRUCTION: 224 SQ. FT.
TYPE OF CONSTRUCTION: V-B (NON RATED)
PROPOSED USE: UNMANNED TELECOMMUNICATIONS FACILITY
HANDICAP REQUIREMENTS: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED.

VICINITY MAP



DRIVING DIRECTIONS

FROM VERIZON WIRELESS OFFICE:
HEAD SOUTH EAST TOWARD SAND CANYON AVE.
TURN RIGHT ONTO SAND CANYON AVE.
TURN LEFT ONTO BARRANCA PKWY.
TURN RIGHT ONTO PACIFICA.
TURN RIGHT ONTO THE STATE HIGHWAY 133 N.
MERGE ONTO CA-241 N.
USE RIGHT TWO LANES TO MERGE ONTO CA-91 E.
USE RIGHT LANES TO MERGE ONTO CA-60 E.
KEEP ON CA-60 E. TAKE FORK AND TAKE EXIT 61 FOR HEACOCK ST.
FOLLOW HEACOCK ST TO ALESSANDRO BLVD.
TURN RIGHT ON ALESSANDRO BLVD.

DESTINATION WILL BE ON THE RIGHT:
23750 ALESSANDRO BLVD, MORENO VALLEY, CA 92553

PROJECT DESCRIPTION

CONSTRUCTION OF AN UNMANNED WIRELESS CELL SITE FOR VERIZON WIRELESS. THIS PROJECT WILL CONSIST OF: INSTALLING (3) ANTENNA SECTOR FRAMES WITH (12) ANTENNAS, (12) RIN'S, (2) SURGE SUPPRESSORS, AND (2) COAX/HYBRID CABLES; AND (2) MACROCELL EQUIPMENT CABINETS (MCE DESIGN), A 54 GALLON GENERATOR, WITHIN A 16'-0" X 14'-0" WROUGHT IRON FENCED ENCLOSURE LEASE AREA WITH CONNECTIONS AS REQUIRED FOR POWER AND TELCO.

SHEET	DESCRIPTION
T-1	TITLE SHEET
LS-1	TOPOGRAPHIC SURVEY
LS-2	TOPOGRAPHIC SURVEY
LS-3	TOPOGRAPHIC SURVEY
L-1	PLANTING PLAN
A-1	OVERALL SITE PLAN
A-1.1	ENLARGED SITE PLAN
A-2	ENLARGED EQUIPMENT & ANTENNA LAYOUTS
A-3	NORTH & SOUTH ELEVATIONS
A-4	EAST & WEST ELEVATIONS

CODE COMPLIANCE

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITIONS OF THE FOLLOWING CODES.

- 1. 2013 CALIFORNIA BUILDING CODE - TITLE 24, PART 2
- 2. 2013 CALIFORNIA ELECTRICAL CODE - TITLE 24, PART 2.5
- 3. 2013 CALIFORNIA FIRE CODE - TITLE 24, PART 3
- 4. 2013 CALIFORNIA MECHANICAL CODE - TITLE 24, PART 4
- 5. 2013 CALIFORNIA PLUMBING CODE - TITLE 24, PART 5
- 6. 2013 CALIFORNIA ENERGY CODE - TITLE 24, PART 6
- 7. 2013 CALIFORNIA GREEN-BUILDING STANDARDS CODE - TITLE 24, PART 11
- 8. COUNTY COASTAL ZONE LAND USE ORDINANCE - TITLE 23
- 9. COUNTY FIRE CODE ORDINANCE-TITLE 18
- 10. COUNTY LAND USE ORDINANCE - TITLE 22
- 11. COUNTY BUILDING & CONSTRUCTION ORDINANCE - TITLE 19

SIGNATURE BLOCK

THE FOLLOWING PARTIES HEREBY APPROVE AND ACCEPT THESE DOCUMENTS & AUTHORIZE THE SUBCONTRACTOR TO PROCEED WITH CONSTRUCTION DESCRIBED HEREIN. ALL DOCUMENTS ARE SUBJECT TO REVIEW BY THE LOCAL BUILDING DEPARTMENT & MAY IMPOSE CHANGES OR MODIFICATIONS.

DISCIPLINE:	SIGNATURE:	DATE:
SITE ACQUISITION MANAGER:		
CONSTRUCTION MANAGER:		
RF ENGINEER:		

PROJECT INFORMATION:

TOBY
23750 ALESSANDRO BLVD
MORENO VALLEY, CA 92553
RIVERSIDE COUNTY

CANDIDATE NAME:
A-OASIS COMMUNITY CHURCH
SHEET TITLE:

TITLE SHEET	
SHEET NUMBER:	REV:
T-1	1

OWNER'S NAME: OASIS COMMUNITY CHURCH
 ASSESSOR'S PARCEL NUMBER(S) 296-300-005 & 007
 BASIS OF BEARINGS: (NAD83; EPOCH 2010)
 THE BEARINGS SHOWN HEREON ARE BASED CALIFORNIA STATE PLANE COORDINATE SYSTEM - ZONE 6, AS DETERMINED BY G.P.S. OBSERVATIONS, USING TRIMBLE 5700/5800 RECEIVERS AND TRIMBLE GEODETIC OFFICE 1.60 SOFTWARE.
 BASIS OF ELEVATIONS: NAVD 1988
 ELEVATIONS ARE BASED ON GPS OBSERVATIONS FROM TWO NATIONAL GEODETIC SURVEY C.O.R.S. REFERENCE STATIONS: 1) JLM, ELEVATION = 1503.49' AND 2) TORP, ELEVATION = 103.77' WITH GEOD 2012 CORRECTIONS APPLIED.

SITE DATA

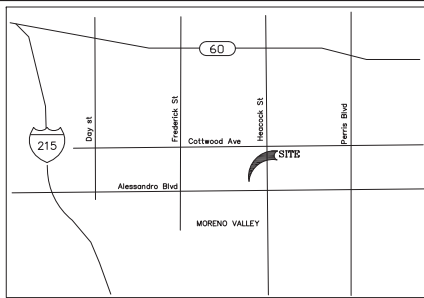
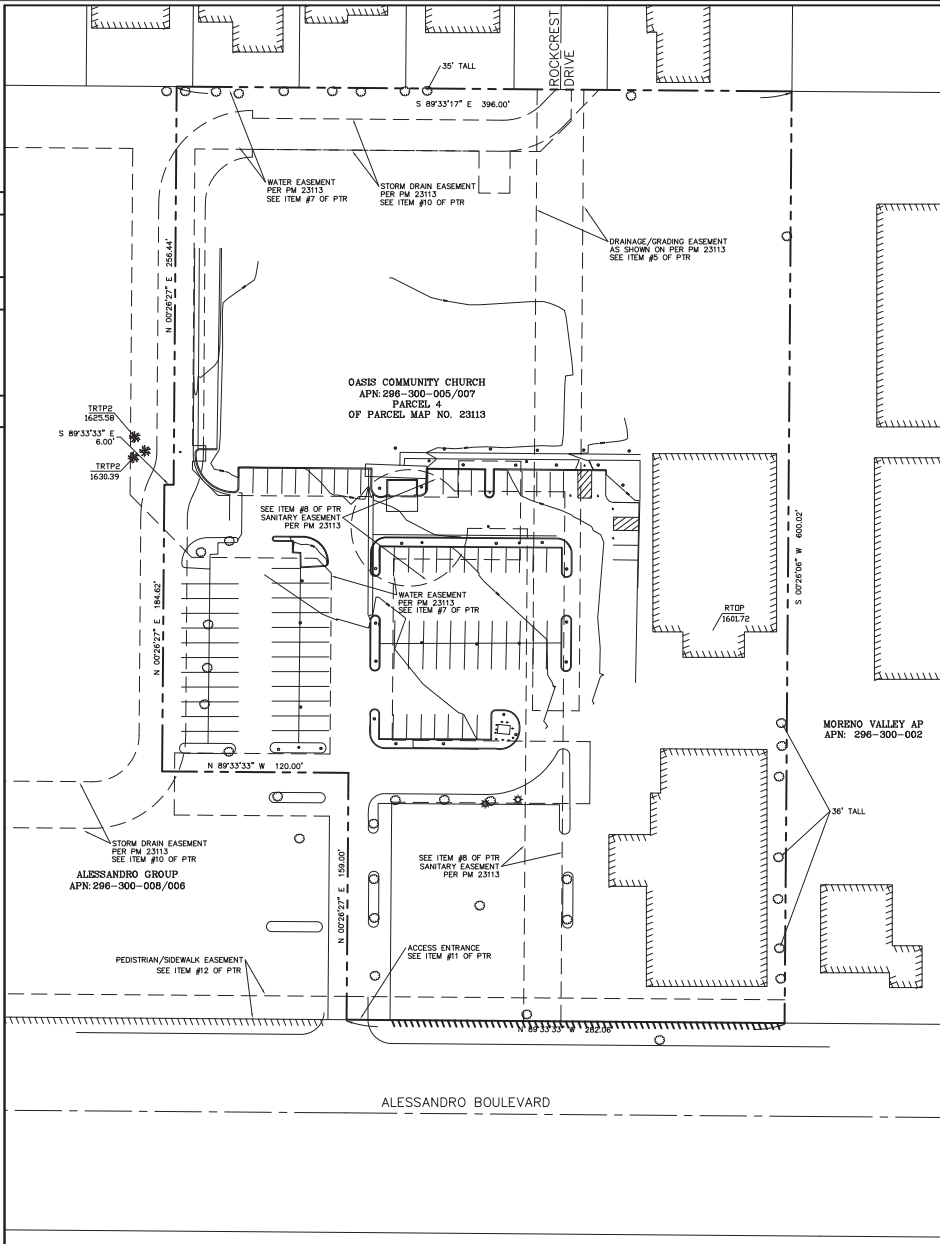
FEMA FLOOD ZONE DESIGNATION: National Flood Insurance Program;
 County: RIVERSIDE Effective Date: 8/28/2008
 Panel: 06065007610
 The Flood Zone Designation for this site is: ZONE: X

FEMA FLOOD ZONE INFORMATION

PARCEL 4 OF PARCEL MAP NO. 23113, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 181 OF PARCEL MAPS, PAGES 70-75 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PROPERTY LEGAL DESCRIPTION

(SEE SHEET LS3 FOR TITLE NOTES)



VICINITY MAP



LEGEND

- These standard symbols will be found in the drawing.
- ⊕ BOLLARD
 - ⊕ FIRE HYDRANT
 - FOUND MONUMENT
 - ⊕ HANDY CAP SYMBOL
 - ⊕ LIGHT POLE
 - ⊕ STORM DRAIN MANHOLE
 - ⊕ TREE PALM
 - ⊕ TREE DECIDUOUS - 20/30 FEET TALL
 - ⊕ VAULT VENT
 - ⊕ WATER VALVE
 - ⊕ BUILDING
- BC BOTTOM OF CURB
 - EC EDGE OF CONCRETE
 - ELTR ELECTRICAL TRANSFORMER
 - EP EDGE OF PAVEMENT
 - LIP LIP OF GUTTER
 - LP LIGHT POLE TOP
 - NO GROUND SPOT ELEVATION
 - PS PAINT STRIPING
 - RFOH ROOF OVERHANG
 - RTOP ROOF TOP
 - SW SIDEWALK
 - TC TOP OF CURB
 - TRIP TREE TOP DECIDUOUS
 - TRIP2 TREE TOP PALM
 - TW TOP OF WALL
- BOUNDARY LINE
 - CENTER LINE
 - MISC. PROPERTY LINE
 - MISC. TIE LINE
 - RIGHT-OF-WAY LINE
 - EASEMENT LINE
 - X- FENCE LINE

LEGEND

- 1) This is not a boundary survey. This is a specialized topographic map. The property lines and easements shown hereon are from record information as noted hereon. Floyd Surveying translated the topographic survey to record information using the two found monuments shown hereon. No title research was performed by Floyd Surveying.
- 2) Any changes made to the information on this plan, without the written consent of Floyd Surveying relieves Floyd Surveying of any and all liability.
- 3) These drawings & specifications are the property & copyright of Floyd Surveying & shall not be used on any other work except by agreement with the Surveyor. Written dimensions shall take preference over scaled & shall be verified on the job site. Any discrepancy shall be brought to the notice of the Surveyor prior to commencement of any work.
- 4) Field survey completed on SEPTEMBER 17, 2015.

TITLE REPORT NOTES

OVERALL SITE PLAN



GENERAL NOTES



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18401 VON KARMAN AVENUE
 SUITE 400
 IRVINE, CA 92612
 TEL: (949) 863-2201
 FAX: (949) 387-1275

REV.	DATE	REVISION DESCRIPTION
1	9-27-15	TITLE REVIEW
0	9-22-15	SITE SURVEY

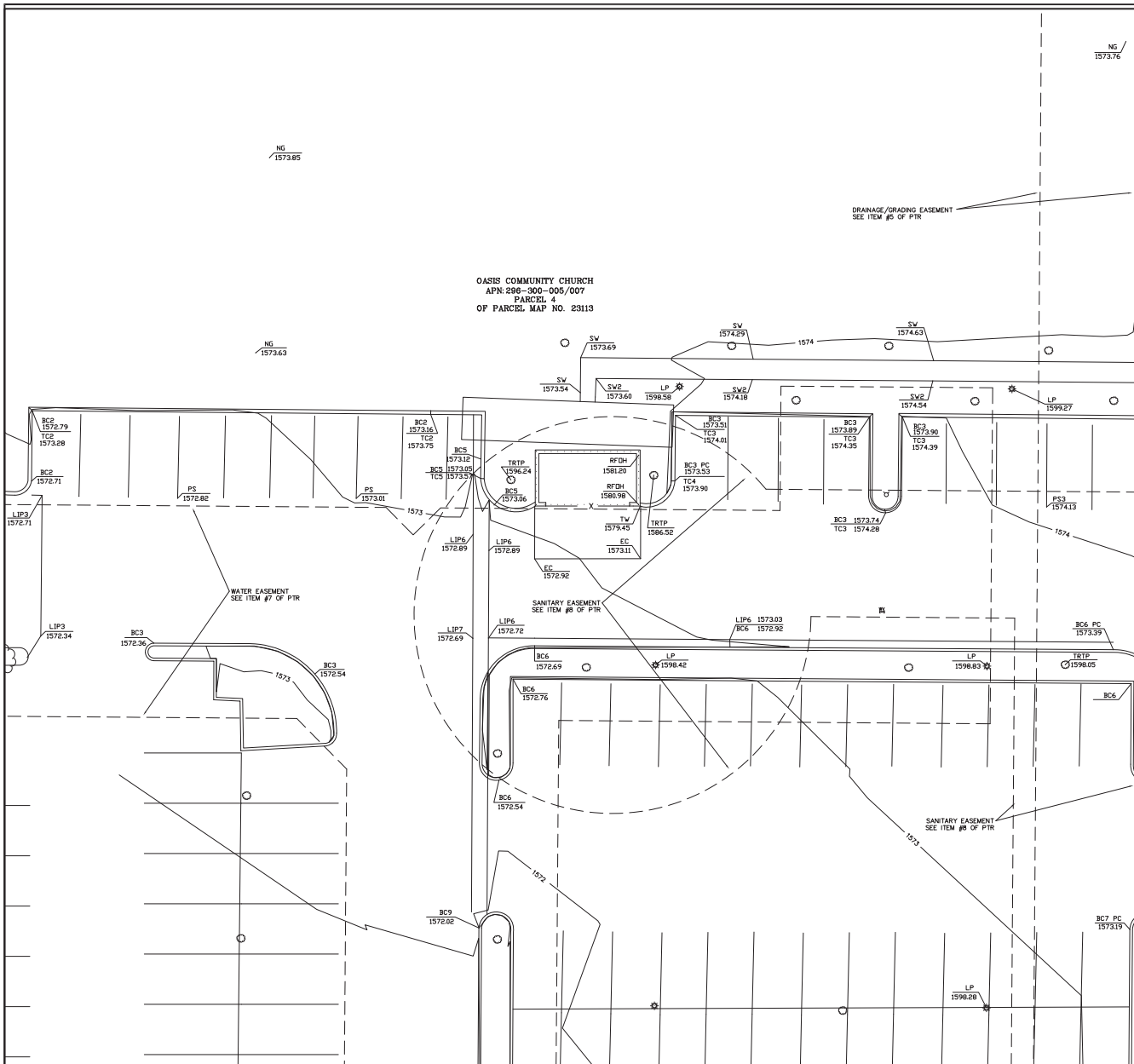
FLOYD SURVEYING
 34006 GALLERON STREET
 TEMECULA, CA 92592
 OFFICE: (949) 200-0626
 EMAIL: fsl@floydsurveying.com

PROJECT INFORMATION: **TOBY**
 23750 ALESSANDRO BLVD
 MORENO VALLEY, CA 92553
 RIVERSIDE COUNTY

DRAWN BY: **DAF** CHECKED BY: **DAF**

SHEET TITLE: **TOPOGRAPHIC SURVEY**

SHEET NUMBER: **LS-1** REV: **1**



OASIS COMMUNITY CHURCH
 APN: 286-300-005/007
 PARCEL 4
 OF PARCEL MAP NO. 23113



LEGEND

- These standard symbols will be found in the drawing.
- ⊕ BOLLARD
 - ⊕ FIRE HYDRANT
 - FOUND MONUMENT
 - ⊕ HANDY CAP SYMBOL
 - ⊕ LIGHT POLE
 - ⊕ STORM DRAIN MANHOLE
 - ⊕ TREE PALM
 - ⊕ TREE DECIDUOUS - 20/30 FEET TALL
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 - TC TOP OF CURB
 - TRTP TREE TOP DECIDUOUS
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- BOUNDARY LINE
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 - MISC. PROPERTY LINE
 - MISC. TIE LINE
 - RIGHT-OF-WAY LINE
 - EASEMENT LINE
 - - - - - FENCE LINE

LEGEND

- 1) This is not a boundary survey. This is a specialized topographic map. The property lines and easements shown hereon are from record information as noted hereon. Floyd Surveying translated the topographic survey to record information using the two found monuments shown hereon. No title research was performed by Floyd Surveying.
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- 3) These drawings & specifications are the property & copyright of Floyd Surveying & shall not be used on any other work except by agreement with the Surveyor. Written dimensions shall take preference over scaled & shall be verified on the job site. Any discrepancy shall be brought to the notice of the Surveyor prior to commencement of any work.
- 4) Field survey completed on SEPTEMBER 17, 2015.

DETAIL SITE PLAN



GENERAL NOTES



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18401 VON KARMAN AVENUE
 SUITE 400
 IRVINE, CA 92612
 TEL: (949) 861-2201
 FAX: (949) 387-1275

REV.	DATE	REVISION DESCRIPTION
1	9-27-15	TITLE REVIEW
0	9-22-15	SITE SURVEY

FLOYD SURVEYING
 34006 GALLERON STREET
 TEMECULA, CA 92592
 OFFICE: (949) 200-0626
 EMAIL: fsl@floydsurveying.com



PROJECT INFORMATION: **TOBY**
 23750 ALESSANDRO BLVD
 MORENO VALLEY, CA 92553
 RIVERSIDE COUNTY

DRAWN BY: **DAF** CHECKED BY: **DAF**

SHEET TITLE: **TOPOGRAPHIC SURVEY**

SHEET NUMBER: **LS-2** REV: **1**

OWNERSHIP OF DOCUMENTS: THIS DOCUMENT AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS IN INSTRUMENT OF PROFESSIONAL SERVICE, ARE THE PROPERTY OF SMARTLINK, LLC AND ARE NOT TO BE USED, IN WHOLE OR IN PART, FOR OTHER PROJECTS WITHOUT THE WRITTEN AUTHORIZATION OF SMARTLINK, LLC. IT IS UNLAWFUL FOR ANY PERSON TO AMEND ANY ASPECT OF THESE DRAWINGS UNLESS THEY HAVE THE APPROVAL OF THE LICENSED PROFESSIONAL IN WRITING.

Packet P

TITLE REPORT NOTES:

THE FOLLOWING EASEMENTS EFFECT SAID PARCEL AND ARE SHOWN HEREON. SEE PRELIMINARY TITLE REPORT NO.997-23070082-ML3 PREPARED BY FIDELITY NATIONAL TITLE COMPANY AND DATED SEPTEMBER 16, 2015 FOR OTHER DOCUMENTS (NON-EASEMENTS) EFFECTING SAID PROPERTY.

ITEM #3 - Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document:
 Reserved to: Bear Valley and Alessandro Development Company
 Purpose: rights of way over, under, through and upon said Land and every part thereof for all necessary pipelines, ditches and flumes, together with the right to enter upon said Land to construct and repair pipelines, ditches and flumes, together with the right to conduct water in and through the same.
 Recording No.: Book 165 at Page 148 of Deeds, San Bernardino County Records.

(EXACT LOCATION IS NOT DISCLOSED OF RECORD)

ITEM #4 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in documents as set forth below:

Granted to: Eastern Municipal Water District, a municipal water district Purpose: conduits and incidental purposes

Recording Date: March 4, 1955
 Recording No: Instrument No. 14574, Book 1702, page 559, Official Records

Recording Date: March 23, 1959
 Recording No.: Instrument No. 24049, Book 2436, page 241, Official Records

Recording Date: March 4, 1955
 Recording No.: Instrument No. 14576, Book 1702, page 467, Official Records

Recording Date: March 4, 1955
 Recording No.: Instrument No. 14575, Book 1702, page 552, Official Records
 (EXACT LOCATION IS NOT DISCLOSED OF RECORD)

ITEM #5 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document: Granted to: County of Riverside
 Purpose: Public use, drainage and grading
 Recording Date: July 17, 1985
 Recording No: Instrument No. 1985-0157306, Official Records
 (AS SHOWN HEREON-DOES NOT CROSS LEASE AREA)

ITEM #7 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Eastern Municipal Water District
 Purpose: Water lines
 Recording Date: March 20, 1990
 Recording No: Instrument No. 099181, Official Records
 Affects: A Portion of said land as shown on said Parcel Map

And Re-Recording Date: June 13, 1990
 And Re-Recording No.: Instrument No. 1990-0216699, Official Records
 (AS SHOWN HEREON-DOES NOT CROSS LEASE AREA)

ITEM #8 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Eastern Municipal Water District
 Purpose: Sewer lines
 Recording Date: March 20, 1990
 Recording No: Instrument No. 1990-0099182, Official Records Affects: A portion of said land as
 (AS SHOWN HEREON-MAY AFFECT LEASE AREA)

ITEM #9 - Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Southern California Edison Company, a Corporation Purpose: Electrical supply systems
 Recording Date: August 2, 1990
 Recording No: Instrument No. 1990-0286921, Official Records
 (EXACT LOCATION IS NOT DISCLOSED OF RECORD-CAN BE LOCATED IN COMMON AREAS-MAY AFFECT LEASE AREA)

ITEM #10 - Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said Parcel Map No. 23113;

Purpose: Storm drains
 Affects: As shown on said Map
 Recording No: Book 181, Pages 70-75 of Parcel Maps
 (AS SHOWN HEREON-DOES NOT CROSS LEASE AREA)

ITEM #11 - The ownership of said Land does not include rights of vehicular access to the street or highway hereinafter mentioned, except at specified points, said rights have been relinquished by the dedication provisions shown on the map of the tract referred to below:

Street or Highway: Alessandro Boulevard Tract No.: Parcel Map No. 23113
 (AS SHOWN HEREON)

ITEM #12 - Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said Parcel Map No. 23113;

Purpose: Pedestrian
 Affects: The most Southerly 15 feet of said land Recording No: Book 181, Pages 70-75 of Parcel Maps
 (AS SHOWN HEREON-DOES NOT CROSS LEASE AREA)

END OF EASEMENTS



LEGEND

These standard symbols will be found in the drawing.

- ⊕ BOLLARD
- ☼ FIRE HYDRANT
- FOUND MONUMENT
- △ HANDY CAP SYMBOLE
- ★ LIGHT POLE
- ⊙ STORM DRAIN MANHOLE
- ☼ TREE PALM
- TREE DECIDUOUS - 20/30 FEET TALL
- ⊗ VAULT VENT
- ⊕ WATER VALVE
- ▭ BUILDING



- BC BOTTOM OF CURB
- EC EDGE OF CONCRETE
- ELTR ELECTRICAL TRANSFORMER
- EP EDGE OF PAVEMENT
- LIP LIP OF GUTTER
- LP LIGHT POLE TOP
- NG GROUND SPOT ELEVATION
- PS PAINT STRIPING
- RFOH ROOF OVERHANG
- RTOP ROOF TOP
- SW SIDEWALK
- TC TOP OF CURB
- TRTP TREE TOP DECIDUOUS
- TRTP2 TREE TOP PALM
- TW TOP OF WALL

- BOUNDARY LINE
- CENTER LINE
- MISC. PROPERTY LINE
- MISC. TIE LINE
- RIGHT-OF-WAY LINE
- EASEMENT LINE
- - - - - FENCE LINE

LEGEND

- 1) This is not a boundary survey. This is a specialized topographic map. The property lines and easements shown hereon are from record information as noted hereon. Floyd Surveying translated the topographic survey to record information using the two found monuments shown hereon. No title research was performed by Floyd Surveying.
- 2) Any changes made to the information on this plan, without the written consent of Floyd Surveying relieves Floyd Surveying of any and all liability.
- 3) These drawings & specifications are the property & copyright of Floyd Surveying & shall not be used on any other work except by agreement with the Surveyor. Written dimensions shall take preference over scaled & shall be verified on the job site. Any discrepancy shall be brought to the notice of the Surveyor prior to commencement of any work.
- 4) Field survey completed on SEPTEMBER 17, 2015.

TITLE NOTES



GENERAL NOTES



THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY & CONFIDENTIAL TO VERIZON WIRELESS ANY USE OR DISCLOSURE OTHER THAN AS IT RELATES TO VERIZON WIRELESS IS STRICTLY PROHIBITED



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 SUITE 400
 IRVINE, CA 92612
 TEL: (949) 861-2201
 FAX: (949) 387-1275

REV.	DATE	REVISION DESCRIPTION
1	9-27-15	TITLE REVIEW
0	9-22-15	SITE SURVEY

FLOYD SURVEYING
 34006 GALLERON STREET
 TEMECULA, CA 92592
 OFFICE: (949) 200-0626
 EMAIL: fsl@floydsurveying.com

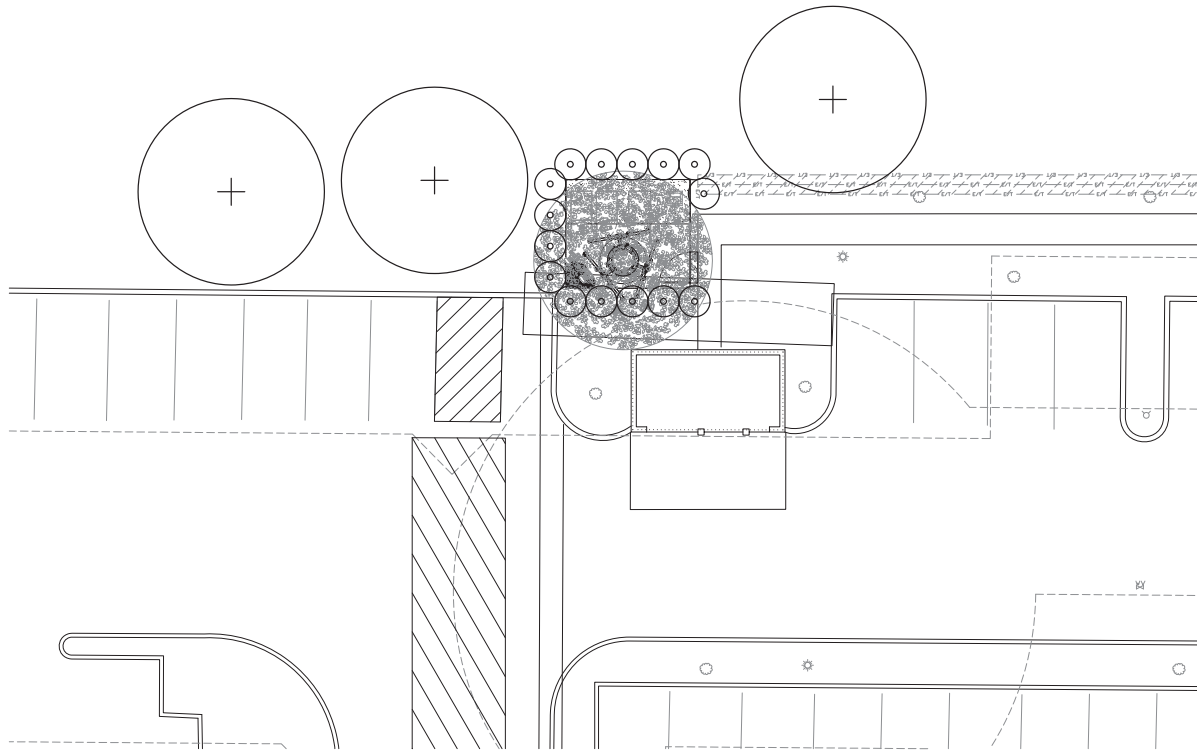


PROJECT INFORMATION: **TOBY**
 23750 ALESSANDRO BLVD
 MORENO VALLEY, CA 92553
 RIVERSIDE COUNTY

DRAWN BY: **DAF** CHECKED BY: **DAF**

SHEET TITLE: **TOPOGRAPHIC SURVEY**

SHEET NUMBER: **LS-3** REV: **1**



PLANT LEGEND

SYM	BOTANICAL NAME	COMMON NAME	SIZE	QTY.	REMARKS
TREES					
+	BRACHYCHITON POPULNEUS	BOTTLE TREE	48" BOX	3	NATURAL 18' at planting 50' at maturity
SHRUBS					
o	PRUNUS CAROLINIANA	INDIAN LAUREL CHERRY	5 GAL.	15	48" O.C.

GENERAL NOTE

THE PROJECT LANDSCAPE ARCHITECT SHALL CONDUCT A FIELD INSPECTION AT SUBSTANTIAL COMPLETION OF THE PROJECT TO VERIFY THAT THE LANDSCAPE AND IRRIGATION INSTALLATION IS IN COMPLIANCE WITH THE APPROVED DESIGN PLANS. THE LANDSCAPE ARCHITECT WILL SUBMIT TO THE CITY A LETTER OF ACCEPTANCE AND A CERTIFICATE OF COMPLIANCE. THE LANDSCAPE CONTRACTOR WILL PROVIDE THE LANDSCAPE ARCHITECT A LETTER STATING THE CONSTRUCTION WAS DONE TO THE CONSISTENT APPROVED PLANS. ANY DISCREPANCIES SHALL BE NOTED IN THE LETTER.

WEED CONTROL

THE CONTRACTOR SHALL PERFORM A THOROUGH WEED ABATEMENT PROGRAM, KILLING AND REMOVING ALL WEEDS FROM THE SITE AND SHALL BE COMPLETED PRIOR TO THE ADDITION OF ANY SOIL AMENDMENTS. THIS SHALL BE DONE FOR ALL PLANTING AREAS, SPECIFICALLY, BUT NOT LIMITED TO, SLOPES AND GROUND COVER AREAS. THE CONTRACTOR SHALL FOLLOW THE FOLLOWING STEPS:

1. KILL AND REMOVE ALL EXISTING WEEDS.
2. IRRIGATE ALL AREAS TO BE PLANTED FOR (2) WEEKS.
3. KILL AND REMOVE ALL NEWLY GERMINATED WEEDS.
4. REPEAT STEPS 2 AND 3.
5. PLANT OR HYDROSEED GROUND COVER.
6. APPLY PRE-EMERGENT HERBICIDE AFTER PLANTING OR HYDROSEED GERMINATION. CONTRACTOR SHALL BE RESPONSIBLE FOR SELECTION OF HERBICIDE AND ITS COMPATIBILITY WITH PLANT MATERIALS.

SOIL TEST

AFTER SOIL HAS BEEN SET IN PLACE AND PRIOR TO ANY SOIL PREPARATION, THE CONTRACTOR SHALL FURNISH SOIL TESTS OF THE SITE FOR AGRICULTURAL FERTILITY AND TO DETERMINE PROPER SOIL AMENDMENTS. TESTS ARE TO BE PERFORMED BY A MEMBER OF THE CALIFORNIA ASSOCIATION OF AGRICULTURAL LABORATORIES WITH COPIES SENT TO THE OWNER AND LANDSCAPE ARCHITECT, PRIOR TO INSTALLATION.

SOIL PREPARATION

THE FOLLOWING IS PROVIDED FOR BID PURPOSES ONLY AND SHALL BE MODIFIED AS NECESSARY GIVEN THE RESULTS OF THE SOILS TEST. THE CONTRACTOR SHALL BE PREPARED TO PROVIDE DELIVERY SLIPS AND EMPTY FERTILIZER BAGS ON SITE FOR VERIFICATION OF MATERIALS.

1. BACKFILL MIX FOR USE OF PLANTING ALL SHRUBS.
6 PARTS BY VOLUME ON SITE SOIL
4 PARTS BY VOLUME OF ORGANIC AMENDMENT
1 LB. 12-12-12 COMMERCIAL FERTILIZER PER CUBIC YARD
1 LB. IRON SULFATE PER CUBIC YARD OF MIX
2. PLANT TABLETS FOR ALL SHRUBS:
4-21 GRAM AGRIFORM FERTILIZER TABLETS PER 15 GALLON STOCK

TOP DRESSING

ALL SHRUB AREAS ARE TO BE TOP DRESSED WITH 2" THICK LAYER OF SHREDDED TREE BARK.



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FAX: (949) 387-1275

2	01/05/15	REVISE T-1, RIVERSIDE COUNTY
1	10/28/15	100% ZONING DRAWINGS
0	10/19/15	90% ZONING DRAWINGS
REV.	DATE	REVISION DESCRIPTION
DRAWN BY:	mdm	CHECKED BY: RJC

RJCLA
Landscape Architects
11 Villanoura
Laguna Niguel, CA 92677
(949) 661-3998 - rjcla@ebcglobal.net



PROJECT INFORMATION:

TOBY
23650 ALESSANDRO BLVD.
MORENO VALLEY, CA 92533
RIVERSIDE COUNTY

CANDIDATE NAME:
A-OASIS COMMUNITY CHURCH

SHEET TITLE:
PLANTING PLAN

SHEET NUMBER: **L-1** REV.:

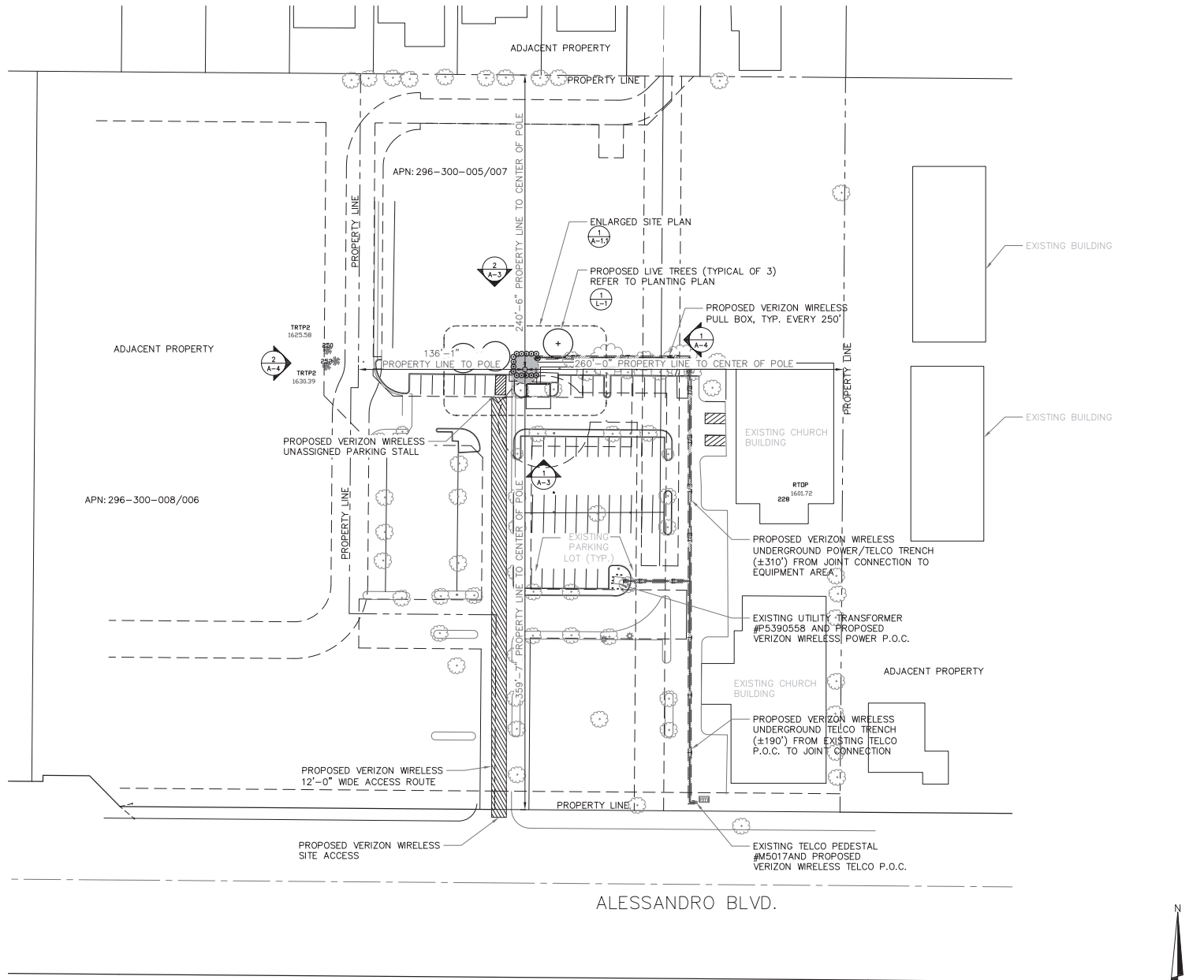
PLANTING PLAN



SCALE: 1/4" = 1'-0"

1

NOTES:
SEE LS1 FOR ALL EASEMENTS ON PROPERTY



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REV.	DATE	REVISION DESCRIPTION
3	01/28/16	LANDSCAPE PLAN
2	01/05/15	REVISE T-1, RIVERSIDE COUNTY
1	10/28/15	100% ZONING DRAWINGS
0	10/19/15	90% ZONING DRAWINGS

DRAWN BY: TW CHECKED BY: JG

PROJECT INFORMATION:
TOBY
23750 ALESSANDRO BLVD
MORENO VALLEY, CA 92553
RIVERSIDE COUNTY

CANDIDATE NAME:
A-OASIS COMMUNITY CHURCH
SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER: A-1 **REV.:** 1

1 OVERALL SITE PLAN 22'-0" SCALE: 1" = 40' 11'-0" SCALE: 1" = 20'

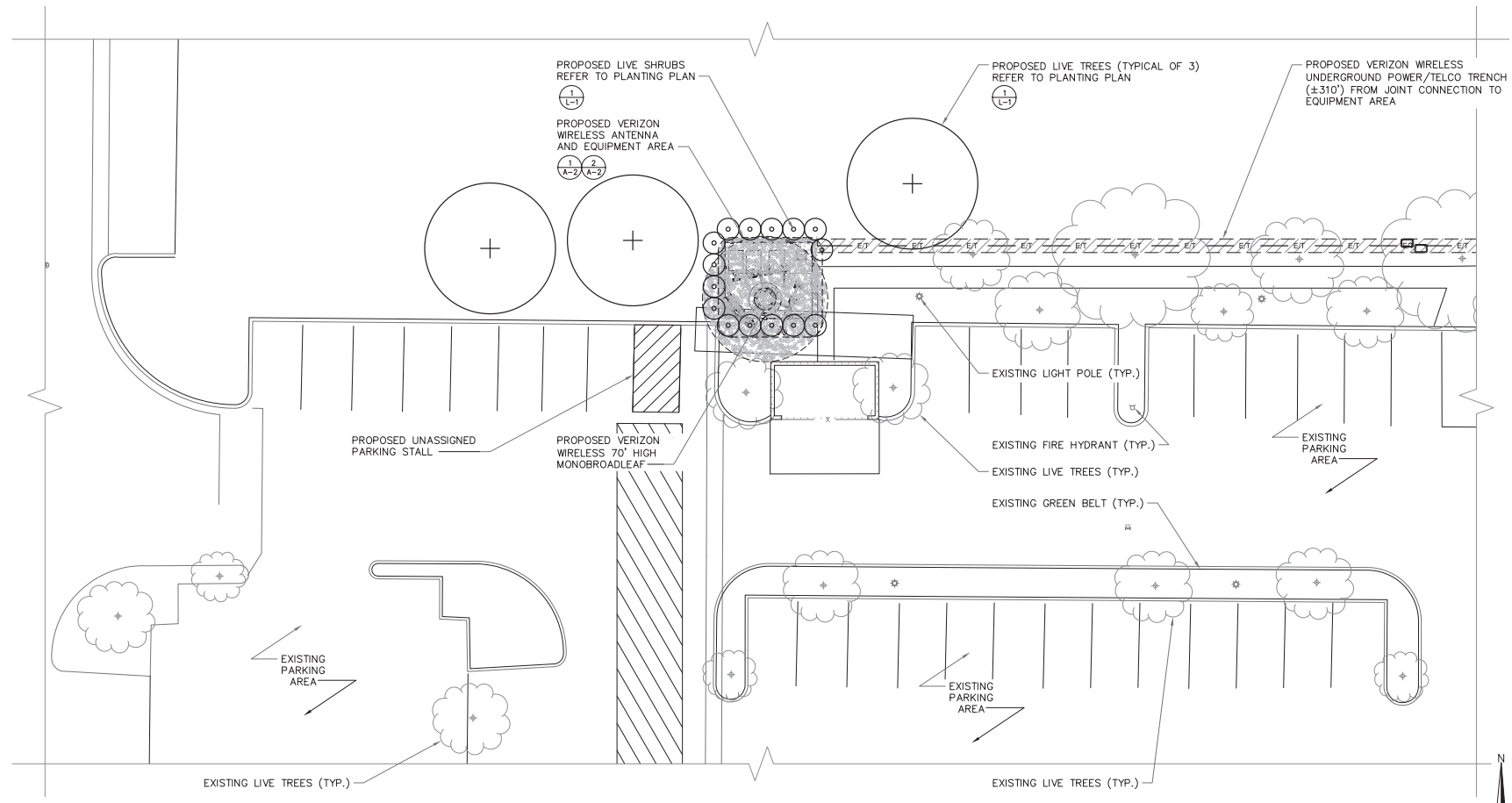


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NOTES:
SEE LS1 FOR ALL EASEMENTS ON PROPERTY



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DRAWN BY: TW CHECKED BY: JG

PROJECT INFORMATION:
TOBY
23750 ALESSANDRO BLVD
MORENO VALLEY, CA 92553
RIVERSIDE COUNTY

CANDIDATE NAME:
A-OASIS COMMUNITY CHURCH
SHEET TITLE:
ENLARGED SITE PLAN

SHEET NUMBER: A-1.1 **REV.:** 1

1 OVERALL SITE PLAN 22'-0" SCALE: 1" = 10'-0" 11'-0" SCALE: 1" = 20'-0"

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0	10/19/15	90% ZONING DRAWINGS

DRAWN BY: TW CHECKED BY: JG

PROJECT INFORMATION:

TOBY
 23750 ALESSANDRO BLVD
 MORENO VALLEY, CA 92553

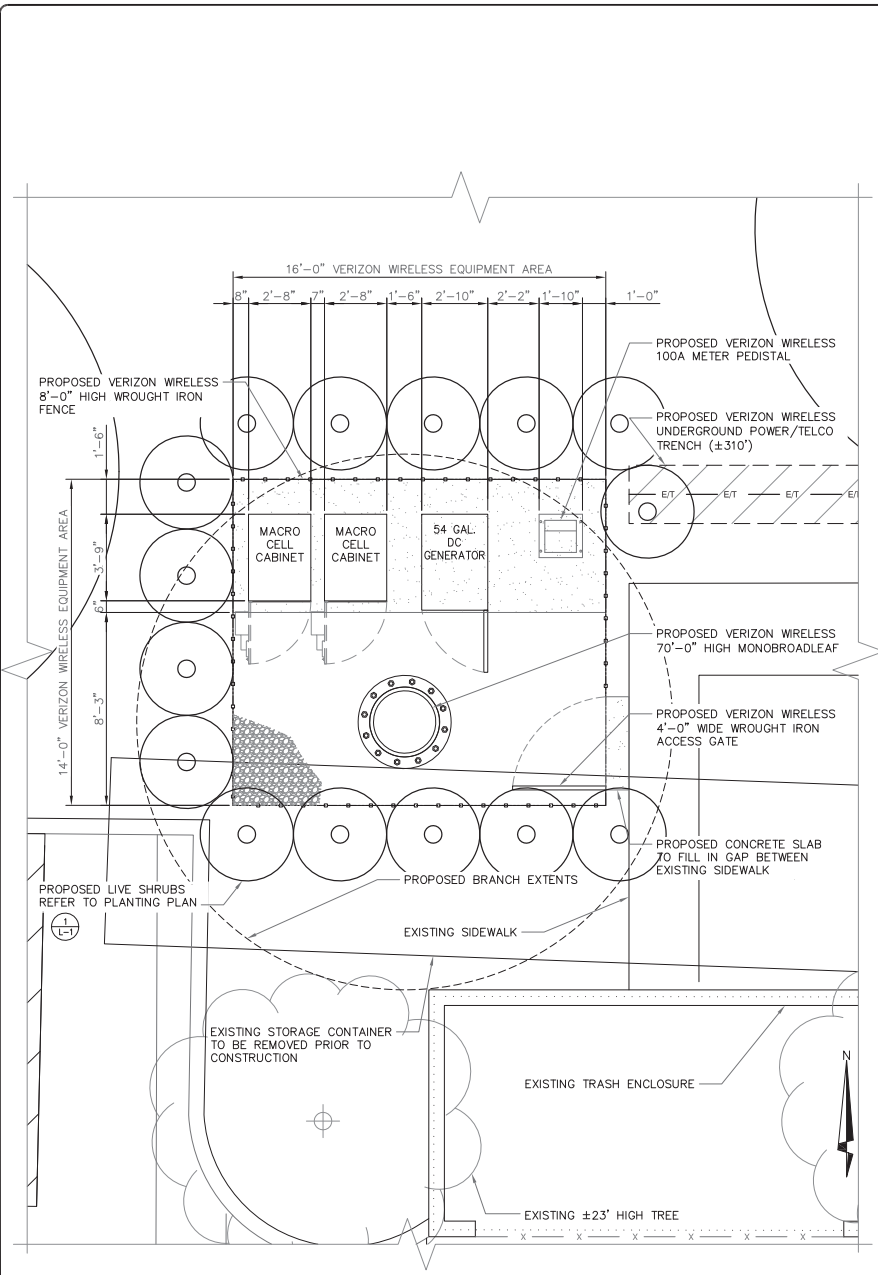
RIVERSIDE COUNTY

CANDIDATE NAME:
 A-OASIS COMMUNITY CHURCH

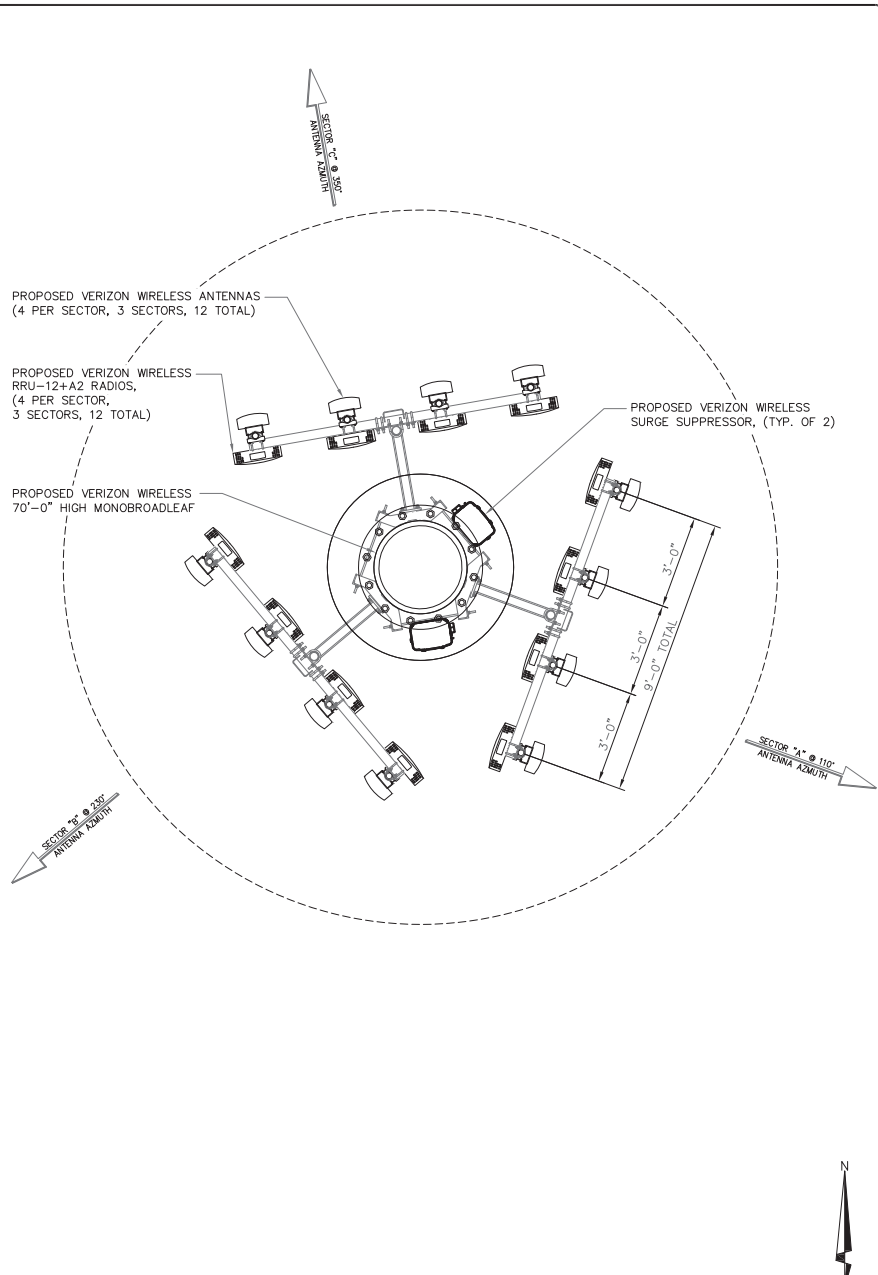
SHEET TITLE:
 ENLARGED EQUIPMENT &
 ANTENNA LAYOUTS

SHEET NUMBER: REV:

A-2 1



1 ENLARGED EQUIPMENT LAYOUT
 25'-0" SCALE: 3/8" = 1'-0"
 11'-0" SCALE: 3/8" = 1'-0"

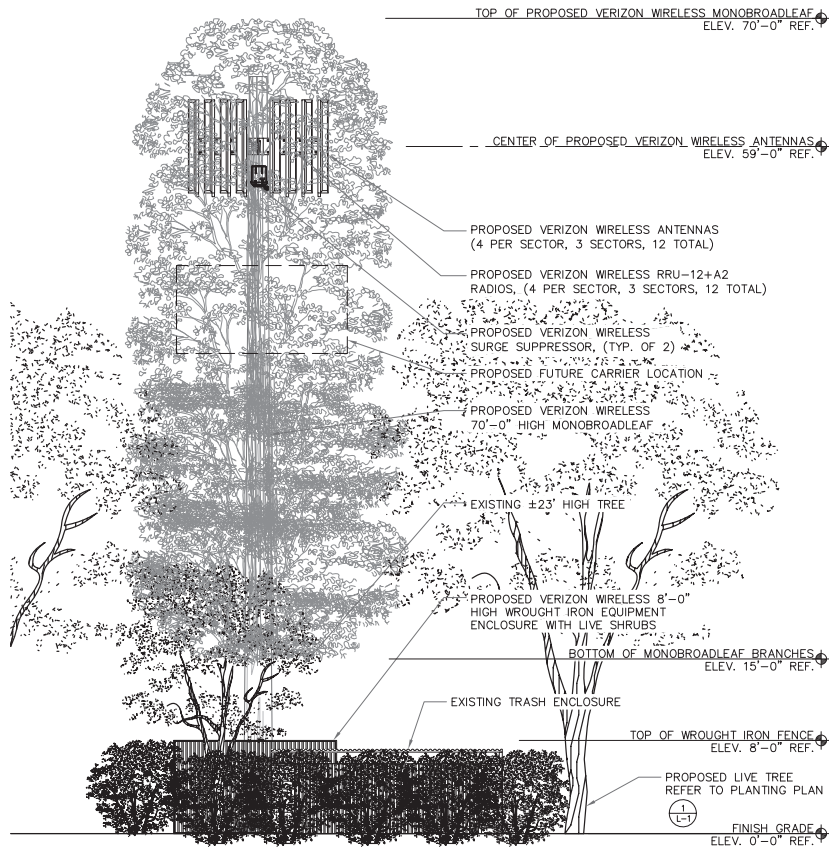


2 ENLARGED ANTENNA LAYOUT
 25'-0" SCALE: 1/2" = 1'-0"
 11'-0" SCALE: 1/2" = 1'-0"

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NOTES:

1. ANTENNAS AND ALL ATTACHMENT HARDWARE SHALL BE COVERED WITH FAUX LEAVES.
2. BRANCHES SHALL BE A MINIMUM OF THREE (3) BRANCHES PER LINEAR FOOT OF ANTENNA STRUCTURE.
3. BRANCHES SHALL EXTEND A MINIMUM OF EIGHTEEN INCHES (18") BEYOND THE ANTENNAS AT ALL POINTS.
4. THE POLE SHALL BE DESIGNED TO RESEMBLE A NATURAL TREE TRUNK INCLUDING RAISED BARK.
5. THE PLACEMENT OF THE ARTIFICIAL BRANCHES SHALL NOT HAVE A SYMMETRICAL APPEARANCE, BUT RATHER SHALL BE MOUNTED IN A MANNER WHICH GIVES A MORE NATURAL, "CONICAL" APPEARANCE TO THE MONOBROADLEAF.
6. ALL ANTENNAS AND EQUIPMENT LOCATED ON THE TREE WILL BE COMPLETELY COVERED AND SCREENED BY THE ARTIFICIAL BRANCHES, FAUX LEAVE SLEVES (WHERE APPLICABLE) AND FOILAGE OF THE MONOBROADLEAF.

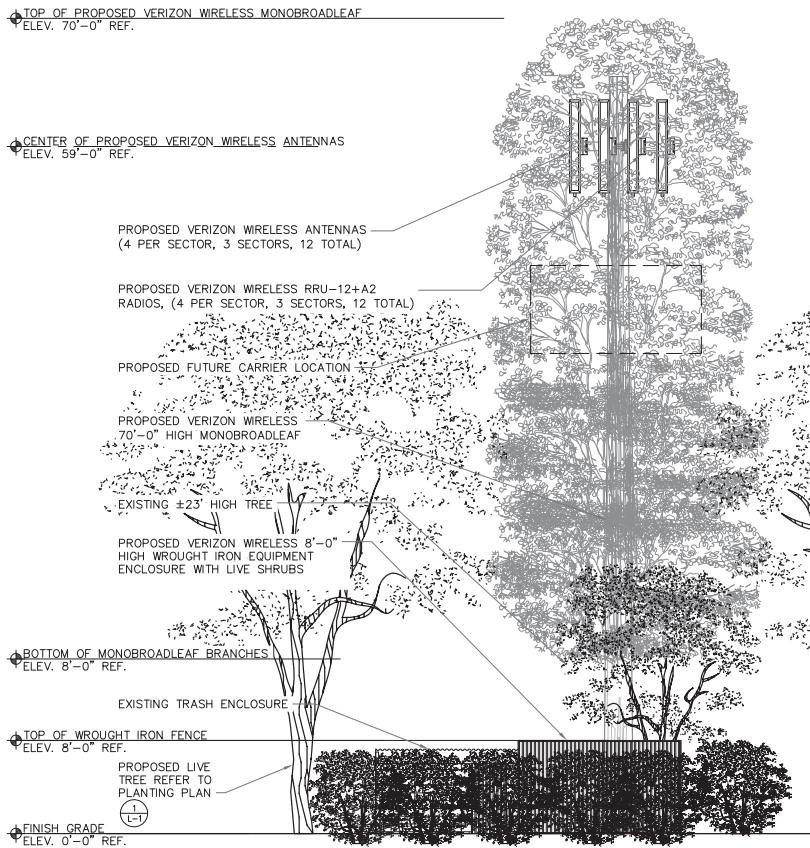


1 NORTH ELEVATION

3/8" = 1'-0" SCALE: 3/8" = 1'-0"
1/4" = 1'-0" SCALE: 1/4" = 1'-0"

NOTES:

1. ANTENNAS AND ALL ATTACHMENT HARDWARE SHALL BE COVERED WITH FAUX LEAVES.
2. BRANCHES SHALL BE A MINIMUM OF THREE (3) BRANCHES PER LINEAR FOOT OF ANTENNA STRUCTURE.
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2 SOUTH ELEVATION

3/8" = 1'-0" SCALE: 3/8" = 1'-0"
1/4" = 1'-0" SCALE: 1/4" = 1'-0"



15505 SAND CANYON AVENUE
BUILDING 'D', 1ST FLOOR
IRVINE, CA 92618

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FAX: (949) 387-1275

REV.	DATE	REVISION DESCRIPTION
3	01/28/16	LANDSCAPE PLAN
2	01/05/15	REVISE T-1, RIVERSIDE COUNTY
1	10/28/15	100% ZONING DRAWINGS
0	10/19/15	90% ZONING DRAWINGS

DRAWN BY: TW CHECKED BY: JG

PROJECT INFORMATION:
TOBY
23750 ALESSANDRO BLVD.
MORENO VALLEY, CA 92553

RIVERSIDE COUNTY

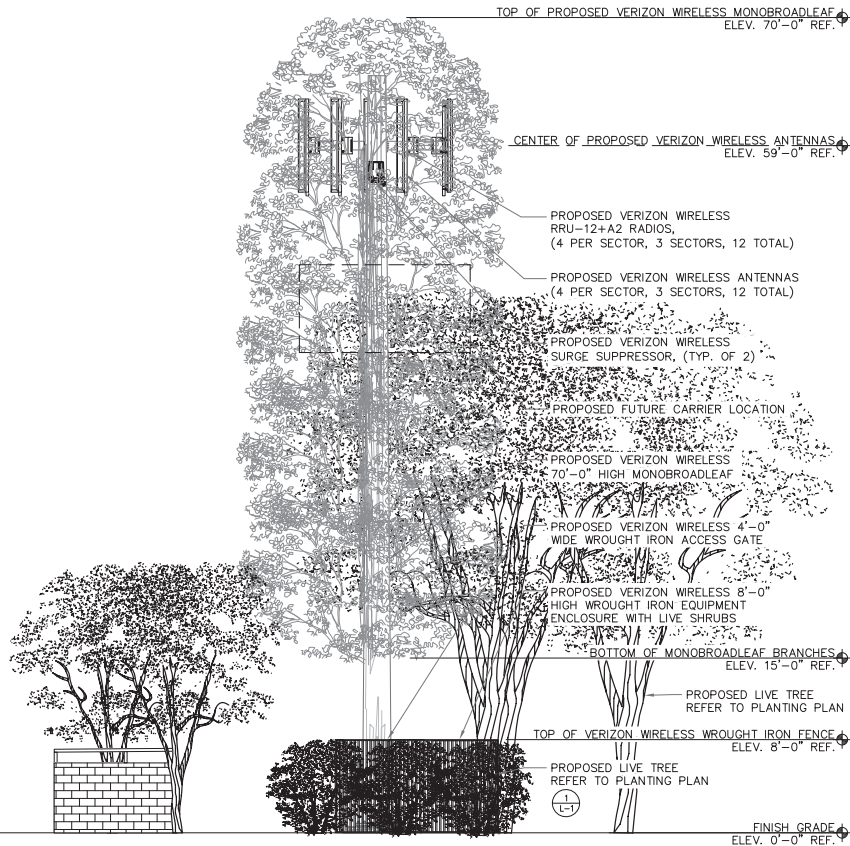
CANDIDATE NAME:
A-OASIS COMMUNITY CHURCH

SHEET TITLE:
NORTH & SOUTH
ELEVATIONS

SHEET NUMBER: A-3 REV.: 1

NOTES:

1. ANTENNAS AND ALL ATTACHMENT HARDWARE SHALL BE COVERED WITH FAUX LEAVES.
2. BRANCHES SHALL BE A MINIMUM OF THREE (3) BRANCHES PER LINEAR FOOT OF ANTENNA STRUCTURE.
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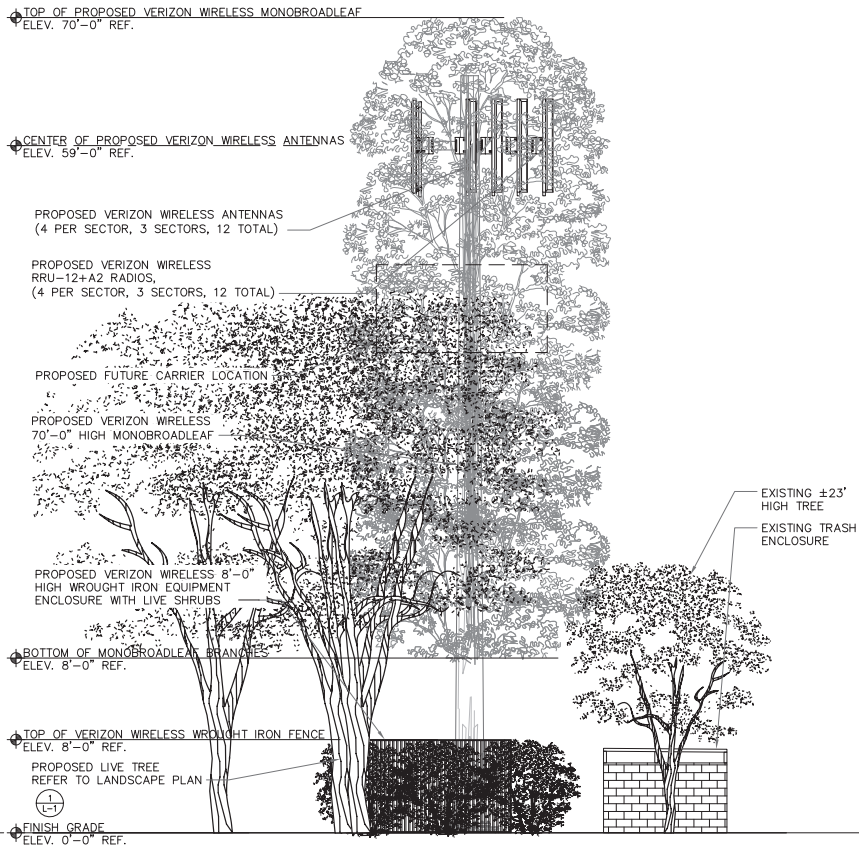
3/2" X 1/4" SCALE: 3/16" = 1'-0"
1 1/2" X 1/4" SCALE: 3/32" = 1'-0"



1 WEST ELEVATION

NOTES:

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3/2" X 1/4" SCALE: 3/16" = 1'-0"
1 1/2" X 1/4" SCALE: 3/32" = 1'-0"



2 EAST ELEVATION



15505 SAND CANYON AVENUE
BUILDING 'D', 1ST FLOOR
IRVINE, CA 92618

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DRAWN BY: TW CHECKED BY: JG

PROJECT INFORMATION:
TOBY
23750 ALESSANDRO BLVD
MORENO VALLEY, CA 92553

RIVERSIDE COUNTY

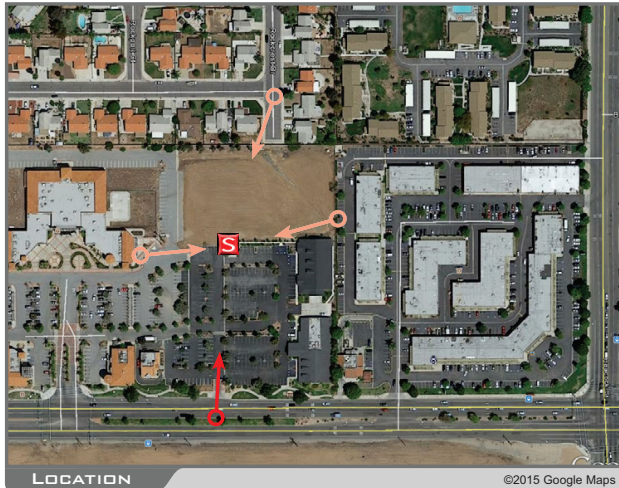
CANDIDATE NAME:
A-OASIS COMMUNITY CHURCH

SHEET TITLE:
EAST & WEST
ELEVATIONS

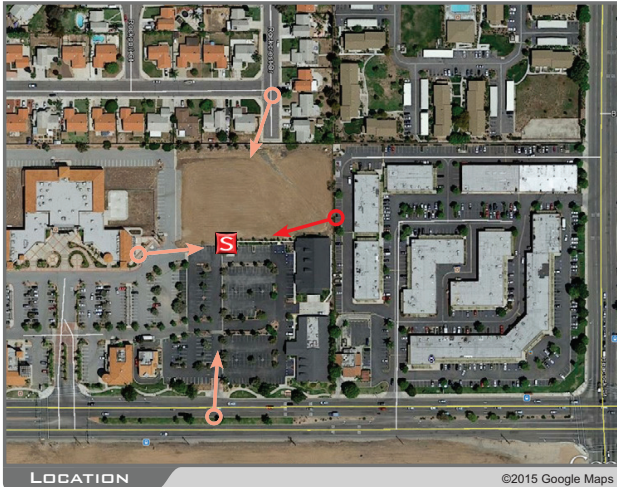
SHEET NUMBER: REV:

A-4 1

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ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.



ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

1c

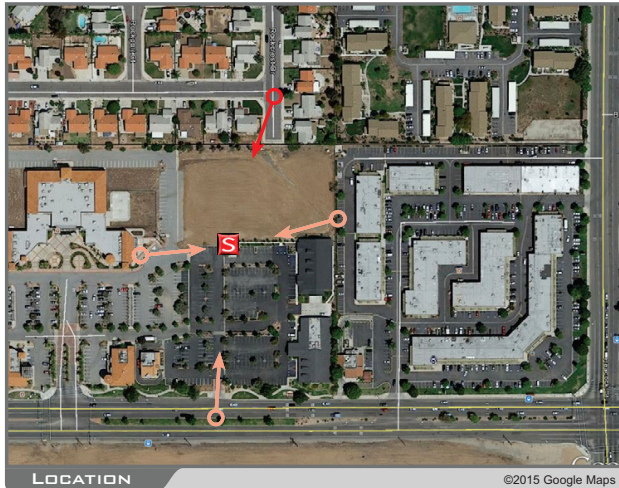


TOBY

24750 ALESSANDRO BOULEVARD MORENO VALLEY CA 92553

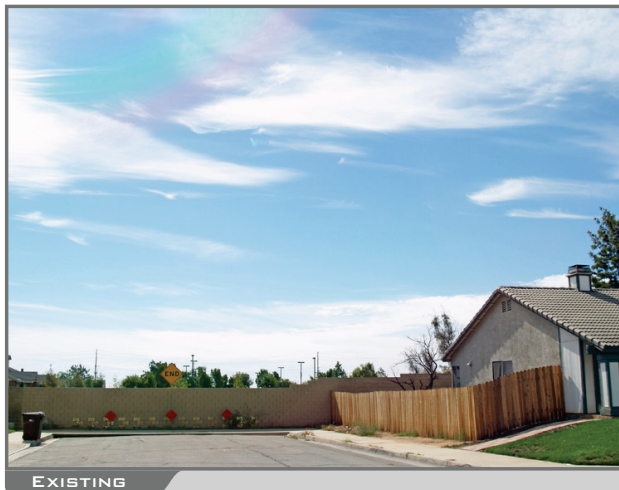


VIEW 3



LOCATION

©2015 Google Maps



EXISTING



PROPOSED

LOOKING SOUTHWEST FROM ROCKCREST DRIVE

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

1c

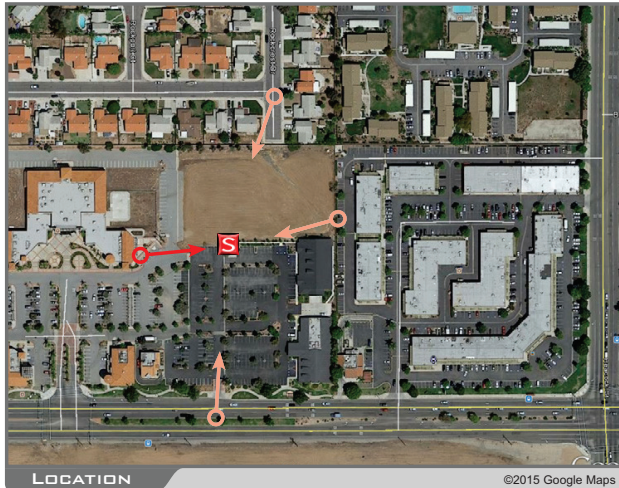


TOBY

24750 ALESSANDRO BOULEVARD MORENO VALLEY CA 92553



VIEW 4



LOCATION

©2015 Google Maps



EXISTING



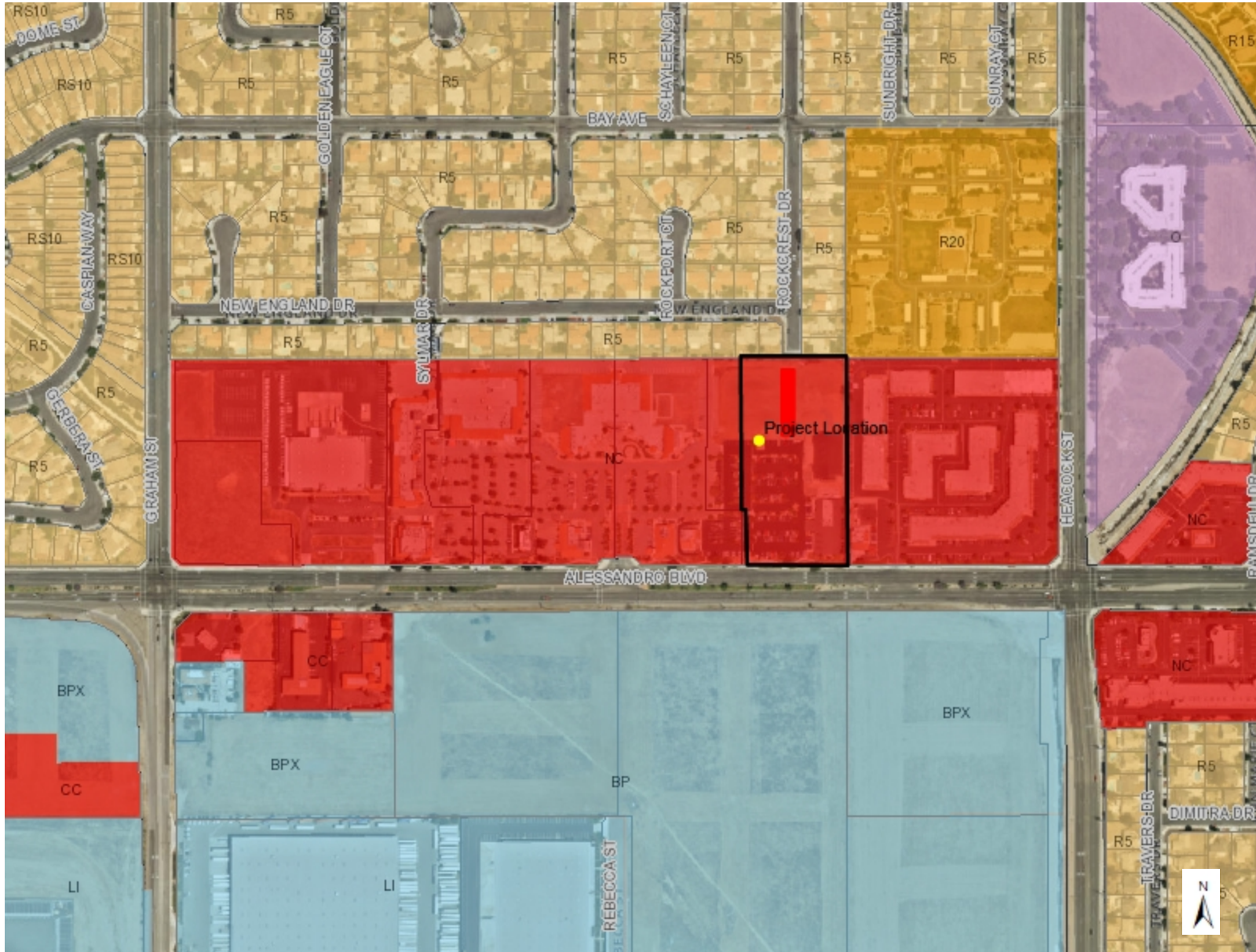
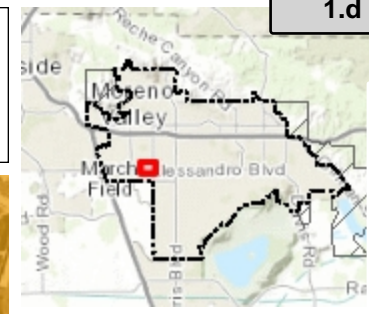
PROPOSED

LOOKING EAST FROM PARKING LOT

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

1c

Zoning PA15-0042



Legend

Zoning

- Commercial
- Industrial/Business Park
- Public Facilities
- Office
- Planned Development
- Large Lot Residential
- Residential Agriculture 2 DU/AC
- Residential 2 DU/AC
- Suburban Residential
- Multi-family
- Open Space/Park

Road Labels

- Parcels

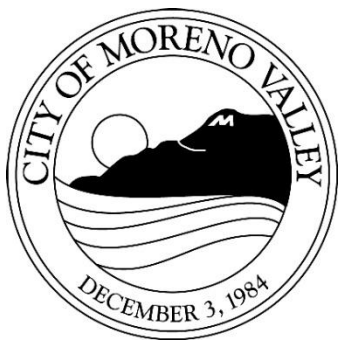
Notes

CUP for wireless facility at 23750 Alessandro Blvd (Oasis Church).
APN: 296-300-005

877.3 0 438.63 877.3 Feet

DISCLAIMER: The information shown on this map was compiled from the City of Moreno Valley GIS and Riverside County GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map.

Attachment: Zoning (1912 : Conditional Use Permit (PA15-0042) for a new wireless facility.)



Notice of PUBLIC HEARING

This may affect your property. Please read. Notice is hereby given that a Public Hearing will be held by the Planning Commission of the City of Moreno Valley on the following item(s):

Project: PA15-0042 (CUP)
Applicant: Verizon Wireless
Owner: Oasis Community Church
Representative: Smartlink LLC (James Rogers)
A.P. No(s): 296-300-005
Location: 23750 Alessandro Boulevard
 (Oasis Community Church)

Proposal: A Conditional Use Permit (CUP) for a new wireless communications facility designed as a simulated 70 foot tall Mono-Broadleaf (Elm Tree) tower. The tower will be located along the north edge of the existing parking lot and behind the existing trash enclosure for the Oasis Community Church. The proposed site is located within a neighborhood commercial zoning district and would be physically located near the parking lot, a vacant lot, and existing retail buildings.

Council District: 5

Case Planner: Claudia Manrique

The project will not have a significant effect on the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (CEQA) as a Class 3 Categorical Exemption, CEQA Guidelines, and Section 15303 for New Construction or Conversion of Small Structures.

Any person interested in any listed proposal can contact the Community Development Department, Planning Division, at 14177 Frederick St., Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday and 7:30 a.m. to 4:30 p.m., Friday), or may telephone (951) 413-3206 for further information. The associated documents will be available for public inspection at the above address.

In the case of Public Hearing items, any person may also appear and be heard in support of or opposition to the project or recommendation of adoption of the Environmental Determination at the time of the Hearing.

The Planning Commission, at the Hearing or during deliberations, could approve changes or alternatives to the proposal.

If you challenge any of these items in court, you may be

limited to raising only those items you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing.



LOCATION N ↑

PLANNING COMMISSION HEARING

City Council Chamber, City Hall
 14177 Frederick Street
 Moreno Valley, Calif. 92553

DATE AND TIME: February 25, 2016 at 7 PM

CONTACT PLANNER: Claudia Manrique
PHONE: (951) 413-3225

Attachment: Public Hearing Notice (1912 : Conditional Use Permit (PA15-0042) for a new wireless facility.)

PLANNING COMMISSION RESOLUTION NO. 2016-02

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORENO VALLEY APPROVING PA15-0042,
A CONDITIONAL USE FOR A NEW VERIZON WIRELESS
TELECOMMUNICATION FACILITY AT 23750
ALESSANDRO BOULEVARD (APN: 296-300-005)

WHEREAS, Verizon has filed an application for the approval of PA15-0042, Conditional Use Permit for a new wireless telecommunications facility with a 70 foot faux mono-broadleaf tree tower as described in the title of this Resolution; and

WHEREAS, the application has been evaluated in accordance with established City of Moreno Valley procedures, and with consideration of the General Plan and other applicable regulations; and

WHEREAS, upon completion of a thorough development review process the project was appropriately agendized and noticed for a public hearing before the Planning Commission of February 25, 2016; and

WHEREAS, on February 25, 2016, the Planning Commission of the City of Moreno Valley conducted a public hearing to consider the application; and

WHEREAS, on February 25, 2016, the Planning Commission of the City of Moreno Valley made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15303, New Construction or Conversion of Small Structures;

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, pursuant to Government Code Section 66020(d)(1), **NOTICE IS HEREBY GIVEN** that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Moreno Valley as follows:

- A. This Planning Commission hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented to this Planning Commission during the above-referenced meeting on February 25, 2016, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:

1. **Conformance with General Plan Policies** – The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The proposed telecommunications facility, as conditioned, incorporates enhanced design elements and stealth features consistent with General Plan Policy 7.7.6. The proposed telecommunications facility is screened from view from the public right-of-way by through siting the Mono-Broadleaf tower and required equipment behind an existing trash enclosure, as required by Section 9.09.040 (Communication facilities, antennas and satellite dishes) of the Municipal Code. Additional landscaping (three broadleaf trees) helps blend the new structure with the existing trees near the site. The proposed site is located approximately 360 feet back from Alessandro Boulevard. The proposed use does not conflict with any of the goals, objectives, policies, and programs of the General Plan.

2. **Conformance with Zoning Regulations** – The proposed use complies with all applicable zoning and other regulations.

FACT: Wireless telecommunications facilities are a conditionally permitted use within the City. As designed and conditioned, the proposed use will comply with all the applicable Municipal Code provisions, including regulations governing the establishment and operation of commercial communication facilities under Section 9.09.040 (Communication facilities, antennas and satellite dishes) of the Municipal Code.

3. **Health, Safety and Welfare** – The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

FACT: The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emissions to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." The proposed project would be consistent with the FCC's regulations for wireless facilities.

The telecommunications improvements as proposed are a common feature in urbanized areas. No health, safety, or welfare problems unique to this location have been identified. The use will improve and continue to provide a choice in wireless communication

reliability in the use's coverage area. In the event of an emergency or natural disaster, the use will be able to continue to function, which can help to enhance the general health, safety, and welfare of the citizens of Moreno Valley.

4. **Location, Design and Operation** – The location, design and operation of the proposed project will be compatible with existing and planned land uses in the vicinity.

FACT: The telecommunications improvements as proposed are a common feature in urbanized areas. Staff worked very closely with the applicant to ensure that the design and the appearance of the mono-broadleaf tower, equipment cabinets, and miscellaneous site improvements would be compatible with the existing church structures and neighboring commercial retail shopping center.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. FEES

Impact, mitigation and other fees are due and payable under applicable ordinances and resolutions. These fees may include but are not limited to: Development Impact Fee, Transportation Uniform Mitigation Fee (TUMF), Multi-species Habitat Conservation Plan (MSHCP) Mitigation Fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in applicable ordinances and resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

The adopted Conditions of Approval for PA15-0042, incorporated herein by reference, include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

3. CITY RIGHT TO MODIFY/ADJUST; PROTEST LIMITATIONS

The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Government Code Section 66020(a) and failure to follow this procedure in a timely fashion will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which a notice has been given similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

BE IT FURTHER RESOLVED that the Planning Commission **HEREBY APPROVES** Resolution No. 2016-02 and thereby:

1. **CERTIFY** that this item is exempt from the provisions of the California Environmental Quality Act (CEQA), as a Class 3 Categorical Exemption, CEQA Guidelines, Section 15303 for New Construction or Conversion of Small Structures; and
2. **APPROVE** Conditional Use Permit PA15-0042 based on the findings contained in the resolution and subject to the conditions of approval included as Exhibit A of the resolution.

APPROVED on this 25th day of February, 2016.

Brian R. Lowell
Chair, Planning Commission

ATTEST:

Richard J. Sandzimier, Planning Official

APPROVED AS TO FORM:

City Attorney

Attached: Conditions of Approval

Attachment: Reso 2016-02 [Revision 2] (1912 : Conditional Use Permit (PA15-0042) for a new wireless facility.)

**CITY OF MORENO VALLEY
 CONDITIONS OF APPROVAL FOR PA15-0042
 CONDITIONAL USE PERMIT FOR COMMUNICATIONS FACILITY
 24750 ALESSANDRO BOULEVARD
 APN: 296-300-005**

APPROVAL DATE: February 25, 2016
EXPIRATION DATE: February 25, 2019

This set of conditions shall include conditions from:

- Planning (P), including Building and Safety (B)**
 Fire Division (F)

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

- P1. Conditional Use Permit (PA15-0042) is an approval for a 70 foot tall mono-broadleaf (elm tree) located at 24750 Alessandro Boulevard (APN: 296-300-005), behind the existing trash enclosure for the Oasis Community Church. The applicant is Verizon Wireless.
- P2. The antennas arrays and panels will be covered with foliage socks to mimic leaves. All ancillary equipment and hardware attached to the top portion of the mono-broadleaf (elm tree) shall be painted green to match the tree. Starting branch height shall be no lower than 15-feet.
- P3. The pole shall be designed to resemble a natural broadleaf (elm) tree trunk including raised bark with a high relief pattern.
- P4. Any existing landscaping near the lease area that is damaged or removed as a result of any proposed work shall be replaced.
- P5. There shall be no signage or graphics affixed to the equipment, equipment building, or fence, except for public safety warnings and FCC required signage.
- P6. The proposed ground equipment shall be placed behind a tubular steel fence enclosure and must not exceed eight (8) feet in overall height.

Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):

R - Map Recordation	GP - Grading Permits	CO - Certificate of Occupancy or building final
WP - Water Improvement Plans	BP - Building Permits	P - Any permit

Governing Document (see abbreviation at the end of the affected condition):

GP - General Plan	MC - Municipal Code	CEQA - California Environmental Quality Act
Ord - Ordinance	DG - Design Guidelines	Ldscp - Landscape Requirements
Res - Resolution	UFC - Uniform Fire Code	UBC - Uniform Building Code
	BM - Subdivision Map Act	

Attachment: Exhibit A - Conditions of Approval (1912 : Conditional Use Permit (PA15-0042) for a new wireless facility.)

CONDITIONS OF APPROVAL
 PA15-0042 - Conditional Use Permit
 PAGE 2

- P7. A total of three (3) broadleaf trees shall be planted near the project's equipment enclosure. The tree species may include *Brachychiton Populneus* (Bottle Tree Evergreen), *Tristania Conferta* (Brisbane Box), *Magnolia Grandiflora* (Russet Evergreen) or *Fraxinus Uhdei* (Orange County/Evergreen Ash). The initial height of the newly planted trees shall be a minimum of 18' or 48" box. Additional required landscaping onsite includes shrubs planted along the perimeter to screen the tubular steel fence surrounding the lease area.
- P8. Any existing fencing, concrete work, or site amenities damaged or removed near the lease area as a result of any proposed work, shall be repaired, replaced or relocated to original condition.
- P9. All utility and coaxial connections to the equipment building/screened area shall be undergrounded. All connections to the mono-broadleaf (elm tree) shall be underground, installed within the equipment building or located within the lease area below the height of the eight foot (8') tubular steel fencing.
- P10. The antenna array shall not extend beyond the lease area and any ground equipment associated with the telecommunications facility shall be placed within the enclosure.
- P11. All proposed ancillary equipment shall be placed within the confines of the equipment area. No barbed or razor wire fencing shall be used for the facility.
- P12. At such time as the facility ceases to operate, the facility shall be removed. The removal shall occur within 90-days of the cessation of the use. The Conditional Use Permit may be revoked in accordance with provisions of the Municipal Code. (MC 9.02.260)
- P13. This approval shall comply with all applicable requirements of the City of Moreno Valley Municipal Code.
- P14. This approval shall expire three (3) years after the approval date of Conditional Use Permit PA15-0042 unless used or extended as provided for by the City of Moreno Valley Municipal Code; otherwise it shall become null and void and of no effect whatsoever. Use means the beginning of substantial construction contemplated by this approval within the three-year period, which is thereafter pursued to completion, or the beginning of substantial utilization contemplated by this approval. (MC 9.02.230)
- P15. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris by the developer or the developer's successor-in-interest. (MC 9.02.030)
- P16. The site shall be developed in accordance with the approved plans on file in the Community Development Department - Planning Division, the Municipal Code regulations, the Landscape Requirements, the General Plan, and the conditions contained herein. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the City Planning Official or designee. (MC 9.14.020, Ldscp)

CONDITIONS OF APPROVAL
PA15-0042 - Conditional Use Permit
PAGE 3

- P17. (CO) Prior to issuance of a building final, the applicant shall contact the Planning Division for a final inspection.

Building and Safety Division

- B1. New buildings/structures shall comply with the current California Building Standards Code (CBC, CEC, CMC, CPC and Green Building Standards) as well as City ordinances. Plans shall be submitted to the Building and Safety Division as a separate submittal and shall include a soils report at time of first submittal.
- B2. Building plans and instruments of service submitted with a building permit application shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.
- B3. The proposed new development is subject to the payment of development fees as required by the City's Fee Ordinance at the time an application is submitted or prior to the issuance of permits as determined by the City.

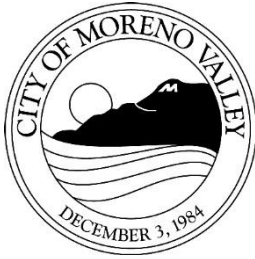
CONDITIONS OF APPROVAL
PA15-0042 - Conditional Use Permit
PAGE 4

FIRE PREVENTION BUREAU

With respect to the conditions of approval for **PA15-0042**, the following fire protection measures shall be provided in accordance with Moreno Valley City Ordinance's and/or recognized fire protection standards.

Standard Conditions:

- F1. A flammable/combustible liquids permit shall be obtained from the Fire Prevention Bureau before installing a fuel tank that will contain an excess of 10 gallons of class I liquids or a fuel tank that will contain an excess of 60 gallons of class II or IIIA liquids.
- F2. A fire extinguisher with a minimum rating of 3A:40BC shall be mounted in an accessible location within the cell site enclosure next to the fueled generator.
- F3. A Knox box shall be mounted next to the access door on the exterior wall or gate at a height of 6 feet.



PLANNING COMMISSION

STAFF REPORT

Meeting Date: February 25, 2016

EXTENSION OF TERM FOR THE AQUABELLA DEVELOPMENT AGREEMENT FOR FIVE YEARS AS PROVIDED FOR IN THE AGREEMENT AND THE ANNUAL REVIEW OF THE AGREEMENT.

Case: P15-108
Applicant: Highland Fairview
Owner: Highland Fairview
Representative: Wayne Peterson
Location: South of Iris Avenue to Cactus Avenue
Case Planner: Julia Descoteaux
Council District: 3

RECOMMENDED ACTION

Recommendations:

1. That the Planning Commission recommends that the City Council accept the Aquabella Development Agreement Annual Report as submitted by Highland Fairview finding that the property owner has complied in good faith with the terms, obligations and conditions of the Aquabella Development Agreement, and
2. That the Planning Commission recommends that the City Council authorize the Mayor to sign the Extension of Term Agreement for the Aquabella Development Agreement to approve a five year extension of the Development Agreement extending the term to January 12, 2021, as provided for in Section 2.3.2 of the Development Agreement adopted by Ordinance No. 704.

SUMMARY

On December 4, 2015, Highland Fairview, as required pursuant to California Government Code Section 65865.1, and Section 15.1 of the Aquabella Development Agreement (“Agreement”) (Attachment 1), submitted an Annual Report of the Agreement demonstrating the property owner’s good faith compliance with the terms, obligations and conditions of the Agreement (Attachment 2). In addition, on November 30, 2015, Highland Fairview submitted a written request for the City to approve a five year extension to the Term of the Agreement (Attachment 3). Provisions for such an extension are provided for in Section 2.3.2 of the Agreement.

The request for the term extension was agendized for consideration and action by the City Council at the January 5, 2016 meeting. However, the item, with mutual agreement from Highland Fairview, was pulled from consideration by the City Council with an expressed understanding that the item would first be presented to the Planning Commission for their review and recommendation to the City Council. It is noted that consideration and action on a requested term extension, after expiration of the current term, is allowed by provisions within Section 2.3.5 of the approved Development Agreement.

Upon thorough consideration of the submittals it is Staff’s recommendation that the Planning Commission recommend that the City Council accept the Annual Report, and approve the five-year term extension of the Agreement. The new Term would extend through January 12, 2021.

BACKGROUND

A Development Agreement is a negotiated instrument that allows a developer or property owner to protect project approvals for a fixed period of time. In exchange for long term vested rights, the City can require certain negotiated exactions.

On December 13, 2005, the City Council approved an amendment to Specific Plan No. 218 (formerly known as the Moreno Valley Field Station Specific Plan), creating the Aquabella Specific Plan, and approving the Aquabella Development Agreement (an Agreement by and between the City of Moreno Valley and Moreno Valley Properties, LP). The effective Date of the Agreement was established as January 12, 2006.

The Term of the agreement began on the Effective Date of Ordinance 704, which as noted above was January 12, 2006. As specifically set forth in Section 2.3 of the Agreement, the “Normal Term” (Section 2.3.1) was approved for ten years unless the Agreement is earlier terminated, modified or extended. The Normal Term was not affected in any way since approval of the original Agreement; therefore, the Term did terminate on January 12, 2016. However, as noted above in this staff report, Section 2.3.5 of the Development Agreement provides for the City to process the request after the January 12, 2016 expiration date.

Section 2.3.2 of the Agreement sets forth the provision for three extensions of term, with each extension of term not to exceed a maximum of five years. Any extension of the Term of the Agreement shall be upon the same terms and conditions contained in the Agreement and any modifications thereto.

The Agreement has been modified once previously. The First Amendment to the Development Agreement which became effective July 28, 2011, modified Section 1.2.3 of the Agreement in two principal ways. The land area covered by the Agreement was reduced from 685 acres to 671.8 acres of the overall 760-acre Aquabella Specific Plan area. Secondly, the maximum number of allowed dwelling units was reduced from 2,922 to 2,702.

If the requested five-year extension of Term is approved, all of the same terms and conditions as noted above will continue with no other modifications tied to the action.

DISCUSSION

Annual Review

The Agreement provides that the developer shall submit to the City written documentation demonstrating good-faith compliance with the terms of the Agreement. City staff shall review the developer's written documentation and any other applicable evidence and make a recommendation to the City Council as to whether the developer is in compliance with the obligations of the Agreement.

Highland Fairview Properties (the entity developing property owned by Moreno Valley Properties, LP) submitted a letter to the City (Attachment 2) dated December 4, 2015, which identifies the obligations of the Agreement, the general status of the project and the developer's statements of good-faith compliance.

This performance based Agreement includes certain triggers requiring improvements or other provisions. For example, prior to construction of the 585th dwelling unit, the Agreement provides for the completion of the entry statement, clubhouse facility and certain street and intersection improvements. At this time, the project development activity has not reached the criteria necessary to require the Developer to perform any of the obligations of the Agreement.

At present, approximately one half of the project site has been mass graded, and the erosion control and site stabilization features are in place. The grading operation has ceased as of December 2007 and the developer has surrendered the mass grading permit.

Extension of Term

The developer, Highland Fairview in submitting their request (Attachment 3) to extend the Aquabella Development Agreement for an additional five (5) years has noted that "while there are some indications of improving economic conditions that should have a

positive effect on the housing market, there was not yet enough strength in the market during the last several years to support the project.”

Per the approved Agreement, the original term was for a period of ten (10) years that commenced on January 12, 2006 with a provision for three (3) extensions of no more than five (5) years each as stated in Section 2.3.2. No actions or development have occurred affecting the General Provisions of the Development Agreement.

Section 2.3.4.4 states the developer must complete to the reasonable satisfaction of the City Engineer, and offer for dedication that portion of the public infrastructure set forth in the Circulation Phasing Improvement Program (Exhibit “B” of Attachment 1) required for each extension. Specifically, section 2.3.4.4.1 states, prior to the granting of the first extension, all improvements listed as Phase 1 shall be completed. The infrastructure improvements include street and signal improvements in the vicinity of the project and further from the project area where project impacts were identified. To date all of the infrastructure improvements listed in Phase 1 have been completed except two, Nason Street at Fir, the second north/west bound turn lane, and Lasselle Street at Delphinium for a traffic signal. The completed improvements were completed by the City of Moreno Valley based on the City initiated Economic Development Strategy and funded by various funding sources including Measure A monies, a grant obtained by the City and several development impact funds.

The remaining two improvements are not warranted due to the lack of physical development. It is recommended that the extension not be withheld as these remaining improvements still remain an obligation of the project.

NOTIFICATION

Posting of the Agenda.

ALTERNATIVES

1. That the Planning Commission recommends that the City Council Accept the Aquabella Development Agreement Annual Report as submitted by Highland Fairview finding that the property owner has complied in good faith with the terms, obligations and conditions of the Aquabella Development Agreement, and **(Staff recommendation)**
2. That the Planning Commission recommends that the City Council Authorizes the Mayor to sign the Extension of Term (Attachment 1) Agreement for the Aquabella Development Agreement to approve a five year extension of the Development Agreement extending the term to January 12, 2021, as provided for in Section 2.3.2 of the Development Agreement adopted by Ordinance No. 704. **(Staff recommendation)**
3. That the Planning Commission recommends that the City Council Reject the Annual Report based on evidence that the developer is in default.

(Staff does not recommend this alternative)

4. That the Planning Commission recommends that the City Council Reject the request for an Extension of Term of the Aquabella Development Agreement.
(Staff does not recommend this alternative)

5. That the Planning Commission recommends that the City Council Modify the request for an Extension of Term of the Aquabella Development Agreement for a period of less than five (5) years.
(Staff does not recommend this alternative)

Prepared by:
Julia Descoteaux
Associate Planner

Approved by:
Richard J. Sandzimier
Planning Official

ATTACHMENTS

1. Final DA - AquaBella
2. Annual Report from HF
3. Ext Request 11-30-15 HF

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Moreno Valley
Attn: City Clerk
P.O. Box 88005
Moreno Valley, California 92552-0805

(SPAC

DOC # 2006-0118138

02/16/2006 08:00A Fee:NC

Page 1 of 55

Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder



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AQUABELLA DEVELOPMENT AGREEMENT
DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF MORENO VALLEY
AND
MORENO VALLEY PROPERTIES, LP,
RELATIVE TO THE DEVELOPMENT KNOWN AS
SPECIFIC PLAN NUMBER 218 AND AMENDMENTS THERETO

January 12, 2006

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CITY CLERK
MORENO VALLEY
RECEIVED

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this 12th day of January, 2006 (the “Effective Date”), by and between (i) the CITY OF MORENO VALLEY, a municipal corporation organized and existing under the laws of the State of California (the “City”), and (ii) MORENO VALLEY PROPERTIES, LP, a Delaware limited partnership (the “Master Developer”), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code. City and Master Developer may be referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864 et seq. of the California Government Code, which authorizes the City to enter into a development agreement with any person or entity having a legal or equitable interest in real property, providing for the development of such property and establishing certain reciprocal rights and obligations related to such development.

B. To implement the above-described state laws, the City adopted Section 9.02.110 of the Moreno Valley Municipal Code, establishing procedures and requirements for considering and approving development agreements.

C. The Master Developer has a legal and equitable interest in certain real property situated in the City, and therefore satisfies the statutory requirements to enter into this Agreement. This real property comprises approximately six hundred eighty-five (685) acres (the “Property”), more particularly described in Exhibit “A” attached hereto.

D. The Master Developer includes certain key Principals and personnel who are sophisticated and experienced real estate developers with substantial experience in the development and management of high quality residential neighborhoods.

E. The City, on September 20, 1988, adopted Resolution No. 88-75 approving the Moreno Valley General Plan (the “General Plan”).

F. The City, on February 23, 1999, introduced Ordinance No. 548 approving Specific Plan 218, and adopted Resolution No. 99-13, approving a General Plan Amendment (GPA 1) and certifying the Final Environmental Impact Report, including findings and a statement of overriding considerations relating to the Specific Plan and findings of consistency with the General Plan, and approved mitigation measures for the Specific Plan (together, the “EIR”). On March 9, 1999, the City adopted Ordinance No. 548, approving Specific Plan 218 and related conditions of approval (the “Specific Plan”).

G. The City, on May 27, 2003, approved the Supplemental EIR adopted by Resolution No. 2003-38 supporting the aforementioned entitlements for the Property.

H. The City, on November 22, 2005, adopted Ordinance No. 703, amending Specific Plan 218 and related conditions of approval ("SPA"); Resolution No. 2004-11, approving General Plan Amendment No. PA04-0070 (the "GPA 2"); and Resolutions No. 2004-11 and 2004-12, and Ordinance No. 703 approving an addendum to the certified EIR and Supplemental EIR (the "Addendum").

I. The Master Developer intends to make application to the City for one or more subdivision maps (the "Map" or the "Maps").

J. The Specific Plan, the SPA, the GPA 1, the GPA 2, the EIR, the Supplemental EIR, and the Addendum to the EIR as heretofore approved, and the Maps which collectively comprise the "Project Approvals," are incorporated herein by this reference. The Master Developer desires to develop the Property in accordance with the Project Approvals and this Agreement. Such development of the Property, as contemplated by the Project Approvals and subject to any refinements agreed upon by the Parties, is referred to herein as the "Project."

K. The implementation of this Agreement will provide the City with significant public benefits in the form of facilities, programs and revenues as set forth in Section 6 of this Agreement. Consequently, entering into this Agreement is acknowledged to be to the mutual benefit of the Parties.

L. The City Council, on November 22, 2005, made all findings and determinations relating to this Agreement which are required by Municipal Code Section 9.02.110, and by its introduction of Ordinance No. 704, and approved this Agreement by its adoption Of Ordinance No. 704 on December 13, 2005. In doing so, the City Council determined that this Agreement is consistent with the General Plan.

M. The City Council finds that execution of this Agreement and the performance of and compliance with the terms and conditions set forth herein by the Parties: (i) is in the best interests of the City; (ii) will promote the public convenience, general welfare and good land use practices in the City; (iii) will provide benefits to the City; (iv) will provide an upscale, high-quality active adult community; (v) will encourage the development of the Project by providing a reasonable level of certainty to the Master Developer; and (vi) will provide for orderly growth and development in a manner consistent with the General Plan and other plans and regulations of the City.

NOW, THEREFORE, in consideration of the above Recitals, all of which are expressly incorporated into this Agreement, and the mutual promises and obligations of the Parties set forth herein, the Parties agree as follows:

AGREEMENT

SECTION 1. DEFINITIONS

The following terms when used in this Agreement shall be defined as follows:

1.1 "Agreement" means this Development Agreement.

1.2 "Amended Specific Plan" means Specific Plan 218 as amended by the Specific Plan Amendment (SPA).

1.3 "Assignee Developer" means a developer to whom any of the rights, duties or obligations of this Agreement have been assigned in conformity with all assignment provisions contained herein.

1.4 "Builder" means a merchant homebuilder who has or may acquire portions of the Property consistent with this Agreement for purposes of constructing residential housing units, but to whom no direct Assignment, in whole or in part, of this Agreement has been made.

1.5 "Circulation Phasing Improvement Program" means the City approved plan for the phasing of public traffic circulation improvements for the Project addressed in Section 6.2, below and attached hereto and incorporated herein as Exhibit "B".

1.6 "City" means the City of Moreno Valley, a municipal corporation organized and existing pursuant to the laws of the State of California.

1.7 "City Council" means the City Council of the City of Moreno Valley.

1.8 "Covenants, Conditions and Restrictions" or "CC&Rs" shall mean the restrictions governing the use of real property. CC&Rs include, but are not limited to written rules, limitations and restrictions on use of real property mutually agreed to by all owners of real property in a common interest development as provided for in California Civil Code Section 1351 *et seq.* CC&Rs are enforceable by the homeowners association or by individual owners who can bring lawsuits against violators and are recorded, permanent and "run with the land" so future owners are bound to the same rules. A copy of the CC&Rs shall be recorded with the Riverside County Recorder and be provided to any prospective purchaser.

1.9 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the

Property; the construction of residential dwelling units, buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.10 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property including, but not limited to:

- 1.10.1.1 The City's General Plan and amendments thereto;
- 1.10.1.2 Specific Plans and Amendments;
- 1.10.1.3 Planning Area Development Implementation Plans;
- 1.10.1.4 Tentative and final subdivision and parcel maps;
- 1.10.1.5 Conditional use permits, variances, site plot plans;
- 1.10.1.6 Zoning amendments;

1.11 "Development Impact Fees" or "DIF" means all City adopted fees and monetary Exactions that are designed to pay for new or expanded public facilities needed to serve, or to mitigate the adverse effects of, a given development project and that are imposed by the City by ordinance or resolution of general application or as a condition of approval of discretionary or ministerial permits for, or in connection with, the implementation of that development project. The term "Development Impact Fees" (the "DIF") does not include processing fees and charges as described in this Agreement.

1.12 "Effective Date" means the effective date of the ordinance approving this Agreement.

1.13 "Exaction" means any requirement of City in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of money in order to provide public benefit or lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests. The term "Exaction" shall not include City administrative, permit processing or other City-wide imposed fees to cover the estimated or actual costs to City of processing applications for Development Approvals, Subsequent Development Approvals, or costs associated with preparation or implementation of this Development Agreement or for monitoring compliance with any Development Approvals which may be granted or issued pursuant to this Agreement.

1.14 “Existing Project Approvals” means all Project Approvals approved or issued prior to the Effective Date and all other Approvals which are a matter of public record on the Effective Date.

1.15 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date and all other Development Regulations which are a matter of public record on the Effective Date.

1.16 “Homeowners’ Association” (HOA) shall mean a master association of homeowners, and any associations of homeowners subsidiary to the master association, in the Project area organized and existing pursuant to the laws of the State of California for the purposes stated in the association’s articles of incorporation and/or bylaws to provide, operate and maintain common or community facilities for the enjoyment of the Project’s residents to include at a minimum streets, curbs, gutters, sidewalks, street lighting, signage, drainage and flood control facilities, any other private supporting infrastructure, landscaping, walls, lakes, the Main Clubhouse and its amenities, and other recreational facilities throughout the Project, including, but not limited to, community buildings and amenities, private parks, trails, and greenbelts.

1.17 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. By way of example and not limitation, “Land Use Regulations” does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

1.17.1 The conduct of businesses, professions, and occupations;

1.17.2 Taxes, fees (including, without limitation, Processing Fees and Development Impact Fees) and assessments;

1.17.3 The control and abatement of nuisances;

1.17.4 The granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;

1.17.5 The exercise of the power of eminent domain.

1.18 “Master Design Guidelines” means the overall vision of the thematic and qualitative characteristics for the Project, as mutually agreed upon by the Master Developer and City and memorialized in the SPA and elsewhere in the Project Approvals. Subsequent Development Approvals shall be consistent with the Master Design Guidelines.

1.19 "Master Developer" means MORENO VALLEY PROPERTIES, LP, any City approved Assignee or successor in interest to MORENO VALLEY PROPERTIES, LP, and/or any City approved Assignee or successor in interest to the obligations of the Master Developer set forth in Section 6 of this Agreement.

1.20 "Mortgagee" means a beneficiary or any other security-device lender under a mortgage, deed of trust, sale-and-lease-back, pledges of ownership interests in Master Developer, collateral assignments, or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the Property, Master Developer, or both, and as well as such entities' successors and assigns.

1.21 "Planning Area Development Implementation Plan" ("PADIP") means a development plan for the implementation of defined areas within the SPA. The PADIP will include: a detailed architectural and landscaping theme consistent with the Master Design Guidelines; infrastructure and common area improvements to support a self-sustaining development; and the requirements established through the Project Approvals and Development Approvals.

1.22 "Processing Fees" means City Council adopted fees and charges for processing applications for City actions or approvals.

1.23 "Project" means the development of the Property contemplated by the SPA and implemented through PADIPs as defined herein which may be further defined, enhanced or modified pursuant to the provisions of this Agreement. This Agreement pertains to six hundred eighty-five (685) acres of the seven hundred sixty (760) acres comprising the Specific Plan area. The 685 acres will be developed as a gated age-restricted community with common amenities to be maintained by one or more Homeowner's Association(s). The Project contemplates a maximum of two thousand nine hundred twenty-two (2922) dwelling units and other uses as defined in the Project Approvals, with the exception of two hundred twenty (220) dwelling units (specifically identified in the SPA) that may or may not be age-restricted.

1.24 "Project Approvals" means The Specific Plan, the SPA, the GPA 1, the GPA 2, the EIR, the Supplemental EIR, the Addendum EIR and all Subsequent Development Approvals including without limitation their respective conditions of approval.

1.25 "Property" means the real property described on Exhibit "A" to this Agreement and made a part herein by this reference.

1.26 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Effective Date in connection with development of the Property.

1.27 “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

SECTION 2. GENERAL PROVISIONS

2.1 Duration of Project Approvals. The Project Approvals shall remain valid and in effect for the entire term of this Agreement, and the City shall take no action to rescind, revise or otherwise modify the Project Approvals, except with the prior written consent or upon the request of the Master Developer (provided that such request shall not obligate the City to rescind, revise or otherwise modify the Project Approvals or this Agreement). Other than for modifications of this Development Agreement, the City’s General Plan as applied to the Project, the GPA and GPA2, the Specific Plan and the SPA, individual Builders or property owners may apply for modification of the Project Approvals applicable to their own land without consent or approval of other parties holding interests in the Project, provided that any such modification does not materially affect other land or obligations of any party under this Agreement or the Project Approvals. Individual Builders or property owners may apply for modification of the Development Agreement, the General Plan and the Specific Plan only with the consent of the Master Developer and all approved Assignees of the Master Developer. Nothing in this Agreement shall be interpreted to supersede or conflict with any applicable State or Federal law, rule or regulation pertaining to any specific Project Approval.

2.2 Duration of Permits. Permits issued for the Project shall not have any time added to their duration or validity by this Agreement than what is already provided for in the applicable law governing such permit.

2.3 Term of Agreement.

2.3.1 Normal Term. The Term of this Agreement shall commence on the Effective Date of the ordinance approving this Agreement (the “Effective Date”), and shall extend for a period of ten (10) years thereafter, unless this Agreement is earlier terminated, modified or extended in accordance with the provisions of this Agreement.

2.3.2 Extension. The ten-year Term of this Agreement may be extended three times. Each extension shall be separately considered by the City according to the provisions in this Agreement. Each extension shall be for a maximum of five (5) years. An extension of the Term of this Agreement shall be upon the same terms and conditions contained in this Agreement and any modifications thereto.

2.3.3 Extension Application. Master Developer shall submit its application for an extension of this Agreement no later than six (6) months prior to its expiration. City may, at its sole discretion, accept a late application for an extension of this Agreement, but under no circumstances shall the City be

obligated by law or in equity to accept or consider an application for extension of this Agreement after the date of expiration of its then current Term.

2.3.4 Extension Granted. Each of the five (5) year extensions of the Term of this Agreement provided for in Subsection 2.3.2 above shall be granted upon determination by the City of the following:

2.3.4.1 All obligations of the Master Developer under Section 6 of this Agreement have been or are being completed in conformance with the standards and timing required by this Agreement, the Circulation Phasing Improvement Program, (Exhibit "B" to this Agreement which is incorporated herein by this reference), and the Project Approvals.

2.3.4.2 The architecture, construction and amenities of the portions of the Project that have been completed meet the standards set forth in Section 6.12 of this Agreement, the related Project Approvals and the Master Design Guidelines.

2.3.4.3 For purposes of determining consistency with the Master Design Guidelines, approval of discrete portions of the Project in the normal course of development by the appropriate entity (e.g. Planning Commission) and certification of passing the City final inspection shall satisfy this requirement.

2.3.4.4 The Master Developer has completed to the reasonable satisfaction of the City Engineer, and offered for dedication, that portion of the public infrastructure set forth in the Circulation Phasing Improvement Program (Exhibit "B") required for each extension as follows:

2.3.4.4.1 Prior to the granting of the first extension, all improvements listed as Phase 1.

2.3.4.4.2 Prior to the granting of the second extension, all improvements listed as Phase 2.

2.3.4.4.3 Prior to the granting of the third extension, all improvements listed as Phase 3.

2.3.4.5 The Master Developer has not abandoned the Project. If the Master Developer has abandoned the Project as set forth herein, this Agreement shall be deemed automatically terminated and of no further force and effect. The Master Developer shall be deemed to have abandoned the Project if any of the following occur at any time:

2.3.4.5.1 The Master Developer is dissolved or has filed a voluntary petition for dissolution in bankruptcy or been adjudicated bankrupt in an involuntary dissolution proceeding. Provided however, that if a voluntary petition for dissolution is filed and the affected Mortgagee notifies the City in writing within thirty-five (35) days of service of notice of the petition to the

Mortgagee as shown in the bankruptcy court's records that the Mortgagee intends to pursue possession of the Property and assumption of this Agreement and thereafter diligently pursues such rights, the Master Developer shall not be deemed to have abandoned the Project.

2.3.4.5.2 The Master Developer notifies the City in writing that it no longer intends to pursue development of the Project.

2.3.4.5.3 The Master Developer has not submitted public improvement agreements, construction plans and required security for public improvements, all in form and substance reasonably acceptable to the City using its normal review processes, for all public improvements required hereinabove for each extension at least two years prior to the expiration of the then current Term of this Agreement.

2.3.4.5.4 Abandonment of the Project shall be a material breach of this Agreement.

2.3.4.6 There are no outstanding material breaches of this Agreement, or material defaults under the Project Approvals, public improvement agreements or bonds issued in connection with the Property or Project which are not being diligently cured within any time permitted for such cure under the applicable document. Approval of any extension may be withheld under this provision until such cure is completed within the allotted cure period. The City's ability to grant an extension of the term of this Agreement shall not terminate during the pendency of such cure period so long as the Master Developer, or its City approved Assignee, is taking reasonable steps to effect such cure to the reasonable satisfaction of the City Manager.

2.3.4.7 For purposes of considering an extension of the term of this Agreement, the estoppel and waiver provisions of Section 15 (Subsections 15.6 and 15.7) shall apply.

2.3.5 Maximum Term. If the granting of an extension of the term of this Agreement occurs after the expiration of the Term of this Agreement, or any prior extension thereof, the extension of five (5) years shall be reduced by the total number of days that have elapsed after the original date of expiration of Term. Except as otherwise specifically allowed herein, this Agreement, shall not be effective for more than twenty-five (25) years from its Effective Date.

2.3.6 Termination Upon Completion.

2.3.6.1 If not already terminated by reason of any other provision hereof, this Agreement shall automatically terminate upon: (i) total build-out of the Project pursuant to the Project Approvals and any amendments thereto; (ii) the issuance of all occupancy permits for structures requiring such permits, or final building inspections for improvements on the Property; and (iii) acceptance by the City of all dedications of public rights-of-way and public

improvements (to the extent the City elects to accept dedication of public rights-of-way and public improvements).

2.3.6.2 Similarly, where all such conditions have been satisfied with respect to any Planning Area designated in the Specific Plan, provided that all fees have been paid or credited and provided that the Master Developer obligations required by that time have been completed as set forth in Section 6 of this Agreement and the Project Approvals, then the Master Developer may make a written request, and the City Manager shall review and act upon the written request, to terminate this Agreement as to the affected Planning Area. The City Manager shall act upon said request within thirty (30) days of receipt. If the request is not granted, the City Manager shall specify in writing all reasons for denying the request.

2.3.6.3 For purposes of Termination Upon Completion hereunder, "total build-out" shall mean the completion of all construction in the Project, or in any Planning Area of the Project, of all buildings, structures, infrastructure, improvements, landscaping and associated amenities contemplated, required or permitted by the Specific Plan, all other infrastructure required by this Agreement or the Project Approvals, and performance by the Master Developer and the City of all of their respective obligations hereunder.

2.3.6.4 This Agreement shall automatically terminate as to any individual dwelling unit upon close of escrow for a sale to an end user of that dwelling unit and issuance of a certificate of occupancy or final City inspection for that unit.

2.4 Binding Effect of Agreement.

2.4.1 Covenant. This Agreement shall bind, and inure to the benefit of, the respective Parties and their successors in interest, including their heirs, representatives, assigns, partners and investors. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land as to the Property. However, there shall be no third party beneficiaries of this Agreement, except that this Agreement shall be enforceable by the City on behalf of any of its subsidiary or affiliated public agencies or special districts, including without limitation, its Community Redevelopment Agency, Community Services Districts, or Community Facilities Districts.

2.4.2 No Property Interest. Nothing herein shall be construed as a dedication or transfer of any right or interest in, or as creating a lien with respect to, title to the Property.

SECTION 3. PROJECT DEVELOPMENT REQUIREMENTS

3.1 Property Ownership. Master Developer represents and covenants that it is the owner of the fee simple title to the Property.

3.2 Development. Master Developer shall develop the Project in accordance with the Project Approvals and this Agreement. During the term of this Agreement, the permitted uses within the Project, the density and intensity of use, maximum height and size of buildings, other zoning standards, the requirements for reservation or dedication of land for public purposes, the mitigation requirements and all other terms and conditions of development of the Project shall be those set forth in the Project Approvals. Except as specifically provided for in the Project Approvals and/or this Agreement, the Project shall be developed and maintained as an age-restricted active adult community as more fully set forth in Section 6.8.

3.3 Rules and Regulations. Pursuant to Government Code Section 65866, and except as otherwise provided in this Agreement, the regulations, rules and official policies of the City governing (i) permitted uses within the Project, (ii) density and intensity of use, (iii) design, improvement and construction standards and specifications, and (iv) all other terms and conditions of development of the Project shall be those regulations, rules and official policies which are in effect on the effective date of the ordinance approving this Agreement, except as set forth under the Reservations of Authority below, (the "Applicable Regulations").

3.4 Building Permits. The Master Developer shall have the right to obtain building permits consistent with the Project Approvals, Land Use Regulations and Subsequent Land Use Regulations as set forth in this Agreement for the entire life of this Agreement and any extensions thereof.

3.5 Timing of Development. The parties acknowledge that Master Developer cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of Master Developer, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that Master Developer shall have the right to develop the Property in such order and at such rate and at such time as Master Developer deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Project Approvals. Master Developer expects to accomplish street and traffic signal improvements in conformity with the *Circulation Phasing Improvement Program* (Exhibit "B").

SECTION 4. RESERVATION OF AUTHORITY

4.1 Subsequent Land Use Regulations and Processing Requirements. Notwithstanding any other provision of this Agreement, the following Subsequent

Land Use Regulations shall apply to the development of the Property:

4.1.1 City Council amended or adopted Processing Fees and charges applicable to all developments imposed by City to cover the estimated actual costs to City of processing applications for development approvals or for monitoring compliance with any development approvals granted or issued.

4.1.2 City Council amended or adopted DIF, except as otherwise provided for in this Agreement.

4.1.3 Fees adopted by the City Council to implement regional mitigation programs (e.g. Transportation Uniform Mitigation Fee (TUMF), Western Riverside County Multiple Species Habitat Conservation Plan, etc.).

4.1.4 Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

4.1.5 Regulations governing construction standards and specifications including, without limitation, the Uniform Building, Plumbing, Mechanical, Electrical, and Fire Codes as adopted, or amended and adopted, by the City.

4.1.6 Regulations which may be in conflict with the Project Approvals but which are reasonably necessary to protect the public health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide Master Developer with the rights and assurances provided under this Agreement.

4.1.7 Regulations imposed by State or Federal Law.

4.2 Moratoria. Regulations imposed by the City, whether adopted by City Council action, initiative or otherwise, imposing a development moratorium or limiting the rate or timing of development of the Property shall be deemed to conflict with this Agreement and shall therefore not be applicable to the Development of the Property. Development moratoria imposed by other government agencies or otherwise outside the City's reasonable control, or due to the lack of availability of water or other necessary facilities or services shall not create liability or default under this Agreement.

4.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date, prevent or preclude compliance with one or more of the provisions of this Agreement or render the City subject to liability, fine, penalty, charge, cost or restrictions on its authority or powers in order to comply with this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided,

however, that this Agreement shall remain in full force and effect to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

SECTION 5. PUBLIC FINANCING

5.1 The Master Developer is not obligated to request public financing. However, if Master Developer does request the initiation of proceedings to form a community facilities district, benefit assessment district, community services district or other similar public financing mechanism (hereinafter individually, alternatively and/or collectively referred to as "Public Financing District"), Master Developer agrees that it will make application first and solely to the City, and the City agrees to accept and consider such application according to the City's ordinances, resolutions, standards and practices generally applied to Public Financing District applications throughout the City including, without limitation, the City's Special Districts Financing Policy. If the City declines to provide such public financing, then the Master Developer may elect to initiate proceedings for public financing through any other public agency.

5.2 Consistent with Section 5.1 above, the City agrees to consider the initiation of proceedings for the establishment of one or more Public Financing Districts upon receipt of a completed written application by Master Developer. The Master Developer agrees to cast its votes in favor of, and/or to refrain from protesting the formation of, any such Public Financing District which the Master Developer has requested the City to initiate and to pay City's costs and expenses, and an issuer's fee to be established by City, in connection with each issuer. The Master Developer agrees and acknowledges that it will only support and participate in Public Financing Districts undertaken by the City (or one of City's subsidiary or affiliated entities), unless and until the City declines to provide such public financing.

5.3 If a Community Facilities District is formed at the request of the Master Developer, the proceeds from such financing shall be used as follows:

5.3.1 As first priority: public streets and traffic signals, City electric utility or other City capital project referred to in Section 6.3 below, and Riverside County Transportation Uniform Mitigation Fees (TUMF) paid by the Project to the extent they are allowed by Western Regional Council of Governments (WRCOG) and any other agency having jurisdiction thereof to be dedicated to State Route 60/Nason Street interchange improvements (including any improvements on Nason Street associated with or required as part of such interchange improvements);

5.3.2 As second priority: water and sewer infrastructure construction; and

5.3.3 As last priority: City DIF, but only to the extent such DIF is not subject to credit or reimbursement. The priority among City DIF shall be subject to City approval.

SECTION 6. OBLIGATIONS OF AND CONTRIBUTIONS BY MASTER DEVELOPER

6.1 Acknowledgement. The Master Developer acknowledges that it receives a substantial benefit by entering into this Agreement. The approval and execution of this Agreement by the City will provide the Master Developer with substantial vested rights and assurances that it would otherwise not receive as part of the development process, including without limitation, protection from City-imposed moratoria, and protection from changes in the Land Use Regulations and the Project Approvals that the City could otherwise have imposed in the exercise of its legitimate regulatory powers as a government agency. Under State law related to Development Agreements, by providing the protections of a development agreement, the City is entitled to receive from the Master Developer consideration in the form of benefits to the public that otherwise would or could not be imposed as conditions of approval for the Project. Therefore, as consideration for this Agreement, in addition to the other terms and conditions of this Agreement, the Master Developer shall provide to City the public benefits set forth herein.

6.2 Construction of Public Street and Traffic Signal Improvements – Circulation Phasing Improvement Program. Master Developer agrees to build all required public street and traffic signal improvements in accordance with the Circulation Phasing Improvement Program (Exhibit “B”). The parties acknowledge, and a traffic phasing study has confirmed, that the improvements listed on Exhibit “B” exceed the overall mitigation obligations of the Project for traffic, and agree that the accelerated timing of such improvements are a benefit to the public and a material inducement to the City to enter into this Agreement.

6.3 Moreno Valley Electric Utility and/or City Capital Project. Master Developer agrees to pay two million dollars (\$2,000,000) to the City. The first one million dollars (\$1,000,000) is to be used for the benefit of the Moreno Valley Electric Utility at the sole discretion of the City. Said payment is in addition to any other obligation the Master Developer may incur as a condition of approval, or otherwise, for the Project, or any portion thereof, concerning the Moreno Valley Electric Utility. Payment of this first one million dollars (\$1,000,000) shall be made within thirty (30) days of the Effective Date of this Agreement; provided, however, that said payment shall be placed in escrow in an interest bearing account, with interest payable to City, and City agrees not to withdraw the money until one hundred twenty (120) days after the Effective Date of this Agreement, or the conclusion of any legal proceedings challenging the validity of this Agreement or Project Approvals, whichever occurs later. Should any legal proceedings challenging the validity of this Agreement or the Project Approvals result in the invalidation of this Agreement or the Project Approvals and the decision of the

Master Developer to not proceed with the Project, all sums within the escrow account shall be returned by the escrow company to Master Developer within ten (10) calendar days of any court ruling invalidating this Agreement. The second one million dollar (\$1,000,000) payment shall be for a Moreno Valley Electric Utility and/or other City Capital Project that is eligible for inclusion in, or reimbursement from, a Community Facilities District as provided for in Section 5 of this Agreement. This second payment of one million dollars (\$1,000,000) to City shall occur at the time of recordation of the first (1st) residential subdivision map.

6.4 Covenants, Conditions and Restrictions (CC&Rs).

6.4.1 The Master Developer shall prepare CC&Rs for all Property within the Project to be recorded in the Riverside County Recorder's Office and made to run with the land.

6.4.2 Prior to recordation, the Master Developer shall submit the proposed CC&Rs to the City for review, approval and consent to record. The Master Developer shall not record any CC&Rs unless and until it has received City's consent thereto in writing. The City shall have the right to review, approve and consent to the recording of any amendments to the CC&Rs and Master Developer shall not record any amendments to the CC&Rs prior to obtaining the City's consent thereto in writing. The City shall not unreasonably withhold such consent and shall act upon any request for its consent within thirty (30) days of its receipt of the request and all information reasonably needed to make such a determination. It is understood that the City's interest in the CC&Rs is to protect the public interest, including, without limitation, assuring that common areas and facilities are properly maintained for protection of surrounding properties, protection of City facilities from impacts purportedly mitigated by private amenities (including those recreational amenities for which DIF credits have been provided), and protection from City liability or cost for water quality or other environmental impacts of the Project. Therefore, the reasonableness of the City's review and consent or denial of consent to any amendments shall be construed in light of the public interest, but review of any City decision hereunder shall be given the normal deference given to public agencies in determining the public interest.

6.4.3 The City shall be a named third party beneficiary pursuant to California Civil Code Section 1559 of all recorded CC&Rs, and any amendments thereto, with a separate and independent right, but not the obligation, to enforce the CC&Rs. This right of enforcement is in addition to all other legal and equitable remedies available to the City.

6.5 Operation and Maintenance of Common Areas by Master Developer.

6.5.1 The Master Developer acknowledges that the maintenance and operation of the common area facilities are a matter of public interest to the City in that improper or inadequate maintenance and operation will cause an impact on surrounding public facilities and surrounding home and property owners. Master Developer shall operate and maintain all common area facilities including, but not limited to, the Main Clubhouse facilities and the lake system, during the course of construction of the Project and until such time as a Master Homeowner's Association (Master HOA) for the Project shall be formed and the operation and maintenance obligations for such facilities are legally conveyed to and accepted by the Master HOA (hereinafter referred to as the "Transfer Date").

6.5.2 The Master Developer shall maintain a dedicated funding source in an amount reasonably acceptable to the City Manager for the operation and maintenance of all common area facilities during the course of construction of the Project and until the Transfer Date.

6.5.3 The Master Developer shall not be relieved of its obligations for the operation and maintenance of the Project's common area facilities until a Master HOA has been formed and the operation and maintenance responsibilities for the applicable common area facilities have been legally conveyed to and accepted by the Master HOA. Upon the Transfer Date, the Master HOA shall have the obligations described below.

6.6 Master Homeowners' Association (Master HOA).

6.6.1 The Master Developer shall form and capitalize a Master HOA for the Project. The Master HOA shall, at a minimum, have the responsibility and legal obligation to operate and maintain all common area facilities in the Project or on the Property which have been legally conveyed to and accepted by the Master HOA.

6.6.2 Until the Transfer Date, the Master Developer shall remain legally liable and responsible for the operation and maintenance of all common area facilities in the Project or on the Property. The Master Developer shall not transfer any common facilities to the Master HOA unless and until a budget approved by the California Department of Real Estate (DRE) provides for either the levy of assessments which will be adequate to fund all of the costs of operation, maintenance, repair and reserves for the common area facilities, or financial assurances deemed adequate by the DRE are posted in accordance with the regulations of the DRE. In connection with the governance of the Master HOA, the Master Developer shall, unless otherwise prevented from doing so by a court order or judgment, exercise its rights provided under Title 10 of the California Code of Regulations to appoint a majority of the Board for so long as permitted under the Master CC&Rs. As members of the Board, the Master Developer shall comply with the requirements established under the Common

Interest Development Act for preparation of budgets, the establishment of reserves and collection of assessments.

6.6.3 The CC&Rs shall require the Master HOA, upon request by the City, to provide all documentation reasonably requested by the City regarding the budgets and financial condition of the Master HOA. The City may utilize expert consultants to analyze and opine on the submitted documentation as necessary in the City's sole discretion to determine whether the Master HOA is adequately financed. The Master HOA shall bear all costs for any and all expert consultants utilized by the City in making this determination. The City shall make such determination according to accepted principles for HOA capitalization, operation and maintenance of the types and kinds of common area facilities for the Project, including any necessary reserves.

6.6.4 The CC&Rs shall include a provision which states that, if the City determines that the Master HOA has failed to maintain the common area facilities in accordance with the requirements of this Agreement and the Project Approvals, and as necessary to protect the public health, safety and general welfare, the City shall have the right, but not the obligation, to notify the Master HOA in writing of such maintenance deficiency. If within thirty (30) days after the Master HOA receives the notice from the City, the Master HOA fails to (i) correct such maintenance deficiency, or (ii) if such maintenance deficiency is of a type that cannot reasonably be corrected within thirty (30) days, fails to commence such maintenance correction and diligently pursue such correction to completion, the City may, but is not obligated to, enter onto the Property to perform all corrective maintenance at the expense of the Master HOA. All costs incurred by the City in connection with performing corrective maintenance as provided herein shall be paid for as common expenses out of the Master HOA maintenance funds as provided in the Master HOA Documentation, and if requested by the City to do so, the Master HOA shall levy a supplemental annual assessment against all Property owners or Properties in the Project area as an emergency assessment.

6.7 Main Clubhouse, Recreational Facilities, Recreational Programs, Private Parks, and Trail System.

6.7.1 Master Developer is developing the Project as an age-restricted, active adult Project. Master Developer represents it will build a Main Clubhouse of at least thirty-five thousand (35,000) square feet during phase one of the Project with a total construction cost of not less than twenty million dollars (\$20,000,000.00), including the cost of furniture, fixtures and equipment, but not including the value of the real property. Master Developer represents that Main Clubhouse amenities will include a swimming pool, tennis courts, and a spa/Jacuzzi. Master Developer also represents that active programming for Project residents will be provided in conjunction with the Main Clubhouse facilities. Based upon the needs and desires of the residents, such programming may include a staff activities director, exercise programs (e.g., yoga, aerobics,

pilates, etc.), aquatic exercise programs, tennis league and instruction, diet and nutrition programs, walking club, dance program/club, writing program/club, book club, education programs (e.g., computer classes, poetry, literature, etc.), games programs, arts and crafts programs, garden club, organized trips/excursions, and speaker series (current events, topics of the day, etc.). Master Developer also represents it will provide other recreational facilities and amenities throughout the Project, including, but not limited to, private parks, trails, greenbelts, and lakes suitable for limited boating and fishing. The standards for these other recreational facilities and amenities, including timing, acreage, number, types and quality of amenities and facilities, etc. shall be fully set forth in the SPA and shall be subject to the City's discretionary approval and shall be fully conditioned and implemented through the PADIPs. The Developer's right to the credits set forth in this Agreement for park land and facilities shall be subject to the Master Developer's providing all such recreational facilities and amenities in accordance with the standards and requirements of the SPA.

6.7.2 The Project's Master HOA documentation and CC&Rs shall make adequate provision for reasonable maintenance of the facilities and provision of appropriate programming and activities.

6.7.3 Master Developer agrees that it will commence construction of the Main Clubhouse prior to issuance of the one hundredth (100th) building permit issued anywhere in the Project, and complete construction prior to the issuance of the five hundred eighty-fifth (585th) building permit issued anywhere in the Project area. Master Developer agrees that the construction cost of the Main Clubhouse and its amenities shall be at least twenty million dollars (\$20,000,000), inclusive of furniture, fixtures and equipment, but exclusive of the value of the underlying real property.

6.7.4 Master Developer agrees to provide the recreational facilities, amenities and programming stated hereinabove to residents of the Project according to the Project Approvals and this Agreement. Master Developer agrees to comply with the Project Approvals pertaining to the other recreational facilities and amenities throughout the Project, including, but not limited to, private parks, trails, greenbelts, and lakes suitable for limited boating and fishing.

6.7.5 Master Developer agrees to provide legal and equitable assurance in the form of Master HOA documentation, CC&Rs, bonds, letters of credit, or other legally enforceable instruments to guarantee that the herein described facilities, amenities and programs will be constructed and perpetually maintained in a manner that meets or exceeds the City's standards for its own parks and facilities, and that recreational programs and amenities will be perpetually provided.

6.7.6 Master Developer agrees to, and shall ensure through Master HOA documentation that the Master HOA shall provide eight (8) days

annually, not more than two (2) of which shall be weekend days, for the Term of this Agreement, and any extension thereof, for non-exclusive use of the Main Clubhouse by the City, which dates are to be agreed upon in writing by the Parties each year. Master Developer or the Master HOA shall respond to the City's request for scheduled days within 30 days of receipt. The City's rights to such days of usage shall not be waived by failure to use or request any or all such days. All costs of such events other than use of the facility (e.g., insurance liability coverage, set-up and clean-up, food, food preparation and service, etc.) shall be born by City. In the event that this provision is found to be in conflict with any regulation of such private facilities by the California Department of Real Estate, or its inclusion would result in conditions or application of regulations that would significantly and unduly burden the Project, the parties shall meet and confer and agree to a different consideration to the City reasonably acceptable to the City and which provides similar public benefits.

6.8 State Route 60/Nason Street Interchange. Master Developer agrees to use its best efforts to obtain the consent of the Western Riverside Council of Governments, the Riverside County Transportation Commission, the California State Department of Transportation and any other local, regional, state or federal agency having jurisdiction or authority to dedicate and use the Transportation Uniform Mitigation Fees to be paid by the Master Developer for the Project for the improvement and reconstruction of the State Route 60 interchange at Nason Street in the City.

6.9 Entry Statement. Master Developer agrees to construct and provide legal and equitable assurance in the form of agreements, bonds, letters of credit, or other legally enforceable instruments for the construction and perpetual maintenance of a distinctive and quality entry statement reasonably acceptable to City, which may include arches or other structures, walls, landscaping, decorative pavement, street design and streetscape elements, water features and/or other design elements. Such entry statement shall be located at the Project's main entry on Nason Street. The SPA shall require and provide standards and design for the entry statement. Construction of the entry statement shall commence prior to the issuance of the one hundredth (100th) and be completed prior to the issuance of the five hundred eighty-fifth (585th) building permit issued anywhere in the Project area. Further, the Master HOA documentation and CC&Rs for the Project shall provide for and financially assure perpetual maintenance of the entry statement.

6.10 Perimeter Walls and Landscaping. Master Developer agrees to construct perimeter walls and landscaping consistent with the SPA and Project Approvals and provide legal and equitable assurance in the form of agreements, bonds, letters of credit, HOA documentation, CC&Rs, or other legally enforceable instruments reasonably acceptable to City for the construction and perpetual maintenance of such perimeter walls and landscaping by the five hundred eighty-fifth (585th) building permit issued anywhere in the Project area. It is acknowledged that such walls will be constructed with various phases and maps

and that security for each section of perimeter wall will be provided as appropriate with PADIPs, maps and/or other subsequent approvals.

6.11 Age Restricted Project. The Project is designed and conditioned to be an age restricted community requiring ownership and occupancy by adults aged 55 and over pursuant to State and Federal law. This age restriction is a material inducement for the City to enter into this Agreement. The parties acknowledge that, absent such age restriction, certain environmental and public facility impacts of the Project would far exceed those shown in the studies upon which the Project Approvals are predicated. A removal of, or failure to effectively enforce, the age restrictions would result in significant impacts to the surrounding community including, but not limited to, traffic, noise, air quality, excessive usage of public buildings, facilities and parks, and school overcrowding. Therefore, the Master Developer shall cause to be recorded Covenants, Conditions and Restrictions (“CC&Rs”) applying such age restriction to the entire Property, with the exception of the Planning Area designated as apartment units located outside the private, gated community. Should the City and Master Developer determine that the apartments should also be age restricted, or that apartments are an inappropriate use for that Planning Area, nothing herein shall preclude application of the age restriction to that Planning Area as well. The age restriction in the CC&Rs shall be for a period of not less than fifty (50) years. The CC&Rs shall provide the City with a separate and independent right of enforcement as to each Property in the Project and shall run with the land. The age restriction in the CC&Rs shall be in form and substance reasonably acceptable to the City Manager and City Attorney, as well as the DRE.

6.12 Master Design Guidelines. The Master Developer has represented to the City its intent to build an upscale Project with quality of architecture, construction and amenities substantially higher than those normally built in the City or required by City rules and standards. This representation is a major consideration for the City’s willingness to enter into this Agreement. An upscale development will provide public benefit to the community by attracting business owners and executives who are seeking an active adult lifestyle and who may relocate their businesses and attendant jobs to the City. Further, an upscale project environment could raise property values and enhance the image and aesthetics of the City. The Parties therefore agree that the Project will be subject to a set of guidelines (the “Master Design Guidelines”) that will assure the targeted quality while providing reasonable flexibility to the Developer to address market conditions related to architectural style. The Master Design Guidelines shall be subject to the approval of the City and shall be incorporated into the SPA. Once so approved and incorporated, they shall be incorporated by this reference into this Agreement. This Agreement will be interpreted to be consistent with these twin goals of upscale quality and reasonable flexibility.

6.13 Nexus/Reasonable Relationship Challenges. The Master Developer consents to and waives any rights it may have as of the Effective Date of this Agreement to challenge the legal validity of the conditions, requirements,

exactions, policies or programs required by the Existing Land Use Regulations, the Project Approvals, the DIF, or the Processing Fees including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax. Nothing in this Agreement shall be construed as a waiver of Master Developer's right to challenge future conditions, requirements, exactions, policies, or programs required by Subsequent Land Use Regulations, Subsequent Development Approvals, or subsequently adopted DIF or Processing Fees that are different than those in effect as of the Effective Date of this Agreement. The Master Developer consents to and waives any rights it may now or in the future have to challenge the legal validity of this Agreement or any of its provisions on any grounds whatsoever.

6.14 Cooperation By Master Developer. Master Developer will, in a timely manner, provide City with all documents, applications, plans, and other information necessary for the City to carry out its obligations under this Agreement, and cause Master Developer's planners, engineers, and all other consultants to submit in a timely manner all required materials and documents therefore.

6.15 Other Governmental Permits. Master Developer shall apply in a timely manner for such other permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Property as may be required for the development of, or provision of services to, the Project.

6.16 Reimbursement For City's Efforts On Behalf Of Master Developer. To the extent that City, on behalf of the Master Developer, attempts to enter into binding agreements with other entities in order to assure the availability of certain permits and approvals or services necessary for development of the Project as described in this Agreement, Master Developer shall reimburse City for all costs, expenses and fully burdened staff time incurred in connection with seeking and entering into any such agreement. Any fees, assessments or other amounts payable by City pursuant to any such agreement described herein shall be borne by Master Developer except where Master Developer has notified City in writing, prior to City committing to enter into such agreement, that it does not desire for City to execute such agreement.

6.17 Defense, Indemnity, and Reimbursement For Multi-Agency Agreements. Master Developer shall defend, indemnify and reimburse City for any costs and expenses incurred by City in enforcing, executing, carrying out or defending any multi-agency agreement entered into on Master Developer's behalf.

6.18 Prevailing Wage. The Master Developer acknowledges that provisions of this Agreement, including without limitation, allowance of fee credits or caps, provision of public financing, and any other benefit to the Master

Developer, may cause the Project or portions thereof to become subject to prevailing wage and/or public contract bidding requirements under existing or future state or federal law and/or court decisions. The Master Developer acknowledges that the City has made no representations as to the applicability or non-applicability of such requirements to the Project. The Master Developer hereby assumes any and all responsibility for such determinations and any all risk and responsibility related thereto. Master Developer hereby expressly indemnifies, defends and holds City harmless from any cost, claim or liability related to prevailing wage or public bidding requirements for any public work related to the Project that the Master Developer, Assignee Developer or Builder is conditioned and/or agrees to provide.

6.19 Material Breach. Failure on the part of the Master Developer to comply with any provision of this Section shall constitute a material breach of this Agreement. However, this provision is intended to reflect a specific intent with regard to provisions that might otherwise be later interpreted not to be material and to clarify that they are material inducements to the City entering into this Development Agreement. It shall not be construed to limit what otherwise would be deemed a material breach of this agreement.

SECTION 7 OBLIGATIONS OF CITY

7.1 Processing. Upon satisfactory completion by Master Developer of all required preliminary actions and payments of appropriate processing fees, City shall promptly commence and diligently proceed to complete all required steps necessary for the implementation of this Agreement and the development of the Project by the Master Developer in accordance with the City's ordinances, policies, procedures, protocol, and applicable state and federal law, including, but not limited to, the following:

7.1.1 The holding of all required public hearings; and

7.1.2 The processing of all Development Approvals and related matters as necessary for the completion of the development of the Project. In this regard, Master Developer will, in a timely manner, provide City with all documents, applications, plans, and other information necessary for City to carry out its obligations under this Agreement and as required by existing ordinances, policies, procedures, protocol, and applicable state and federal law and shall cause Master Developer's planners, engineers, and all other consultants to submit in a timely manner all required materials and documents as therefore required.

7.2 Regional Traffic Improvements. The City agrees to cooperate with and support Master Developer in its efforts to obtain the consent of the Western Riverside Council of Governments, the Riverside County Transportation Commission, the California State Department of Transportation and any other local, regional, state or federal agency having authority to dedicate and use the

Transportation Uniform Mitigation Fees to be paid by the Master Developer for the Project for the improvement and reconstruction of the State Route 60 interchange at Nason Street in the City.

7.3 Improvement Security. Subdivision improvement security posted by the Master Developer, Assignee Developer or Builder pursuant to the requirements of the Subdivision Map Act shall be released by the City in accordance with Government Code section 66499.7. The City agrees to provide for partial release of security pursuant to the provisions of subdivision (a) of section 66499.7.

SECTION 8 FEES, FEE CREDITS AND REIMBURSEMENT

8.1 General Principles. The Parties recognize that fees which may be imposed by the City upon the Project fall within two categories: (i) fees for processing applications for City actions or approvals (“Processing Fees”); and (ii) fees or other monetary Exactions which are established or contemplated under City ordinances or resolutions in effect as of the Effective Date of this Agreement and which are intended to defray the costs of public facilities or other amenities related to development projects, including but not limited to parks, streets, libraries, traffic controls and other public facilities (“DIF”).

8.2 Processing Fees. The Master Developer, Assignee Developer or Builder shall pay Processing Fees for the Project based upon the fees generally applicable to all development in the City at the time of the application for any City action or approval subject to the following adjustments:

8.2.1 Expedited Development Services. The City acknowledges Master Developer’s intention to expedite the development of the Project. City agrees to cooperate with Master Developer in developing specific timeframes for City review and processing of particular submittals by Master Developer. When Master Developer desires to receive a higher level of service than is ordinarily available through existing budgeted staffing and consulting resources, City agrees to expeditiously negotiate and enter into specific written agreements with Master Developer that provide for Project-dedicated development services working under the direction of the City, including, but not limited to: Project management, transportation planning, land use planning, land development, Project inspections and legal services. It is agreed that the Master Developer shall be responsible for the full cost of the higher service levels, with the specific details to be addressed in each such written agreement.

8.3 Development Impact Fees (DIF). Except as specifically set forth in this Agreement, the Master Developer, Assignee Developer or Builder shall pay DIF for the Project based upon the fees applicable in accordance with the City’s then current ordinances, resolutions and policies in effect at the time such fees are due, including the application of fee credits and reimbursements, in the same manner as applied to projects in the City not subject to a development

agreement. It is understood that the sole benefit conferred by this Agreement regarding DIF are credits and exemptions against otherwise payable fees as set forth in this Agreement, and that under no circumstances will any payments of monies be due from the City to any party on account of any DIF credit hereunder.

8.3.1 DIF Exemption – Circulation Improvements. A comprehensive Traffic Study and Phasing Study evaluated the improvements necessary to fully mitigate the Project's impacts on offsite circulation. The Circulation Phasing Improvement Program (Exhibit "B"), defines a comprehensive package of improvements which exceeds those minimum mitigation obligations, both in scope and timing. Additionally, the City has confirmed that the improvements identified in Exhibit "B" exceed the traffic-related DIF for which the Project otherwise would be liable. Accordingly, the Project is exempted from the arterial street fees, traffic signal fees, City interchange fees, and any other future DIF enacted by the City for City circulation improvements. Failure to comply with the following shall constitute a material breach of this Agreement:

8.3.1.1 Prior to the issuance of the first residential building permit for any phase identified in the Circulation Phasing Improvement Program (Exhibit "B"), and/or the Project Approvals, the Master Developer shall:

8.3.1.1.1 Execute and deliver public improvement agreements in form and content reasonably acceptable to the City for construction of all such improvements for that phase; and

8.3.1.1.2 Furnish bonds, letters of credit and/or other legally enforceable security in form, content, amounts, and with sureties reasonably acceptable to the City securing all labor, materials, and Master Developer's performance of all obligations for construction of such improvements for that phase; and

8.3.1.1.3 All such public improvement agreements and security shall remain in full force and effect until the completion and acceptance of offer of dedication of such improvements to the City.

8.3.1.2 All such improvements are actually constructed, completed, and accepted for dedication to the City in accordance with the applicable public improvement agreements, the Project Approvals, and this Agreement.

8.3.2 DIF Credit – Parks. The Master Developer, Assignee Developer or Builder shall not receive any Park DIF credit for the Planning Areas or portions thereof in the Project or on the Property that are not age restricted and/or not included in the private, gated community and shall pay one hundred percent (100%) of the Park DIF when due. Contingent upon the Master Developer complying with Section 6.7 of this Agreement, the Master Developer

will become eligible to receive a DIF credit of not more than eighty-seven and one-half percent (87.5%) of the otherwise payable park land (Quimby) and park improvements DIF, and a credit of one hundred percent (100%) for community center DIF for the age restricted portion only of the Project on a per unit, pro rata basis. Said credits shall be contingent upon the Master Developer constructing and completing all clubhouse and park facilities and providing all amenities identified in Section 6.7 of this Agreement and as conditioned in the Project Approvals. Said credits for Park DIF shall be the Master Developer's sole entitlement under this Section. The Master Developer will become eligible for the Park DIF credit upon satisfaction to the City Manager that Master Developer has constructed and completed the identified clubhouse and park facilities and is providing the identified amenities for the Planning Area or portion thereof conditioned for those facilities and amenities. The portion of park land, park improvement, and community/recreation center DIF subject to credit under this Agreement for a Planning Area or portion thereof shall be deferred for collection by the City until the completion of that Planning Area, Tract or other portion thereof, but only if bonds, letters of credit or other security for the full amount of the fee subject to the credit is delivered to the City in form and substance and from a surety reasonably acceptable to the City. The Park DIF amount not subject to such credit is payable by the Master Developer, City approved Assignee Developer or Builder, as appropriate, when due. This Park DIF credit is contingent upon the Master Developer completing all clubhouse and park and recreation facilities and amenities no later than the end of construction of the Planning Area or portion thereof conditioned for that improvement. If the clubhouse and park and recreation facilities and/or amenities for the conditioned Planning Area or portion thereof are not constructed and completed prior to the end of construction of the Planning Area or portion thereof conditioned for said improvement, the Master Developer shall not be entitled to any Park DIF credit for that Planning Area or portion thereof and shall pay the full amount of Park DIF for that Planning Area or portion thereof within thirty (30) days of the final inspection of the last unit in that Planning Area or portion thereof. If Master Developer fails to pay such Park DIF when due, City shall have the right, but not the obligation, to draw upon the security posted for such fees to assure payment to the City of one hundred percent (100%) of the Park DIF for the conditioned Planning Area or portion thereof.

SECTION 9 ASSIGNMENT

9.1 Acknowledgement. Master Developer and Master Developer's Principals have demonstrated, and the City finds, that Master Developer and Master Developer's Principals possess the experience, reputation, and financial resources to develop and maintain the Property in the manner contemplated by this Agreement. It is because of such qualifications, which assure the development of the Property to a high quality standard that the City is entering into this Agreement. Accordingly, restrictions on the right of the Master Developer and Master Developer's Principals to assign the rights and privileges

contained in this Agreement are necessary in order to assure the achievement of the objectives of the City and this Agreement.

9.2 Master Developer's Principals. Master Developer is a partnership owned directly or indirectly by Julius Trump and Eddie Trump and members of their families (or trusts therefore), Iddo Benzeevi and members of his family (or trusts therefore), and a trust, the beneficiaries of which may include members of the families of Julius Trump and Eddie Trump and/or charitable institutions (collectively, the "Partners"). Notwithstanding Section 9.7, a change in the ownership of the Master Developer which does not result in the Partners no longer having control of the Master Developer shall not constitute an assignment. Though not an assignment under this Agreement, should any of the Partners become no longer associated with the Master Developer, Master Developer agrees to provide City with notice thereof within thirty (30) calendar days of such event.

9.3 No Assignment Without City Consent. Except as otherwise specifically provided for in this Section, Master Developer shall not assign any rights, obligations or duties under this Agreement without prior written consent from the City. Such consent shall not be unreasonably withheld by the City and shall be made in accordance with the provisions of this Section 9.

9.4 Non-assignment Sales or Leases to Builders. Notwithstanding any other provision in this Section, a sale or lease of a portion of the Property (whether or not a "bulk" sale of lots) to Builders without an assignment of any of the rights or obligations of this Agreement shall not constitute an assignment or other conveyance sufficient to trigger this Section 9. Any such sale or lease shall be exempt from oversight or approval procedures by City. Further, any such sale or lease shall in no way lessen or compromise the rights and obligations of the Parties to this Agreement.

9.5 Restriction on Assignment. No assignment of any right, duty or obligation under this Agreement shall be made unless it is in conjunction with a sale, hypothecation or other transfer of a legal or equitable interest in the Property, or a portion thereof, including, but not limited to, any foreclosure of a mortgage or deed of trust or of a deed in lieu of foreclosure. However, except as specifically permitted in this Section, any assignment of this Agreement, or any portion of the rights, duties or obligations thereof, by Master Developer, voluntary or involuntary, without both the prior written consent of the City and an unconditional assumption of the rights, duties and obligations under this Agreement by the Assignee in form and content reasonably acceptable to the City Attorney, shall constitute a material breach of this Agreement and the Master Developer shall remain legally liable to the City for all such rights, duties and obligations. For purposes of this Section, contracting by the Master Developer or City Approved Assignee Developer for the construction of all or part of the Master Developer's obligations under Subsections 6.2, 6.7, 6.9, and/or 6.10 shall not constitute an assignment and the Master Developer or City approved Assignee

Developer shall remain responsible, and legally liable to the City under this Agreement, for the satisfactory and timely completion of said obligations.

9.6 Restriction on Assignment Not an Unreasonable Restraint on Alienation. Master Developer agrees that the restriction on its right to assign any of its rights, obligations or duties under this Agreement is not repugnant or unreasonable in that such a restriction is a material inducement to the City to enter into this Agreement because the restriction guarantees for the City that Master Developer will provide those public benefits identified in Section 6 of this Agreement and reserves for the City the power to prevent the assignment of any of the rights, obligations or duties under this Agreement.

9.7 Assignment. The management control and responsibility of Master Developer and the expertise, competence, reputation and financial strength of Master Developer are integral components of the consideration for City entering into this Agreement. In order to preserve such consideration for City and for City to receive full value, the Parties agree that the occurrence of any of the following events constitute, for the purposes of this Agreement, an assignment:

9.7.1 A change in the composition of ownership interests in or control of the Master Developer.

9.7.1.1 For purposes of this section, however, “change in the composition of ownership interests in or control of” shall not include uncontrolled changes in ownership based upon the death or disability of one or more of the ultimate owners (e.g., transfer to heirs or conservatorship).

9.7.2 A change in the composition of ownership interests in or control of the Property, including a sale of all or a portion of the Property (other than portions of the Property sold to an Assignee Developer or Builder).

9.7.3 Any express assignment or transfer of any of Master Developer’s rights, duties, or obligations under this Agreement.

9.8 City Council Approval. Upon written request of the Master Developer for approval of an assignment, the matter shall be referred to the City Council. The City Council, or City Manager or designee on their behalf, may request further documentation from the Master Developer, and Master Developer shall provide such documentation, as the City Council reasonably deems necessary to make its decision. The City agrees, to the extent permissible by law, to maintain the confidentiality of any such documentation if requested by the Master Developer. The City Council shall have sixty (60) calendar days from the date of receipt of such request to approve or deny the requested assignment. Failure of the City Council to act within that sixty (60) calendar-day period shall automatically be deemed an approval of the request; provided however, that *there remains any obligation of the Master Developer under Section 6 of this Agreement and/or the Project Approvals that was required to be completed under*

the terms of this Agreement or the Project Approvals as of the date of the request, but has not been completed as of the date of the request, the request shall be deemed denied.

9.9 Conditions and Standards. The conditions and standards upon which consent to assign will be given are as follows:

9.9.1 Such Assignee possesses the experience, reputation and financial resources to cause the Property to be developed and maintained in the manner consistent with the Project Approvals and this Agreement;

9.9.2 Such Assignee enters into a written assumption agreement, in form and content reasonably acceptable to the City Attorney, expressly assuming and agreeing to be bound by the provisions of this Agreement; and

9.9.3 Such assignment will not impair the ability of City to achieve the objectives of the Project Approvals and this Agreement.

9.10 City Manager Approved Assignee Developers. Notwithstanding any other provision of this Agreement, the City Manager shall have the authority to, and shall approve an assignment of all or part of the Master Developer's rights, benefits, covenants or obligations under this Agreement to an Assignee Developer, or its parent(s) if the proposed Assignee Developer is a subsidiary, upon the following terms:

9.10.1 The proposed Assignee Developer has developed to completion at least three (3) master planned residential communities within the immediately preceding ten (10) year period, at least one (1) of which is located within the Southwestern United States; and

9.10.2 The proposed Assignee Developer has a current group net worth of at least \$200,000,000 (two hundred million dollars); and

9.10.3 The proposed Assignee Developer has not committed a breach of any development agreement to which the proposed Assignee Developer is a party for any project resulting in termination of such development agreement; and

9.10.4 The proposed Assignee Developer is not currently declared by a legislative body to be in default of any active development agreement to which the proposed Assignee Developer is a party; and

9.10.5 The proposed Assignee Developer provides the City Manager with adequate documentation to make the findings in this Section 9.10 at the time of the request for assignment; and

9.10.6 The City Manager shall thereafter have thirty (30) calendar days to make a determination on the request for assignment. If the City Manager fails to make a determination within said thirty (30) calendar days, then the

assignment shall be deemed approved.

9.11 Financing Exemption. Mortgages, deeds of trust, sales and lease-backs, pledges of ownership interests in Master Developer, collateral assignments, or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the Property are permitted without the consent of the City, provided the City receives prior notice of such financing (including the name and address of the lender and the person or entities acquiring any such secured interest) and Master Developer retains the legal and equitable interest in the Property and remains fully responsible hereunder. The words "mortgage" and "deed of trust," as used herein, include all other modes of financing real estate acquisition, construction and land development commonly used by reputable land developers. City recognizes that initial (though not exclusive) financing for the Project has already been secured by the Master Developer and presently encumbers the Property and that this financing is included in this exemption.

9.12 Notice of Assignment. Upon receiving approval of an assignment, Master Developer shall provide City with written notice of such assignment and as part of such notice the Assignee must execute and deliver to City a written assumption agreement in form and content reasonably acceptable to the City Attorney in which the name and address of the Assignee is set forth and the Assignee expressly and unconditionally assumes all obligations of the assigned provisions of this Agreement.

9.13 Unapproved Assignments. If City reasonably makes the determination not to consent to the assignment of the rights, obligations and duties contained in this Agreement, and Master Developer assigns this Agreement to a third party, in whole or in part, Master Developer shall remain legally liable and responsible for all of the duties and obligations of this Agreement not previously assigned with City approval, in addition to all other rights and remedies the City may have on account of such breach.

9.14 Approved Assignments. If City consents to the assignment, Master Developer shall remain liable and responsible for all of the rights, obligations and duties of this Agreement until City receives from the Assignee an executed written assumption agreement in form and content reasonably acceptable to the City Attorney. Upon receipt of an acceptable executed assumption agreement from the Assignee, the Master Developer shall be relieved of its rights, obligations and duties under this Agreement to the extent that such rights, obligations and duties have been specifically transferred to and accepted by the Assignee. As to those rights, obligations and duties not specifically accepted in writing by the Assignee, the Master Developer shall remain legally liable therefore to the City.

9.15 Notice of Sale of Property. Master Developer shall give written notice to the City, within ten (10) calendar-days after close of escrow, of any sale

or transfer of any portion of the Property, specifying the name or names of the Purchaser, the Purchaser's mailing address, the amount and location of the land sold or transferred, and the name and address of a single person or entity to whom any notice relating to this Agreement shall be given.

9.16 Termination of Agreement with respect to Individual Lots or Parcels Sold. The provisions of this Section shall not apply to a sale, or lease for a period longer than one year, of individual parcels or lots which have been individually sold or leased to an ultimate end user in accordance with a recorded final tract or parcel map. Notwithstanding any other provision of this Agreement, this Agreement shall terminate with respect to any such lot or parcel without the execution or recordation of any further document upon satisfaction of the following conditions:

9.16.1 The lot or parcel has been finally subdivided and individually (not in "bulk") sold or leased for a period longer than one year to an ultimate end user; and

9.16.2 A certificate of occupancy or approval of final building inspection by the Building and Safety Division has been issued for a structure on the lot or parcel.

9.17 Material Breach. Failure on the part of the Master Developer to comply with any provision of this Section shall constitute a material breach of this Agreement. However, this provision is intended to reflect a specific intent with regard to provisions that might otherwise be later interpreted not to be material and to clarify that they are material inducements to the City entering into this Development Agreement. It shall not be construed to limit what otherwise would be deemed a material breach of this agreement.

SECTION 10 DELAYS IN PERFORMANCE

10.1 Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, Master Developer and City shall be excused for performance of their obligations hereunder during any period of delay actually caused by natural disaster, acts of war, civil unrest, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, or restrictions imposed or mandated by governmental entities. Likewise, any delay caused by court action or proceeding brought by any third party to challenge this Agreement, or any other permit or approval required from City or any other governmental entity for development or construction of all or any portion of the Project, whether or not Master Developer is a party to or real party in interest in such action or proceeding, shall constitute a Permitted Delay under this Section. However, it is expressly understood that the provision of the third five year extension of the Term of this Agreement is the sole remedy regarding extension of the Term for

any cause whatsoever. Therefore, while the delays defined in this Section 10.1 may excuse or toll breaches of obligations during the Term of this Agreement and its extensions, in no event shall the Term of this Agreement extend beyond 25 years regardless of any such delays.

10.2 Effect of Permitted Delays. If written notice of such delay is given to either Party within thirty (30) days of the commencement of such delay, an extension of time for performance of affected obligations for such cause shall be granted in writing for the period of the enforced delay. However, any such delay shall not be deemed to extend the Term of this Agreement or any extension thereof beyond the expiration date of this Agreement.

SECTION 11 DEFAULT

11.1 Enforcement. Unless amended or canceled as herein provided, this Agreement is enforceable by any Party to it notwithstanding a change in the applicable General or Specific Plan or amendments thereto, zoning, subdivision, building regulations or other Land Use Regulations adopted by the City which otherwise would alter or amend the rules, regulations, or policies governing permitted uses of the Property, density, design, improvement, and construction standards and specifications applicable to the Project Approvals.

11.2 Event of Default. Subject to any extensions of time by mutual consent in writing, and subject to the provisions of the Section regarding Permitted Delays, the failure or unreasonable delay by either Party to perform any material term or provision of this Agreement for a period of thirty (30) calendar days after the dispatch of a written notice of default from the other Party shall constitute a default under this Agreement. If the nature of the alleged default is such that it cannot reasonably be cured within such thirty (30) calendar day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period.

11.3 Material Breach Existing at Time of Assignment or Transfer. Any material breach of the provisions of this Agreement by the Master Developer existing at the time of a proposed assignment shall be grounds for the City to not to approve such assignment. All obligations under this Agreement shall remain the obligations of the Master Developer unless and until such assignment is approved by the City according to the provisions of this Agreement, and the Assignee expressly accepts such obligation in form and content reasonably acceptable to the City Attorney.

11.4 Notice of Default. The Party claiming default shall provide written notice to the other Party specifying the Event of Default and the steps the other Party must take to cure the default in accordance with the terms and conditions of this Agreement.

11.5 Cure Period. During the time periods herein specified for cure of an Event of Default, the Party charged therewith shall not be considered to be in default for purposes of termination of this Agreement, institution of legal proceedings with respect thereto, or issuance of any building permit with respect to the Project.

11.6 General Default Remedies. After notice and expiration of the thirty (30) calendar day period without cure, the non-defaulting Party shall have such rights and remedies against the defaulting Party as it may have at law or in equity, including, but not limited to, the right to terminate this Agreement pursuant to Government Code Section 65868 or seek mandamus, specific performance, injunctive or declaratory relief.

11.7 Specific Default Remedies. In the Event of Default by Master Developer, in addition to the General Default Remedies, City shall be entitled to retain fees, grants, dedications or improvements to public property which it may have received prior to Master Developer's default without recourse.

11.8 Remedies Cumulative. Any rights or remedies available to non-defaulting Party under this Agreement and any other rights or remedies that such Party may have at law or in equity upon a default by the other Party under this Agreement shall be distinct, separate and cumulative rights and remedies available to such non-defaulting Party and none of such rights or remedies, whether or not exercised by the non-defaulting Party, shall be deemed to exclude any other rights or remedies available to the non-defaulting Party. The non-defaulting Party may, in its discretion, exercise any and all of its rights and remedies, at once or in succession, at such time or times as the non-defaulting Party considers appropriate.

11.9 Legal Action. Either Party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy a default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, or enforce by specific performance the obligations and rights of the Parties hereto.

11.10 No Monetary Damages Relief Against City. The parties acknowledge that City would not have entered into this Agreement had it been exposed to monetary damage claims from Master Developer for any breach thereof. As such, the parties agree that in no event shall Master Developer be entitled to recover monetary damages against City for breach of this Agreement but shall only be entitled to specific performance as determined by the court.

11.11 Master Developer Default. The City shall have no obligation to issue any grading, building or other development permit nor accept any permit application for any activity on the Property after Master Developer is determined by City to be in default of the provisions and conditions of this Agreement, and until such default thereafter is cured by the Master Developer or is waived by

City. Provided that the delegation or transfer of obligations under this Agreement has been approved by the City, the default of the Master Developer or an approved Assignee of such obligations shall not be a default by the other parties having separate obligations under this Agreement. In such event, the City shall not be entitled to terminate or modify this Agreement with respect to the non-defaulting Party or the portions of the Property owned by the non-defaulting Party. Nothing in this provision shall limit the City's ability to enforce any condition of approval or other obligation of any of the Project Approvals, public improvement agreements, or bonds for the Project or any part thereof, including withholding of permits for any part of the Project for which any such obligations remain unfulfilled regardless of the party holding the obligation.

11.12 Waiver. All waivers must be in writing, signed by the waiving party, to be effective or binding upon the waiving Party, and no waiver shall be implied from any omission by a Party to take any action with respect to such Event of Default. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party shall not constitute waiver of such Party's right to demand strict compliance by such other Party in the future.

11.13 Scope of Waiver. No express written waiver of any Event of Default shall affect any other Event of Default, or cover any other period of time than that specified in such express waiver.

11.14 Attorney's Fees. Should legal action be brought by either Party for breach of this Agreement or to enforce any provision herein, the prevailing party shall be entitled to reasonable attorneys fees (including attorneys' fees for in-house City Attorney services), court costs and such other costs as may be fixed by the court. Reasonable attorneys' fees of the City Attorney's Office or other in-house counsel shall be based on comparable fees of private attorneys practicing in Riverside County.

SECTION 12 TERMINATION

12.1 Effect of Termination. Upon termination of this Agreement, the rights, duties and obligations of the Parties hereunder shall, subject to the following provision, cease as of the date of such termination.

12.2 Termination by City. If City terminates this Agreement because of Master Developer's default, then City shall retain any and all benefits, including money or land received by City hereunder.

SECTION 13 RELATIONSHIP OF PARTIES

13.1 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project Site is a separately undertaken private development.

13.2 Independent Contractors. The parties agree that the Project is a private development and that neither party is acting as the agent of the other in any respect hereunder.

13.3 No Joint Venture or Partnership. City and Master Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Master Developer joint ventures or partners.

13.4 No Third Party Beneficiaries. The only Parties to this Agreement are Master Developer and City. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever except for City approved Assignee Developers of all or a portion of this Agreement. However, this Agreement shall be enforceable by the City on behalf of any of its affiliated agencies, including, without limitation, its Community Redevelopment Agency, Community Services District and Community Facilities Districts.

13.5 Ambiguities or Uncertainties. The parties hereto have mutually negotiated the terms and conditions of this Development Agreement and this has resulted in a product of the joint drafting efforts of both Parties. Neither Party is solely or independently responsible for the preparation or form of this Agreement. Therefore, any ambiguities or uncertainties are not to be construed against or in favor of either Party.

SECTION 14 AMENDMENT OF AGREEMENT

14.1 Amendment or Cancellation of Agreement. This Agreement may be amended or modified in whole or in part only by written consent of all Parties in the manner provided for in Government Code Section 65868.

14.2 Clarification. The Parties acknowledge that refinement and further development of the Project may require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Project Approvals. In the event Master Developer finds that a change in the Existing Project Approvals is necessary or appropriate, Master Developer shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Project Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

14.2.1 Alter the permitted uses, including the age-restriction, of the Property as a whole; or

14.2.2 Increase the density or intensity of use of the Property as a whole; or

14.2.3 Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or

14.2.4 Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

14.3 Implementation Agreement. The foregoing notwithstanding, the Parties acknowledge that implementation of this Agreement will require close cooperation between them, and that, in the course of such implementation, it may be necessary to supplement this Agreement to address details of the Parties' performance and to otherwise effectuate the purposes of this Agreement and the intent of the Parties with respect thereto. If and when, from time to time, the Parties find it necessary or appropriate to clarify the application or implementation of this Agreement without amending any of its material terms, the Parties may do so by means of an implementing agreement which, after execution, shall be attached hereto as an addendum and become a part hereof. Any such implementing agreement may be executed by the City Manager on behalf of the City.

SECTION 15 PERIODIC REVIEW OF COMPLIANCE WITH AGREEMENT

15.1 Annual Review. This Agreement shall be subject to annual review, pursuant to California Government Code Section 65865.1. Within thirty (30) days following each anniversary of the date of recording of this Agreement, the Master Developer shall submit to the Planning Official of the City written documentation demonstrating good-faith compliance with the terms of this Agreement ("Annual Report"). Inaction by the City on any such annual review shall not constitute a waiver on the part of the City to take any action or enforce any rights under this Agreement and shall not be a defense to the Master Developer for failing to perform any of its obligations under this Agreement.

15.2 Contents of Report. The Annual Report and any supporting documents shall describe (i) any permits or other Project Approvals which have been issued or for which application has been made and (ii) any development or construction activity which has commenced or has been completed since the Effective Date hereof or since the preceding annual review. The City shall review all the information contained in such report in determining the Master Developer's good faith compliance with this Agreement.

15.3 Procedure. The following procedure shall be followed in conducting an Annual Review:

15.3.1 During either an annual review or a special review, Master Developer shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on Master Developer.

15.3.2 During either an annual review or special review, City shall not be prohibited from raising repeated non-compliance with the Master Design Guidelines, Project Approvals or this Agreement as evidence of a pattern of non-compliance.

15.3.3 Upon completion of an annual review, the City Manager shall submit a report to the City Council setting forth the evidence concerning good faith compliance by Master Developer with the terms of this Agreement and his or her recommended finding on that issue.

15.3.4 If the City Council finds on the basis of substantial evidence that Master Developer has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

15.3.5 If the City Council makes a preliminary finding that Master Developer has not complied in good faith with the terms and conditions of this Agreement, the City Council may terminate this Agreement as provided in this Section and Section 11. Notice of default as provided under Section 11 of this Agreement shall be given to Master Developer prior to or concurrent with proceedings under this Section and/or Section 11. Should the City fail to issue a notice pursuant to Section 11 of this Agreement within sixty (60) days of the filing of an annual report by Master Developer, Master Developer may demand in writing a response from City. Should City fail to respond to Master Developer's written demand within fifteen (15) days of such demand, Master Developer shall be deemed to be in good faith compliance with the terms of this Agreement.

15.4 Proceedings Upon Termination. If, upon a finding under this Section, City determines to proceed with termination of this Agreement, City shall give written notice to Master Developer of its intention so to do. The notice shall be given at least ten (10) calendar days prior to the scheduled hearing and shall contain:

15.4.1 The time and place of the hearing; and

15.4.2 A statement as to whether or not City proposes to terminate the Agreement; and

15.4.3 Such other information as is reasonably necessary to inform Master Developer of the nature of the proceeding.

15.5 Hearing on Termination. At the time and place set for the hearing on termination, Master Developer shall be given an opportunity to be heard. Master Developer shall be required to demonstrate good faith compliance with

the terms and conditions of this Agreement. If the City Council finds, based upon substantial evidence, that Master Developer has not complied in good faith with the terms or conditions of this Agreement, the City Council may terminate this Agreement to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to applicable provisions of the California Code of Civil Procedure.

15.6 Estoppel. If City determines that Master Developer is in compliance with the terms and provisions of this Agreement in its annual review of a timely filed Annual Report, City shall not be entitled to revisit any such year as grounds for default under this Agreement. As to any year that Master Developer does not timely file an Annual Report, City may request at any time, and Master Developer shall provide such Annual Report within thirty (30) calendar days of such request. However, as to any year that Master Developer fails to file a timely Annual Report, City shall not be estopped from asserting any events of non-compliance for any such year as grounds for default under this Agreement.

15.7 Waiver. The City does not waive any claim of defect in performance by the Master Developer if, at the time of an annual review, the City does not propose immediately to exercise its remedies hereunder.

SECTION 16 NOTICE

16.1 Form of Notice. All notices between the City and either the Master Developer or any Assignee, given pursuant to the provisions of this Agreement, shall be in writing and shall be given by personal delivery or certified mail. Notice by personal delivery shall be deemed effective upon the delivery of such notice to the Party for whom it is intended at the address set forth below (or, in the case of an Assignee, at the address specified by such Assignee in a written notice to the City). Notice by mail shall be deemed effective two (2) business days after depositing such notice, addressed as set forth below, properly sealed, postage prepaid, certified, return receipt requested, with the United States Postal Service, regardless of when the notice is actually received. The addresses to be used for purposes of Notice shall be:

To City:	City of Moreno Valley Attn: City Manager & Community Development Director 14177 Frederick Street P.O. Box 88005 Moreno Valley, CA 92552 Facsimile: (951) 413-3210 and (951) 413-3469
With a copy to:	City Attorney City of Moreno Valley 14177 Frederick Street P.O. Box 88005

Moreno Valley, CA 92552
 Facsimile: (951) 413-3034

To Master Developer: Highland Fairview Properties, LLC
 24525 Alessandro Boulevard
 Moreno Valley, CA 92552
 Facsimile: (951) 242-9165
 Attn: Iddo Benzeevi

With copies to: The Trump Group
 4000 Island Boulevard
 Williams Island, FL 33160
 Facsimile: (305) 466-3570
 Attn: Jules Trump

Mark Hirsch
 The Trump Group
 200 W. 57th Street
 New York, NY 10019
 Facsimile: (646) 871-8796

TG Services, Inc.
 Attn: Jim Lieb, Executive Vice President
 4 Stage Coach Run
 East Brunswick, NJ 08816
 Facsimile: (732) 390-3319

16.2 Change of Address. Any Party (and any Assignee) may change the address to which notices are to be sent (and/or the person to whose attention notices are to be directed) at any time by giving written notice of such change in the manner provided above.

SECTION 17 INDEMNITY

17.1 Indemnity. Master Developer shall indemnify, defend and hold City, its officers, agents, affiliated agencies and employees and independent contractors free and harmless from any claims or liability based or asserted upon any act or omission of Master Developer, its officers, agents, employees, subcontractors and independent contractors for property damage, bodily injury, or death (Master Developer's employees included) or any other element or damage of any kind or nature, relating to or in any way connected with or arising from the activities provided in this Agreement. Master Developer shall defend, at its expense, including payment of attorneys' fees, City, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. City may, in its discretion, participate in the defense of any such legal action, and may choose its own legal counsel, the costs of which

shall be subject to this indemnification by Master Developer

17.2 Defense of Agreement & Project Approvals. Master Developer shall defend, indemnify and hold the City, its officers, agents, affiliated agencies and employees harmless from any claims or liability based upon or arising from the approval, adoption and/or implementation of this Agreement, the Project Approvals, and/or any other approval, permit or other action undertaken by the City in approving or carrying out any part of the Project, including without limitation, actions based on the California Environmental Quality Act or other state statute or any provision of the California or United States Constitution.

17.3 Environmental Indemnity. Master Developer shall defend, indemnify and hold City, its officers, agents, affiliated agencies, employees, and independent contractors free and harmless from any claims or liability based upon or arising from the presence of any Hazardous Substance on any of the Property located in the Project. As used herein, "Hazardous Substance" shall mean any "hazardous substances," "toxic substance," "hazardous waste," or "hazardous material" as defined in one or more Environmental Laws, whether now in existence or hereinafter enacted; provided, however, that "Hazardous Substance" shall (i) include petroleum and petroleum products (other than naturally occurring crude oil and gas) and (ii) include radioactive substances which are not naturally occurring, and (iii) include any friable or non-friable asbestos or asbestos-containing material contained in or affixed to a structure existing on the Property or otherwise located in, on or about the Property as of the date of this Agreement. As used herein, "Environmental Laws" shall mean any and all federal, state, municipal and local laws, statutes, ordinances, rules, and regulations which are in effect as of the date of this Agreement, or any and all federal, or state laws, statutes, rules and regulations which may hereafter be enacted and which apply to the Property or any part thereof, pertaining to the use, generation, storage, disposal, release, treatment or removal of any Hazardous Substances, including without limitation, the Comprehensive Environmental Response Compensation Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., ("RCRA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and California Health and Safety Code Section 25100, et seq. Master Developer acquired the Property pursuant to a Real Property Purchase and Sales Agreement entered into with the Regents of the University of California ("Prior Property Owner") as the Seller dated as of January 6, 2004 ("the Purchase Agreement"). To the extent that Master Developer is or may be entitled to defense or indemnification from Prior Property Owner in connection with the presence of any such Hazardous Substances on the Property as provided in the Purchase Agreement, Master Developer shall assert any such defenses or indemnification rights on behalf of City, its officers, agents, employees, and independent contractors at City's option. If Master Developer chooses not to assert any such defenses or indemnification rights on behalf of City, Master Developer shall assign such rights to City. However, Master

Developer's obligation to defend, indemnify and hold harmless City and its officers, employees, agents or independent contractors from any claims or liability in connection with or arising from the presence of any Hazardous Substance on the Property or any portion thereof shall not be in any way limited or eliminated by the terms of the Purchase Agreement, and Master Developer's obligation hereunder shall survive the termination of this Development Agreement, no matter how caused. Notwithstanding anything herein to the contrary, Master Developer shall have no obligation to indemnify the City as herein provided with respect to any Hazardous Substances which are proven by Master Developer to have been first brought onto the Property subsequent to the sale by the Master Developer of the Property, or the affected portions thereof.

SECTION 18 MORTGAGEE PROTECTIONS

18.1 Right to Encumber. The Parties agree that nothing in this Agreement shall prevent or limit the Master Developer, an Assignee Developer, or a Builder, in its sole discretion, from encumbering the Property, or any portion thereof, including without limitation any private improvements thereon, by any mortgage or other security device to a Mortgagee as defined in Section 1.20 of this Agreement. The City acknowledges that the Mortgagee providing such financing may request certain modifications to this Agreement and the City agrees, upon request from time to time, to meet with the Master Developer, Assignee Developer, and/or such representatives of a Mortgagee to negotiate in good faith regarding such request for modification.

18.2 Mortgage Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, including the lien of any mortgagee. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgagee made in good faith and for value and any acquisition or acceptance of title or any right or interest in or with respect to the Property, or any portion thereof, by a Mortgagee shall be subject to all of the terms and conditions contained in this Agreement.

18.3 Mortgagee Not Obligated. No Mortgagee of the Master Developer or Assignee Developer shall in any way be obligated by any provisions of this Agreement, nor shall any covenant or any other provision of this Agreement be construed or interpreted to obligate such Mortgagee. However, any provision or covenant of this Agreement to be performed by the Master Developer or Assignee Developer as a condition precedent to the performance of a provision or covenant of this Agreement by the City shall continue to be a condition precedent to City's performance under this Agreement.

18.4 Notice of Default to Mortgagee. If City receives written notice from a Mortgagee of the Master Developer, Assignee Developer or Builder requesting a copy of any notice of default given to Master Developer or Assignee Developer under this Agreement and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Master

Developer or Assignee Developer, any notice given to Master Developer or Assignee Developer with respect to any claim by City that Master Developer or Assignee Developer has not complied in good faith with the terms of this Agreement or has committed an event of default. City shall only be obligated to serve such notice on any Mortgagee actually giving notice as provided for herein, and only at the address actually given by the Mortgagee in said notice. Mortgagees shall be required to provide City with a notice of change of address in the same manner as the original request for service of notice.

18.5 Mortgagee Rights and Obligations. Notwithstanding any default by the Master Developer or Assignee Developer, this Agreement shall not be terminated and any Mortgagee to whom notice has been given may assume all of the rights, benefits and obligations of the Master Developer or Assignee Developer in this Agreement as to the Property, or portion thereof, upon which the Mortgagee has a security interest if:

18.5.1 The Mortgagee notifies the City in writing within sixty (60) calendar days of the date the City gives notice of default to the Mortgagee of its intent to cure the default;

18.5.2 The Mortgagee thereafter commences to effectuate a cure of the default relative to the proportionate share of the master Developer's or Assignee Developer's obligation this Agreement allocable to that part of the Property in which the Mortgagee has an interest and diligently pursues completion of the cure within sixty (60) calendar days if the Mortgagee elects to cure without acquiring and obtaining possession of the Property, or any portion thereof; and

18.5.3 If the cure requires the Mortgagee to obtain title or possession of the Property, or any portion thereof, the Mortgagee shall:

18.5.3.1 Notify the City in writing within sixty (60) calendar days of the date the City gives notice of default to the Mortgagee of its intent to cure the default relative to the proportionate share of Master Developer's or Assignee Developer's obligation under this Agreement allocable to that part of the Property in which the Mortgagee has an interest;

18.5.3.2 Commence foreclosure proceedings within sixty (60) calendar days of the date of the Mortgagee's written notice to City of intent to cure;

18.5.3.3 Diligently pursue foreclosure proceedings to conclusion and obtain title and/or possession of the Property, or portion thereof, on which the cure is to be effectuated; and

18.5.3.4 Diligently pursue to effectuate and complete a cure in a timely manner.

18.5.4 Subject to the foregoing and there being no notice of default given by the City, any Mortgagee of the Master Developer or Assignee Developer who records a notice of default as to its mortgage or other security instrument, City shall consent to the assignment of all of Master Developer's or Assignee Developer's rights, benefits, covenants and obligations under this Agreement to said Mortgagee. As to any purchaser of the Property, or any portion thereof, at a foreclosure or trustee sale, and there being no default of the Master Developer or Assignee Developer under this Agreement, City shall consent to the assignment of all of Master Developer's or Assignee Developer's rights, benefits, covenants and obligations under this Agreement to said purchaser. If there is any event of default of this Agreement as to the Property, or portion thereof, acquired by the purchaser at a foreclosure or trustee sale, the purchaser shall be required to cure the event of default according to the provisions of this Section 18.5 prior to the City consenting to such assignment. Master Developer shall remain liable, however, for any obligations under the Amended Agreement unless Master Developer is released by City or the applicable portion of the Property is transferred with the consent of the City in accordance with Section 9 of this Agreement, provided that such Mortgagee or other purchaser assumes Master Developer's obligations under this Agreement.

18.5.5 If the Mortgagee or foreclosure-sale purchaser complies with the provisions of this Section 18.5, the City shall approve an Assignment of this Agreement to the Mortgagee or foreclosure-sale purchaser as it affects the Property, or portion thereof, upon which the Mortgagee or foreclosure-sale purchaser has obtained title and/or possession if the Mortgagee so requests.

18.5.6 Notwithstanding the foregoing, as to the Property or portion thereof to which the Mortgagee has acquired title, if the Mortgagee elects to develop the Property, or any portion thereof, in accordance with the Project Approvals, the Mortgagee shall be required to assume and perform the obligations and other affirmative covenants of the Master Developer or Assignee Developer under this Agreement.

18.6 Master Developer Remains Liable. Unless expressly released by the City in writing, the Master Developer or Assignee Developer shall remain legally and contractually liable to the City for all of the Master Developer's or Assignee Developer's, respectively, covenants and obligations under this Agreement as to the Property, or portion thereof, that is acquired by a Mortgagee or subsequent approved purchaser at a foreclosure or trustee sale. Upon an approved Assignment of this Agreement to a Mortgagee or subsequent purchaser at a foreclosure or trustee sale, City shall release in writing the Master Developer or Assignee Developer from its covenants and obligations under this Agreement that are expressly assigned to or assumed by the Mortgagee or subsequent approved purchaser at a foreclosure or trustee sale as to the Property, or portion thereof, that is acquired.

18.7 Bankruptcy. Notwithstanding the foregoing provisions of this Section 18, if any Mortgagee of The Master Developer or Assignee Developer is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Master Developer or Assignee Developer, the times specified in Section 18.5 for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such Mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than one (1) year.

18.8 No Automatic Assignment to Mortgagee. Notwithstanding the foregoing provisions of this Section 18, no Mortgagee of the Master Developer or Assignee Developer shall become a party to this Agreement, or obtain any rights, privileges or obligations of this Agreement, except as provided for in this Section 18.

18.9 Assignment to Mortgagee. A Mortgagee or foreclosure-sale purchaser of the Master Developer or Assignee Developer who complies with the requirements of Section 18.5 shall be approved as an assignee of all the rights, benefits and obligations of this Agreement as it pertains to the Property, or portion thereof, that the Mortgagee or foreclosure-sale purchaser acquires.

18.10 Amendment. There shall be no amendment to or modification of this Agreement except as provided for in Section 14 of this Agreement governing amendments.

SECTION 19 INTERPRETATION AND ENFORCEMENT OF AGREEMENT

19.1 Complete Agreement. This Agreement represents the complete understanding between the Parties, and supersedes all prior agreements, discussions and negotiations relating to the subject matter hereof. No amendment, modification or cancellation of this Agreement shall be valid unless in writing and executed by the Parties.

19.2 Severability. If any terms, provisions, covenants or conditions of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provisions for development of the Property as set forth in this Agreement, including without limitation the payment of the fees and provision of improvements set forth therein, are essential elements of this Agreement and City and Master Developer would not have entered into this Agreement but for such provisions and if determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

19.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed by interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

19.4 Applicable Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of California and any applicable laws of the United States of America.

19.5 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

19.6 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

19.7 Authority of Signatories. All the Parties represent and warrant that the persons signing this Agreement on their behalves have full authority to bind the respective Parties.

19.8 Waiver and Delays. Failure by either Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or failure by either Party to exercise its rights upon a default by the other Party, shall not constitute a waiver of any right to demand strict performance by such other Party in the future.

19.9 Third Party Actions. Nonperformance by either Party shall not be excused because of a failure of a third person, except as specifically provided herein.

19.10 Estoppel Certificates. Any Party may, at any time and from time to time, deliver written notice to another Party requesting certification in writing that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; (ii) this Agreement has not been amended, or, if so amended, identifying the amendments; and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or, if in default, describing the nature and extent of any such default. A Party receiving a request hereunder shall execute and return a certificate within thirty (30) days following the receipt thereof. The City Manager of the City shall have the authority to execute any such certificate requested by the Master Developer

in form reasonably acceptable to the City Manager. The City acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees.

19.11 Exhibits. All exhibits referred to in, and attached to, this Agreement are incorporated herein by such reference.

19.12 Adoption of Agreement. Adoption of this Agreement by the City shall be by ordinance.

19.13 Recording of Agreement. Within ten (10) days following the adoption by the City of the ordinance approving this Agreement, or any subsequent amendment hereof, the City Clerk shall submit for recordation a fully executed copy hereof with the County Recorder of Riverside County, State of California.

19.14 Further Assurances. The Parties each agree to do such other and further acts and things, and to execute and deliver such instruments and documents (not creating any obligations additional to those otherwise imposed by the Agreement) as either may reasonably request from time to time in furtherance of the purposes of this Agreement.

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IN WITNESS WHEREOF, the Parties have executed this Agreement, to be effective as of the date set forth in the first paragraph hereof.

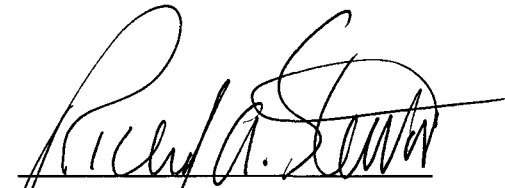
“MASTER DEVELOPER”

“CITY”

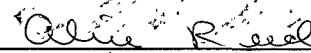
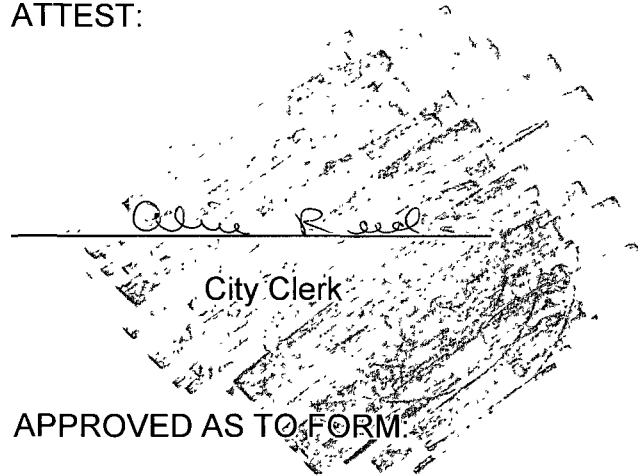
MORENO VALLEY PROPERTIES, LLC,
a California limited liability company

CITY OF MORENO VALLEY,
a municipal corporation

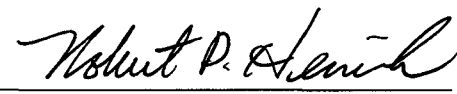
By: 
Iddo Benzeevi, President

By: 
Richard A. Stewart, Mayor

ATTEST:


City Clerk


APPROVED AS TO FORM:


City Attorney

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Riverside } ss.

On 2/7/06, before me, Margaret E. Ayars,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Yddo Benzeedi
Name(s) of Signer(s)

- personally known to me
- 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.

WITNESS my hand and official seal.

Margaret E. Ayars
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Aquabella Development Agreement

Document Date: January 12, 2006 Number of Pages: 54

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

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

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

DESCRIPTION

Page 1
Order No. 42015016

ALL OF BLOCKS 129, 138, 139, 148, 149, 152 AND 153 AS SHOWN BY MAP NO. 1 BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE 10 OF MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, ALSO LOTS 2 TO 7 INCLUSIVE OF BLOCK 150, LOTS 2 TO 8, INCLUSIVE IN BLOCK 151, LOTS 1, 2, 7 AND 8 IN BLOCK 157 AND LOTS 3, 4 AND 5 IN BLOCK 158, AS SHOWN BY MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY.

TOGETHER WITH THOSE PORTIONS OF THE STREETS AND AVENUES VACATED BY RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, A CERTIFIED COPY OF WHICH WAS RECORDED AUGUST 11, 1966 AS INSTRUMENT NO. 81996, OFFICIAL RECORDS, WHICH WOULD PASS WITH A CONVEYANCE OF SAID LAND.

EXCEPTING FROM BLOCK 138 THOSE PORTIONS DESCRIBED IN THE DEED TO THE COUNTY OF RIVERSIDE RECORDED AUGUST 31, 1992 AS INSTRUMENT NO. 324866.

ALSO EXCEPTING FROM BLOCKS 148 AND 153 THOSE PORTIONS DESCRIBED IN THE DEED TO THE MORENO VALLEY UNIFIED SCHOOL DISTRICT RECORDED JULY 19, 1994 AS INSTRUMENT NO. 286514.

ALSO EXCEPTING AND RESERVING WITHOUT RIGHT OF SURFACE ENTRY, AS A MINERAL INTEREST AND NOT AS A ROYALTY INTEREST, ALL OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES, AND ACCOMPANYING FLUIDS, INCLUDING BUT NOT BY WAY OF LIMITATION, ALL GEOTHERMAL RESOURCES IN, UNDER, OR PRODUCED AND SAVED FROM THE REAL PROPERTY GRANTED HEREIN, TOGETHER WITH ANY OF THE FOREGOING THAT MAY BE ALLOCATED THERETO PURSUANT TO ANY POOLING OR UNITIZATION AGREEMENT OR RATABLE TAKINGS PROGRAM TO WHICH GRANTOR MAY SUBSCRIBE, AND TOGETHER WITH THE SOLE AND EXCLUSIVE RIGHT TO PROSPECT FOR, DRILL FOR, PRODUCE, AND REMOVE SUCH OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES, AND GEOTHERMAL RESOURCES, FROM SAID REAL PROPERTY BELOW THE DEPTH OF FIVE HUNDRED (500') FROM THE SURFACE OF SAID REAL PROPERTY, INCLUDING THE RIGHT TO SLANT DRILL FROM ADJACENT PROPERTY, THE RIGHT TO UTILIZE SUBSURFACE STORAGE FOR NATURAL SUBSTANCES, AND THE RIGHT TO MAINTAIN SUBSURFACE PRESSURES, AS RESERVED IN THE DEED RECORDED JANUARY 7, 2004 AS INSTRUMENT NO. 010169, OFFICIAL RECORDS.

EXHIBIT "A"

EXHIBIT “B” – (6 Pages)

AquaBella – Circulation Phasing Improvement Program

Phasing Summary

Phase	Type	Quantity	Units	Construction	Occupancy
1	Active Adult (+55) Housing				
	Detached	351	DU	July 06 – Jan 08	Jan 07 – Feb 08
Attached	234	DU			
2	Active Adult (+55) Housing				
	Detached	289	DU	July 07 – July 08	Jan 08 – Aug 08
Attached	193	DU			
3	Active Adult (+55) Housing				
	Detached	301	DU	Feb 08 – Mar 08	Aug 08 – Apr 09
Attached	201	DU			
4	Active Adult (+55) Housing				
	Detached	460	DU	Sept 08 – Feb 10	Mar 09 – Mar 10
Attached	306	DU			
5	Active Adult (+55) Housing				
	Detached	220	DU	Aug 09 – Aug 10	Feb 10 – Oct 10
Attached	147	DU			
6	Apartment Complex	220	DU	Aug 09 – Aug 10	Oct 10 – July 10
	Hotel	300	Room		

Phasing Improvement Details

Location	Direction	Improvement	Phase	Footnotes
Nason St from Iris to Delphinium	NB / SB	Widen to half-width (1 lane per direction)	Phase 1	
Nason Street at Iris Avenue	I	Install traffic signal	Phase 1	
Nason Street at Iris Avenue	SB	Construct dual right-turn lane	Phase 1	
Nason Street at Iris Avenue	EB	Construct one ADDITIONAL left turn lane	Phase 1	
Nason Street at Iris Avenue	WB	Construct one left turn lane	Phase 1	
Nason Street at Iris Avenue	WB	Construct one right turn lane	Phase 1	
Nason Street at Dracaea Avenue	I	Install traffic signal	Phase 1	
Lasselle Street at Margaret Avenue	I	Install traffic signal	Phase 1	
Nason Street at Fir Avenue	I	Install traffic signal	Phase 1	
Nason Street at Fir Avenue	NB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 1	

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Location	Direction	Improvement	Phase	Footnotes
Nason Street at Fir Avenue	SB	Widen westside/eastside Nason to ultimate width (ROW) including dual left-turn lane	Phase 1	
Nason Street at Fir Avenue	EB	Construct one left turn lane.	Phase 1	
Nason Street at Fir Avenue	WB	Construct one left turn lane	Phase 1	
Lasselle Street at Delphinium Avenue	I	Install traffic signal	Phase 1	

Location	Direction	Improvement	Phase	Footnotes
Nason Street at Eucalyptus Avenue	I	Modify Traffic Signal	Phase 2	
Nason Street at Eucalyptus Avenue	NB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 2	
Nason Street at Eucalyptus Avenue	SB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 2	
Nason Street at Eucalyptus Avenue	EB	Re-stripe lane configuration	Phase 2	
Nason Street at Eucalyptus Avenue	EB	Construct one through lane	Phase 2	
Nason Street at Eucalyptus Avenue	WB	Construct one left turn lane	Phase 2	
Delphinium Avenue		Traffic Calming on Delphinium	Phase 2	
Lasselle Street at John F Kennedy Drive	EB	Construct one additional left turn lane (Including traffic signal modification to implement Split-Phase Signal Timing)	Phase 2	
Lasselle Street at John F Kennedy Drive	EB	Re-stripe lane configuration	Phase 2	
Lasselle Street at Gentian Avenue		Re-striping lane configuration / Signal Modification	Phase 2	
Clubhouse Drive at Cactus Avenue	I	Install traffic signal	Phase 2	
Clubhouse Drive at Cactus Avenue	NB	Construct one left turn lane	Phase 2	
Clubhouse Drive at Cactus Avenue	NB	Construct one shared through-right turn lane.	Phase 2	

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Location	Direction	Improvement	Phase	Footnotes
Clubhouse Drive at Cactus Avenue	SB	Construct one left turn lane	Phase 2	
Clubhouse Drive at Cactus Avenue	SB	Construct one shared through-right turn lane.	Phase 2	
Clubhouse Drive at Cactus Avenue	EB	Construct one left turn lane	Phase 2	
Clubhouse Drive at Cactus Avenue	WB	Construct one left turn lane	Phase 2	
Cactus Ave from Lasselle to Nason	EB / WB	Widen to half-width (1 lane per direction)	Phase 2	

Location	Direction	Improvement	Phase	Footnotes
Nason St from Cottonwood to Dracaea	NB	Construct 1 NB lane	Phase 3	
Nason Street at Cottonwood Avenue	I	Modify traffic signal	Phase 3	
Nason Street at Delphinium Avenue	I	Modify traffic signal	Phase 3	
Nason Street at Cactus Avenue	I	Modify traffic signal	Phase 3	
Nason St from Delphinium to Cactus	SB	Construct 1 SB lane	Phase 3	
Nason St from Brodiaea to Alessandro	SB	Construct 1 SB lane	Phase 3	
Nason St from Alessandro to Cottonwood	NB / SB	Construct 1 lane per direction	Phase 3	
Cactus Ave from Nason to Oliver	WB	Construct 1 WB lane	Phase 3	

Location	Direction	Improvement	Phase	Footnotes
Nason Street at Clubhouse Drive	I	Install traffic signal	Phase 4	

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Location	Direction	Improvement	Phase	Footnotes
Nason Street at Clubhouse Drive	NB	Construct one left turn lane	Phase 4	
Nason Street at Clubhouse Drive	SB	Construct one left turn lane	Phase 4	
Nason St from Iris to Delphinium	NB / SB	Complete the remaining half-width (add 1 lane per direction)	Phase 4	
Cactus Ave from Lasselle to Nason	EB / WB	Complete the remaining half-width (add 1 lane per direction)	Phase 4	
Oliver St, project frontage	NB / SB	Widen to ultimate width	Phase 4	700' Project frontage only btw J.F.K and Iris

Location	Direction	Improvement	Phase	Footnotes
Morrison St from Brodiaea to Cactus	NB / SB	Construct half-ultimate plus 12 feet	Phase 5	
Morrison Street at Brodiaea Avenue	I	Install traffic signal	Phase 5	
Morrison Street at Cactus Avenue	I	Install traffic signal	Phase 5	
Oliver Street at Cactus Avenue	I	Modify Traffic Signal	Phase 5	
Oliver Street at Cactus Avenue	SB	Widen Oliver to ultimate width (ROW) w/ signing & striping	Phase 5	
Oliver Street at Iris Avenue	I	Modify traffic signal	Phase 5	
Oliver Street at Iris Avenue	SB	Construct one right turn lane	Phase 5	
Iris Ave from Lasselle to Camino Flores		Modification of Iris Median (\$70 per LF)	Phase 5	
Iris Avenue		Coordination of traffic signals on Iris (\$3500 per intersection)	Phase 5	
Lasselle Street		Coordination of traffic signals on Lasselle (\$3500 per intersection)	Phase 5	
Lasselle Street at Cactus Avenue	I	Modify Traffic Signal	Phase 5	Or concurrent with City Project
Lasselle Street at Cactus Avenue	NB	Construct one FREE right-turn lane	Phase 5	Or concurrent with City Project
Lasselle Street at Cactus Avenue	EB	Re-stripe lane configuration	Phase 5	Or concurrent with City Project
Lasselle Street at Cactus Avenue	WB	Construct one additional left turn lane	Phase 5	Or concurrent with City Project

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Location	Direction	Improvement	Phase	Footnotes
Lasselle Street at Brodiaea Avenue	I	Install traffic signal	Phase 6	
Brodiaea Ave from Lasselle to Morrison	EB / WB	Construct half ultimate plus 12 feet (include power poles)	Phase 6	
Cactus Avenue at Apartment Access	I	Construct raised median to restrict left-turn in/out movements from apartment access	Phase 6	
Lasselle Street at Apartment Access	I	Construct raised median to restrict left-turn out movement from apartment access	Phase 6	
Nason Street at Bay Avenue	I	Install traffic signal	Phase 6	
Nason Street at Bay Avenue	NB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 6	
Nason Street at Bay Avenue	SB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 6	
Nason Street at Brodiaea Avenue	I	Install traffic signal	Phase 6	
Moreno Beach Drive at Cactus Avenue	I	Modify traffic signal	Phase 6	
Moreno Beach Drive at Cactus Avenue	NB	Construct one shared through-right turn lane.	Phase 6	
Moreno Beach Drive at Cactus Avenue	SB	Construct one shared through-right turn lane.	Phase 6	
Moreno Beach Drive at Cactus Avenue	EB	Construct one shared through-right turn lane.	Phase 6	
Moreno Beach Drive at Cactus Avenue	WB	Re-stripe shared left-through turn lane	Phase 6	
Moreno Beach Drive at Cactus Avenue	WB	Construct one through lane	Phase 6	
Moreno Beach Drive at Cactus Avenue	WB	Construct one shared through-right turn lane.	Phase 6	
Moreno Beach Drive at John F. Kennedy Drive	I	Modify traffic signal	Phase 6	
Moreno Beach Drive at John F. Kennedy Drive	WB	Widening & re-striping & signing for additional left-turn lane	Phase 6	
Cactus Avenue		Coordination of traffic signals on Cactus (\$3500 per intersection)	Phase 6	

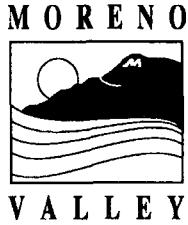
Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Location	Direction	Improvement	Phase	Footnotes		
Nason St at SR-60 WB Ramps / Elder Ave	I	Participate in interchange improvements through payment of TUMF program fees	All			
Nason St at SR-60 EB Ramps	I	Participate in interchange improvements through payment of TUMF program fees	All			

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Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

END OF EXHIBIT "B"



CITY CLERK
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APPROVALS	
CITY ATTORNEY	
FINANCE DIRECTOR	
CITY MANAGER	

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Report to City Council

TO: Mayor and City Council

FROM: Linda B. Guillis, Community Development Director

AGENDA DATE: November 22, 2005

TITLE: A public hearing for:
General Plan Amendment (PA04-0070) to amend the Circulation and Bikeway Plans to alter the alignment of Nason Street at Iris Avenue; replace JFK Drive between Lasselle and Oliver Streets, and Morrison Street south of Cactus Avenue with alternative street improvements, and provide a Class III bikeway on Cactus Avenue and on Oliver Street;
Specific Plan Amendment (P04-082) to amend Specific Plan No. 218, the AquaBella Specific Plan (formerly known as the Moreno Valley Field Station Specific Plan), to provide for a gated active-adult community;
Tentative Parcel Map 33532 (PA04-0069) to subdivide 685 acres generally between Brodiaea and Iris Avenue, and between Lasselle and Oliver Streets, into 4 lots for financial purposes;
Development Agreement (PA04-0005) an agreement between the City of Moreno Valley and Moreno Valley Properties, LP regarding Specific Plan No. 218, as amended.

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

RECOMMENDED ACTION

The Staff concurs with the Planning Commission recommendation. The Planning Commission recommends the City Council:

- Accept** an Addendum Environmental Impact Report (EIR) for PA04-0070 (General Plan Amendment), P04-082 (Specific Plan Amendment), PA04-0069 (Tentative Parcel Map 33532), and PA04-0005 (Development Agreement). The projects, individually and cumulatively, will not result in a significant effect on the environment;
- Approve** Resolution No. 2005- 111 approving PA04-0070, thereby modifying General Plan Circulation Plan and Bikeway Plan Maps as described in the Resolution, and the

E2

revised Circulation and Bikeway Plan Maps as attached to the Resolution as Exhibits 5A and 5B;

3. **Introduce** Ordinance No. 703 approving Specific Plan Amendment (P04-082) as attached to the ordinance as Exhibit 6A;
4. **Approve** Resolution No. 2005-112 approving Tentative Parcel Map No. 33532 (PA04-0069), based on the findings in the Resolution, and the conditions of approval as attached to the resolution as Exhibit 7A; and
5. **Introduce** Ordinance No. 704 approving Development Agreement (PA04-0005), based on the findings in the Ordinance.

ADVISORY COMMITTEE RECOMMENDATION

On July 28, 2004, the Recreational Trails Board reviewed the General Plan Amendment application with regard to relocating a bikeway from John F. Kennedy Drive (JFK Drive) to Cactus Avenue, due to the proposal by the applicant to eliminate JFK Drive between Lasselle and Oliver Streets. The Board raised concerns with regard to the elimination of JFK Drive and recommended that the City Council not eliminate JFK Drive and maintain a Class II bikeway on both sides of JFK Drive. This revision is not recommended by the staff or the Planning Commission. The minutes to that meeting are Attachment 2 of this report.

On October 20, 2005, the Planning Commission conducted a public hearing and recommended that the City Council approve the project applications. The minutes to that meeting are Exhibit 3.b to this report. At the Planning Commission meeting it was disclosed that the applicant and staff were working on revisions to technical language within the Development Agreement and questions regarding certain standard conditions of approval for the Tentative Parcel Map. The Planning Commission acknowledged that staff would be continuing to work with the applicant on these matters as they proceeded to the City Council.

SUMMARY

In April 2004, Highland Fairview Properties (HFP) submitted an application for a General Plan Amendment, Specific Plan Amendment, Tentative Parcel Map, and Development Agreement. The primary premise of the Specific Plan Amendment is related to the applicant's proposal to change the previously approved Moreno Valley Field Station Specific Plan from a non-age qualified community to a primarily gated active-adult community (55 or better). The original Specific Pan was anticipated to have a population of approximately 10,665 (3.65 persons per household); with a change to an active-adult population it is anticipated that the population will be approximately 5,666 (2,702 units at 1.8 persons per household and 220 units at 3.65 persons per household). As a result in the changes in population, HFP is proposing to amend the General Plan and Specific Plan. The most significant changes proposed are:

- Change 2,702 dwelling units to a gated active-adult (55 or better) development, while retaining 220 multi-family units outside of the gated community with no age restriction;
- Provide circulation improvements as an alternative to the construction of John F. Kennedy Drive between Lasselle and Oliver Streets, and Morrison Street south of Cactus Avenue;
- Replace an 148-acre golf course and 51 acres of park land with private recreational amenities, including a 40-acre lake system, a 35,000 square foot club house, 14-acres of pocket parks, and pedestrian pathways; and,
- Eliminate the proposed elementary and middle schools sites.

This project involves the following four applications and each of the applications are discussed separately within this report:

1. PA04-0070 – General Plan Amendment (Circulation and Bikeway Plans)
2. P04-082 – Specific Plan Amendment (Amending Specific Plan No. 218)
3. PA04-0069 – Tentative Parcel Map 33532
4. PA04-005 – Development Agreement

BACKGROUND

The 760-acre project site is generally located between Brodiaea and Iris Avenues, and Lasselle and Oliver Streets, and is predominately surrounded by existing and approved residential and medical uses (Riverside County Hospital on the north and Moreno Valley Community Hospital on the southeast). The Moreno Valley Field Station Specific Plan (SP 218) was originally submitted by the University of California Riverside (UCR) which had used the site for experimental agriculture since 1962. With increased urbanization of the surrounding area, UCR determined to cease agricultural use of the property and developed a Specific Plan to allow for disposition of property for development. The 760-acre Specific Plan was originally approved by the City in 1999. The plan provided for 2,922 dwelling units of varying densities, and included a 148-acre golf course, 51 acres of park land, 25 acres of commercial land, and 4 schools (2 elementary, 1 middle, and 1 high school).

Of the 760-acres, 50 acres is owned by the Moreno Valley Unified School District (MVUSD) and is fully-improved with a high school (Vista del Lago); 25 acres is vacant and owned by the County of Riverside, and the remaining 685 acres is vacant and was purchased by Moreno Valley Properties, an affiliate of Highland Fairview Properties (HFP), in January, 2004.

DISCUSSION

GENERAL PLAN AMENDMENT (PA04-0070)

The General Plan Amendment includes three changes to the City's Circulation Plan and one change to the Bikeway Plan. The changes are as follows:

1. Nason Street alignment – The current Nason Street alignment provides for Nason Street to curve westward south of Delphinium Avenue to align with the intersection of Grande Vista Drive and Iris Avenue. HFP proposes to maintain the westward curve of Nason Street, however proposes to move Nason Street's intersection with Iris Avenue approximately 800 feet to the east to intersect with Hillrose Lane. An exhibit of the circulation changes follows the discussion in the next section regarding John F. Kennedy Drive and Morrison Street

The re-alignment of Nason will not change the level of service provided on Nason Street or Iris Avenue, however the change in alignment will require that the intersection be reconfigured. A traffic study has been prepared to analyze this change and define the configuration of the intersection.

Additionally, Tract 30316 just north of Iris Avenue would have abutted Nason Street, and Via Lavonda would have connected directly to Nason Street. Via Lavonda is a required secondary access for the Tract 30316. Under separate agreement, once Nason Street is constructed, Via Lavonda will be extended to connect with Nason Street, thereby preserving the required secondary access to the tract.

2. John F. Kennedy Drive and Morrison Street – Within the project boundaries, John F. Kennedy (JFK) Drive is designated as a Minor Arterial (88 foot right-of-way) between Lasselle and Nason Streets, and a Major Arterial (100 foot right-of-way) between Nason and Oliver Streets. Only a small portion of JFK Drive exists within the project boundary; extending approximately 500 feet east of Lasselle providing access to the high school. Morrison Street is designated a Minor Arterial (88 foot right-of-way) south of Cactus Avenue and does not presently exist.

Due to the reduction in the project population for the area related to the proposed active adult population and to provide an integral gated community, the applicant is proposing to eliminate the future extensions of JFK Drive from its terminus at the high school to Oliver Street, and Morrison Street south of Cactus Avenue. A traffic study has been prepared to evaluate the project circulation changes, which included a significant reduction in vehicular trips from 44,486 to 13,954. The reduction in trips is due primarily to the reduction in population for the project, but also the elimination of the schools, public parks, and golf course uses that would have also generated vehicular trips.

Attached to the project's Addendum Environmental Impact Report (Attachment 4) is the AquaBella Circulation Study Executive Summary (Exhibit 4.a) which includes the conclusions of the traffic analysis accepted by the City's Transportation Engineering Division. The resulting improvements from the traffic study are itemized in the Circulation Phasing Improvement Program (Exhibit 4.b) and mitigate the project impacts in accordance with the California Environmental

Quality Act and Subdivision Map Act requirements. Further, it should be noted that the improvements identified in the Circulation Phasing Improvement Program are less than what was required with the original Moreno Valley Field Station Specific Plan. The Program provides for new through-lane and turn-lane enhancements adjacent and in the vicinity of the project site, to mitigate the project impacts, inclusive of the elimination of JFK Drive and Morrison Street within the project boundaries.

Moreno Valley Unified School District (MVUSD) has a high school at Lasselle Street and JFK Drive, and an elementary and middle school at Oliver Street and JFK Drive, and has expressed support for the elimination of JFK Drive between Lasselle and Oliver Streets as it will avoid high volumes of vehicles passing by the schools.



General Circulation



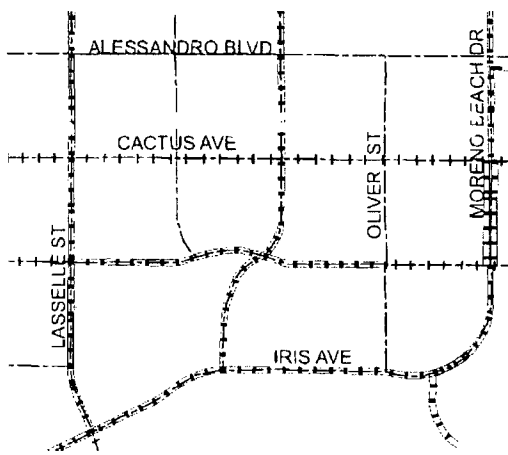
Circulation without JFK Drive and Morrison Street

3. Relocation of a Bikeway – Within the project boundaries, a Class II bikeway is currently required on JFK Drive. Approval of the project would result in the elimination of JFK Drive and the bikeway alignment. At present the City's Bikeway Plan provides for a bikeway on Cactus Avenue that commences at the City's westerly limits and terminates at Lasselle Street. In the proposed General Plan revision, a Class III bikeway is proposed to be continued from Lasselle Street eastward to Redlands Boulevard. It is recommended that the Class II bikeway originally located on the JFK Drive alignment be replaced with a Class III bikeway on Cactus Avenue consistent with the General Plan revision proposal. A Class II bikeway is a striped 6 foot lane adjacent to the curb within the street. A Class III bikeway is signed as a bikeway without a striped lane.

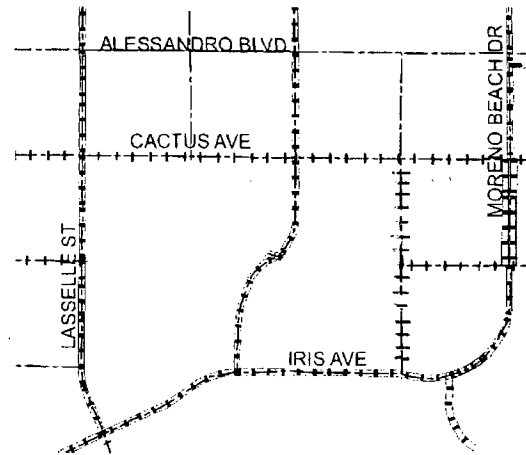
In addition, the bikeway on the JFK Drive alignment would have provided more direct access to the middle and elementary schools at JFK Drive and Oliver Streets. In order to facilitate bikeway access to the schools, it is further recommended that a Class III bikeway be provided on Oliver Street from Cactus

to Iris Avenues, thereby providing access to the school sites from both the north and south. A diagram of the bikeway changes follows this section.

On July 28, 2004, the relocation of the Class II bikeway along JFK Drive to an alignment along Cactus Avenue was presented to the Recreational Trails Board. At that meeting, the Board expressed their concern with the possibility of the elimination of JFK Drive between Lasselle and Oliver, and ultimately made the recommendation that JFK Drive should not be eliminated and that a Class II bikeway be maintained on the JFK alignment. Staff recommends a Class III bikeway on Cactus Avenue, east of Lasselle Street, and a Class III bikeway on Oliver Street between Cactus and Iris Avenues.



Current Bikeway Plan



Proposed Bikeway Plan

- Legend
- Class II
 - Class III

SPECIFIC PLAN AMENDMENT (P04-082)

The attached Specific Plan text (Exhibit 6A) is a complete replacement of the original Moreno Valley Field Station Specific Plan text. The revised Specific Plan provides for three land uses: residential (2,922 dwelling units on 685 acres), commercial (25 acres – owned by the County of Riverside), and a high school site (50 acres – owned by the Moreno Valley Unified School District). The original Specific Plan similarly provided for 2,922 dwelling units, approximately 24 acres of commercial land, and school sites; as a result the basic land uses of the Specific Plan are unchanged with the amendment.

The primary change in the Specific Plan is the proposal that the majority of the project become an active-adult community. Federal standards define an age-restricted community of age “55 and better”. The proposed change in the orientation of the residential population provides for a projected reduction in build-out population of the

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

project from 10,665 residents to 5,666 residents. As result of the significant reduction in the project population, HFP re-evaluated the infrastructure and amenities associated with the project to better relate to the targeted population.

The land uses for the proposed Specific Plan amendment are as follows:

School –MVUSD has constructed a high school (Vista del Lago) on approximately 50 acres of land on the southeast corner of Lasselle Street and JFK Drive consistent with the original Specific Plan. Within the Specific Plan text, this site will default to the P (Public) standards of the City’s Municipal Code.

Commercial – The original Specific Plan provided for approximately 24 acres of commercial land distributed along Nason Street. Within the revised Specific Plan 25 acres for commercial development will be provided. The development will exclusively occur on the 25 acre parcel owned by the County of Riverside on the southwest corner of Nason Street and Cactus Avenue. Consistent with the original Specific Plan, the commercial development standards will default to the City’s Municipal Code provisions for the CC (Community Commercial) designation.

Residential – The remaining 685 acres is divided into 10 residential Planning Areas, all of the Planning Areas will be within an active-adult community, with the exception of Planning Area 2, which will be reserved for multi-family development. Due to the proximity of the hospital and medical facilities on Cactus and Iris, there is a desire to provide some housing that is not age-restricted to support the housing needs in the immediate employment area. As a result, an 11 acre site on Lasselle Street between Brodiaea and Cactus Avenues is being provided without age restrictions and will have a density of 20 units per acre. This site will accommodate 220 dwelling units.

The remaining 2,702 dwelling units are dispersed throughout the remaining 674 acres, within 9 Planning Areas of a gated community. Within each Planning Area there will be a variety of single and multi-family units with densities within the Planning Areas ranging from 4.0 up to 15 units per acre. However, the average density for the overall project within the gated community will be approximately 4 units per acre. Within the original Specific Plan approximately 40% of the 2,922 dwelling units were multi-family units. The Specific Plan amendment maintains 40% of the units as multi-family units to ensure continued consistency with the City’s adopted Housing Element.

The primary Clubhouse and amenities will be located in Planning Area 5, which also has an option for residential units or a hotel use within that Planning Area. Any non-residential uses shall develop in accordance with the standards of the City’s Municipal Code for that use type, while residential uses shall comply with the standards provided within the Specific Plan text.

The original Specific Plan provided for single-family lots as small as 3,000 square feet. The amended Specific Plan text provides for the smallest lots to be ~~4,200~~ square feet.

4,000

Additional design and implementation details are discussed below under Implementation.

Infrastructure and Amenities

The *land uses* of the Specific Plan are consistent with the original land use intent. The primary changes are related to infrastructure and amenities, as follows:

- Elimination of John F. Kennedy Drive between Lasselle and Oliver Streets;
- Elimination of Morrison Street south of Cactus Avenue;
- Replacement of a 148-acre golf course with an approximate 40-acre lake system;
- Replacement of 51 acres of park land with 14 acres of private recreational amenities (excluding lakes, pedestrian trail systems, club house structures); and,
- Elimination of elementary and middle schools.

Circulation

The elimination of JFK Drive is addressed above in the General Plan Amendment discussion. However, the circulation design of the project provides for significant features in the layout of the project. The primary project entrance is from a street, presently labeled "Clubhouse Drive", which intersects with both Nason Street and Cactus Avenue. These intersections will serve as the primary access points into the gated community. Additional vehicular access points will be necessary secondary emergency access and will be defined at the time the plans for individual Planning Areas.

Recreation/Open Space

The original Specific Plan provided for an 18-hole, 148-acre golf course. HFP has determined not to proceed with a golf course and has replaced the course with a 40-acre lake system. The lake system will serve multiple purposes. The lake is an aesthetic amenity for the project, especially for the homes that will front on the lake and residents that use walking paths adjacent to the lakes.

The lakes will also serve an environmental purpose, using technology which is new to Moreno Valley. The project water quality and storm water management needs will be addressed through the lake feature. They are designed to receive the water runoff which would normally go into the storm drain system. The run-off waters will go through a series of bio-filtration processes before the water enters the lake system allow for the water to be cleaned by natural processes. The lakes are designed to mimic the function of a natural lake and will allow for the waters that have passed through bio-filtration processes to enter the lake and through more natural processes will further dilute pollutants before waters enter any regional flood channels. Historically, storm water run-off has been piped into storm drain/flood channels and transported to downstream locations like Lake Elsinore resulting in potential pollution problems downstream; this

lake system is designed to minimize any potential downstream impacts. Additionally, the lakes are being designed to have the capacity to handle the storm waters of a 100-year storm.

In addition to the change from a golf course to a lake system, the original Specific Plan provided for 51 acres of park land, which was consistent with the standards of the time to provide 5 acres per 1,000 population. The current City standard has changed from 5 acres to 3 acres per 1,000 population. Based on current standards and the reduced population of an active-adult community, approximately 14 acres of park land is required to serve the project population. The park requirement will be met through provisions for pocket parks to be provided throughout the gated community. Though the project will provide amenities to its residents the project will not provide park facilities to the public.

Schools

The change to an active-adult community will significantly reduce the Moreno Valley Unified School District's (MVUSD) needs in the immediate area and MVUSD has determined that the four school sites identified in the original Specific Plan are no longer necessary. As a result, the only school within the project boundary will be the existing high school facility (Vista del Lago) on the southeast corner of Lasselle Street and JFK Drive.

Implementation

One of the core principals of any Specific Plan is understanding how the plan will be implemented over time. HFP has discussed with the City a desire to specify project details in conjunction with future map or development applications, such as perimeter wall/landscaping designs, entry statements, location and design of pocket parks, etc. It is not necessary to address all the project details up-front, however, in such instances the Specific Plan should provide clarity as to what details need to be provided, when they will be provided, how they will be evaluated, and who will implement them. Therefore, staff created a process that gives the applicant the ability to provide project details closer to the time of development while at the same time providing certainty to the City that there is a mechanism to address those details.

This Specific Plan requires Planning Area Development Implementation Plans (PADIP) to address the implementation of development within the Planning Areas of the Specific Plan. A PADIP is similar to a Planning Unit Development and it is intended that at such time that a development application (i.e., tentative tract map, plot plan) is submitted a comprehensive package for the affected Planning Area will be required. The PADIP will include planning area details regarding the allocation of residential units (single-family and multi-family), development plans and design guidelines addressing the architecture and character of the project, tentative map(s), and infrastructure improvement plans.

Another unique aspect of the Specific Plan provides for the development of the Master Design Guidelines. The Specific Plan contains a basic package of design guidelines

which will be expanded over time. The Specific Plan identifies a Southern Mediterranean theme and character for the overall project, however, it does not provide the specific details of various improvements. As a result, the Master Design Guidelines will be refined through subsequent approvals. For example, HFP is discussing utilizing alternative street light standards with a greater design character than the City's conventional streetlight standard. Staff is evaluating the proposed street lights for consistency with City objectives to provide adequate lighting and protection of the night sky, and once approved by staff, the light standard will be incorporated into the Master Design Guidelines for all subsequent development in the project to utilize. Another example, is that the first PADIP considered by the Planning Commission for the implementation of a Planning Area will include perimeter walls and landscaping detail at the gated entry, which is not presently in the design guidelines. Once the Commission reviews and approves a PADIP that contains a master plan design detail, perimeter wall design and landscaping, that portion of the PADIP approval will be incorporated into the Master Design Guidelines. Evolution of the Master Design Guidelines using the PADIP process provides the desired up-front flexibility for the applicant and the ultimate long-term certainty for the City.

TENTATIVE PARCEL MAP 33532 (PA04-0069)

Project

The proposed tentative parcel map covers the 685-acre residential portion of the Specific Plan. The map creates a large lot subdivision to allow for mass grading of the project site and implementation of backbone infrastructure. The City has allowed a similar approach in TownGate, Moreno Valley Ranch and many of the City's larger master planned developments. Subsequent maps or development applications will be required in accordance with the PADIP provisions of the Specific Plan prior to further development of the property.

Site

The project site is generally flat with drainage areas and channels, and is vacant with the exception of a house and various maintenance structures and wells that were associated with the former UCR agricultural use of the land.

Surrounding Area

North of the project area is a combination of vacant land, the Riverside County Regional Medical and other ancillary medical facilities, and new single-family residential development. On the south, east, and west are single-family homes, and southeast of the project the Moreno Valley Community Hospital.

Access

The tentative map provides 4 large lots, ranging from 72 acres to 281 acres. Cactus Avenue and Nason Street provide the only public streets within the project boundary. Perimeter public streets include Lasselle, Morrison, Oliver, Iris, and Delphinium. The submittal of future tentative maps or development applications for any given Planning Area, those submittals will further define the access within each Planning Area. The future access will be evaluated in conjunction with the project traffic study and public safety needs.

DEVELOPMENT AGREEMENT (PA04-0005)

A Development Agreement is a negotiated agreement that typically allows a developer or property owner to protect their project approvals (Specific Plan standards and land use) for a fixed period of years. In exchange for long term vested rights, the City can request services, monies or improvements for such protections. Attached is a draft of the Development Agreement (Exhibit 8.a).

The Development Agreement has been thoroughly negotiated and there is complete agreement with both parties of interest. Staff recommends approval in whole. The deal points of the Development Agreement are interrelated to the provisions and implementation of the Specific Plan and the Addendum Environmental Impact Report, therefore, modifications to the results of the General Plan Amendment, Specific Plan Amendment, Tentative Parcel Map, and Addendum Environmental Impact Report may impact the deal points provided within the Development Agreement. The following highlights the major Development Agreement deal points:

Vested Entitlements

The Development Agreement will be an agreement between the property owner, Moreno Valley Properties and the City of Moreno Valley. The Development Agreement proposes an initial 10-year term with opportunities for three 5-year extensions. During the life of the Development Agreement, the provisions of the Specific Plan and any subsequent entitlements would be protected. This means that the property owner receives protection from the City amending the Specific Plan without their consent, provides protection from local development moratorium, and extends the life of subsequent project approvals to coincide with the term of the Development Agreement. For example, if a tentative tract map is approved, but not recorded within the initially approved time frame, under the protection provided by the Development Agreement, the map will not be required to be extended by formal action; the Development Agreement will provide that the tentative map is extended until recorded or until the term of the Development Agreement has terminated. The developer's ability to achieve the entitlement certainty provided by the Development Agreement is typically the major reason a Development Agreement is desired by the developer. By entering into a Development Agreement, the City loses some of its flexibility to modify land use or entitlements to adjust to changing conditions.

Development Impact Fee Exemptions and Credits

Transportation

Several of the primary Development Agreement deal points relate to traffic and park improvements, and impact fees. As negotiated and incorporated in the Addendum EIR, the project will provide traffic improvements that meet the requirements of the California Environmental Quality Act (CEQA) and the Subdivision Map Act. Additionally, the negotiations between the parties has resulted in a Circulation Phasing Improvement Program (Exhibit 4.b) that provides for the construction of traffic improvements in six project phases, and schedules a weighting of improvements in the earlier phases. For example, the first phase provides that upon completion of the 585th dwelling unit Nason Street will have been constructed from Delphinium Avenue to Iris Avenue. In exchange for the implementation of identified traffic improvements, the Development Agreement provides that the applicant will receive a 100% exemption from the City's Arterial Street, Traffic Signal, and Interchange Improvement Development Impact Fees.

Transportation Uniform Mitigation Fees (TUMF)

Additionally, the City and Moreno Valley Properties agree to work cooperatively to explore tri-party agreements with Western Riverside Council of Governments (WRCOG) to earmark the TUMF paid by the project for future improvement of the Nason Street Interchange of State Route 60.

Parks and Recreation

Current City policy provides for no fee reductions associated with amenities for private park improvements. The Development Agreement negotiations include fee credits for park and recreational amenities. The reduced population within the gated, active-adult portion of the Specific Plan requires the development of approximately 14 acres to address the project's recreational needs. As negotiated, the project will provide 14 acres of pocket parks that will include a variety of amenities, including barbeques, shade structures, tot lots, basketball half-courts, horseshoe pits, and tennis courts. These amenities will be for the exclusive use of project residents. It is anticipated that the addition of these amenities within the project will mitigate the majority of the projects' park needs. Based on this conclusion, the Development Agreement provides an 87.5% credit on the Park Land and Park Facilities Development Impact Fees. However, there will be impact on the City's recreation facilities which will be mitigated by the payment of the balance of the fee. There will be no park credits for the 220 multi-family units that are not within the gated active-adult community.

In addition to the park and recreation facilities, the project is required to provide a Clubhouse facility of at least 35,000 square feet and at a minimum value of \$20 million. Staff is recommending a 100% fee credit for the Recreation Center Development Impact Fee. There will be no credits for the 220 multi-family units that are not within the gated active-adult community.

Assignment

The above items, street improvements and recreation/park amenities are obligations of the Master Developer pursuant to the Terms of the Development Agreement. Through the Assignment provisions in the Development Agreement, the Master Developer is allowed to assign any or all of these obligations to an Assignee Developer who meets the conditions and standards set forth in Section 9 of the Development Agreement. The City has the right to review and approve such assignments. However, the City will not review sales or leases of the Project Area that do not include an assignment of the Master Developer's covenants or obligations under the Development Agreement.

Exaction

The project will receive its electricity through Moreno Valley Electrical Utility. As negotiated in the Development Agreement, Moreno Valley Properties has agreed to provide a \$2 million exaction. The first \$1 million shall be used for the benefit of the Moreno Valley Electrical Utility. The second \$1 million will be used for the benefit of the Moreno Valley Electrical Utility or other City capital project.

Community Facility District

Current City policy provides that impact fees will not be paid from a Community Facility District (CFD). The negotiated Development Agreement provides that the Transportation Uniform Mitigation Fees (TUMF) can be paid from the project's Community Facility District. This will permit the TUMF to be paid in a lump sum and will allow for the parties to work with WRCOG to earmark the monies towards implementation of the Nason Interchange.

Furthermore, the Development Agreement provides that the street improvements, TUMF obligations, and water and sewer improvements are the priority improvements for the Development Agreement. However, if these obligations are met and there is remaining debt capacity in the CFD, the developer can include the project's Development Impact Fees (DIF) in the CFD financially, provided that the City's policy of not exceeding a maximum tax of 2% is met.

ALTERNATIVES

1. Support the Planning Commission's recommendation.
2. Deny the project applications.

STAFF RECOMMENDATION

Staff recommends that the City Council support the Planning Commission's recommendation, and;


- 1) **ACCEPT** the Addendum Environmental Impact Report for PA04-0070 (General Plan Amendment), P04-082 (Specific Plan Amendment), PA04-0069 (Tentative Tract Map 33532), and PA04-0005 (Development Agreement), in that no new significant environmental effects or substantial increase in the severity of previously identified significant effects were determined;
- 2) **APPROVE** PA04-0070 (General Plan Amendment);
- 3) **APPROVE** P04-082 (Specific Plan Amendment);
- 4) **APPROVE** PA04-0069 (Tentative Tract Map 33532); and,
- 5) **APPROVE** PA04-0005 (Development Agreement).

NOTIFICATION

Public notice was sent to all property owners of record within 300' of the project, inclusive of interested parties that requested to be notified. The public hearing notice for this project was also posted on the project site and published in the local newspaper.

ATTACHMENTS/EXHIBITS

1. Public Hearing Notice
2. Recreational Trails Board Minutes, July 28, 2004
3. Planning Commission Staff Report, October 20, 2005
 - 3.a. Planning Commission Resolution, October 20, 2005
 - 3.b. Planning Commission Minutes, October 20, 2005
4. Addendum Environmental Impact Report
 - 4a. AquaBella Circulation Study Executive Summary
 - 4b. AquaBella Circulation Phasing Improvement Program
5. City Council Resolution No. 2005-111 for PA04-0070 (General Plan Amendment)
 - 5a. General Plan Amendment (PA04-0070) – Circulation Plan Map
 - 5b. General Plan Amendment (PA04-0070) – Bikeway Plan Map
6. City Council Ordinance No. 703 for P04-082 (Specific Plan Amendment)
 - 6a. AquaBella Specific Plan (P04-082)
7. City Council Resolution No. 2005-112 for PA04-0069 (Tentative Parcel Map 33532)
 - 7a. Conditions of Approval
 - 7b. Tentative Parcel Map 33532
8. City Council Ordinance No. 704 for PA04-0005 (Development Agreement)
 - 8.a. AquaBella Development Agreement


Prepared By

Linda B. Guillis
Department Head Approval

Concurred By

Council Action	
Approved as requested: 11 / 22 / 05	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

AMENDMENT NO. 1

Attachment: Final DA - AquaBella (1932 : AquaBella Extension of Term)

DOC # 2011-034727

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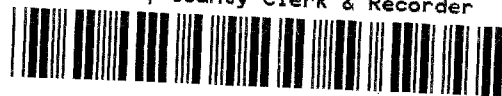
Page 1 of 11

Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder



RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Moreno Valley
Attn: City Clerk
P.O. Box 88005
Moreno Valley, California 92552-0805

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**ACKNOWLEDGMENT OF TERMINATION OF DEVELOPMENT AGREEMENT
WITH RESPECT TO SPECIFIED PROPERTY BY AND BETWEEN THE CITY OF
MORENO VALLEY AND MORENO VALLEY PROPERTIES, LP, RELATIVE TO THE
DEVELOPMENT KNOWN AS SPECIFIC PLAN NUMBER 218 AND AMENDMENTS
THERETO DATED JANUARY 12, 2006**

June 28, 2011

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

**ACKNOWLEDGEMENT OF TERMINATION OF DEVELOPMENT AGREEMENT
WITH RESPECT TO SPECIFIED PROPERTY KNOWN AS PLANNING AREA TWO IN
THE AQUABELLA SPECIFIC PLAN**

RECITALS

A. On June 28, 2011, the City of Moreno Valley ("City") and Moreno Valley Properties, LP ("Master Developer") executed a First Amendment to that Certain Development Agreement By and Between the City of Moreno Valley and Moreno Valley Properties, LP relative to the development known as Specific Plan Number 218 and Amendments Thereto dated January 12, 2006. The development is commonly referred to as "Aquabella."

B. The Amendment had the effect of removing approximately 13.2 gross acres representing less than two percent (2%) of the Project area from the coverage of the Agreement as described in the Amendment (defined as the "Removed Property"). The Removed Property is located at the northeast corner of Cactus Avenue and Lasselle Street in the City as set forth in the depiction set forth as Exhibit "A-2b" attached hereto. In the Aquabella Specific Plan, the Removed Property is described as Planning Area 2. A legal description of the Removed Property is set forth as Exhibit "A-2" attached hereto.

C. Pursuant to Section 3 of the Amendment, the Parties are required to execute and record this Acknowledgment of Termination within 30 calendar days following execution and recordation of the Amendment.

NOW, THEREFORE, in consideration of the above Recitals, and the Recitals set forth in the Amendment, all which are expressly incorporated into this Acknowledgement of Termination, the Parties agree as follows:

ACKNOWLEDGMENT OF TERMINATION

1. Termination of Agreement With Respect to the Removed Property. The Parties hereby acknowledge that the Development Agreement entered into by and between the City of Moreno Valley and Moreno Valley Properties, LP, Relative to the Development Known as Specific Plan Number 218 and Amendments Thereto dated January 12, 2006 is hereby terminated with respect to the Removed Property described in Exhibit "A-2." Following the execution of the Amendment, the Agreement applies to that land legally described in Exhibit "A-1" and depicted in Exhibit "A-1b."

2. Construction of Public Street and Traffic Signal Improvements -- Circulation and Phasing Improvement Program. Notwithstanding the termination of the Agreement with respect to the Removed Property, it is hereby acknowledged and agreed while the timing of the phasing has been changed by market forces, to the extent the Project proceeds, Master Developer agrees to construct all required public street and traffic signal improvements in accordance with the Circulation Program set forth in the Agreement as amended by the Amendment. When a future development plan for the Removed Property is submitted for the anticipated 220-unit rental or for sale condominium project, the City retains the legal right to analyze any specific traffic impacts of any proposed development for the Removed Property and the City may condition the

Removed Property to construct any improvements set forth in the Circulation Program and/or to construct or pay fair share amounts towards any other additional and necessary improvements identified in a separate traffic study prepared to analyze any impacts of any proposed development of the Removed Property. The Removed Property can be processed independently from the rest of the Project and vice-versa.

“MASTER DEVELOPER”

MORENO VALLEY PROPERTIES, LLC,
a California limited liability company

By: *Iddo Benzevi*
Iddo Benzevi, President

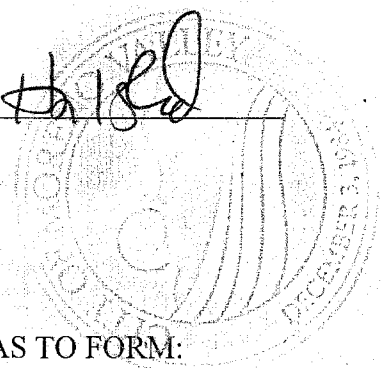
“CITY”

CITY OF MORENO VALLEY,
a municipal corporation

By: *Richard A. Stewart*
Richard A. Stewart, Mayor

ATTEST:

Jane H. [Signature]
City Clerk



APPROVED AS TO FORM:

Guzman Bryant
Deputy City Attorney

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Exhibit "A-2b"

Depiction of the Removed Property

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

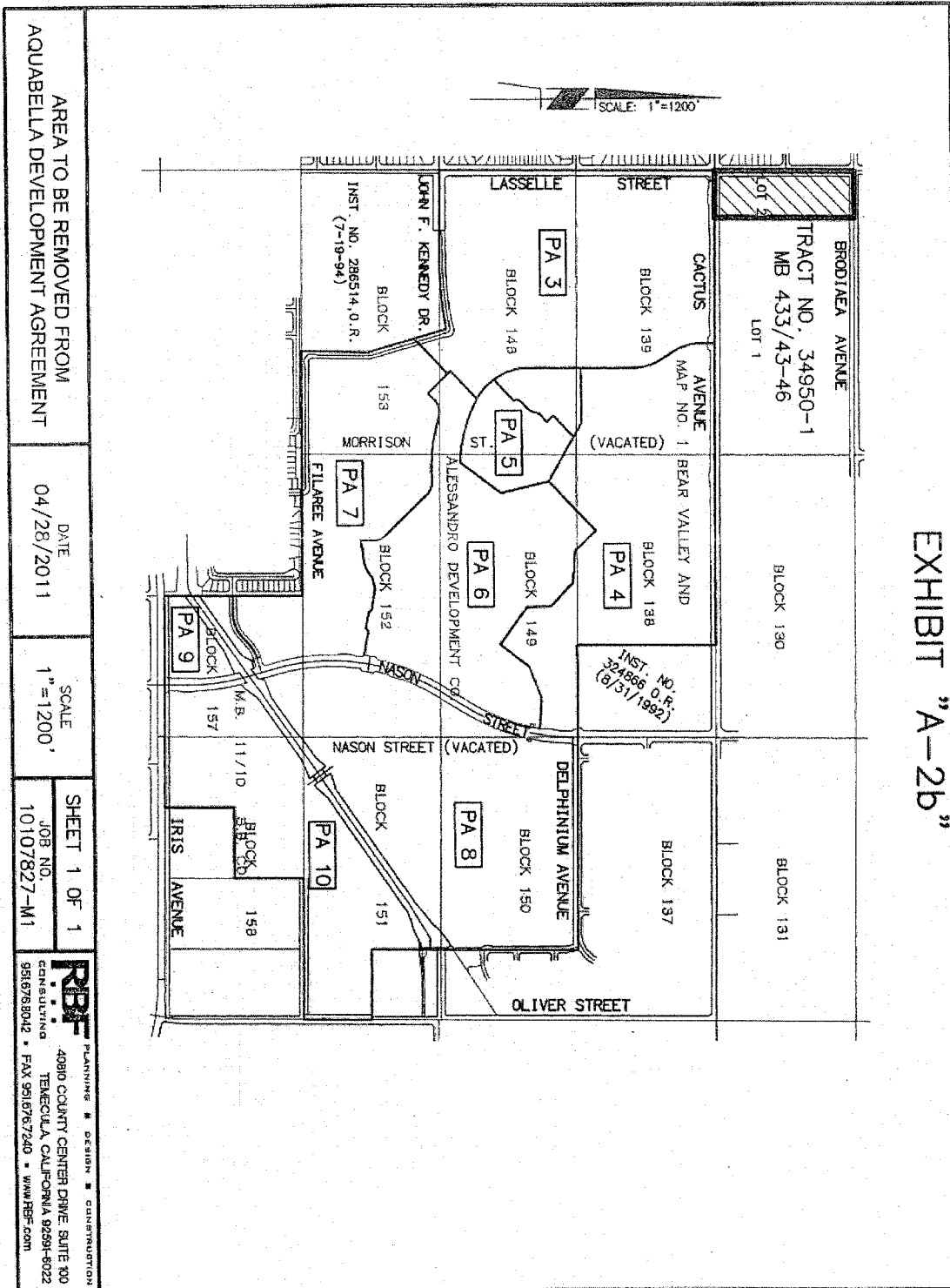


Exhibit "A-2"

Legal Description of the Removed Property

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

RBF CONSULTING
40810 County Center Drive, Suite 100
Temecula, CA 92591

April 28, 2011
JN 10-107827-M1

EXHIBIT "A-2"

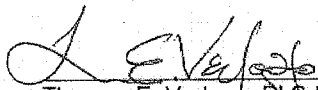
AREA TO BE REMOVED FROM AQUABELLA DEVELOPMENT AGREEMENT

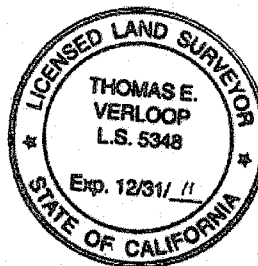
That certain parcel of land situated in the City of Moreno Valley, County of Riverside, State of California, being Lot 2 of Tract No. 34950-1 as shown on the map recorded in Book 433, Pages 43 through 46, inclusive of Maps in the Office of the County Recorder of said Riverside County, California.

SUBJECT to all covenants, rights, rights-of-way and easements of record.

EXHIBIT "A-2b" attached hereto and by this reference made a part hereof.

This description was prepared by me or under my direction.

 04/28/2011
Thomas E. Verloop, PLS 5348 Date
My license expires 12/31/11



Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Exhibit "A-1"

Legal Description of Property Covered by the Agreement

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

RBF CONSULTING
40810 County Center Drive, Suite 100
Temecula, CA 92591

April 28, 2011
JN 10107827-M2

EXHIBIT "A-1"

MODIFIED AREA - AQUABELLA DEVELOPMENT AGREEMENT

Those certain parcels of land situated in the City of Moreno Valley, County of Riverside, State of California, being all of Blocks 138, 139, 148, 149, 152 and 153 of Map No. 1 of the Bear Valley and Alessandro Development Company filed in Book 11, Page 10 of Maps in the Office of the County Recorder of the County of San Bernardino, State of California (located within Sections 15, 16, 21 and 22, Township 3 South, Range 3 West, San Bernardino Meridian).

ALSO Lot 2 through 7, inclusive, of Block 150; Lots 2 through 8, inclusive of Block 151; Lots 1, 2, 7 and 8 of Block 157; and Lots 3, 4 and 5 of Block 158; as shown on said Map No. 1 of the Bear Valley and Alessandro Development Company.

ALSO Lot 1 of Tract No. 34950-1 as shown on the map recorded in Book 433, Pages 43 through 46, inclusive of Maps in the Office of the County Recorder of said Riverside County, California

TOGETHER with those portions of the Streets and Avenues vacated by Resolution of the Board of Supervisors of the County of Riverside, a Certified Copy of which was recorded on August 11, 1966 as Instrument No. 81996, of Official Records of said Riverside County, which would pass with a conveyance of said land.

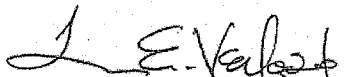
EXCEPTING from Block 138 those portions described in the deed to the County of Riverside, recorded August 31, 1992 as Instrument No. 324866 of Official Records of said Riverside County.

ALSO EXCEPTING from Block 148 and Block 153 those portions described in the deed to the Moreno Valley Unified School District recorded July 19, 1994 as Instrument No. 286514 of Official Records of said Riverside County.

SUBJECT to all covenants, rights, rights-of-way and easements of record.

EXHIBIT "A-1b" attached hereto and by this reference made a part hereof.

This description was prepared by me or under my direction.

 04/28/2011
Thomas E. Verloop, PLS 5348 Date
My license expires 12/31/11

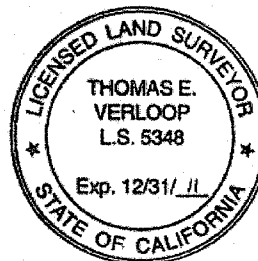
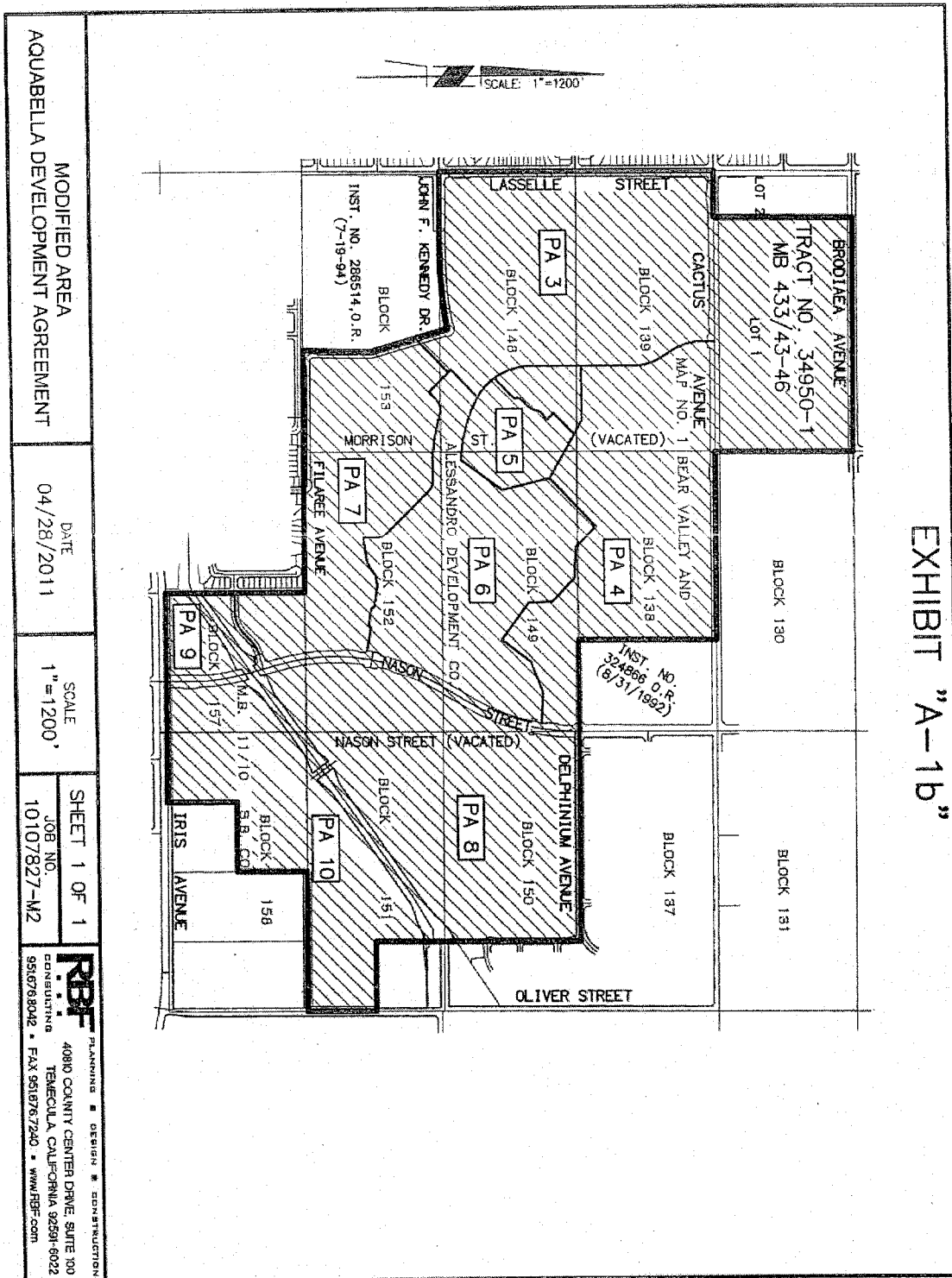


Exhibit "A-1b"

Depiction of the Property Covered by the Agreement

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)





APPROVALS	
BUDGET OFFICER	<i>c.f.</i>
CITY ATTORNEY	<i>JMB</i>
CITY MANAGER	<i>MS</i>

Report to City Council

TO: Mayor and City Council

FROM: Barry Foster, Community & Economic Development Director

AGENDA DATE: June 14, 2011

TITLE: First Amendment - Aquabella Development Agreement (P11-029)

RECOMMENDED ACTION

Staff recommends that the City Council conduct a public hearing and subsequently introduce Ordinance No. 825, for adoption of the First Amendment to the Aquabella Development Agreement (P11-029).

ADVISORY BOARD/COMMISSION RECOMMENDATION

On May 12, 2011, the Planning Commission recommended approval of the Amendment by a vote of 6-0-1 (absent). After substantial discussion regarding the proposal and questions of the applicant and staff, the Commission determined that the Amendment would not materially affect the existing contractual rights and responsibilities of the applicant or City.

BACKGROUND

Highland Fairview submitted a Development Agreement Amendment application on March 28, 2011, to remove Planning Area 2 from the Aquabella Development Agreement. The Agreement, approved on January 12, 2006, currently covers 685 acres of the Aquabella Specific Plan. This proposal would be the First Amendment to the Agreement.

DISCUSSION

Planning Area 2 is a 13.2-acre site at the northeast corner of Cactus Avenue and Lasselle Street (the "Site"). The Aquabella Specific Plan permits the development of up to 220 non-senior multi-family units on the Site. If approved, the Site would no longer be covered by the Agreement and not be subject to its requirements nor benefit from its provisions. Any impacts related to the development of the Site would be conditioned as part of a future application submitted to the City. The site would continue to be a part of the Specific Plan. The site would continue to be a part of the Specific Plan. Exhibit A of the Amendment provides a legal description and plat map for both the Site and the remainder area covered by the Agreement.

All existing requirements of the Agreement remain in effect for remainder area. The Phasing Plan (Exhibit B) of the Amendment has been revised to ensure coverage of all requirements in the remaining five phases of the Aquabella project (the Site was Phase 6).

The proposal would be exempt from the California Environmental Quality Act as the Amendment would not result in substantial changes to the Agreement necessitating additional environmental review. No additional land disturbance would be permitted for the site by approval of the proposal.

As a legislative decision, the proposal requires final review and action by the City Council.

ALTERNATIVES

1. Approve the proposed Amendment as recommended by the Planning Commission.
2. Approve the proposed Amendment with modifications to address City Council concerns.
3. Refer the proposed Amendment back to the Planning Commission with direction for further review and recommendation.
4. Deny the proposed Amendment.

FISCAL IMPACT

Not applicable.

NOTIFICATION

Public notice was sent to all property owners of record within 300' of the project. The public hearing notice for this project was also posted on the project site and published in the local newspaper on May 25, 2011.

ATTACHMENTS/EXHIBITS

- 1. Proposed Ordinance.
- 2. Proposed Amendment with Attachments.
- 3. Planning Commission Minutes.
- 4. Public Hearing Notice.

Prepared By:
John C. Terell AICP
Planning Official

Department Head Approval:
Barry Foster
Community & Economic Development Director

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

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

AMENDMENT NO. 1

DOC # 2011-0347272

08/08/2011 02:19P Fee:NC

Page 1 of 22

Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Moreno Valley
Attn: City Clerk
P.O. Box 88005
Moreno Valley, California 92552-0805



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**FIRST AMENDMENT TO THAT CERTAIN DEVELOPMENT
AGREEMENT BY AND BETWEEN THE CITY OF MORENO VALLEY
AND MORENO VALLEY PROPERTIES, LP, RELATIVE TO THE
DEVELOPMENT KNOWN AS SPECIFIC PLAN NUMBER 218 AND
AMENDMENTS THERETO DATED JANUARY 12, 2006**

C
030

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

June 28, 2011

THIS FIRST AMENDMENT TO THAT CERTAIN DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MORENO VALLEY AND MORENO VALLEY PROPERTIES, LP, RELATIVE TO THE DEVELOPMENT KNOWN AS SPECIFIC PLAN NUMBER 218 AND AMENDMENTS THERETO DATED JANUARY 12, 2006 ("Amendment") is made and entered into this ___th day of June 2011 (the "Effective Date"), by and between (i) the CITY OF MORENO VALLEY, a municipal corporation organized and existing under the laws of the State of California (the "City"), and (ii) MORENO VALLEY PROPERTIES, LP, a Delaware limited partnership (the "Master Developer"), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code. City and Master Developer may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the legislature of the State of California adopted Section 65864 *et seq.* of the California Government Code, which authorizes a city to enter into a development agreement with any person or entity having a legal or equitable interest in real property, providing for the development of such property and establishing certain reciprocal rights and obligations related to such development. To implement the above-described State laws, the City adopted Section 9.02.110 of the Moreno Valley Municipal Code, establishing procedures and requirements for considering and approving development agreements. Both Government Code Section 65864 *et seq.* and Section 9.02.100 of the Moreno Valley Municipal Code authorize the amendment and modification of such development agreements from time to time at the mutual discretion of the parties.

B. On January 12, 2006, the Parties executed that certain Development Agreement By and Between the City of Moreno Valley and Moreno Valley Properties, LP, Relative to the Development Known as Specific Plan Number 218 and Amendments Thereto dated January 12, 2006 ("Agreement"). The Agreement pertains to a development project known as "Aquabella."

C. In the absence of this Amendment, the Agreement applies to real property comprised of approximately six hundred eighty-five (685) acres which is previously described in the property description attached to the Agreement as Exhibit "A."

D. Pursuant to this Amendment, Master Developer and the City desire to remove approximately 13.2 gross acres, representing less than two percent (2%) of the Project area from the coverage of the Agreement ("Removed Property"). The Removed Property was always planned to be developed independently from the Aquabella active adult community as a non-age restricted development. The Removed Property is located at the northeast corner of Cactus Avenue and Lasselle Street in the City as set forth in the Depiction attached hereto as Exhibit "A-2b." A legal description of the Removed Property is set forth in Exhibit "A-2."

E. The Agreement and the Project governed by the Agreement envisioned the development of approximately 2,702 age-restricted units in a gated community with common amenities to be maintained by one or more Homeowners' Association ("Age-Restricted Project").

The Project, as originally approved, also included the development of the Removed Property in what was defined, in the Aquabella Specific Plan, as Planning Area 2. The Removed Property and Planning Area 2 were envisioned to be developed with approximately 220 attached rental units or for sale condominiums that were not age-restricted and were therefore not to be part of the Age-Restricted Project.

F. The State of California and the City have been faced with a severe economic crisis, which has negatively impacted the pace and timing of residential development. In light of these economic conditions, the sequencing of phasing originally contemplated may have to be rescheduled so it is responsive to present market conditions. It is possible that development of the Removed Property as 220 attached, non-age restricted rental units or for sale condominiums may occur at an earlier time period than development of the remaining Age-Restricted Project.

G. Excising the Removed Property from the coverage of the Agreement would increase the likelihood that non-age-restricted rental units or for sale condominiums could be developed more quickly than what would occur if the Removed Property were not excised from the Agreement.

H. On February 23, 1999, the City adopted Resolution No. 99-13, certifying a Final Environmental Impact Report, including findings and a statement of overriding considerations and imposing mitigation measures for the Project ("FEIR"). On May 27, 2003, the City adopted Resolution No. 2003-38 certifying a Supplemental EIR for the Project ("SEIR"). Thereafter, on November 22, 2005, the City adopted Resolution No. 2004-12 approving an Addendum to the FEIR and SEIR for the Project. The record of proceedings for all of the aforementioned City actions are expressly incorporated herein by reference as if set forth in full.

I. On August 23, 2008, the City approved Tentative Tract Map No. 34950 for financing purposes. On April 15, 2011 Tract No. 34950-1 was recorded creating a separate legal parcel for the removed property.

J. On June 14, 2011, the City made all of the findings and determinations relating to this Amendment which are required by Municipal Code section 9.02.110 and introduced Ordinance No. 825 for first reading. Thereafter, Ordinance No. 825 was approved on June 28, 2011 thereby approving this Amendment.

K. The City finds the approval of this Amendment will not result in substantial changes to the Project within the meaning of the California Environmental Quality Act ("CEQA") (Pub. Res. Code sections 21000 *et seq.*) and its implementing Guidelines including, but not limited to, Guideline 15162. The Removed Property will continue to be governed by Specific Plan 218 and the City's General Plan, and the Removed Property will continue to be permitted to be developed with approximately 220 non-age-restricted, rental residential dwelling units or for sale condominiums. No change in land use designations is permitted or contemplated by this Amendment. Further, this Amendment ensures the infrastructure improvements identified in the attached revised Circulation Phasing Improvement Program set forth in the Agreement as Exhibit "B" ("Circulation Program") will be constructed by re-affirming: (i) the Master Developer's obligation to construct the improvements set forth in the Circulation Program and (ii) the City's legal right to impose reasonable off-site and fair share improvement requirements on the

Removed Property when a specific development proposal for the Removed Property is filed with and processed by the City. Once the Amendment is approved, the Removed Property can be processed independently from the rest of the Project and vice-versa. Therefore, pursuant to CEQA Guideline section 15162, the City finds that executing this Amendment does not result in any substantial changes to the original Project.

L. The City Council finds that execution of this Amendment as set forth herein by the Parties: (i) is in the best interest of the City; (ii) will promote the public convenience, general welfare and good land use practices in the City; (iii) will provide benefits to the City; (iv) will provide an active adult community; (v) will encourage the development of the project while providing a reasonable level of certainty to the private developer; (vi) will encourage the development of rental or for sale residential dwelling units within the City; and (vii) will provide for orderly growth and development in a manner consistent with the General Plan and other plans and regulations of the City.

NOW, THEREFORE, in consideration of the above recitals, all which are expressly incorporated into this Amendment, and the mutual promises and obligations of the Parties set forth herein, the Parties agree to this Amendment as follows:

AMENDMENT TO AGREEMENT

1. Section 1 of the Agreement is hereby amended as follows with new Section 1.23 set forth below, replacing Section 1.23 in the Agreement:

1.23 "Project" means the development of the Property contemplated by the SPA and implemented through PADIPs as defined herein which may be further defined, enhanced or modified pursuant to the provisions of this Agreement. This Agreement pertains to ~~six hundred eighty five (685)~~ approximately six hundred seventy one point eight (671.8) acres of the seven hundred sixty (760) acres comprising the Specific Plan area. The ~~685~~ approximate 671.8 acres will be developed as a gated age-restricted community with common amenities to be maintained by one of more Homeowner's Association(s). The Project contemplates a maximum of two thousand seven hundred and two (2702) ~~two thousand nine hundred twenty two (2922)~~ dwelling units and other uses as defined in the Project Approvals. ~~, with the exception of two hundred (220) dwelling units (specifically identified in the SPA) that may or may not be age-restricted.~~

2. Section 1 of the Agreement is hereby amended as follows with new Section 1.25 set forth below, along with new Exhibit "A-1" and Exhibit "A-1b" replacing the Section 1.25 set forth in the Agreement:

1.25 "Property" means the real property described on Exhibit "A-1" to this Amendment and depicted on Exhibit "A-1b" of this Amendment and made a part herein by reference.

3. Section 6 of the Agreement is hereby amended as follows with new Section 6 set forth below, replacing the Section 6 set forth in the Agreement:

6.2 Construction of Public Street and Traffic Signal Improvements – Circulation and Phasing Improvement Program. While the timing of the phasing has been changed by market forces, to the extent the Project proceeds, Master Developer agrees to construct all required public street and traffic signal improvements in accordance with the Circulation Program set forth in the Agreement. When the development of the Removed Property for the anticipated 220-unit rental or for sale condominium project is proposed, the City retains the legal right to analyze any specific traffic or other environmental impacts of any proposed development for the Removed Property and the City may condition the Removed Property to construct any improvements set forth in the Circulation Program and/or to construct or pay fair share amounts towards any other additional and necessary improvements identified in a separate traffic study prepared to analyze any impacts of any proposed development of the Removed Property. Pursuant to State law, City retains the right to impose mitigation on the Removed Property to the extent future environmental analysis discloses previously undisclosed impacts.

4. Section 12 of the Agreement is hereby amended as follows with the insertion of new section 12.3:

12.3 Termination of Agreement With Respect to the Removed Property. The Agreement is terminated with respect to the Removed Property. The Parties shall execute and record the Acknowledgement of Termination set forth as Exhibit “C” within thirty (30) calendar days following the execution and recordation of this Amendment.

5. All other provisions of the Agreement not amended by this Amendment shall remain in force and in effect with respect to the Property (and not the Removed Property) and unaltered by this Amendment.

“MASTER DEVELOPER”

“CITY”

MORENO VALLEY PROPERTIES, LLC,

CITY OF MORENO VALLEY,

a California limited liability company

a municipal corporation

By: Iddo Benzevi

By: Richard A. Stewart

Iddo Benzevi, President

Richard A. Stewart, Mayor

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

ATTEST:

Jane Hatalsthal

City Clerk



APPROVED AS TO FORM:

Suzanne Bryant

Deputy City Attorney

Attachment: Final DA - AquaBella (1932 : AquaBella Extension of Term)

Exhibit "A-2b"

Depiction of Removed Property

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

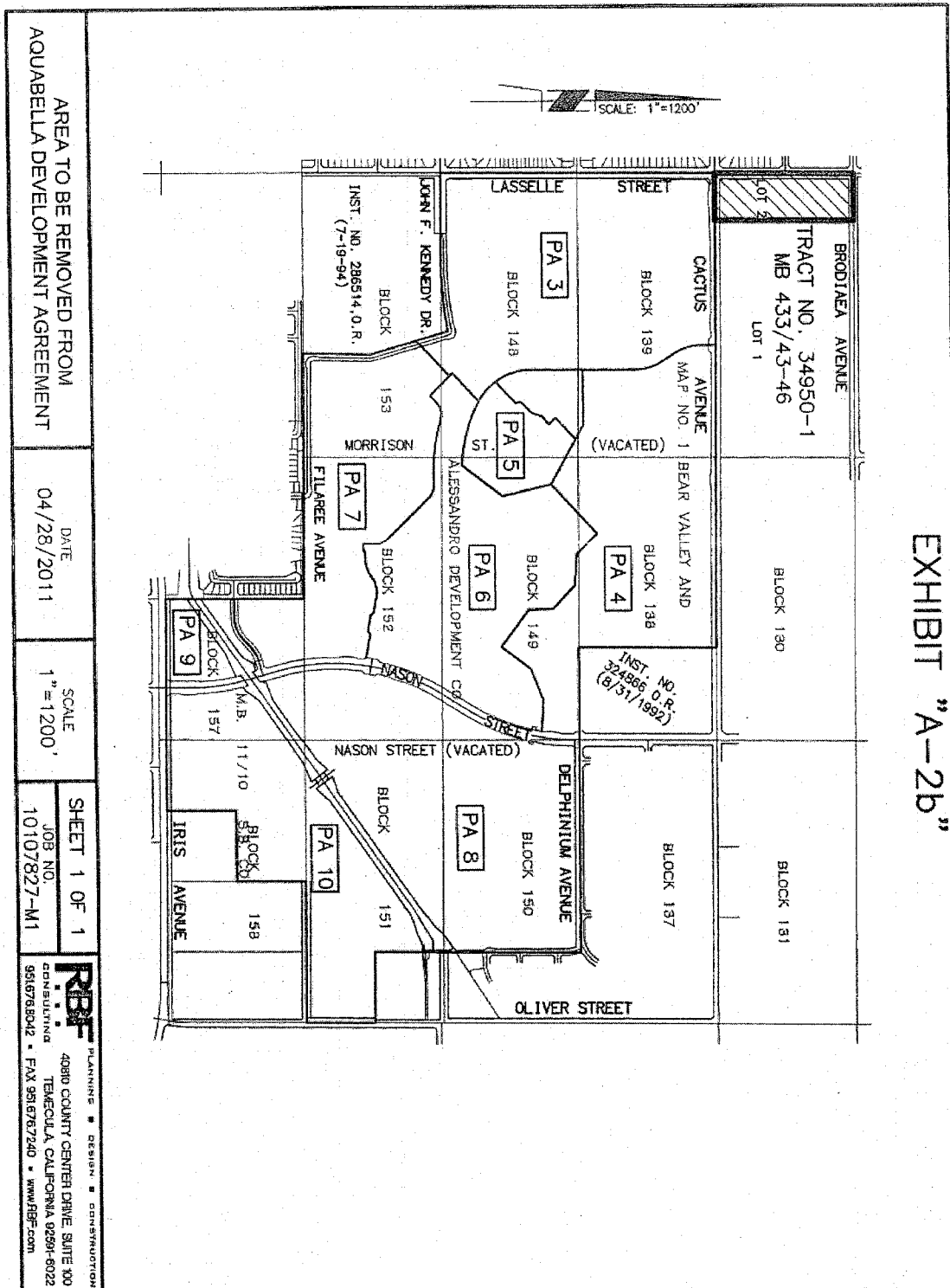


Exhibit "A-2"

**Legal Description of the Area to be Removed from the
Aquabella Development Agreement**

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

RBF CONSULTING
40810 County Center Drive, Suite 100
Temecula, CA 92591

April 28, 2011
JN 10-107827-M1

EXHIBIT "A-2"


AREA TO BE REMOVED FROM AQUABELLA DEVELOPMENT AGREEMENT

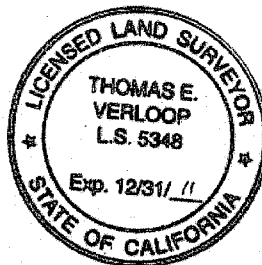
That certain parcel of land situated in the City of Moreno Valley, County of Riverside, State of California, being Lot 2 of Tract No. 34950-1 as shown on the map recorded in Book 433, Pages 43 through 46, inclusive of Maps in the Office of the County Recorder of said Riverside County, California.

SUBJECT to all covenants, rights, rights-of-way and easements of record.

EXHIBIT "A-2b" attached hereto and by this reference made a part hereof.

This description was prepared by me or under my direction.

 04/28/2011
Thomas E. Verloop, PLS 5348 Date
My license expires 12/31/11



Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

Exhibit "A-1"

Legal Description of Property Covered by the Agreement

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

RBF CONSULTING
40810 County Center Drive, Suite 100
Temecula, CA 92591

April 28, 2011
JN 10107827-M2

EXHIBIT "A-1"

MODIFIED AREA - AQUABELLA DEVELOPMENT AGREEMENT

Those certain parcels of land situated in the City of Moreno Valley, County of Riverside, State of California, being all of Blocks 138, 139, 148, 149, 152 and 153 of Map No. 1 of the Bear Valley and Alessandro Development Company filed in Book 11, Page 10 of Maps in the Office of the County Recorder of the County of San Bernardino, State of California (located within Sections 15, 16, 21 and 22, Township 3 South, Range 3 West, San Bernardino Meridian).

ALSO Lot 2 through 7, inclusive, of Block 150; Lots 2 through 8, inclusive of Block 151; Lots 1, 2, 7 and 8 of Block 157; and Lots 3, 4 and 5 of Block 158; as shown on said Map No. 1 of the Bear Valley and Alessandro Development Company.

ALSO Lot 1 of Tract No. 34950-1 as shown on the map recorded in Book 433, Pages 43 through 46, inclusive of Maps in the Office of the County Recorder of said Riverside County, California

TOGETHER with those portions of the Streets and Avenues vacated by Resolution of the Board of Supervisors of the County of Riverside, a Certified Copy of which was recorded on August 11, 1966 as Instrument No. 81996, of Official Records of said Riverside County, which would pass with a conveyance of said land.

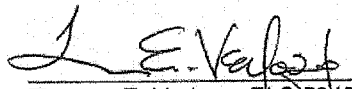
EXCEPTING from Block 138 those portions described in the deed to the County of Riverside, recorded August 31, 1992 as Instrument No. 324866 of Official Records of said Riverside County.

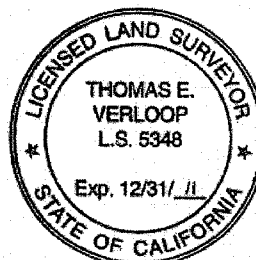
ALSO EXCEPTING from Block 148 and Block 153 those portions described in the deed to the Moreno Valley Unified School District recorded July 19, 1994 as Instrument No. 286514 of Official Records of said Riverside County.

SUBJECT to all covenants, rights, rights-of-way and easements of record.

EXHIBIT "A-1b" attached hereto and by this reference made a part hereof.

This description was prepared by me or under my direction.

 04/28/2011
Thomas E. Verloop, PLS 5348 Date
My license expires 12/31/11



1 of 1

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Exhibit "A-1b"

Depiction of the Property Covered by the Agreement

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

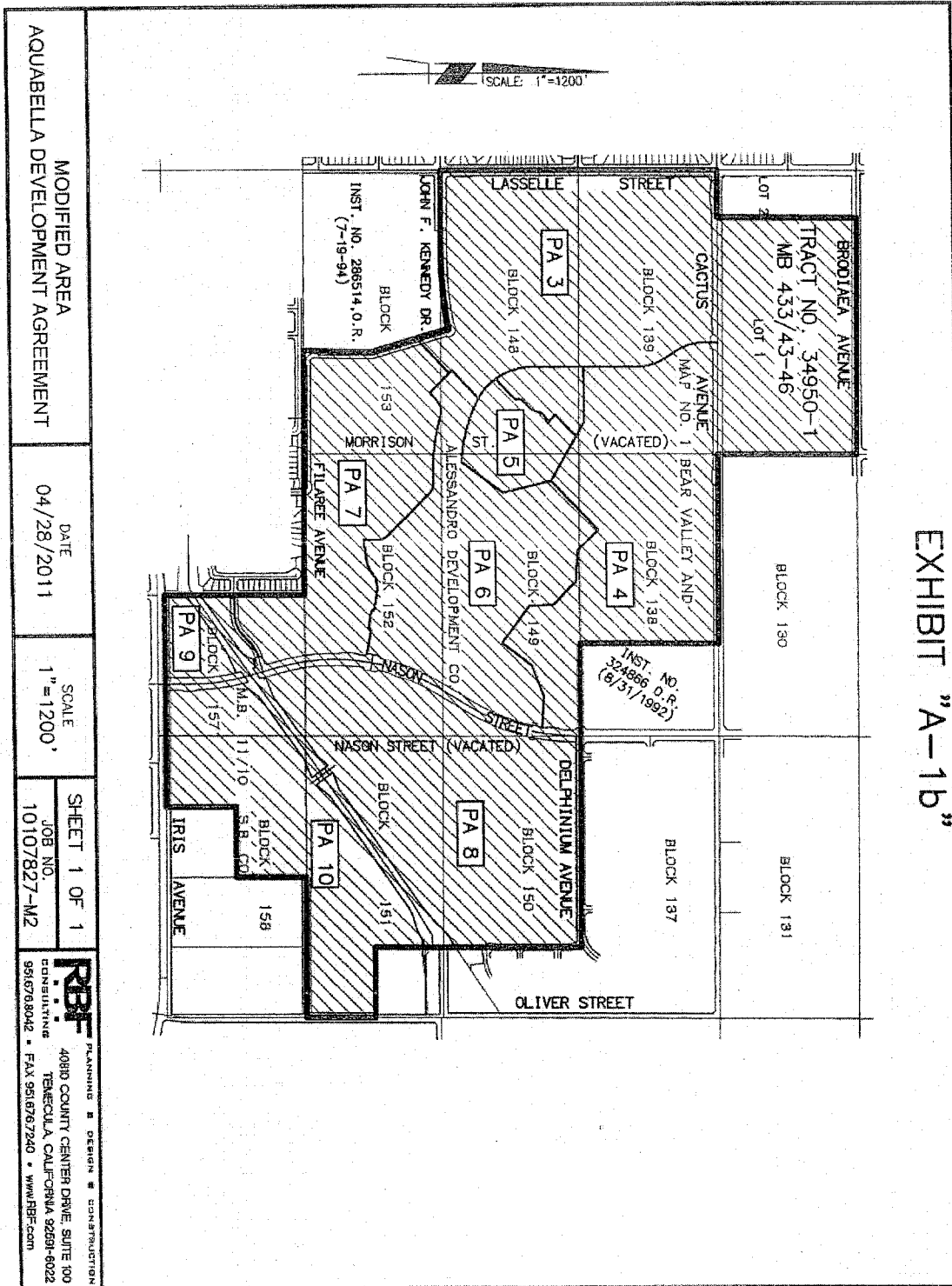


EXHIBIT "B" – (6 Pages)

AquaBella – Circulation Phasing Improvement Program

Phasing Summary

Phase	Type	Quantity	Units	Construction	Occupancy
1	Active Adult (+55) Housing				
	Detached	351	DU	July 06 – Jan 08	Jan 07 – Feb 08
Attached	234	DU			
2	Active Adult (+55) Housing				
	Detached	289	DU	July 07 – July 08	Jan 08 – Aug 08
Attached	193	DU			
3	Active Adult (+55) Housing				
	Detached	301	DU	Feb 08 – Mar 08	Aug 08 – Apr 09
Attached	201	DU			
4	Active Adult (+55) Housing				
	Detached	460	DU	Sept 08 – Feb 10	Mar 09 – Mar 10
Attached	306	DU			
5	Active Adult (+55) Housing				
	Detached	220	DU	Aug 09 – Aug 10	Feb 10 – Oct 10
Attached	147	DU			
5	Hotel	300	Room	Mar 11 – Apr 12	-----

Phasing Improvement Details

Location	Direction	Improvement	Phase	Footnotes
Nason St from Iris to Delphinium	NB / SB	Widen to half-width (1 lane per direction)	Phase 1	
Nason Street at Iris Avenue	I	Install traffic signal	Phase 1	
Nason Street at Iris Avenue	SB	Construct dual right-turn lane	Phase 1	
Nason Street at Iris Avenue	EB	Construct one ADDITIONAL left turn lane	Phase 1	
Nason Street at Iris Avenue	WB	Construct one left turn lane	Phase 1	
Nason Street at Iris Avenue	WB	Construct one right turn lane	Phase 1	
Nason Street at Dracaea Avenue	I	Install traffic signal	Phase 1	
Lasselle Street at Margaret Avenue	I	Install traffic signal	Phase 1	
Nason Street at Fir Avenue	I	Install traffic signal	Phase 1	

Location	Direction	Improvement	Phase	Footnotes
Nason Street at Fir Avenue	NB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 1	
Nason Street at Fir Avenue	SB	Widen westside/eastside Nason to ultimate width (ROW) including dual left-turn lane	Phase 1	
Nason Street at Fir Avenue	EB	Construct one left turn lane.	Phase 1	
Nason Street at Fir Avenue	WB	Construct one left turn lane	Phase 1	
Lasselle Street at Delphinium Avenue	I	Install traffic signal	Phase 1	

Location	Direction	Improvement	Phase	Footnotes
Nason Street at Eucalyptus Avenue	I	Modify Traffic Signal	Phase 2	
Nason Street at Eucalyptus Avenue	NB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 2	
Nason Street at Eucalyptus Avenue	SB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 2	
Nason Street at Eucalyptus Avenue	EB	Re-stripe lane configuration	Phase 2	
Nason Street at Eucalyptus Avenue	EB	Construct one through lane	Phase 2	
Nason Street at Eucalyptus Avenue	WB	Construct one left turn lane	Phase 2	
Delphinium Avenue		Traffic Calming on Delphinium	Phase 2	
Lasselle Street at John F Kennedy Drive	EB	Construct one additional left turn lane (Including traffic signal modification to implement Split-Phase Signal Timing)	Phase 2	
Lasselle Street at John F Kennedy Drive	EB	Re-stripe lane configuration	Phase 2	
Lasselle Street at Gentian Avenue		Re-striping lane configuration / Signal Modification	Phase 2	
Clubhouse Drive at Cactus Avenue	I	Install traffic signal	Phase 2	
Clubhouse Drive at Cactus Avenue	NB	Construct one left turn lane	Phase 2	

Location	Direction	Improvement	Phase	Footnotes
Clubhouse Drive at Cactus Avenue	NB	Construct one shared through-right turn lane.	Phase 2	
Clubhouse Drive at Cactus Avenue	SB	Construct one left turn lane	Phase 2	
Clubhouse Drive at Cactus Avenue	SB	Construct one shared through-right turn lane.	Phase 2	
Clubhouse Drive at Cactus Avenue	EB	Construct one left turn lane	Phase 2	
Clubhouse Drive at Cactus Avenue	WB	Construct one left turn lane	Phase 2	
Cactus Ave from Lasselie to Nason	EB / WB	Widen to half-width (1 lane per direction)	Phase 2	

Location	Direction	Improvement	Phase	Footnotes
Nason St from Cottonwood to Dracaea	NB	Construct 1 NB lane	Phase 3	
Nason Street at Cottonwood Avenue	I	Modify traffic signal	Phase 3	
Nason Street at Delphinium Avenue	I	Modify traffic signal	Phase 3	
Nason Street at Cactus Avenue	I	Modify traffic signal	Phase 3	
Nason St from Delphinium to Cactus	SB	Construct 1 SB lane	Phase 3	
Nason St from Brodiaea to Alessandro	SB	Construct 1 SB lane	Phase 3	
Nason St from Alessandro to Cottonwood	NB / SB	Construct 1 lane per direction	Phase 3	
Cactus Ave from Nason to Oliver	WB	Construct 1 WB lane	Phase 3	

Location	Direction	Improvement	Phase	Footnotes
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Location	Direction	Improvement	Phase	Footnotes
Nason Street at Clubhouse Drive	I	Install traffic signal	Phase 4	
Nason Street at Clubhouse Drive	NB	Construct one left turn lane	Phase 4	
Nason Street at Clubhouse Drive	SB	Construct one left turn lane	Phase 4	
Nason St from Iris to Delphinium	NB / SB	Complete the remaining half-width (add 1 lane per direction)	Phase 4	
Cactus Ave from Lasselle to Nason	EB / WB	Complete the remaining half-width (add 1 lane per direction)	Phase 4	
Oliver St, project frontage	NB / SB	Widen to ultimate width	Phase 4	700' Project frontage only btw J.F.K and Iris

Location	Direction	Improvement	Phase	Footnotes
Morrison St from Brodiaea to Cactus	NB / SB	Construct half-ultimate plus 12 feet	Phase 5	
Morrison Street at Brodiaea Avenue	I	Install traffic signal	Phase 5	
Morrison Street at Cactus Avenue	I	Install traffic signal	Phase 5	
Oliver Street at Cactus Avenue	I	Modify Traffic Signal	Phase 5	
Oliver Street at Cactus Avenue	SB	Widen Oliver to ultimate width (ROW) w/ signing & striping	Phase 5	
Oliver Street at Iris Avenue	I	Modify traffic signal	Phase 5	
Oliver Street at Iris Avenue	SB	Construct one right turn lane	Phase 5	
Iris Ave from Lasselle to Camino Flores		Modification of Iris Median (\$70 per LF)	Phase 5	
Iris Avenue		Coordination of traffic signals on Iris (\$3500 per intersection)	Phase 5	
Lasselle Street		Coordination of traffic signals on Lasselle (\$3500 per intersection)	Phase 5	
Lasselle Street at Cactus Avenue	I	Modify Traffic Signal	Phase 5	Or concurrent with City Project
Lasselle Street at Cactus Avenue	NB	Construct one FREE right-turn lane	Phase 5	Or concurrent with City Project
Lasselle Street at Cactus Avenue	EB	Re-stripe lane configuration	Phase 5	Or concurrent with City Project
Lasselle Street at Cactus Avenue	WB	Construct one additional left turn lane	Phase 5	Or concurrent with City Project

Location	Direction	Improvement	Phase	Footnotes
Lasselle Street at Brodiaea Avenue	I	Install traffic signal	Phase 5	
Brodiaea Ave from Lasselle to Morrison	EB / WB	Construct half ultimate plus 12 feet (include power poles)	Phase 5	
Cactus Avenue at Apartment Access	I	Construct raised median to restrict left-turn in/out movements from apartment access	Phase 5	
Lasselle Street at Apartment Access	I	Construct raised median to restrict left-turn out movement from apartment access	Phase 5	
Nason Street at Bay Avenue	I	Install traffic signal	Phase 5	
Nason Street at Bay Avenue	NB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 5	
Nason Street at Bay Avenue	SB	Widen westside/eastside Nason to ultimate width (ROW)	Phase 5	
Nason Street at Brodiaea Avenue	I	Install traffic signal	Phase 5	
Moreno Beach Drive at Cactus Avenue	I	Modify traffic signal	Phase 5	
Moreno Beach Drive at Cactus Avenue	NB	Construct one shared through-right turn lane.	Phase 5	
Moreno Beach Drive at Cactus Avenue	SB	Construct one shared through-right turn lane.	Phase 5	
Moreno Beach Drive at Cactus Avenue	EB	Construct one shared through-right turn lane.	Phase 5	
Moreno Beach Drive at Cactus Avenue	WB	Re-stripe shared left-through turn lane	Phase 5	
Moreno Beach Drive at Cactus Avenue	WB	Construct one through lane	Phase 5	
Moreno Beach Drive at Cactus Avenue	WB	Construct one shared through-right turn lane.	Phase 5	
Moreno Beach Drive at John F. Kennedy Drive	I	Modify traffic signal	Phase 5	
Moreno Beach Drive at John F. Kennedy Drive	WB	Widening & re-striping & signing for additional left-turn lane	Phase 5	
Cactus Avenue		Coordination of traffic signals on Cactus (\$3500 per intersection)	Phase 5	

Location	Direction	Improvement	Phase	Footnotes		
Nason St at SR-60 WB Ramps / Elder Ave	I	Participate in interchange improvements through payment of TUMF program fees	All			
Nason St at SR-60 EB Ramps	I	Participate in interchange improvements through payment of TUMF program fees	All			

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Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)

END OF EXHIBIT "B"

Attachment: Final DA - AquaBella (1932 : AquaBella Extension of Term)

Exhibit "C"

Acknowledgement of Termination

Attachment: Final DA - AquaBella (1932 : Aquabella Extension of Term)



HIGHLAND FAIRVIEW

14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5300

December 4, 2015

Mr. Rick Sandzimier, Planning Official
City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552

SUBJECT: Aquabella Development Agreement – 2015 Annual Report

Dear Mr. Sandzimier,

The following is a summary update of the Aquabella project.

The effect of the economic slump which is now in its eighth year continues to have a direct and significant impact on our local economies and particularly on the senior residential market in Moreno Valley. While there are some indications of improving economic conditions that should have positive impact on the housing market, there was not yet enough strength in the market during the last several years to support upscale projects such as Aquabella. The closure of the Moreno Valley Ranch Golf Course this year is another indication that the market is still in need of improvement. Highland Fairview is closely monitoring the housing market, watching for positive improvements that will enable development of the Aquabella project to resume.

Further to your request, the following is a section-by-section review of the Development Agreement including notes documenting Highland Fairview's good-faith compliance with the terms of the Agreement.

Section 1 Definitions

This section contains no performance requirements.

Section 2 General Provisions

No actions occurred affecting any of the General Provisions of the Agreement.

Section 3 Project Development Requirements

No actions occurred affecting any of the Project Development Requirements. No development occurred on the Subject Property and all of the applicable Rules and Regulations remained intact.

Section 4 Reservation of Authority

Inasmuch as no development occurred on the Subject Property, changes in processing fees, impact fees (DIF, TUMF), procedural regulations, Uniform Code amendments, state or federal law, or moratoria that may have occurred did not affect the Subject Property.

Section 5 Public Financing

No actions occurred on the Subject Property that related to this Section of the Agreement.

Section 6 Obligations and Contributions by Master Developer

6.2 No actions occurred affecting any of the Project Development Requirements.

6.3 Moreno Valley Electric Utility and/or City Capital Project – No actions occurred affecting the Moreno Valley Electric Utility.

6.4 Covenants, Conditions and Restrictions (CC&Rs) – No activity has occurred on the Subject Property that has required the preparation of CC&R documents.

6.5 Operation and Maintenance of Common Areas by Master Developer – No common area facilities serving the Aquabella community have been constructed and therefore no operation or maintenance of such facilities is necessary.

6.6 Master Homeowners' Association (Master HOA) – There was no home building activity and therefore there was no need for Master HOA to be formed.

6.7 Main Clubhouse, Recreational Facilities, Recreational Programs, Private Parks, and Trail System – Residential development has not commenced on the Subject Property, therefore none of the provisions of this Section regarding construction of common facilities have been necessary.

6.8 State Route 60/Nason Street Interchange – Residential development has not commenced on the Subject Property, therefore no improvements were necessary.

6.9 Entry Statement – Residential development has not commenced on the Subject Property, therefore no improvements were necessary.

6.10 Perimeter Walls and Landscaping - Residential development has not commenced on the Subject Property, therefore no improvements were necessary.

6.11 Age Related Project – The Aquabella project remains an age-restricted community.

6.12 Master Design Guidelines – The Master Design Guidelines referenced in this Section are incorporated in the Aquabella Specific Plan, adopted on December 13, 2005 (Ordinance 703).

Section 7 Obligations of the City

The Master Developer does not affect the City's compliance with its obligations under this Section.

Section 8 Fees, Fee Credits and Reimbursement

Since residential development on the Subject Property has not commenced, the provisions of this Section regarding processing fees, expedited development services, DIF fees, DIF exemptions or DIF Credit for Parks have yet to be implemented.

Section 9 Assignment

Nothing has occurred regarding the Master Developer or the Master Developer's Principals to trigger any of the terms of this Section.

Section 10 Delays in Performance

Nothing has occurred regarding the Project that affected the terms of this Section.

Section 11 Default

Nothing has occurred regarding the Project that affected the terms of this Section.

Section 12 Termination

Nothing has occurred regarding the Project that affected the terms of this Section.

Section 13 Relationship of Parties

All of the terms of this Section remain in effect.

Section 14 Amendment of Agreement

All of the terms of this Section remain in effect.

Section 15 Periodic Review of Compliance with Agreement

All of the terms of this Section remain in effect. This letter is submitted in satisfaction of the annual review requirement.

Section 16 Notice

Nothing has occurred regarding the Project that affected the terms of this Section.

Section 17 Indemnity

Nothing has occurred regarding the Project that affected the terms of this Section.

Section 18 Mortgagee Protections

Nothing has occurred regarding the Project that affected the terms of this Section.

Section 19 Interpretation and Enforcement of Agreement

Nothing has occurred regarding the Project that affected the terms of this Section.

Highland Fairview has been in compliance with the Development Agreement to date. We hope that during the coming year economic conditions will improve in Moreno Valley and that development can commence in Aquabella.

Please contact me if you have any questions about this information.

Sincerely,



Wayne Peterson
Vice President of Community Planning



HIGHLAND FAIRVIEW

14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5300

November 30, 2015

Mr. Richard Sandzimier
Planning Official
City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92553

SUBJECT: Aquabella Development Agreement

Dear Mr. Sandzimier,

Pursuant to the provisions of the Aquabella Development Agreement, Highland Fairview hereby requests that the Agreement be extended for an additional five years.

Residential market conditions are not yet suitable for upscale senior housing as proposed for the Aquabella community. We will continue to monitor market conditions to watch for improvements that will enable the development of the Aquabella community to resume.

If you have any questions, please contact me at your convenience.

Sincerely,

Iddo Benzeevi
President and CEO