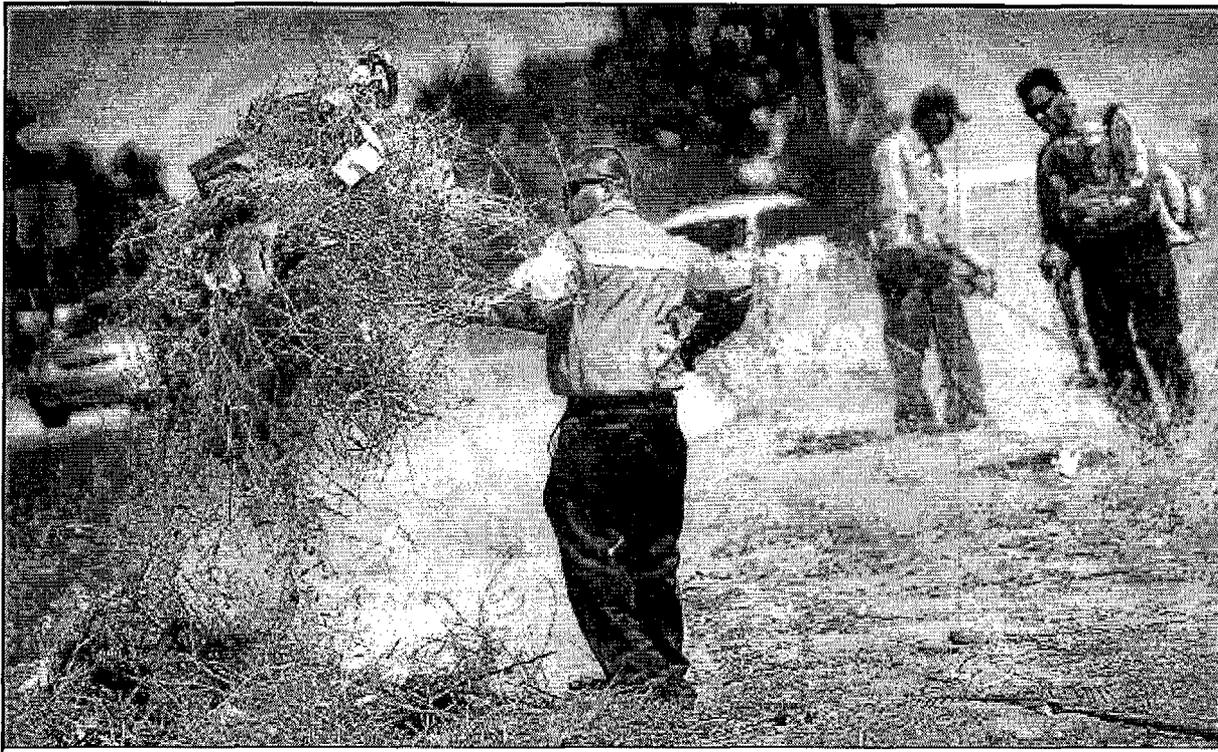


Iddo Benzeevi's distribution center could be approved in 2013 by the Moreno Valley City Council.



/FILE PHOTO

Jurupa Valley street workers pick up debris in September, shortly after the governor vetoed a bill that would have restored vehicle license-fee revenue to the young city. Because of the loss of funding, Jurupa Valley could run out of money in 2013.



Lauren Roughton, Jurupa Valley's then-mayor, and Councilman Verne Lauritzen talk about the city's financial situation in September. The young city faces disincorporation after a loss of vehicle-license fee revenues.

Recording Requested by And
When Recorded Return to:

City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
Attn: City Clerk

[Exempt From Recording Fee Per Gov. Code §6103]

DEVELOPMENT AGREEMENT

(World Logistics Center)

HIGHLAND FAIRVIEW OPERATING CO., DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into as of this ____ day of _____, 2012, by and between the City of Moreno Valley, a California general law municipal corporation (“City”), and HIGHLAND FAIRVIEW OPERATING CO., a _____ general partnership f/k/a Highland Fairview Properties, LLC (“HF”). The City and Developer hereafter are referred to collectively as the “Parties” and individually as a “Party.” HF is hereafter also referred to alternatively as “Owner” or “HF.”

RECITALS

A. The City is authorized to enter into development agreements with persons having legal or equitable interests in real property for the development of such property pursuant to Article 2.5 of Chapter 4 of Division I of Title 7 of the California Government Code commencing with section 65864 (the “Development Agreement Law”), and Article XI, Section 7 of the California Constitution.

B. The City has enacted an ordinance, incorporated into the Moreno Valley Municipal Code as Title 9, Section 9.02.110 (the “Development Agreement Ordinance”) that establishes the procedures and requirements for its consideration of such development agreements upon application by, or on behalf of, persons having legal or equitable interests in real property pursuant to the Development Agreement Law.

C. HF represents that it has a legal or equitable interest in approximately _____ acres of real property located at _____, and as described in the legal description set forth in Exhibit “A-1” and as illustrated in the depiction set forth in Exhibit “A-2” (the “Subject Property”).

D. HF has proposed a Project for the Subject Property (and other property not owned by HF) consisting of approximately forty one million square feet of _____ ~~[CHECK]~~ square feet of hi-cube logistics warehouse and related distribution facilities space. The Project would involve a General Plan Amendment, adoption of the World Logistics Center Specific Plan ("WLCSP"), a Zone Change and annexation of an 85-acre parcel along Gilman Springs Road. The Project will also include a subdivision and a site development permit.

E. Development of the Subject Property is productive of certain public benefits to the City, its residents, property owners, taxpayers and surrounding communities. Among other public benefits, the Owner will implement the goals, objectives and policies of the City's General Plan which will provide logistics development, public utility and open space uses for the Subject Property and for the City. The Project will expand the City's property and sales tax base; will generate high paying construction employment and new permanent employment opportunities for Moreno Valley residents; and will reduce the severe jobs and housing imbalance that exists in the City currently. ~~construct public infrastructure and other public facilities to serve the City and its residents, property owners and taxpayers.~~ In exchange for such benefits, Owner will receive the vested right to develop the Subject Property in accordance with the Existing Land Use Regulations and Existing Development Approvals in existence on the Effective Date of this Agreement.

F. HF may attempt to acquire additional real property within the World Logistics Center Specific Plan area. Such additional real property may become subject to the terms of this Agreement pursuant to an addendum or amendment to this Agreement.

G. On _____, the Planning Commission of the City, at a duly noticed public hearing, recommended, in Resolution _____, that the City Council certify environmental impact report (SCH # _____). The Planning Commission also recommended that the City Council approve General Plan Amendment _____, the WLCSP, and Zone Change No. _____.

H. On _____, _____, the City Council of the City, at a duly noticed public hearing, adopted Resolution No. _____ certifying the Environmental Impact Report, SCH # _____ (the "EIR") for the Project and the related Mitigation Monitoring and Reporting Program and also (i) adopted Resolution _____ approving General Plan Amendment No. _____, (ii) introduced for first reading Ordinance No. _____ approving the WLCSP, and (iii) introduced for first reading Ordinance No. _____ approving Zone Change No. 2007-01.] ("Project Approvals"). The WLCSP and Zone Change No. _____ were subsequently adopted on _____.

I. The Parties concur that all of the requirements of the California Environmental Quality Act, contained in Division 13 of the California Public Resources Code, commencing with Section 21000, and implemented by the Guidelines contained in Chapter 3 of Title 14, commencing with Section 15000, of the California Code of Regulations ("CEQA") have been satisfied with respect to the Project through the (i) City's certification of the EIR on _____, _____ and (ii) the City's determination that no substantial changes are proposed within the meaning of 14 Cal. Code of Regulations section 15162.

J. On _____, the Planning Commission of the City, at a duly noticed public hearing held pursuant to the Planning and Zoning Law and the City's Municipal Code, the City approved Site Plan No. _____ and Parcel Map _____. ~~[BASED ON OUR LAST MEETING IT IS UNCLEAR WHETHER WE ARE PROCEEDING WITH ANY SITE PLAN CONCURRENTLY WITH THE GPA, SP AND ZC OR NOT]~~

K. The Planning Commission of the City, at a duly noticed public hearing held pursuant to the Development Agreement Law and the Development Agreement Ordinance, recommended that the City Council find and determine, among other things, that this Agreement is consistent with the goals, objectives, policies, general land uses and programs specified in the City General Plan, as amended by the Project Approvals; is compatible with the uses authorized in and the land use regulations prescribed by the City in its Zoning Code; and will promote and encourage the development of the Subject Property by providing a greater degree of certainty with respect thereto, while also providing specified public benefits to the City.

L. On _____, 20__, after a duly noticed public hearing held pursuant to the Development Agreement Law and the Development Agreement Ordinance, the City Council of the City approved the introduction of Ordinance No. _____ (the "Enacting Ordinance") that would approve and adopt this Agreement and authorize its execution on behalf of the City. On _____, 20__, the City Council of the City adopted the Enacting Ordinance.

M. The Parties intend that Owner will be permitted to proceed with development of the Subject Property pursuant to the Existing Land Use Regulations and Existing Development Approvals in existence on the Effective Date of this Agreement; provided, however, that the Parties also understand that new or different regulations and other requirements for development of the Subject Property may be imposed by laws or regulations of the Federal and or State governments and or various regional governmental agencies or entities with regulatory jurisdiction over aspects of the Project or Subject Property, all of which may, or may not, supersede the provisions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Owner agree as follows:

ARTICLE I. DEFINITIONS.

The following terms when used in this Agreement shall, unless defined elsewhere in this Agreement, have the meanings set forth below:

1.1 The term "Agreement" shall mean this Development Agreement by and between the City and Owner and any subsequent amendments.

1.2 The term "City" shall mean the City of Moreno Valley, a municipal corporation, organized and existing under the general laws of the State of California.

1.3 The term "City Council" shall mean the governing body of the City.

1.4 The term "Development" shall mean the improvement of the Subject Property for the purposes of completing the structures, improvements and facilities comprising the Project, including but not limited to: grading; the construction of infrastructure related to the Project whether located within or outside the Subject Property; the construction of buildings and structures; construction of post-development storm drain related "best management practices" and the installation of landscaping and public facilities and improvements. "Development" also includes the maintenance, repair, reconstruction, modification, or redevelopment of any building, structure, improvement, landscaping, or facility after the construction and completion thereof on the Subject Property.

1.5 The term "Development Plan" shall mean the existing plan for Development of the Subject Property, which includes all of the plans, specifications, and conditions of approval for Owner's entitlement for Development of the Subject Property, the planning and zoning standards, regulations, and criteria for the Development of the Subject Property, including those set forth in this Agreement, and including the Offsite Improvements identified in Exhibit "C" attached hereto.

1.6 The term "Development Requirement" shall mean any requirement of the City in connection with or pursuant to any Development Approval for the construction or improvement of public facilities, the payment of fees or assessments in order to lessen, offset, mitigate or compensate for the impacts of Development.

1.7 The term "Effective Date" shall mean the date that is thirty (30) days after the date the City Council adopts the ordinance approving this Agreement.

1.8 The term "Existing Development Approvals" shall mean any and all permits, licenses, consents, rights and privileges, and other actions approved or issued by City in connection with Development of the Subject Property on or before the Effective Date of this Agreement, including but not limited to, general plans and general plan amendments, zoning and rezoning, site plans and parcel maps, and grading and building-related permits, as well as all associated environmental documentation and mitigation measures pursuant to the California Environmental Quality Act.

1.9 The term "Existing Land Use Regulations" shall mean all ordinances, resolutions, codes, rules, regulations and official policies of City, adopted and effective on or before the Effective Date of this Agreement governing Development and use of the Subject Property, including but not limited to the permitted use of land, the density or intensity of use, the maximum height and size of proposed buildings, and the architectural design, improvement and construction standards and specifications applicable to the Development of the Subject Property including but not limited to, the Development Plan.

1.10 The term "Mortgagee" shall mean a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security device, a lender, or each of their respective successors and assigns.

1.11 The term "Off-Site Improvements" shall mean all off-site improvements required for the Project, including but not limited to intersection and roadway improvements, sewer lines and storm drains and any other off-site improvements contained within Exhibit "C."

1.12 The term "Owner" shall mean HIGHLAND FAIRVIEW OPERATING CO. and/or its successors or assigns to any portion of or all of the Subject Property.

1.13 The term "Project" shall mean the Development of the Subject Property pursuant to and consistent with the Development Plan and the provisions of this Agreement.

1.14 The term "Site Plan " shall mean the site plan attached hereto as Exhibit "B."

1.15 The term "Subject Property" shall mean that certain real property consisting of the Property more particularly described in Exhibit "A-1" attached hereto and depicted on Exhibit "A-2" attached hereto.

1.16 The term "Subsequent Development Approvals" shall mean any and all permits, licenses, consents, rights and privileges, and other actions approved or issued by City in connection with Development of the Subject Property after the Effective Date of this Agreement, including all associated environmental documentation and mitigation measures pursuant to the California Environmental Quality Act.

1.17 The term "Subsequent Land Use Regulations" shall mean any ordinances, resolutions, codes, rules, regulations and official policies of the City adopted and effective after the Effective Date of this Agreement.

1.18 The term "Term" shall mean the period of time during which this Agreement shall be in effect and bind the Parties, as set forth below in Section 3.4 of this Agreement, unless earlier terminated as provided in this Agreement.

ARTICLE 2. EXHIBITS.

The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit "A-1"	Legal Description of the Subject Property
Exhibit "A-2"	Depiction of the Subject Property
Exhibit "B"	Off Site Improvements
Exhibit "C"	Oversized Improvements and City Reimbursable Amount

ARTICLE 3. GENERAL PROVISIONS.

3.1 **Binding Effect of Agreement.** From and following the Effective Date of this Agreement, Development of the Subject Property and the City's actions on applications for

Subsequent Development Approvals affecting the Subject Property and the Development of the Subject Property shall be subject to the terms and conditions of this Agreement.

3.2 **Ownership of Subject Property.** The City and Owner acknowledge and agree that Owner has the requisite legal or equitable interest in the Subject Property, and thus Owner is qualified to enter into and be a party to this Agreement in accordance with Government Code section 65865(b).

3.3 **Assignment Rights.** Owner shall have the right to sell, transfer, or assign the Subject Property, or its equitable interest in the Subject Property, in whole or in part (provided that no such parcel transfer shall violate the Subdivision Map Act, Government Code Section 66410, *et seq.*) to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment (collectively, "Assignment") shall include the Assignment and assumption of the rights, duties and obligations arising under or from this Agreement be made in strict compliance with the following conditions:

(a) No Assignment of any right or interest under this Agreement shall be made unless made together with the Assignment of all or a part of the Subject Property.

(b) Prior to any such Assignment, Owner shall provide City with an executed agreement, in a form reasonably acceptable to City, by the purchaser, transferee or assignee (collectively, "Assignee") and providing therein that the Assignee expressly and unconditionally assumes all the duties and obligations of Owner under this Agreement.

(c) Any Assignment of this Agreement will require the prior written consent of the City, which will not be unreasonably withheld or delayed. The City's approval will be based upon the financial status of the Assignee and the City's reasonable determination of such Assignee's financial strength to perform the obligations that Owner has described in this Agreement. Within thirty (30) days following receipt by the City of written notice regarding Assignment (such notice must include financial information regarding the Assignee sufficient to allow the City to make the above determination) the City will notify Owner regarding its approval or disapproval of such Assignment; provided, however, that if the City fails to respond in writing within such thirty (30) day period, the Assignment shall be deemed automatically approved.

Any Assignment not made in compliance with the foregoing conditions shall result in Owner continuing to be responsible for all obligations under this Agreement. Notwithstanding the failure of any Assignee to execute the Agreement required by subparagraph (b) above, the burdens of this Agreement shall be binding upon such Assignee, but the benefits of this Agreement shall not inure to such Assignee until and unless such Agreement is executed. The City, Owner and any Assignee will cooperate in the substitution by such Assignee of any letter of credit or other security for Owner's obligations, less completed obligations, pursuant to this Agreement.

3.3.1 Release of Transferring Developer. Notwithstanding any Assignment, a transferring Owner shall continue to be obligated under this Agreement unless such transferring

Owner is given a release in writing by City, which release shall be provided by City upon the full satisfaction by such transferring Owner of the following conditions:

- (a) Owner no longer has a legal or equitable interest in all or any part of the Subject Property.
- (b) Owner is not then in default under this Agreement.
- (c) Owner has provided City with the notice and executed agreement and other information required under subparagraphs (b) and (c) of Subsection 3.3 above.
- (d) The City has reviewed and approved the Assignee and the Assignment, such approval to include a determination by the City that the financial strength of the Assignee is equal to or greater than that of the Owner.
- (e) The Assignee provides City with security equivalent to any security previously provided by Owner to secure performance of its obligations hereunder.

3.3.2 Subsequent Assignment. Any subsequent Assignment after an initial Assignment shall be made only in accordance with and subject to the terms and conditions of this Section.

3.3.3 Partial Release of Purchaser, Transferee or Assignee of Parcel. A purchaser, transferee or assignee of a lot which has been finally subdivided and for which a site plan for development of the lot has been finally approved may submit a request, in writing, to City to release said lot from the obligations under this Agreement relating to all other portions of the Subject Property. Within thirty (30) days following such request, City shall review, and if the above conditions are satisfied, shall approve the request for release and notify the purchaser, transferee or assignee in writing thereof; provided, however, that if the City fails to respond in writing within such thirty (30) day period, the release shall be deemed automatically approved. No such release approved pursuant to this Section 3.3.3 shall cause, or otherwise effect, a release of HF from its duties and obligations under this Agreement.

3.3.4 Termination of Agreement With Respect to Individual Parcel upon Sale to Public and Completion of Construction. The provisions of Subsection 3.3 shall not apply to the sale or lease (for a period longer than one year) of any Parcel which has been finally subdivided and is individually sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any Parcel and such Parcel shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

- (a) The Parcel has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,
- (b) A Certificate of Occupancy has been issued for a building on the Parcel, and the fees set forth under this Agreement have been paid.

For purposes of this Section 3.3.4, a transfer shall be deemed to be “in bulk” if it involves the conveyance of more than one Parcel and the transferee will not be the ultimate user of the Parcel. Notwithstanding the foregoing, Owner acknowledges that Owner is responsible for (i) ensuring the completion of all Project conditions and (ii) the payment of all applicable fees to the extent any conditions are not satisfied or any fees remain unpaid following the transfer or development of a parcel.

3.4 **Term.** Unless earlier terminated as provided in this Agreement, this Agreement shall continue in full force and effect until the earlier of (i) the date of completion of the last portion of the Development, or (ii) the date that is twenty-five (25) years from and after the Effective Date of this Agreement, subject to extension pursuant to Section 7.2 below.

3.5 **Time of the Essence.** The Parties expressly acknowledge and agree that time is of the essence in the performance of the provisions of this Agreement. Consistent with all applicable legal requirements, the City shall use its best efforts to expedite the planning and permitting process to facilitate the construction, completion, and operation of the Project, and each component thereof, as soon as possible. Notwithstanding the foregoing, Owner shall develop, or not develop, the Project at its sole and absolute discretion.

3.6 **Waiver of Estoppel Defenses by City.** Notwithstanding any legal authorities to the contrary concerning the doctrines of waiver and estoppel as applied to public entities and the actions or inactions of public agencies or public agency officers and officials, the City acknowledges and agrees that Owner and its successors and assigns to all or any interest in the Subject Property is relying upon the contents of this Agreement and the City’s execution of this Agreement and the recordation hereof, and that in consideration of such material reliance, the City shall now and forever be estopped from denying the validity of this Agreement and the City knowingly and expressly waives any such claim or defense.

3.7 **City Cooperation.** City shall cooperate with HF and or its assigns with respect to implementing all aspects of the Project, including, without limitation: (i) processing all permits applications, plans, and subsequent environmental assessments as expeditiously as possible and (ii) cooperating and assisting HF in obtaining any inter-governmental or private party permits, approvals, consents, rights of entry, or encroachment permits, needed for Development of the Project or any other on or offsite improvements.

3.8 **No Obligations to Proceed with Project.** Nothing in this Agreement shall obligate Owner to proceed with any part of or the entirety of the Project. Owner maintains sole and absolute discretion over whether to commence and/or complete any portion of the Project or the Project in its entirety and nothing in this Agreement shall be construed to impose upon the Owner an obligation to commence the construction of and/or complete the Project.

ARTICLE 4. DEVELOPMENT OF THE PROPERTY

4.1 **Vested Right to Develop.** Subject to and during the term of this Agreement, Owner, its successor or its assignee, shall have a vested right to develop the Subject Property in accordance with the Development Plan and this Agreement.

4.2 **Effect of Agreement on Land Use Regulations.** Except as otherwise provided under the terms of this Agreement, the rules, regulations and official policies governing permitted uses of the Subject Property, the density and intensity of use of the Subject Property, the maximum height and size of proposed buildings, and the design, improvement, and construction standards and specifications applicable to Development of the Subject Property, shall be only the Existing Land Use Regulations and those contained in the Development Plan.

4.3 **Subsequent Development Approvals.** To the extent applicable, the City shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be expeditiously processed. The City further agrees that, unless otherwise requested by Owner, the City shall not amend or rescind any Subsequent Development Approvals respecting the Subject Property after such approvals have been granted by the City.

4.4 **Timing of Development.** The Parties acknowledge that Owner cannot at this time predict when or the rate at which phases of the Subject Property will be developed. Such decisions depend upon numerous factors which are not within the control of Owner, such as market orientation of 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 455, that the failure of the parties therein to provide for the timing of development resulted in a latter adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the Parties' intent to cure that deficiency by expressly acknowledging and providing that Owner shall have the right to develop the Subject Property, or to not develop the Subject Property, in such order and such rate and at such time as Owner deems appropriate within the exercise of its subjective business judgment in its sole and absolute discretion. In addition, to the extent Owner or its assignee decide to proceed with a phase of the development of the Subject Property, City shall cooperate with Owner or its assignee with respect to the phasing of the development of the Subject Property. If Owner or its assignee determine, in their sole and absolute discretion, to develop portions or phases of the Subject Property, City shall allow the phasing of public improvements such that the public improvements required would only be those commensurate to that needed to serve the phase being constructed.

4.5 **Terms of Maps and Other Project Approvals.** Pursuant to California Government Code Sections 66452.6(1) and 65863.9, the term of any subdivision or parcel map that may be processed on all or any portion of the Subject Property and the term of each of the development approvals, including the Tentative Map and any future approvals, shall be extended for a period of time through the scheduled termination date of this Agreement, as set forth above.

4.6 **Changes and Amendments.** The Parties acknowledge that although Development of the Project may require Subsequent Development Approvals, such Development shall be in compliance with the Development Plan. The above notwithstanding, Owner may determine that changes are appropriate and desirable in the existing Development Approvals or Development Plan. In the event Owner finds that such a change is appropriate or desirable, Owner may apply in writing for an amendment to Existing Development Approvals or the Development Plan to effectuate such change. The Parties acknowledge that the City shall be permitted to use its sole and absolute discretion in deciding whether to approve or deny any such amendment request; provided, however, that in exercising the foregoing, the City shall not apply

a standard to Owner that is less favorable or different than applied by the City to any other commercial property development within the City. Any change in the Development Approvals or Development Plan made pursuant to Owner's application and deemed a material change by the City, shall require an amendment to this Agreement. Any such amendment shall be solely for the purpose of acknowledging the change to the Existing Development Approvals or Development Plan, as the case may be.

4.7 **Reservation of Authority.**

4.7.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the Development of the Subject Property:

(a) Processing fees and charges of every kind and nature imposed by the City to cover the estimated actual costs to the City of processing applications for Subsequent Development Approvals or for monitoring compliance with any Existing and/or Subsequent Development Approvals granted or issued.

(b) Procedural regulations consistent with this Agreement relating to hearing bodies, petitions, applications, notices, findings, records, hearing, reports, recommendations, appeals and any other matter of procedure.

(c) Changes adopted by the International Conference of Building Officials, or other similar body, as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, or National Electrical Code, and also adopted by the City as Subsequent Land Use Regulations.

(d) Regulations that are not in conflict with the Development Plan and this Agreement and do not impede the Development, or add to the cost of the Development of the Project.

(e) Regulations that are in conflict with the Development Plan provided Owner has given written consent to the application of such regulations to Development of the Subject Property at Owner's sole and absolute discretion.

(f) Federal, state, county, and multi-jurisdictional laws and regulations which the City is required to enforce as against the Subject Property or the Development of the Subject Property.

(g) Payment of Development Impact Fees and Sewer Facility Development Fees in effect at the time that certificates of occupancy are issued for the development or any portion thereof.

(h) ~~[CONFIRM] Payment of a Traffic Mitigation Fee of \$_____ per each developed acre, or fraction thereof, at the time of issuance of certificates of occupancy for each completed phase of the Development.~~ Owner shall be entitled to a credit against the Traffic Mitigation Fee for offsite work constructed by Owner.

4.7.2 Future Discretion of City. This Agreement shall not prevent the City, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations that do not conflict with the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any Subsequent Development Approval on the basis of Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan. Further, it is also understood and acknowledged by the Parties that the Project Approvals contemplate that the City may be required, in certain circumstances, to undertake further environmental review of Subsequent Development Approvals. If the circumstances set forth in CEQA Guideline 15162 occur in the context of the City considering Subsequent Development Approvals, or if otherwise required by the EIR, the City shall be authorized to exercise the maximum discretion authorized by law, consistent with the terms of CEQA and this Agreement.

4.7.3 Modification or Suspension by Federal, State, County, or Multi-Jurisdictional Law. In the event that federal, state, county, or multi-jurisdictional laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such federal, state, county, or multi-jurisdictional laws or regulations, and this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provision impractical to enforce.

4.8 **Future Voter Actions.** It is the intent of the Parties that future voter actions adopting Subsequent Land Use Regulations shall not apply to the Project unless such voter actions promote, advance, or otherwise further the intent and expeditious development of the Project pursuant to and consistent with the terms and conditions of this Agreement.

~~4.9 **City Acquisition of Offsite Real Property Interests and Interim Facilities.** If Owner proceeds with the Project, Owner shall be required, subject to the terms of this Agreement, to construct the Off-Site Improvements [ADD OFF-SITE IMPROVEMENT DETAILS]_____. The parties acknowledge that Owner does not own this property [CHECK]. As such, if the land for the public rights-of-way for this property is not acquired by either Owner or the City, then Owner may be required to construct "Interim Facilities" subject to approval by the City.~~

4.10 **Financing District Formation.** The City and Owner agree to cooperate in the formation of a financing district in order to finance, at the Owner's sole election, some or all of certain on-site and/or Off-Site Improvements, and other improvements required of Owner pursuant to the Existing Development Approvals and this Agreement.

~~4.10.1 **City Reimbursement to Owner for Owner's Construction of Oversized Improvements.** The parties acknowledge that certain public infrastructure improvements to be constructed by Owner will benefit adjacent and/or non-adjacent real properties, which are not part of the Subject Property and/or which exceed Owner's fair share requirements (hereafter, "Oversized Improvement(s)"). The Oversized Improvements include all of the following: [DESCRIBE _____ OVERSIZED _____ IMPROVEMENTS HERE]_____ on the project perimeter or within the~~

~~property that are conditioned to be constructed larger than required by or do not directly benefit the needs of the project. The parties have attempted to estimate the scope and costs of each of the Oversized Improvements set forth above, including the percent of applicable reimbursement as shown in Exhibit "D", entitled, "Oversized Improvements and City Reimbursable Amounts". Upon receipt of final engineered street and utility plans, the Director of Public Works shall cooperate with the Owner to prepare an agreement for such Oversized Improvements and shall include the final estimated reimbursement of Development Impact Fee credit amount, subject to verification of actual scope and costs upon completion of improvements. When the City accepts such Oversized Improvements as final, the Director of Public Works, or his designee, at his reasonable discretion, shall determine the final amount of the fee credit and/or reimbursement. The fee credit/reimbursement amount shall be for the Owner's entire portion of the costs incurred by the Owner to construct the Oversized Improvements that exceed Owner's fair share obligation for the Oversized Improvements ("City Reimbursable Amount") and shall be based on Moreno Valley Municipal Code Chapter 3.42 (Commercial and Industrial Development Impact Fees Ordinance).~~

4.11 **Conditions of Approval for Site Approval No. _____.** The Owner shall comply with the project conditions of approval for Site Approval No. _____ as noted in Exhibit "E".
[UNCLEAR WHETHER WE ARE PROCEEDING WITH THIS OR NOT; CHECK]

~~4.12 **Open Space Areas.** HF shall dedicate to the State of California [CHECK] (the "State") that certain portion of the open space areas described in the Specific Plan comprised of approximately _____ acres more particularly described in Exhibit _____ and depicted in Exhibit _____ (the "Open Space Areas"). In the event the State does not accept the dedicated Open Space Areas, HF shall dedicate the Open Space Areas to the City and the City shall immediately accept HF's offer of dedication. The City shall be responsible for all improvement, rehabilitation, maintenance and management of such Open Space Areas pursuant to all applicable governmental rules, regulations and requirements, including, without limitation any requirements of the United States Army Corps of Engineers and the United States Fish and Wildlife Service ("USFWS"). [JOHN, PLEASE REVIEW THIS SECTION. I DRAFTED THIS WITH THE LIMITED INFORMATION THAT WAS PROVIDED IN NO. 17 OF DEVELOPER'S "SUGGESTED PROVISIONS".]~~

~~4.13 **Trail System.** City shall construct and install those new trails and related improvements within that certain trail system on Redlands to the SJ Wildlife Area [CHECK] (the "Trail System") all as provided and shown in _____ of the Specific Plan [CHECK] and consistent with the _____ issued by the USFWS. [JOHN, PLEASE REVIEW THIS SECTION. I DRAFTED THIS WITH THE LIMITED INFORMATION THAT WAS PROVIDED IN NO. 17 OF DEVELOPER'S "SUGGESTED PROVISIONS".] [DOES THE CITY OWN THAT PROPERTY NOW? OR WILL IT ACQUIRE IT IN THE FUTURE?]~~

ARTICLE 5. REVIEW FOR COMPLIANCE

5.1 **Periodic Review.** The City Council shall review this Agreement annually, on or before the anniversary of the Effective Date, in order to ascertain the good faith compliance by Owner with the terms of the Agreement. As part of that review, Owner shall submit an annual

monitoring review statement describing its actions in compliance with this Agreement, in a form acceptable to the Community Development Director or his/her authorized designee, within thirty (30) days after written notice therefrom requesting such a statement. The statement shall be accompanied by an annual review and administration fee sufficient to defray the estimated costs of review and administration of the Agreement during the succeeding year. The amount of the annual review and administration fee shall be set by resolution of the City Council. No failure on part of the City to conduct or complete the review as provided herein shall have any impact on the validity of this Agreement.

5.2 **Special Review.** The City Council may, in its sole and absolute discretion, order a special review of compliance with this Agreement at any time at City's sole cost. Owner shall cooperate with the City in the conduct of such special reviews.

5.3 **Procedure.** Each Party shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with the Agreement, to explain the basis for such assertion, and to receive from the other Party a justification of its position on such matters.

5.3.1 If on the basis of the Parties' review of any terms of the Agreement, either Party concludes that the other Party has not complied in good faith with the terms of the Agreement, then such Party may issue a written "Notice of Non-Compliance" specifying the grounds therefor and all facts demonstrating such non-compliance.

5.3.2 The Party receiving a Notice of Non-Compliance shall have thirty (30) days to cure or remedy the non-compliance identified in the Notice of Non-Compliance, or if such cure or remedy is not reasonably capable of being cured or remedied within such thirty (30) days period, to commence to cure or remedy the non-compliance and to diligently and in good faith prosecute such cure or remedy to completion.

5.3.3 If the Party receiving the Notice of Non-Compliance does not believe it is out of compliance and contests the Notice, it shall do so by responding in writing to said Notice within thirty (30) days after receipt of the Notice.

5.3.4 If the response to the Notice of Non-Compliance has not been received in the offices of the Party alleging the non-compliance within the prescribed time period, the Notice of Non-Compliance shall be presumed to be valid unless good cause exists for not responding within the time period.

5.3.5 If a Notice of Non-Compliance is contested, the Parties shall, for a period of not less than fifteen (15) days following receipt of the response, seek to arrive at a mutually acceptable resolution of the matter(s) occasioning the Notice. In the event that a cure or remedy is not timely effected or, if the Notice is contested and the Parties are not able to arrive at a mutually acceptable resolution of the matter(s) by the end of the fifteen (15) day period, the party alleging the non-compliance may thereupon pursue the remedies provided in Article 6 of this Agreement.

5.3.6 Neither Party hereto shall be deemed in breach if the reason for non-compliance is due to a "force majeure" as defined in, and subject to the provisions of, Section 11.9 below.

5.4 **Certificate of Agreement Compliance.** If, at the conclusion of a periodic or special review, Owner is found to be in compliance with this Agreement, City shall, upon request by Owner, issue a Certificate of Agreement Compliance ("Certificate") to Owner stating that after the most recent Periodic or Special Review and based upon the information known or made known to the City Council that (1) this Agreement remains in effect and that (2) Owner is in compliance. The Certificate, whether issued after a Periodic or Special Review, shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, and shall state that the Certificate expires upon the earlier of (i) one (1) year from the date thereof, or (ii) the date of recordation of a Notice of Termination of Development Agreement. Owner may record the Certificate with the County Recorder. Additionally, Owner may at any time request from the City a Certificate stating, in addition to the foregoing, which obligations under this Agreement have been fully satisfied with respect to the Subject Property, or any lot or parcel within the Subject Property.

ARTICLE 6. DEFAULT AND REMEDIES

6.1 **Specific Performance Available.** The Parties acknowledge and agree that specific performance is the preferred remedy available for the enforcement of this Agreement. However, nothing in the foregoing shall be construed to constitute a waiver of the right to obtain monetary damages from the other Party by reason of default of this Agreement. Subject to the cure rights set forth in Section 5.3 above, any material default by Owner or the City of the Agreement or any of the conditions of approval of any of the Development Approvals that is not timely cured by Owner or the City shall be deemed a material default by Owner or the City of this Agreement.

6.2 Termination of the Agreement.

6.2.1 Termination of Agreement for Default of Owner. The City in its reasonable discretion may terminate this Agreement for any failure of Owner to perform any material duty or obligation of Owner hereunder or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default" or "breach"); provided, however, the City may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 5.3.

6.2.2 Termination of Agreement for Default of City. Owner in its reasonable discretion may terminate this Agreement for any default by the City; provided, however, Owner may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 5.3 and thereafter providing written notice by Owner to the City of the default setting forth the nature of the default and the actions, if any, required by the City to cure such default and, where the default can be cured, the failure of the City to cure such default within thirty (30) days after the effective date of such notice or, in the event that such default cannot be cured within such thirty (30) day period, the failure of the City to commence to cure such default

within such thirty (30) day period and to diligently proceed to complete such actions and to cure such default.

6.2.3 Rights and Duties Following Termination. Upon the termination of this Agreement, no Party shall have any further right or obligation hereunder except with respect to (i) any obligations to have been performed prior to said termination, or (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination.

6.3 **Institution of Legal Action.** Subject to notice of default and opportunity to cure under Section 5.3, in addition to any other rights or remedies, any Party to this Agreement may institute legal action to cure, correct, or remedy any default, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, or to obtain any other remedies consistent with this Agreement. If a legal action or proceeding is brought by any Party to this Agreement because of default, or to enforce a provision hereof, the prevailing Party shall be entitled to reimbursement of all costs and expenses, including attorneys fees, incurred in prosecuting such legal action or proceeding. This provision is separate and severable, and shall survive the merger of this Agreement into any judgment on this Agreement.

ARTICLE 7. THIRD PARTY LITIGATION

7.1 **Notice, Defense and Indemnification of Third Party Litigation.** The City shall promptly notify Owner of any claim, action, or proceeding filed and served against the City to challenge, set aside, void, annul, limit or restrict the approval and continued implementation and enforcement of this Agreement. Owner agrees to fully defend and indemnify the City for all costs of defense and/or judgment obtained in any such action or proceeding. This indemnification clause shall only apply if Owner approves of the selection of defense counsel for the City, which approval shall not unreasonably be withheld. The City and Owner agree to cooperate in the defense of such action(s).

7.2 **Effect of Third Party Litigation on Term of Agreement.** If any third party litigation is filed referred to in Section 7.1, the Term of this Agreement shall be extended by the amount of time between the date the litigation was filed and the date of the final judgment if the law, regulation or action that was the subject of the litigation had the effect of preventing or suspending Development of the Subject Property for the Project and the final judgment allowed this Agreement to remain in full force and effect.

ARTICLE 8. MORTGAGEE PROTECTION

8.1 The Parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Subject Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Subject Property. The City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Owner and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, the City will not unreasonably withhold its consent to any such

requested interpretation or modification provided the City determines such interpretation or modification is consistent with the intent and purposes of this Agreement.

8.2 Any Mortgagee of the Subject Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Subject Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Subject Property, or any part thereof, which Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from the City of any default by Owner in the performance of Owner's obligations under this Agreement.

(c) If the City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Agreement, the City shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the period that is the longer of (i) the remaining cure period allowed such Party under this Agreement, or (ii) thirty (30) days.

(d) Any Mortgagee who comes into possession of the Subject Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of Owner's obligations or other affirmative covenants of Owner hereunder, or to guarantee such performance; except that (i) to the extent that any covenant to be performed by Owner is a condition precedent to the performance of a covenant by the City, the performance thereof shall continue to be a condition precedent to the City's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the Subject Property acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Plan applicable to the Subject Property or such part thereof so acquired by the Mortgagee.

ARTICLE 9. INSURANCE [CHECK WITH CLIENT]

9.1 **Requirements.** Owner, not later than three (3) business days after the Effective Date, shall submit to the City duplicate originals of policies and endorsements, or appropriate certificates of insurance, of public liability insurance and broad form property damage insurance policies in the amount of not less than Two Million Dollars (\$2,000,000), combined single limits, for death and injury to any person and property damage, naming the City and its officers, officials, employees, agents, and representatives as additional insureds. In addition, all such insurance:

(a) shall be primary insurance and not contributory with any other insurance the City or its officers, officials, employees, agents, and representatives may have;

(b) shall contain no special limitations on the scope of protection affordable to the City and its officers, officials, employees, agents, and representatives;

(c) shall be "date of occurrence" and not "claims-made" insurance;

(d) shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(e) shall provide that the policy shall not be canceled by the insurer or Owner unless there is a minimum of thirty (30) days prior written notice to the City;

(f) shall be endorsed to include a waiver of subrogation rights against the City or its officers, officials, employees, agents, and representatives; and

(g) shall not require Owner to meet a deductible of more than One Hundred Thousand Dollars (\$100,000) unless approved in writing by the City's Community Development Director in his/her sole and absolute discretion.

9.2 **Workers Compensation Insurance.** Owner shall also furnish or cause to be furnished to the City evidence reasonably satisfactory to Owner that any consultant or contractor with whom Owner has contracted for the performance of any work on or about or with respect to the Subject Property carries worker's compensation insurance as required by the State of California.

ARTICLE 10. INDEMNITY

Owner agrees to and shall indemnify, defend, and hold harmless the City and the City's officers, officials, members, employees, agents, and representatives, from and against any and all claims, liabilities, damages, and losses, including without limitation reasonable attorneys' fees and litigation expenses, including court and expert witness fees (collectively, "Claims"), due to the death or personal injury of any person, or physical damage to any person's real or personal property, caused by the construction of improvements by, or construction-related activities of, Owner or Owner's employees, agents, representatives, servants, invitees, consultants, contractors, or subcontractors (collectively, "Owner's Representatives") on the Subject Property, or for any construction defects in any improvements constructed by Owner or Owner's Representatives on the Subject Property or for any other work related to this Agreement; provided, however, that the foregoing indemnification shall not apply to the extent such Claims are proximately caused by the negligence or willful misconduct of the City, or the City's officers, officials, members, employees, agents, or representatives, subject to any immunities which may apply to the City with respect to such Claims. The foregoing indemnification provision shall survive the termination of this Agreement.

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.1 **Recordation of Agreement.** This Agreement shall be recorded with the County Recorder by the City Clerk within the period required by Government Code section 65868.5. Any amendments to this Agreement approved by the Parties, and any cancellation hereof, shall be similarly recorded.

11.2 **Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the Parties with respect to the subject matter set forth herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 **Severability.** If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the invalid provision shall be deemed to be severable from the remaining provisions contained within the Agreement. The Parties hereby state and acknowledge they would have adopted each provision contained within this Agreement notwithstanding the presence of an invalid provision.

11.4 **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, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party or in favor of the City shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

11.5 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 **Singular and Plural.** As used herein, the singular of any word includes the plural.

11.7 **Waiver.** Failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

11.8 **No Third Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit for the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.9 **Force Majeure.** Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by earthquakes, the acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the Party's employment force), court actions (such as restraining

orders or injunctions), or other causes beyond the Party's reasonable control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

11.10 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefited thereby of the covenants to be performed hereunder by such benefited Party.

11.11 Counterparts. This Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

11.12 Litigation. Any action at law or in equity arising under this Agreement or brought by any 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, or such other appropriate court in said county, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court. Service of process on the City shall be made in accordance with California law. Service of process on Owner shall be made in any manner permitted by California law and shall be effective whether served inside or outside California. In the event of any action between the City and Owner seeking enforcement of any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party is entitled under this Agreement, its reasonable litigation costs and expenses, including without limitation its expert witness fees and reasonable attorney's fees.

11.13 Covenant Not To Sue. The Parties to this Agreement, and each of them, agree that this Agreement and each term hereof is legal, valid, binding, and enforceable. The Parties to this Agreement, and each of them, hereby covenant and agree that each of them will not commence, maintain, or prosecute any claim, demand, cause of action, suit, or other proceeding against any other Party to this Agreement, in law or in equity, or based on an allegation, or assert in any such action, that this Agreement or any term hereof is void, invalid, or unenforceable.

11.14 Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties that the Development of the Subject Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and Owner is that of a government entity regulating the Development of private property, on the one hand, and the holder of a legal or equitable interest in such property and as future holder of fee title to such property, on the other hand.

11.15 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute,

with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.16 Amendments in Writing/Cooperation. This Agreement may be amended only by written consent of both Parties specifically approving the amendment and in accordance with the Government Code section 65868. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify the intent and application of this Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters. Minor, non-material modifications may be approved by the Community Development Director in consultation with the City Attorney.

11.17 Operating Memoranda. The Parties acknowledge and agree that the provisions of this Agreement require a close degree of cooperation between the City and Owner, and Development of the Subject Property hereunder may demonstrate that refinements or clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the Term of this Agreement, the City and Owner agree that such refinements or clarifications are necessary or appropriate, they will effectuate such refinements or clarifications through operating memoranda approved by the City and Owner, which, after execution, will be attached to this Agreement as addenda and become a part hereof, and may be further refined or clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda will constitute an amendment to this Agreement requiring public notice or hearing. The Community Development Director, in consultation with the City Attorney, will be authorized to make the determination whether a requested refinement or clarification may be effectuated pursuant to this Section or whether the request refinement or clarification is of such a character to constitute an amendment hereof. The Community Development Director will be authorized to execute any operating memoranda hereunder on behalf of the City.

11.18 Corporate Authority. The person(s) executing this Agreement on behalf of each of the Parties hereto represent and warrant that (i) such Party are duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such Party is bound.

11.19 Notices. All notices under this Agreement shall be effective upon personal delivery, via facsimile so long as the sender receives confirmation of successful transmission from the sending machine, or three (3) business days after deposit in the United States mail, registered, certified, postage fully prepaid and addressed to the respective Parties as set forth below or as to such other address as the Parties may from time to time designate in writing:

To City: City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552
Attn: City Manager
Facsimile No.: () _____

Copies to: City Attorney

_____, California _____
Facsimile No.: () _____

To Owner: Iddo Benzeevi

Highland Fairview Operating Co.
14225 Corporate Way
Moreno Valley, CA 92553
Telephone: () _____
Facsimile No: () _____

Copy to: Rutan & Tucker, LLP
611 Anton Boulevard, 14th Floor
Costa Mesa, CA 92626
Attn: John A. Ramirez, Esq.
Facsimile No: (714) 546-9035

11.20 Nonliability of City Officials. No officer, official, member, employee, agent, or representatives of the City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

11.21 No Brokers. The City and Owner represent and warrant to the other that neither has employed any broker and/or finder to represent its interest in this transaction. Each Party agrees to indemnify and hold the other free and harmless from and against any and all liability, loss, cost, or expense (including court costs and reasonable attorney's fees) in any manner connected with a claim asserted by any individual or entity for any commission or finder's fee in connection with this Agreement arising out of agreements by the indemnifying Party to pay any commission or finder's fee.

[end – signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first set forth above.

City:

CITY OF MORENO VALLEY

By

Richard A. Stewart
Mayor, City of Moreno Valley

ATTEST:

By

City Clerk

APPROVED AS TO FORM:

By

City Attorney

Owner:

HIGHLAND FAIRVIEW OPERATING CO.
a _____ general partnership

By:

Name: _____

Its: _____

State of California)
County of _____)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

State of California)
County of _____)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

State of California)
County of _____)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A-1"

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

EXHIBIT "A-2"

Depiction of the Subject Property

[SEE FOLLOWING PAGE]

REPLACE THIS PAGE WITH SITE MAP

EXHIBIT "C"
OFFSITE IMPROVEMENTS

[SEE FOLLOWING PAGES]

REPLACE THIS PAGE WITH OFFSITE IMPROVEMENTS

EXHIBIT "D"

OVERSIZED IMPROVEMENTS AND CITY REIMBURSABLE AMOUNT

[SEE FOLLOWING PAGES]

***REPLACE THIS PAGE WITH OVERSIZED IMPROVEMENTS AND CITY
REIMBURSABLE AMOUNT***

Cindy Miller

From: Cindy Miller
Sent: Tuesday, May 14, 2013 9:03 AM
To: Tom Owings; towings123@gmail.com
Cc: Jane Halstead; Juliene Clay; Ewa Lopez; Kathy Gross
Subject: FW: Campaign Contributions: Donors - Fairview, Stephens, Palm Desert
Attachments: 12 31 10.pdf; 12 31 11.pdf; Form 461 01-14-13.pdf; Form 461 6-30-12.pdf; Form 461 10 25 2012 Stephens.pdf; Form 461 10-4-12 Stephens Jerome.pdf; Form 461 12-31-08.pdf; Form 461 12-31-10.pdf; Form 497 10-16-10.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

3
3

Hard copies printed and placed on your desk

4
2

From: Ewa Lopez
Sent: Tuesday, May 14, 2013 8:17 AM
To: Tom Owings
Cc: Cindy Miller; Juliene Clay; Jane Halstead; Kathy Gross
Subject: Campaign Contributions: Donors - Fairview, Stephens, Palm Desert

1
3
7

The remaining files are enclosed.

3
2

Thank you,
Ewa Lopez, CMC
Deputy City Clerk
City Clerk's Office
City of Moreno Valley
P.O. Box 88005
14177 Frederick Street
Moreno Valley, CA 92552

28

e: ewal@moval.org
w: www.moreno-valley.ca.us



From: Cindy Miller
Sent: Monday, May 13, 2013 2:58 PM
To: Jane Halstead
Cc: Juliene Clay; Ewa Lopez; Kathy Gross
Subject: Mayor - Document Request

Mayor Owings requested the following:

- 2012 Economic Development Plan
- World Logistics Center
 - when WLC has been presented to City Council (may have been under a different name)

- rezoning of the property
- FPPC donors for 2007, 2008, 2012 (including Jerry Stephens and Iddo Benzeevi)

Thanks,

Cindy

Cindy A. Miller
Executive Assistant to Mayor / City Council
City Council Office
City of Moreno Valley
14177 Frederick St.
P.O. Box 88005
Moreno Valley, CA 92552-0805


E: cindym@moval.org
w: www.moval.org

Jane Halstead
City Clerk
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92553

10 AUG 23 PM 1:56
CITY CLERK
MORENO VALLEY
RECEIVED

RE: Public Records Act Request

Dear Ms. Halstead:

Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.) and the California Constitution, as amended by passage of Proposition 59 on November 2, 2004, I am writing to request a copy of the following records, which I understand to be in the possession of your agency:

- All correspondence, including but not limited to e-mails, letters and memos, between Iddo Benzeevi, Highland Fairview Properties and any of the company's employees or representatives and city council members Jesse Molina, Richard Stewart, Robin Hastings, Bonnie Flickinger and William Batey from March 1, 2010 to Aug. 23, 2010.
- All correspondence, including but not limited to e-mails, letters and memos, between Iddo Benzeevi, Highland Fairview Properties and any of the company's employees or representatives and City of Moreno Valley staff from March 1, 2010 to Aug. 23, 2010.
- All correspondence, including but not limited to e-mails, letters and memos, from city staff to city council members Jesse Molina, Richard Stewart, Robin Hastings, Bonnie Flickinger and William Batey concerning Iddo Benzeevi, the Skecher's warehouse project, Highland Fairview Properties and all of the company's other projects from March 1, 2010 to Aug. 23, 2010.
- All correspondence, including but not limited to e-mails, letters and memos, from and to city council members Jesse Molina, Richard Stewart, Robin Hastings, Bonnie Flickinger and William Batey concerning the creation and membership of the blue-ribbon committee advising the city on the search for a new city manager.
- All Form 700s for city council members Jesse Molina, Richard Stewart, Robin Hastings, Bonnie Flickinger and William Batey for years 2008, 2009 and 2010.
- All Form 700s for Planning Commission members George Riechers, Maria Marzoeki, Rick De Jong, Ray Baker, Richard Dozier, Michael Geller and George Salas, Jr. for years 2008, 2009 and 2010.
- All Form 460s for city council members Jesse Molina, Richard Stewart, Robin Hastings, Bonnie Flickinger and William Batey for years 2006, 2007, 2008, 2009 and 2010 to date.

3450 Fourteenth St., Riverside, CA 92501
[REDACTED] dgang@pe.com

If you determine that any or all of the information is exempt from disclosure, I ask that you reconsider that determination in view of Prop 59, which has amended the state Constitution to require that all exemptions be "narrowly construed." Prop 59 may modify or overturn authorities on which you have relied in the past.

If you nonetheless determine that the requested records are subject to a still-valid exemption, I would further request that: (1) you exercise your discretion to disclose some or all of the records notwithstanding the exemption; and (2) that, with respect to records containing both exempt and non-exempt content, you redact the exempt content and disclose the rest.

Finally, should you deny part or all of this request, you are required to provide a written response describing the legal authority or authorities on which you rely. Please also address the question whether Prop 59 requires disclosure even though authorities predating Prop 59 may appear to support your exemption claim.

If I can provide any clarification that will help expedite your attention to this request, please contact me at [REDACTED]. I ask that you notify me of any duplication costs so I may decide which records I want copied.

Thank you for your time and attention to this matter.

Sincerely,



Duane W. Gang

THE PRESS-ENTERPRISE

PE.com

Duane W. Gang
Staff Writer

3450 Fourteenth Street, Riverside, CA 92501-3878

[REDACTED] Email: dgang@pe.com

www.PE.com

3450 Fourteenth St., Riverside, CA 92501

[REDACTED] dgang@pe.com

Baker & Hostetler LLP
12100 Wilshire Boulevard
15th Floor
Los Angeles, CA 90025-7120


www.bakerlaw.com

Bruce R. Greene
direct dial: 
bgreene@bakerlaw.com

Memorandum

To: Iddo Benzeevi, Highland Fairview Properties
From: Bruce Greene
Date: June 8, 2010
Re: Highland Fairview Corporate Park, Moreno Valley

I understand that HF Logistics-SKX T1, LLC would like to begin construction at the Highland Fairview Corporate Park in advance of recording of the final subdivision map for this phase of the project. The site currently consists of several legal parcels which would be reconfigured by the pending parcel map. You have requested the City of Moreno Valley to provide you with construction permits subject to the prior recordation of a covenant which would hold all the existing parcels as one until the final map is recorded.

After reviewing the issues considered, the applicable laws and the city's authority to grant you your request; my findings are as follows:

- There is no prohibition in state law or in the Municipal Code against using such a covenant for this purpose. State law does, however, recognize that such covenants are permissible (Government Code Sec. 27281.5).
- Covenants of this kind are commonly used in other jurisdictions. As an example I have attached a copy of San Diego Municipal Code Sec. 125.0760, explicitly authorizing temporary merger of parcels through such a covenant allowing the issuance of development and construction permits, although the adoption of an ordinance is not necessary. While you may find some jurisdictions that do not elect to accommodate this practice, many do, such as San Diego and Los Angeles. This is a matter of local policy and not law, and Moreno Valley can elect

*Chicago Cincinnati Cleveland Columbus Costa Mesa
Denver Houston Los Angeles New York Orlando Washington, DC*

to allow the practice if the City Council considers it appropriate. Such action will not be in contradiction to the city's municipal code or the Subdivision Map Act.

- The state Subdivision Map Act does not prohibit the kind of temporary merger of parcels which you propose and the subsequent development of those parcels. The only provision which remotely addresses this issue is Government Code Sec. 66499.30. This statute pertains only to situations in which "a final map is required." The question, therefore, is whether or not you fall within that category. As it happens, you have obtained approval for a tentative map; however, merely filing for or obtaining approval of a map for other purposes does not make you subject to the statute. The limited, temporary tying of the parcels by means of a covenant which you propose does not require a subdivision map, just as no map would be required if you had proposed such a covenant arrangement prior to ever filing an application for a map. In other words, the Subdivision Map Act simply does not apply to this situation.

- There is no risk to the City in approving the proposed temporary covenant. Even if it were to be contested, the City's only potential exposure would be to a court order to undo the consolidation of parcels and stop any construction. Instead, by allowing use of the covenant, the City would be assured that the final map would be recorded prior to the end of this calendar year.

BG:mb
Attachment



Moreno Valley

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More distribution centers proposed for Moreno Valley's eastern side

Block 1

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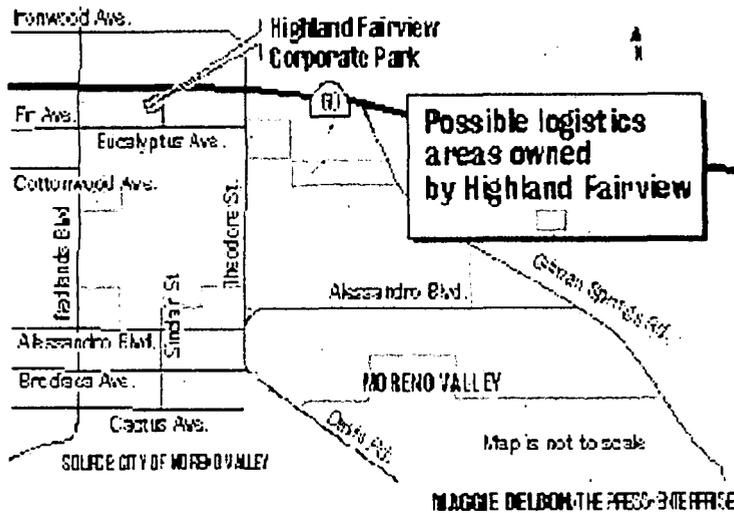
10:00 PM PDT on Thursday, August 21, 2008

By DAN LEE
The Press-Enterprise

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Although the 1.8 million-square-foot Skechers building is a separate project, Highland Fairview President Iddo Benzeevi said the scenario was included in the report because residents had asked what might happen if that area, known as the Moreno Highlands, was developed into a business park. Highland Fairview has not formally submitted any proposal for logistic centers in the Moreno Highlands area.



"It is an alternative that will be evaluated," Benzeevi said by phone. "We're looking at every possibility."

Any such proposal would require revising the Moreno Highlands Specific Plan, which would require the city Planning Commission and the City Council to hold public hearings prior to approval, city Planning Official John Terrell said by phone.

Jobs

The City Council had approved the Moreno Highlands plan in 1992. The 3,000-acre, master-planned community would include 7,700 homes, a 600-acre business park, schools, golf courses and 120 acres of city parks. It would add as many as 30,000 new residents to Moreno Valley and 21,000 jobs, according to city estimates at the time.

Environmental activists sued the city over the plan, claiming that traffic, air pollution and potential earthquake hazards were not adequately addressed. They also argued that the planned community threatened the nearby San Jacinto Wildlife Area.

Although the projects' developers decided not to shelve their construction plans in June 1993, citing the economic downturn at that time, a judge in May 1994 ruled that the city had approved the Moreno Highlands plan properly. The Moreno Highlands community remains unbuilt.

Benzeevi said it is critical that Moreno Valley develop more of an employment base: Only about 3 percent of Moreno Valley's land can generate jobs, compared with the 10-20 percent in most cities. Without sufficient local jobs, residents are forced to commute out of town for work, creating traffic and causing them to have less time with their families, he said.

"It is just not acceptable," Benzeevi said. "We need to build sustainable communities."

A big part of the original Highlands plan already was intended for industrial uses, the developer added. With the addition of distribution centers the Moreno Highlands area could generate more than 26,700 jobs, according to Michael Brandman Associates.

Jamil Dada, chairman of the Moreno Valley Chamber of Commerce, said he agrees that Moreno Valley needs jobs. Dada has supported the Skechers project and proposals by ProLogis and First Industrial Trust to build distribution centers nearby.

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The logistics proposal and the future of eastern Moreno Valley are expected to be issues in the Nov. 4 election for the 3rd Council District seat, which represents the area.

Incumbent Frank West has said his constituents are concerned about building distribution centers on the eastern end of Moreno Valley. But West has four challengers: Robin Hastings, Mike Rios, Ray Carbajal Jr. and Robert Burks.

Moreover, the Moreno Valley Taxpayers Association has spent about \$120,000 on a campaign to oust West and fellow incumbent Councilman Charles White. Highland Fairview Properties has contributed \$60,000 to the effort, according to the most recent campaign finance reports that have been submitted.

Reach Dan Lee at [REDACTED] or dlee@PE.com

mk

CITY COUNCIL
MORENO VALLEY
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09 FEB - 9 PM 2: 44

February 6th, 2009

TO: The Moreno Valley City Council

RE: Investigation of the November 2008 City Council Election process and results

Please postpone your vote regarding the Sketcher's project, or any other proposed development submitted by Iddo Benzeevi/Highland Fairview until a formal investigation into the bona fides of the November 2008 City Council Election process and results is concluded.

Fremont Older
Moreno Valley, CA

February 6th, 2009

TO: The Editor, Press Enterprise

RE: The Stench of Corruption in Moreno Valley Politics: November 2008 City Council election process and results

This letter is in reference to Dan Lee's report in the February 6th, 2009 edition of your newspaper in which he quotes a former FPCC official who opined that direct contributions or expenditures on behalf of a candidate's campaign do not create a conflict of interest which disables the winning candidate from thereafter voting on a matter which directly affects the campaign contributor. Sadly, under current California campaign finance laws, that statement is correct.

Conflict of interest is not the issue with respect to the corruption which affected the Moreno Valley City Council November 2008 election process and results.

Pigs Don't Fly: It is not a coincidence that council members West and White, who oppose Benzeevi's/Highland Fairview's proposed warehouse project were ousted from office as the result of a \$350,000 smear campaign against them which was funded with Benzeevi's/Highland Fairview's/Stephen's money; and that the two newly-elected candidates, Hastings and Molina; who support Benzeevi's/Highland Fairview's project, received nearly \$200,000 in support of their campaigns from Benzeevi/Highland Fairview, the "Association" and Benzeevi's protégés.

In total, Benzeevi/Highland Fairview, the "Association" using Benzeevi's/Highland Fairview's money, and their protégés, committed \$500,000 in cash or services to oust West and White and to install Hastings and Molina.

West and White's combined total expenditures? \$40,000.

(1) Money laundering, (2) false reporting and (3) "quid pro quo" (ie cash or property for a vote) are quite illegal in California and **are in issue** with respect to the Moreno Valley 2008 City Council election process and results.

A formal investigation by appropriate authorities is required to determine whether money was laundered (ie. whether the actual "source" of campaign contributions or expenditures in opposition to West and White and in support of Hastings and Molina were falsely reported) and whether any city council member sold their vote on Benzeevi's/Highland Fairview's proposed warehouse project.

Using the Subpoena power of the Riverside County District Attorney's Office and the California State Attorney General, tracing is required to determine:

- the **beneficial ownership** of Highland Fairview (tracing past fictitious names, nominees etc.)
- the **actual source** (as opposed to the name of the remitter) of donations to the Moreno Valley Taxpayer's Association and to the contributors to the Molina and Hastings campaigns. Detailed tracing of bank records is required which can only be accomplished through issuance and enforcement of Subpoenas.
- the **beneficial ownership** (ie tracing past fictitious business names and "nominees") of all tracts of land which will be directly or indirectly benefited by approval of the proposed amendment to the General Plan, thereby paving the way for unfettered, "boot-strapped" warehouse developments in the East end of the City
- the **fact and substance of any contacts or relationship** between Benzeevi/Highland Fairview, or their agents or "entities", [eg. LLCs, Joint Ventures, Trusts etc. purchasing/transferring/holding land in the area subject to the proposed amendment to the General Plan] and Council members Batey, Hastings, Molina, or Stewart, as well as Planning Commissioner Geller prior to the election **and their contributors**
- **Benzeevi's/Highland Fairview's relationship with any contributor to the "Association" and to the Molina or Hasting's campaign**, including the political consultants who extended more than \$30,000 in credit to the Hasting's campaign and contributed services to the Molina campaign.

Fremont Older
Moreno Valley, CA

cc: Michael Cabral, Riverside County District Attorney
Gary W. Schons, Senior Assistant California State Attorney General
California Fair Political Practices Commission
Moreno Valley City Council

Steve and Donni Borchard
13780 Roderick Dr.
Moreno Valley, CA 92555
February 2, 2009

Dear Council Members;

This letter is to urge you to uphold the Planning Commissions' recommendation in denying the change in the zoning for the east side of Moreno Valley.

This is where I live. This is where we choose to live after investigating many areas before moving here from Maryland two years ago. Since moving to Moreno Valley, we have had to fight to keep the zoning as planned. This is getting tiresome. I am very disappointed with the continuous money hungry developers. In Jamil Dada's article to the Press Enterprise yesterday, he indicated that Moreno Valley would send a message to businesses that this city is not business friendly. That is far from the truth. What we are, are concerned citizens with our health, traffic, and toxic diesel pollution. There are planned areas for warehouses. That is on the west side of town. That is where they belong, easy access to Rts. 215/60/15/91. Yes, we want jobs, warehouses will not bring jobs. Skeeters will be transferring jobs from their Ontario location, which will bring more traffic as those employees travel to Moreno Valley. Warehouses are automated for the most part. They do not have enough jobs to justify the health hazards.

This might not matter to the council, but my husband and I are actively searching for a new place to live. It will not be in Moreno Valley. Our son and his fiancé are buying a house and they made the conscience decision to NOT buy in Moreno Valley. That means loss of revenue in many forms, housing taxes, retail purchases to just name a couple.

I could belabor the above points, I will not. Let me say in closing, please uphold the Planning Commission's recommendation.

**DO NOT CHANGE THE ZONING.
SAY NO TO IDDO BENZEEVI and to DIESEL, TRAFFIC.**

Thank you for your time.

Sincerely,
Donni and Steve Borchard



Moreno Valley

[Comments](#) 3 | [Recommend](#) 1

More distribution centers proposed for Moreno Valley's eastern side

Block 1

 [Download story podcast](#)

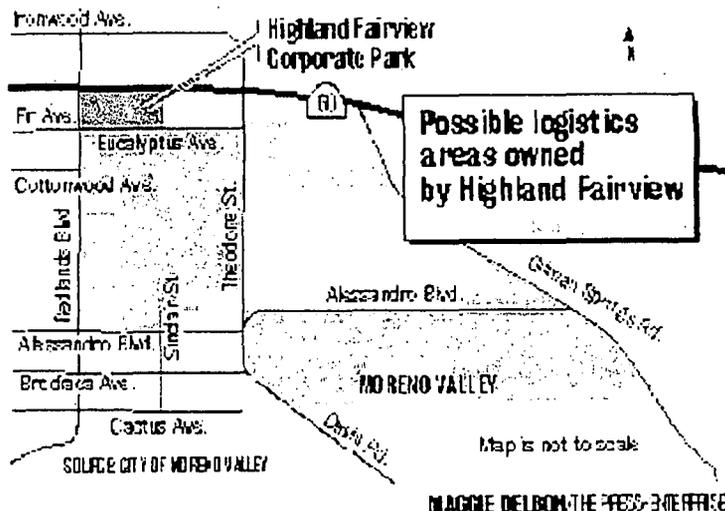
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Reach Dan Lee at 951-763-3457 or dlee@PE.com



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- Robert Grajeda
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- Jesus Holguin
- Michele Patterson
- Jeri Vaughan
- Omar Montez
- Diane Kacsmarky
- Javier Figueroa
- Sam Jones

February 3, 2009

To Honorable Members of the Moreno Valley City Council

The Moreno Valley Hispanic Chamber of Commerce has represented the greater business community in Moreno Valley since 1993. Our constituents range in size from multinational to the local home based businesses that reside within our City's boundary. We, as past and current Presidents of the Chamber, come forward now on their behalf and issue this letter proclaiming our unilateral support for the proposed Highland Fairview Corporate Park project.

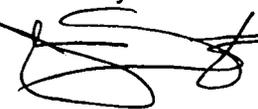
Moreno Valley needs to support real projects which will bring real economic benefits, real jobs, and real tax dollars to the City. We need to take advantage of such opportunities when they arise. This is just such an opportunity.

We, as a Chamber, like the City Council, care and share the same concerns about the City of Moreno Valley. We endorse intelligent responsible development, high quality diverse employment that enhances the standard of living for Moreno Valley families and provide a great future for generations of Moreno Valley residents to come. We strongly urge you to approve the Highland Fairview Corporate Park project.

We trust during this critical time in Moreno Valley's history that leadership will recognize that the opportunity for positive change is before us today and that opportunity is a great one indeed. By approving this project, Moreno Valley will gain a great company, and hopefully attract others that will follow Skechers' lead.

We want to thank Highland Fairview for its leadership and vision and for bringing the first Fortune 500 world-class company to Moreno Valley. Mr. Benzeevi has been a pillar of the community and a strong supporter of the City of Moreno Valley, of the Hispanic Chamber and of the overall Hispanic community. We have no better friend. We applaud his vision, his commitment and his investment in our community.

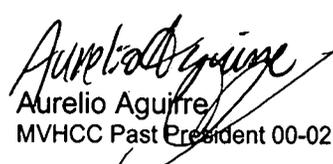
Sincerely


Jack Schirner
MVHCC President 09


Art Alcaraz
MVHCC Past President 07-08


Anthony Fabelo
MVHCC Past President 06-07


Jaime Hurtado
MVHCC Past President 04-06


Aurelio Aguirre
MVHCC Past President 00-02

Warehouse Conflict Symptomatic of Deeper Woes

Warehouse developer, Iddo Benzeevi, professes he is a 'good' friend and neighbor; concerned about Moreno Valley's best interests. If true, why does he endorse confusion and community divisiveness on multiple scales (e.g. promotes name changes of 'Moreno Valley' with 'Rancho Belago' for our band, ball club, district, city park...)? His divisiveness is socially and geographically engineered (e.g. he requested removal of a freeway overpass—a project encouraging north-south city integration, outdoor recreation and greener travel).

During recent public hearings Mr. Benzeevi referred to District 3 as "the East End". What happened to his fantasy 'beautiful' Rancho Belago? He marketed Rancho Belago as an upscale, exclusive community with trails and other green, family friendly amenities; promising "people would come from all over" to live in this classy high-rent district. Now, warehouse proponents sneer at 'his vision' and refer to District 3 residents as racist snobs.

When Mr. Benzeevi master-planned *his* Rancho Belago megalopolis, he spoke of changing the General Plan's Highway 60 Business Corridor from Business Park to Residential zoning. He insisted this would improve community appearance from the freeway and increase home values. Now he has *discarded* Rancho Belago and replaced it with his 'beautiful' warehouse. Why isn't he promoting how 'good' warehouses are for esthetics and our declining home prices?

The erratic Benzeevi 'vision of change' appears to be self-serving and irreversibly fracturing Moreno Valley's spirit in People, Pride and Progress. His coaching, supporting, dressing, etc. paid hecklers and community detractors is an overwhelming display of utmost disrespect for our system of government, community process, and truly interested residents. This includes championing disdain for District 3 dwellers, their concerns about community health, quality of life, needs and vision as outlined in OUR city General Plan.

Like other 'strings attached deals' that Mr. Benzeevi is notorious for, his warehouse project comes with a cost. Promised jobs for a few may cost most Moreno Valley residents not only their health and worse traffic, but more money. He requested that our financially strapped city (i.e. taxpayers) pay for on-site improvements on his warehouse (conditions required of all developers) and has appealed the planning commissions vote to endorse the General Plan business park zoning.

Instead of spearheading efforts to engender community cohesion and "Moreno Valley's soaring vision", Mr. Benzeevi continues to fuel conflict by insisting on planting a warehouse in a 'location' that doesn't make sense. Where, may I ask, is the 'good' in this?

CITY COUNCIL
MORENO VALLEY
RECEIVED

M/c

09 FEB -2 PM 2: 37

February 1, 2009

City Council
14177 Frederick Street
Moreno Valley, CA 92552

Dear Mayor and Council Members:

In the past week, I have received two mailings from Mr. Iddo Benzeevi and Highland Fairview thanking me for my recent support of the Highland Fairview Industrial Park (please see attached.) When contacted by phone recently by one of his colleagues, I made it clear to him that I did NOT support this venture.

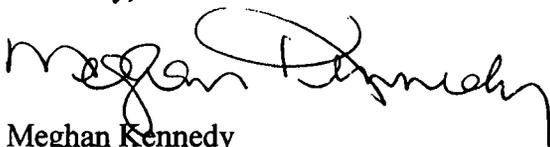
I am writing to you not just to ask you to vote NO when this comes to a vote at City Council, but also because if you have received any information from Highland Fairview regarding supporters to please remove my name from the list.

I understand that this venture is supposed to bring jobs and revenue. We have numerous other warehouses, distribution centers, grocery stores and restaurants that have gone up. These were all supposed to bring jobs and revenue to the City, but instead older established businesses are closing. Each closure results in a loss of jobs and revenue. This town has clearly reached a saturation point and can't support what is currently here.

Also, the east end of town is home to what little remaining farmland we have. If this industrial park is approved, others will soon follow and that farmland shall vanish.

In the end, does all this "growth" really aid the community? Please vote NO for the Highland Fairview Industrial Park.

Sincerely,



Meghan Kennedy
13582 Red Mahogany Drive
Moreno Valley, CA 92553

MV00229421



Highland Fairview

14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5300 Fax: 951.867.5377

January 21, 2009

Meghan Kennedy
13582 Red Mahogany Drive
Moreno Valley, CA 92553-4309

Dear Ms. Kennedy,

Thank you for expressing your support for the Highland Fairview Industrial Park when you spoke to my colleague on the phone a few days ago. I am honored that you support our effort to create jobs in Moreno Valley.

Unfortunately, the Planning Commission voted to deny our project, showing how detached they are from the desire of the majority of our community. They clearly do not share the same wisdom and foresight that you and thousands of other residents have shown by supporting job creation.

These are extraordinarily challenging times – and such times call for extraordinary effort and creativity to secure a better future for our community and children.

Our plan for this world-class logistics center, which will be anchored by Skechers' North American Operations Center, does just that by creating more than 2,500 permanent jobs and over 1,000 construction jobs in Moreno Valley.

Your support and active participation are instrumental in helping us create jobs in Moreno Valley. This is critical to our city, especially when this project will also provide a new and much needed source of revenue for our city to fund vital services such as fire, police and schools.

The logistics center will also create more than \$157 million in local economic benefit for our community. We cannot pass up the opportunity to bring a major global company like Skechers to Moreno Valley, that has the potential to lead to other large employers and global companies to come to our community and set-up shop.

On February 3, our proposal will go before the City Council for final consideration. We need your active voice to remind the City Council that the overwhelming majority of local residents want this project built, and want the jobs and economic benefits that will arise as a result of this project.

Please take part in this important hearing by lending your voice to our effort. As we approach the hearing date, I will keep you updated about how you can participate.

Thank you again for your support. It means more than you can know. I have enclosed a postage paid card that you can use to share any additional input you may have regarding our plan. If you ever have questions, I can be reached at [REDACTED] or Benzeevi@highlandfairview.com.

Sincerely,

Iddo Benzeevi
President, Highland Fairview



Highland Fairview

14225 Corporate Way
Moreno Valley, CA 92553

January 28, 2009

Meghan Kennedy
13582 Red Mahogany Dr.
Moreno Valley, CA 92553-4309

Dear Ms. Kennedy:

Next Tuesday at 6 PM the City Council will be holding the hearing for our proposed Highland Fairview Industrial Park, which includes the much talked about Skechers' North American Operation Headquarters.

You would think that in today's tough economic reality, every city would do anything in its power to approve a proposal that would generate more than \$157 million in annual economic stimulus for our community, create 2,500 permanent jobs and over 1,000 construction jobs.

But as we witnessed at the Planning Commission hearings, the pressure that a small group of NIMBYs ("Not in My Back Yard" people) are putting on the city to reject this project is having an impact.

These NIMBYs don't speak for the community. I know this because to date, I have heard from more than 6,000 community residents just like you who have sent me emails, letters and told me they support our effort. Thank you as well for standing with me. It means more to me than you can know.

At next week's hearing, please don't let the NIMBYs speak for you. Attend the hearing, and speak for yourself. Let the City Council know you want jobs and economic stimulus for Moreno Valley.

The challenges that Moreno Valley faces – double-digit unemployment, a sluggish housing market, and a looming city budget crisis – will not go away unless we work aggressively to reverse our economic decline. Bringing Skechers to Moreno Valley will go a long way in helping us do just that. Details for the City Council hearing are as follows:

Tuesday, February 3rd at 6:00 PM
Moreno Valley City Council Chambers
14177 Frederick Street

We will be hosting a gathering at our office before the hearing, so that we can all meet, share some food and conversation, and walk over to the hearing together. Details for the gathering at our office are as follows:

Tuesday, February 3rd at 5:00 PM
Highland Fairview Offices
14225 Corporate Way

To help us anticipate the number of people attending, please RSVP by calling 951.867.5365 or emailing me at Benzeevi@highlandfairview.com. If you can't make it to the gathering at our office, that's okay. Just go directly to the hearing.

Thank you again for your support. It has served as a constant reminder to us that we are doing the right thing. We could not have made the progress we've made without you.

I really hope you'll be able to make the hearing next week, so that together we can tell the City Council to do the right thing and approve our project so we can start creating jobs for Moreno Valley.

Sincerely,



Iddo Benzeevi

President, Highland Fairview

City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA. 92553
(951) 413-3000

29, January 2009

RE: Highland Fairview Corporate Park Project

I am writing in opposition to the granting of the changes needed and the overall approval of the Highland Fairview Corporate Park Project (**PA07-0088 (CZ)**, **PA07-0089 (GPA)**, **PA07-0090 (TPM)**, and **PA07-0091 (PP)**), for the following reasons.

The developer Iddo Benzeevi and Highland Fairview lack the appropriate track record to undertake such an enormous project. Iddo Benzeevi the representative of Highland Fairview, has repeatedly given false testimony before the City Council of Moreno Valley, the Planning Commission of Moreno Valley and the general public as well as to his and Highland Fairview's qualifications, and/or past experience in undertaking such developments.

Mr. Benzeevi has stated on the record that he has over 30 years of development experience, and has built many projects within California and throughout the nation, however this claim is false.

Neither Mr. Benzeevi nor Highland Fairview has ever been properly licensed within this state to act in the fashion for which he so states. Of the 360 months Mr. Benzeevi has claimed to have been in the profession of developing and building "high quality construction and design", he or his alter egos have only been properly licensed under California law for seventeen (17), of those months (March 24th, 2007 through August 30th of 2008).

Currently Highland Fairview has an RME (Responsible Managing Employee) which came onboard on January 15th, 2009. However this RME's licenses are set to expire on March 31st, of 2009. This brings into suspicion the true nature of this relationship between the RME and Highland Fairview.

Is this a true employee of Highland Fairview or just an individual which is loaning out his license to that of Highland Fairview? If it be the later, this would constitute a misdemeanor under the laws of California.

Under California law Mr. Benzeevi and/or Highland Fairview is required to poses at all times throughout the development process, a valid state contractor's license, be it personally or through an RME or RMO (Responsible Managing Officer). However this has never been the case with Mr. Benzeevi or any of his alter egos when dealing with or within the city of Moreno Valley, yet the city continues to issue permits for various operations pertaining to Highland Fairview and its project(s).

Highland Fairview has lacked the ability to subcontract work regarding its projects for which it has in the past or is currently engaged in. California law requires a contractor's license for such undertakings which have taken place, and also requires Counties and Cities to verify the proper existence of such licenses prior to the issuance of any such permits.

Per the documentation within the DEIR by Michael Brandman Associates, many operations which required permits from the City of Moreno Valley were not issued at a time Highland Fairview was nor had it ever been in compliance with state contracting laws. All this took place with no doubt that this work was being performed as part of overall development process of the Highland Fairview Corporate Park Project (Skechers Distribution, Logistics Center), as stated in the documentation within the DEIR and the FEIR as well.

Given the facts above, both Highland Fairview and Iddo Benzevi have purported to, and have stated to have the capacity to undertake such developments not only now but in the past, all in violation of California law.

California Business and Professions Code 7026 states; *"any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith, or the preparation and removal of roadway construction zones, lane closures, flagging, or traffic diversions, or the installation, repair, maintenance, or calibration of monitoring equipment for underground storage tanks, and whether or not the performance of work herein described involves the addition to, or fabrication into, any structure, project, development or improvement herein described of any material or article of merchandise. "Contractor" includes subcontractor and specialty contractor. "Roadway" includes, but is not limited to, public or city streets, highways, or any public conveyance."*

The term "undertake to" has been defined as "putting oneself under the obligation to perform, to guarantee or to accept as a charge (57 Ops.Cal.Atty.Gen. 421 (1974)).

Although Highland Fairview would not be under any obligation to the public to perform as it states in regards to this project (The Highland Fairview Corporate Park), it is however under a contractual obligation with Skechers U.S.A., Inc., to perform and provide that of a 1.8 million square foot warehouse and distribution facility.

Highland Fairview again is under no obligation to accept a charge from the public (that the public is aware of) for the Highland Fairview Corporate Park Project. Again it is however under a contractual agreement with Skechers U.S.A., Inc. for an eleven year lease for the results of said construction as mentioned above, for which Highland Fairview is to receive nearly \$100,000,000.00 in compensations.

This mentioned lease is not based on any contingent that it is void in the event the project was not approved in accordance with City, County and State laws, and was worded as if the project was already pre-approved and only in need of construction.

Highland Fairview by and through Iddo Benzeevi have made statements for which he and Highland Fairview have offered as an enticement of approval for this project a form of guarantee, the guarantee of 2500 jobs for Moreno Valley and a large influx of tax based benefits to the City of Moreno Valley.

This guarantee can be evidenced not only by his (Iddo Benzeevi's) words but by and through his and Highland Fairview's actions as well. These actions include but are not limited to offering of "Jobs Now" t-shirts, food and drink to those who come and support the Skechers project which will bring much needed jobs to Moreno Valley, the payment of citizens in the amount of \$20.00 per person to stand at the podium before the planning commission and recite the words Skechers will bring 2,500 new jobs to Moreno Valley, and an ongoing petition drive throughout Moreno Valley to gather signatures to bring the 2,500 new jobs for which Skechers will bring to this City.

As to the track record of Iddo Benzeevi and his alter egos, the City of Moreno Valley has on prior occasions made concessions in its General Plans, Zoning etc. on behalf of Mr. Benzeevi, only to see no such developments produced. The City of Moreno Valley dealt with this same almost exact issue in 1986 in regards to another grandiose Distribution Hub, complete with a 10,000 foot runway big enough to handle a 747. The results, changes made by the city, yet no development took place, just a large waste of the taxpayers money and time dealing with a go nowhere project by the Benzeevi Holdings.

Not to be out done San Bernardino County took a try with Iddo Benzeevi as well in the yearly 1990's with their need to redevelop the Norton Air Force Base, only to find themselves disappointed in their decision, as can be evidenced by these quotes as taken from the Los Angeles Business journal August 19th, 1991; (http://www.thefreelibrary.com/_/print/PrintArticle.aspx?id=11227602)

"The board has decided to come up with new guidelines . . . because of our disappointing experience," Mitchell said. "Mr. Benzeevi hasn't been able to come up with anybody to join him in developing the project."

"It is a wasted year, in retrospect," said Jon Mikels, a San Bernardino County supervisor who was on the IVDA board when Benzeevi was given the exclusive deal to negotiate the base's development. Mikels said he wanted to split the rights among two or three of the top developers who bid for the project, but was overruled by other IVDA board members."

"The development board has "lost a lot of good faith. They lost a lot of good P.R. and they got a lot of egg on their face," said David Ariss, managing director of the California Commerce Center, a 10 million square foot industrial center adjacent to Ontario Airport, which is 85 percent owned by Lusk Co., a San Diego-based developer. Lusk, along with Upland-based Lewis Homes, has written to IVDA indicating a joint-venture interest in developing the Norton site, according to the IVDA's Mitchell."

The City of Moreno Valley again made concessions in its zoning etc. for Iddo Benzeevi in regards to the Aqua Bella development when it approved that project against a great deal of public debate as well as legal court challenges, only to see that four years later this development has yet to materialize, and most of this action again took place with the developer/builder acting without the proper licensing required under law.

These are not the only actions Highland Fairview and/or Mr. Benzeevi have taken in their quest for total dominance of the City of Moreno Valley, they/or he (Mr. Benzeevi) have put themselves out as brokering land deals, yet again in depth research into Mr. Benzeevi and his many alter egos show that at no time has he ever in his adult life held or possessed any required licensing for such endeavors within this or any other state.

Mr. Benzeevi has undertaken the defamatory actions against several elected officials of our city, and its citizens as well. He has employed the use of a political hate group to come before the council and the city's planning commission to defame the character of those who oppose his projects. He is currently engaging in the tactic of divide and conquer of our city, Mr. Benzeevi personally interview prospective candidates to run against those who either apposed this project on behalf of their constituents, or opposed his vision of the nick name Ranch Belago, all in an attempt to seed the council in his favor.

Highland Fairview has acted outside the law in dealing with Hazardous Waste and Materials which were found to be present on the proposed sites for the total build out of the projects they have submitted to the city for approval. This can be evidenced by the DEIR, its supporting documents and the recommendations made by those licensed companies which were contracted by Highland Fairview for site assessment.

These claims will hold even in regards to the later received by Mike Rios from Highland Fairview by and through the City of Moreno Valley dated January 6th, 2009 (Which was an incomplete un-signed letter of three pages including one map). NOTE: A response to said letter is being drafted and will include all documentations in support of its arguments against the claims of Highland Fairview.

As a conclusion I feel it is important that this also be made a part of the record. It is with some great suspicion that every time a letter is submitted be it by way of personal delivery to the city and its staff, or by means of e-mail, that within fifteen minutes or less those same letters and or documents are on the desk of Iddo Benzeevi and Highland Fairview.

That two days after the final and negative decision as to the purposed Highland Fairview Project was made by the Planning Commission of Moreno Valley, that Mr. Dada of the Moreno Valley Chamber of Commerce was able to give a date certain as to the public hearing before the City Council, in his address and call for support of the project before the chambers dinner event on January 17th, 2009.

Also of interest was the absence of supporters at the regular city council meeting which was held on Tuesday January 27th, 2009 (A group which has yet to miss any opportunity to speak up to this date).

The only substantive difference was the unknown announcement made by now Mayor Richard A. Stewart that no public comments would be heard on the issue of the Highland Fairview Project.

These occurrences and situations bring into question the actions of not only our city government, but that of our council as well, and cast a big shadow of distrust upon entities, those elected and those employed by the people of Moreno valley.

It is the duty of our elected officials to protect the rights of its citizens, and to uphold the rule of law and the state and federal constitutions. That being said there are no inherent rights to a corporate entity in the constitutions of our nation or state. However the actions of this government of the City of Moreno Valley seems more interested in the protectionism of a business entity than that of the citizens is was elected to serve.

In going forward let us not forget our nation is not a true democracy nor has it ever been. We are by definition a republic as so stated in our pledge to the flag and in our constitution as well.

The distinguishing feature of a Democracy is: Rule by Omnipotent Majority. In a Democracy, The Individual, and any group of Individuals composing any Minority, have no protection against the unlimited power of The Majority. It is a case of Majority over Man.

Traditional American philosophy teaches that The Majority must be strictly limited in power, and in the operation of government, for the protection of The Individual's God-given, unalienable rights proclaimed in the Declaration of Independence and, therefore, of the rights of The Minority of all minorities.

Therein lies the reason why the American leaders who framed and ratified the United States Constitution in 1787-1788 chose, for America's form of government, that of a Republic and not a Democracy.

America is a republic not a democracy In form of government so as to limit effectively the majority to protect the individual or the minority.

A Republic is a constitutionally limited government of the representative type, created by a written Constitution adopted by the people and changeable (from its original meaning) by them only by its amendment with its powers divided between three separate Branches: Executive, Legislative and Judicial. In a Republic, the whole system is designed primarily to protect The Individual's unalienable rights therefore The Minority, all minorities against any violation by government or by others. As the Declaration of Independence expresses this American goal of safeguarding these rights, the people form their governments "to secure these rights" to make and keep them secure.

Its purpose is to control The Majority strictly, as well as all others among the people, primarily to protect The Individual's God-given, unalienable rights and therefore for the protection of the rights of The Minority, of all minorities, and the liberties of people in general.

It has been held that in order for this form of government to survive and function as was intended, that the public would need to be informed and knowledgeable of the issues at hand. If we apply all these principals to this issue before the city, one would see that the minority has taken its time to gain knowledge and information into this issue far beyond that which has been presented before the planning commission, the city council and the public in general. It is that knowledge which should side in their favor over that of the supposed majority which merely comes to the table with the constant phrase of 2,500 jobs, which has more than been proven be factual evidence not to be the case.

If the majority comes before the government with information which is suspect or incorrect, it is the constitutional duty of the government to side on that which is more accurate and upholds the rights of the minority.

This could be best stated by a quote from Thomas Jefferson's first inaugural address on March 14th of 1801;

"I ask your indulgence for my own errors, which will never be intentional, and your support against the errors of others, who may condemn what they would not if seen in all its parts."

The key here in this quote is the words, **"MAY CONDEM WHAT THEY WOULD NOT....IF SEEN IN ALL ITS PARTS."**

He even went further in this address to the people;

"We are all republicans, we are all federalists. If there be any among us who would wish to dissolve the Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it."

Again let me point out the important key parts of this quote, **"ERROR OF OPINION MAY BE TOLERATED WHERE REASON IS LEFT TO COMBATE IT."**

Yet again from Thomas Jefferson's address to the people;

"All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possesses their equal rights, which equal law must protect, and to violate would be oppression."

The words here should be obvious but here they are anyway, **"that will to be rightful must be reasonable;** that the minority possesses their equal rights, which equal law must protect, and to violate would be oppression."

If not for these beliefs and followings of our past we would not be the nation we are today, women and minorities would not be able to vote undocumented immigrants and their children would not have access to healthcare and education in California (based on a overwhelming passage of a bill denying them those rights by the majority of California voters, however over ruled as being unconstitutional), and educational and employment opportunities would not be open to all.

With all that said the minority (by appearance only) has come before both bodies of our local government, both the planning commission and the city council, and here we are again before the council one more time. On every occasion they have presented evidence which should lead to the same conclusion as that of the planning commission on January 15th of 2009.

This evidence has been very diverse, well researched, and substantiated on all accounts, however the so called majority has come before the same with only one argument, and that is the number of 2,500 jobs by one employer, that being Skechers U.S.A., Inc. who has yet to make any such claim. However the minority has proven through factual evidence that the purported tenant Skechers only employees currently 2157 employees nationwide in its entire corporation (based on information provided for their investors). If the number of 2157 is what they Skechers U.S.A., Inc. puts out on their corporate filings and to their investors, one would think it to be an accurate one as well, otherwise it would bring up past memories of Enron, and do we need an Enron in Moreno Valley?

When all is added up as stated above there could only be one choice for the City Council of Moreno Valley, and that would be to side with the Planning Commission and deny the applicant at this time.

I request that this letter be entered into the record of the public hearing before the Moreno valley City Council held on the 3rd Day of February in the Year of 2009.

Gordon S.F. Tucker Jr.
25279 El Greco Dr.
Moreno valley, CA. 92553
[REDACTED]
mvgordie@roadrunner.com

January 18th, 2009

TO: The Editor, Press Enterprise

The Stench of Corruption In Moreno Valley Politics: Land Development , Follow the Money and Subversion of the Democratic Process. The Need for a Formal Investigation by the Riverside County District Attorney, State Attorney General and the Fair Political Practices Commission into the Moreno Valley November 2008 City Council Election Process and Results

An iconic American folk singer once opined in song that at least in the realm of politics, "*money doesn't talk, it swears*".

His observation perfectly describes the November 2008 election of two new members to the Moreno Valley City Council and the ouster of two long-term, honest, dedicated public servants.

The nexus between who was ousted (West and White) and who was elected (Hastings and Molina)?

Ousted City Council members West and White, who publicly oppose a *pending* proposed warehouse project in the east (rural) end of Moreno Valley were the targets of a \$350,000 smear campaign, \$263,000 of which was funded with the developer's money and conducted in the name of the Moreno Valley Taxpayer's Association. Jerry Stephens of Diversified Real Estate purportedly donated \$100,000 to the "Association".

Newly-elected council members Hastings and Molina who opposed the project before the election *now publicly support the project*. Hastings and Molina have direct ties to Iddo Benzeevi/Highland Fairview and to long-time Benzeevi/Highland Fairview campaign political consultants. "Association" funds were not only used to character assassinate West and White, but also to support both Hastings and Molina.

The project would require an amendment to the General Plan and the abandonment of the City's long-term commitment to preserve the rural character of the East end, would invite massive amounts of particulate diesel pollution caused by thousands of diesel truck trips per month over an inadequate, already congested freeway/surface street infrastructure, and would generate a handful of jobs, at best. ***On its face, it would appear to be an abject dereliction of duty for any City Council member to vote to approve the project.*** [The Moreno Valley Planning Commission voted 4 -2 on January 17th, 2009 *not* to approve the project for countless obvious reasons, including those listed herein.]

As part of its \$350,000 effort to oust West and White and to install Molina and Hastings in their place, the "Association" circulated glossy, expensive, albeit sleazy mailers throughout the City, smearing West and White. The mailers were replete with materially false and misleading information about West and White. The "Association" also circulated signs and ads in support of Molina and Hastings and provided phone banks for Molina.

The smear campaign was funded by Iddo Benzeevi, President of Highland Fairview Properties, a Miami, Florida based real estate developer seeking approval of the warehouse project, who funneled \$263,000 into the "Association". The campaign was orchestrated by **Michael Geller**, Treasurer of the "Association" using Iddo Benzeevi's/Highland Fairview's money.

Michael Geller is also a member of the Moreno Valley Planning Commission; and is also the law partner of Councilman Richard Stewart; who was instrumental in his law partner's appointment to the Moreno Valley Planning Commission.

On January 17th, 2009, the Moreno Valley Planning Commission voted 4 to 2 *not* to approve Benzeevi's project, *over Geller's vocal, histrionic and bellicose support of the project.*

Prior to the November 2008 election process and Benzeevi's/Highland Fairview's massive infusion of funds to the Association to fund the attack on West and White, the "Association" was an essentially defunct IRC 501(c)(3) charitable organization, *which by law* (1) cannot use association funds (contributions) to affect the outcome of an election, including, *inter alia*, using the association's funds to publish campaign materials that support or oppose a candidate and (2) cannot use association funds (contributions) to benefit a single individual or control group. The identity of members of the "Association" is not publicly known.

Councilman William Batey, who now also supports the warehouse project and is expected to vote to approve the project on January 27th, 2009, took he and his family on an all-expense paid vacation to a posh Hotel in Miami, Florida, which is located on the same street just a few miles away from Iddo Benzeevi's/Highland Fairview's Miami, Florida principal

business office. Reportedly, Iddo Benzeevi/Highland Fairview paid all travel, lodging and meal expenses for Batey and his family.

The Need for an Investigation by Appropriate Authorities: That Iddo Benzeevi/Highland Fairview and the "Association" dictated the results of the November 2008 Moreno Valley City Council Election for financial gain is obvious; the worst kind of unsophisticated, political thuggery, which subverts the democratic process and further adds to the state-wide view that Riverside County is one of the most corrupt Counties in the State.

Follow the money. Only the Subpoena power of the Riverside County District Attorney's Office and/or the State Attorney General can uncover:

- the **beneficial ownership** of Highland Fairview (tracing past fictitious names, nominees etc.)
- the **actual source** (as opposed to the name of the remitter) of donations to the Moreno Valley Taxpayer's Association. Detailed tracing of bank records is required which can only be accomplished through issuance and enforcement of Subpoenas.
- the **beneficial ownership** (ie tracing past fictitious business names and "nominees") of all tracts of land which will be directly or indirectly benefited by approval of the proposed amendment to the General Plan, thereby paving the way for unfettered, "boot-strapped" warehouse developments in the East end of the City
- the fact and substance of any contacts or relationship between Benzeevi/Highland Fairview, or their agents or representatives, and Council members Batey, Hastings, Molina, or Stewart, as well as Planning Commissioner Geller prior to the election
- Benzeevi's/Highland Fairview's relationship with any contributor to the "Association", and to the Molina or Hasting's campaign, including the political consultants who extended more than \$30,000 in credit to the Hasting's campaign and contributed services to the Molina campaign.

The source of the money and the relationship of those using the money to politically assassinate West and White, to install Hastings and Molina as Moreno Valley City Councilmen and to otherwise influence the Council to approve the Benzeevi/Highland Fairview warehouse project must be traced through legal process to determine whether campaign or other laws were violated, whether the election results should be set aside, and whether Council members Batey, Hastings, Molina, or Stewart should be recalled.

Fremont Older
Moreno Valley, CA

cc: Riverside County District Attorney
California State Attorney General
California Fair Political Practices Commission
Moreno Valley City Council

CITY COUNCIL
MORENO VALLEY
RECEIVED

Jan. 12, 2009

m/c

09 JAN 13 PM 3:15
Dear Councilperson / Mayor Stewart:

My wife and I have lived off of Redlands Blvd.
in Moreno Valley for over 20 years.

As I considered writing this letter I realized
it would fill 2 to 3 pages. The bottom line
is please do not change the city's general
plan and bail out Mr. Benzene on
his premature commitment to Speckers.

We need to support the new in Moreno Valley
shopping centers (Walmart, Target, Best Buys, Kohls etc.)
with housing not transient truckers, excessive
traffic on the 60 Freeway, Air pollution and a
questionable number of employees to support
our city's needs.

Your consideration and NO VOTE on
this proposal will be appreciated.

Sincerely,

Gilbert Dunlap

Marilyn Dunlap

11031 Night Shadow Dr

Moreno Valley, Ca. 92555

CITY COUNCIL
MORENO VALLEY
RECEIVED

13 APR 24 PM 4: 14

To: Tom Owings
From: Tom and Teri Chelbana
Subject: WLC
Date: April 22, 2013

Schedule Meeting

We live at 11620 Pettit Street, between Moreno Beach Dr. and Redlands Blvd. I was born at March Air Force Base in 1948 and my wife, Teri, has lived in Moreno Valley since 1953. We both graduated from Moreno Valley High School and taught many years in the Moreno Valley Unified School District. My father, Frank Chelbana, came here in 1947 and was the mayor of Moreno Valley in 1992 until he passed away from lung cancer while in office.

As residents of Moreno Valley for more than 60 years, we are strongly opposed to the World Logistic Center. The traffic, health, and over-all quality of life will be very negatively impacted with this project. We have been to most meetings, both for and against this big project. We would have to say the little positive impact versus the major negative impact is very clear.

Mr. Iddo Benzeevi has gained control of our city council, you included, by contributing many dollars in campaign donation monies. The World Logistic Center isn't going to make Moreno Valley a better city. This will only be another example of why Moreno Valley has such a negative reputation in the Inland Empire. Let's make Moreno Valley a better place to live, by not approving the WLC.



*10/21/13 Left a message to
schedule a meeting.
10/31/13 Haven't received a
callback.*

TOM & TERI CHELBANA
11620 Pettit St
Moreno Valley, CA 92555



Tom Owings, Mayor of Moreno Valley
14177 Frederick St.
Moreno Valley, CA 92552

92553909699



Cindy Miller

From: Jim Kelly [jimkellyjp@gmail.com]

Sent: Tuesday, April 26, 2011 9:12 AM

To: Richard Stewart

Cc: Jesse Molina; William Batey; Robin Hastings; Marcelo Co; Deanna Reeder; Henrietta Hamilton; Lenny Crisafulli

Subject: development

I want you to know that I am against further development of the east side. We have one white albatross that spoils the view of the eastern part of the valley. If you do not know what mean go to the surrounding elevations of the valley and look down and you will see what I mean. The city council is only developing that area because of Mr. Benzeevi and what he promises. Please do not let this happen any further. We could end up looking like Mira Loma or worst Railto.

I do not agree with the development of the area between Nason and Iris and Cactus. That area is nothing but a vacant lot and guess who owns it ? Yup Mr. Benzeevi. If it is developed will the tax payers have to pay for it? I would suggest Eminent domain or ask Benzeeve to help the city and donate that land. Would that be much since the city has helped him out in so many ways. Please do not mention jobs as an excuse to develop a part of the city that should be left pristine for the citizens enjoyment.

I am sending you this email because I am unable to attend the meeting because of my work schedule. I have taken days off and left work early to attend some of the meetings. I feel it is important to let you know what myself and neighbors think in your district.

Jim Kelly

4/26/2011

MV00231135



RIVERSIDE COUNTY
DISTRICT ATTORNEY

3960 ORANGE STREET
RIVERSIDE, CALIFORNIA 92501-3643
951-955-5520

PAUL E. ZELLERBACH
DISTRICT ATTORNEY

October 22, 2013

Ms. Jane Halstead
Moreno Valley City Clerk
14177 Frederick St.
Moreno Valley, CA 92552

Subject: **Preservation of Evidence Demand**

Dear Ms. Halstead:

The Riverside County District Attorney's Office has learned that the Moreno Valley City Council will consider adopting Resolution No. 2013-82, a "Resolution Adopting Updated Records Retention Schedules and Authorizing Destruction of Certain City Records" at its regular meeting on October 22, 2013.

The District Attorney's Office has reason to believe that litigation may result from matters currently under investigation with regard to the City of Moreno Valley and that relevant evidence potentially may be destroyed if Resolution No. 2013-82 is passed and implemented. This information may be in the City of Moreno Valley's possession or control and the City has a duty to preserve that information.

Therefore, the District Attorney's Office demands that the City of Moreno Valley immediately take action to protect and preserve until further notice any of that information that is in its possession or under its control until further notice.

Specifically, the District Attorney's Office demands that the City of Moreno Valley immediately suspend deletion, overwriting and/or any other destruction of records and electronic stored information (hereinafter "ESI") connected, either directly or indirectly, to the following:

- All records and ESI associated with or concerning Highland Fairview, Iddo Benzeevi, Jerry Stephens, Tom Owings, Marcelo Co, Jesse Molina, Victoria Baca, Richard Stewart, Yxstian Gutierrez and Michael Geller.
- All records and ESI associated with or concerning all City of Moreno Valley elected and appointed public officials and Department Heads.

- All records and ESI associated with or concerning pending or approved development construction projects, infrastructure and/or new infrastructure projects located in the City of Moreno Valley.
- All records and ESI associated with or concerning communications to and from City of Moreno Valley employees, elected and/or appointed public officials regarding the hiring, employment and discharge of former City Manager Henry Garcia.
- All records and ESI associated with or concerning the following development projects: Skechers, World Logistic Center, Prologis, Aquabella Development, Ridge Property Development and Nason Street infrastructure improvements.

The District Attorney's Office is specifically demanding that you preserve all documents, tangible things and ESI potentially associated with or concerning the matters identified above for the time frame of January 1, 2008 to present.

ESI, as used in this demand, should be afforded the broadest possible definition and includes (by way of example and not as an exclusive list) any and all information electronically, magnetically or optically stored as:

- Digital communications (e.g., e-mail, voice mail, instant messaging);
- Word processed documents (e.g., Word or WordPerfect documents and drafts);
- Spreadsheets and tables (e.g., Excel or Lotus 123 worksheets);
- Accounting Application Data (e.g., QuickBooks, Money, Peachtree data files);
- Image and Facsimile Files (e.g., .PDF, .TIFF, .JPG, .GIF images);
- Sound Recordings (e.g., .WAV and .MP3 files);
- Video and Animation (e.g., .AVI and .MOV files);
- Databases (e.g., Access, Oracle, SQL Server data, SAP);
- Contact and Relationship Management Data (e.g., Outlook, ACT!);
- Calendar and Diary Application Data (e.g., Outlook PST, Yahoo, blog tools);
- Online Access Data (e.g., Temporary Internet Files, History, Cookies);
- Presentations (e.g., PowerPoint, Corel Presentations)
- Network Access and Server Activity Logs;
- Project Management Application Data;
- Computer Aided Design/Drawing Files; and,
- Back Up and Archival Files (e.g., Zip, .GHO)

All ESI must be preserved so that it can be retrieved at a later time. The information must be preserved in its original electronic form so that all information contained within it,

Jane Halstead, Moreno Valley City Clerk

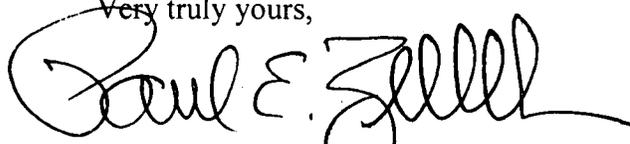
October 22, 2013

Page | 3

whether visible or not, is also available for inspection. It is not sufficient to make a hard copy of electronic communication.

Thank you for your anticipated cooperation.

Very truly yours,



PAUL E. ZELLERBACH
Riverside County District Attorney

Cc: Michelle Dawson
Moreno Valley City Manager
14177 Frederick St.
Moreno Valley, CA 92552

Suzanne Bryant
Moreno Valley City Attorney
14177 Frederick St.
Moreno Valley, CA 92552

Tom Owings
Mayor, Moreno Valley City Council
14177 Frederick St.
Moreno Valley, CA 92552

Jesse Molina
Mayor Pro Tem, Moreno Valley City Council
14177 Frederick St.
Moreno Valley, CA 92552

✓ Victoria Baca
Moreno Valley City Council
14177 Frederick St.
Moreno Valley, CA 92552

Richard Stewart
Moreno Valley City Council
14177 Frederick St.
Moreno Valley, CA 92552

Yxstain Gutierrez
Moreno Valley City Council
14177 Frederick St.
Moreno Valley, CA 92552

PAUL E. ZELLERBACH
RIVERSIDE COUNTY DISTRICT ATTORNEY
3960 ORANGE STREET
RIVERSIDE, CA 92501-3643

CITY CLERK
MORENO VALLEY
RECEIVED

13 OCT 22 PM 2:33

Victoria Baca
Moreno Valley City Council
14177 Frederick St.
Moreno Valley, CA 92552

CITY COUNCIL
MORENO VALLEY
RECEIVED

13 OCT 22 PM 2:43

Date: July 10, 2013
From: Mayor Tom Owings
To: Michelle Dawson, City Manager

To: The Corrupt Mayor and City Council

Subject: The "Forgotten" Priorities of the MV Citizens' Majority

FYI

The July 9th City Council (CC) Report on the \$2,000,000 funding for Theodore Street Interchange at SR 60 is a total travesty and a tremendous dis-service to the citizens that live and work in Moreno Valley. This is another ploy for the entire corrupt CC to appease Iddo Benzevi, the Sketchers owner (Greenburgs') and the cronies of Jerry Stephens at their behest by using the \$2,000,000 in realized savings from the other Iddo benefiting \$25,000,000 Cactus/Nason project. The CC back in April 26, 2011 took this money away from previously funded and "construction-ready" street improvement projects like Kitching Street, Reche Vista Drive, Heacock Avenue and Perris Boulevard realignment projects to fund the Cactus/Nason Project.

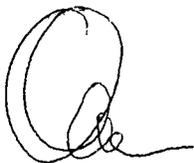
We are well aware of the Mayor's corrupt relationship with the Sketchers' owner and his cozy relationship with the political association headed by Jerry Stephens, Michael Geller, Doug Whitney and David Slawson. In 2011 & 2012, "Slump Lord" Co, "Plain Dumb" Molina and "Past his Prime" Stewart of the CC at the guidance of the corrupt Henry Garcia and Barry Foster, voted to take existing funding away (they used big words like "re-sequencing") from very important projects to the City majority/citizens to benefit Iddo's Cactus/Nason project. Henry and the corrupt CC even agreed to offer the contractor a \$100,000 bonus to finish the project two months early because Iddo was going to build a "jobs, jobs, jobs" medical facility; which we all now call new Nason; a "road to nowhere" (right Molina?) because there is nothing there or planned in the near future. Do you know that Iddo will not have to pay any Development Impact Fees if he develops that property according to the City-Highland Fairview Development Agreement because he was supposed to pay and build Cactus and Nason (Agreement dated January 2006 page 49 & 52)? Now, the corrupt CC is taking the \$2,000,000 in savings to fund another Iddo project (the World Logistic Center directly benefits) out in nowhere while we citizens suffer without the necessary upkeep of our existing streets. What a mockery!!!

You currently have a key bunch of Department Heads that were hand-picked by Henry to make "things happen" on behalf of Iddo, the Sketchers owner and the Jerry Stephens' political association. Did you know Henry and the corrupt CC checks with "City Hall West" (Iddo's Office at Veterans and Calle San Juan) before they make any decisions? Henry hired "Riverside's Chief Crook" Desantis to concoct a biased Audit of the Public Works Department so that Henry and the current City Manager, Michelle Dawson fired the previous Public Works Director at the behest of Iddo and corrupt Barry in order to hire Henry's hand-picked Public Works Director, Ahmad Ansari from Henry's former job at City of Rialto. Did you know that even the Western Riverside Council of Government staff is questioning the City of Moreno Valley's request to add the Theodore Interchange into the previously approved TUMF network? They know this corrupt City's blatant actions are to benefit Iddo; which is an illegal action in accordance with their Administrative Plan. Apparently, it was corrupt Henry's directive to his hand-picked Public Works Director to get this done at the behest of Iddo and Sketchers. He was apparently directed to request removing Redlands Interchange to add the Theodore Interchange to the TUMF network if necessary!!! If you ask the citizens of Moreno Valley, Redlands Interchange needs the fix sooner than Theodore Interchange.

Henry also fired the former Human Resources Director and made Desantis the "interim" then subsequently permanent Director (isn't non-competitive recruitment illegal for City Government?) so they could hand pick recruit "behind closed doors" the "pawns of their game". Why do you think Desantis is now the Assistant City Manager!! The morale of staff is extremely low and they function in fear. There are many City staff that know the corrupt ways of the Department Heads (past and present) but they are very scared that they will be fired or laid off under the pretense of economic budget cuts like the former Public Works Director, City Attorney, Human Resources Director, the Building Official, the Code Enforcement Officer, the Deputy City Attorney, and many others. These people and the present key employees should be deposed by the US Attorney General with protection from disclosure and impunity. However, the CC and key Department Heads hand-picked by Henry must be prosecuted to the fullest extent possible.

For God, Country, City, Justice and plain Fairness, please use the taxpayers' money not to benefit developers but to fund the much needed repairs to Kitching Street, Reche Vista Drive including a traffic signal and the realignment of Heacock Avenue and Perris Boulevard, and so many other streets that badly needs new pavement.

On behalf of the MV Citizens' Majority,

A handwritten signature in black ink, consisting of a large, stylized capital letter 'Q' followed by a smaller, cursive signature.

C: United States Attorney
Press Enterprise

CITY COUNCIL
MORENO VALLEY
RECEIVED
13 JUL 10 PM 5:41



HIGHLAND FAIRVIEW

14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5300

April 14, 2009

Mayor Richard Stewart and
Members of the City Council
City of Moreno Valley
14177 Frederick Avenue
Moreno Valley, CA 92552

SUBJECT: Modification to Conditions of Approval
Highland Fairview Corporate Park

Dear Mayor Stewart and Council Members:

Highland Fairview respectfully requests the City Council to consider the following conditions of approval imposed on the Highland Fairview Corporate Park project. As we brought up in the public hearing, these conditions are either unsuitable for the nature of this project or require unwarranted exactions that fail to meet the nexus requirement of the law. We request that the Council conduct its hearing on this matter at the earliest available opportunity in order to avoid any additional delays to the project.

1. SR60 Landscaping

Existing Condition: Condition of Approval P14 on Tentative Parcel Map TPM 35629 (Resolution 2009-10) requires the preparation and processing of plans for the installation of landscaping and irrigation within the SR60 right-of-way adjacent to the project site in compliance with the SR60 Design Manual.

Requested Action: Highland Fairview requests the removal of this condition.

Justification: This condition has been inconsistently applied throughout the city and has been shown to be unproductive in many instances, ineffective in most cases, and arbitrary. Installation of such landscaping will only detract from the extensive landscaping designed for the project and will likely not be maintained by Caltrans. In some areas along the freeway some sparse landscaping has been installed but is very poorly maintained. In other areas, no landscaping has been installed. Currently, the freeway frontage is a mixture of areas of sparse, struggling landscape, and areas of barren, unmaintained land. Clearly, there has been no consistent application of the SR60 Design Manual criteria. To apply this requirement to the HFCP project is unreasonable.

No project along the SR60 frontage includes a landscape treatment as extensive as that proposed with the HFCP project. Millions of dollars in landscaping and irrigation improvements are proposed to be installed along the freeway boundary, the sole purpose of which is to enhance the appearance of the project site as viewed from the freeway. The requirement to add additional basic landscaping within the freeway right-of-way will only detract from the project landscaping.

Mayor Richard Stewart and
Members of the City Council
April 14, 2009
Page 2

There is no assurance that Caltrans will allow landscaping to be installed within its right-of-way and no indication that they will maintain it. In fact, Caltrans staff has indicated informally that they will not allow such improvements nor will they commit to any maintenance whatsoever.

2. **Eucalyptus Avenue Median**

Existing Conditions: Several conditions require the installation of a new median within the future right-of-way of Eucalyptus Avenue.

Requested Action: Modify the applicable conditions to allow for the option to install a median along Eucalyptus Avenue.

Justification: Prior to the HFCP project, the previous Circulation Element of the General Plan did not require a median in Eucalyptus Avenue. The option of adding a median was raised by Highland Fairview as a way to enhance the street scene adjacent to the project site. The reason the median was articulated in the project plans is to enable staff to consider the issues involved before an option is selected. The median is not a requirement of the City. There is no traffic-related need for the median, nor is it required for other sections of the Eucalyptus Avenue throughout the City. Therefore, the installation of the median should be an option on the part of the project applicant.

3. **Multi-Use Trails**

Existing Condition: Several conditions imposed on the TPM and the Plot Plan require the dedication and improvement of multi-use trails on the project site.

Requested Action: Delete and/or modify all conditions requiring dedication and improvement of multi-use trails on the project site. Modify all related conditions to require that: 1) the necessary land be allocated for potential future multi-use trails, 2) site grading be designed to accommodate the future multi-use trails, 3) the multi-use trail areas be landscaped and maintained in a manner consistent with immediately adjacent areas until such time as the City decides to construct the multi-use trails, and 4) the on-going maintenance of the multi-use trails, if built, be borne by the City for the benefit of the public and not by the property owner or the local property owners' association.

Justification: There is a complete lack of nexus between the project and the City's requirement to dedicate and improve multi-use trails on the project site. The project creates absolutely no demand for these trails, therefore there is no nexus. The trails can be accommodated in the project design but the impacted land (or appropriate easements) should be acquired by the City, the trails should be constructed by the City and the trails should be maintained by the City. There should be a sunset clause in the condition such that if the City does not acquire the impacted land or easements within five years of the recordation of the Final Map for the project, the City's option to acquire the land or easements will expire.

Mayor Richard Stewart and
Members of the City Council
April 14, 2009
Page 3

4. Deferral of Development Impact Fees

Existing Conditions: The project is conditioned to pay massive development impact fees, amounting to nearly 15 million dollars.

Requested Action: Modify related conditions to defer payment of all applicable development impact fees to Certificate of Occupancy.

Justification: Development impact fees constitute a substantial financial hardship for all new construction projects. Collection of these fees at the point of building occupancy is the most equitable point in the process. It is at the point of occupancy when the building or project begins having an impact on the local infrastructure. It is at that point when the various development impact fees should be collected.

5. Dedication and Improvement of Public Improvements

Existing Conditions: The project approval contains dozens of conditions requiring the dedication and improvement of public facilities (streets, parkways, trails, etc.) far in excess of the demand which the project creates for such facilities.

Requested Action: Modify all related conditions to only require a fair-share contribution by the project for the dedication and improvement of all public infrastructures. Improvement credits and Reimbursement Agreements should be entered into between the City and the project for any amount the project contributes in excess of its pro-rata share for such improvements.

Justification: These conditions fail to meet the requirement for a direct nexus between the project and any required public improvements. Such conditions impose an unjust and unequal burden on some projects while benefiting the city and others unfairly at the expense of one taxpayer.

Attached is a listing of the conditions which we believe are related to each of the changes requested above. Other conditions may be impacted as a result of our detailed discussions with staff.

We look forward to discussing these issues with staff and with the City Council at the earliest possible opportunity. If questions arise during the City's review of this request, please do not hesitate to contact me directly.

Sincerely,



Iddo Benzeevi
President and CEO

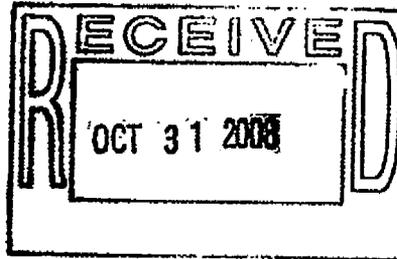


HIGHLAND FAIRVIEW

14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5300

October 30, 2008

Mr. Sergio San Martin
Director of Facilities Planning
Moreno Valley Unified School District
25634 Alessandro Boulevard
Moreno Valley, CA 92557



SUBJECT: Moreno Valley High School No. 5 Alternate Sites

Dear Mr. San Martin:

This letter is submitted in response to the District's recently-circulated Notice of Preparation (NOP) for an environmental impact report for the above referenced high school project. Highland Fairview owns property in the vicinity of the alternate sites and offers the following comments to assist the School District in preparing the environmental document for the project.

As the District is aware, Highland Fairview is presently in the entitlement phase for the Highland Fairview Corporate Park project, to be located southerly of SR-60 and easterly of Redlands Boulevard, approximately one-half mile southeasterly of Alternative School Site No.2 which is located east of Quincy Street and north of Ironwood Avenue. The Highland Fairview Corporate Park project proposes approximately 2,420,000 square feet of logistics uses and approximately 200,000 square feet of community commercial uses on approximately 160 acres. A Draft Environmental Impact Report (State Clearinghouse Number 2007101132) has been circulated for the project and the 45-day public review period has been completed. The details of the Corporate Park project are fully explained in the Draft EIR. Public hearings on the proposed project will begin shortly. A disk of the Draft EIR, including all appendices, is enclosed for your reference.

In its EIR analysis, the District should consider the upcoming development of the Highland Fairview Corporate Park and assess its impacts on future school sites. The District should also be aware that other projects, similar to Highland Fairview Corporate Park, have been proposed in the same vicinity by other developers, south of SR60 and due south of Alternative school Site No. 2. Based on the proximity of Alternative School Site No. 2 to these future significant non-residential projects, we would strongly advise that the District consider Alternative School Site No.1 as its preferred location for its future high school campus. We believe that it will better accommodate the Districts objectives to provide excellent educational opportunities for our children while allowing for proper economic and job development opportunities in our community.

Highland Fairview kindly requests that it continue to receive all official notices and communications regarding the proposed school site and its environmental impact report. Thank you in advance for your assistance.

Sincerely,


Iddo Henzevi
President

TEL: 951.413.3000
FAX: 951.413.3750
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CITY COUNCIL
MORENO VALLEY 14177 FREDERICK STREET
P. O. BOX 88005
MORENO VALLEY, CA 92552-0805
RECEIVED
10 MAY 13 AM 8:49

May 11, 2010

Iddo Benzeevi, President
Highland Fairview
14225 Corporate Way
Moreno Valley, CA 92553

RE: SLPP Grant Funds for Eucalyptus Avenue and Various Funding Methods

Dear Mr. Benzeevi,

On April 27, 2010 the City Council reviewed four options that could be considered to address the SLPP Grant for Eucalyptus Avenue and various funding methods. After some public discussion you appeared before the City Council and indicated you will proceed with the subject project in accordance with Option One (attached).

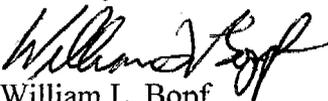
It is our mutual goal that you receive the grant funds to assist with the construction of the subject project. However, the concept of building a grant project in the manner of Option One is something the City has not done. In order for us both to understand our various roles in this unique process we need direction from the California Transportation Commission (CTC). We are therefore requesting that you receive written approval of your process from them that will allow you to build this project and receive the grant funds. Not only do we need to know that CTC approves of your role, but we need to know what is expected of the City in order for us to receive the grant funds and ultimately provide them to you and your project. Since this is your process, you will have to advise CTC to tell us what our role is in light of your concept. For your information City staff has contacted CTC for a name and address of the person you should contact. Her name and address information is:

Bimla Rhinehart
Executive Director
California Transportation Commission
1120 N Street, Room 2231 (MS-52)
Sacramento, CA 95814

We will await the requested process from CTC before we can be reasonably certain CTC will approve of the City passing on the grant funds to you for the project. Until we receive the requested direction from CTC, the City will not be able to assist you with the SLLP Grant.

Please feel free to contact me if you have any questions.

Sincerely,


William L. Bopf
Interim City Manager

c: Mayor Flickinger and Members of the City Council
Rick Hartmann, Interim Assistant City Manager
Robert L. Hansen, City Attorney
Chris A. Vogt, P.E., Public Works Director/City Engineer

Enclosure: Option One

CITY MANAGER'S OFFICE

MV00233658

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14177 FREDERICK STREET
P. O. BOX 88005
MORENO VALLEY, CA 92552-0805

April 14, 2010

Iddo Benzeevi, President
Highland Fairview
14225 Corporate Way
Moreno Valley, CA 92553

RE: SLPP Grant Funds for the Eucalyptus Avenue Street Improvements

Dear Mr. Benzeevi,

I received your letter on April 12, 2010, which states your opposition to the City's street construction oversight and surety amounts. It is not the City's intent or objective to impede the construction of the Eucalyptus Avenue street improvements and the Highland Fairview Corporate Park (i.e., Skechers) project. The City is compelled by law to insure future public improvements are constructed to their standards and if for some reason the construction does not go well, have a means by which the City can assume ownership of the work and complete the improvements as approved by the City.

It is the City's position that the SLPP Grant requires a local agency (i.e., the City of Moreno Valley) to manage the construction of the street improvements to be eligible for SLPP Grant funds. It is also our opinion that the street improvements must comply with the Public Contract Code. However, in the spirit of cooperation, if Highland Fairview has a differing opinion and wishes to serve as the contractor and construct the street improvements itself, the City Council may approve that process.

In order to work with you to solve this circumstance as you desire, I have attached an amendment to Option One for City Council to consider. As you can see the City Council may wish to add the Eucalyptus Avenue Improvements to its Capital Improvement Plan. The City may also determine that the project could be funded by approximately 60% of your DIF payments, the SLPP Grant* and other developer payments. The other impediment to your proceeding on your own is the surety that will serve as a guarantee that the project will be completed. You may accomplish this requirement by a cash deposit of some agreed upon amount in an Escrow account. By the time you start the road project you may have completed your Rough Grading and you could use that redeemed deposit as part of what may be an agreed upon surety.

If the above process is satisfactory to you, and City Council approves, you could proceed as outlined. Please be advised that we still believe the following:

1. The State may not approve you as the contractor. If they do, fine.
2. The State may require that you pay prevailing wages. If they do not, and still honor the grant, fine.

CITY MANAGER'S OFFICE

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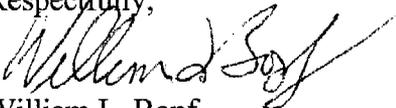
Mr. Iddo Benzeevi, Highland Fairview
April 14, 2010
Page 2

3. We will require acceptable surety for the public improvement (source: State Map Act and Municipal Code).

Please advise if this alternative is acceptable to you and I will submit it to the City Council as another option to my report for the April 27, 2010 Council meeting.

Please feel free to contact me if you have other comments and/or questions.

Respectfully,



William L. Bopf
Interim City Manager

c: Mayor Flickinger and Members of the City Council
Rick Hartman, Interim Assistant City Manager
Robert L. Hansen, Interim City Attorney
Chris A. Vogt, P.E., Public Works Director/City Engineer

Enclosure: Option One - Amended

* Required by the SLPP Grant, some funds must be from Developer Fees and it must be a funded project on the City's CIP



HIGHLAND FAIRVIEW

14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5327 Fax: 951.867.5328

April , 2010

Mr. William L. Bopf
Interim City Manager
City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552

2010 APR 12 PM 1:34
CITY MANAGER
MORENO VALLEY
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Re: SLPP Grant Funds-Eucalyptus Street

Dear Bill,

I appreciate your efforts to move the Eucalyptus SLPP Grant fund project forward. To reiterate our conversation, Highland Fairview with the cooperation of the city applied for and received approval for a SLPP Grant for the construction of Eucalyptus Street. As a grant, the funds do not have to be repaid and therefore are a direct benefit to the City and its residents. It is not often that the city can receive "free" money and I am sure you share my sentiment that we should do all we can to insure that we secure this opportunity for the benefit of our community.

As part of the Highland Fairview Corporate Park (HFCP), Highland Fairview is mandated by the City's Conditions of Approval to construct Eucalyptus Street which is of course, a public improvement project and the subject of this grant. As the builder, we are therefore required to provide the City with guarantees to secure the construction of the street such as subdivision bonds or other acceptable forms of security to the city.

A concern has been raised by staff pertaining to their worry that in the unlikely event the street construction will not be completed, the city will be left with the task of collecting on the guarantee before they could secure the funds necessary to finish the job, while the "community" is inconvenienced by not having the street fully functioning.

I am somewhat perplexed. I could see the city's concern if we were talking about a major city street which is in constant use and its interruption will be of great public inconvenience. This is certainly not the case here. Eucalyptus is not an improved street nor is it in use and therefore does not currently impact the community. When the street will finally be placed in service , it will have limited use and will initially only service as access to the HFCP project (Skechers building), since there is nothing else in the vicinity today.

Mr. William Bopf

April 9, 2010

Page 2

Therefore, should an interruption occur to the street's construction, the city will not be under any unusual time pressure to accelerate the completion of the street ahead of the normal time it takes to collect on the bonds or guarantees.

Further, The HFCP project would not receive any development or occupancy approvals without the construction of Eucalyptus Street. Therefore the project would be halted and there will be no immediate need for the street. In this unlikely event the city will definitely have plenty of time to collect on the bonds and finish the street without impacting the public.

Additionally, the amount to be guaranteed by Highland Fairview required by the City is in fact substantially higher than the actual estimated construction costs. This is primarily due to the City's unit costs and contingency levels, both of which significantly exceed our construction bid estimates and will provide an extra security cushion to the city.

In any event, if the street construction was interrupted for some reason, the City would be able to use the security we will post (bond or Letter of Credit) to complete the work.

The city will also insure that payments to the contractor will only be made after each phase of work will have been completed further limiting their exposure. If there were a situation that occurred with the street development, the City would have notice immediately. If grant funds were used to reimburse as street development takes place, appropriate documentation would be required in the submittal of the request for reimbursement.

The State and Federal programs offer significant opportunities to facilitate and expedite good projects and we look forward to working with the City to apply the governmental incentives in our community. HFCP is exactly the type of job-producing, economy-growing project that these programs were designed to assist. The City can be a great help in this effort to bring jobs and economic growth to our community.

Bill, especially in these difficult economic times, we should think out of the box and work harder to capture any opportunity we can to improve our community. I appreciate your personal interest and initiative. We remain anxious to work with your office to move our projects forward. I believe the risk to the city is de minimis at best and the benefit is substantial.

Sincerely,



Iddo Benzeevi
President

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FAX: 951.413.3750
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CITY COUNCIL
14177 BRENDA VALLEY
RECEIVED 88005
MORENO VALLEY, CA 92552-0805
10 FEB -3 PM 1:42

February 2, 2010

Mr. Iddo Benzeevi
Highland Fairview Properties, LLC
14225 Corporate Way
Moreno Valley CA 92553

Dear Mr. Benzeevi:

I want to assure you, as I have stated a number of times during the past two months in which I have served in my current capacity, the City wants your projects to proceed successfully and as rapidly as possible. There has been several letters sent between our respective staff regarding the procedures involved in implementing the State and Local Partnership Program (SLPP) Grant and the projects requested by Highland Fairview. In order to eliminate any confusion on this important matter, I am taking this opportunity to advise you of the City's position on issues surrounding the requirements for implementing the SLPP projects and their attendant grants.

First of all, it is the City's position that SLPP projects must be administered by a Public Governmental Agency, such as a city or county. It is further the City's position that, pursuant to Government Code §8879.66 (G)(1), SLPP projects must:

1. Be publically bid.
2. Pay prevailing wages.
3. Be contracted by a Governmental Agency.

The SLPP Grant Guidelines require the City to have the necessary funds appropriated to the SLPP Grant project(s) prior to the beginning of construction. The Guidelines also state any and/or all SLPP Grant funds allocated to a project will be paid after the work is completed. There are a number of "reporting" requirements of the SLPP, in addition to the two previously mentioned, which will have to be adhered to in order to receive Grant funds.

It is understood that Highland Fairview and its retained legal counsel are of the opinion that a developer can construct, or contract for the construction of, the SLPP projects without public bidding or payment of prevailing wages; however, Highland Fairview has not provided the City with any legal authority supporting that position. Therefore, the

CITY MANAGER'S OFFICE

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City must follow the requirements as it understands them so as to not jeopardize entitlement to the SLPP Grant proceeds.

With respect to the use of Development Impact Fees (DIF) to construct these projects, neither of the SLPP projects requested by Highland Fairview are designated as "funded" projects on the City's Capital Improvement Plan (CIP). In order to use DIF for either of these SLPP projects, the City Council would have to change the priorities of the CIP, identifying the two SLPP Grant projects as being "funded". Further, the amount of DIF Highland Fairview will pay is not sufficient to fund each SLPP project. It is important to note that the total amount of DIF identified in the program appears sufficient, the portions of Cactus and Eucalyptus Highland Fairview is proposing to construct only qualify for a portion of the DIF collected and are insufficient to cover the estimated cost of the projects. Therefore, portions of the SLPP Grant projects that are not funded by DIF are the cost of doing business in the City of Moreno Valley and the improvements are the financial responsibilities of Highland Fairview.

In addition, it is important to note that Highland Fairview is, by City Council policy, obligated to pay its DIF at the time a building permit is issued. If Highland Fairview wants to defer its DIF obligation until final inspection or Certificate of Occupancy, the City Council would have to amend its existing DIF policy regarding the priority of funds. With regards to the Cactus Avenue SLPP project (integral with the Aquabella Project), Highland Fairview is not obligated to pay DIF until building permits are issued. The Aquabella Project consists of approximately 3,000 homes to be constructed in 10 phases and could take considerable time to pull the permits and build out. These two facts further demonstrate the need to have the available cash to pay contractors for work performed in constructing the two SLPP grant projects. To accomplish this, either City must amend its CIP projects or Highland Fairview deposits with the City the necessary funds to construct the SLPP grant projects.

The use of DIF to fund these SLPP projects is further inhibited by Council Resolution No. 2008-104 dated August 26, 2008 (attached). Please note that the first priority for the use of DIF is to pay Bonded Indebtedness from a surplus above a two-year reserve fund and develop a fund for approved reimbursements from ten percent (10%) of the gross annual DIF collected. The City already has executed Reimbursement Agreements with developers worth over \$2.5 million that provide for a priority of payment.

In summary, the City will proceed with implementing the SLPP Grant projects as follows:

1. The City is in possession of all the design and related documents.
2. The City publically bids the SLPP projects.
3. The City awards the contract(s) to the lowest responsible bidder(s).
4. Highland Fairview has provided the City with cash sufficient to pay for the construction of the projects, sufficient contingency, and administrative costs.
5. The City will be the contracting agency and will administer the project.

I am aware that Highland Fairview may not be in agreement with every conclusion included in this letter, but this is the City's current position on these matters. The procedures outlined in this letter are the procedures that the City will follow regarding the two SLPP projects requested by Highland Fairview.

In my opinion, a more practical and expeditious process that the City has already approved is the use of the City's \$11 million allocation of Recovery Zone Facility Bonds (the "Bonds") for Highland Fairview's Skechers project. Using Moreno Valley's \$11 million allocation in conjunction with \$37 million of Riverside County's own Recovery Zone Facility Bond allocation will provide Highland Fairview with the capacity to issue a total of \$48 million in Recovery Zone Facility Bonds. The City supports the use of these Bonds for Highland Fairview's projects, and in many ways believes it may be a preferred course of action. Highland Fairview may be able to use these Bonds and even benefit from the SLPP Grants. If Highland Fairview pursues the Bonds and wishes to benefit from the SLPP Grants, Highland Fairview should consult Legal Counsel to determine if Highland Fairview can pay its DIF obligations with Bond proceeds, and therefore be entitled to a SLPP Grant of \$1 million. The payment of DIF from Bond proceeds may still be a "qualifying" uniform transportation mitigation fee as required by the Grant. In addition, \$100,000 of this will go into the ten percent (10%) Developer Reimbursement Reserve as required by the Resolution described above. An agreement addressing the foregoing would need to be executed between the City and Highland Fairview if this option is pursued.

In conclusion, I have explained the City's position regarding the manner by which the City will implement the SLPP Grant projects. I have also tried to encourage Highland Fairview to consider the use of Recovery Zone Facility Bonds and have suggested a way for Highland Fairview to investigate, to perhaps benefit from the Bonds and the Grants.

The City is eager to see Highland Fairview's projects proceed as rapidly as possible. As I indicated in a previous letter, as soon as Highland Fairview initiates an application and/or decides how it wants to proceed with the SLPP Grant projects, the City will move as rapidly as resources allow. If things do not move satisfactorily after that, do not hesitate to call me with suggestions as to how the process may proceed more efficiently and effectively.

Sincerely,



William L. Bopf
Interim City Manager

WLB/cp

Attachment: Council Resolution No. 2008-104

- c. Mayor Bonnie Flickinger and Members of the City Council
Chris A. Vogt, P.E., Public Works Director/City Engineer
Rick Hartmann, Interim Assistant City Manager
Robert L. Hansen, Interim City Attorney
Suzanne Bryant, Deputy City Attorney
Prem Kumar, Deputy Public Works Director/Assistant City Engineer
Guy Pegan, Senior Engineer, P.E.

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14177 FREDERICK STREET
P. O. BOX 88005
MORENO VALLEY, CA 92552-0805

10 JAN 21 AM 9: 02

January 21, 2010

Mr. Iddo Benzeevi
Highland Fairview Properties, LLC
14225 Corporate Way
Moreno Valley CA 92553

Dear Mr. Benzeevi:

First let me congratulate you on reaching a settlement with the Sierra Club. Councilmember Richard Stewart reported this information at the Council's Study Session last evening, on January 19, 2010.

He also mentioned that you were pursuing the possibility of modifying a number of conditions applicable to the approval of the Highland Fairview Corporate Park Project and related matters. I have attached the minutes of the Project Review Staff Committee held on June 10, 2009. In addition, I have copies of e-mails indicating that since that meeting City Staff has worked on these with your staff through October of 2009. In those minutes a number of conditions you desire to modify were discussed. As indicated in those minutes some of those modifications will have to be approved by the Planning Commission and City Council.

In order for you to proceed with the modifications, you must initiate the appropriate requests through the Planning Division. As soon as you initiate this process, Staff will provide professional attention to your requests and advise you and your staff of all necessary steps that are required. Staff is not certain at this point of all the conditions you wish to modify; you can enumerate them in your application.

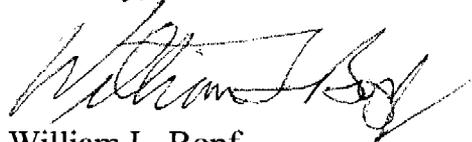
One other comment I will provide is the suggestion that you might want to confer with your environmental consultant regarding the modifications you are considering.

CITY MANAGER'S OFFICE

MV00233815

We look forward to receiving your application in the very near future. Staff will cooperate with you within the policies established by the City Council, and we certainly look forward to the successful completion of your project.

Sincerely,



William L. Bopf
Interim City Manager

WLB/cp

- c: Mayor and Members of the City Council
Bob Hansen, Interim City Attorney
Chris Vogt, Public Work Director/City Engineer
Kyle Kollar, Interim Community Development Director
Barry Foster, Economic Development Director
John Terell, Planning Division Manager / Planning Official
Wayne Petersen, Highland Fairview
Danette Fenstermacher, Highland Fairview



richard stewart <richstew27@gmail.com>

Highland Fairview's Use of a Lot Tie Agreement

1 message

Bley, Kenneth B. <KBley@coxcastle.com>

Fri, Jun 11, 2010 at 4:14 PM

To: richstew27@gmail.com

Richard, I understand that Highland Fairview wants to start construction of the Skechers building prior to the recordation of the parcel map. Bob Hanson has stated that the Subdivision Map Act prohibits the issuance of a building permit until the map has been recorded.

Government Code sec. 66499.30, part of the Act, states that no person shall commence construction until a parcel map has been recorded. This is probably the section that Bob is thinking of. However, I believe that this section has to be read in conjunction with sec. 66499.34 which allows the City to withhold a building permit for the development of any illegally created parcel. The purpose of the Act's prohibition is to ensure that development doesn't take place on illegally created parcels. That isn't the case here because the existing parcels were legally created.

Highland Fairview has asked to be allowed to record a lot tie covenant which would require it to treat the existing parcels subject to the covenant as one. I believe that this would be a permissible way of proceeding even if though there is a parcel map pending in the City. The effect of a covenant is to deprive the owner of the lots subject to the covenant of the right to claim that they are individually developable. Lot tie covenants are used all the time here in Los Angeles to avoid problems such as fire walls and setbacks between adjoining parcels. I believe that the recordation of such a covenant would allow the City to issue a building permit, allowing Highland Fairview to commence construction, notwithstanding Subdivision Map Act or building code issues.

The City obviously is concerned that nothing related to the construction of the Skechers building adversely affect the City or its citizens. The covenant and the issuance of the building permit will not put the City at risk. Iddo has stated that Highland Fairview is willing to have the issuance of the building permit be conditioned on the parcel map being recorded within 120 days with the City retaining sole discretion to revoke the building permit if that isn't done. Of course, the City also has the authority to revoke a building permit if something is being done in contravention of the permit's terms. I believe that the combination of the two will provide the City with all of the protection that it could possibly want.

I do not believe that Bob's interpretation of the law is unreasonable; I merely disagree with it. There is no case law that I could find which interprets the section and therefore it is subject to reasonable interpretation. Reasonable people can reasonably disagree but issuing the building permit in conjunction with the recordation of a covenant should not violate any law. In this case, it will be up to the City Council to decide which interpretation is acceptable. If the City Council does agree, I have no doubt that the City Council has the right and authority to instruct the City's staff to follow the City Council's directions.

I think that this is clearly a case where the Council has the right to weigh the risks and benefits to the City and to decide where the balance is to be struck. I strongly believe that neither the City Council nor the City's staff will violate the law. In any event, as I've stated above, the issuance of the building permit, in conjunction with the recordation of the covenant, will mean that there is no risk to the City.

Finally, Iddo has also stated that all existing easements on the property will be removed at the same time the covenant is recorded.

Please let me know if you have any questions or if I can provide you with any further information. Ken



First American
Title Insurance Company
NATIONAL COMMERCIAL SERVICES

4380 La Jolla Village Drive, Suite 200
San Diego, CA 92122

SUPPLEMENTAL ESCROW INSTRUCTIONS

ESCROW NO.: NCS-445220-SD / NCS-445221-SD

DATE: 06/21/2010

First American Title Insurance Company is hereby handed by the undersigned parties, that certain "original" document entitled Agreement for Redlands Sewer Improvement plans. Security Project No. PA07-0090 (Tentative Parcel Map 35629) dated June 8, 2010 executed by and between City of Moreno Valley, ("City") and HF Logistics -SKX-T1,LLC, ("Developer").

First American Title Insurance Company is hereby requested to accept the "Agreement for Redlands Sewer Plans" Security Project No. PA07-0090 (Tentative Parcel Map 35629)" as its escrow instructions and to act as escrow agent for the parties in accordance with the terms and conditions contained in said document.

Each of the parties to this escrow specifically acknowledges that the consummation of this escrow is contingent upon compliance with some or all of the executory terms and provisions of this "Agreement", and that the parties to this "Agreement" are and shall be the sole persons entitled to and authorized to determine whether all of said executory terms and provisions due to be performed prior to the close of escrow have been met or complied with prior to such close. Accordingly, the parties hereby agree that prior to the scheduled close of escrow they shall each deposit with Escrow Holder a **written** instruction or acknowledgement specifying that all the executory terms and provisions of this "Agreement", insofar as the same pertain to each said party respectively and any obligation of escrow holder relative thereto, have been fully met or complied with, or are waived.

Further, each said party shall specifically release Escrow Holder from all liability, if any, which it may have in connection with this escrow because of any party's failure to meet or comply with any such executory term or provision of this "Agreement", prior to close of escrow. Deposit of written instruction or acknowledgement with Escrow Holder shall constitute each said party's specific authorization to close this escrow.

General provisions of First American Title Insurance Company, attached hereto and made a part hereof, are hereby incorporated in said "Agreement". To the extent that the agreement contains any provisions inconsistent with or contrary to the provisions of the General Provisions attached hereto, such "Agreement" shall remain as the agreement of the parties thereto but First American Title Insurance shall be guided by the terms of their General Provisions.

City of Moreno Valley

HF Logistics-SKX-T1, LLC, a California limited liability company

By: _____


By: Iddo Benzeevi, President and CEO

Escrow General Provisions

The parties understand and acknowledge:

1. SPECIAL DISCLOSURES:

A. DEPOSIT OF FUNDS & DISBURSEMENTS

Unless directed in writing to establish a separate, interest-bearing account together with all necessary taxpayer reporting information, all funds shall be deposited in general escrow accounts in a federally insured financial institution including those affiliated with Escrow Holder ("depositories"). All disbursements shall be made by Escrow Holder's check or by wire transfer unless otherwise instructed in writing. The Good Funds Law (California Insurance Code 12413.1) mandates that Escrow Holder may not disburse funds until the funds are, in fact, available in Escrow Holder's account. Wire transfers are immediately disburseable upon confirmation of receipt. Funds deposited by a cashier's or certified check are generally available on the next banking day following deposit. Funds deposited by a personal check and other types of instruments may not be available until confirmation from Escrow Holder's bank which can vary from 2 to 10 days.

B. DISCLOSURE OF POSSIBLE BENEFITS TO ESCROW HOLDER

As a result of Escrow Holder maintaining its general escrow accounts with the depositories, Escrow Holder may receive certain financial benefits such as an array of bank services, accommodations, loans or other business transactions from the depositories ("collateral benefits"). All collateral benefits shall accrue to the sole benefit of Escrow Holder and Escrow Holder shall have no obligation to account to the parties to this escrow for the value of any such collateral benefits.

C. MISCELLANEOUS FEES

Escrow Holder may incur certain additional costs on behalf of the parties for services performed, or fees charged, by third parties. The fees charged by Escrow Holder for services including, but not limited to, wire transfers, overnight delivery/courier services, recording fees, notary fees, etc. may include a mark up over the direct cost of such services to reflect the averaging of direct, administrative and overhead charges of Escrow Holder for such services which shall, in no event, exceed \$10 for each markup.

D. METHOD TO DELIVER PAYOFF TO LENDERS/LIENHOLDERS

To minimize the amount of interest due on any existing loan or lien, Escrow Holder will deliver the payoff funds to the lender/lienholder in an expeditious manner as demanded by the lender/lienholder using (a) personal delivery, (b) wire transfer, or (c) overnight delivery service, unless otherwise directed in writing by the affected party.

2. PRORATIONS & ADJUSTMENTS

The term "close of escrow" means the date on which documents are recorded. All prorations and/or adjustments shall be made to the close of escrow based on the number of actual days, unless otherwise instructed in writing.

3. CONTINGENCY PERIODS

Escrow Holder shall not be responsible for monitoring contingency time periods between the parties. The parties shall execute such documents as may be requested by Escrow Holder to confirm the status of any such periods.

4. REPORTS

As an accommodation, Escrow Holder may agree to transmit orders for inspection, termite, disclosure and other reports if requested, in writing or orally, by the parties or their agents. Escrow Holder shall deliver copies of any such reports as directed. Escrow Holder is not responsible for reviewing such reports or advising the parties of the content of same.

5. INFORMATION FROM AFFILIATED COMPANIES

Escrow Holder may provide the parties' information to and from its affiliates in connection with the offering of products and services from these affiliates.

6. RECORDATION OF DOCUMENTS

Escrow Holder is authorized to record documents delivered through escrow which are necessary or proper for the issuance of the requested title insurance policy(ies). Buyer will provide a completed Preliminary Change of Ownership Report form ("PCOR"). If Buyer fails to provide the PCOR, Escrow Holder shall close escrow and charge Buyer any additional fee incurred for recording the documents without the PCOR. Escrow Holder is released from any liability in connection with same.

7. PERSONAL PROPERTY TAXES

No examination, UCC search, insurance as to personal property and/or the payment of personal property taxes is required unless otherwise instructed in writing.

8. REAL PROPERTY TAXES

Real property taxes are prorated based on the most current available tax statement from the tax collector's office. Supplemental taxes may be assessed as a result of a change in ownership or completion of construction. Adjustments due either party based on the actual new tax bill issued after close of escrow or a supplemental tax bill will be made by the parties outside of escrow and Escrow Holder is released of any liability in connection with such adjustments. The first installment of California real property taxes is due November 1st (delinquent December 10th) and the second installment is due February 1st (delinquent April 10th). If a tax bill is not received from the County at least 30 days prior to the due date, buyer should contact the County Tax Collector's office and request one. Escrow Holder is not responsible for same.

9. CANCELLATION OF ESCROW

(a) Any party desiring to cancel this escrow shall deliver written notice of cancellation to Escrow Holder. Within a reasonable time after receipt of such notice, Escrow Holder shall send by regular mail to the address on the escrow instructions, one copy of said notice to the other party(ies). Unless written objection to cancellation is delivered to Escrow Holder by a party within 10 days after date of mailing, Escrow Holder is authorized, at its option, to comply with the notice and terminate the escrow. If a written objection is received by Escrow Holder, Escrow Holder is authorized, at its option, to hold all funds and documents in escrow (subject to the funds held fee) and to take no other action until otherwise directed by either the parties' mutual written instructions or a final order of a court of competent jurisdiction. If no action is taken on this escrow within 6 months after the closing date specified in the escrow instructions, Escrow Holder's obligations shall, at its option, terminate. Upon termination of this escrow, the parties shall pay all fees, charges and reimbursements due to Escrow Holder and all documents and remaining funds held in escrow shall be returned to the parties depositing same.

(b) Notwithstanding the foregoing paragraph, Escrow Holder shall have the right to unilaterally terminate any escrow which is subject to the provisions of the Equity Purchaser Law (CA Civil Code Section 1695 et seq.) and may return all documents and funds without any consent by or notice to the buyer.

10. CONFLICTING INSTRUCTIONS & DISPUTES

If Escrow Holder becomes aware of any conflicting demands or claims concerning this escrow, Escrow Holder shall have the right to discontinue all further acts on Escrow Holder's part until the conflict is resolved to Escrow Holder's satisfaction. Escrow Holder has the right at its option to file an action in Interpleader requiring the parties to litigate their claims/rights. If such an action is filed, the parties jointly and severally agree (a) to pay Escrow Holder's cancellation charges, costs (including the funds held fees) and reasonable attorneys' fees, and (b) that Escrow Holder is fully released and discharged from all further obligations under the escrow. If an action is brought involving this escrow and/or Escrow Holder, the party(ies) involved in the action agree to indemnify and hold the Escrow Holder harmless against liabilities, damages and costs incurred by Escrow Holder (including reasonable attorneys' fees and costs) except to the extent that such liabilities, damages and costs were caused by the negligence or willful misconduct of Escrow Holder.

THIS COMPANY CONDUCTS ESCROW BUSINESS UNDER CERTIFICATE OF AUTHORITY
ISSUED BY THE STATE OF CALIFORNIA DEPARTMENT OF INSURANCE.

Escrow General Provisions

11. USURY

Escrow Holder is not to be concerned with usury as to any loans or encumbrances in this escrow and is hereby released of any responsibility and/or liability therefore.

12. AMENDMENTS TO ESCROW INSTRUCTIONS

Any amendment to the escrow instructions must be in writing, executed by all parties and accepted by Escrow Holder. Escrow Holder may, at its sole option, elect to accept and act upon oral instructions from the parties. If requested by Escrow Holder the parties agree to confirm said instructions in writing as soon as practicable. The escrow instructions as amended shall constitute the entire escrow agreement between the Escrow Holder and the parties hereto with respect to the subject matter of the escrow.

13. INSURANCE POLICIES

In all matters relating to insurance, Escrow Holder may assume that each policy is in force and that the necessary premium has been paid. Escrow Holder is not responsible for obtaining fire, hazard or liability insurance, unless Escrow Holder has received specific written instructions to obtain such insurance prior to close of escrow from the parties or their respective lenders.

14. COPIES OF DOCUMENTS; AUTHORIZATION TO RELEASE

Escrow Holder is authorized to rely upon copies of documents, which include facsimile, electronic, NCR, or photocopies as if they were an originally executed document. If requested by Escrow Holder, the originals of such documents shall be delivered to Escrow Holder. Escrow Holder may withhold documents and/or funds due to the party until such originals are delivered. Documents to be recorded **MUST** contain original signatures. Escrow Holder may furnish copies of any and all documents to the lender(s), real estate broker(s), attorney(s) and/or accountant(s) involved in this transaction upon their request. Delivery of documents by escrow to a real estate broker or agent who is so designated in the purchase agreement shall be deemed delivery to the principal.

15. EXECUTION IN COUNTERPART

The escrow instructions and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute the same instruction.

16. TAX REPORTING, WITHHOLDING & DISCLOSURE

The parties are advised to seek independent advice concerning the tax consequences of this transaction, including but not limited to, their withholding, reporting and disclosure obligations. Escrow Holder does not provide tax or legal advice and the parties agree to hold Escrow Holder harmless from any loss or damage that the parties may incur as a result of their failure to comply with federal and/or state tax laws. **WITHHOLDING OBLIGATIONS ARE THE EXCLUSIVE OBLIGATIONS OF THE PARTIES. ESCROW HOLDER IS NOT RESPONSIBLE TO PERFORM THESE OBLIGATIONS UNLESS ESCROW HOLDER AGREES IN WRITING.**

A. TAXPAYER IDENTIFICATION NUMBER REPORTING

Federal law requires Escrow Holder to report seller's social security number or tax identification number (both numbers are hereafter referred to as the "TIN"), forwarding address, and the gross sales price to the Internal Revenue Service ("IRS"). To comply with the USA PATRIOT Act, certain taxpayer identification information (including, but not limited to, the TIN) may be required by Escrow Holder from certain persons or entities involved (directly or indirectly) in the transaction prior to closing.

Escrow cannot be closed nor any documents recorded until the information is provided and certified as to its accuracy to Escrow Holder. The parties agree to promptly obtain and provide such information as requested by Escrow Holder.

B. State Withholding & Reporting

Under California law (Rev & Tax Code §18662), a buyer may be required to withhold and deliver to the Franchise Tax Board (FTB) an amount equal to 3.33% of the sales price in the case of disposition of California real property interest ("Real Property") by either: 1) a seller who is an individual, trust or estate or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary of seller; OR 2) a corporate seller that has no permanent place of business in California immediately after the transfer of title to the Real Property. Buyer may be subject to a penalty (equal to the greater of 10% of the amount required to be withheld or \$500) for failing to withhold and transmit the funds to FTB in the time required by law. Buyer is not required to withhold any amount and will not be subject to penalty for failure to withhold if: a) the sales price of the Real Property does not exceed \$100,000; b) the seller executes a written certificate under penalty of perjury certifying that the seller is a corporation with a permanent place of business in California; OR c) the seller, who is an individual, trust, estate or a corporation without a permanent place of business in California, executes a written certificate under penalty of perjury certifying one of the following: (i) the Real Property was the seller's or decedent's principal residence (as defined in IRC §121); (ii) Real Property being conveyed was last used by the seller as seller's principal residence within the meaning of IRC §121 (even if the seller did not meet the two out of the last five years requirement or one of the special circumstances in IRC §121); (iii) the Real Property is or will be exchanged for property of like-kind (as defined in IRC §1031) and that the seller intends to acquire property similar or related in service or use so as to be eligible for nonrecognition of gain for California income tax purposes under IRC §1031; (iv) the Real Property has been compulsorily or involuntarily converted (as defined in IRC §1033) and the seller intends to acquire property similar or related in service or use so as to be eligible for nonrecognition of gain for California income tax purposes under IRC §1033; or (v) the Real Property sale will result in a loss (or net gain not required to be recognized) for California income tax purposes. Seller is subject to penalties for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding laws.

Contact FTB: For additional information regarding California withholding, contact the Franchise Tax Board at (toll free) 888-792-4900, by e-mail nrws@ftb.ca.gov; or visit their website at www.ftb.ca.gov.

C. FEDERAL WITHHOLDING & REPORTING

Certain federal reporting and withholding requirements exist for real estate transactions where the seller (transferor) is a non-resident alien, a non-domestic corporation, partnership, or limited liability company; or a domestic corporation, partnership or limited liability company controlled by non-residents; or non-resident corporations, partnerships or limited liability companies.

D. TAXPAYER IDENTIFICATION DISCLOSURE

Federal and state laws require that certain forms include a party's TIN and that such forms or copies of the forms be provided to the other party and to the applicable governmental authorities. Parties to a real estate transaction involving seller-provided financing are required to furnish, disclose, and include the other party's TIN in their tax returns. Escrow Holder is authorized to release a party's TINs and copies of statutory forms to the other party and to the applicable governmental authorities in the foregoing circumstances. The parties agree to hold Escrow Holder harmless against any fees, costs, or judgments incurred and/or awarded because of the release of their TIN as authorized herein.

THIS COMPANY CONDUCTS ESCROW BUSINESS UNDER CERTIFICATE OF AUTHORITY
ISSUED BY THE STATE OF CALIFORNIA DEPARTMENT OF INSURANCE.

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(7/5/2006)

Page 2 of 2 Pages

Form 1610



The First American Corporation
First American Title Company

Privacy Policy

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.



HIGHLAND FAIRVIEW

14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5300

June 21, 2010

Mayor Flickinger and Members of the City Council
City of Moreno Valley
14177 Frederick Street
Moreno Valley, California

SUBJECT: Highland Fairview Corporate Park – City Council Review of Public Improvement Agreement for Redlands Sewer – Application of Government Code Section 54954.2(b)(2).

Dear Mayor Flickinger and Members of the City Council:

Highland Fairview respectfully requests that the City Council exercise its authority under Government Code Section 54954.2(b)(2) to review and approve a Public Improvement Agreement for Redlands Sewer Improvements related to the Highland Fairview Corporate Park project.

This section of the Government Code permits the City Council to act on items not on its regular agenda when the Council determines that “there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted...” (Attached for reference). Please note a two-thirds vote of the Council is necessary.

The specifics of this request are as follows:

Highland Fairview and City staff have been working diligently to prepare and process the numerous plans, documents, agreements, easements, licenses, etc. that are necessary in order to construct the Highland Fairview Corporate Park project and the Skechers building.

The schedule for the project is extraordinarily tight and every day is critical to allowing Skechers to occupy their building as soon as physically possible.

On June 17, 2010, Highland Fairview was refused an encroachment permit to commence the Redlands sewer improvements without a Public Improvement Agreement (PIA) and security. Due to a miscommunication by both City staff and Highland Fairview, the City

June 21, 2010

Page 2

has decided that a PIA and security would, in fact, be required before an encroachment permit for Redlands Sewer would be issued.

The construction of the Redlands sewer improvements is critical to the overall project schedule and delays in that schedule will be extremely difficult, if not impossible to recover.

There are no issues with the sewer improvement plans, and the proposed PIA and cash security are consistent with established City guidelines and procedures. Two escrows were opened Friday June 18th with cash totaling \$844,500 for the security in order to expedite the process. There is no compelling reason that the Council cannot act on the PIA and security at its June 22nd meeting.

Highland Fairview respectfully requests the Council consideration of this request to enable the project to continue moving ahead.

Sincerely,

A handwritten signature in cursive script, appearing to read "Iddo Benzeevi".

Iddo Benzeevi
President