



City of Covina/Successor Agency to the
Covina Redevelopment Agency/
Covina Public Finance Authority/
Covina Housing Authority

Mayor Peggy Delach – Mayor Pro Tem John King

Council Members: Walter Allen - Jorge Marquez - Kevin Stapleton

REGULAR MEETING AGENDA

125 E. College Street, Covina, California

Council Chamber of City Hall

Tuesday, February 17, 2015

6:30 p.m.

- As a courtesy to Council/Agency/Authority Members, staff and attendees, everyone is asked to silence all pagers, cellular telephones and any other communication devices.
- Any member of the public may address the Council/Agency/Authority during both the public comment period and on any scheduled item on the agenda. Comments are limited to a maximum of five minutes per speaker unless, for good cause, the Mayor/Chairperson amends the time limit. Anyone wishing to speak is requested to submit a yellow Speaker Request Card to the City Clerk; cards are located near the agendas or at the City Clerk's desk.
- Please provide 10 copies of any information intended for use at the Council/Agency/Authority meeting to the City Clerk prior to the meeting.
- **MEETING ASSISTANCE INFORMATION:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (626) 384-5430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.
- **DOCUMENT AVAILABILITY:** Any writings or documents provided to a majority of the Council/Agency/Authority regarding any item on this agenda will be made available for public inspection at the City Clerk's Office at City Hall located at 125 E. College Street and the reference desk at the Covina Library located at 234 North Second Avenue during normal business hours. In addition, such writings and documents are available in the City Clerk's Office and posted on the City's website at www.covinaca.gov.
- Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority unless listed on agenda, which has been posted not less than 72 hours prior to meeting.
- If you challenge in court any discussion or action taken concerning an item on this agenda, you may be limited to raising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting.
- The Covina City Clerk's Office does hereby declare that the agenda for the **February 17, 2015** meeting was posted on **February 12, 2015** near the front entrance of the City Hall, 125 East College Street, Covina, in accordance with Section 54954.2(a) of the California Government Code.

February 17, 2015

**CITY COUNCIL/SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY/
COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY
JOINT MEETING—CLOSED SESSION
6:30 p.m.**

CALL TO ORDER

ROLL CALL

Council/Agency/Authority Members Allen, Marquez, Stapleton, Mayor Pro Tem/Vice Chairperson King and Mayor/Chairperson Delach

PUBLIC COMMENTS

The Public is invited to make comment on Closed Session items only at this time. To address the Council/Agency/Authority please complete a yellow speaker request card located at the entrance and give it to the City Clerk. Your name will be called when it is your turn to speak. Individual speakers are limited to five minutes each.

The City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority will adjourn to closed session for the following:

CLOSED SESSION

- A. G.C. §54957 - PUBLIC EMPLOYEE APPOINTMENT
Title: City Manager

- B. G.C. §54957- PUBLIC EMPLOYEE EVALUATION
Title: City Attorney

- C. G.C. §54956.9(d)(1)- CONFERENCE WITH LEGAL COUNSEL- Existing Litigation
Name of Case: Aguilar v. City of Covina et. al., U.S.D.C.
Case No.: 2:14-cv-09183-JEM

- D. G.C. §54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: 633-635 S. Citrus Avenue (APN 8453-001-906)
Agency negotiator: Kim Raney, Acting City Manager and
Elizabeth Hull, Assistant City Attorney
Negotiating parties: Sage Automotive Group
Under negotiation: Negotiations to include both price and terms of payment

RECESS

**CITY COUNCIL/SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY/
COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY
JOINT MEETING—OPEN SESSION
7:30 p.m.**

RECONVENE AND CALL TO ORDER

ROLL CALL

Council/Agency/Authority Members Allen, Marquez, Stapleton, Mayor Pro Tem/Vice Chairperson King and Mayor/Chairperson Delach

PLEDGE OF ALLEGIANCE

Led by Mayor Delach

INVOCATION

Given by Covina Police Chaplain Dave Truax

PRESENTATIONS

Proclamation – Covina Vikings Jr. Midget Football Team - 2014 National Champions

Presentation – Donation from The Champion Family Foundation to Covina Police K-9 Program

Presentation – Introduction of Miss Covina 2015

Presentation – 2015 Homeless Count Participation

PUBLIC COMMENTS

To address the Council/Agency/Authority please complete a yellow speaker request card located at the entrance and give it to the City Clerk/Agency/Authority Secretary. Your name will be called when it is your turn to speak. Those wishing to speak on a LISTED AGENDA ITEM will be heard when that item is addressed. Those wishing to speak on an item NOT ON THE AGENDA will be heard at this time. State Law prohibits the Council/Agency/Authority Members from taking action on any item not on the agenda. Individual speakers are limited to five minutes each.

COUNCIL/AGENCY/AUTHORITY COMMENTS

Council/Agency/Authority Members wishing to make any announcements of public interest or to request that specific items be added to future Council/Agency/Authority agendas may do so at this time.

1. Appoint Ken Fields as the employee representing on the Oversight Board of the Successor Agency to the Covina Redevelopment Agency.

CITY MANAGER COMMENTS

CONSENT CALENDAR

All matters listed under consent calendar are considered routine, and will be enacted by one motion. There will be no separate discussion on these items prior to the time the Council/Agency/Authority votes on them, unless a member of the Council/Agency/Authority requests a specific item be removed from the consent calendar for discussion.

- CC 1.** City Council to approve the minutes from the January 20, 2015 meeting of the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority.
- CC 2.** City Council to approve the summary minutes from the January 29, 2015 joint workshop meeting of the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority with Covina Planning Commission.
- CC 3.** City Council to receive and file the Downtown parking update.
- CC 4.** City Council to receive and file the report on the 2015 Citywide Homeless Count.
- CC 5.** City Council to receive and file the Public Works monthly activity report.
- CC 6.** City Council to receive and file the Fiscal Year 2014-2015 2nd Quarter update on Major Funds.
- CC 7.** City Council to approve agreements with Blackboard, Inc., and Nixle LLC, for emergency communications systems and authorize the Acting City Manager or his designee to execute all related documents on the City's behalf.
- CC 8.** City Council to approve participant agreement between Los Angeles County for countywide address management system and authorize the Acting City Manager or his designee to execute all related documents on the City's behalf.
- CC 9.** City Council to consider approval of the pre-qualified consultant lists for provided on-call as needed Planning services and Environmental services to the City and authorize the Acting City Manager to negotiate and execute said agreements on behalf of the City.
- CC 10.** City Council to approve Temporary License and Right of Entry Agreement with MWH Americas Inc., for Geotechnical Evaluation of Kahler Russell Park.
- CC 11.** City Council to approve Professional Services Agreement with John L. Hunter and Associates and authorize the Acting City Manager to sign the Professional Services Agreement.
- CC 12.** City Council to approve Option agreement to purchase equipment from Covina Rents and authorize the Acting City Manager or his designee to execute all related documents on the City's behalf.
- CC 13.** Successor Agency to the Covina Redevelopment Agency to approve Recognized Obligation Payment Schedule (ROPS 15-16A), covering July 1, 2015 through December 31, 2015 and direct it to be provided to the Successor Agency Oversight Board for consideration and approval.

CC 14. City Council to make certain findings as required by California Environmental Quality Act (CEQA) guidelines Section 15301 (repair of existing facility) and Section 15269 (emergency project); and to adopt **Resolution 15-7315**, to determine that an emergency condition exists for City Hall repairs and to delegate authority to the Acting City Manager to procure services and equipment without notice for bids to let contracts in the case of a declared emergency under Section 22050 of the California Public Contract Code.

CC 15. City Council to adopt **Resolution 15-7316**, amending the fiscal year 2014-2015 Library Services operating budget to expend the UMIGO! You Make It Go and Children's Museum of Manhattan stipend funds to support the development of California Libraries.

CC 16. City Council to adopt **Resolution No. 15-7317**, amending the Fiscal Year 2014-2015 Budget to finalize the funding for the Energy Efficient Projects.

PUBLIC HEARING

PH1. City Council to conduct a continued public hearing from the February 3, 2015 cancelled meeting; introduce and waive further reading of an Ordinance regarding Planned Community Development Ordinance 99-001, adding "automobile rental" as a permitted use within and modifying the sign regulations for one property within the Shoppers Lane/Terrado Plaza Planned Community Development Area.

Staff Recommendation:

- 1) City Council to open the public hearing and consider public testimony; and
- 2) Make certain findings as required by California Environmental Quality Act (CEQA) guidelines that this is not a project as defined in Sections 15060(c)(2), 15060(c)(3) and Section 15378, that has a potential resulting in physical change to the environment, directly or indirectly; and
- 3) City Council to introduce and waive further reading of **Ordinance No. 15-2037**, first reading, establishing Planned Community Development Ordinance PCD 99-001 (Amendment No. 1) to allow, as a permitted use, "automobile rental" and to allow for the modification to the sign regulations for one property within Shoppers Lane/Terrado Plaza Planned Community Development Area.

PH2. City Council to conduct a public hearing, introduce and waive further reading of an Ordinance, allowing medical, dental and therapeutic offices as a permitted use in the "C-2/Neighborhood Shopping Center", "C-3/Central Business", "C-3A/Regional or Community Shopping Center", "C-4/Highway Commercial", and C-5/Specified Highway" zoning districts, subject to certain requirements.

Staff Recommendation:

- 1) City Council to open the public hearing and consider public testimony; and
- 2) Make certain findings as required by California Environmental Quality Act (CEQA) guidelines that this is not a project as defined in Sections 15060(c)(2), 15060(c)(3) and Section 15378, that has a potential resulting in physical change to the environment, directly or indirectly; and
- 3) City Council to introduce and waive further reading of **Ordinance No. 15-2035**, allowing medical, dental and therapeutic offices of a permitted use in the "C-

2/Neighborhood Shopping Center”, C-3/Central Business”, “C-3A/Regional or Community Shopping Center”, “C-4/Highway Commercial”, and “C-5/ Specified Highway” zoning districts, subject to certain requirements.

- PH3.** City Council to conduct a public hearing, introduce and waive further reading of an Ordinance, a request to modify the City’s parking requirements citywide concerning automotive repair shops and automotive body and paint shops.

Staff Recommendation:

- 1) City Council to open the public hearing and consider public testimony; and
- 2) Make certain findings as required by California Environmental Quality Act (CEQA) guidelines that this is not a project as defined in Sections 15060(c)(2), 15060(c)(3) and Section 15378, that has a potential resulting in physical change to the environment, directly or indirectly; and
- 3) City Council to introduce and waive further reading of **Ordinance No. 15-2036**, modifying the City’s parking requirements citywide concerning automotive repair shops and automotive body and paint shops.

- PH4.** City Council to conduct a public hearing and consider adoption of resolutions reapproving Lease with Option to Purchase, approving an Amended and Restate Operating Covenant Agreement, and accepting an Economic Development Subsidy Report as they pertain to 633-635 South Citrus Avenue, Covina, California.

Staff Recommendation:

- 1) City Council to open the public hearing and consider public testimony; and
- 2) Making certain findings under Section 15162 of the California Environmental Quality Act (CEQA) guidelines that all environmental impacts associated with the project were already analyzed and mitigated by MND adopted on October 21, 2014 and no changes are being undertaken warranting further review; and
- 3) City Council to consider adopting **Resolution No. 15-7318**, accepting the economic development subsidy report prepared pursuant to Government Code 53083 for property located at 633-635 South Citrus Avenue, Covina; and
- 4) City Council to consider adopting **Resolution No. 15-7319**, reapproving a lease with option to purchase by and between the City of Covina and Covina MJL, LLC, for property located at 633-635 South Citrus Avenue, Covina; and
- 5) City Council to consider adopting **Resolution No. 15-7320**, approving and restated operating covenant agreement by and between the City of Covina and Covina MJL, LLC for property located at 633-635 South Citrus Avenue, Covina.

NEW BUSINESS

- NB1.** City Council to consider approval of agreement for employment by and between the City of Covina and Andrea Miller.

Staff Recommendation:

- 1) City Council to consider approval/ ratification of employment agreement negotiated by legal counsel and establishing compensation and other terms and conditions of employment of City Manager.

ADJOURNMENT

The Covina City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority will adjourn to its next regular meeting of the Council/Agency/Authority scheduled for **Tuesday, March 3, 2015**, at 6:30 p.m. for closed session and 7:30 p.m. for open session inside the Council Chamber, 125 East College Street, Covina, California, 91723.

DRAFT



CC1

MINUTES OF JANUARY 20, 2015 REGULAR MEETING OF THE COVINA CITY COUNCIL/SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT AGENCY /COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY HELD IN THE COUNCIL CHAMBER OF CITY HALL, 125 EAST COLLEGE STREET, COVINA, CALIFORNIA

CALL TO ORDER

Mayor Delach called the Council/Agency/Authority meeting to order at 6:33 p.m., with Council Member Allen arriving at 6:35 p.m. City Attorney Marco Martinez announced the closed session items. There were no public comments.

ROLL CALL

Council Members Present: ALLEN, DELACH, KING, MARQUEZ, STAPLETON

Council Members Absent: NONE

Elected Members Present: COBBETT, WALCZAK

Staff Members Present: City Attorney Martinez, Acting City Manager Raney, Finance Director De Alwis, Assistant to the City Manager Brancheau, Interim Public Works Director Gonzalez, Interim Community Development Director Fong, Finance Manager Cole, Police Captain Webster, Police Lieutenant Doonan, L.A. County Fire Chief Enriquez, Associate Planner Carter, Senior Housing and CDBG Economic Development Manager Gasser, Electronic Resource Analyst Kadir and Chief Deputy City Clerk LaCroix

AGENDA POSTING DECLARATION

The Chief Deputy City Clerk of the City of Covina hereby declares the Council/Agency/Authority agenda for the January 20, 2015 meeting was posted on January 8, 2015 near the front entrance of City Hall, 125 East College Street, Covina, in accordance with §54954.2(a) of the California Government Code.

CLOSED SESSION

- A. G.C. §54957.6 - CONFERENCE WITH LABOR NEGOTIATOR
Agency representative: J. Scott Tiedemann, Special Counsel
Title: Unrepresented Employee - Position: City Manager
- B. G.C. §54956.9(d)(1) - CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
Name of Case: The Inland Oversight Committee v City of Covina, et al.
Case Number: Los Angeles County Superior Court Case No. BS 152268
- C. G.C. §54956.9(d)(2) and G.C. 54956.9(d)(4)
CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation
Dispute with Municipal Auditing Services (MAS) relating to
termination of agreement
Number of case(s): one (1)

RECONVENE THE MEETING

The City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Housing Authority meeting reconvened at 7:31 p.m., with all members present.

City Attorney Marco Martinez announced that the City Council/Agency/Authority met in closed session with all members present. There is no reportable action related to closed session items B and C.

Mayor Delach announced that Council meet in closed session to discuss closed session item A. Mayor Delach reported by a 5-0 vote, would make an offer to Andrea Miller to appoint as the new City Manager.

PLEDGE OF ALLEGIANCE

Council Member King led the pledge of allegiance.

INVOCATION

Covina Police Chaplin Dr. Patricia Venegas gave the invocation.

PRESENTATIONS

Mayor Delach invited Anthony “Tony” Lombardi to the lectern and presented a proclamation honoring his 93rd birthday. Mayor Delach asserted Tony’s representation of Covina in local and State horseshoe competitions.

Katrina Moramarco introduced the 2015 Miss Covina contestants, Kamille Gordy, Karoline Florez, Brittany Rodarte, Vivian Tang, Casey Fleckerstein, Brittney Morales and Julianne Evans. The 2015 Scholarship Pageant will be held January 31, 2015 at Walnut High School Performing Center. 2014 Miss Covina Caitlin King and 2014 Miss Covina Valley Vanessa Garcia gave their farewell speech thanking Council for the support this past year.

Andy McIntyre of the McIntyre Company presented a \$10,000 donation to the Covina Police Department K-9 program.

Dawn Nelson of the Covina Chamber of Commerce along with John Brittain, Golf Tournament Chairman, presented a \$5,000 donation to the Covina Police Department K-9 program.

PUBLIC COMMENTS

Dora Gomez, representing Covina Assembly of God 29:11 program, a non-profit organization that provides assistance to the community, shared highlights from their December Community Christmas Party.

COUNCIL/AGENCY/AUTHORITY COMMENTS

Mayor Delach Mayor Pro Tem King, Council Member Stapleton and Council Member Allen congratulated the 2015 Miss Covina contestants. They thanked 2014 Miss Covina and Covina Valley for always representing the community.

Mayor Pro Tem King recounted the new Covina Stater Bros grocery store opening and how nice the store is and encouraged those that have not shopped to visit the store. Mayor Pro Tem King cited that Georgie's Mediterranean Cuisine is open on Citrus Avenue.

Council Member Stapleton advised The Artist Pizzeria, located on Citrus Avenue, had its ribbon cutting grand opening on January 14, 2015. Council Member Stapleton mentioned how great the downtown is. Council Member Stapleton acknowledged Council for the work on selecting a new city manager.

Council Member Allen expressed appreciation to Covina Special Response Team for running along with the graduate class of the Rio Hondo Police Academy. The graduating class ran their three-mile Pride Run this morning in honor of fallen police officer Jordan Corder. Council Member Allen reported on his attendance, as Chairman, to the League of California Cities Public Safety Committee meeting. Council Member Allen spoke on the goals of the Committee.

Mayor Delach announced the following "hold the date" events:

- The Joslyn Center will be having their Sweetheart Dance on Saturday, February 7 from 5:00 p.m. to 8:00 p.m.

CITY MANAGER COMMENTS

Acting City Manager Raney related that Stater Bros corporate office sent a letter complementing the positive experience they had working with staff. Acting City Manager Raney thanked the Rio Hondo police recruits for recognizing officer Corder in their Pride Run. Acting City Manager Raney affirmed Council's choice of a new city manager.

CONSENT CALENDAR

- CC 1.** City Council approved the summary minutes from the November 20, 2014 special joint meeting of the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority with Covina Planning Commission.
- CC 2.** City Council approved the minutes from the December 2, 2014 meeting of the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority.
- CC 3.** City Council approved the minutes from the December 16, 2014 meeting of the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority.

- CC 4. City Council approved the minutes from the January 6, 2015 meeting of the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority.
- CC 5. City Council received and filed an update on the Strategic Plan matrix.
- CC 6. City Council received and filed the payment of demands in the amount of \$4,574,047.92.
- CC 7. Successor Agency received and filed the payment of demands in the amount of \$332,027.55.
- CC 8. City Council received and filed the quarterly report of the treasurer to the City of Covina and the Successor Agency to the Covina Redevelopment Agency for the quarter ended December 31, 2014.
- CC 9. City Council received and filed the Public Works Monthly Activity Report.
- CC 10. Covina Housing Authority received and filed the Housing Authority fiscal year 2013-2014 audit report required by Health and Safety Code Section 34176.1(f), requiring a complete and independent financial audit and that it be provided to its governing body.
- CC 11. City Council approved an amendment to a Professional Services Agreement with AEI-CASC Engineering, Inc.; and authorized the Acting City Manager, or his designee, to provide written approval for total compensation.
- CC 13. City Council adopted **Resolution No. 15-7314**, requesting a budget transfer from the elections budget to the records management budget; and authorized staff to purchase necessary storage devices for the City's permanent documents and begin process of document restoration.
- CC 14. City Council awarded bid for pre-qualified on-call engineering services bench to the following eight firms 1) Civiltec Engineering, Inc., Monrovia, 2) Geo-Advantec, Inc., San Dimas, 3) JMDiaz, Inc., Industry, 4) Kimley-Horn and Associates, Inc., Los Angeles, 5) Wildan Engineering, Industry, 6) Iteris, Inc., Santa Ana, 7) Johnson-Frank & Associates, Inc., Anaheim, 8) Hamilton & Associates, Torrance; and authorized the Acting City Manager, or his designee, to execute all related documents on the City's behalf.
- CC 15. City Council adopted **Resolution No. 15-7322**, to amend Resolution No. 14-7309, extending the appointment of Police Chief Kim Raney, to serve as Acting City Manager on a part-time basis and for a limited duration.
- CC 16. City Council to adopt **Resolution No. 15-7323**, to approve an employment agreement with retired PERS annuitant for Human Resources Director Services for a limited duration.

On a motion made by Council Member Stapleton, seconded by Mayor Pro Tem King, the City Council approved Consent Calendar items CC1 through CC11, with Mayor Delach abstaining from Consent Calendar CC3, and CC13 through CC16. Consent Calendar item CC12 was removed from the agenda for further discussion and consideration.

Motion approved the Consent Calendar items CC1–CC 11 & CC13–CC 16 as follows:

AYES: ALLEN, DELACH, KING, MARQUEZ, STAPLETON
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

CONSENT CALENDAR ITEMS REMOVED FOR DISCUSSION/CONSIDERATION

CC 12. City Council to approve a one year renewal of agreement for towing services and vehicle storage facilities with Jan’s Towing.

Jim Salazar, Baldwin Park, introduced his business, Royal Coaches Auto Body and Towing, as a company that has served four communities in the San Gabriel Valley and its police departments since 1985. Mr. Salazar stated he would like to be able to participate in a future request for proposal.

Council Member Marquez inquired, and Acting City Manager Raney responded, the prior two year recover fees totaled \$207,000 and \$227,000.

Following a brief discussion and on a motion made by Council Member Stapleton, seconded by Mayor Pro Tem King, the City Council approved Consent Calendar item CC12, thereby approving a one-year renewal agreement with Jan’s Towing for towing services and vehicle storage facilities.

Motion carried for Consent Calendar item CC12as follows:

AYES: ALLEN, DELACH, KING, MARQUEZ, STAPLETON
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

ADJOURNMENT

At 8:24 p.m., the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority adjourned to its next regular meeting on **Tuesday, February 3, 2015**, at 6:30 p.m., for closed session and 7:30 p.m., for open session in the Council Chamber located inside of City Hall, 125 East College Street, Covina, California, 91723.

Respectfully Submitted:

Catherine M. LaCroix, Chief Deputy City Clerk

Approved this 17th day of February 2015:

Peggy Delach, Mayor/Chairperson

DRAFT



CC2

ACTION MINUTES OF JANUARY 29, 2015 SPECIAL JOINT WORKSHOP MEETING OF THE COVINA CITY COUNCIL/SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT AGENCY /COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY WITH COVINA PLANNING COMMISSION TOUR OF THE VITA-PAKT FACILITY LOCATED IN COVINA

CALL TO ORDER

Mayor Delach called the Council/Agency/Authority joint workshop meeting with the Planning Commission to order at 10:00 a.m.

ROLL CALL

Council Members Present: ALLEN, DELACH, STAPLETON

Council Members Absent: KING, MARQUEZ

Planning Members Present: PATTERSON, HODAPP

Planning Members Absent: CONNERS, McMEEKIN, MANNING

Elected Members Present: COBBETT

Staff Members Present: Assistant City Attorney Martinez, Interim Community Development Director Fong, Senior Building Official Rossi, Assistant to the City Manager Brancheau, Chief Deputy City Clerk LaCroix

AGENDA POSTING DECLARATION

The Chief Deputy City Clerk of the City of Covina hereby declares the January 29, 2015 Council/Agency/Authority joint workshop meeting with Planning Commission agenda was posted on January 28, 2015, near the front entrance of City Hall, 125 East College Street, Covina, in accordance with §54954.2(a) of the California Government Code.

PUBLIC COMMENTS

None.

COUNCIL/AGENCY/AUTHORITY COMMENTS

None.

PLANNING COMMISSION COMMENTS

None.

NEW BUSINESS

NB 1. City Council to consider the appointment of Council Member Allen III to serve as second alternate to the San Gabriel Valley Council of Governments for their January 29, 2015 special meeting.

Assistant City Attorney Jim Priest announced that in April 2014, Council Member Stapleton was appointed as Delegate, and Council Member Marquez as Alternate, to the San Gabriel Valley Council of Governments (COG). Staff was made aware of a special meeting at COG and Council Member Stapleton and Council Member Marquez are not able to attend, therefore it is recommended to appoint Council Member Walter Allen III to serve as an alternate at the January 29, 2015 special meeting of the COG.

On a motion made by Mayor Delach, seconded by Council Member Stapleton, the City Council moved to appoint Council Member Walter Allen III to serve as an alternate representing the City of Covina at the January 29, 2015 special meeting of the San Gabriel Council of Governments.

Motion carried as follows:

AYES: ALLEN, DELACH, STAPLETON
NOES: NONE
ABSTAIN: NONE
ABSENT: KING, MARQUEZ

NB 2. Tour of the Vita-Pakt Citrus Product Company located at 707 N. Barranca Avenue, Covina, California, 91723; and general discussion of development opportunities for the site (no action will be taken).

At 10:05 a.m., Mayor Delach announced Council Members, Planning Commissioners and staff would be leaving for Vita-Pakt, 707 N. Barranca Avenue.

At 10:20 a.m., All Members and Commissioners were present and the meeting reconvened.

Jim Mihalka, Covina resident, inquired and staff confirmed the agenda for the special joint workshop meeting was posted and delivered in accordance with Government Code Section 54956; the Brown Act.

At 10:21 a.m., the walking tour began.

At 11:05 a.m., the walking tour concluded and said meeting was adjourned.

ADJOURNMENT

At 11:05 p.m., the Covina City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority adjourned to its next regular meeting on **Tuesday, February 3, 2015**, at 6:30 p.m., for closed session and 7:30 p.m., for open session in the Council Chamber located inside of City Hall, 125 East College Street, Covina, California, 91723.

Respectfully Submitted:

Catherine M. LaCroix, Chief Deputy City Clerk

Approved this 17th day of February 2015:

Peggy Delach, Mayor/Chairperson

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 3

STAFF SOURCE: Alex Gonzalez, Interim Director of Public Works
Captain Derek Webster, Covina Police Department

pe

ITEM TITLE: Downtown Parking Update

STAFF RECOMMENDATION:

Receive and File information on recent citation activity.

FISCAL IMPACT:

There is no fiscal impact with this item.

BACKGROUND:

At the January 6, 2015 City Council meeting there was a request for information by the City Council regarding parking time limits in the Downtown, specifically the decision to implement a one-hour time limit on Citrus Avenue between Badillo Street and San Bernardino Road. There were claims made during public input regarding the strategy that led to the change of parking time limits. Attached is a City Council Agenda Item Commentary from July 5, 2011 which details the strategies approved by the Covina Downtown merchants, property owners, and residents.

The one-hour time limit on Citrus Avenue was not determined in 2011 by comparison to any other City. City staff allowed the participants in the process to determine parking time limits and at that time the determination of the group was that a one-hour limit would best guarantee parking turnover of the most critical parking spaces on Citrus Avenue and would direct employees and long-term parkers to less critical parking areas in Downtown that were designated as two-hour and four-hour parking.

Attached is a report noting parking citations on Citrus Avenue between Badillo Street and San Bernardino Avenue during the months of November and December 2014. The report details a total of 56 on-street parking citations, 18 in November 2014 and 38 in December 2014. During the critical retail sales period of Thanksgiving Day, Thursday, November 27th through Tuesday, December 2nd; zero on-street parking citations were issued on Citrus Avenue between Badillo Street and San Bernardino Road by the Covina Police Department. During the critical retail sales period of Friday December 19th through Thursday, December 25th; two on-street parking citations were issued on Citrus Avenue between Badillo Street and San Bernardino Road.

RELEVANCE TO THE STRATEGIC PLAN

This item is directly relevant to the City's Strategic Plan's Goal of providing efficient, visible and responsive public safety.

EXHIBITS

- A. Citation report
- B. City Council Agenda Item on Downtown Parking from July 5, 2011

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

EXHIBIT A:**REPORT OF ON-STREET PARKING CITATIONS ON CITRUS AVENUE BETWEEN
BADILLO STREET AND SAN BERNARDINO ROAD FROM NOVEMBER 2014 TO
DECEMBER 2014**

Citation	Issue Date	On Street/ Parking Lot
1645851	11/3/2014	On Street
1645862	11/3/2014	On Street
1645921	11/3/2014	On Street
1645932	11/3/2014	On Street
1648323	11/5/2014	On Street
1648334	11/5/2014	On Street
1648301	11/5/2014	On Street
1648290	11/5/2014	On Street
1648312	11/5/2014	On Street
1648426	11/6/2014	On Street
1648415	11/6/2014	On Street
1648485	11/6/2014	On Street
1648463	11/6/2014	On Street
1648474	11/6/2014	On Street
1648662	11/7/2014	On Street
1648710	11/7/2014	On Street
1648695	11/7/2014	On Street
1648706	11/7/2014	On Street
1656001	12/3/2014	On Street
1653971	12/3/2014	On Street
1653993	12/3/2014	On Street
1656244	12/4/2014	On Street
1656491	12/5/2014	On Street
1656476	12/5/2014	On Street
1656524	12/5/2014	On Street
1656480	12/5/2014	On Street
1655441	12/9/2014	On Street
1655522	12/9/2014	On Street
1655511	12/9/2014	On Street
1655651	12/10/2014	On Street
1656970	12/11/2014	On Street
1656981	12/11/2014	On Street
1657025	12/11/2014	On Street
1657036	12/11/2014	On Street
1657014	12/11/2014	On Street
1657003	12/11/2014	On Street
1655791	12/12/2014	On Street
1655802	12/12/2014	On Street

Citation	Issue Date	On Street/ Parking Lot
1658300	12/15/2014	On Street
1658580	12/16/2014	On Street
1658554	12/16/2014	On Street
1658613	12/17/2014	On Street
1658672	12/17/2014	On Street
1658694	12/18/2014	On Street
1658731	12/18/2014	On Street
1658720	12/18/2014	On Street
1658742	12/18/2014	On Street
1658801	12/19/2014	On Street
1658926	12/23/2014	On Street
1659000	12/29/2014	On Street
1658985	12/29/2014	On Street
1658996	12/29/2014	On Street
1658974	12/29/2014	On Street
1659011	12/29/2014	On Street
1659033	12/30/2014	On Street
1659066	12/31/2014	On Street

EXHIBIT B:

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: July 5, 2011

ITEM NO.: CC 9

STAFF SOURCE: Steve Henley, Public Works Director
Alex Gonzalez, Senior Management Analyst

ITEM TITLE: Approve Covina Parking Study Implementation Strategies
1 through 6

STAFF RECOMMENDATION

Approve Covina Parking Study Implementation Strategies 1 through 6.

FISCAL IMPACT

Increased parking revenue and reduced capital outlay and operational costs to offset \$71,749 in yearly deficit spending in the City of Covina's municipal parking lots, as identified in the financial analysis section of the July 2010 Covina Parking Study. With the elimination of deficit spending, there will be a reduction in the probability that the City General Fund will be required to subsidize the municipal parking lots.

BACKGROUND

On January 18, 2011, the Covina City Council approved parking policy Goals and Objectives based on the results of the 2010 Parking Study and a series of three public input meetings that occurred in August and September of 2010 and drew comments from 28 individuals. On December 2, 2010 and January 24, 2011, Public Works and Police Department staff met to discuss proposals for execution of the approved Goals and Objectives of the Parking Study, with particular attention paid to the cost effectiveness and operational efficiency for each stated Goal or Objective. It was decided that strategies would be developed to improve the parking experience for customers and to simplify parking enforcement operations. Once these service strategies were implemented to improve the customer parking experience an analysis of the financial effects would occur. In February 2011, a survey (attached as Exhibit A) was targeted to 317 stakeholders and received 29 responses (9% response rate). On March 28, 2011 a fourth public input meeting was attended by 11 participants to discuss the results of the survey and to review suggestions for implementation. The results of this process to identify improvements to the customer parking experience are detailed below.

Proposed Implementation Strategies

1. Daytime parking enforcement in effect in all Municipal Parking Lots from 8 AM to 8 PM Monday through Friday.
 - *Strict parking enforcement (24 hours a day / 7 days a week) as recommended by the Parking Study was considered by Police Department and Public Works staff to be cost-prohibitive. The Covina Police Department recommended parking enforcement hours of 8AM to 10PM Monday through Friday. Input during the public meetings resulted in a compromise that parking enforcement occur from 8AM to 8PM Monday through Friday.*
2. Overnight parking enforcement in effect in all Municipal Parking Lots from 2 AM to 4 AM seven days a week.
 - *Merchants expressed concerns regarding overnight parking and suggested some scenarios that could result in future issues if the overnight parking restrictions are abused. Since the greater objective of respect and equal use for all stakeholders is paramount (the recommendations advanced by merchants in the public input sessions would negatively affect homeowners and renters that live in the Downtown), Public Works and Police Department staff decided that they would monitor the purchase and use of overnight parking permits as they search for system upgrades. Police Department and Public Works staff will continue to look at coordinating parking permit sales technology to address possible abuse of monthly overnight parking permits, since at this point the available technologies do not meet all of the City's needs.*
3. Improve the customer parking experience by: 1) eliminating the split time limitations (remove all references to blue zone/white zone) in all lots and changing all off-street Municipal Parking Lots to a 4 hour time limit during enforcement hours, 2) provide short-term 1 hour on-street parking on Citrus Avenue between San Bernardino Road and Badillo Street, and 3) provide short-term 2 hour on-street parking on College Street, Italia Street, and Cottage Street between Second Street and Third Street. Keep all other time restrictions in the Downtown area as currently posted.
 - *Merchants supported keeping a 3 hour time limit over a 4 hour time limit by a small majority. However, City staff recommends a 4 hour time limit based on the assumption that customers having a sit down meal and attending a cultural or arts event Downtown would not be covered by a 3 hour time limit.*
 - *There was a desire to maintain short-term parking in the Downtown, with general agreement that the most desired spaces on Citrus Avenue should receive a 1 hour limitation with 2 hour parking remaining on College, Italia and Cottage.*
4. Improve the customer experience by removing all parking machines in the Municipal Parking Lots by August 1, 2011, except for the Civic Center Parking Structure. Customers should drive into a parking lot and see a simple time limit sign with no parking machine present to confirm free parking (with a posted time limit) in the Downtown.

- *Based on the high capital cost of improved parking technology, the small amount of funds currently received by parking permit machines in the Downtown, and the directive of the Police Department and Finance Department to eliminate cash collections in the field, parking permit machines are recommended to be removed from all municipal parking lots except for the Civic Center Parking Structure.*
5. Reduce the complexity of parking enforcement operations by limiting the sale and acceptance of daily parking permits in the Downtown to the Civic Center Parking Structure. Promote the sale of monthly parking permits by accepting monthly permits in all Municipal Parking Lots.
- *To improve the parking experience for Downtown customers, the focus of the lots will shift to time restrictions without any splits or divisions within a parking lot. The challenge created by this decision was how to then manage employee parking and collect revenue for the parking district without creating rules or barriers that would negatively affect the customer's perception when parking Downtown.*
 - *Daily parking machine revenue is a small source of revenue for the Parking District, and by selling and accepting daily parking permits only at the Civic Center Structure the City continues to provide an option for employees that do not want to purchase a monthly permit – but daily parking permit purchasers will be allowed to park only in the Civic Center Structure. The current number of daily parking permit transactions can fit within the capacity of the Civic Center Parking Structure in addition to the City Hall and Citibank employees that currently park in the Civic Center Structure.*
 - *Monthly parking permit sales account for the bulk of parking permit sales, and the capacity of the Civic Center Parking Structure is not sufficient to hold all monthly and daily parking permit holders.*
 - *The Parking Study recommended designated "employee" and "premium" parking lots at differential prices to modify parking behavior. Two-tiered pricing is not recommended by the Police Department or Public Works staff since it will complicate parking enforcement and create confusion for stakeholders and customers. In the public input sessions, merchants were requesting an equitable distribution of parking resources - divided into north/south, east/west, or possibly equal quadrants in the downtown area. City staff looked at several different scenarios to assign different monthly parking permits to roughly equal areas. However, since parking space inventory is not balanced in the Downtown, it is impossible to divide the parking resources in a balanced manner and any attempt by City staff to impose arbitrary parking lot divisions will result in significant discontent for one or more stakeholder groups.*
 - *Identifying parking lots that are close to capacity and keeping those impacted lots off limits to monthly and daily parking permit holders was recommended in the Parking Study and received uniformly negative responses from public input session participants. A wide range of opinions was expressed in public input on targeting or barring selected groups or individuals from parking in impacted areas, but in the absence of any rational and defensible alternative that would result in consensus and protect the rights of all that contribute financially to the parking district, the idea of limiting monthly permit parking in any lot is being withdrawn by City Staff since the*

greater objective of respect and equal use for all stakeholders could not be guaranteed with the recommendations received in the public input process.

- Follow-up observations of municipal parking lot use in April and May 2011 by City staff and conversations regarding shifting parking use patterns with the engineers that authored the Parking Study resulted in a conclusion that restricting monthly employee permits in any one lot will have unforeseen effects on parking demand in all parking lots and will lead to discontent among merchants that purchase substantial numbers of monthly parking permits.*
- The merchants that purchase bulk parking permits did not attend any of the four public input sessions, so City staff contacted each merchant individually to understand how they would respond to parking in a designated employee lot. All of the merchants that purchase bulk permits responded that they would most likely stop purchasing the monthly permits and direct their employees to move their vehicles to avoid citations. There was consensus within this group of merchants that the businesses that contribute to the parking district by purchasing monthly permits for their employees should not be penalized by being forced to park farther away.*
- The Parking Study is a "snapshot" of parking demand, and with new developments in Downtown over time, demand will shift and parking lot demand will change over time. Instead of regulating monthly parking permit use in certain lots based on the Parking Study, it is recommended by City staff that monthly permits be accepted in all Municipal Parking Lots, and that daily parking permits be sold and restricted to only the Civic Center Parking Structure. Limiting monthly permits to certain lots will create additional friction in the Downtown and will result in a decline of parking permit sales based on the input received. Limiting the purchase of daily parking permits to the Civic Center Parking Structure will simplify parking enforcement, allow for the removal of outdated parking technology, and promote the sale of monthly parking permits.*

6. Monthly Municipal Lot Parking Lot Permits will remain at \$20 a month as approved by the Covina City Council in January 2011. Monthly Municipal Lot permits will also be valid for overnight parking in the Municipal Lots. Daily Municipal Lot permits at the Civic Center Parking Structure are recommended to increase from \$1 a day to \$2 a day. Overnight Municipal Lot permits will be introduced at the Civic Center Structure for \$3 a day.

- With the conversion to credit card only transactions at the Civic Center Parking Structure, transaction and merchant fees will average close to \$0.50 per transaction. It is necessary to increase the daily rate to recoup the introduction of these fees and also to provide an incentive for the purchase of monthly parking permits in relation to daily permits. Daily permits at the Metrolink Parking Structure are currently \$2 and overnight permits at the Police Department and Metrolink Structure are currently \$3.*
- Based on the monitoring of overnight parking permits by Police Department and Public Works staff for possible abuse, a separate monthly overnight permit may be created in the future for the Municipal Parking Lots. As Police Department and Public Works staff discusses the upgrade and merging of parking permit sales technology, the capability to restrict and monitor overnight parking permit use will remain a central issue.*

- *Based on public input, there was a desire to introduce a mechanism to purchase overnight parking permits on short notice in the Downtown for the Municipal Parking Lots.*

Implementation Items 1 through 6 are directly intended to improve the customer experience in Downtown in a cost-effective manner; not to increase revenue to the Parking District. An informational parking pamphlet will be created for Metrolink and Parking District stakeholders to promote the sale of monthly permits, and it is hoped that Parking District stakeholders will choose to purchase additional monthly permits for their employees under this new parking configuration. City staff will return to the City Council with another parking update in December 2011 to assess the revenue impacts of these changes and to discuss the progress of discussions with Shoppers Lane owners and merchants towards developing a sustainable financial model for common area maintenance at Shoppers Lane.

RELEVANCE TO THE STRATEGIC PLAN

This item is directly related to the City's three year goal of "enhancing financial stability" by attempting to stabilize deficit spending in account 2600-2800-00.

EXHIBITS

A. Municipal Parking Survey Summary, February 2011

<p>REVIEW TEAM ONLY</p> <p>City Attorney: <u>EXHIBIT</u></p> <p>City Manager: <u>EXHIBIT</u></p>	<p>Finance Director: <u>EXHIBIT</u></p> <p>Other: _____</p>
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CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 4

STAFF SOURCE: Dilu de Alwis, Director of Finance *DA*
Nuala Gasser, Senior Housing & CDBG Economic Development Manager *NG*

ITEM TITLE: Report on 2015 Citywide Homeless Count conducted January 27, 2015.

STAFF RECOMMENDATION

City Council to receive and file the report on the 2015 Street Homeless Count.

FISCAL IMPACT

None

BACKGROUND

On November 18, 2014, the City Council approved the City's participation in the Los Angeles County Continuum of Care Street Homeless Count. Los Angeles Homeless Services Authority (LAHSA), as the lead agency, set the parameters and guidelines for the count, which took place in Los Angeles County on January 27, 28 and 29. The San Gabriel Valley, including the City of Covina, was counted on Tuesday, January 27, 2015. The Joslyn Senior Center was the deployment center for the City's count.

A total of thirty-three people volunteered to help with the Covina count, which required counting people living in places not meant for human habitation such as cars, parks, campers, sidewalks and abandoned buildings. After a session of volunteer training, ten teams deployed at 8 p.m. Teams were assigned to specific census tracts, each amounting to approximately fifteen road miles. In addition to the ten census tracts counted in Covina, five additional tracts were counted in the contiguous unincorporated area north of Covina, in Charter Oak and in West Covina.

After counting, the teams reported back to the deployment center and turned in their enumeration forms. After the Count ended at midnight, the material was returned to the collection site in West Covina.

Many citizens participated in this event, but several groups in particular provided strong support. Without their help, the count would not have been possible. The groups were as follows

<u>Organization</u>	<u>No. of Volunteers</u>
Covina United Methodist Church	6
Police Volunteers	5

Other represented groups were Covina City Employees, Los Angeles County employees, and the community.

The Parks and Recreation Department provided the facility, and the Police Department provided security for the night.

Official results will not be available from LAHSA until mid-summer. According to LAHSA, the count takes place at night because it's hard to tell who is homeless during the day, when people are not out seeking a place to sleep. LAHSA also tracks the number of homeless that are in shelters, emergency rooms, transitional housing facilities and jails and treatment centers, to get an accurate number of people in need of housing.

Based on the forms turned in by the volunteers the following statistics were revealed for homeless individuals and places where homeless people were living in Covina on the night of January 27, 2015. The numbers for three prior years are included also.

Covina Street Count	2015	2013	2012	2011
Individuals-Adult	26	6	12	5
Individuals-Youth	2	0	0	0
Cars	6	1	2	4
Vans	2	0	1	0
Camper/RV	7	4	4	11
Tent	1	0	1	0
Make-shift shelter	1	3	0	0

Final LAHSA number for Covina	2015	2013	2012	2011
Street Count	TBD	21	24	31
Emergency & Winter Shelter	TBD	0	30	0
Transitional Housing	TBD	<u>6</u>	<u>5</u>	<u>6</u>
Total Covina count	TBD	27	59	37

Total Los Angeles County count TBD 39,463 39,414 42,963

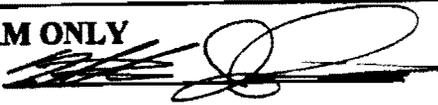
For more information about the 2015 Homeless Count or to obtain a copy of the 2013 Homeless Count report, visit www.lahsa.org .

RELEVANCE TO THE STRATEGIC PLAN

None.

EXHIBITS

None.

<p>REVIEW TEAM ONLY</p> <p>City Attorney: </p> <p>City Manager: </p>	<p>Finance Director: </p> <p>Other: _____</p>
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CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 5

STAFF SOURCE: Alex Gonzalez, Interim Director of Public Works ^{AL}
Paul Hertz, Public Works Superintendent

ITEM TITLE: Public Works Department Monthly Activity Report

STAFF RECOMMENDATION:

Receive and file the Public Works Department Monthly Activity Report

FISCAL IMPACT:

This report is informational only and has no budgetary impact.

BACKGROUND:

Attached for the City Council's review and information are the Public Works Department's Monthly Activity Report for January.

In conjunction with the implementation of a revised Zone Maintenance Program in 2007, the Department implemented a renewed focus on Key Performance Indexing (KPI). KPI is a useful tool for developing a measurement system of organizational effectiveness by identifying activities important to the community and tracking their output over time.

During January, the following trends were noted:

- With Community Development now directed to oversee the responsibility of Code Enforcement and Building and Safety, the Public Works Department will no longer be tracking the KPI's for these respective areas beginning this month. Therefore, these categories have now been eliminated from the monthly activity report.
- With the beginning of the new year, and also a full work month, the Equipment Maintenance Division was rather high in almost all categories in their tracking compared to last month. Areas of particular notation were emergency call outs and safety inspections.
- As similar to last month, Pothole filling activities consumed much of the Street Maintenance activities. Numbers for the month of January were more than doubled in relation to December which was already above average for this category.
- All other Divisions and Sections were generally on par with their tracking considering the shortened work month.

RELEVANCE TO THE STRATEGIC PLAN:

The Public Works Department consists of the Water Division, Streets and Sewer Division, Central Equipment Division, Building Maintenance, and Development Services which includes Engineering, Environmental Services, Building and Safety, as well as Code Enforcement. The combined activities of each of the divisions continually strives to enhance the safety, development and infrastructure needs of the community in the most cost effective and responsive way possible. In this way, while not directly responsive to any of the currently identified objectives of the Strategic Plan the activities which are reported on herein support several of the specific Strategic Plan's Goals, as follows: Improve and promote customer service; Enhance financial stability; Become an environmentally sustainable community; and Provide efficient, visible and responsive public safety.

EXHIBITS:

- A. Public Works Department Monthly Activity Report – January 2015

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

**CITY OF COVINA
PUBLIC WORKS DEPARTMENT MONTHLY ACTIVITY REPORT
JANUARY 2015**

DIVISION	ACTIVITY	QUANTITY
Water Utility	Meter replacements	5
	Consumer responses	531
	Backflow tests	15
	Flushed blow-offs	20
	Service line repair/replace	2
	Main line repair/replace	2
	Fire hydrants maintained	7
	Isolation valves exercised	0
	Dig alert emergencies	47
	Emergency call outs	4
Equipment Maintenance	Preventative Maintenance service	63
	Safety inspections	74
	Daily demand repairs	77
	Tire repairs	40
	Major repairs over \$1000	3
	Emergency call outs	20
Street Maintenance	Traffic sign remove/replace/install	4
	Potholes repaired	748
	Grind sidewalk	277
	Ramp sidewalk	2
	Curb painted (LF)	0
	Illegally dumped items picked up (LBS.)	2,000
	Utility cuts repaired	0
	Trees trimmed	5
	Asphalt - Skin Patch (sq.ft.)	2,040
Emergency call outs	3	
Environmental Services	Used oil containers distributed	2
	Compost bins distributed	0
	NPDES violations investigated	7
	NPDES Permit Inspections	1
	Waste management consumer contacts	0
	Industrial Waste Permit Inspections	23
	Plans checked for environmental compliance	24
	Environmental legislation & regulations reviewed	7
Special Waste collection events promoted	2	
Engineering	Permits issued	26
	Inspections conducted	30
	Complaint responses	0
	Jobsite meetings	6
	Plan checks conducted	22
	Document research requests	2
	Value of plans prepared	242,000
Building Maintenance	Service requests completed	23
	Facility heat/air conditioning repairs	1
	Facility lighting/electrical repairs	2
	Emergency call outs	0

**CITY OF COVINA
PUBLIC WORKS DEPARTMENT MONTHLY ACTIVITY REPORT
JANUARY 2015**

DIVISION	ACTIVITY	QUANTITY
Transportation	Bus passes sold	40
	Covina Transit total passengers	1,811
	Covina Transit on time performance	9901.00%
	Covina Transit passengers per rev hr	3
	Metrolink monthly permits sold	757
	Metrolink machine revenue	\$2,922.00
	Municipal Lots monthly permits sold	\$63
Sewer Maintenance	Manholes inspected	102
	Linear feet of main cleaned	61,840
	Hot-spot locations cleaned	39
	Sewer overflow responses	0
	Manholes treated for vermin infestation	89
	Manholes treated for rodent infestation	6
	Routine pump station checks	31
Special Activities of Note	Contract project inspection hours	10
	Shopping carts removed	70
	Curb repair locations	2
	Sink holes repaired	1

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17th, 2015

ITEM NO.: CC 6

STAFF SOURCE: Dilu de Alwis, Finance Director *Wet*
Steven Smith, Management Analyst

ITEM TITLE: Fiscal Year 2014-2015 2nd Quarter Update on Major Funds

STAFF RECOMMENDATION

Receive and file the budget update report for the quarter ended December 31st, 2014.

FISCAL IMPACT

None.

BACKGROUND

The current City of Covina Budget Policy requires staff to provide quarterly reports to the City Council on the status of budgeted revenues and expenditures. As the information through the first quarter is extremely preliminary, we have combined the first and second quarters into a single mid-year report.

The attached report gives an overview of the budgets for the General and Enterprise Funds for the City of Covina as of December 31st, 2014. For analysis purposes, we have used 50% of budget to determine whether revenues and expenditures are trending over or under budget. Of the major funds presented in the report, General Fund expenditures are at 53.5% of budget. All other funds are well below the 50% mark. General Fund revenues are at 50.9% guideline; the net of Enterprise Fund revenues are at 60.8% of budget

RELEVANCE TO STRATEGIC PLAN:

There is no relevance to the strategic plan.

EXHIBITS

A) Mid-year budget report

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____



City of Covina

Mid-Year Report

Fiscal Year 2014-2015, Period Ended 12/31/14

February 2015

OVERVIEW

The accompanying financial report reflects the City's budget position for the period ended 12/31/14. Included in this report are the General and Enterprise Funds, with a more detailed focus on the General Fund. For analysis, we have used 50% of the total fiscal year budget as a baseline to determine whether revenues and expenditures are trending over or under budget. Budgeted amounts include any revisions to the Adopted Budget based on Council action as of 12/31/14. Every effort was made to capture revenues and expenditures as accurately as possible, using an approximate accrual of both. Actual dollar amounts are exclusive of any encumbrances.

The City's cash balance as of 12/31/14 is \$19,913,845.04, a decrease from \$26,389,539.55 at the beginning of the fiscal year. This total includes the combined available cash balances of all City funds – not just the General Fund - and is exclusive of any long-term investments. As a point of reference, the City's cash balance as of 12/30/13 was \$16,947,490.91.

The decrease in cash since the beginning of the fiscal year is due to the timing difference between when revenue is recognized and when it is received. For example, Utility Users Tax remittances received in January are for billings that occurred in December. For accounting and budgetary purposes, this revenue is recognized as having been earned in December. However, the cash for these remittances wasn't received until January and was not included in the cash balance in the Treasurer's Report dated December 31, 2014. Additionally, the timing of the monthly payments to L.A. County Fire for the cost of the fire prevention contract, as well as several capital expenditures which are to be reimbursed later in the fiscal year, had a negative impact on the cash balance through mid-year.

GENERAL FUND

Through the first six months of the fiscal year, General Fund revenues were received at 50.9% and expenditures were at 53.5% of budget.

Total Revenue and Expenditures

General Fund	Budget	YTD Actual	%
Revenue	31,978,208	16,279,978	50.9%
Expenditures	35,061,836	18,741,836	53.5%

The net of all General Fund expenditures is above the 50% guideline for mid-year. This is discussed in detail below.

“Expenditures by Program” shows most categories right around 50% for the year to date, with slight variances in either direction. The exceptions to this are the General Government, Community Development and Non-Departmental programs.

The appearance of the General Government program so markedly under budget is due to the application of City's cost allocation model. Through the cost allocation plan (CAP), a majority of the costs of General Government are allocated across all major funds. However, the amounts recognized to date are based on budget as opposed actual costs. Through mid-year, the credits applied through the CAP exceeded the actual cost of the General Government program. All costs will undergo a true-up/down process at the end of the fiscal year.

While the Community Development program seems to be extremely over budget at this point in the fiscal year, this is almost entirely due to the purchase of property located at 633 – 635 S Citrus Avenue from the Successor Agency. Excluding this cost, the Community Development program

is at approximately 55% of budget for the year, the excess of which is related to increased staffing in the Planning Department.

Expenditures in the Non-Departmental program approached 80% through mid-year. This is due in part to certain annual fees and subscriptions that are paid during the first half of the fiscal year. Additionally, the cost of the City’s lifeline subsidy for its utility customers is contained within this program. Although that line item is exceeding 50% of budget for the year-to-date, the revenue derived from the water late fees which fund the program is more than adequate to cover the costs.

Expenditures by Program

Expenditures	Budget	YTD Actual	% Expended
General Government	223,738	38,311	17.1%
Public Safety	24,572,358	12,302,153	50.1%
Public Works	1,512,623	661,279	43.7%
Culture & Recreation	4,736,313	2,351,687	49.7%
Community Development	3,793,694	3,255,209	85.8%
Non Departmental	73,110	58,197	79.6%
Other Financing/Transfers	150,000	75,000	50.0%
Total Expenditures	35,061,836	18,741,836	53.5%

“Expenditures by Major Category” also shows all categories under or only slightly over the 50% guideline. The major exception to this is Capital Outlay, which again, is related to the purchase of property from the Successor Agency. Additionally, Interdepartmental Charges are below 50% due to budgeted transfers to the General Fund that have not yet occurred.

Expenditures by Major Category

Expenditures	Budget	YTD Actual	% Expended
Personal Services	18,701,983	9,192,644	49.2%
Professional & Technical	9,923,635	4,959,365	50.0%
Property Services	2,038,523	954,863	46.8%
Other Services & Charges	1,594,705	795,322	49.9%
Supplies	517,569	236,176	45.6%
Capital Outlay	3,271,301	2,959,440	90.5%
Contingency	10,000	1,434	14.3%
Interdepartmental Charges	(1,145,880)	(432,408)	37.7%
Other Financing	150,000	75,000	50.0%
Total Expenditures	35,061,836	18,741,836	53.5%

Revenues are fractionally over 50% of budget.

Tax revenue in general is approximately \$595,000 higher than it was for the same period last year. This includes a year-over-year increase in Property Tax revenue of \$109,000 and in Sales Tax revenue of \$388,000. Utility Users Tax revenue is steady at just over 50% of budget

and is in line with what was received during the same period last year.

The Licenses and Permits and Charges for Services categories are well above the 50% guideline. This is due in part to the timing of the receipt of Business License revenue, as well as Aquatics revenue, the majority of which is received during the first half of the fiscal year. Although most Permit category revenue is above 50% for the fiscal year to date, it should be noted that Building Permit revenue is approximately \$46,000 less than for the same period last year.

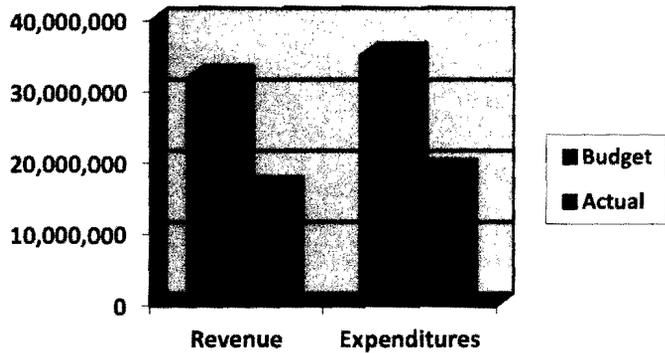
Intergovernmental revenue is below 50% for the year to date, largely due to the timing of payments received from various governmental agencies. Additionally, certain revenue is on a reimbursement basis and tied to specific expenditures. If these expenditures aren’t made, then that revenue won’t be recognized, which result in net zero budget impact.

Although expenditures currently exceed revenue for the fiscal year to date, this is due solely to the aforementioned purchase of property from the Successor Agency. We anticipate the offsetting revenue to be received in April 2015, the impact of which will be seen in the 4th quarter report. Excluding the expense related to this transaction, *revenues exceed expenditures* by approximately \$138,000.

Revenues by Major Category

Revenue	Budget	YTD Actual	% Received
Taxes	25,670,470	12,436,393	48.4%
Licenses & Permits	640,000	415,532	64.9%
Intergovernmental	1,035,498	334,610	32.3%
Charges for Services	2,259,740	1,364,382	60.4%
Fines & Forfeits	701,000	337,334	48.1%
Employee Benefit Charge	-	5,940	100.0%
Investment Earnings	150,000	131,636	87.8%
Miscellaneous	295,130	138,297	46.9%
Other Financing Sources	1,226,370	1,115,853	91.0%
Total Revenues	31,978,208	16,279,978	50.9%

General Fund Budget to Actual YTD



Expenditures	Budget	YTD Actual	% Expended
Water Utility	16,044,530	4,836,860	30.1%
Environmental Services	1,625,883	546,020	33.6%
Sewer	11,007,020	1,329,797	12.1%
Total Enterprise Funds	28,677,433	6,712,677	23.4%

The combined Enterprise Fund revenues were at 60.8% of budget through mid-year. Water Fund revenue exceeded 50%, simply due to higher than budgeted revenues, especially for retail water sales. Environmental Services revenue was under 50% year to date, however, revenue exceeded expenditures. This is generally what we expect to see from Enterprise Funds, as their revenues need to cover their costs of operations.

Sewer Fund revenue was slightly under the 50% guideline. Although expenditures in this fund slightly exceeded revenues, a majority of the budgeted expenditures in this fund are paid for from bond proceeds and is not reflective of an ongoing shortfall of revenues against expenditures.

Revenue	Budget	YTD Actual	% Received
Water Utility	10,758,000	6,883,714	64.0%
Environmental Services	1,265,700	551,702	43.6%
Sewer Fund	2,390,000	1,327,937	55.6%
Total Enterprise Funds	\$ 14,413,700	\$ 8,763,352	60.8%

ENTERPRISE FUNDS

Enterprise Fund Budget Condition: The City maintains three Enterprise Funds (a fund established to account for operations financed and operated in a manner similar to private business enterprise): Water Utility, Environmental Services, and Sewer Funds

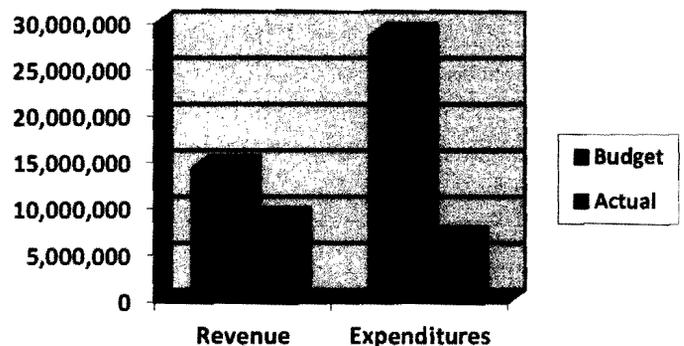
At mid-year, the combined Enterprise Fund revenues were at 60.8% and expenditures were at 23.4% of budget.

Enterprise Funds	Budget	YTD Actual	%
Revenue	14,413,700	8,763,352	60.8%
Expenditures	28,677,433	6,712,678	23.4%

All Enterprise Fund expenditures are well under 50% of budget for the year to date. In the case of the Water and Sewer Funds, this is primarily due to large Capital Outlay budgets that have only been partially expended through the first half of the year, as well as the timing of the recognition of depreciation expenses in both funds. For the Environmental Services Fund, this is due to unexpended Professional & Technical Services related to the state-mandated storm water management program.

Water supply purchases are under budget for the year and approximately \$430,000 lower than for the same period last year. It should be noted that, although we have purchased less *total* water, we have had to purchase almost as much water from MWD for the same period as last year, at over twice the cost per acre foot as from Covina Irrigating Company. This trend is expected to continue as drought conditions persist.

Enterprise Funds Budget to Actual YTD



LOOKING FORWARD

As departments begin to plan for the 15/16 budget, it is useful to look at the anticipated budgetary impacts for the upcoming fiscal year, particularly as it relates to costs that are beyond the control of the City.

Preliminary PERS calculations show an increased cost of approximately \$550,000 in the General Fund, largely due to the cost of paying down the City's portion of Public Safety's unfunded liability. This required payment is *in addition* to the City's regular PERS costs and is represented as a lump-sum payment of \$328,079 for 15/16, increasing to a projected payment of \$494,121 for 16/17. This increase is somewhat mitigated by the requirement that employees begin paying their full cost in 15/16 – a one-time savings of approximately \$133,000.

Although the City will not receive the preliminary estimates for the cost of the contract with L.A. County Fire until March, staff anticipates that the increase over the current fiscal year could exceed \$125,000.

There are indications that revenues are trending up. Early estimates for FY 15/16 show Property Tax revenue increasing approximately \$250,000. Additionally, preliminary projections from HdL show Sales Tax revenue increasing approximately \$500,000, though that amount will most likely be adjusted with their next report. While this is all positive news, the City must exercise caution and not commit to expenditures that are long-term in nature.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 7

STAFF SOURCE: Alex Gonzalez, Interim Director of Public Works ^{MB}
Lieutenant David Foster, Covina Police Department

ITEM TITLE: Approve Agreements for Emergency Communications Systems

STAFF RECOMMENDATION:

Approve Agreements with Blackboard, Inc. and Nixle LLC for emergency communications systems and authorize the Acting City Manager or his designee to execute all related documents on the City's behalf.

FISCAL IMPACT:

This item is included in the FY 2014-2015 budget under (6010-5000-51990). City staff negotiated a six month renewal with Blackboard and the cost of Nixle is less than half of the annual cost of Blackboard, therefore there will be a savings of \$2,219.00 in FY 2014-2015 and a savings of \$20,229.00 in FY 2015-2016.

BACKGROUND:

Blackboard, Inc. provides an emergency/mass notification system that contacts citizens through automated phone calls. The Covina Police Department has assessed the capabilities of the current emergency/mass notification system and determined that the product provided by Nixle LLC is not only more cost effective, but also is better suited to their operations environment and introduces social media modules that Blackboard does not provide. The emergency notification system is also required to immediately notify water service customers in the event of a water emergency and is an important part of transforming the Public Works Department communications strategy to keep citizens informed of developments in the community. If this item is approved, there will be an overlap of systems to ensure that emergency communications remain viable as the new system is developed and staff is trained. It is expected that the full transition to Nixle will occur by May 2015.

RELEVANCE TO THE STRATEGIC PLAN

This item is directly relevant to the City's Strategic Plan's Goal of providing efficient, visible and responsive public safety.

EXHIBITS

- A. Blackboard six month invoice and Nixle annual invoice
- B. Nixle Service Level Agreement

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

EXHIBIT A:

Blackboard Inc.
 850 Massachusetts
 Ave NW
 8TH Floor
 Washington DC 20001
 P +1.202.463.4860
 F +1.818.450.0425
 blackboard.com



August 27, 2014

Client Contact Information	Send Purchase Order (if required to pay invoice) to:
CITY OF COVINA 125 E. COLLEGE STREET COVINA, CA 917232199 626-384-5400 Client ID: 315830	Blackboard, Inc. 650 Massachusetts Ave., NW, 6 th Floor Washington, DC 20001 201-318-2619 (eFax) Federal ID # 2081178

Renewal Quote: December 1, 2014 – May 30, 2015

Production Description	Term	Price
Connect Service	18,012 Recipients x \$2.00	\$18,012.00
	Annual Support fee	\$0
Total Due		\$18,012.00

The pricing listed here is based on your contract with Blackboard, Inc. and is provided to facilitate generation of purchase orders. An invoice will be issued for payment. This quote is valid for 30 days from date of issue.

If you are able to pay your invoice without a Purchase Order, please respond to Faith Knight at Faith.Knight@blackboard.com with an affirmative response on your renewal and the renewal will be processed and invoiced.



Quote Name Covina Police Department 360 Quote Number 2014-1086
 Bill To Name Covina Police Department, CA Created Date 10/16/2014
 Billing Address 444 N. Citrus Ave. Expiration Date 12/25/2014
 Covina, CA 91723
 US

Contact Name David Foster Prepared By Travis Scott
 Phone (826) 384-5665 Phone 1.877.649.5362 x215
 Email dfoster@covinaca.gov E-mail travis.scott@nixle.com

Product	Product Description	Quantity	Total Price
Nixle Connect	Nixle's entry level product, featuring unlimited text, email & web notifications.	1.00	\$0.00
Nixle Engage	All features of Nixle Connect, plus unlimited publishers, social media integration, advanced geographic targeting, scheduled messaging.	1.00	\$0.00
Nixle 360	Nixle's full featured product, including emergency voice messaging.	1.00	\$14,795.00
Voice Messaging	Send emergency voice messages to landline phones and public group members.	1.00	\$0.00
Tip Watch	Receive public anonymous tips via keyword, web form, and in response to sent text notifications.	1.00	\$0.00
Internal Messaging	Two-way, internal notification via text & email for private groups.	1.00	\$0.00
IPAWS	Initiate a message to FEMA's IPAWS network. Requires FEMA authorization.	1.00	\$0.00
Polygon Targeting	Custom geographic targeting using a new or saved map based polygon.	1.00	\$0.00
NWS Rebroadcasting	Customizable, automatic rebroadcasts of NWS advisories through Nixle.	1.00	\$0.00
Premium Support	Priority access to Nixle's support 24-7.	1.00	\$0.00
Provisioning & Setup	One time account set up and provisioning cost.	1.00	\$1,000.00

Contract Length Annual
 Payment Term Annual Grand Total \$15,795.00

Authorization To Purchase

Name _____ Title _____

Signature _____ Date _____

EXHIBIT B:



NIXLE LLC SERVICE LEVEL AGREEMENT

This Service Agreement ("Agreement") is entered into by and between Nixle, LLC ("Nixle"), _____ ("Customer"), on _____, 2014 (the "Effective Date"). Nixle and Customer are each hereinafter sometimes referred to as a "Party" and collectively, the "Parties."

THE PARTIES AGREE TO THE FOLLOWING TERMS AND CONDITIONS GOVERNING THE USE OF NIXLE'S SERVICE:

1. SERVICE. Nixle shall provide Customer access to its proprietary interactive communication services (the "Service") subject to the terms and conditions set forth in this Agreement, the Service Level Agreement applicable to such Services in Exhibit A, and the description of Services and pricing attached hereto as Exhibit B (the "Quote"). If applicable, Nixle shall provide training and professional services in accordance with the Pricing (as defined below) set forth in the Quote. Nixle shall provide Customer with login and password information for each User (as defined below) and will configure the Service to contact the maximum number of persons or communication devices (each a "Contact") purchased by Customer as set forth in Exhibit B. Nixle may from time to time offer Customer new features, enhancements or services which, if accepted by Customer in writing, and subject to Customer's payment of any applicable additional fees, shall become part of the Services and subject to the provisions of this Agreement.

3. CUSTOMER RESPONSIBILITIES.

3.1 USERS. Customer shall in its discretion authorize certain of its employees and contractors to access the Service ("User(s)"). Each User must be bound in writing to confidentiality obligations that are no less restrictive than those set forth herein, and that are sufficient to permit Customer to fully perform its obligations under this Agreement. Customer shall cause Users to undergo initial setup and training in accordance with Exhibit B. Customer shall be responsible for (i) ensuring that Users maintain the confidentiality of all User login and password information; (ii) ensuring that Users use the Service in accordance with all applicable laws and regulations, including those relating to use of personal information; (iii) any breach of the terms of this Agreement by any User; and (iv) all communications by Users using the Service. Customer shall immediately notify Nixle if it becomes aware of any User action or omission that would constitute a breach or violation of any term of this Agreement.

3.2 CUSTOMER DATA. All electronic data Customer provides to Nixle in connection with the use of the Service ("Customer Data") shall be true, accurate, current and complete, and shall be in a form and format specified by Nixle. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. By purchasing the Service, Customer authorizes Nixle to collect, store and process Customer Data subject to the terms of this Agreement. Customer shall maintain a copy of all Customer Data it provides to Nixle. If Customer or any User provides any Customer Data that is untrue, inaccurate, outdated or incomplete, Customer acknowledges and agrees that any communications sent utilizing the Service may not reach the Intended Contact. Customer shall prevent unauthorized access to, or use of, the Service, and shall notify Nixle promptly of any such unauthorized use. Nixle shall have no liability for any losses, damages, claims, suits or other actions arising out of or in connection with the unauthorized or improper use of the Service on Customer's hardware or networks. Customer acknowledges that Nixle is not responsible for monitoring Customer or Users' use of the Service to examine the content passing through it, and Nixle shall have no liability for such content.

4. TERM. This Agreement will commence on the Effective Date and

will continue in force until _____ (The "Term" of this agreement includes the Initial Term and any pre-paid renewal period. Further, Nixle will provide the system initially with no payment needed, but will require a letter of intent and purchase order to allow the customer to utilize the full-featured product.

5. TERMINATION-SUSPENSION. Either Party may terminate this Agreement upon the other Party's material breach of this Agreement, provided that (i) the non-breaching Party sends written notice to the breaching Party describing the breach in reasonable detail; (ii) the breaching Party does not cure the breach within thirty (30) days following its receipt of such notice (the "Notice Period"); and (iii) following the expiration of the Notice Period, the non-breaching Party sends a second written notice to the breaching Party indicating its election to terminate this Agreement.

6. PROPRIETARY RIGHTS.

6.1 GRANT OF LICENSE. Nixle hereby grants to Customer, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable right to use the Service subject to the terms and conditions of this Agreement. Upon suspension of the Service or termination of this Agreement for any reason, the foregoing license shall terminate automatically and Customer shall promptly discontinue all further use of the Service.

6.2 RESTRICTIONS. Customer shall use the Service solely for its internal business purposes and shall not make the Service available to, or use the Service for the benefit of, any third party except as expressly contemplated by this Agreement. Customer shall not: (i) copy, modify, reverse engineer, de-compile, disassemble or otherwise attempt to discover or replicate the computer source code and object code provided or used by Nixle in connection with delivery of the Service (the "Software") or create derivative works based on the Software, the Service or any portion thereof; (ii) merge any of the foregoing with any third party software or services; (iii) use any Nixle Confidential Information to create a product that competes with the Software; (iv) remove, obscure or alter any proprietary notices or labels on the Software or any portion of the Service; (v) create internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets for its own internal business purposes; (vi) use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service; or (vi) use the Service in violation of any applicable law or regulation.

6.3 RESERVATION OF RIGHTS Other than as expressly set forth in this Agreement, Nixle grants to Customer no license or other rights in or to the Service, the Software or any other proprietary technology, material or information made available to Customer through the Service or otherwise in connection with this Agreement (collectively, the "Nixle Technology"), and all such rights are hereby expressly reserved. Nixle (or its licensors where applicable) owns all rights, title and interest in and to the Service, the Software and any Nixle Technology, and all patent, copyright, trade secret and other intellectual property rights ("IP Rights") therein.

6.4 CUSTOMER DATA. As between the Parties, Customer retains sole right, title and interest in the Customer Data. Without limiting the foregoing, Nixle shall be permitted to de-identify Customer Data and aggregate it, including with other customers' data (the "De-identified Data"), for use in its legitimate business activities.

7. CONFIDENTIAL INFORMATION.

7.1 DEFINITION Protection. As used herein, "Confidential Information" means all information of a Party ("Disclosing Party")

disclosed to the other Party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes without limitation, any personally identifiable Customer Data, all Nixle Technology, and either Party's business and marketing plans, technology and technical information, product designs, reports and business processes. Confidential Information (except for Customer Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose other than performance or enforcement of this Agreement without the Disclosing Party's prior written consent, unless (but only to the extent) otherwise required by a governmental authority. Each Party agrees to protect the Confidential Information of the other Party with the same level of care that it uses to protect its own confidential information, but in no event less than a reasonable level of care.

8. WARRANTIES; DISCLAIMER.

8.1 NIXLE WARRANTY. Nixle shall use commercially reasonable efforts to provide the Services herein contemplated. To the extent the Quote provides for any professional services, Nixle shall perform them in a professional manner consistent with industry standards.

8.2 DISCLAIMER. NIXLE IS A MASS NOTIFICATION FACILITATOR. IN NO EVENT SHALL NIXLE HAVE ANY LIABILITY TO CUSTOMER, USERS, CONTACTS OR ANY THIRD PARTY FOR PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE ARISING FROM FAILURE OF THE SERVICE TO DELIVER AN ELECTRONIC COMMUNICATION, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY.

8.3 CUSTOMER REPS AND WARRANTIES. Customer represents and warrants that during use of the Service, Customer shall have primary safety and emergency response procedures including, without limitation, notifying 911 or equivalent fire, police, emergency medical and public health officials (collectively, "First Responders"). Customer represents and warrants that all communications utilizing the Service shall be sent by authorized Users, and that the collection, storage and processing of Customer Data, and the use of the Service, as provided in this Agreement, will at all times comply with (x) Customer's own policies regarding privacy and protection of personal information; and (y) all applicable laws and regulations, including those related to processing, storage, use, disclosure, security, protection and handling of Customer Data.

9. INDEMNIFICATION. Nixle shall defend, indemnify and hold Customer harmless from and against any Claim against Customer, but only to the extent it is based on a Claim that the Service directly infringes an issued patent or other IP Right in a country in which the Service is actually provided to Customer. If the Service is held to infringe and the use enjoined, Nixle shall have the option, at its own expense, to: (i) procure for Customer the right to continue using the Service; (ii) replace same with a non-infringing service; (iii) modify such Service so that it becomes non-infringing; or (iv) refund any fees paid to Nixle and terminate this Agreement without further liability. Nixle shall have no liability for any Claim arising out of (w) Customer Data or other Customer supplied content, (x) use of the Service or Software in combination with other products, equipment, software or data not supplied by Nixle, (y) any use, reproduction, or distribution of any release of the Service or Software other than the most current release made available to Customer, or (z) any modification of the Service or Software by any person other than Nixle.

10. LIMITATION OF LIABILITY. In no event shall either Party have any liability to the other Party for any loss of use, interruption of business, lost profits, costs of substitute services, or for any other indirect, special, incidental, punitive, or consequential damages, however caused, under any theory of liability, and whether or not the Party has been advised of the possibility of such damage.

Notwithstanding anything in this Agreement to the contrary, in no event shall Nixle's aggregate liability, regardless of theory of liability, exceed amounts actually paid by Customer to Nixle hereunder during the 12-month period prior to the event giving rise to such liability.

11. PRICING. As consideration for the Service and subject to the other terms of this Agreement, Customer shall pay the fees set forth in the Quote ("Pricing") included as Exhibit B.

12. PROFESSIONAL SERVICES. Nixle may provide professional services to Customer from time to time. Such professional services shall, unless otherwise expressly therein set forth, be provided in accordance with, and subject to, the provisions hereof and any additional terms related thereto which are set forth in a SOW.

13. PAYMENT TERMS; TAXES.

13.1 PAYMENT. Nixle shall invoice Customer in advance for the initial Term and annually in advance for any Renewal Term. All payments, including, without limitation, fees for professional services, shall be made within thirty (30) days from the date of a proper invoice.

13.2 TAXES. Pricing and fees for professional services do not include any local state federal or foreign taxes, levies, or duties of any nature ("Taxes"). Nixle reserves the right to request from Customer a valid tax exemption certificate authorized by the appropriate taxing authority.

14. MISCELLANEOUS.

14.1 FORCE MAJEURE; LIMITATIONS. Nixle shall not be responsible for performance under this Agreement to the extent precluded by circumstances beyond Nixle's reasonable control, including without limitation: acts of God; acts of government; acts of terror; user error, or network component failure. Final delivery of information to recipients is dependent on and is the responsibility of the designated public and private networks.

14.2 WAIVER. The failure of either Party hereto to enforce at any time any of the provisions or terms of this Agreement shall in no way be considered to be a waiver of such provisions. If any provision of this Agreement is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision shall, to the extent required, be deemed deleted and the remaining provisions shall continue in full force and effect.

14.3 ASSIGNMENT. Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned (including an assignment by operation of law), or otherwise transferred, in whole or in part, by Customer, and any such attempted assignment shall be void and of no effect without the advance written consent of Nixle.

14.6 GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of _____.

14.7 MARKETING. Customer consents to Nixle referencing Customer's name as a Nixle customer in Nixle publications, its website and in other marketing materials.

14.8 Survival. Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and applicable provisions of Exhibit A shall survive the expiration or earlier termination of this Agreement.

14.9 COUNTERPARTS. This Agreement may be executed in one or more counterparts, all of which together shall constitute one original document. A facsimile transmission or copy of the original shall be as effective and enforceable as the original.

14.10 EXPORT COMPLIANT. Neither Party shall export, directly or indirectly, any technical data acquired from the other pursuant to

this Agreement or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.

14.12 ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties on the subject matter of this

Agreement. This Agreement supersedes all prior agreements, understandings, or representations, whether oral or written, concerning the subject matter of this Agreement. Any changes or modifications of this Agreement shall be made and agreed to in writing.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date set forth below.

NIXLE, LLC

By: _____

Print Name: _____

Title: _____

Date: _____

Address:

NIXLE LLC

594 Howard St, Suite 200

San Francisco, CA 94105

877-649-5362

[CUSTOMER]: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

[CUSTOMER]'s address for Billing & Legal Notices:

Attn: _____

Telephone number: _____

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 8

STAFF SOURCE: Alex Gonzalez, Interim Director of Public Works ^{RL}
Doc Tisuthiwongse, I.T. Services Manager

ITEM TITLE: Approve Participant Agreement between Los Angeles County and the City of Covina for Countywide Address Management System

STAFF RECOMMENDATION:

Approve Participant Agreement between Los Angeles County and the City of Covina for Countywide Address Management System and authorize the Acting City Manager or his designee to execute all related documents on the City's behalf.

FISCAL IMPACT:

There is no fiscal impact to this item.

BACKGROUND:

The Countywide Address Management System (CAMS) is a regional program to provide accurate address information to all participating system users in a web-based Geographic Information System. By participating in this system, the City will provide up to date address information that will be useable in real time by numerous system users, which include emergency service providers. The City will designate existing employees to maintain the City's address database and submit the information to the County.

RELEVANCE TO THE STRATEGIC PLAN

This item is directly relevant to the City's Strategic Plan's Goal of providing efficient, visible and responsive public safety.

EXHIBITS

A. Participant Agreement

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

EXHIBIT A:

PARTICIPANT AGREEMENT
BY AND BETWEEN
THE COUNTY OF LOS ANGELES AND PARTICIPANTS
FOR
COUNTYWIDE ADDRESS MANAGEMENT SYSTEMS ("CAMS")

This Participant Agreement (Agreement) is made and entered into by and between the County of Los Angeles, a political subdivision of the State of California (County), and _____, a California city, special district, or agency. Each individual city, district, or agency is referred to herein individually as a "Participant" and collectively as the "Participants". The County and the Participants are hereinafter referred to collectively as the "Parties" and each individually as a "Party."

A. **WHEREAS**, County would like to maintain an authoritative, current, accurate, and complete address and street centerline database for use in address validation, address lookup, and other address related functions;

B. **WHEREAS**, County has developed a management system for addresses known as the "Countywide Address Management System" (CAMS);

C. **WHEREAS**, Participants issue and create addresses, and have interest in addresses both within their jurisdiction and in neighboring areas;

D. **WHEREAS**, in order to avoid the duplication of efforts and costs by the Parties, the Parties desire to pool their resources to collectively undertake CAMS; and

E. **WHEREAS**, the Parties intend to participate in CAMS upon the terms and conditions set forth herein below.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth and the mutual benefits to be derived therefrom, the Parties agree as follows:

1. Purpose

The purpose of this Agreement is to provide a vehicle for the collective participation in CAMS by the Parties. CAMS shall focus on the maintenance of addresses which may include, but are not limited to, products listed in Attachment A ("CAMS Data"). It is the intent of the Parties that CAMS Data shall be maintained under this Agreement for areas within the County of Los Angeles covered by the jurisdictions of the Parties.

2. Responsibilities of the County

- A. Provide coordination of address error collection and the CAMS system.
- B. Maintain a CAMS database to be used for storing and managing addresses;
- C. Maintain an application that will be used to update addresses in the CAMS database;
- D. Provide Participant access to CAMS Data via direct database access, extract download, or other mutually agreed upon methods.
- E. Provide regular reports to the Participants on the status of CAMS.

3. Responsibilities of the Participant

- A. Provide an address steward who will be responsible for ensuring addresses are updated within the jurisdiction of the Participant.
- B. Update addresses within CAMS or provide updated addresses from the Participant's address maintenance systems in a mutually agreed upon format;

3. The Participant has the right to:

- A. Participate in identifying and providing technical specifications for the CAMS Data (or their derivatives).
- B. Use CAMS address data to support the operations of the Participant.

6. General Terms and Conditions

- A. This Agreement shall take effect upon execution and shall remain in effect until terminated by either Party.
- F. This Agreement may be amended or modified by County only after collaboration and consultation with the Participants.
- G. Nothing in this Agreement shall be construed to give any person or entity, other than the Parties hereto, any legal or equitable right, remedy, or claim under or in respect to this Agreement or any provision herein contained. This

Agreement and the provisions hereof are intended to be and are for the sole and exclusive benefit of the Parties.

I. Any other California city, special district, or agency may become a Participant under this Agreement if such entity executes this Agreement, and

J. This Agreement may be executed in counterparts and the signed counterparts shall constitute a single instrument. The signatories to this Agreement represent that they have the authority to bind their respective party to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Participant Agreement for the Countywide Address Management System Program on the date indicated below.

PARTICIPANT ENTITY

COUNTY OF LOS ANGELES
CHIEF INFORMATION OFFICE

By: _____

By: _____
Richard Sanchez
Chief Information Officer

Date: _____

Date: _____

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 9

STAFF SOURCE: Nancy Fong, AICP,
Interim Director of Community Development



ITEM TITLE: City Council to approve the pre-qualified consultant lists for providing on-call as needed Planning services and Environmental services to the City

STAFF RECOMMENDATION

Approve the attached lists of firms for providing on-call as needed Planning services and Environmental services for 4 years and authorize the City Manager to negotiate and execute agreements not to exceed \$25,000 for on-call as needed Planning and Environmental services on behalf of the City

FISCAL IMPACT

The budget for FY 14/15 included \$35,000 for professional services (Account No. 1010-4010-51005). Of the total amount, approximately \$10,000 has been expended on project management and environmental review for small projects, leaving \$25,000 available for on-call as needed services to continue to process smaller projects such as 4 or less new residential units, conditional use permits or City initiated applications such as Zoning Code Amendments. The cost of the on-call as needed Planning and/or Environmental services for larger and more complex development projects will be paid for by the Applicant/Developer.

BACKGROUND

This request was initially scheduled for the February 3, 2015 City Council meeting. Because of the cancellation of the meeting, the request was re-scheduled for this regular meeting.

The Planning staff has used consultants to provide on-call as needed services for project management of planning applications and for the preparation of environmental documents such as Initial Study and Mitigated Negative Declaration. However, the consultant service was not used consistently by staff and therefore, did not alleviate the backlog of planning applications. As a result, there was a time delay in the development review process for many planning applications. The limited resources in the Planning Division and the continued increase in planning applications compounded this problem.

Based on the recent Community Development Department/Planning Division organizational audit conducted by Kelly Associates Management Group (Kelly Report) in July 2014, a recommendation was to continue using contract staff/consultants to address the backlog of projects and the processing of complex or large projects. In November 2014, and in response to the recommendation of the organizational audit, former City Manager Parrish directed staff to

prepare a Request for Proposal (RFP) to solicit Statement of Qualifications (SOQ) from firms that provide on-call as needed Planning services and Environmental services.

ANALYSIS

- A. Request for Proposal (RFP) and Statement of Qualification (SOQ) Selection Process.
 On November 20, 2014, staff sent a RFP to 12 consulting firms via electronic mail as well as posted the RFP on City's Website. The deadline to submit the RFP was December 11, 2014. The City received timely responses from 8 firms, and four consulting firms did not respond. Of the 8 firms, 4 requested to be on both the Planning and Environmental services. A City Staff Review Team consisting of the Community Development Director, Public Works Director, Contract City Engineer and Assistant to the City Manager reviewed the SOQ for completeness and content, and evaluated them on the following factors:
1. The firm's proposal and its completeness (20 points)
 2. The firm's relevant experience and qualifications (25 points)
 3. The firm's offer the depth and qualify of services (10 points) - Planning
 The firm's technical knowledge of CEQA. (10 points) - Environmental
 4. The firm's familiarity with locality. (10 points)-Planning
 The firm's experiences in CEQA challenge. (10 points) - Environmental
 5. The firm's credentials of staff assigned. (25 points) - Planning
 The firm's credentials of staff assigned to prepare Initial Study, Mitigated Negative Declaration or Environmental Impact report. (25 points) - Environmental
 6. The firm's professional standing and references from past clients (10 points)

The City Staff Review Team rated the proposals and the personnel based on the above criteria. The following Tables provides a summary matrix of the rankings for Planning and Environmental services.

TABLE 1 - SUMMARY PLANNING SERVICE CANDIDATES' RANKING

Candidate firms' names (in Alphabetically order)	Average Score	Rank
Civic Solutions	90	2
Dudek	85	4
LDM-MDG	72	5
Lilley Planning Group	85	4
MIG/Hogle-Ireland	91	1
PMC	87	3
Yapremian Associates	68	6

The City Staff Review Team recommended the following consultant firms to be placed on the list of approved and pre-qualified consultants for Planning services: MIG/Hogle-Ireland, Civic Solutions, PMC and Lilley Planning Group. Although Dudek has the same ranking as Lilley Planning Group, Dudek is well known for its work in CEQA and staff decided to place Dudek under the pre-qualified list of environmental services.

TABLE 2-
SUMMARY ENVIRONMENTAL SERVICE CANDIDATES' RANKING

Candidate firms' names (in Alphabetically order)	Average Score	Rank
Bon Terra-Psomas	89	3
Civic Solutions	78	6
Dudek	91	2
MIG/Hogle-Ireland	82	5
PMC	85	4
Ultra Systems	92	1

The City Staff Review Team recommended the following consultant firms to be placed on the list of approved and pre-qualified consultants for Environmental services: Ultra Systems, Dudek, Bon Terra-Psomas and PMC.

B. How does on-call as needed Planning or Environmental Services Work?

The pre-qualifying of the consultant firms for providing on-call as needed Planning services and Environmental services will streamline the time for the development review process as development projects are submitted to the City. Instead of seeking project-specific Requests for Proposal, the pre-qualified consultants will only need to address and respond to the scope of work unique to the project in question and not have to demonstrate the qualifications, since their qualifications have been established. Their response to the scope of work will have a shorter period of time. In doing so, this process reduces staff time necessary for preparation, solicitation and review of consultants' proposals, which could have easily added 6 to 8 weeks to the process before selection of the consultant.

The Community Development Director will make the decision to use consultants to process planning applications, to conduct peer review of environmental documents and technical studies submitted by the applicant, or to prepare the required environmental documents. Once a development project is received or the City initiates a planning application, the Director will issue a Task Order to the pre-qualified consultants' lists and request a bid proposal with detailed scope of work and the total cost within a two-week period. The Director will review the proposal submitted by the consultants and compare their scope of work and the cost. The selection of the consultant to work on the projects or planning applications is based on the proposal that best meets the scope of work and the lowest cost. For larger and complex development projects, the Director will inform the applicants of the selected consultant to perform the scope of work and the total cost. Upon payment of the total cost, the Director will issue a notice to the selected consultant to proceed with the work.

C. Examples of Potential Future Private Development Projects and City Projects.

1. 8.57 acres Elementary School site. The site was surplus and sold by the Charter Oak School District to a development company with a potential residential development for over 100 units that involve land use change, zone change, establishment of a Planned Community Development Overlay District, Tentative Tract Map, Site Plan Review and compliance with CEQA, which may be an EIR or at a minimum MND.
2. The City has been awarded a \$342,000 grant from a MTA's Transit Oriented Development Planning Grant Program. This grant will allow the City to amend the General Plan, the Zoning Ordinance and the Town Center Specific Plan and adopt land use regulations that are supportive of transit oriented development (TOD's) around the Covina Metrolink station areas and adjacent transit corridors. Part of the grant money will be used for compliance with the CEQA process.
3. A tremendous increase in development activities for single family and multi-family developments that are less than 12 units.
4. City Council is examining the appropriate land use for a few industrially zoned areas that might be subjected to future development.
5. The vacant Clippinger auto dealership site at Citrus and San Bernardino Road.

D. Professional Services Agreement.

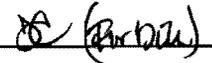
Each of the consultants on the approved pre-qualified list will have to sign the City's Professional Services Agreement. Instead of including all 8 draft Professional Services Agreements to the report, staff has attached a sample one. The amount for each Professional Services Agreement is stated not to exceed \$25,000. The City Manager is authorized to negotiate and execute an agreement not to exceed \$25,000. Again, the amount is an estimate at this time. When the contract services from a consultant has reached to \$20,000, staff will forward a request to amend the agreement for the City Council review and approval before assigning more contract work for the consultant.

RELEVANCE TO THE STRATEGIC PLAN

The use of on-call as needed consultants for Planning and Environmental services is an action program that implements the recommendations of the Kelly Report. Improving the development review process and the reduced time to process projects and applications will meet the goal of enhancing customer service.

EXHIBITS

- A. Request for Proposal issued November 20, 2014
- B. List of consultants responded and their Statements of Qualifications (On file in the office of the City Clerk)
- C. Sample of professional Services Agreement with the approved & pre-qualified consultants

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

CITY OF COVINA

REQUEST FOR QUALIFICATIONS (RFQ) TO ESTABLISH ON-CALL LISTS FOR PLANNING SERVICES AND ENVIRONMENTAL REVIEW SERVICES

I. Introduction

The Community Development Department is responsible for the administration of the City's planning, economic development, building and code enforcement activities and services. The Division of Planning Services provides advanced and current planning functions. Advanced planning includes the preparation and administration of the General Plan, Zoning Ordinance, Housing Element, Specific Plans, and governmental referral special projects. Current planning consists of the review and processing of development and land use applications including conditional use permits, site plan review, variances and Planned Community Development. Application processing includes the preparation of any required environmental review documents in accordance to California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) if applicable.

From time to time the Planning Division requires additional professional planning services, environmental review services, and technical expertise either acting as an extension of the city staff for project management or as independent technical consultant. The City is issuing this Request for Qualification (RFQ) to identify the consultant who has extensive experiences working with the public entities to provide planning services and environmental review services and to streamline the Consultant selection process for the provision of these services.

A. Creation of a Planning Services On-Call Consultant List and an Environmental Review Services On-Call Consultant list:

Statements of Qualifications (SOQ) are to be submitted by consultants in response to the RFQ. Only firms which respond to this RFQ will be considered for placement on the Planning Services On-Call List or Environmental Review Services On-Call List or both. The City will use the On-Call Consultant Lists to select qualified planning and/or environmental services consultants on an as needed basis. Once approved by the City Council, the On-Call Lists (List) will be valid for a three (3) year period.

B. Selection of Firm to Provide Planning Services and/or Environmental Review Services:

As projects are received that required additional professional planning and/or environmental review services and technical expertise, the City staff will provide a description of the project and the requested services to two firms on the List with demonstrated expertise in the services requested. Each consultant will in turn provide a scope of work and not to exceed cost estimate based upon its fixed fee schedule. Planning Services will review the materials received from each consultant to identify the consultant with the best work plan and budget (selection may not be based on the lowest budget), and will then negotiate with that consultant to develop a mutually acceptable professional services agreement. If the City and selected consultant are not able to reach an agreement, the City will consider the second highest ranked proposal.

II. Scope of Work

A. **Planning Services.** Selected consultants for Planning Services shall have demonstrated expertise in processing applications for various types of projects that include, but not limited to, residential, commercial, industrial, mixed use and transit oriented development. Some application may require a General Plan Amendment, Zone Change, establishment of a Planned Community Development Overlay, etc. Typical and examples of Planning Services tasks are:

- Initial Site Assessment
- Review project for completeness and compliance with the General Plan, Zoning Ordinances, Town Center Specific Plan (if applicable), Design Guidelines, and all applicable codes and ordinances
- Prepare letters for Director's review
- Attend Development Review Committee meeting(s) for the project
- Coordinate comments from members of the Development Review Committee
- Meet with Applicant
- Coordinate the Project Review with CEQA Review
- Prepare public hearing notices, staff reports, resolutions and conditions of approval
- Attend Planning Commission and/or City Council meetings
- File management for the projects
- Plan Check review of projects including, but not limited to, construction plans, grading plan, landscape and irrigation plans, lighting plans, etc., for compliance with conditions of approval

B. **Environmental Review Services.** Selected consultants for Environmental Review Services shall have demonstrated expertise in preparing environmental review documents as required by CEQA that include, but not limited to, one or more of the following environmental review tasks:

- Initial Site Assessment
- CEQA Initial Study to determine whether project requires EIR, MND, ND or CE
- Cultural and Historical Evaluations
- Noise Studies
- Air Quality
- Transportation Studies
- Water Quality/Storm and Wastewater Control Management
- Greenhouse Gas Emission Studies
- Environmental Mitigation Studies/Reports
- Coordinate and distribute environmental documents and notices
- Mitigation Monitoring
- Presentations at public meetings
- Coordinate the CEQA Review with Project Review

In addition to the above environmental review tasks, the consultant may be assigned to conduct a peer review of EIR, MND, or ND submitted by the project applicant for a review of completeness, adequacy and compliance with CEQA.

III. SOQ Format

The SOQ must include, at a minimum, the following information:

- A. A Brief description of the consultant's firm, including the year the firm was established, the type of organization (partnership, corporation, etc.), and a statement of the firm's qualifications for performing the subject consultant services.
- B. A summary of the qualifications and experience of each member proposed to provide planning services and/or environmental review services.
- C. A project summary list with descriptions of the proposed team's experience relative to the provision of planning services and/or environmental review services. Emphasis should be given to work done for public entities.
- D. A list of sub-consultants to be used, if any, and their relevant expertise.
- E. A list of references of relevant clients, including a contact person with their current telephone number and email address.
- F. A fixed fee schedule that includes the hourly rate and classification of all employees who would be assigned to the anticipated projects. The fee schedule must be submitted in a separate sealed envelope and will not be used as part of the evaluation criteria.
- G. Other information that will assist the City in selecting the most qualified consultant(s).

IV. SOQ Submittal Requirements

An original, two paper copies and one original copy of the fee schedule in a separate sealed envelope must be ~~posted~~ ^{mailed} by December 11, 2014. Late submittals will not be accepted. Submittal requirements send via email will not be accepted.

Submission are to be mailed or hand delivered to:

Nancy Fong, AICP
Interim Community Development Director
City of Covina
125 E. College Street
Covina, CA

V. Evaluation Procedure

City staff will review each SOQ for completeness and content. Each SOQ will be evaluated based upon the relevant qualifications and experience of the consultant. Staff may conduct interview if necessary. License status and references will be also verified. The SOQ review will focus upon the following criteria:

- A. Organization. Does the firm offer the breadth and quality of services required for the types of planning services and/or environmental review services listed in the Scope of Work? Does the firm's organizational structure show sufficient depth, capacity for it present and additional workload?
- B. Staff. Do the qualifications of key personnel to be assigned to the anticipated projects coincide with the tasks listed in the Scope of Work? Do assigned personnel have requisite education, experience and professional qualifications?
- C. Experience. Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature s described herein?

Addendum to RFQ:

A list of Potential Projects

- 8.57 acres Elementary School site. The site was surplus and sold by the Charter Oak School District to a development company with a potential residential development for over 100 units that involve land use change, zone change, establishment of a Planned Community Development Overlay District, Tentative Tract Map, Site Plan Review and compliance with CEQA, which may be an EIR or at a minimum MND.
- City has been awarded a \$342,000 grant from a MTA's Transit Oriented Development Planning Grant Program. This grant will allow the City to amend the General Plan, the Zoning Ordinance and the Town Center Specific Plan and adopt land use regulations that are supportive of transit oriented development (TOD's) around Covina Metrolink station areas and adjacent transit corridors. Part of the grant money will be used for compliance with the CEQA process.
- A tremendous increase in development activities for multi-family developments that are less than 12 units
- Anticipate 3 new developments for Starbucks café with drive-through facilities.
- City Council is examining the appropriate land use for a few industrially zoned areas that might be subjected to future development.

TO: INTERESTED VENDORS

FROM: NANCY FONG, AICP
INTERIM COMMUNITY DEVELOPMENT DIRECTOR

DATE: NOVEMBER 20, 2014

SUBJECT: **REQUEST FOR QUALIFICATIONS (RFQ) TO ESTABLISH ON-CALL
LISTS FOR PLANNING SERVICES AND ENVIRONMENTAL REVIEW
SERVICES IN THE CITY OF COVINA**



You are invited to submit your Statement of Qualifications (SOQ) and a sealed cost proposal to be considered for placement on the City of Covina's Planning Services and Environmental Review Services On-Call Lists. Submissions are due to

Nancy Fong, AICP
Interim Community Development Director
City of Covina
125 East College Street
Covina, CA 91723-2199

Postmarked or Hand Delivered by 5:00 p.m. on December 11, 2014

For further information, contact Nancy Fong at (626) 384-5458 or via email at nfong@covinaca.gov. The document may also be downloaded from the City of Covina website at: www.covinaca.gov.

Attachment:

- Request for Qualifications

**AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
MIG/HOGLE-IRELAND
AND
THE CITY OF COVINA, CALIFORNIA**

This Agreement for Consultant Services (“Agreement”) is entered into as of this _____ day of _____, 2015, between MIG/Hogle-Ireland (“Consultant”) and the City of Covina, a municipal corporation (“City”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

RECITALS

A. City has sought, the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Consultant was selected by the City to perform those services defined and described particularly in Section 2 of this Agreement.

C. Pursuant to the City of Covina’s Municipal Code, the City has authority to enter into this Consultant Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

In consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

The term of this Agreement shall be the period commencing from the effective date of this Agreement, as first shown above and shall terminate on February 17, 2019.

SECTION 2. SCOPE OF SERVICES.

Consultant agrees to perform the services set forth in Exhibit "A" "Scope of Services" and made a part of this Agreement.

SECTION 3. ADDITIONAL SERVICES.

Consultant shall be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to or outside of those set forth in this Agreement or listed in Exhibit "A" "Scope of Services," upon authorization in advance and in writing by the City Manager of City. Consultant shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Manager. Any amount exceeding a total of \$25,000 shall go to the City Council for approval, first.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in Exhibit "A" "Compensation" and made a part of this Agreement. The total compensation, including reimbursement for actual expenses, shall not exceed Twenty Five Thousand dollars (\$ 25,000), unless additional compensation is approved in writing by the City Council.

(a) Consultant shall furnish to City an **original** invoice for all work performed and expenses incurred. The invoice shall detail charges by the following categories: 1. Daily labor per hourly basis and, if applicable, 2. travel, materials, equipment, supplies, and sub-consultant contracts. Sub-consultant charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

(b) Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's invoice or be subject to a late charge of 3% of the amount owed.

(c) Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City. City shall reject work by a timely written

explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, sections 16 and 17, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warrants related to Standard of Performance and found in Section 9 of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

(a) Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of services pursuant to this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Any and all such documents or records shall be maintained for three years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Consultant's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Consultant's business, City may, by written request, require that custody of such documents or records be given to the City and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 8. STATUS OF CONSULTANT.

(a) Consultant is and shall at all times remain an independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warranties related to Standard of Performance shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 11. PREVAILING WAGE LAWS

It is the understanding of City and Consultant that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13. UNAUTHORIZED ALIENS.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

SECTION 14. CONFLICTS OF INTEREST.

(a) Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Consultant agrees to at

all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(c) City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the scope of work under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16. INDEMNIFICATION.

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity Agreements with provisions identical to those set forth here in this section from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

(d) The provisions of this section do not apply to claims occurring as a result of City's sole negligence or willful acts or omissions.

SECTION 17. INSURANCE.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "B" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Consultant agrees to provide City with copies of required policies upon request.

SECTION 18. ASSIGNMENT.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. City acknowledges, however, that Consultant, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 19. CONTINUITY OF PERSONNEL.

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

SECTION 20. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

(b) Consultant may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Consultant or City, all property belonging exclusively to City which is in Consultant's possession shall be returned to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in Section 4 of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 of this Agreement.

SECTION 21. DEFAULT.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the

default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 22. EXCUSABLE DELAYS.

Consultant shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit "A" "Scope of Services," shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 24. NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To Consultant: MIG/Hogle-Ireland

To City: City of Covina
 Attn: Community Development Director;
 or his/her designee
 125 E. College Street
 Covina CA 91723

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder.

SECTION 26. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 27. MODIFICATION OF AGREEMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Manager. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 28. WAIVER.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 29. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 31. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other Agreements, whether oral or written, made by any party, which are not embodied herein shall be valid and binding. No amendment to this Agreement shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 32. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY OF COVINA, a California municipal corporation

By: _____ Date: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM

By: _____ Date: _____
City Attorney

CONSULTANT

By: _____ Date: _____
(Name)

EXHIBIT "A"
SCOPE OF SERVICES

The Selected consultant for Planning Services shall have demonstrated expertise in processing applications for various types of projects that include, but not limited to, residential, commercial, industrial, mixed use and transit oriented development. Some application may require a General Plan Amendment, Zone Change, establishment of a Planned Community Development Overlay, etc. Typical and examples of Planning Services tasks are:

- Initial Site Assessment
- Review project for completeness and compliance with the General Plan, Zoning Ordinances, Town Center Specific Plan (if applicable), Design Guidelines, and all applicable codes and ordinances
- Prepare letters for Director's review
- Attend Development Review Committee meeting(s) for the project
- Coordinate comments from members of the Development Review Committee
- Meet with Applicant
- Coordinate the Project Review with CEQA Review
- Prepare public hearing notices, staff reports, resolutions and conditions of approval
- Attend Planning Commission and/or City Council meetings
- File management for the projects
- Plan Check review of projects including, but not limited to, construction plans, grading plan, landscape and irrigation plans, lighting plans, etc., for compliance with conditions of approval

**AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
DUDEK AND
THE CITY OF COVINA, CALIFORNIA**

This Agreement for Consultant Services (“Agreement”) is entered into as of this _____ day of _____, 2015, between Dudek (“Consultant”) and the City of Covina, a municipal corporation (“City”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

RECITALS

A. City has sought, the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Consultant was selected by the City to perform those services defined and described particularly in Section 2 of this Agreement.

C. Pursuant to the City of Covina’s Municipal Code, the City has authority to enter into this Consultant Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

In consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

The term of this Agreement shall be the period commencing from the effective date of this Agreement, as first shown above and shall terminate on February 17, 2019.

SECTION 2. SCOPE OF SERVICES.

Consultant agrees to perform the services set forth in Exhibit "A" "Scope of Services" and made a part of this Agreement.

SECTION 3. ADDITIONAL SERVICES.

Consultant shall be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to or outside of those set forth in this Agreement or listed in Exhibit "A" "Scope of Services," upon authorization in advance and in writing by the City Manager of City. Consultant shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Manager. Any amount exceeding a total of \$25,000 shall go to the City Council for approval, first.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in Exhibit "A" "Compensation" and made a part of this Agreement. The total compensation, including reimbursement for actual expenses, shall not exceed Twenty Five Thousand dollars (\$ 25,000), unless additional compensation is approved in writing by the City Council.

(a) Consultant shall furnish to City an **original** invoice for all work performed and expenses incurred. The invoice shall detail charges by the following categories: 1. Daily labor per hourly basis and, if applicable, 2. travel, materials, equipment, supplies, and sub-consultant contracts. Sub-consultant charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

(b) Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's invoice or be subject to a late charge of 3% of the amount owed.

(c) Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City. City shall reject work by a timely written

explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, sections 16 and 17, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warrants related to Standard of Performance and found in Section 9 of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

(a) Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of services pursuant to this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Any and all such documents or records shall be maintained for three years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Consultant's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Consultant's business, City may, by written request, require that custody of such documents or records be given to the City and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 8. STATUS OF CONSULTANT.

(a) Consultant is and shall at all times remain an independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warranties related to Standard of Performance shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 11. PREVAILING WAGE LAWS

It is the understanding of City and Consultant that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13. UNAUTHORIZED ALIENS.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

SECTION 14. CONFLICTS OF INTEREST.

(a) Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Consultant agrees to at

all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(c) City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the scope of work under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16. INDEMNIFICATION.

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity Agreements with provisions identical to those set forth here in this section from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

(d) The provisions of this section do not apply to claims occurring as a result of City's sole negligence or willful acts or omissions.

SECTION 17. INSURANCE.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "B" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Consultant agrees to provide City with copies of required policies upon request.

SECTION 18. ASSIGNMENT.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. City acknowledges, however, that Consultant, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 19. CONTINUITY OF PERSONNEL.

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

SECTION 20. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

(b) Consultant may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Consultant or City, all property belonging exclusively to City which is in Consultant's possession shall be returned to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in Section 4 of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 of this Agreement.

SECTION 21. DEFAULT.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the

default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 22. EXCUSABLE DELAYS.

Consultant shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit "A" "Scope of Services," shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 24. NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To Consultant: Dudek

To City: City of Covina
Attn: Community Development Director;
or his/her designee
125 E. College Street
Covina CA 91723

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder.

SECTION 26. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 27. MODIFICATION OF AGREEMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Manager. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 28. WAIVER.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 29. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 31. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other Agreements, whether oral or written, made by any party, which are not embodied herein shall be valid and binding. No amendment to this Agreement shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 32. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY OF COVINA, a California municipal corporation

By: _____ Date: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM

By: _____ Date: _____
City Attorney

CONSULTANT

By: _____ Date: _____
(Name)

EXHIBIT "A"
SCOPE OF SERVICES

The Selected consultant for Environmental Review Services shall have demonstrated expertise in preparing environmental review documents as required by CEQA that include, but not limited to, one or more of the following environmental review tasks:

- Initial Site Assessment
- CEQA Initial Study to determine whether project requires EIR, MND, ND or CE
- Cultural and Historical Evaluations
- Noise Studies
- Air Quality
- Transportation Studies
- Water Quality/Storm and Wastewater Control Management
- Greenhouse Gas Emission Studies
- Environmental Mitigation Studies/Reports
- Coordinate and distribute environmental documents and notices
- Mitigation Monitoring
- Presentations at public meetings
- Coordinate the CEQA Review with Project Review

In addition to the above environmental review tasks, the consultant may be assigned to conduct a peer review of EIR, MND, or ND submitted by the project applicant for a review of completeness, adequacy and compliance with CEQA.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 10

STAFF SOURCE: Alex Gonzalez, Interim Public Works Director ^{AG}
Amy Hall-McGrade, Parks & Recreation and Library Services Director
Vivian Castro, Environmental Services Manager

ITEM TITLE: Temporary License and Right of Entry Agreement with MWH Americas Inc. for Geotechnical Evaluation of Kahler Russell Park

STAFF RECOMMENDATION:

Authorize the Acting City Manager, or his designee, to sign the Right of Entry Agreement with MWH Americas Inc., to perform a geotechnical evaluation of Kahler Russell Park.

FISCAL FUND IMPACT:

This item does not have a fiscal impact as costs for the proposed work have already been paid to the Contractor via Los Angeles County per the agreement approved by City Council on September 3, 2013 and budgeted in the Fiscal Year 2013-14 Environmental Services Fund (6200-5550-51005).

BACKGROUND:

The Los Angeles Regional Water Quality Control Board (Regional Board) adopted a new Municipal Separate Storm Sewer System (MS4) storm water permit that went into effect on December 28, 2012. Prior to the effective date of the Permit, the City petitioned the State Water Resources Control Board (State Board) challenging portions of the permit. However, on November 22, 2014 the State Board issued a Draft Order on the Petition generally upholding those provisions being challenged by the City, as well as provisions challenged by other co-permittees and stakeholder groups. The City submitted written comments to the State Board on the Draft Order on January 21, 2015, but the Permit remains in effect as adopted by the Regional Board, requiring the City to proceed with the permit as drafted until further notice.

Unlike previous permits, the new MS4 Permit encourages the 86 permittees to collaborate with one another in the development of planning strategies and projects to achieve compliance. The MS4 permit allows for Permittees to prepare Enhanced Watershed Management Programs (EWMPs) to achieve compliance with stormwater quality objectives. The EWMP is a planning document prepared in collaboration with other permittees to address the group's stormwater issues on a watershed basis.

The three MS4 Permit compliance alternatives were presented to the City Council on June 4, 2013, with a recommendation to notify the Regional Board of the City's intent to develop an

EWMP collaboratively with other Upper San Gabriel River permittees. Council authorized staff to proceed with said notification. On June 27, 2013, the City of Covina submitted a letter to the Regional Board stating the City's intent to collaborate and form a watershed group with the LACFCD, the County of Los Angeles, and the Cities of Baldwin Park, Glendora, Industry, and La Puente in the development of an EWMP and a Coordinated Integrated Monitoring Plan (CIMP) for portions of the San Gabriel River Watershed.

On September 3, 2013 the City Council authorized the City to enter into a Memorandum of Understanding (MOU) with the other members of the watershed group in order to begin development of the compliance programs. The EWMP group then proceeded to hire a Consultant, MWH Americas, Inc. (Consultant), to prepare and deliver the plans and agreed to contribute funds to LA County, who contracted with the Consultant for the preparation of the Plans. Once requirement of the EWMP Plan is that the group develops a series of projects to achieve the water quality objectives required in the permit for its individual watershed.

Since that time the Consultant and staff from the EWMP member jurisdictions have been working to develop draft EWMP and CIMP plans for submission to the Regional Board. One of the requirements of the EWMP compliance option is the identification of regional projects that retain all runoff from the 85th percentile, 24-hour storm event (approximately one inch a day) for tributary drainage area.

In order to determine the feasibility of constructing such a regional project at Kahler Russell Park, it is necessary to assess whether the soil at the site meets the project infiltration requirements. Ninyo & Moore, a sub subcontractor to MWH Americas, Inc. will be conducting said soil testing at Kahler Russell as well as the other potential regional project sites in the EWMP area.

Exhibit A specifies the conditions under which the Consultant and its subcontractor are authorized to conduct the geotechnical sampling at the site so as to protect the City and its facility.

RELEVANCE TO THE STRATEGIC PLAN:

This item is not directly responsive to any specific objective in the Strategic Plan.

EXHIBITS:

- A. Right of Entry Agreement with MWH Americas, Inc.

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

TEMPORARY LICENSE AND RIGHT OF ENTRY AGREEMENT
(City of Covina – Kahler Russell Park)

This Temporary License and Right of Entry Agreement (“Agreement”) is made and entered into this Seventeenth day of February, 2015 by and between the City of Covina, a California municipal corporation (“City”), and MWH, a California Corporation (“Licensee”). City is the legal owner of Assessor’s Parcel Number 8428-015-902, which is identified in Exhibit “A”, attached hereto and incorporated herein by reference, and which is commonly referred to as Kahler Russell Park (the “Property”), with a street address of 735 N Glendora Avenue, Covina, CA 91724.b

1. **Scope**. City hereby grants to Licensee, its employees, agents and subcontractors, a temporary and non-exclusive license and right to enter upon and over the Property for the sole purpose of **performing geotechnical evaluation of the Property in furtherance of the Upper San Gabriel River Enhanced Watershed Management Program**, as set forth in Exhibit “B”, attached hereto and incorporated herein by reference (the “Project”) and for no other purpose. Licensee shall be solely responsible for all costs and expenses of Project activities as contemplated in this Agreement.

2. **No Interest in Land Granted**. Nothing herein shall be deemed to grant to Licensee any fee interest, leasehold, or other possessory interest in the Property, or any portion thereof, beyond the rights set forth herein.

3. **Term**. This Agreement shall be effective upon the date specified above when both parties have executed this Agreement and shall terminate at midnight on the date of **April 15, 2015**, unless earlier terminated as set forth in this Agreement.

4. **Conditions for Entry Onto Property**. The Property shall be entered upon by Licensee solely for the Project and for no other purpose. Such entry shall not unreasonably interfere with City’s use of the Property. All existing improvements located on the Property are to be protected in place, unless otherwise agreed to by the City. Licensee shall be subject to the following terms and conditions:

a. City makes no representation, covenant, warranty or promise that the Property is fit for any particular use, including the use for which this Agreement is granted and Licensee is not relying on any such representation, covenant, warranty or promise and accepts the Property in its “as is” condition.

b. Licensee shall conduct the Project in compliance with all applicable federal, state and local laws.

c. At the completion of the Project, Licensee will backfill all borings with native soils and bentonite to the preexisting surface elevation of the Property prior to this Agreement. Efforts will be taken to minimize disturbance to all grass and other landscaping.

d. Licensee shall not permit to be placed against the Property, or any part thereof, any design professionals’, mechanics’, materialmen’s, contractors’ or subcontractors’ liens with

regard to Licensee's actions on the Property. Licensee agrees to hold City harmless for any loss or expense, including reasonable attorneys' fees and costs, arising from any such liens which might be filed against the Property.

5. **Notice:** Prior to entering the Property Licensee shall provide City with twenty-four (24) hours advanced written notice at the address below.

DIG ALERT: Prior to commencing any potholing activities, Licensee shall notify Underground Service Alert [Dig-Alert, (8-1-1)], as required for the work to be performed, obtaining an inquiry identification number.

6. **Termination.** This Agreement may be terminated by either party for or without cause upon ten (10) days' written notice to the other party, or immediately by the City if it is determined that the actions of Licensee are illegal, unsafe or a liability to the City.

7. **Access to the Property.** Licensee shall keep access to the Property open at all times and shall not, to the greatest extent feasible, interfere with City's activities in any way.

8. **Indemnification.** Except as to sole negligence or willful misconduct of the City, Licensee agrees to indemnify, defend (with counsel approved by City) and hold the City, its officers, officials, agents and employees, harmless from and against all claims, damages, losses, liability, cost or expense, including defense costs and attorney's fees, including, but not limited to, bodily injury, death, personal injury or property damage, which arise out of or are in any way connected with the performance of the Project under this Agreement by Licensee or any of Licensee's employees, agents or subcontractors. Licensee shall also be responsible for any attorneys' fees the City incurs in the event the City has to file any action in connection with this Agreement. The parties expressly agree that any payment, attorney's fees, costs or expenses City incurs or makes to or on behalf of an injured employee under the City's workers' compensation insurance coverage shall be included as a loss, expense or cost for the purpose of this Section, and that this Section shall survive the expiration or early termination of this Agreement.

9. **Workers' Compensation Insurance.** By executing this Agreement, Licensee certifies that it is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing the Project. Licensee shall carry the insurance or provide for self-insurance required by California law to protect Licensee from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Licensee shall file with City either (1) a certificate of insurance showing that such insurance is in effect, or that they are self-insured for such coverage, or (2) a certified statement that they have no employees, and acknowledging that if they do employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days prior written notice before modification or cancellation thereof.

10. **Other Insurance.** Prior to City's execution of this Agreement, Licensee shall provide to City a certificate of insurance showing that Licensee is insured or self-insured for commercial general liability insurance, automobile liability insurance and professional liability insurance with minimum limits as follows: commercial general liability insurance policies shall cover both

bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$2,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000, unless otherwise approved or reduced by the City in writing. Licensee's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$2,000,000 per occurrence unless otherwise approved or reduced by City in writing. Licensee shall procure and maintain, and require its subcontractors to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim, and shall be endorsed to include contractual liability.

These minimum amounts of coverage shall not constitute any limitation or cap on Licensee's indemnification obligations under Section 8 hereof.

Prior to City's execution of this Agreement, copies of insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with City and shall include City and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City, and its officers, employees and agents, shall be added as additional insureds under this policy and each policy shall contain a waiver of the insurer's right of subrogation against the City.

The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

The policies shall apply on a primary non-contributing basis in relation to any insurance or self-insurance available or applicable to the City.

The City, its officers, officials, employees and agents make no representation that the types or limits of insurance specified to be carried by Licensee pursuant to this Agreement are adequate to protect Licensee. If Licensee believes that any required insurance coverage is inadequate, it shall obtain such additional insurance coverage, as it deem adequate, at its sole expense.

11. **Hazardous Substances Indemnity.** Licensee expressly agrees to and shall indemnify, defend (with counsel approved by City), release and hold the City, its officers, officials, agents and employees harmless from and against any liability, loss, fine, penalty, fee, charge, lien, judgment, damage, entry, claim, cause of action, suit, proceeding (whether legal or administrative), remediation, response, removal, or clean-up and all costs and expenses associated therewith, and all other costs and expenses (including, but not limited to, attorneys' fees, expert fees, and court costs) in any way related to the disposal, treatment, transportation, manufacture, or use of any Hazardous Substances on, in, under, or about the Property by Licensee, or its respective officers, directors, agents, subcontractors, servants, employees or developers, or by any other third party acting under the control or request of Licensee, other than

the City and its respective officers, agents, servants, employees or developers. This indemnity, defense and hold harmless obligation shall survive the expiration or termination of this Agreement.

12. **Hazardous Substances Defined.** Hazardous Substances shall mean any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to CERCLA, 42 U.S.C. § 9601, et seq.; The Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. (“RCRA”); The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; The Clean Water Act, 33 U.S.C. § 1251, et seq.; The Hazardous Waste Control Act, California Health and Safety Code (“H. & S.C.”) § 25100, et seq.; the Hazardous Substance Account Act, H. & S.C. § 25330, et seq.; the California Safe Drinking Water and Toxic Enforcement Act, H. & S.C. § 25249.5, et seq.; Underground Storage of Hazardous Substances H.& S.C. § 25280, et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act (H & S.C. § 25300 et seq.); The Hazardous Waste Management Act, H. & S.C. §§ 25170.1, et seq.; Hazardous Materials Response Plans and Inventory H. & S.C. § 25001 et seq.; or the Porter-Cologne Water Quality Control Act, Water Code § 13000, et seq., all as amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum, crude oil or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) polychlorinated biphenyls (PCB), radon gas, urea-formaldehyde, asbestos and lead.

13. **Venue and Attorneys' Fees.** Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Los Angeles, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event either party shall bring suit to enforce any term of this Agreement or to recover any damage for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof, including reasonable attorneys' fees, to be set by the court in such action.

14. **Notices.** Service of any notices, bills, invoices or other documents required or permitted under this Agreement shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows.

City
City of Covina
Attn: Vivian Castro
125 E. College Street
Covina, California 91723

LICENSEE

Attn: _____

_____, California _____

15. **Assignment.** It is mutually understood and agreed that this Agreement is personal to Licensee and shall be binding upon Licensee and its successors and may not be assigned or transferred in any way without the prior written consent of the City. Any transfer shall be void and of no effect.

16. **Authority.** The individuals executing this Agreement each represent and warrant that they have the legal power, right and actual authority to bind their respective entities to the terms and conditions hereof and thereof.

17. **Severability.** Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this Agreement shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant, and/or restriction, of this Agreement and the remainder of the Agreement shall continue in full force and effect.

CITY:

CITY OF COVINA, a California municipal corporation

By: _____
City Manager

Attest:

City Clerk

Approved as to Form:

City Attorney

LICENSEE:

By: _____

Its: _____

EXHIBIT "A"
(Description of the Property)

Parcel number 8428-015-902 , commonly known as Kahler Russell Park at 735 N Glendora Avenue in Covina CA 91724.

Site Address	735 N GLENDORA AVE
City/Zip	COVINA, CA 91724
AIN/APN	8428-015-902
Primary Owner	COVINA CITY
Secondary Owner	
Existing Land Use (County)	Govt. Owned
Description	Public Park
Census Tract	4037.222
Tract Number	206750002
General Plan Land Use	P
General Plan Description	P - Park
Zone	R-1-7500
Zone Description	R-1-7500 - Residential Zone (Single Family - 7,500 sq. ft. minimum lot size)
Mailing Name	COVINA CITY
Mailing Address	735 N GLENDORA AVE
Mailing City/Zip	COVINA CA 91724
Lot Area Sq. Ft.	710233
Living Area	0.0
Acres	16
Bedrooms	0.0
Bathrooms	0.0
Buildings	0.0
Legal Description	PART OF LOT 2 BERLIN HEIGHTS TRACT LOT EX OF STS COM AT NW COR OF LOT 2 BERLIN HEIGHTS TR TH S ON W LINE OF SD LOT TO N LINE OF TR NO 20675 TH E ON SD N LINE AND E PROLONGATION THEREOF TO W LINE OF TR NO 20678 TH N AND FOLLOWING
Land Use Update	
TRA	02643
Latitude	34.092800286
Longitude	-117.866911974

EXHIBIT "B"
(Description of the Project)

[See attached NINYO & MOORE proposal]

June 6, 2013
Proposal No. P-21085

Mr. Victor Harris
MWH
618 Michillinda Avenue, Suite 200
Arcadia, CA 91007

Subject: Proposal for Geotechnical Services
San Gabriel River Watershed Management
San Gabriel Valley, Los Angeles County, California

Dear Mr. Harris:

In accordance with your request, we are submitting this proposal for geotechnical services on the Los Angeles County Department of Public Works' San Gabriel River Watershed Management project. The current scope of services involves providing feasibility-level geotechnical support for preparation of the Enhanced Watershed Management Program (EWMP) Plan.

In preparing this proposal, we reviewed the draft *Development of an Enhanced Watershed Management Program for San Gabriel River Watershed Management Group – Scope of Work*, dated April 17, 2013. Section 8.2.4 of the Scope of Work calls for conducting "a preliminary soils analysis and testing of proposed regional project sites to support feasibility analysis" on up to eight (8) sites". No specific information on the location, size and planned facilities at each site was available. Per our discussion on June 6, 2013, we understand that one (1) boring at one site up to 100 feet in depth is desired.

.SCOPE OF SERVICES

Our proposed scope of services is presented below:

- Review of in-house geologic maps, geotechnical reports, seismic hazard reports, aerial photographs and topographic maps. We would also review plans, as-built plans, utility plans, geotechnical reports, other data provided by the client relative to each site.
- Performance of a site reconnaissance by our geologist or engineer to observe and document the existing site conditions. Proposed boring locations will also be marked out for utility clearance.
- Acquisition of County of Los Angeles boring permits if required.

- Clearance of utilities by contacting Underground Service Alert (USA) at least 48-hours prior to field exploration.
- Performing subsurface field exploration that includes the drilling, sampling and logging of one (1) boring at one of the sites. The boring will be drilled to depths up to 100 feet (or refusal) using a truck-mounted drill rig equipped with hollow-stem augers and will be logged by our geologist or engineer. The water table level will be measured at the time of drilling. Bulk and in-place drive samples will be returned to our in-house laboratory for testing. The boring will be backfilled in accordance with the County of Los Angeles requirements.
- Laboratory testing of samples obtained from the borings will include moisture content, dry density, gradation (sieve size), direct shear strength, permeability, and soil corrosivity (pH, resistivity, chloride content and sulfate content).
- Compilation and analysis of data obtained. Slope stability analysis of the berm slopes also will be performed as appropriate.
- Preparation of a feasibility-level geotechnical evaluation report presenting our findings, conclusions and recommendations for conceptual design of the project and for inclusion in the environmental document. The report will address potential geologic and seismic hazards, liquefaction, geologic units, groundwater table depth, soil permeability, slope stability, settlement, earthwork and grading, foundations, soil corrosivity and concrete cement type. Our report will be signed by a California certified Engineering Geologist (CEG) and registered Geotechnical Engineer (GE). An electronic PDF copy of our report will be provided. Up to five hard copies of the report will be provided upon request.

ASSUMPTIONS

In preparation of the cost estimate, we have made the following assumptions:

- Permission for access to the site will be provided for our equipment and personnel. We also assume the site is drive-up accessible with conventional two-wheel drive vehicles.
- Existing documents such as site plans, utility maps, geotechnical reports, and other pertinent data regarding the site will be provided by the client or County for our review, if available.
- Except for County of Los Angeles boring permit, no other permits are required for conducting our field exploration.
- The water table will be measured in the boring during drilling, if encountered. However, if an accurate evaluation of the water table level is desired, the installation of a monitoring well in the boring is recommended. The installation of a monitoring well would be performed on a time-and-materials basis as an additional service in accordance with our fee schedule upon request.
- Environmental services (e.g. Phase I and II site assessments, analytical testing, etc.) are not included in the scope of services. These services can be provided as an additional service upon request.

COST AND SCHEDULE

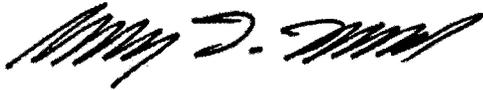
Our scope of services described above will be charged on a time-and-materials basis in accordance with our fee schedule (attached). Performance of the scope of services is estimated to be approximately \$16,000 (sixteen thousand dollars) per site.

We are prepared to begin our geotechnical services for the project immediately upon receiving your authorization to proceed. The acquisition of boring permits, utility clearance and scheduling of equipment and personnel will take two weeks per site. Our field exploration will take approximately 1-1/2 days per site. Our report will be submitted approximately four weeks after completion of the field exploration at each site. Separate reports for each site can be provided,

We are prepared to begin work immediately upon receiving your written authorization to proceed. We appreciate the opportunity to provide this proposal for our services and look forward to working with you on the project.

Respectfully submitted,

NINYO & MOORE



Gregory T. Farrand, P.G., C.E.G.
Principal Geologist

GTF/cdb

Distribution: (1) Addressee

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 11

STAFF SOURCE: Alex Gonzalez, Interim Public Works Director ^{MS}
Vivian Castro, Environmental Services Manager

ITEM TITLE: Professional Services Agreement with John L Hunter and Associates

STAFF RECOMMENDATION:

Authorize the City Manager to sign the Professional Services Agreement with John L. Hunter and Associates, for environmental and engineering services as specified in Exhibit A, to support the City's implementation of stormwater and wastewater laws and regulations.

FISCAL FUND IMPACT:

\$42,000 is budgeted in the fiscal year 2014-15 Environmental Services Fund (6200-5550-51005) for this contract. Contract costs for subsequent fiscal years will be included in requested budgets.

BACKGROUND:

The Los Angeles Regional Water Quality Control Board adopted a new Municipal Separate Storm Sewer System (MS4) storm water permit that went into effect on December 28, 2012. The permit changed to allow some customization based on the needs of the particular watersheds. The watershed approach is complex and requires the City to engage in data gathering, modeling, pollutant monitoring and plan development activities that are new to the City. In addition, the six "core" programs that were in the previous MS4 permit were expanded significantly in the new permit and require substantial staff and fiscal resources.

In order to satisfy the varied, specialized and time-sensitive activities mandated by the MS4 Permit (as well as, other laws, regulations and programs pertaining to wastewater and potable water), Environmental Services distributed a Request for Qualifications for Environmental Consulting and Engineering Services for Stormwater and/or Wastewater and/or Potable Water on May 13, 2014. Pursuant to Covina Municipal Code Section 2.20.175 the purchase of professional and specialized services may be procured based on the demonstrated competence and experience of the service provider.

Eleven consultants responded by the May 29, 2014 deadline. Nine submitted qualifications related to stormwater environmental consulting and engineering services. Public Works staff reviewed the submissions and selected five consultants to provide the numerous services required for stormwater compliance. John L. Hunter and Associates was one of those selected, in part for their expertise with various NPDES programs and wastewater programs. Furthermore, John L. Hunter and Associates has successfully reviewed development and redevelop project plans for

compliance with MS4 permit requirements since 2008. Tasks will be assigned to John L. Hunter and Associates on an as-needed basis and will be compensated on an hourly basis as specified in Exhibit A.

The Professional Services Agreement with John L. Hunter and Associates is for five years, with three optional one-year extensions. The annual not-to-exceed contract amount is \$125,000, with the actual contract amount for any specific fiscal year not to exceed the amount budgeted for that fiscal year as approved by the City Council.

RELEVANCE TO THE STRATEGIC PLAN:

While not directly responsive to any specific objective in the Strategic Plan, this item will support the City's efforts to enhance the financial well-being of the City of Covina by supporting Staff's effort to ensure compliance with mandated federal and state regulations.

EXHIBITS:

- A. Professional Services Agreement with John L. Hunter and Associates.

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

**CITY OF COVINA
PROFESSIONAL SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Agreement is made and entered into this SEVENTEENTH day of FEBRUARY, 2015 by and between the City of Covina, a municipal corporation organized under the laws of the State of California with its principal place of business at 125 East College Street, Covina, California 91723 (“City”) and, JOHN L. HUNTER & ASSOCIATES, INC., A CALIFORNIA CORPORATION with its principal place of business at 6131 ORANGETHORPE AVE., SUITE 300, BUENA PARK CALIFORNIA 90620 (“Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

2. RECITALS.

Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing ENVIRONMENTAL CONSULTING SERVICES RELATED TO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAMS AND THE INDUSTRIAL WASTE/FATS, OILS, AND GREASE CONTROL PROGRAM (IWP/FOG) IN ACCORDANCE WITH STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR SANITARY SEWER SYSTEMS to public clients, is licensed in the State of California, and is familiar with the plans of City.

2.1 Project

City desires to engage Consultant to render such services TO SUPPORT THE CITY’S IMPLEMENTATION OF NPDES AND IWP/FOG PROGRAMS IN COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS (“Project”) as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional ENVIRONMENTAL AND ENGINEERING consulting services necessary for the Project (“Services”). The Services are more particularly described in EXHIBIT “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules, and regulations.

3.1.2 Term. The term of this Agreement shall be from FEBRUARY 17, 2015 TO JUNE 30, 2020, WITH THE OPTION OF THREE ONE (1) YEAR EXTENSIONS, unless earlier terminated by mutual, written consent. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in EXHIBIT "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: JOHN HUNTER, JILLIAN BRICKEY, MIKKI KLEE, CAMERON MC CULLOUGH, JOSE RODRIGUEZ, AND ANNE CHANG.

3.2.5 City's Representative. The City hereby designates VIVIAN CASTRO, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates JILLIAN BRICKEY, or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Period of Performance and Liquidated Damages. Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be separately agreed upon in writing by the City and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Project Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall provide evidence of staff training on an annual basis as required by the Los Angeles County MS4 permit. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10.1 Employment Eligibility; Consultant. By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Consultant. Consultant also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Consultant shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Consultant shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Consultant's compliance with the requirements provided for in Section 3.2.10 or any of its sub-sections.

3.2.10.2 Employment Eligibility; Subcontractors, Consultants, Sub-subcontractors and Subconsultants. To the same extent and under the same conditions as Consultant, Consultant shall require all of its subcontractors, consultants, sub-subcontractors and subconsultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Consultant verifies that they are a duly authorized officer of Consultant, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Consultant or its subcontractors, consultants, sub-subcontractors or subconsultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Consultant under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.2.10.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.5 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.6 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Although the SCAQMD and CARB limits and requirements are more broad, Consultant shall specifically be aware of their application to "portable equipment", which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel-powered engine. Consultant shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.2.11 Insurance.

3.2.11.1 Time for Compliance. Consultant shall not commence Services under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this Section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this Section.

3.2.11.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subconsultants. Consultant shall also require all of its subconsultants to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

A. Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto);

and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. The policy shall not contain any exclusion contrary to the Agreement, including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 29); or (2) cross liability for claims or suits by one insured against another.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$1,000,000 MINIMUM; per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 MINIMUM; per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 MINIMUM; per accident for bodily injury or disease. Defense costs shall be paid in addition to the limits.

C. Notices; Cancellation or Reduction of Coverage. At least fifteen (15) days prior to the expiration of any such policy, evidence showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or materially reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by the City will be promptly reimbursed by Consultant or the City may withhold amounts sufficient to pay premium from Consultant payments. In the alternative, the City may suspend or terminate this Agreement.

3.2.11.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 MINIMUM; per claim, and shall be endorsed to include contractual liability. Defense costs shall be paid in addition to the limits.

3.2.11.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

A. General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) using ISO CG forms 20 10 and 20 37, or endorsements providing the exact same coverage, the City of Covina, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Services or ongoing and completed operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) using ISO form 20 01, or endorsements providing the exact same coverage, the insurance coverage

shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any excess insurance shall contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the City, before the City's own primary insurance or self-insurance shall be called upon to protect it as a named insured. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.4(A).

B. Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.4(B).

C. Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

D. All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days (10 days for nonpayment of premium) prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officials, officers, employees, agents and volunteers, or any other additional insureds.

3.2.11.5 Separation of Insureds; No Special Limitations; Waiver of Subrogation. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers. All policies shall waive any right of subrogation of the insurer against the City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, or shall

specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.2.11.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Consultant shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents, and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

3.2.11.7 Subconsultant Insurance Requirements. Consultant shall not allow any subconsultants to commence work on any subcontract relating to the work under the Agreement until they have provided evidence satisfactory to the City that they have secured all insurance required under this Section. If requested by Consultant, the City may approve different scopes or minimum limits of insurance for particular subconsultants. The Consultant and the City shall be named as additional insureds on all subconsultants' policies of Commercial General Liability using ISO form 20 38, or coverage at least as broad.

3.2.11.8 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.2.11.9 Verification of Coverage. Consultant shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.11.10 Reporting of Claims. Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.2.12 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices,

equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed ONE HUNDRED AND TWENTY- FIVE THOUSAND DOLLARS PER FISCAL YEAR (\$125,000.00 PER FISCAL YEAR) without written approval of the CITY MANAGER. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in

effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

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

3.5 Ownership of Materials and Confidentiality.

3.5.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all

Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to City upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.5.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the City.

3.5.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.5.4 Indemnification. Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of Covina the Documents & Data, including any method, process, product, or concept specified or depicted.

3.5.5 Confidentiality. All Documents & Data, either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. All Documents & Data shall not, without the prior written consent of City, be used or reproduced by Consultant for any purposes other than the performance of the Services. Consultant shall not disclose, cause or facilitate the disclosure of the Documents & Data to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant that is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.6 General Provisions.

3.6.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant:

JOHN L. HUNTER & ASSOCIATES, INC.
6131 ORANGETHORPE AVE., SUITE 300
BUENA PARK, CALIFORNIA 90620
ATTN: JILLIAN BRICKEY,
ENVIRONMENTAL PROGRAMS MANAGER

City:

CITY OF COVINA
125 E. COLLEGE STREET
COVINA, CA 91723
ATTN: VIVIAN CASTRO, PUBLIC WORKS DEPARTMENT

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

3.6.2 Indemnification.

3.6.2.1 Scope of Indemnity. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

3.6.2.2 Additional Indemnity Obligations. Consultant shall defend, with Counsel of City's choosing and at Consultant's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.6.2.1 that may be brought or instituted against City or its directors, officials, officers, employees, volunteers and agents. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, volunteers and agents as part of any such

claim, suit, action or other proceeding. Consultant shall also reimburse City for the cost of any settlement paid by City or its directors, officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Consultant shall reimburse City and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents, or volunteers.

3.6.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Los Angeles County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

3.6.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6.5 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.6.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.6.7 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.6.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for

convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.6.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.6.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.6.11 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.6.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.6.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6.13 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.6.15 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.6.16 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.6.17 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6.18 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF COVINA
AND JOHN L. HUNTER AND ASSOCIATES**

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the SEVENTEENTH day of FEBRUARY, 2015.

CITY OF COVINA

By: _____

City Manager

Attest: _____

Senior Deputy City Clerk

JOHN L. HUNTER AND ASSOCIATES, INC.

By: _____

(Signature)

Name *(Print)*

Title *(Print)*

By: _____

(Signature)

Name *(Print)*

Title *(Print)*

EXHIBIT “A” SCOPE OF SERVICES

As assigned by the City, the Consultant will provide support services to City staff in the development, implementation and enforcement of programs and projects for compliance with the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4), Industrial, and Construction permits.

Tasks will be assigned by the City via written communications (including email) to the Consultant. John L. Hunter and Associates shall provide services to the City of Covina on an as-needed basis per the Schedule in Exhibit B and Compensation in Exhibit C. Work may include, but is not limited to, the following:

- **Program Assistance** – Assess compliance provisions, oversee implementation of NPDES program elements, train client staff, serve as client contact and represent client in program audits.
- **Plan Development** – Prepare documents such as TMDL Implementation Plans, Stormwater Quality/Watershed Management Programs and Stormwater Pollution Prevention Plans.
- **Permitting** – Administer environmental permitting programs (such as Industrial Waste Permit [IWP] /Fats, Oils and Grease [FOG] Control).
- **Plan Review** – Review new development plans to address risks and assess regulatory compliance related to the sanitary and storm drain systems (e.g. Standard Urban Stormwater Management Plans [SUSMPs]/Low Impact Development [LID] Plans, Green Streets Plans and Water Quality Management Plans [WQMPs]).
- **Public Outreach** – Produce and deliver relevant outreach materials to facilities and hold educational events. Develop and implement outreach campaigns to public and private sectors.
- **Site inspections** – Conduct field Best Management Practice (BMP) inspections at industrial, commercial, municipal and construction sites.
- **Facilities Inspections** – Inspect facilities for compliance with Industrial Waste Permit and/or as required by NPDES permits, such as IWP inspections and inspection of SUSMP and LID treatment systems and post-construction BMP implementation and maintenance.
- **Investigations and Enforcement** – Investigation potential violations and issue enforcement actions to noncompliant facilities.
- **Reporting** – Prepare Annual Reports for NPDES MS4, Construction, Industrial and Individual Permits.
- **Training** – Conduct program training for municipal staff, consultants, contractors and businesses.
- **Studies** – Conduct studies and prepare subsequent reports such as determining Trash Daily Generation Rates (DGRs) for Trash TMDLs.
- **Municipal Program** – Audit, develop, implement and prepare Public Agency Activities as mandated by state law.

For plan review services, Consultant shall provide the City with a written list of items needing clarification, corrections, or change to achieve conformance with all laws, regulations, and codes. This document shall be in electronic format.

For plan review services, Consultant shall review plans delivered via electronic submission/format, generally in PDF. Only final plans, forms or documents requiring wet signatures ready to be stamped for approval will be provided in hard copy format to the Consultant. Three sets of such hard copy documents will be submitted to the consultant.

For plan review, inspection, enforcement services and other services, Consultant shall input required information about Best Management Practices (BMPs) in private development, redevelopment, and City projects into the City’s internet-based tracking software/ database.

All forms, documents, reports and materials created by the consultant become the property of the City. Documents, forms, templates, outreach, or informational materials shall be provided in original editable files to the City.

Consultant may be required to attend meetings on the City's behalf at the request of the Environmental Services Manager and attend City Council meetings.

**EXHIBIT “B”
SCHEDULE OF SERVICES**

Consultant shall perform tasks as assigned by the City within specified timelines and in accordance with timelines specified in the various NPDES permits, including the Los Angeles County MS4 Permit, and federal and state water and wastewater laws and regulations.

Consultant shall provide written comments for initial and subsequent review to the City no later than 10 working days from date of receipt of the plans. Consultant shall provide comments for expedited plan reviews within 3 working days of receipt of the plans at the cost specified in Exhibit C.

EXHIBIT "C"
COMPENSATION

STANDARD RATE SCHEDULE

Principal/Staff Engineer	\$145/hr
Environmental Compliance Manager/Project Engineer/Public Outreach Manager	\$125/hr
Expedited Plan Review - Staff Engineer/ Project Engineer	\$190/hr
Environmental Compliance Specialist	\$95/hr
Environmental Outreach Specialist	\$85/hr
Laborer (OSHA 40hr certified)	\$65/hr
State Certified Laboratory Analysis	Cost + 5%
Legal Consultation, Court Appearances/Document review, etc.	\$250/hr
Inspection – Industrial/commercial facilities	\$125/inspection
Inspection – State Industrial General Permit Facilities	\$250/inspection
Inspection – Combined CBR/FOG	\$150/inspection
Inspection – FOG only	\$115/inspection
Subcontracted equipment	Cost + 5%

Prices effective as of January 1, 2014

JLHA does not add charges for overhead items such as administrative copying or mileage in and around the city.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 12

STAFF SOURCE: Alex Gonzalez, Interim Director of Public Works *AG*
Amy Hall-McGrade, Parks & Recreation and Library Services Director
Vivian Castro, Environmental Services Manager

ITEM TITLE: Approve Option Agreement to Purchase Equipment from Covina Rents

STAFF RECOMMENDATION:

Approve Option Agreement with Covina Rents for the future purchase of used equipment and small tools and authorize the Acting City Manager or his designee to execute all related documents on the City's behalf.

FISCAL IMPACT:

Funds for the purchase of these items are not budgeted and will be included in a future budget adjustment, as the equipment and tools will not be procured until early summer 2015. The purchase costs will be supported by the following funds: FY 14-15 and FY 15-16 savings in the Equipment fund (7010), Water fund (6010), and General Fund Parks and Recreation (1010). A future staff report will be presented to Council, once the final list of items has been identified and a pricing structure has been established.

BACKGROUND:

The City of Covina Public Works and Parks and Recreation Departments regularly purchase materials and rent equipment from Covina Rents.

The owners of Covina Rents will be retiring and plan to close their business in the summer of 2015. The business owners have informed staff of their intention to close the business and have provided the City the option of purchasing the equipment and small tools that it currently obtains from Covina Rents before these items are offered to other potential customers. The City would inspect and take possession of the equipment and small tools once Covina Rents closes, to ensure that the business remains viable until the owners complete their transition to retirement.

Public Works and Parks and Recreation staff visited the facility and inspected the used equipment and small tools available for sale. Staff found the equipment to be in excellent condition and being offered to the City at a significantly discounted rate. Exhibit A lists the equipment that City staff is interested in purchasing, the sale price at which Covina Rents is offering the equipment to the City, the price of the equipment if purchased new, and the price of the equipment in used condition being sold by other vendors/sellers.

Based on these price comparisons and the frequent rental of these items from Covina Rents, staff believes that purchasing this equipment will save the City money over time and will guarantee: 1) a

reliable, conveniently located local source of concrete at a wholesale price which can later be leveraged as a future revenue stream for the City, 2) the ability of parks and recreation staff to service street banners and replace lighting in City parks with the acquisition of an aerial lift and a scissor lift which have been requested in the FY 15-16 budget, 3) provide the water crew a needed trailer at a fraction of the cost of a new trailer which is requested in the FY 15-16 budget, and 4) provide parks and recreation staff access to the equipment and small tools that they currently rent, with a future savings of rental costs and the cost of labor that will be necessary to travel to the next nearest rental facility in Pomona when Covina Rents ceases operations.

As one example of the opportunity available with this agreement, Public Works would like to purchase a concrete batch plant and eight two-yard concrete trailers that are being offered at a total cost of \$20,000. Similar equipment would cost \$90,000 to purchase new and is being sold elsewhere in used condition at \$75,000. The Streets and Water Divisions currently purchase batches of concrete from Covina Rents for close to \$200 a yard. By purchasing and installing the concrete batch plant at the City Yard, City staff will have access to concrete at an estimated cost of less than \$50 a yard. With proper staffing of the concrete batch plant (0.50 full-time equivalent positions funded by the future sale of concrete) and appropriate placement in the City Yard, the City could introduce a new revenue stream with the installation of the concrete batch plant and also address limited funding for sidewalk, curb and gutter repairs by performing concrete repairs in house with existing staff at a wholesale cost for materials.

Other neighboring cities, utilities and school districts currently purchase concrete batches from Covina Rents, which is one of the last such remaining suppliers in the San Gabriel Valley. The next closest batch plant facilities are in Pasadena and Ontario, however the required travel time and distance compromise the quality of the material and require incurring additional expenditures in staff travel times.

RELEVANCE TO THE STRATEGIC PLAN

This item is directly relevant to the City's Strategic Plan enhancing the financial well-being of the City by: securing low-cost equipment and small tools that would otherwise have to be purchased by the City at a higher cost, and providing a possible future revenue source to the City.

EXHIBITS

- A. Equipment List and Purchase Price
- B. Agreement with Covina Rents for the Purchase of Used Equipment and Small Tools
- C. Equipment Price Comparison Documentation

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

EXHIBIT A

REQUESTED DEPARTMENT	USED PRICE - COVINA RENTS	PRICE FOR NEW ITEM	USED PRICE - OTHER SELLERS
PARKS & REC.			
EAGLE 40H LIFT	\$10,000.00	\$41,000.00	\$35,000.00
20 FT SCISSOR LIFT	\$6,000.00	\$23,000.00	\$8,100.00
STREETS			
CONCRETE BATCH PLANT (WITH 8 TWO-YARD CONCRETE TRAILERS)	\$20,000.00	\$90,000.00	\$75,000.00
WATER			
UTILITY TRAILER	\$1,000.00	15,000.00	7,000.00
PARKS & REC.			
100 FT. SNAKE	\$1,000.00	\$4,500.00	\$1,330.00
7,500 WATT GENERATOR	\$300.00	\$999.00	\$400.00
TRIPOD WORK STATION	\$100.00	\$332.00	\$275.00
ELECTRIC JACK HAMMER	\$600.00	\$4,000.00	\$800.00
MITER SAW	\$300.00	\$649.99	\$495.98
SMALL POWER WASHER	\$600.00	\$5,000.00	\$2,629.00
ROTARY HAMMER	\$400.00	\$850.00	\$800.00

EXHIBIT B

EQUIPMENT AND SMALL TOOL PURCHASE OPTION AGREEMENT

This Equipment and Small Tool Purchase Option Agreement (the "Agreement") is entered into this February 17, 2015 ("Effective Date"), by and between COVINA RENTS, INC., a California corporation ("Owner") and the City of Covina, California, a California municipal corporation ("City"), with reference to the following recitals, terms and conditions. Owner and City may be referred to herein individually as "Party" and collectively as "Parties".

RECITALS

A. WHEREAS, Owner is the owner of certain equipment and related small tools that Owner uses for its business, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Equipment").

B. WHEREAS, Owner intends to cease its business operations within approximately the next year, at which point its Equipment will be surplus property.

C. WHEREAS, Owner desires to grant to City, and City desires to obtain from Owner, an option to purchase the Equipment after Owner ceases its business operations, on the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1

GRANT OF OPTION/TERM

1.1 Grant of Option/Term. Owner hereby grants to City an exclusive option to purchase the Equipment on the terms and conditions set forth herein (the "Option"). The Option shall become effective upon the Effective Date and shall expire ninety (90) calendar days following City's receipt of Owner's Business Cessation Notice (defined below). The Parties may extend the Term of the Option by mutual written amendment.

1.2 Owner's Business Cessation Notice. Not later than thirty (30) calendar days after Owner ceases its business operations and its use of the Equipment, Owner shall sent a written notice of this fact to City ("Business Cessation Notice").

ARTICLE 2

OPTION FEE

2.1 In exchange for the Option, City shall pay to Owner a non-refundable fee in the amount of ten dollars (\$10.00) and other good and valuable consideration ("Option Fee"). City shall pay the Option Fee to City not later than fifteen (15) days after the Effective Date.

ARTICLE 3

PURCHASE PRICE

3.1 If City exercises the Option, the purchase price for the Equipment shall be FOURTY THOUSAND THREE HUNDRED DOLLARS (\$40,300.00) ("Purchase Price"). City shall pay the Purchase Price to Owner in a single payment drawn upon immediately available funds at the time it takes possession of the Equipment as set forth below.

ARTICLE 4

MAINTENANCE OF EQUIPMENT/LIENS

4.1 Maintenance of Equipment. Throughout the term of this Agreement, Owner shall use reasonable means to maintain the Equipment in good working order, reasonable wear and tear excepted. Owner shall not be required to take extraordinary measures to maintain or repair the Equipment to the extent such maintenance or repair would not be cost effective for Owner.

4.2 Representation – No Liens, Etc. on Equipment Owner represents and warrants that the Equipment is free and clear of all levies, claims, liens and encumbrances. In addition, Owner has no knowledge of any existing or threatened actions, suits or legal proceedings affecting the Equipment or any portion thereof.

4.3 Keep Equipment Free of Liens, Etc. Owner shall keep the Equipment free from levies, legal process, taxes and other claims, liens, and encumbrances. Upon request by City, Owner shall provide proof of payment of any taxes or other charges, the nonpayment of which may result in a lien on the Equipment. Owner shall promptly notify City in writing of any liens or other encumbrances on the Equipment of which Owner has knowledge. Owner will promptly pay or satisfy any obligation from which any lien, claim or encumbrance arises. If City exercises the Option, Owner shall pay all costs and expenses, including attorneys' fees that City may incur in defending or removing any prohibited claim, lien, or encumbrance caused by Owner on the Equipment, which City may deduct from the Purchase Price.

ARTICLE 5

TITLE/OWNERSHIP TO EQUIPMENT

5.1 Owner hereby represents that it has good and marketable title to the Equipment and has the authority under the laws of the State of California to convey such title to City upon City's exercise of the Option and completion of the purchase.

5.2 Notwithstanding City's exercise of the Option as set forth herein, all risk of loss to the Equipment shall remain with Owner until the sale of the Equipment is complete, at which point the risk of loss shall pass entirely to City.

ARTICLE 6

CITY'S RIGHT OF INSPECTION/EXERCISE OF OPTION TO PURCHASE

6.1 Inspection by City. At any time after City's receipt of Owner's Business Cessation Notice, City will have the right (but not the obligation) to inspect the Equipment and to enter upon Owner's premises where the Equipment is located, during Owner's regular business hours and upon forty-eight (48) hours prior notice to Owner. City shall conduct such inspection as it deems necessary to properly assess the functioning of the Equipment, including seeing the Equipment in operation. City shall not disassemble or remove any parts from the Equipment without the consent of Owner. City may conduct follow-up inspections of the Equipment, if necessary.

6.2 City's Release upon Unsuccessful Inspection. If City, in City's sole and absolute discretion, determines that the Equipment is no longer desirable, suitable, needed, wanted, or otherwise satisfactory, City shall give written notice to Owner of such fact. Upon Owner's receipt of such notice, this Agreement shall immediately terminate and City shall have no obligation to purchase the Equipment.

6.3 City's Exercise of Option upon Successful Inspection. If City, in its sole and absolute discretion, determines that the Equipment is desirable, suitable, needed, wanted, or otherwise satisfactory for its purposes, City shall give to Owner, no later than the expiration date set forth in Section 1.1 above, written notice that it is exercising the Option ("Option Exercise Notice"), and City shall purchase of the Equipment as set forth in Article 7 below.

6.4 No Alteration, Modification or Operation of Equipment After Inspection. After Owner's receipt of City's Option Exercise Notice, Owner shall make no alterations or modifications to the Equipment nor shall it operate the Equipment without the prior written consent of City. If the Equipment is altered, modified or operated in violation of this Section 6.4, City reserves the right to revoke its Option Exercise Notice and not to purchase the Equipment. Prior to completing the purchase, City may conduct a final inspection of the Equipment to verify compliance with this Section.

ARTICLE 7

PURCHASE OF EQUIPMENT

7.1 Purchase of Equipment/Delivery of Possession. If City exercises the Option, City shall purchase the Equipment from Owner for the Purchase Price not later than THIRTY (30) days after Owner's receipt of City's Option Exercise Notice. Title to the Equipment shall be conveyed by Owner to City by a title certificate, bill of sale, or other transfer document acceptable to City. The Parties shall agree to a date when Owner shall deliver possession of the Equipment to City, at which time, City shall deliver to Owner the Purchase Price as a single payment drawn upon immediately available funds. City shall be responsible for transport of the Equipment from Owner's premises, at no cost to Owner. Owner shall reasonably cooperate with City in registering, recording or filing any documents evidencing the transfer of title from Owner to City.

7.2 Taxes. In addition to the Purchase Price, City shall be responsible for the payment of any and all sales taxes, use taxes, personal property taxes, or other taxes or governmental charges assessed in connection with the purchase of the Equipment.

7.3 Other Charges. Upon the purchase of the Equipment, City shall be responsible for any and all fees or expenses for licenses, registrations, permits, and other certificates that may be required for the lawful transfer or ownership and operation of the Equipment.

7.4 Taxes Paid by Owner. If a government authority requires that any tax, assessment, fee, or other charge as set forth in Sections 7.2 and 7.3 above, be paid directly by Owner, City will, to the greatest extent allowed under the law, pay that tax, assessment, fee or other charge on Owner's behalf directly to the government authority. Should the government authority not accept payment from anyone other than Owner, City shall promptly reimburse Owner the amount of any such tax, assessment, fee or other charge.

7.5 Equipment Purchased in "As Is" Condition. City expressly acknowledges that it is purchasing the Equipment hereunder on an "AS-IS, WHERE-IS" basis, without warranty as to condition or function, except that (i) there shall be no liens or encumbrances on the Equipment created by or for the benefit of Owner and (ii) there shall be no alteration, modification or operation of the Equipment without City's consent after the inspection.

ARTICLE 8

NOTICES

8.1 Service of Notice. Except as otherwise expressly provided by law, any notices or other communications required or permitted by this Agreement or by law to be served on or given to either Party by the other Party shall be in writing and will be deemed duly served or given when personally delivered to the Party to whom they are directed, or in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, addressed to City or to Owner at the address set forth on the signature page to this Agreement. Notice shall be deemed received immediately upon personal delivery or three (3) calendar days after its deposit

in the United States mail. Either Party may change its address by giving written notice of the change to the other Party in the manner provided in this Paragraph.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 This Agreement may not be amended, modified, or altered in any manner except in writing signed by both parties.

9.2 This Agreement and the attached Exhibits constitute the entire agreement between the parties with regard to the Equipment. No agreements, representations, or warranties other than those specifically set forth in this Agreement or in the attached Exhibits will be binding on any of the parties unless set forth in writing and signed by both parties.

9.3 This Agreement will be governed by the laws of California.

9.4 This Agreement and each of its provisions will be binding on and will inure to the benefit of the respective heirs, executors, administrators, trustees, successors and assigns of the parties to this Agreement. Nothing contained in this paragraph will be construed as a consent by Owner or City to any assignment of this Agreement or any interest in this Agreement.

9.5 Time is of the essence in this Agreement.

9.6 The prevailing party in any judicial or non-judicial action or arbitration brought to enforce the terms of this Agreement shall be entitled to an award of its expenses incurred in connection therewith, including reasonable attorneys' fees and costs.

9.7 If any provision of this Agreement or the application of any of its provisions to any party or circumstance is held invalid or unenforceable, the remainder of this Agreement, and the application of those provisions to the other parties or circumstances, will remain valid and in full force and effect.

Signatures on Next Page

Dated: _____

OWNER:

COVINA RENTS, INC.,
a California corporation

By: _____
Edward Starnes
Title _____

By: _____
Name _____
Title _____

Address of Owner:
457 E San Bernardino Road
Covina, CA 91723

CITY:

City of Covina, California,
a California municipal corporation

By: _____
Kim Raney, Acting City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

LIST AND DESCRIPTION OF EQUIPMENT

REQUESTED DEPARTMENT	USED PRICE - COVINA RENTS	PRICE FOR NEW ITEM	USED PRICE - OTHER SELLERS
PARKS & REC.			
EAGLE 40H LIFT	\$10,000.00	\$41,000.00	\$35,000.00
20 FT SCISSOR LIFT	\$6,000.00	\$23,000.00	\$8,100.00
STREETS			
CONCRETE BATCH PLANT (WITH 8 TWO-YARD CONCRETE TRAILERS)	\$20,000.00	\$90,000.00	\$75,000.00
WATER			
UTILITY TRAILER	\$1,000.00	15,000.00	7,000.00
PARKS & REC.			
100 FT. SNAKE	\$1000.00	\$4,500.00	\$1330.00
7,500 WATT GENERATOR	\$300.00	\$999.00	\$400.00
TRIPOD WORK STATION	\$100.00	\$332.00	\$275.00
ELECTRIC JACK HAMMER	\$600.00	\$4,000.00	\$800.00
MITER SAW	\$300.00	\$649.99	\$495.98
SMALL POWER WASHER	\$600.00	\$5,000.00	\$2,629.00
ROTARY HAMMER	\$400.00	\$850.00	\$800.00

EXHIBIT C

Power Tools \ Drain Cleaning Equipment \ Drain Cleaning Machines \ Drain Cleaning Machine,115VAC

Email Print

Back to Product Family



Drain Cleaning Machine, 115VAC

RIDGID

Your Price

\$3,255.20 / each

List Price

\$4,069.00 / each

Deliver one time only

Auto-Reorder Every 1 Month

1 Add to Cart

+Add to list

Check Availability

New

★★★★★ | 5.0 of 5 | 1 review | Write a Review | Ask & Answer

Item # 4CX14

Mfr. Model # 60052

UNSPSC # 47121808

Catalog Page # 1186

Shipping Weight 287.0 lbs.

Country of Origin USA | Country of Origin is subject to change.

How can we improve our Product Images?

Compare

\$4500
~~XXXXXXXXXX~~

Technical Specs

Item	Drain Cleaning Machine	Voltage	115VAC
Drain Line I.D. Size Range	3" to 10"	Hz	60
Max. Run	250 ft.	Drum Capacity	125 ft. of 3/4" or 150 ft. of 5/8" Cable
HP	4/10	Features	Audio and Visual Signals Obstruction and Reduced Drum Speed, Adjustable Handle, GFI Protected
Operating Speed	200 rpm	Includes	(4CW83) 3/4 In x 100 Ft Inner Core Cable, (1VXE7) Spear Blade Cutter, (1VXE8) Retrieving Auger, (1VXF1) 2 In, (1VXF2) 3 In Double Cutters, 4 and 6 In Double Cutter Blade Only, (1VXE9) Spiral Sawtooth Cutter, (1VXE6) 3 In P-trap Cutter, (1VKG2) 3/4 In x 2 Ft Flexible Leader, Hex Key, Pair of Gloves, Tool Box

Exhibit C, 12 Pages

Used

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All Categories



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Advanced

Back to search results | Listed in category: Business & Industrial > MRO & Industrial Supply > Pumps & Plumbing > Plumbing > Tools



Mouse over image to zoom



Have one to sell? Sell now

Ridgid K-400 Drain Cleaning Machine *USED* Local Pickup NJ

| Add to watch list

1 viewed per hour

Seller: rkatarwars (41182) 99.6% Positive feedback

Follow this seller | See other items | Visit store: FAST CASH ON THE SPOT

Item condition: Used

Price: US \$329.99

Buy It Now

Add to cart

11 watching

Add to watch list

Add to collection

30-day returns

Free local pickup

Experienced seller

Shipping: Free Local Pickup | See details

Item location: Toms River, New Jersey, United States

Ships to: Local pick-up only

Delivery: Varies

Payments: PayPal VISA MasterCard

Credit Cards processed by PayPal

PayPal CREDIT

Spend \$99+ and get 6 months to pay Apply Now | See Terms

See details

Returns: 30 days money back, buyer pays return shipping | See details

Guarantee: | See details

Get the item you ordered or get your money back. Covers your purchase price and original shipping.

People who viewed this item also viewed



USED MYTANA DRAIN CLEANING MACHINE...

\$500.00

Buy It Now Free shipping



USED MYTANA DRAIN CLEANING MACHINE...

\$500.00

Buy It Now Free shipping



SPARTAN PORTABLE 75' SNAKE SEWER...

\$599.99

Buy It Now



General E ER Sewer Pipe...

\$650.00

Buy It Now

Feedback on our suggestions

Description

Shipping and payments

Print | Report item

Seller assumes all responsibility for this listing.

Item specifics

Condition:

Brand: ridgid

Model: k-400

eBay item number: 381125667487

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Shop by category

Search...

All Categories



Search

Advanced

Back to search results | Listed in category: Home & Garden > Tools > Generators

Generac GP7500E Electric Start 7500 Watt GP Portable Generator 5943 420cc OHV

[Add to watch list](#)



Mouse over image to zoom



Have one to sell? [Sell now](#)

Seller: ombwarehouse (28457) **99.7% Positive feedback**

Follow this seller | [See other items](#) | Visit store: [OMB Warehouse](#)

Item condition: **New**

Quantity: 3 available / 3 sold

Price: **US \$999.00**

[Buy It Now](#)

[Add to cart](#)

16 watching

[Add to watch list](#)

[Add to collection](#)

Free shipping

Hassle-free returns

New condition

Shipping: **FREE Economy Shipping** | [See details](#)

Item location: [Levittown, Pennsylvania, United States](#)
Ships to: [United States](#) | [See exclusions](#)

Delivery: **Estimated between Tue, Feb. 10 and Mon, Feb. 23**

Payments: **PayPal**

Credit Cards processed by PayPal

PayPal CREDIT

12 month financing available | [Apply Now](#) | [See Terms](#)
[See details](#)

Returns: **Hassle-free returns** | [Learn more](#)
30 days money back, you pay return shipping

Guarantee: [See details](#)

Get the item you ordered or get your money back.
Covers your purchase price and original shipping.

People who viewed this item also viewed



Generac GP7500E
7500 Watt, 120/24...

\$999.00
[Buy It Now](#)



Generac GP7500E
GP Series 7,500
Watt...

\$1,059.00
[Buy It Now](#)
Free shipping



Generac GP7500E
GP Series 7,500
Watt...

\$1,202.99
[Buy It Now](#)
Free shipping



Generac E
Portable E

\$1,267.
[Buy It Now](#)
Free shipping

[Feedback on our suggestions](#)

Description

Shipping and payments

[Print](#) | [Report item](#)

Seller assumes all responsibility for this listing.

Last updated on Jan 26, 2015 16:49:19 PST [View all revisions](#)

Item specifics

Condition:

Brand:

Generac

Generator Type: **Portable**

AC Max Output:

9375 Watt

MPN:

5943-4, 5978-2, 5943-5, GP7500E

UPC:

696471059434

eBay item number: 18125575882

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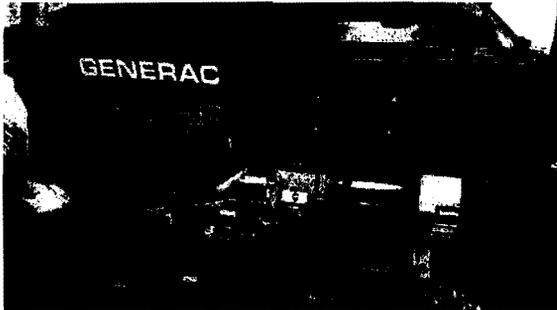
Search

Advanced

Back to search results | Listed in category: Business & Industrial > Light Equipment & Tools > Generators

Generac - GP7500E 7500 Watt Electric Start Portable Generator 5943

[Add to watch list](#)



Seller: **big_audio_apple** (525) **100% Positive feedback**

[Follow this seller](#) | [See other items](#)

Item condition: **Used**

Time left: 4d 04h Sunday, 6:18PM

Starting bid: **US \$400.00**

[0 bids]

Enter US \$400.00 or more

Place bid

[Add to watch list](#)

[Add to collection](#)

Free local pickup

100% positive feedback

Mouse over image to zoom



Have one to sell? Sell now

Shipping: **Free Local Pickup** | [See details](#)

Item location: **West Harrison, New York, United States**

Ships to: **Local pick-up only**

Delivery: **Varies**

Payments: **PayPal**

Credit Cards processed by PayPal

PayPal CREDIT

Spend \$99+ and get 6 months to pay [Apply Now](#) | [See Terms](#)

[See details](#)

Returns: **Seller does not offer returns. You are covered by the eBay Money Back Guarantee if you received an item that is not as described in the listing.**

Guarantee: [See details](#)

Get the item you ordered or get your money back. Covers your purchase price and original shipping.

People who viewed this item also viewed



Generac 15000 Watt Generator

\$200.00
0 bids



Generac - GP7500E 7500 Watt Electric...

\$375.00
0 bids



Powermate NEW WX Series 8000 Watt...

\$357.00
12 bids
Free shipping



Titan 8000 Generator

\$400.00
Buy It Now

[Feedback on our suggestions](#)

Description

Shipping and payments

[Print](#) | [Report item](#)

Seller assumes all responsibility for this listing.

Last updated on Feb 04, 2015 03:22:21 PST [View all revisions](#)

Item specifics

Condition:

Brand: **Generac**

Type: **Portable**

Model: **5943**

eBay item number: 321657678779

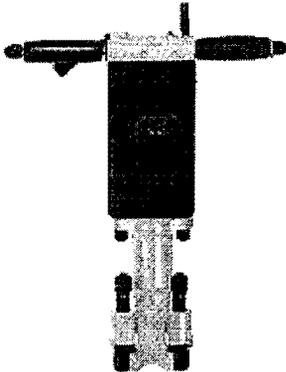
New

Pneumatics \ Pneumatic Tools \ Diggers, Paving Breakers and Jackhammers \ Air Rock Drill,2000 BPM,115.0 CFM

Email Print

View Product Family

\$4000



Air Rock Drill, 2000 BPM, 115.0 CFM

INGERSOLL-RAND

Your Price **\$3,463.68** / each
 List Price \$3,936.00 / each

Deliver one time only
 Auto-Reorder Every 1 Month

Check Availability

1 **Add to Cart**

+Add to list

Add Repair & Replacement Coverage for \$476.10 each.

Be the first to write a review | Ask & Answer

How can we improve our Product Images?

Item # 3Y698

Mfr. Model # JH40C3

UNSPSC # 27131504

Catalog Page # 3549

Shipping Weight 63.9 lbs.

Compare

Country of Origin USA | Country of Origin is subject to change.

Technical Specs

Item	Air Rock Drill	Min. Hose Size	3/4"
Shank Size	1 x 4-1/4"	Overall Length	22-1/2"
Piston Stroke	2-5/8"	Handle Type	T-Grip
Piston Bore	2-1/2"	Retainer Type	Latch
CFM @ Full Load	115.0	Hole Depth	18"
Required Pressure	90 psi	Hole Dia.	2"
Air Inlet	3/4" NPT	Features	Easily-adjustable 3-speed Throttles with Reversible Pawls

Used

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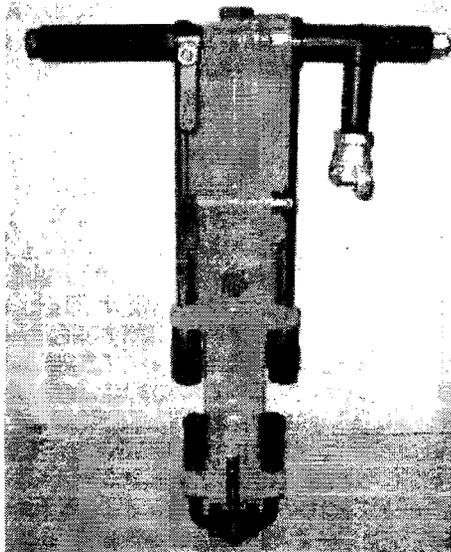
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Back to search results | Listed in category: Business & Industrial > Light Equipment & Tools > Drills & Hammerers > Rotary Hammer Drills



Click to view larger image

Have one to sell? Sell now

Pneumatic Air Rock Drill Gardner Denver S55 Rockdrill 1414

[Add to watch list](#)

Seller: [eairtool_1](#) (4446) **100% Positive feedback**

[Follow this seller](#) | [See other items](#) | [Visit store](#) | [E Airtool 1](#)

Item condition: **Seller refurbished**

"This tool has been completely rebuilt and restored to its original working condition. All tools that" ... [Read more](#)

Price: **US \$799.99**

Buy It Now

Add to cart

3 watching

[Add to watch list](#)

[Add to collection](#)

Hassle-free returns

100% positive feedback

Shipping: **\$74.93** Standard Shipping | [See details](#)

Item location: Detroit, Michigan, United States

Ships to: Worldwide

Delivery: **Estimated between Wed, Feb. 11 and Wed, Feb. 18**
Use One-day Shipping to get it by Feb. 9

Payments: **PayPal** VISA

Credit Cards processed by PayPal

PayPal CREDIT

12 month financing available [Apply Now](#) | [See Terms](#)

[See details](#)

Returns: **Hassle-free returns** | [Learn more](#)

14 days money back or item exchange, you pay return shipping. 20% restocking fee may apply

Guarantee:

[See details](#)

Get the item you ordered or get your money back.
Covers your purchase price and original shipping.

People who viewed this item also viewed

[Feedback on our suggestions](#)



LAST ONE!
Pneumatic Air Rock Drill...
\$451.55
[Buy It Now](#)



Pneumatic Rock Drill Ingersoll Rand IR JB4...
\$724.99
[Buy It Now](#)



Pneumatic Horizontal Rock Drill Toku T118...
\$394.99
[Buy It Now](#)



Pneumatic Drill Sulliv
\$349.99
[Buy It Now](#)

[Description](#) [Shipping and payments](#)

[Print](#) | [Report item](#)

eBay item number: **400844147838**

Seller assumes all responsibility for this listing.

Item specifics

Condition: **Seller refurbished :**

Seller Notes: *"This tool has been completely rebuilt and restored to its original working condition. All tools that are rebuilt come with a 30 day warranty that begins on the day that you receive it. We always suggest that you try your tool out within the first 30 days that you receive it."*

Brand: Gardner Denver

Bit Size: 1" Hex X 4 1/4



More saving.
More doing.

Your Store: **Baldwin Park #6663**
Use My Current Location or find store

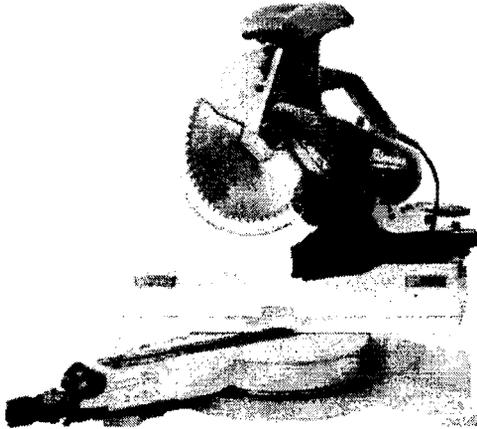
[Tool & Truck Rental](#) [Installation Services and Repair](#) [Gift Cards](#) [Help](#)

New

Milwaukee Model # 6955-20 Internet # 100645487
12 in. Sliding Dual Bevel Miter Saw

★★★★★ (86) Customer Images (4) Write a Review + Questions & Answers (21) +

\$649.99 / each



ACCESSORIES (3)

YOUR CURRENT PRODUCT



\$649.99 /each

Milwaukee 12 in. Sliding Dual Bevel Miter Saw

(86)

Item Selected



\$69.97 /each

Diablo 12 in. x 84-Tooth Trex/Composite...

(81)

Select This Item



Was 19.97
\$18.88 /each
Save 5%

General Tools Crown Moulding Cutting Jig

(10)

Select This Item



\$130.00 /each

The Home Depot 3-Year Protection Plan for...

Select This Item

1 Item(s) Selected

ADD ITEMS TO CART

PRODUCT OVERVIEW Model # 6955-20 Internet # 100645487

Milwaukee 15-Amp 12 in. Sliding Dual-Bevel Compound Mitre Saw features a powerful, 3.3 HP motor that delivers up to 3,200 RPM for making difficult cuts in hard lumber. The fine-adjust mitre angle offers a detent override to help you easily dial in precise mitre angles, while the digital mitre-angle readout allows for repeatable accuracy up to 1/10 of a degree. Constant Power technology with soft start maintains a constant cutting speed while under load and decreases startup head movement for ease of operation.

- Milwaukee 6955-20 features a 15-amp direct-drive motor delivers up to 3.3 HP for cutting in hard lumber
- 12 in. blade is durable
- Bevel cuts up to 48 degrees with stops for accurate bevel cuts
- Miter cuts 55 degrees to the left and 60 degrees to the right for versatility
- Miter-angle fine adjustment with detent override makes it simple to dial in precise miter angles
- Milwaukee 6955-20 features a Miter angle digital readout provides repeatable accuracy to 1/10 of a degree

Used
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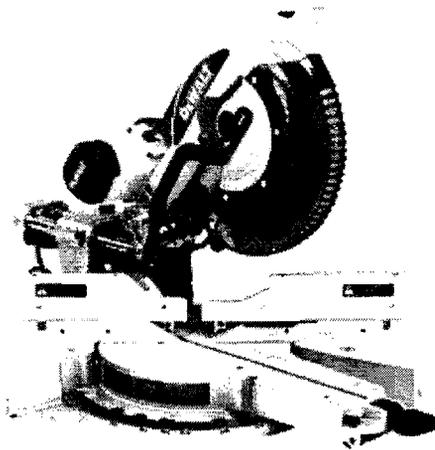


Search

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Back to search results | Listed in category: Home & Garden > Tools > Power Tools > Saws & Blades > Miter & Chop Saws

SAVE MORE WHEN YOU ADD RELATED ITEMS [See all eligible items >](#)



Click to view larger image of this item.



Have one to sell? [Sell now](#)

DEWALT 12" Double Bevel Sliding Compound Miter Saw DWS780R

Authorized Seller, Full Warranty, Money Back Guarantee

[Add to watch list](#)

1 viewed per hour

Seller: **cpo-outlets** (164365) **99.3% Positive feedback**

[Follow this seller](#) | [See other items](#) | [Visit store: CPO Outlets](#)

Item condition: **Manufacturer refurbished**

Quantity: **1** **Limited quantity available**

List price: **\$700.00**

You save: **\$214.01 (30% off)**

New: **US \$495.98**

[Buy It Now](#)

[Add to cart](#)

SquareTrade 2 yr warranty \$118.99

77 watching

[Add to watch list](#)

[Add to collection](#)

Free shipping

30% savings

60-day returns

Shipping: **FREE Standard Shipping** | [See details](#)
from Lawrenceville, Georgia, United States
Ships to: United States [See restrictions](#)

Delivery: **Estimated between Wed, Feb. 11 and Wed, Feb. 18**

Payments: **PayPal**

Credit Cards processed by PayPal

PayPal CREDIT

Spend \$499 and get 12 months financing [Apply Now](#) | [See Terms](#)
[See details](#)

Returns: **60 days money back, buyer pays return shipping** | [See details](#)

Guarantee: [See details](#)

Get the item you ordered or get your money back.
Covers your purchase price and original shipping.

SAVE MORE WHEN YOU ADD RELATED ITEMS* [See all eligible items >](#)

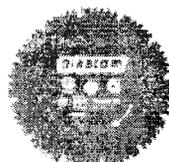
Discount will be applied in your cart when you add both the current item and any qualifying related items from cpo-outlets

Current item



DEWALT 12" Double Bevel Sliding Compound Miter Saw DWS780R

List price: **\$700.00**
Now: **\$495.98**



Diablo 12" 90 Tooth Combination Saw Blade D1260X NEW

\$89.99 (Regular price)
\$44.95*

[See all](#)

All promotional offers from cpo-outlets

Don't miss out, add items and save!

DEWALT 12" Double Bev... **\$495.98**

Subtotal: **US \$495.98**

[Add to cart](#)

*The discount displayed on related items will be subtracted from the shipping & handling fee.
Offer conditions | [Learn about pricing](#)

Tell us what you think
and we'll change ourselves to suit!

People who viewed this item also viewed

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More doing.

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Use My Current Location or find stores

Tool & Truck Rental | Installation Services and Repair | Gift Cards | Help

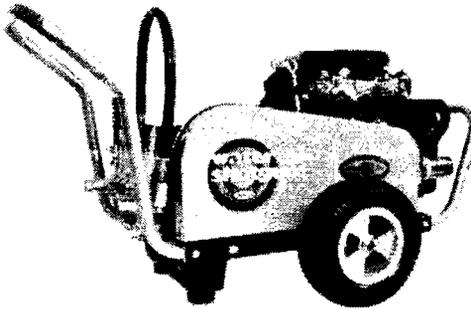
New

Simpson Model # WS5040H Internet # 100619432

Honda GX630 Water Shotgun 5000-PSI 4-GPM Belt Drive Gas Pressure Washer

★★★★★ (1) Write a Review

\$4,999.00 / each



MORE IN THIS COLLECTION FROM SIMPSON (2)

YOUR CURRENT PRODUCT



\$4999.00 / each

Simpson Honda GX630
Water Shotgun 5000-PSI...

(1)

Item Selected



\$3799.00 / each

Simpson Vanguard Water
Shotgun 4000-PSI...

Select This Item



\$2699.00 / each

Simpson Honda GX390
Water Shotgun 3500-PSI...

Select This Item

1 Item(s) Selected

ADD ITEMS TO CART

ACCESSORIES (1)

PRODUCT OVERVIEW Model # WS5040H Internet # 100619432

Created for the commercial and industrial use, the Simpson Water Shotgun Series is simple to use and designed for the heaviest of cleaning. Perfect for paint preparation, professional cleaning services, graffiti removal, industrial jobsites, and fleet maintenance. Advantages of its dual belt system include: less heat transfer between the pump and the engine, due to the fact that they are not directly connected. Its dual-belt drive system draws cool air into the pump to prevent over-heating, absorb vibration, and reduce pump fatigue. This ultimately results in greater efficiency and longer engine and pump life. Heavy duty industrial triplex plunger pump design with ceramic coated pistons and thermal relief valve for long life. Exceptionally strong welded steel frame body and pneumatic tires for mobility across most any surface. Pro-style quick connect spray wands and nozzles.

Used

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Back to search results | Listed in category: Business & Industrial > Heavy Equipment > Other

Hot Water Pressure Washer Cleaner CAM-SPRAY Ele. Start 13 H.P Honda 3500 PSI

| Add to watch list



Seller: **biker885-8430** (5469) **100% Positive feedback**

Follow this seller | See other items | Visit store: biker885-8430

Item condition: **Used**

"Works great! New Battery! Completely self-contained! Burner uses diesel."

Price **US \$2,629.00**

Buy It Now

Add to cart

Best Offer:

Make Offer

5 watching

Add to watch list

Add to collection

Mouse over image to zoom



Have one to sell? **Sell now**

Free local pickup

100% positive feedback

Best offer available

Shipping: **Free Local Pickup** | See details

Item location: **Hialeah, Florida, United States**

Ships to: **Local pick-up only**

Delivery: **Varies**

Payments: **PayPal** **VISA**

Credit Cards processed by PayPal

PayPal CREDIT

12 month financing available | Apply Now | See Terms

See details

Returns: **No returns or exchanges, contact seller with questions.**

Coverage: **This item is eligible for up to \$20,000 in Business Equipment Purchase Protection.**

People who viewed this item also viewed

Feedback on our suggestions



Mi-T-M 2000 psi Hot Water Pressure...

\$1,750.00

Buy It Now



2015 Easy Kleen Hot Water Pressure...

\$2,175.00

Buy It Now

Last one



2015 Easy Kleen Magnum Gold 4000 ..

\$2,199.00

Buy It Now



2015 Easy Magnum GOLD...

\$2,575.

Buy It Now

Description

Shipping and payments

Print | Report item

Seller assumes all responsibility for this listing.

Last updated on: Jan 27, 2015 12:00:20 PST View all revisions

Item specifics

Condition: **Used**

Seller Notes: **"Works great! New Battery! Completely self-contained! Burner uses diesel."**

Country/Region of Manufacture:

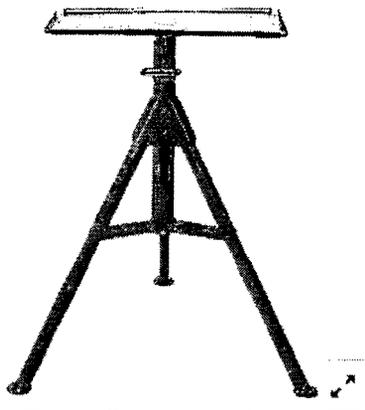
United States

eBay item number: 25179068245

New

Email

Print



Pipe Threading Machine Stand, Steel

WHEELER-REX

Price: **\$332.00** / each

Deliver one time only

[Check Availability](#)

Auto-Reorder Every **1 Month**

1 [Add to Cart](#)

[+ Add to List](#)

Add Repair & Replacement Coverage for **\$75.95** each.

[Be the first to write a review](#) | [Ask & Answer](#)

[How can we improve our Product Images?](#)

Item # **20WT07**

Mfr. Model # **841**

UNSPSC # **23171708**

[Compare](#)

Catalog Page # **N/A**

Shipping Weight **29.0 lbs.**

Country of Origin **Japan** | *Country of Origin is subject to change.*

Technical Specs

Item	Pipe Threading Machine Stand	Number of Legs	3
Stand Type	Folding	Max. Leg Spread	28"
For Use With	Mfr. No. 7991	Load Capacity	2000 lb.
Overall Width	28"	Folded Dimensions	10" W x 20" D x 39" H
Overall Depth	28"	Material	Steel
Overall Height	35-1/2"		

Used

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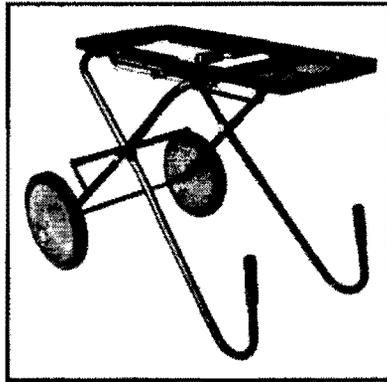
All Categories



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ROTHENBERGER 00230 Pipe Threading Machine Stand, For 4ERZ4

Item condition: **Seller refurbished**

| Add to watch list

"I picked this up at an Auction Please see all pictures. Looks like one of the legs was slightly bent"
... Read more

Seller information

12122000 (271)

100% Positive feedback

Follow this seller

Visit store: Rocket Remarketing

See other items

Price **US \$275.00**

Buy It Now

Add to cart

Add to watch list

Add to collection

Free shipping

100% positive feedback

Click to view larger image and other views.



Have one to sell? [Sell now](#)

Shipping: **FREE Economy Shipping** | See details
Item location: Kansas City, Missouri, United States
Ships to: United States

Delivery: **Estimated between Wed, Feb. 11 and Thu, Feb. 19**

Payments: **PayPal** VISA
Credit Cards processed by PayPal

PayPal CREDIT

Spend \$99+ and get 6 months to pay. [Apply Now](#) | [See Terms](#)
[See details](#)

Returns: **Seller does not offer returns. You are covered by the eBay Money Back Guarantee if you received an item that is not as described in the listing.**

Guarantee: [Details](#) | [See](#)
Get the item you ordered or get your money back. Covers your purchase price and original shipping.

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Great deals on home, tech, fashion, and more
Always Free Shipping
[Shop now](#)



Description **Shipping and payments**

Print | Report item

Seller assumes all responsibility for this listing.

Last updated on Feb 03, 2015 18:36:21 PST [View all revisions](#)

Item specifics

Condition: **Seller refurbished**

Seller Notes: "I picked this up at an Auction Please see all pictures. Looks like one of the legs was slightly bent."

Brand:	ROTHENBERGER	Wheel Type:	Rubber
Type:	Folding	Number of Legs:	4
ManufacturerPartNumber:	00230	Construction:	Steel
SKU:	G3555842	Wheel Dia. (In.):	12
Max. Leg Spread (In.):	20	Item:	Pipe Threading Machine Stand
Characteristics:	Heavy-Duty Construction	For Use With:	4ERZ4

eBay Item number: 261754652241

**SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY
AGENDA ITEM COMMENTARY**

MEETING DATE: February 17, 2015

ITEM NO.: CC 13

STAFF SOURCE: Dilu de Alwis, Finance Director
Tricia Cole, Finance Manager

ITEM TITLE: Approve Recognized Obligation Payment Schedule (ROPS 15-16A) covering July 1, 2015 through December 31, 2015 and direct it to be provided to the Successor Agency Oversight Board for consideration and approval

STAFF RECOMMENDATION

Successor Agency to the Covina Redevelopment Agency review and approve the Recognized Obligation Payment Schedule (ROPS 15-16A) covering July 1, 2015 through December 31, 2015 and direct it to be provided to the Successor Agency Oversight Board for consideration and approval.

FISCAL IMPACT

Once the successor agency adopts the ROPS 15-16A and it is approved by the Oversight Committee and the State Department of Finance, then fiscal impact will be the Agency funds necessary for the enforceable obligations to be paid each month.

BACKGROUND

The Recognized Obligation Payment Schedule ("ROPS"), sets forth the enforceable obligations of the Agency. This ROPS covers the period of July 1, 2015 through December 31, 2015.

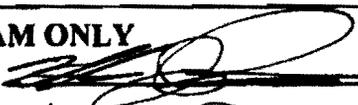
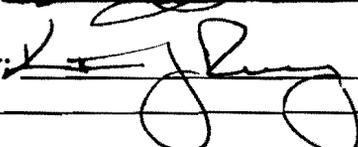
The current form, ROPS 15-16A, is requesting from the Redevelopment Property Tax Trust Fund (RPTTF) the amount of \$125,000.

RELEVANCE TO THE STRATEGIC PLAN

Approving the ROPS 15-16A and the funding for current obligations the Agency is enhancing its financial stability, which is one of the Strategic Plan's three-year goals.

EXHIBITS

1. ROPS 15-16A for July 1, 2015 through December 31, 2015.

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

Recognized Obligation Payment Schedule (ROPS 15-16A) - Report of Cash Balances

(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see https://rad.dof.ca.gov/rad-sa/pdf/Cash_Balance_Agency_Tips_Sheet.pdf.

A	B	C	D	E	F	G	H	I
		Fund Sources						
		Bond Proceeds		Reserve Balance		Other	RPTTF	
	Cash Balance Information by ROPS Period	Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, Grants, Interest, Etc.	Non-Admin and Admin	Comments
ROPS 14-15A Actuals (07/01/14 - 12/31/14)								
1	Beginning Available Cash Balance (Actual 07/01/14)	6,915,432	802,651			1,177,553		
2	Revenue/Income (Actual 12/31/14) RPTTF amounts should tie to the ROPS 14-15A distribution from the County Auditor-Controller during June 2014	221,085	8,532,760			968,528	3,938,967	Col (D) Bonds refunded during December with defeasance occurring in January.
3	Expenditures for ROPS 14-15A Enforceable Obligations (Actual 12/31/14) RPTTF amounts, H3 plus H4 should equal total reported actual expenditures in the Report of PPA, Columns L and Q	32,026				1,428,923	3,915,315	
4	Retention of Available Cash Balance (Actual 12/31/14) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	7,104,491	9,335,411					
5	ROPS 14-15A RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 14-15A PPA in the Report of PPA, Column S			No entry required			22,770	
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ -	\$ -	\$ -	\$ -	\$ 717,158	\$ 882	
ROPS 14-15B Estimate (01/01/15 - 06/30/15)								
7	Beginning Available Cash Balance (Actual 01/01/15) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ 7,104,491	\$ 9,335,411	\$ -	\$ -	\$ 717,158	\$ 23,652	
8	Revenue/Income (Estimate 06/30/15) RPTTF amounts should tie to the ROPS 14-15B distribution from the County Auditor-Controller during January 2015						1,973,653	
9	Expenditures for ROPS 14-15B Enforceable Obligations (Estimate 06/30/15)	6,795,952	7,523,385				1,973,653	Col (D) Bonds refunded during December with defeasance occurring in January.
10	Retention of Available Cash Balance (Estimate 06/30/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	308,539	1,812,026					
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ -	\$ -	\$ -	\$ -	\$ 717,158	\$ 23,652	

Recognized Obligation Payment Schedule (ROPS 15-16A) - ROPS Detail
July 1, 2015 through December 31, 2015
 (Report Amounts in Whole Dollars)

A Item #	B Project Name / Debt Obligation	C Obligation Type	D Contract/Agreement Execution Date	E Contract/Agreement Termination Date	F Payee	G Description/Project Scope	H Project Area	I Total Outstanding Debt or Obligation	J Retired	K, L, M, N Funding Source				O Six-Month Total	P	
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)			RPTTF			
										Bond Proceeds	Reserve Balance	Other Funds	Non-Admin			Admin
								\$ 53,114,606		\$ 8,961,515	\$ -	\$ 1,300,598	\$ -	\$ 125,000	\$ 10,387,113	
1	1997 Tax Allocation Bonds Series A	Revenue Bonds	7/1/1997	12/1/2022	Bank of New York	Bond issue to fund non-housing	2		Y						\$ -	
4	2004 Tax Allocation Bonds Series A	Revenue Bonds Issued On or Before 12/31/10	11/1/2004	12/1/2023	Bank of New York	Bond issue to fund non-housing projects	1		Y						\$ -	
5	2004 Tax Allocation Bonds Series B-1	Revenue Bonds Issued On or Before 12/31/10	11/1/2004	12/1/2023	Bank of New York	Bond issue to fund housing projects	1	3,497,131	N	324,509					\$ 324,509	
7	Fiscal Agent Fees	Fees	7/1/1997	12/1/2023	Bank of New York	Fiscal agent fees to maintain bond funds	1&2	72,500	N			2,250			\$ 2,250	
8	Continuing Disclosure	Fees	7/1/1997	12/1/2023	HDL	Required calculations to comply with bond covenants	1&2	55,000	N			7,200			\$ 7,200	
9	Arbitrage Calculations	Fees	7/1/1997	12/1/2023	Willdan	Required calculations to comply with federal law	1&2	25,000	N			6,000			\$ 6,000	
10	Note Payable 626 S Citrus Avenue	Third-Party Loans	7/19/1995	8/1/2015	US Bank	Property purchased for redevelopment	1	24,000	N			24,003			\$ 24,003	
12	Lease Payable RJS Financial	Third-Party Loans	4/1/2010	6/30/2017	RJS Financial	Property lease	1	879,120	N			299,040			\$ 299,040	
13	Employee Obligations	Unfunded Liabilities	9/1/1965	6/30/2024	City of Covina	Retiree Obligations	1	3,000,000	N			23,000			\$ 23,000	
14	Transitional House	Miscellaneous	2/1/2005	6/30/2024	CCLA	Low-moderate transitional housing	1&2	200,000	N	27,000					\$ 27,000	
16	Transitional House	Project Management Costs	2/1/2005	6/30/2024	City of Covina	Direct program administration	1&2	162,000	N	18,000					\$ 18,000	
17	Housing Development	Miscellaneous	11/1/2004	6/30/2024	Property Owner/Developer	Affordable Housing Development	1&2	620,236	N	620,236					\$ 620,236	
18	Personnel Payments	Admin Costs	1/1/2011	6/30/2024	City of Covina	Salaries and benefits payments for agency employees			Y						\$ -	
19	Auditing Payments	Admin Costs	1/1/2011	6/30/2024	MGO	Audit services for required reports			Y						\$ -	
20	Administration Payments	Admin Costs	1/1/2011	6/30/2024	City of Covina	Office space and support personnel			Y						\$ -	
21	Legal Payments	Legal	1/1/2011	6/30/2024	BBK	legal services for successor agency issues	1&2		Y						\$ -	
22	Maintenance of Agency owned property	Property Maintenance	1/1/2011	6/30/2024	Andy Gump/United Fencing	Maintain assets under AB1X 26	1&2	52,500	N			7,500			\$ 7,500	
23	Housing Set Aside Deferral 1995	SERAF/ERAF	6/1/1995	6/30/2024	Covina Housing Authority	Repayment to housing fund		327,458	N			46,780			\$ 46,780	
24	SERAF loan from Housing 2010	SERAF/ERAF	2/16/2010	6/30/2015	Covina Housing Authority	Repayment to housing fund		2,540,901	N			362,871			\$ 362,871	
25	SERAF loan from Housing 2011	SERAF/ERAF	2/16/2010	6/30/2016	Covina Housing Authority	Repayment to housing fund		522,960	N			74,709			\$ 74,709	
30	City Loan	City/County Loans On or Before 6/27/11	6/15/2010	6/30/2024	City of Covina	Operating Loan	1&2	2,654,430	N			370,245			\$ 370,245	
31	Bond Project	Improvement/Infrastructure	2/1/2002	6/30/2024	Property Owner/Developer	Bond Proceeds project	1	1,003,673	N	1,003,673					\$ 1,003,673	
32	Bond Project	Improvement/Infrastructure	11/1/2004	6/30/2024	Property Owner/Developer	Bond Proceeds project	1	5,156,072	N	5,156,072					\$ 5,156,072	
34	Tax Allocation Revenue Refunding Bonds Series 2013E	Bonds Issued After 12/31/10	12/18/2013	12/1/2023	US Bank	Refunding bond issue of non-housing projects		15,924,500	N	550,250					\$ 550,250	
35	Tax Allocation Revenue Refunding Bonds Series 2013E	Fees	12/18/2023	12/1/2023	US Bank	Fiscal agent fees to maintain bond funds		27,000	N			1,000			\$ 1,000	
36	Housing Entity Administrative Cost	Admin Costs	7/1/2014	7/1/2016	City of Covina	As allowed by AB 471		600,000	N			75,000			\$ 75,000	
37	Tax Allocation Revenue Refunding Bonds Series 2014A	Bonds Issued After 12/31/10	12/23/2014	12/15/2023	Bank of New York	Refunding bond issue of non-housing projects		7,743,125	N	1,261,775					\$ 1,261,775	
38	Tax Allocation Revenue Refunding Bonds Series 2014A	Fees	12/23/2014	12/15/2023	Bank of New York	Fiscal agent fees to maintain bond funds		27,000	N			1,000			\$ 1,000	
39	Administration	Admin Costs	1/1/2011	6/30/2024	City of Covina	Administration		8,000,000	N					125,000	\$ 125,000	
40									N						\$ -	
41									N						\$ -	
42									N						\$ -	

Recognized Obligation Payment Schedule (ROPS 15-16A) - Report of Prior Period Adjustments
 Reported for the ROPS 14-15A (July 1, 2014 through December 31, 2014) Period Pursuant to Health and Safety Code (HSC) section 34186 (a)
 (Report Amounts in Whole Dollars)

ROPS 14-15A Successor Agency (SA) Self-reported Prior Period Adjustments (PPA): Pursuant to HSC Section 34186 (a), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 14-15A (July through December 2014) period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved for the ROPS 15-16A (July through December 2015) period will be offset by the SA's self-reported ROPS 14-15A prior period adjustment. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by SAs are subject to audit by the county auditor-controller (CAC) and the State Controller.

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
Item #	Project Name / Debt Obligation	Non-RPTTF Expenditures						RPTTF Expenditures										Net SA Non-Admin and Admin PPA (Amount Used to Offset ROPS 15-16A Requested RPTTF)	SA Comments
		Bond Proceeds		Reserve Balance		Other Funds		Non-Admin					Admin						
		Authorized	Actual	Authorized	Actual	Authorized	Actual	Authorized	Available RPTTF (ROPS 14-15A distributed + all other available as of 07/1/14)	Net Lesser of Authorized / Available	Actual	Difference (If K is less than L, the difference is zero)	Authorized	Available RPTTF (ROPS 14-15A distributed + all other available as of 07/1/14)	Net Lesser of Authorized / Available	Actual	Difference (If total actual exceeds total authorized, the total difference is zero)		
		\$ 6,770,392	\$ 32,026	\$ -	\$ -	\$ 1,428,923	\$ 1,428,923	\$ 3,827,664	\$ 3,794,621	\$ 3,793,739	\$ 3,783,554	\$ 10,185	\$ 144,346	\$ 144,346	\$ 144,346	\$ 131,761	\$ 12,585	\$ 22,770	
1	1997 Tax Allocation	-	-	-	-	147,644	147,644	118,772	118,772	\$ 118,772	118,772	\$ -						\$ -	
2	1997 Tax Allocation	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
3	2002 Tax Allocation Bonds Series A	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
4	2004 Tax Allocation Bonds Series A	-	-	-	-	882,262	882,262	1,906,424	1,906,424	\$ 1,906,424	1,906,424	\$ -						\$ -	
5	2004 Tax Allocation Bonds Series B-1	-	-	-	-	399,017	399,017	315,055	315,055	\$ 315,055	315,055	\$ -						\$ -	
7	Fiscal Agent Fees	-	-	-	-	-	-	7,500	2,008	\$ 2,008	2,008	\$ -						\$ -	
8	Continuing Disclosure	-	-	-	-	-	-	8,000	6,930	\$ 6,930	6,930	\$ -						\$ -	
9	Arbitrage Calculations	-	-	-	-	-	-	2,500	-	\$ -	-	\$ -						\$ -	
10	Note Payable 626 S Citrus Avenue	-	-	-	-	-	-	72,122	72,146	\$ 72,122	72,028	\$ 94						\$ 94	
11	Lease Payable 611 S Citrus Avenue	-	-	-	-	-	-	243,600	238,686	\$ 238,686	238,686	\$ -						\$ -	
12	Lease Payable RJS Financial	-	-	-	-	-	-	299,040	299,040	\$ 299,040	299,040	\$ -						\$ -	
13	Employee Obligations	-	-	-	-	-	-	39,000	19,051	\$ 19,051	19,051	\$ -						\$ -	
14	Transitional House	27,000	13,765	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
15	DFAP	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
16	Transitional House	18,000	18,000	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
17	Housing Development	678,628	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
18	Personnel Payments	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
19	Auditing Payments	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
20	Administration Payments	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
21	Legal Payments	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
22	Maintenance of Agency owned property	-	-	-	-	-	-	10,000	10,858	\$ 10,000	2,909	\$ 7,091						\$ 7,091	
23	Housing Set Aside Deferral 1995	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
24	SERAF loan from Housing 2010	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
25	SERAF loan from Housing 2011	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
30	City Loan	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
31	Bond Project	989,685	281	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
32	Bond Project	5,057,081	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
33	Prior Unpaid Obligation	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -	
34	Tax Allocation Revenue Refunding Bonds Series 2013E	-	-	-	-	-	-	802,651	802,651	\$ 802,651	802,651	\$ -						\$ -	
35	Tax Allocation Revenue Refunding Bonds Series 2013E	-	-	-	-	-	-	3,000	3,000	\$ 3,000	3,000	\$ -						\$ 3,000	

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 14

STAFF SOURCE: Alex Gonzalez, Interim Director of Public Works *AK*

ITEM TITLE: Consideration of Resolution No. 15-7315, which authorizes emergency repairs to City Hall restrooms and adopts certain findings as required by the California Environmental Quality Act and the Government Code

STAFF RECOMMENDATION

Adopt **Resolution No. 15-7315**,

- 1) declaring that a need for an emergency repair to City Hall exists and delegating authority to the Acting City Manager to procure services and equipment without notice for bids to let contracts in the case of a declared emergency under Section 22050 of the California Public Contract Code, and
- 2) making certain findings as required by the California Environmental Quality Act and Title 14 of the California Code of Regulations.

FISCAL IMPACT

The fiscal impact of the project is yet to be determined, current engineer's/architect's estimates without demolition and exposure of the damaged areas range from \$60,000 to \$80,000. This project will be funded from undesignated funds in Fund 4701 – Impact Fees General Government. A future agenda item will allocate funding for the project.

BACKGROUND

The City's contract engineering firm began work in late October 2014 on assessing and designing a repair for the damaged floor in the City Hall restroom. During design and inspection, it was determined that the restroom floor has suffered significant damage due to wood rot, termites and moisture intrusion. As a result, the men's restroom was closed to all users on January 27, 2015. The women's restroom remains open, as it has been determined that the foundation of the women's restroom is stable. The extent of damage may extend into a utility room in the City Clerk's office. The identified issues require an immediate emergency response to protect the health and safety of public and private property, as the integrity of the floor cannot be determined without exposing the overlying structures.

In order to determine the scope of the project and complete final plans several preliminary steps must be taken. Asbestos testing is scheduled to take place on February 5, 2015. Demolition to expose the floor and lower walls is projected to occur the week of February 9, contingent upon the negative results of the asbestos testing. Once the demolition occurs, the City's

engineer/architect will complete the draft plans and a general contractor will be procured for the project once the plans are complete and the project scope is defined.

There is a men's restroom upstairs in City Hall, which is ADA accessible though the City Hall elevator. The locking mechanism on the upstairs men's restroom has been modified to allow access, and a clear ADA path of travel has been designated to the upstairs men's restroom.

Under Public Contract Code, Section 22050 (a) (1), in the case of an emergency, a public agency, pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services and supplied for those purposes, without giving notice for bids to let contracts.

In order to maintain the public's health and safety, as well as maintaining the City's infrastructure and limiting legal liability, it is requested that the City Council determine than an emergency condition exists, and to allow these repairs to proceed on an emergency basis, as authorized by Section 2.20.080(B)(2) of the Covina Municipal Code.

This action is exempt from the California Environmental Quality Act (CEQA) under Title 14 of the California Code of Regulations Sections 15301 (repair of an existing facility) and 15269 (an emergency project).

RELEVANCE TO STRATEGIC PLAN

This item is directly relevant to the City's Strategic Plan's Goal of providing efficient, visible and responsive public safety.

EXHIBITS

- A. Resolution 15-7315
- B. Draft Plans for City Hall Restrooms

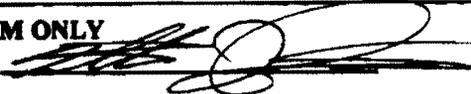
REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

EXHIBIT A

RESOLUTION NO. 15-7315

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DETERMINING THAT AN EMERGENCY CONDITION EXISTS FOR CITY HALL REPAIRS, AUTHORIZING THE LETTING OF A CONTRACT TO COMPLETE EMERGENCY REPAIRS PURSUANT TO SECTION 22050 OF THE CALIFORNIA PUBLIC CONTRACT CODE AND DELEGATING AUTHORITY TO THE ACTING CITY MANAGER TO PROCURE SERVICES AND EQUIPMENT WITHOUT NOTICE FOR BIDS

WHEREAS, the City of Covina is a municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California (“City”); and

WHEREAS, the City endeavors to provide safe and reliable public facilities for public use; and

WHEREAS, from time-to-time City facilities will experience unexpected failure, stress, or damage in the course of any day or night; and

WHEREAS, the floors in the City Hall first-floor restrooms have suffered serious damage due to wood rot, termites and moisture intrusion. As a result, the City was forced to close the first-floor men’s restroom on January 27, 2015; and

WHEREAS, Section 1102 of the California Public Contract Code defines an emergency as “a sudden unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services”; and

WHEREAS, the City has determined that the condition of the first-floor restrooms at City Hall require immediate attention to ensure public safety, reduce the risk of liability in the event of an accident, and mitigate the loss or impairment of life, health or property, given that these are the primary restroom facilities serving the general public visiting City Hall; and

WHEREAS, under Section 22050 of the California Public Contract Code “a public agency, pursuant to a four-fifths vote of its governing body may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts; and

WHEREAS, the City hereby finds that based on substantial evidence set forth in this resolution and the minutes of this meeting that the emergency will not permit a delay resulting from a competitive solicitation for bids; and

WHEREAS, the City hereby finds that based on the substantial evidence set forth in this resolution and the minutes of this meeting that the restroom floor repair is necessary to respond to the emergency.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covina, as follows:

SECTION 1. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct; and the damage to City Hall's first-floor restrooms constitute an emergency under section 1102 of the California Public Contract Code.

SECTION 2. The competitive bidding requirements for the City Hall restrooms repair are waived pursuant to section 22050 of the California Public Contract Code.

SECTION 3. The City Hall first-floor restrooms repair is authorized pursuant to section 22050 of the California Public Contract Code. Further, such action shall be reviewed by the City Council at subsequent regular City Council meetings to determine whether there is a need to continue the action.

SECTION 4. The action is exempt from the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§ 2100, *et seq.*, and Title 14 of the California Code of Regulations, §§ 15000 *et seq.* ("State CEQA Guidelines")), pursuant to 14 Cal. Code of Regs., §15301 as repair of an existing facility and §15269 as an emergency project and Staff is hereby directed to file a Notice of Exemption with the Los Angeles County Clerk's Office.

SECTION 5. That authority is delegated to the Acting City Manager to procure services and equipment without notice for bids to let contracts in the case of an emergency.

SECTION 6. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 3rd day of February, 2015.

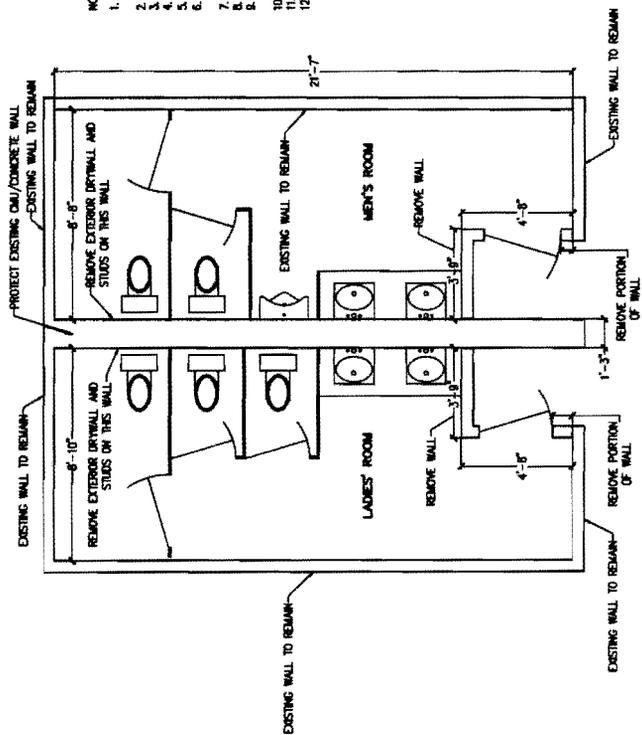
Peggy Delach, Mayor

ATTEST:

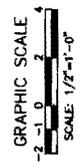
City Clerk

APPROVED AS TO FORM;

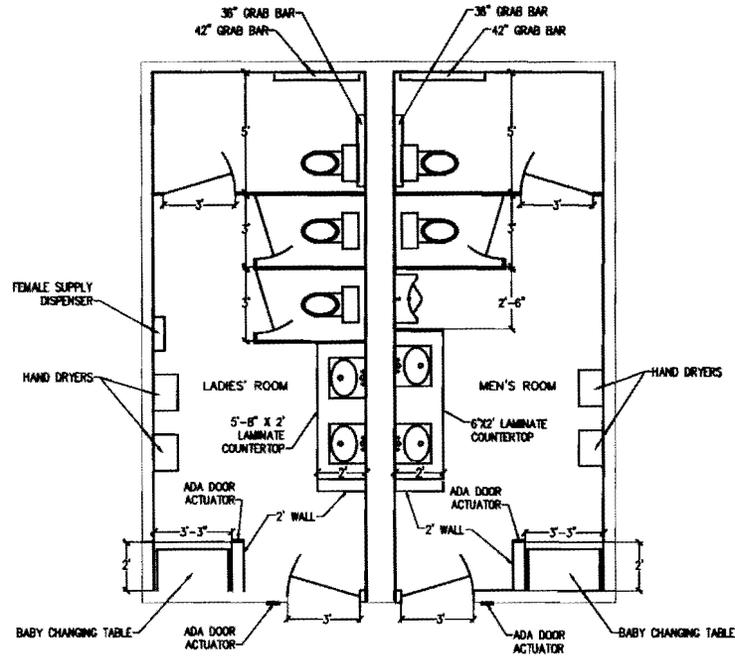
City Attorney



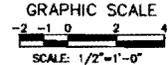
- NOTES:
1. REMOVE ALL TOILETS, URINALS, SINKS, HAND DRIVERS AND FEMALE SUPPLY DISPENSER.
 2. REMOVE AND STORE LAMINATE COUNTERTOPS FOR REUSE.
 3. REMOVE ALL EXISTING WALLS.
 4. REMOVE ALL EXISTING PARTITIONS AND DOORS.
 5. REMOVE FLOORING IN LADIES' ROOM DOWN TO EXISTING SLAB.
 6. REMOVE FLOORING IN MEN'S ROOM DOWN TO EXISTING STRUCTURAL BEAMS.
 7. REMOVE WALL TILES.
 8. DO NOT REMOVE OR DAMAGE EXISTING STRUCTURAL BEAMS.
 9. REMOVE CEILING LIGHTS AND WIRES WITHIN ACOUSTIC CEILING.
 10. DO NOT REMOVE OR DAMAGE EXISTING ELECTRICAL.
 11. REMOVE AND SALVAGE EXISTING WALL MOUNTED AIR FRESHENERS.
 12. ALL DIMENSIONS SHOWN ARE APPROXIMATE.
 13. CITY RESERVES THE RIGHT TO SALVAGE AND/OR REUSE ANY/ALL MATERIALS REMOVED.



CITY OF COVINA DEPARTMENT OF PUBLIC WORKS - PUBLIC SAFETY FIRST FLOOR RESTROOM RENOVATIONS DEMOLITION PLAN		SHEET NO. 2 OF 5
Prepared by: [Blank] City Approval: [Blank] Checked by: [Blank] Approved by: [Blank]	Date: 1/27/18 Title: [Blank] Author: [Blank] Designer: [Blank] Checker: [Blank] Approver: [Blank]	Scale: [Blank] Drawing No.: [Blank]
Please Prepared by: JMD JMD CONSULTING GROUP, INC. 10000 N. GARDEN AVENUE, SUITE 100 GARDEN GROVE, CA 92647 (714) 440-1111 www.jmdcg.com		
[Professional Engineer Seal for JMD Consulting Group, Inc., No. 1003, State of California]		
[Blank] [Blank] [Blank]	[Blank] [Blank] [Blank]	[Blank] [Blank] [Blank]



- NOTES:
1. INSTALL ALL TOILETS, URINALS, AND SINKS AS SHOWN ON OR EXISTING SEWER LINE CONNECTIONS.
 2. INSTALL DOORS, HAND DRYERS AND FEMALE SUPPLY DISPENSER AS SHOWN.
 3. REINSTALL SALVAGED LAMINATE COUNTERTOPS AS SHOWN.
 4. INSTALL TOILET PARTITIONS AND 4' HIGH URINAL PRIVACY PARTITION AS SHOWN.
 5. REPAIR WALLS AS NECESSARY.
 6. INSTALL 12" SQUARE FLOOR TILES, COLOR TO BE SELECTED BY CITY. MOHAWK TILES OR APPROVED EQUAL.
 7. INSTALL 3"X8" WALL TILES TO A HEIGHT OF 6', COLOR TO BE SELECTED BY CITY. MOHAWK TILES OR APPROVED EQUAL.
 8. PAINT WALLS ABOVE TILES. COLOR TO BE SELECTED BY CITY. BEHR PAINT OR APPROVED EQUAL.
 9. INSTALL LIGHTING AND ACOUSTIC CEILINGS.
 10. REINSTALL SALVAGED WALL MOUNTED AIR FRESHENERS.
 11. CITY RESERVES THE RIGHT TO SALVAGE AND/OR REUSE ANY/ALL EXISTING MATERIALS THAT HAVE BEEN REMOVED.



NO.	DATE	REVISIONS	BY



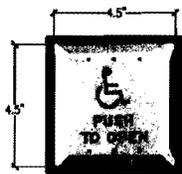
Plans Prepared by:
JMD
 JAMES M. DUNN
 LICENSED PROFESSIONAL ENGINEER
 No. 50883
 MECHANICAL
 STATE OF CALIFORNIA

Prepared by: _____ Date: 1/16/11
 City Approved: _____
 Checked by: _____ Date: _____
 Approved by: _____ Date: _____

CITY OF COVINA
 DEPARTMENT OF PUBLIC WORKS - ENGINEERING DIVISION
FIRST FLOOR RESTROOM RENOVATIONS
PROPOSED FLOOR PLAN

SHEET NO.
3 OF 5

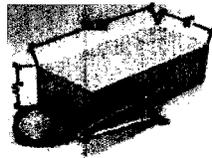
P:\2010\2011\0001\0001_01.dwg and Total Improvement\0001\0001.dwg 1/16/11 11:22:23 AM - 01/16/11 - 01/16/11 - 01/16/11



**ADA DOOR ACTUATOR
WIRELESS BUTTON DETAIL**

NOT TO SCALE

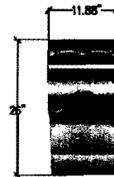
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**ADA WIRELESS DOOR
ACTUATOR DETAIL**

NOT TO SCALE

2
-



ELECTRIC HAND DRYER DETAIL

NOT TO SCALE

3
-



BABY CHANGING TABLE DETAIL

NOT TO SCALE

4
-



DOOR DETAIL

NOT TO SCALE

5
-

NO.	DATE	DESCRIPTION	APPROVED	DATE



Plans Prepared by:
JMD
JAMES M. DUNN, P.E.
Mechanical Engineer
No. 14881
State of California
1000 N. G Street, Suite 200
Covina, CA 91724
Tel: 951-261-1111
Fax: 951-261-1112
www.jmd-engineering.com

Prepared by: _____ Date: 4/22/18
City Approval: _____
Reviewed by: _____ Date: _____
Approved by: _____ Date: _____
Professional Reference: _____

CITY OF COVINA
DEPARTMENT OF PUBLIC WORKS - RECREATION DIVISION
FIRST FLOOR RESTROOM RENOVATIONS
DETAIL SHEET 2 OF 2

SHEET NO.
5 OF 5

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 15

STAFF SOURCE: Amy Hall-McGrade, Parks & Recreation Director *AM*
Jennifer Blair, Library Services Supervisor *JB*

ITEM TITLE: Adopt **Resolution No.15-7316** amending the fiscal year 2014-2015 Library Services operating budget to expend the UMIGO! You Make It Go and Children's Museum of Manhattan stipend funds to support the development of California Libraries

STAFF RECOMMENDATION:

Adopt **Resolution No.15-7316** amending the fiscal year 2014-2015 Library Services operating budget to expend the UMIGO! You Make It Go and Children's Museum of Manhattan stipend funds to support the development of California Libraries

FISCAL IMPACT:

There is no General Fund impact. The account numbers requiring amendment are as follows:

28003900-42090 UMIGO	Revenue	\$1,000
28003900-53590 UMIGO	General Printing and Binding	900
28003900-54410 UMIGO	Food, Supplies, and Meals	100

BACKGROUND:

Children's Museum of Manhattan announced a partnership opportunity with UMIGO! You Make it Go in November 2014. The announcement required that libraries provide UMIGO! and Children's Museum of Manhattan with a basic summary of demographic and budgetary information including population served, dates of fiscal budget, and programming.

Jennifer Blair, Library Services Supervisor researched and prepared the summary. The program and stipend focuses on promoting the UMIGO! You Make it Go software via an iPad, iPad mount, graphics, and promotional materials at the Covina Public Library. UMIGO! You Make it Go is a children's digital software that provides games, songs, and stories to early elementary age children. The software provides games, songs, and stories that are entertaining while enhancing developmental abilities. The program allows children to become active learning through increase of skills in math, problem solving, and critical thinking. UMIGO is made possible in part by a Ready to Learn grant from the U.S. Department of Education. In partnering with UMIGO! You Make it Go and Children's Museum of Manhattan, this will endow the City with the means and capability to expand the services and programs beyond past expectations and target audience.

Library staff will be able to achieve the promotion of UMIGO! You Make it Go by installing a provided iPad with pre-loaded software, iPad mount, graphics, and promotional materials as well

as participating in a Summer Learning Event to take place in June 2015. Children's Museum of Manhattan will provide and coordinate the logistics and required participation of the Summer Learning Event at a later date. The \$1,000 stipend is expected to cover any promotional costs associated with this event and any promotional materials.

The following summary was prepared and submitted to UMIGO! You Make it Go and Children's Museum of Manhattan on November 19, 2014:

The majority of the audience at Covina Public Library is comprised of adults and children with the highest population centered towards families. According to the American Community Survey provided by the United States Census, the city of Covina is composed of 8,595 children between ages 0-12. A report provided by the Covina Public Library demonstrates 6,718 children are library cardholders, which includes the surrounding cities. From this estimation, the library currently serves 6,718-9,000 children, including non-card holders. The total amount of library cardholders (all ages) equals 31,782, and it is estimated that the library serves 31,782-35,000 people within a given year on a continual basis.

Contributing factors towards the audience of Covina Public Library includes the services and programs the library provides. The Library provides a variety of services for our local community and surrounding areas and is dedicated to promoting literacy, education, and a love of reading by providing free access to books and educational, informational, and recreational materials and programs. Library services include Toddler and Baby story times, Homework Help (for children ages 6-13), Adult Basic Education, ESL classes, Citizenship Preparation, Children Literacy services, Play and Learn Workshops, Summer Reading Programs (all ages), and Child Development programs.

The Play and Learn Workshops are made possible because the Covina Public Library is a Family Place Library. A Family Place Library is made possible through being a grant recipient, of which included a rigorous application process. Family Place Libraries is a network of libraries that believe literacy begins at birth and that libraries can help build healthy communities by nourishing healthy families. Weekly sessions include child development and behavior, nutrition, speech and hearing, literacy, and more. This is supported by: U.S. Institute of Museum and Library Services under provisions of the Library Services and Technology Act, administered in California by the State Librarian.

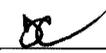
Because of such programs, the Covina Public Library has become known as a family library where parents and caregivers have opportunities to strengthen their relationship with their children in an educational setting via parent/child workshops, and are able to connect through story times and participate in free programs. In addition and as a grant recipient of Early Learning with Families, the library is also able to offer free checkout services of iPads with pre-loaded applications that focus on early learning and provide parenting resources. Connecting these iPads and extending the service to UMIGO would provide a perfect opportunity for children to experience a service that extends their educational needs with easy access.

RELEVANCE TO THE STRATEGIC PLAN:

The UMIGO grant funds will provide an opportunity to enhance customer service to young children by providing an opportunity to enhance their mathematical skills by utilizing age appropriate software. This is one of the three-year goals of the current Strategic Plan.

EXHIBITS:

A. Resolution No. 15-7316

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

RESOLUTION NO. 15-7316

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, TO AMEND THE FISCAL YEAR 2014-2015 LIBRARY SERVICES OPERATING BUDGET TO EXPEND THE UMIGO! YOU MAKE IT GO AND CHILDREN'S MUSEUM OF MANHATTAN STIPEND FUNDS TO SUPPORT THE DEVELOPMENT OF CALIFORNIA LIBRARIES.

WHEREAS, the City of Covina is a municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California ("City"); and

WHEREAS, the budget for the City of Covina for fiscal year commencing July 1, 2014 and ending June 30, 2015 was approved on June 17, 2014; and

WHEREAS, the approved budget is in accordance with all applicable ordinances of the City and all applicable statutes of the State; and

WHEREAS, the reallocation of the appropriations between departmental activities may be made by the City Manager, amendments (increases/decreases) to the Budget shall be by approval and Resolution of the City Council;

WHEREAS, the intent for all expenditures for program supplies will be covered through UMIGO! and Children's Museum of Manhattan grant funds

NOW THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covina, as follows:

SECTION 1. Amend the fiscal year 2014-2015 Parks & Recreation Department's Library Services Division operating budget as follows:

28003900-42090 UMIGO	Revenue	\$1,000
28003900-53590 UMIGO	General Printing and Binding	900
28003900-54410 UMIGO	Food, Supplies, and Meals	100

SECTION 2. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 17th day of February, 2015.

Mayor, City of Covina

ATTEST:

City Clerk, City of Covina

APPROVED AS TO FORM;

City Attorney

CERTIFICATION

I, Catherine M. LaCroix, Deputy City Clerk of the City of Covina, hereby CERTIFY that Resolution No. 15-7316 was adopted by the Covina City Council at a regular meeting of the City Council held this 17th day of February, 2015, and was approved and passed by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Catherine M. LaCroix
Senior Deputy City Clerk

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: CC 16

STAFF SOURCE: Dilu De Alwis, Finance Director 
Vivian Castro, Environmental Services Manager

ITEM TITLE: Adopt **Resolution 15-7317** Amending the Fiscal Year 2014-2015 Budget to fund the Energy Efficiency Projects.

STAFF RECOMMENDATION

Adopt **Resolution No. 15-7317**, amending the fiscal year 2014-2015 budget to finalize the funding for the Energy Efficiency Projects.

FISCAL IMPACT

The total cost of the project as approved by Council at the December 16, 2014 meeting is \$773,753. The project costs are as follows; (1) PD HVAC \$219,514 (General Fund) (2) Metrolink Parking Structure \$192,646 (Prop. A) (3) Municipal Parking Lots \$31,133 (Parking District) (4) Decorative Acorn Lights – Down Town \$152,202 (So. Cal Edison rebates \$104,780 and \$47,422 Street Impact Fees) and (5) City Owned Street Lights \$178,258 (Gas Tax).

Funding for projects (2) through (5) are available in the respective funds, however the General Fund portion in the amount of \$219,514 needs to be funded through an Inter-fund loan from the Water Fund. The Council approved an Inter-fund loan policy under which the City Manager has the authority to execute the appropriate documents for amounts not to exceed \$500,000 and for a term not to exceed 5 years. Staff is recommending that the General Fund borrow the required funds for project (1) and budget the appropriate debt service payment in the annual budget submission. It is anticipated that lower maintenance costs and energy savings on a new HVAC system will offset the cost of debt service.

The attached exhibit details the accounts/dollars for each project.

BACKGROUND

At the December 16, 2014 City Council meeting, the Council approved the Energy Efficiency Project list and awarded contracts to ACCO Engineered Systems and Lighting retrofits with Facility Solutions Group.

At the time of this meeting staff noted that when the funding sources for all the projects were identified, that will be brought back to the Council for approval. Staff has met internally and identified the funding for (1) PD HVAC (2) Metrolink Parking Structure Lights (3) Municipal Lot Lights (4) Decorative Acorn Lights and (5) City Owned Street Lights. As noted in the Fiscal Impact section of this report, projects (2) through (5) have an identified funding source with

available cash on hand. However the HVAC system for the Police Department which is a General Fund project requires a short-term borrowing from the Water Fund to complete the project.

RELEVANCE TO THE STRATEGIC PLAN

The recommended projects support the Strategic Plan Goals of fostering innovation, efficiency and sustainability by improving the energy efficiency of different City facilities. Additionally, the significant energy and maintenance cost savings over the lifetime of the projects support the goal of enhancing the City's financial well-being.

EXHIBITS

- A. Resolution No. 15-7317
- B. Funding Sources

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

RESOLUTION NO. 15-7317

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF COVINA, CALIFORNIA, AMENDING THE
FISCAL YEAR 2014-2015 GENERAL FUND
BUDGET**

WHEREAS, the City of Covina is a municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California ("City"); and

WHEREAS, the budget for the City of Covina for fiscal year commencing July 1, 2014 and ending June 30, 2015 was approved on June 17, 2014; and

WHEREAS, the approved budget is in accordance with all applicable ordinances of the City and all applicable statutes of the State; and

WHEREAS, the reallocation of the appropriations between departmental activities may be made by the City Manager, amendments (increases/decreases) to the Budget shall be by approval and Resolution of the City Council;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covina, as follows:

SECTION 1. Amend the fiscal year 2014-2015 budget as follows;

- 10108900-56750 - \$570.00
- 10101000-55200-F1414 - \$219,514.00
- 2400TO01-52422-F1414 - \$192,646.00
- 27002800-52416-F1414 - \$31,133.00
- 23002300-52416-F1414 - \$104,780.00
- 47052300-52416-F1414 - \$47,422.00
- 23002300-52416-F1414 - \$178,258

SECTION 2. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 17th DAY OF FEBRUARY 2015.

Peggy Delach, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM;

Marco Martinez, City Attorney

Energy Upgrade Projects
Summary of Projects/Funding
 Fiscal Year 2015

Facility	Measure	Details	Cost	Percent	Funding Source	Account(s)
Police Department	HVAC	Static Pressure reset Supply air temperature reset Nighttime temperature setback Heating minimum flow reduction Packaged unit replacement Install Energy Management Control System	\$219,514	28%	Loan from Water fund	10108900 56750 = \$570 10101000 55200 F1415= \$219,514
Metrolink Parking Structure	Lighting	Replace existing fixtures with LED w/occupancy sensors	\$192,646	25%	PropA	2400TO01 52422 F1414 = \$192,646
Municipal Parking Lots	Lighting	Replace HID shoebox with new LED bi-level with occupancy sensors	\$31,133.00	4%	Parking Dist.	27002800 52416 F1414 = \$31,133
Decorative Acorn Lights	Lighting	Retrofit Decorative acorn fixtures with Amerlux LSK skit	\$152,202	20%	Gas Tax \$104,780, Street Impact Fees \$47,422	23002300 52416 F1414 = \$104,780, 47052300 52416 F1414 = \$47,422
Streetlights	Lighting	Replace existing fixtures with LED fixtures	\$178,258	23%	Gas Tax	23002300 52416 F1414= \$178,258
			\$ 773,753			

52416 Street Light System
 52422 Parking Facilities

Funding Summary:

Gas Tax	\$ 283,038	23002300 52416 F1414
Prop A	192,646	2400TO01 52422 F1414
Prkng Dist	31,133	27002800 52416 F1414
Impact Fees	47,422	47052300 52416 F1414
General Fund	570	10108900 56750
General Fund	219,514	10101000 55200 F1415
	\$ 774,323	

\$ (570) Interest

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015 **PH 1**
ITEM NO.:

STAFF SOURCE: Nancy Fong, Interim Director of Community Development
Alan Carter, City Planner *a.c.*



ITEM TITLE: Introduce and Waive Further Reading of Ordinance No. 15-2037, Planned Community Development Ordinance PCD 99-001 (Amendment No. 1), adding “automobile rental” as a permitted use within and modifying the sign regulations for one property within the Shoppers Lane/Terrado Plaza Planned Community Development Area.

STAFF RECOMMENDATION

- 1.) Open the public hearing and receive public testimony;
- 2.) Make certain findings as required by the California Environmental Quality Act (CEQA) as defined in Section 15301(a), involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination; and
- 3.) Introduce and waive further reading of Ordinance No. 15-2037, establishing Planned Community Development Ordinance PCD 99-001 (Amendment No. 1) to allow, as a permitted use, “automobile rental” and to allow for the modification to the sign regulations for one property within the Shoppers Lane/Terrado Plaza Planned Community Development Area.

FISCAL IMPACT

There is no direct impact to the General Fund. However, permitting this use under the appurtenant PCD-related zoning would result in the physical improvement to and the continuing auto rental use in the area, thus generating additional property and sales taxes for the City.

BACKGROUND/ANALYSIS

In 1999, the City adopted Ordinance No. 99-1851 to establish a Planned Community Development (PCD) overlay zone for the Terrado Plaza business center and Shoppers Lane commercial area. The primary intent of the PCD overlay zone was to encourage diversification in locations of structures, uses and other site qualities. The Terrado Plaza and Shopper’s Lane PCD overlay permits many types of retail and administrative businesses including auto sales under the conditional use permit process, but did not allow auto rental.

In September 2014, the Planning staff granted Enterprise Rent-A-Car approval to operate its auto rental business temporarily at 728 South Citrus Avenue, a former bank site abutting Terrado Plaza. The business needed to relocate from its long-time property generally across the street, at 635 South Citrus Avenue, due to the Covina Sage Chevrolet project.

At its December 9, 2014 meeting, the Planning Commission voted 5-0 to recommend to the City Council approval of Enterprise's PCD-related request and made written findings under Resolution No. 2014-017 PC that the PCD modification would be in the best interests of the City and would be consistent with the City's General Plan. By the same 5-0 vote, under Resolution No. 2014-020 PC, the Commission also granted application Site Plan Review (SPR) 14-028), allowing Enterprise to perform certain permanent site improvements to accommodate the business, subject to particular conditions of approval. In affirming both applications on December 9th, the Planning Commission made general comments on the overall project proposal and minor changes to the conditions of approval.

The Commission's decision to grant the SPR petition was not appealed to the City Council within the required 10-day appeal period. However, the SPR is expressly contingent upon the approval of the PCD-associated application by the Council. Therefore, while only the "PCD Amendment" application is before the City Council this evening, Enterprise's SPR will automatically be voided if the Council does not approve the PCD modification.

Presently, the City Council is requested to review and approve the proposed amendment to the PCD overlay zone as follows:

1. Adding "auto rental" as a permitted use; and
2. Allow building and freestanding signs that deviate from current applicable signage requirements.

For further background information on this application and on Enterprise's current request, the City Council may refer to Exhibits A, B, and C at the end of the Commentary. The contents of the exhibits are described below.

ENVIRONMENTAL DETERMINATION

Pursuant to the provisions of the California Environmental Quality Act (CEQA) and State Guidelines, the project is categorically exempt based on CEQA Section 15301(a), which includes existing facilities seeking minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The applicant is proposing interior and general parking-related improvements and, therefore, qualifies for this exemption.

RELEVANCE TO THE STRATEGIC PLAN

The Strategic Plan calls for the adoption of measures that would strengthen the economic base of the City. It is believed that the PCD proposal would meet this aim.

EXHIBITS

- A. Planning Commission staff report on proposal from 12/9/14 meeting, including certain exhibits.
- B. Planning Commission Resolution 2014-020 PC from 12/9/14 meeting (concerning SPR application), including improvement-related conditions of approval.
- C. Planning Commission Resolution 2014-017 PC from 12/9/14 meeting (concerning PCD application).

D. Ordinance No. 15-2037, amending PCD 99-001.

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: <u>DL</u>
City Manager: <u>[Signature]</u>	Other: _____



CITY OF COVINA

PLANNING COMMISSION AGENDA REPORT ITEM NUMBER PH 3 DECEMBER 9, 2014

TO: Chairman and Members of the Planning Commission

FROM: Nancy Fong, AICP, Interim Director of Community Development

SUBJECT: Planned Community Development (PCD) 99-001 Modification #1 and Site Plan Review (SPR) 14-028

SITE AND PROJECT DESCRIPTION

A. Project Information:

Request: Applications a) PCD 99-001 (Modification #1), a Planned Community Development Modification to add "automobile rental" as a permitted use and to establish, for the subject property, special signage criteria for a pylon sign and wall signs and b) SPR 14-028, a Site Plan Review to establish an automobile rental facility (Enterprise Rent-A-Car) on the aforementioned property, including site improvements to accommodate the facility.

Applicant: Enterprise Rent-A-Car
Property Owner: Hillwood Properties
Location: 728 South Citrus Avenue
Assessor Parcel
Map Nos.: 8451-002-048

B. Site and Surrounding Land Uses-Table 1:

	General Plan	Zoning	Existing Uses
Site	General Commercial	C-3A (PCD) – Regional or Community Shopping Center with a Planned Community Development overlay zone	Enterprise Rent-A-Car (currently operating on a temporary basis)
North	General Commercial	C-3A (PCD) – Regional or Community Shopping Center with a Planned Community Development overlay zone	Sit-down Restaurant
South	General Commercial	C-3A (PCD) – Regional or Community Shopping Center	Commercial Bank

		with a Planned Community Development overlay zone	
East	General Commercial	C-3A (PCD) – Regional or Community Shopping Center with a Planned Community Development overlay zone	Terrado Plaza Commercial-Office Complex
West	City of West Covina	City of West Covina	New Car Dealership

C. **Development Standards and Project Data-Table 2:** The following Table illustrates certain key facts regarding the project proposal:

	Development Standards	Code Requirement	Proposal
1.	Lot Size	N/A	1 acre (1 parcel)
2.	Building Size	none	6,468 square feet (leasable floor area)
3.	Current Hours of Operation	No minimum	M-F, 7:30 a.m.-6:00; SA, 9:00 a.m. -1:00 & SU 9:00 a.m. – 12:00 p.m.
4.	Occupant Load	To be established by Building Division and Fire Department	
5.	Off-Street Parking	Retail-1/200 SF Total Required = 32 parking spaces (Note: requirement could be considered lower due to predominate orientation of floor space being devoted to administrative functions)	Total provided -38 parking spaces
6.	Signage	One 20 sq. ft., 6 ft. high monument sign with building signs being not more than 15 percent of appurtenant building face and 2.5 feet in height.	One 45 sq. ft., 16.3 ft. high pylon sign with front building sign being 15.7 percent of building face and all three building signs varying from 3 to 7 feet in height.

ANALYSIS

- A. **Background:** Enterprise Rent-A-Car recently relocated to the subject site (from its long-time location across the street at 635 South Citrus Avenue due to the purchase of that property by Covina Sage Chevrolet). Enterprise operates at this location the same type of typical car rental facility that previously existed across the street, with the addition of some corporate-related administrative functions. In September 2014, Planning approved application SPR 14-031, which permitted Enterprise to operate on the site on a temporary basis, subject to certain conditions, including the requirement that the business obtain certain necessary zoning applications to permit permanent operations (addressed below). The subject property, which is flat, generally rectangular in shape, and presently fully improved with a two-story, 6,468-square foot building approximately 28 feet from the front property line and parking improvements primarily on the southern and, to a lesser extent eastern side of the building, was previously used by multiple commercial banks. The property further lies within a commercial complex, a key component of which is the easterly office-oriented Terrado Plaza business center.
- B. **Proposed Project:** Enterprise proposes to perform certain modifications to the building interior and to the parking area to accommodate its car rental-focused operations. These modifications, which would be performed in a single phase, are depicted on the associated submitted project plans and will be highlighted by the Planning staff during the Planning Commission meeting. In general, the interior work would entail the redesign of the first level of the building into new offices and areas serving company administration, customers, and car washing operations. (No vehicle repair or body and painting activities would occur on the property.) The exterior work would encompass the redesign and resurfacing of the primary parking area on the southern side of the building, including the removal of six trees and the elimination of 8 parking spaces, to accommodate parking for rental cars and customers as well as vehicular access to the car washing area in the rearward portion of the building. Enterprise employees would park in areas to the north and east of the building. No building additions or exterior modifications (except for minor work to complement the interior improvements) are proposed. Lastly, the applicant proposes to perform certain modifications to the existing signage to accommodate its business. The signage-related changes are described in Table 2 above.
- C. **PCD 99-001 (Modification #1):** In 1999, the City adopted this application for the area generally around the Terrado Plaza commercial complex and the northerly Shoppers Lane and adjacent car dealership-oriented block to foster economic development in the overall district. Because automobile rental is not listed as a permitted use under this zoning classification and because certain proposed signage of the proposed business slightly deviates from the associated provisions of the Covina Municipal Code, a “PCD

Modification” application is needed. The signage component of the application would only be applicable to the property at 728 South Citrus Avenue (APN 8451-002-048).

Based on the above analysis, the Planning Commission must determine if the following findings for Planned Community Development Modification can be made:

1. The site for the proposed use is adequate in size and shape to accommodate the use.

Findings of Facts: The proposed modification to the appurtenant PCD application relates principally to allowing a new use, automobile rental, typically an innocuous activity, to operate as a permitted use within the boundaries of the PCD 99-001 district. (Automobile rental is currently permitted by right in multiple similar zoning districts in the City, including “C-3/Central Business,” “C-3A/Regional or Community Shopping Center,” “C-4/Highway Commercial,” and “C-5/Specified Highway Commercial.”) No new physical development on the site is proposed other than certain above-noted building interior and parking area improvement work and new exterior signage to accommodate the use. The site would have sufficient parking, access, and building area to serve a car rental function.

2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

Findings of Facts: As stated in Finding A above, the proposed modification appertains to allowing a new use within the existing list of permitted uses in the district encompassing application PCD 99-001 only. No new physical development is proposed other than certain above-noted building interior and parking area improvement work and new exterior signage to accommodate the vehicle rental activity. The staff believes that adequate street widths and pavement exists to carry the traffic generated by the use, which would likely be less than the prior banking activities on the property. The automobile rental business would be somewhat limited by restrictions on operating hours and the occupancy load.

3. The proposed use is not detrimental to the surrounding properties or uses permitted in the general area.

Findings of Facts: The car rental use, as noted in Finding A above, is permitted by right in the base (“C-3A”) and similar zoning districts, and the signage that is proposed for consideration under the application is less intense in size and character than many other sign plans that the Planning staff has approved under the administrative Minor Variance process. With the incorporation of various conditions of approval, the

proposed use and signage should have no adverse effects on surrounding properties or uses permitted in the general area.

4. The conditions stated in the decision are deemed necessary to protect the public health, safety, and general welfare. Such conditions include, but are not limited to:
 1. A time limit for development,
 2. Regulation of use or uses,
 3. Special yards, spaces, and buffer areas,
 4. Fences, walls and screening devices,
 5. Surface of parking areas subject to specifications established by the council,
 6. Required street, service road or alley dedication and improvements,
 7. Regulation of points of vehicular ingress and egress,
 8. Regulation of signs,
 9. Required landscaping and maintenance thereof,
 10. Regulation of noise, vibrations, odors, glare, etc.
 11. Required maintenance of grounds,
 12. Regulation of time for certain activities during the construction phase and during the lifetime of the project,
 13. Duration of use,
 14. When there is more than one parcel of land involved, the land shall be recorded as one parcel for state and city code prior to issuance of building permit,
 15. Require bonding or financial guarantee of any requirements or conditions made a part of the approval by the council,
 16. Such other conditions as will make possible the development of the use in an orderly and efficient manner and in conformity with the intent and purposes set forth in this chapter.

Finding of Facts: The proposed conditions of approval under the overall request would adequately address all potential impacts of the proposed use. These conditions include the prohibition of loitering outside of the property, exceeding the applicable noise level limits of the Covina Noise Ordinance, and exterior speakers; limitations on the hours of operations; and, to compensate for tree removal, the repair or upgrade of the remaining landscaped areas.

- D. **SPR 14-028:** The purpose of the site plan review is to assure the highest quality of planning, design and exterior appearance, to protect the public health, safety, welfare, and general interest, to reduce traffic congestion and to strengthen and sustain the character, desirability, and stability of the community. Under the Section 17.64.020 of the Covina Municipal Code (CMC), because the overall project proposal includes the aforementioned parking modifications, a Site Plan Review (SPR) application is needed.

Based on the above analysis, the Planning Commission must determine if the following findings for Site Plan Review can be made:

1. All provisions of the Zoning Ordinance are complied with.

Findings of Facts: The site is currently developed with a 6,468-square foot building and associated parking and other improvements. The proposed project is to modify the interior and southern-most parking areas only to accommodate automobile sales as well as to perform certain typical changes to existing exterior signage. The underlying automobile rental use and the exterior signage, which do not conform to current zoning provisions, are addressed in the “PCD Modification” section of the report below. All other components of the proposed project comply with the applicable provisions of the Zoning Code.

2. The basic project elements are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, and no adverse effects will occur on surrounding properties.

Findings of Facts: The project will consist of primarily administrative- and car rental-related uses, which are typically lower turnover-type activities (compared to retail and banking, the prior long-time use on the site). In evaluating the project proposal, the staff did not identify any potential for internal circulatory conflicts or external traffic congestion. Therefore, pedestrian and vehicular safety and welfare would be protected and there should not be any adverse effects on surrounding properties.

3. The project design conforms to the General Plan and any Design Guidelines or Specific Plan that may be applicable to the project.

Findings of Facts: The project complies with the commercial development intensity provision of the General Plan (1.5 FAR). And any minor changes to the exterior of the building will be conditioned to conform to the existing 1960s-era though generally attractive building style and architecture, thus conforming to the Covina Design Guidelines.

4. The project design is harmonious, consistent, and complete within itself and functionally and visually compatible with neighboring land uses.

Finding of Facts: The proposed project is designed to accommodate a car rental business. Along adjacent portions of South Citrus Avenue, there are six somewhat similar auto and truck dealerships. The design of the proposed project is harmonious, consistent and complete within itself. Furthermore, the proposed project is functionally

and visually compatible with both the neighboring auto dealerships and other commercial land uses. And the staff believes that there would not be any conflicts with the easterly houses (the closest of which are non-conforming). There are no records of incompatibility-associated issues or land use-related conflicts between Enterprise and any other property during the many years that Enterprise operated across the street.

5. The development will constitute an adequate environment for the intended use by sustaining the desirability and stability of the neighborhood and community.

Finding of Facts: The proposed project is designed primarily for the noted car rental use and should further sustain the City's Citrus Avenue auto row, which will provide stability to the neighborhood and community. In addition, the conditions of approval of the application will provide the City with safeguards for preventing any future issues.

6. Proposed lighting is so arranged as to reflect the light away from adjoining properties.

Finding of Facts: The proposed project would consist of existing and new exterior lighting on the building and in the surface parking areas. These lights would be required to meet applicable City foot-candle standards to provide for adequate security while being directed, oriented and shielded to prevent light from shining on and spilling over onto adjacent properties and public streets.

7. Proposed signs will not, by size, location, color, or lighting, interfere with traffic or limit visibility.

Finding of Facts: As noted above, certain exterior signage was also submitted to the City with the SPR application and, although certain components of it exceed the associated Code requirements, the sign has been determined to be acceptable under the associated "PCD Modification" application. A typical signage review requirement of the City calls for all signage to be located and designed in a manner that would not interfere with traffic or limit visibility.

PUBLIC HEARING NOTICE AND NOTIFICATION

The applicant was given a copy of the staff report, including the attachments. All property owners within a radius of at least 300 feet from the overall project site were mailed notices of the Planning Commission public hearing on November 26, 2014, a minimum of ten (10) days before the hearing, as required by law. In addition, the public hearing notice was published in the San Gabriel Examiner newspaper on November 28, 2014.

ENVIRONMENTAL DETERMINATION

Pursuant to the provisions of the California Environmental Quality Act (CEQA) and State Guidelines, the project is categorically exempt based on CEQA Section 15301(a), which includes existing facilities seeking minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The applicant is proposing interior and general parking-related improvements and, therefore, qualifies for this exemption.

RECOMMENDATION

Staff recommends that the Planning Commission approve the Planned Community Development Modification and the Site Plan Review through the adoption of the attached Resolutions with Conditions of Approval.

Prepared by:



Alan Carter
City Planner

EXHIBITS

1. Area Map
2. 300-foot Notification
3. Project Plans (reductions), full size under separate cover
4. Site Plan Review 14-031 letter (permitting temporary car rental operations)
5. Planned Community Development Modification #1 Resolution 14-017 PC
6. Site Plan Review Resolution 14-020 PC with Conditions of Approval
7. Current PCD (Ordinance No. 99-1851)

AREA MAP

CITY OF COVINA

NOTICE OF PUBLIC HEARING

728 SOUTH CITRUS AVENUE

PCD 99-001 & SPR 14-028

Subject Site



EXHIBIT 1

# 1	Parcel: 8451 002 021 Owner: Melendres Samuel & Theres	Site: 152 Shoppers Ln Covina 91723 Mail: 2245 Whisper Wind Ln Encinitas Ca 92024
Use: Com,Shopping Ctr,Neighborhood	Date:	Sale :
Sqft : 1,995	Bd/Bth: /	Yb: 1954
Type:	Legal: TRACT # 19651 LOT 10	Asd :\$120,438
		Imp : 51%
# 2	Parcel: 8451 002 022 Owner: Redhead Roger D & Susan	Site: 148 Shoppers Ln Covina 91723 Mail: PO Box 4845 Covina Ca 91723
Use: Com,Shopping Ctr,Neighborhood	Date: 04/15/1999	Sale : \$155,000 F
Sqft : 2,160	Bd/Bth: /	Yb: 1955
Type:	Legal: TRACT # 19651 LOT 11	Asd :\$190,955
		Imp : 67%
# 3	Parcel: 8451 002 023 Owner: Kerr C Glean Co Tr	Site: 146 Shoppers Ln Covina 91723 Mail: 3066 Oakwood Dr Bountiful Ut 84010
Use: Com,Shopping Ctr,Neighborhood	Date: 04/24/1998	Sale : \$195,000 F
Sqft : 2,280	Bd/Bth: /	Yb: 1954
Type:	Legal: TRACT # 19651 LOT 12	Asd :\$252,840
		Imp : 60%
# 4	Parcel: 8451 002 024 Owner: Wolfe David K & Laurel L Trs	Site: 140 Shoppers Ln Covina 91723 Mail: 502 Whiting Woods Rd Glendale Ca 91208
Use: Com,Shopping Ctr,Neighborhood	Date: 05/10/2010	Sale : \$150,000 F **
Sqft : 4,560	Bd/Bth: /	Yb: 1954
Type:	Legal: TRACT # 19651 LOTS 13 A	Asd :\$203,994
		Imp : 48%
# 5	Parcel: 8451 002 025 Owner: Melendres Samuel & Theres	Site: 132 Shoppers Ln Covina 91723 Mail: 716 S Corrida Dr Covina Ca 91724
Use: Com,Store	Date: 03/15/1996	Sale :
Sqft : 2,280	Bd/Bth: /	Yb: 1954
Type:	Legal: TRACT NO 19651 E 15 FT	Asd :\$37,390
		Imp : 60%
# 6	Parcel: 8451 002 026 Owner: Melendres Samuel & Theres	Site: 130 Shoppers Ln Covina 91723 Mail: 2245 Whisper Wind Ln Encinitas Ca 92024
Use: Com,Store	Date:	Sale :
Sqft : 2,280	Bd/Bth: /	Yb: 1954
Type:	Legal: TRACT NO 19651 W 15 FT	Asd :\$133,115
		Imp : 45%
# 7	Parcel: 8451 002 027 Owner: Daquila Co LLC	Site: 126 Shoppers Ln Covina 91723 Mail: 5235 Mountain Springs Ranch Rd La Verne Ca 91750
Use: Com,Shopping Ctr,Neighborhood	Date: 06/28/2012	Sale : \$575,000 F
Sqft : 4,560	Bd/Bth: /	Yb: 1954
Type:	Legal: TRACT # 19651 LOTS 16 A	Asd :\$586,500
		Imp : 58%
# 8	Parcel: 8451 002 028 Owner: Billmeyer Robert A Co Tr	Site: 118 Shoppers Ln Covina 91723 Mail: 1566 Maritime Dr Carlsbad Ca 92011
Use: Com,Shopping Ctr,Neighborhood	Date: 01/11/2012	Sale :
Sqft : 4,560	Bd/Bth: /	Yb: 1954
Type:	Legal: TRACT # 19651 LOTS 18 A	Asd :\$209,411
		Imp : 57%
# 9	Parcel: 8451 002 029 Owner: Tmac Covina LLC	Site: 110 Shoppers Ln Covina 91723 Mail: 100 N Barranca St #7THFL West Covina Ca 91791
Use: Com,Shopping Ctr,Neighborhood	Date: 08/30/2012	Sale : \$576,500 F
Sqft : 4,560	Bd/Bth: /	Yb: 1955
Type:	Legal: TRACT # 19651 LOTS 20 A	Asd :\$576,200
		Imp : 65%
# 10	Parcel: 8451 002 030 Owner: McConaughy Gregory	Site: 666 S Citrus Ave Covina 91723 Mail: 32812 Mermaid Cir Dana Point Ca 92629
Use: Com,Restaurant,Cocktail Lounge	Date: 07/16/2014	Sale :
Sqft : 3,930	Bd/Bth: /	Yb: 1955
Type:	Legal: TRACT # 19651 LOT 22	Asd :\$174,759
		Imp : 64%

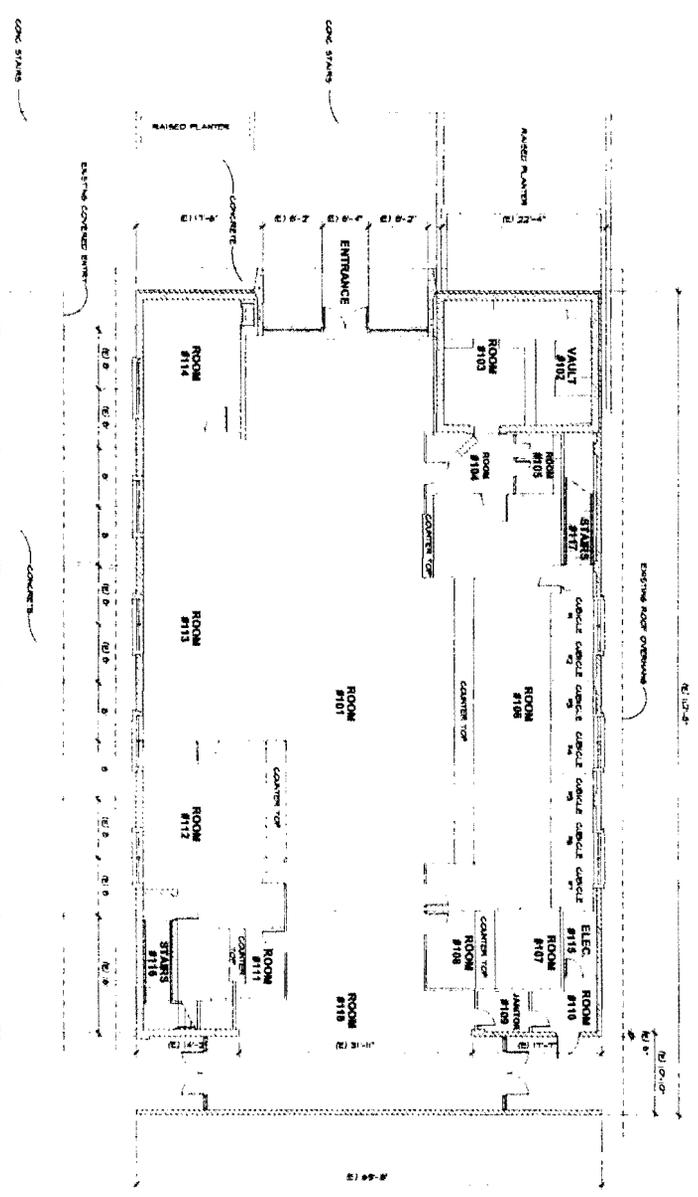
**** in the Sale Amount indicates that the price shown is actually from the previous transfer and the the most current transfer was a zero dollar transfer.
Deemed Reliable. But Is Not Guaranteed.

# 11	Parcel: 8451 002 031 Owner: 702 Citrus LLC	Site: 105 E Loma Vista St Covina 91723 Mail: 597 Mount Williamson Way Boulder City Nv 89005
Use: Com,Restaurant,Cocktail Lounge	Date: 12/13/2010	Sale : Xmpt:
Sqft : 3,196 Bd/Bth: /	Yb: 1963 Rms:	LotSF: 24,262 Acres: .56
Type:	Legal: TRACT NO 15166 1/2 VAC	Asd :\$444,005 Imp : 64%
# 12	Parcel: 8451 002 032 Owner: Dinalux Associates LP	Site: 129 E Loma Vista St Covina 91723 Mail: 3801 Katella Ave #101 Los Alamitos Ca 90720
Use: Com,Prking Lot,Patron Or Employee	Date: 08/27/2013	Sale : \$7,840,000 F Xmpt:
Sqft : 9,100 Bd/Bth: /	Yb: 1974 Rms:	LotSF: 8,497 Acres: .20
Type:	Legal: TRACT NO 15166 1/2 VAC	Asd :\$209,406 Imp : 5 %
# 13	Parcel: 8451 002 033 Owner: Montoya Tomas R & Montoy	Site: 137 E Loma Vista St Covina 91723 Mail: 137 E Loma Vista St Covina Ca 91723
Use: Res,Sgl Fam Res	Date: 12/12/2005	Sale : \$225,000 F ** Xmpt: Homeowners
Sqft : 844 Bd/Bth: 2 / 1.00	Yb: 1950 Rms:	LotSF: 6,908 Acres: .16
Type:	Legal: TRACT # 15166 LOT 5	Asd :\$264,624 Imp : 30%
# 14	Parcel: 8451 002 034 Owner: Salazar Johnny O	Site: 145 E Loma Vista St Covina 91723 Mail: 145 E Loma Vista St Covina Ca 91723
Use: Res,Sgl Fam Res	Date: 07/13/1992	Sale : \$144,000 F ** Xmpt:
Sqft : 832 Bd/Bth: 2 / 1.00	Yb: 1949 Rms:	LotSF: 6,064 Acres: .14
Type:	Legal: TRACT # 15166 LOT 6	Asd :\$202,570 Imp : 31%
# 15	Parcel: 8451 002 035 Owner: Vasquez Mary A & Colerick	Site: 153 E Loma Vista St Covina 91723 Mail: 153 E Loma Vista St Covina Ca 91723
Use: Res,Sgl Fam Res	Date: 09/04/2008	Sale : \$290,000 F Xmpt:
Sqft : 928 Bd/Bth: 2 / 1.00	Yb: 1949 Rms:	LotSF: 6,110 Acres: .14
Type:	Legal: TRACT # 15166 LOT 7	Asd :\$251,000 Imp : 25%
# 16	Parcel: 8451 002 036 Owner: Latourelle Alan D	Site: 161 E Loma Vista St Covina 91723 Mail: 161 Loma Vis Covina Ca 91722
Use: Res,Sgl Fam Res	Date: 03/20/2013	Sale : \$225,000 F Xmpt:
Sqft : 832 Bd/Bth: 2 / 1.00	Yb: 1949 Rms:	LotSF: 6,201 Acres: .14
Type:	Legal: TRACT # 15166 LOT 8	Asd :\$48,729 Imp : 32%
# 17	Parcel: 8451 002 049 Owner: Dinalux Associates LP	Site: 750 Terrado Plz Covina 91723 Mail: 3801 Katella Ave #101 Los Alamitos Ca 90720
Use: Com,Shopping Ctr,Neighborhood	Date: 08/27/2013	Sale : \$7,840,000 F Xmpt:
Sqft : 110,810 Bd/Bth: /	Yb: 1974 Rms:	LotSF: 120,921 Acres: 2.78
Type:	Legal: TRACT NO 15166 LOT CO	Asd :\$7,800,000 Imp : 72%
# 18	Parcel: 8451 002 050 Owner: Yeager William P Co Tr	Site: *no Site Address* Mail: PO Box 5155 San Ramon Ca 94583
Use: Com,Prking Lot,Patron Or Employee	Date: 12/11/1989	Sale : Xmpt:
Sqft : 6,000 Bd/Bth: /	Yb: Rms:	LotSF: 7,802 Acres: .18
Type:	Legal: TRACT NO 15166 EX OF S	Asd :\$74,415 Imp : 4 %
# 19	Parcel: 8451 002 051 Owner: Yeager Family Limited	Site: 770 S Citrus Ave Covina 91723 Mail: PO Box 5155 San Ramon Ca 94583
Use: Com,Bank,Savings And Loan	Date: 05/23/2002	Sale : Xmpt:
Sqft : 15,515 Bd/Bth: /	Yb: 1962 Rms:	LotSF: 28,562 Acres: .66
Type:	Legal: TRACT NO 15166 LOT CO	Asd :\$607,196 Imp : 50%
# 20	Parcel: 8453 001 007 Owner: Reynolds Holdings LLC	Site: 345 N Citrus St West Covina 91791 Mail: 345 N Citrus St West Covina Ca 91791
Use: Com,New Car Sales,Svc	Date: 09/25/2012	Sale : \$3,663,000 F Xmpt:
Sqft : 108,330 Bd/Bth: /	Yb: 1963 Rms:	LotSF: 202,129 Acres: 4.64
Type:	Legal: PHILLIPS TRACT RO LA PU	Asd :\$4,500,000 Imp : 5 %

*** in the Sale Amount indicates that the price shown is actually from the previous transfer and the the most current transfer was a zero dollar transfer.
Deemed Reliable, But Is Not Guaranteed.

# 21	Parcel: 8453 001 010 Owner: Hughes Richard H Tr	Site: 2529 E Workman Ave West Covina 91791 Mail: 3300 E Whitebirch Dr West Covina Ca 91791
Use: Com,Auto Svc Shop	Date: 06/06/2008	Sale : Xmpt:
Sqft : 5,160 Bd/Bth: /	Yb: 1957 Rms:	LotSF: 28,027 Acres: .64
Type:	Legal: PHILLIPS TRACT RANCHO	Asd :\$243,245 Imp : 39%
# 22	Parcel: 8453 001 047 Owner: Takau Properties LLC	Site: 305 N Citrus St West Covina 91791 Mail: 7059 Del Cerro Blvd San Diego Ca 92120
Use: Com,Auto Svc Shop,No Gas	Date: 08/22/2007	Sale : \$2,050,000 F Xmpt:
Sqft : 16,831 Bd/Bth: /	Yb: 2002 Rms:	LotSF: 16,239 Acres: .37
Type:	Legal: TR=PHILLIPS TR RANCHO	Asd :\$1,720,000 Imp : 29%
# 23	Parcel: 8453 001 048 Owner: Reynolds Holdings LLC	Site: 315 N Citrus St West Covina 91791 Mail: 2604 Saddle Ridge Dr Covina Ca 91724
Use: Com,Prking Lot,Patron Or Employee	Date: 01/02/2013	Sale : Xmpt:
Sqft : 14,900 Bd/Bth: /	Yb: 1989 Rms:	LotSF: 14,856 Acres: .34
Type:	Legal: MR 9-3-4 FOR DESC SEE D	Asd :\$450,000 Imp : %
# 24	Parcel: 8453 001 049 Owner: Reynolds D/L Family Trust	Site: 315 N Citrus St West Covina 91791 Mail: 2604 Saddle Ridge Dr Covina Ca 91724
Use: Com,Prking Lot,Patron Or Employee	Date: 12/12/2012	Sale : Xmpt:
Sqft : 17,500 Bd/Bth: /	Yb: 1989 Rms:	LotSF: 17,204 Acres: .40
Type:	Legal: MR 9-3-4 FOR DESC SEE D	Asd :\$520,500 Imp : %
# 25	Parcel: 8453 001 050 Owner: Reynolds Holdings LLC	Site: 675 S Citrus Ave Covina 91723 Mail: 345 N Citrus St West Covina Ca 91791
Use: Com,New Car Sales,Svc	Date: 03/31/1999	Sale : Xmpt:
Sqft : 6,257 Bd/Bth: /	Yb: 1958 Rms:	LotSF: 33,194 Acres: .76
Type:	Legal: PHILLIPS TR S 115 FT OF	Asd :\$956,088 Imp : 47%
# 26	Parcel: 8453 001 051 Owner: Jn/D LLC	Site: 2533 E Workman Ave West Covina 91791 Mail: 2533 E Workman Ave West Covina Ca 91791
Use: Com,Auto Svc Shop	Date: 07/01/2014	Sale : \$760,000 F Xmpt:
Sqft : 2,420 Bd/Bth: /	Yb: 1959 Rms:	LotSF: 5,569 Acres: .13
Type:	Legal: M R 9-3-4 FOR DESC SEE	Asd :\$279,611 Imp : 39%
# 27	Parcel: 8453 001 052 Owner: Jn/D LLC	Site: 2533 E Workman Ave West Covina 91791 Mail: 2533 E Workman Ave West Covina Ca 91791
Use: Com,Prking Lot,Patron Or Employee	Date: 07/01/2014	Sale : \$760,000 F Xmpt:
Sqft : Bd/Bth: /	Yb: Rms:	LotSF: 7,517 Acres: .17
Type:	Legal: M R 9-3-4 FOR DESC SEE	Asd :\$155,579 Imp : 2 %

*** in the Sale Amount indicates that the price shown is actually from the previous transfer and the the most current transfer was a zero dollar transfer.
Deemed Reliable, But Is Not Guaranteed



EXISTING 1ST FLOOR PLAN
SCALE 1/8" = 1'-0"



AREA TABULATION:

1ST FLOOR 8,774 SQ. FT.
2ND FLOOR 2,294 SQ. FT.
TOTAL 11,068 SQ. FT.

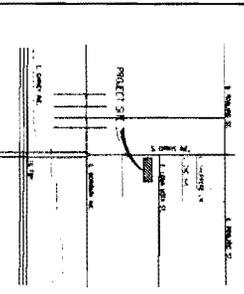
WALL LEGEND:

EXISTING INTERIOR WALL - 8" THICK CMU
EXISTING EXTERIOR WALL - 8" THICK CMU
NEW EXTERIOR WALL - 8" THICK CMU
NEW INTERIOR WALL - 8" THICK CMU

DESCRIPTION OF OPERATIONS:

NAME OF OPERATOR: ENTERPRISE RENT-A-CAR
ADDRESS: 728 S. CITRUS AVE., COVINA, CA 91722
PHONE: (909) 939-1111
TYPE OF OPERATION: RENT-A-CAR
DATE OF OPERATION: 1998

VICINITY MAP:



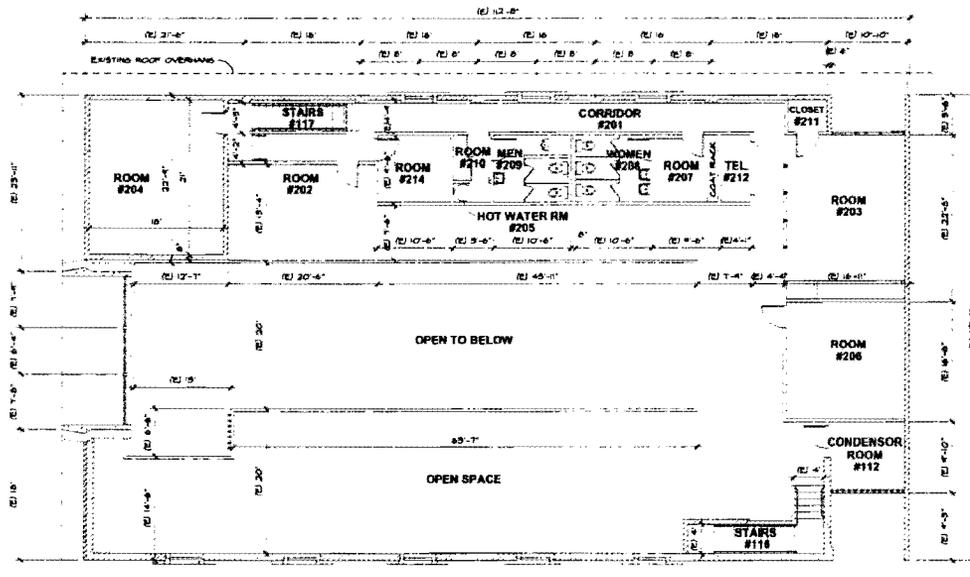
ENTERPRISE RENT-A-CAR T.I.
728 S. CITRUS AVE.
COVINA, CA 91722



ROBERT A. MARTINEZ
ARCHITECT / ASSOCIATES
1941 BEECH ROAD
SUITE 200
ROCKVILLE, CA 91764
PHONE: (909) 939-1111
FAX: (909) 939-1112
WWW.RAMARTINEZ.COM

EXISTING 1ST FLOOR PLAN

A1.0



EXISTING 2ND FLOOR PLAN
SCALE 1/8"=1'-0"



AREA TABULATION:

1ST FLOOR 8,774 SQ. FT.
2ND FLOOR 2,454 SQ. FT.
TOTAL 11,228 SQ. FT.

MALL LEGEND:

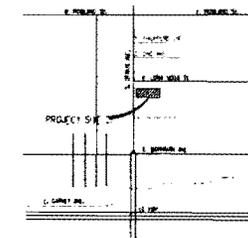
EXISTING EXTERIOR WALL - 8" THICK CMU
EXISTING INTERIOR 2x4 @ 16 O.C. FRAMED WALL WITH INS.
TYPE X 5/8" DD ON BOTH SIDES

DESCRIPTION OF OPERATIONS

RENTING OF VEHICLES	EMPLOYEES ON DUTY: 10
HOURS OF OPERATION: MONDAY-FRIDAY SATURDAY SUNDAY	8:00AM-8:00PM 9:00 AM-1:00PM CLOSED

*THERE SHALL BE NO HAZARDOUS MATERIALS AS DESCRIBED IN C.B.C. TABLES 30711, 30712, 30713 STORED WITHIN THE BUILDING.

**VICINITY MAP
CITY OF COVINA**



**ENTERPRISE
RENT-A-CAR T.I.
728 S. CITRUS AVE.
COVINA, CA. 91722**



ROBERT A. MARTINEZ
ARCHITECT/ASSOCIATES
10000 WILSON BLVD. SUITE 200
CORNELL, CA. 91731
ROBERTA@RAAARCHITECTS.COM
TEL: 909.939.8888

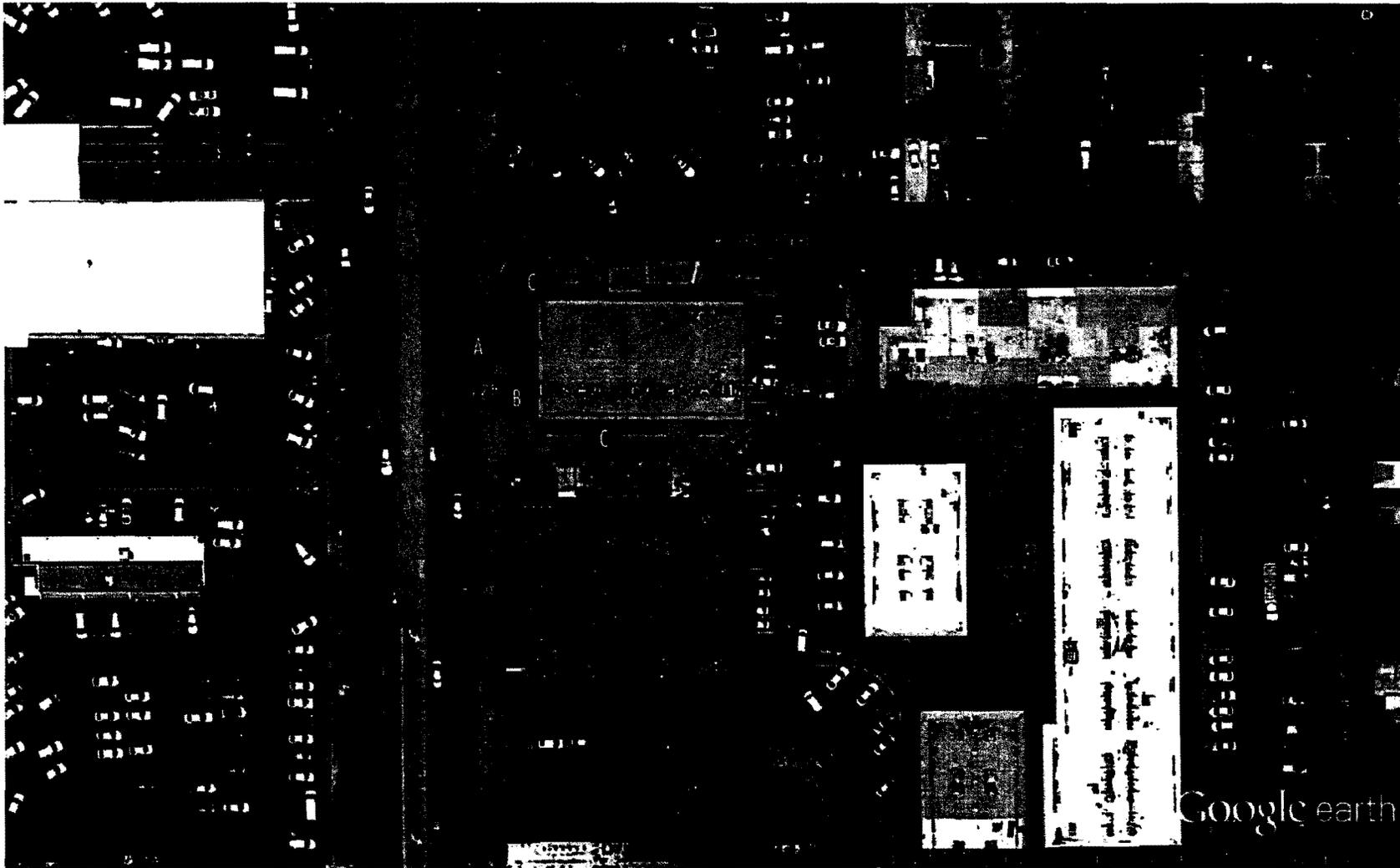


**EXISTING
2ND FLOOR PLAN**

DATE	04/08/14
SCALE	1/8"=1'-0"
DATE BY	FRA
DATE	
DATE BY	
DATE	
DATE	

A1.1

EXHIBIT 3



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IDENTITY GROUP
9135 Detwill Blvd • Hayward, CA 90270
408 423 4283 • Fax 323 580 7143
Website: www.signresource.com

REVISION HISTORY:

REV	DATE	REQUESTED BY	UPDARED BY
A	11/13/14	CC	BS
INITIAL DRAWING			
B	11/24/14	CC	BS
UPDATED PER CUSTOMER			
C	11/25/14	CC	BS
UPDATED PER CITY CODES			
D	11/25/14	CC	BS
UPDATED AWNING			

UL THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE. ALWAYS OBTAIN APPLICABLE LOCAL CODES. THIS INCLUDES PROPER BACKGROUND AND MOUNTING OF THE SIGN.

GENERAL NOTES

1. TOLERANCE (UNLESS NOTED)
 * GRAPHICS - +1/16" = FACE SIZE + 1/16" -0"
 * CARBONET - +1/16" = WHITE OVERLAP - 1/8" + 1/16"
 * ALL COPY LEVEL UNLESS NOTED OTHERWISE.
2. VIEWING DISTANCE 25' TO 50' UNLESS NOTED OTHERWISE.
3. PINS COLOR CALLOUT INDICATES USE OF SPRAYPAINT AND SYSTEM.
4. NO REVISION OR MATERIAL SUBSTITUTION WITHOUT FCN.
5. ALL ELECTRICAL SIGNS TO COMPLY WITH UL 48.

REORDER #

ENTERPRISE OVERLAY

DRAWN BY: **BRIAN S.** CHECKED BY:

CLIENT: **ENTERPRISE HOLDINGS**

LOCATION: **COVINA, CA**

DATE: **ERAC 3252** DATE: **11/13/14**

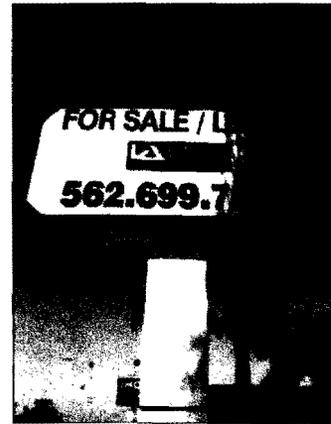
PROJECT # **PACKET** REV **D** SHEET # **1 OF 11**

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BEFORE



BEFORE

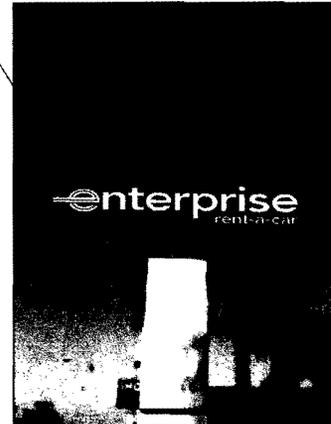


AFTER

EXHIBIT 3



AFTER



SCOPE OF WORK			
	DIMENSIONS	QTY.	
1	PYLON SIGN	3' X 15'	1
2	FLEX REPLACEMENT FACE	7' X 23'	1
3	WALL SIGN	3' X 15'	2

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6133 District Blvd • Maywood, CA 90270
800 423 4283 • Fax 323 760 7143
Website www.signresource.com

REVISION HISTORY:

REV	DATE	REQUESTED BY	UPDATED BY
A	11/13/14	CC	BS
INITIAL DRAWING			
REV	DATE	REQUESTED BY	UPDATED BY
B	11/24/14	CC	BS
REVISION DESCRIPTION			
UPDATED PER CUSTOMER			
REV	DATE	REQUESTED BY	UPDATED BY
C	11/25/14	CC	BS
REVISION DESCRIPTION			
UPDATED PER CITY CODES			
REV	DATE	REQUESTED BY	UPDATED BY
D	11/25/14	CC	BS
REVISION DESCRIPTION			
UPDATED AWNING			

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GENERAL NOTES

1. TOLERANCE (UNLESS NOTED)
 * GRAPHICS +/- 1/8" = FACE SIZE + 1/16" =
 * CRANETS +/- 1/8" = TRAIL OVERLAP - 1/8" +/- 1/16"
 * ALL COPY LEVEL UNLESS NOTED OTHERWISE
2. VIEWING DISTANCE 25' TO 50' UNLESS NOTED OTHERWISE
3. PMS COLOR CALLOUT INDICATES USE OF SPRAY/PAINT SYSTEM
4. NO DEVIATION OR MATERIAL SUBSTITUTION WITHOUT ECR
5. ALL ELECTRICAL SIGNS TO COMPLY WITH UL 48

DESCRIPTION

ENTERPRISE OVERLAY

DRAWN BY: _____ CHECKED BY: _____

CLIENT: **BRIAN S. ENTERPRISE HOLDINGS**

LOCATION: **COVINA, CA**

SKETCH: _____ DATE: **11/13/14**

PROJECT: **ERAC 3252** KEY: **D** SHEET # **2 OF 11**

PACKET

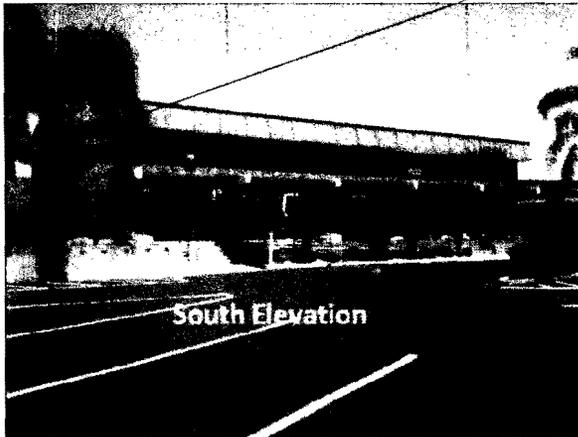
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BEFORE



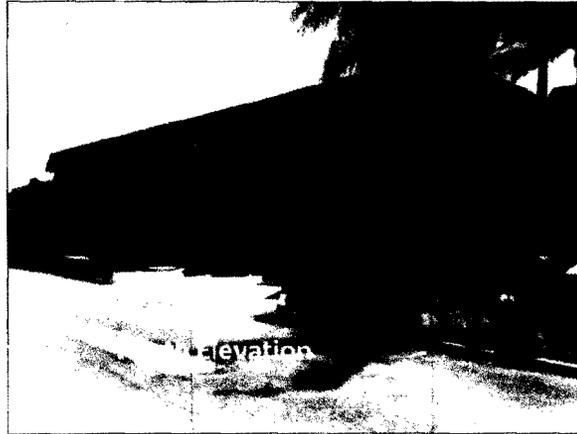
South Elevation

AFTER



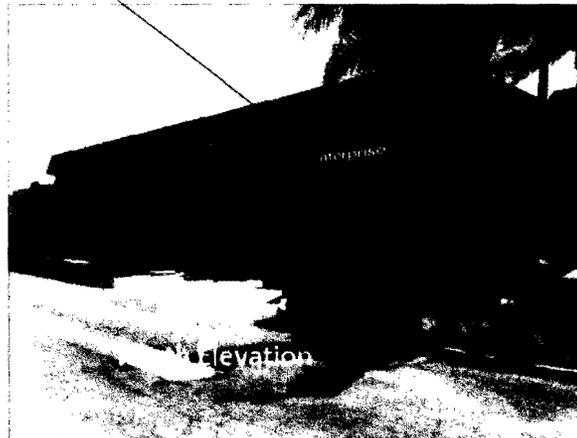
South Elevation

BEFORE



South Elevation

AFTER



South Elevation

SCOPE OF WORK			
	DIMENSIONS	QTY.	
1	PYLON SIGN	3' X 15'	1
2	FLEX REPLACEMENT FACE	7' X 23'	1
3	WALL SIGN	3' X 15'	2

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REVISION HISTORY:			
REV A	DATE 11/13/14	REVISION BY CC	UPDATED BY BS
REVISION DESCRIPTION INITIAL DRAWING			
REV B	DATE 11/24/14	REVISION BY CC	UPDATED BY BS
REVISION DESCRIPTION UPDATED PER CUSTOMER			
REV C	DATE 11/25/14	REVISION BY CC	UPDATED BY BS
REVISION DESCRIPTION UPDATED PER CITY CODES			
REV D	DATE 11/25/14	REVISION BY CC	UPDATED BY BS
REVISION DESCRIPTION UPDATED AWNING			

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GENERAL NOTES

- TOLERANCE (UNLESS NOTED):
 * GRAPHICS +1/16" = FACE SIZE + 1/16" - 1/8"
 * CABINET -1/16" = VINYL OVERLAP - 1/8" + 1/16"
 * ALL COPY LEVEL UNLESS NOTED OTHERWISE
- VIEWING DISTANCE 25' TO 50' UNLESS NOTED OTHERWISE
- PHS COLOR CALIBRATION INDICATES USE OF SPRAYLAP INK SYSTEM
- NO REVISION OR MATERIAL SUBSTITUTION WITHOUT ECRN
- ALL ELECTRICAL SIGNS TO COMPLY WITH UL 48

DESCRIPTION
ENTERPRISE OVERLAY

DRAWN BY: BRIAN S.	CHECKED BY:
CLIENT: ENTERPRISE HOLDINGS	
LOCATION: COVINA, CA	
DATE: ERAC 3252	DATE: 11/13/14
DRAWING GROUP: PACKET	REV: D SHEET OF: 3 OF 11

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EXHIBIT 3

3'-0" X 15'-0" PYLON SIGN



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 906.423.4281 • Fax 323.509.7143
 Website: www.signresource.com

REVISION HISTORY:

REV	DATE	REQUESTED BY	UPDATED BY
A	11/13/14	CC	BS
INITIAL DRAWING			
B	11/24/14	CC	BS
UPDATED PER CUSTOMER			
C	11/25/14	CC	BS
UPDATED PER CITY CODES			
D	11/25/14	CC	BS
UPDATED AWNING			

UL THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 608 OF THE NATIONAL ELECTRIC CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

GENERAL NOTES

1. TOLERANCE (UNLESS NOTED)
 * GRAPHICS: $\pm 1/32"$ * FACE SIZE: $\pm 1/16"$
 * FABRIK: $\pm 1/32"$ * MOUNT OVERLAP: $\pm 1/8"$ * $\pm 1/16"$
 * ALL COM. LEVEL UNLESS NOTED OTHERWISE
2. MOUNTING DISTANCE 25" TO 50" UNLESS NOTED OTHERWISE
3. PMS COLOR CALLOUT INDICATES USE OF SPRAYED INK SYSTEM
4. NO DEVIATION OR MATERIAL SUBSTITUTION WITHOUT ECN.
5. ALL ELECTRICAL SIGNS TO COMPLY WITH UL 48

ENTERPRISE OVERLAY

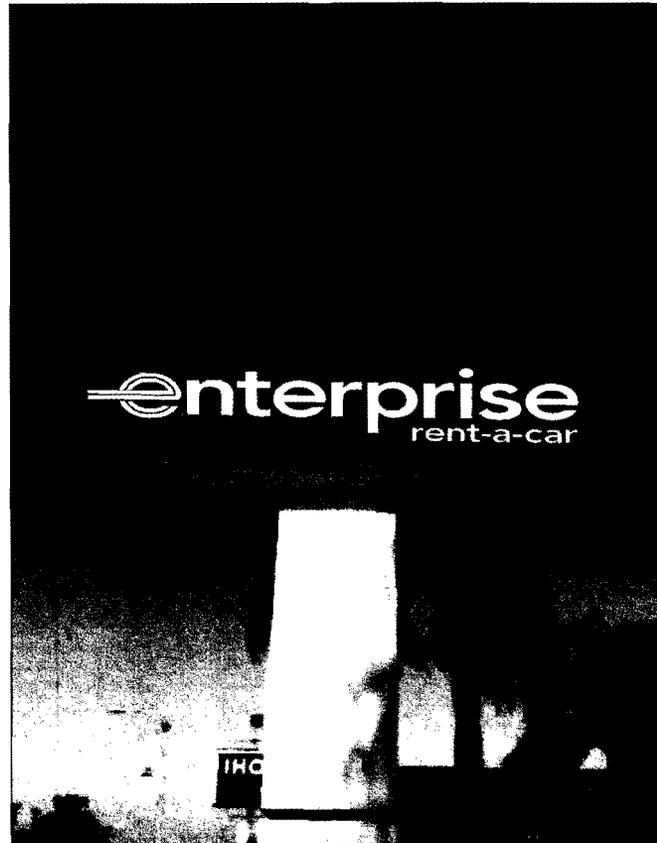
DESIGNED BY	CHECKED BY	
BRIAN S.		
CLIENT	ENTERPRISE HOLDINGS	
LOCATION	CONINA, CA	
DRAWN	DATE	
ERAC 3252	11/13/14	
DRAWING PART OF	REV	SHEET #
PACKET	D	4 OF 11

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EXISTING VIEW

EXHIBIT 3



PROPOSED VIEW

A

enterprise
rent-a-car

ILLUMINATION VIEW

ITEM	DECORATION
A	ARLON 2500 SERIES 3227 GREEN VINYL
B	WHITE EXPOSED SUBSTRATE
C	ARLON 22 BLACK VINYL (MATTE)
D	TRKORN BLACK SW 4258 SEMI GLOSS METAL PAINT

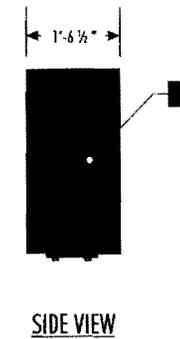
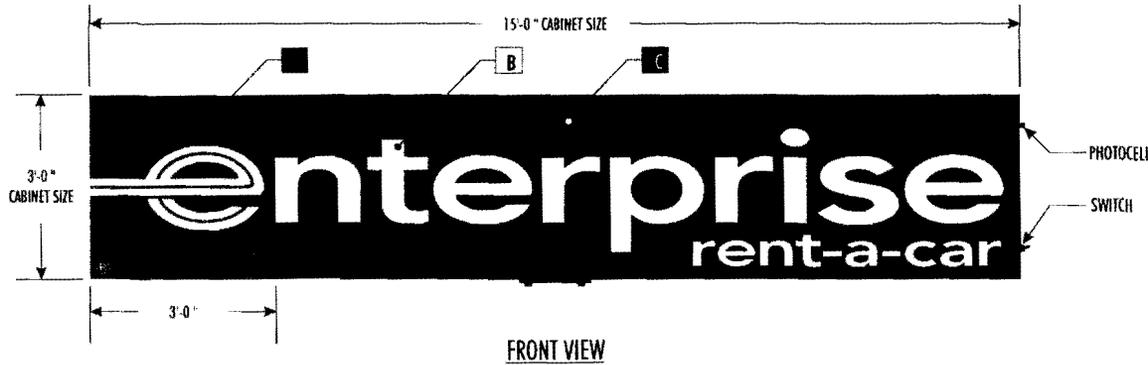


EXHIBIT 3

A

DESIGNATION:
ENTERPRISE 3'X15' CENTER POLE SIGN

The details on the drawings indicate a design approach for sign structure but do not necessarily include all fabrication details required for the complete structural integrity of the sign, including consideration for static, dynamic and suction loads during handling, erection, and service at the installed location, nor do they necessarily consider the preferred shop practices of the individual sign fabricator. Before starting the work, Company shall, in order to facilitate the construction of the Work, carefully study and compare the various Contract Documents, take field measurements of existing conditions, and investigate and observe any conditions at the site of the Project affecting how to install and erect the work. It shall be the responsibility of Company to perform the complete structural design of the sign and to incorporate all the safety factors necessary to adequately support the sign for its intended use and purpose and to protect the public and Client. Designs, which meet or exceed standard industry and code engineering practices, will be required. No section of these specifications shall be interpreted or executed in any way to jeopardize public safety and / or welfare. Conformance to these specifications shall not fulfill any manufacturer, contractor, and / or Company's obligation and responsibility to provide safe products and services. Disclosure or reproduction of any of the information contained within these documents without the written consent of the owner is strictly prohibited.

REV.	DATE	DESCRIPTION	BY:	APP.
09/05/12		REVISED SPECS	HA	
03/28/10		NO CHANGE	BA	
02/10/09		NO CHANGE	CI	
11/20/08		REVISE MATCH PLATE	JU	

GRAPHICS DEPICTED ARE FOR ILLUSTRATIVE PURPOSES ONLY! USE ONLY APPROVED ARTWORK FOR PRODUCTION.

SHT.	BY:
1	C. ITO
OF	DATE:
3	03/01/07

PART NO.	DRAWING NO.
EE0315C01	EE0315C01

ENTERPRISE HOLDINGS.

7'-0" X 23'-0" FLEX REPLACEMENT FACE

SignResource
IDENTITY GROUP
6135 District Blvd - Maywood, CA 90270
800 423 4785 • Fax: 373 562 7141
WebSite: www.signresource.com

REVISION HISTORY:			
REV	DATE	REQUESTED BY	UPDATED BY
A	11/13/14	CC	BS
REVISION DESCRIPTION: INITIAL DRAWING			
B	11/24/14	CC	BS
REVISION DESCRIPTION: UPDATED PER CUSTOMER			
C	11/25/14	CC	BS
REVISION DESCRIPTION: UPDATED PER CITY CODES			
D	11/25/14	CC	BS
REVISION DESCRIPTION: UPDATED AWNING			

 THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRIC CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER DIMENSIONS AND POSITIONING OF THE SIGN.

GENERAL NOTES

1. TOLERANCE (UNLESS NOTED)
 * GRAPHICS - 1/32" ± FACE SIZE + 1/16" ±"
 * CABINET - 1/16" ± VINYL OVERLAP - 1/8" ± 1/16"
 * ALL COPY LEVEL UNLESS NOTED OTHERWISE
2. VIEWING DISTANCE 25' TO 50' UNLESS NOTED OTHERWISE
3. PMS COLOR CALLOUT INDICATES USE OF SPRAYLAI INK SYSTEM
4. NO DEVIATION OR MATERIAL SUBSTITUTION WITHOUT ECR
5. ALL ELECTRICAL SIGNS TO COMPLY WITH UL 48

ENTERPRISE OVERLAY

DESIGNED BY	BRIAN S.		
CLIENT	ENTERPRISE HOLDINGS		
LOCATION	COVINA, CA		
DATE	ERAC 3252	DATE	11/13/14
REVISIONS	REV	DATE	SHEET #
	PACKET	D	6 OF 11

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EXISTING VIEW



PROPOSED VIEW

EXHIBIT 3

B

REVISION HISTORY:

REV	DATE	REQUESTED BY	UPDATED BY
REV A	10/07/14	CC	BS
REVISION DESCRIPTION INITIAL DRAWING			
REV B	11/25/14	CC	BS
REVISION DESCRIPTION UPDATED LOOK TO MATCH CITY CODES			
REV C	11/25/14	CC	BS
REVISION DESCRIPTION UPDATED LOOK PER CUSTOMER'S REQUEST			

PARTS LIST:

ITEM	DESCRIPTION
A	ARLON 3227 ENTERPRISE GREEN VINYL
B	ARLON 3500 22 BLACK VINYL
C	ARLON 3225 ENTERPRISE SECONDARY GREEN VINYL
D	WHITE EXPDED SUBSTRATE
E	3M DIFFUSER

	MATERIAL LIST
1	COOLY FLEXIBLE SUBSTRATE
2	
3	
4	
5	

UL THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

GENERAL NOTES

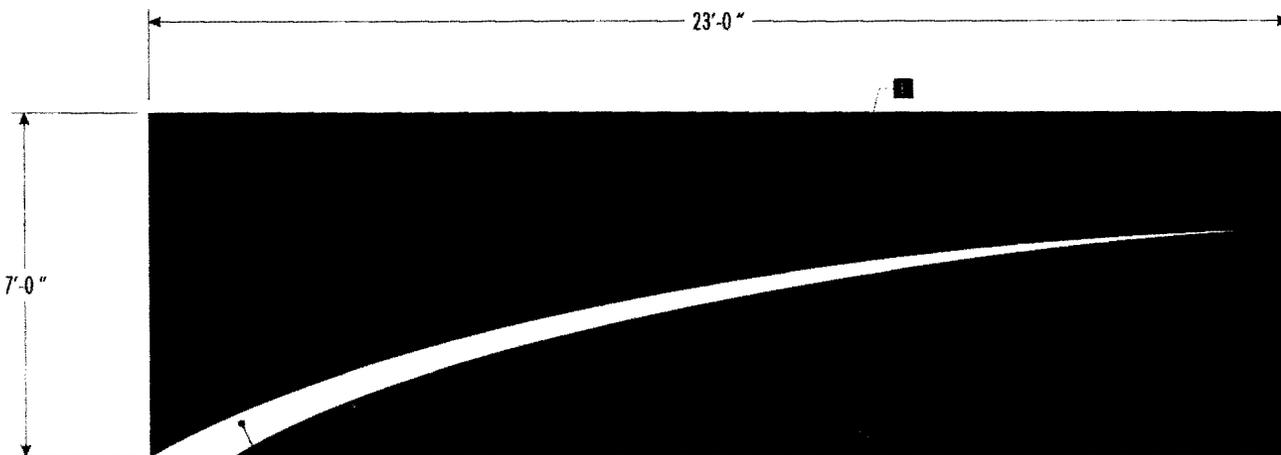
1. TOLERANCE (UNLESS NOTED)
 • GRAPHICS +1/16" ± FACE SIZE + 1/16" ±
 • CABINET -1/16" ± VINYL OVERLAP -1/8" ± 1/16"
 • ALL COPY LEVEL UNLESS NOTED OTHERWISE
2. VIEWING DISTANCE 25' TO 50' UNLESS NOTED OTHERWISE
3. THIS COLOR CALLOUT INDICATES USE OF SPRAYLAP INK SYSTEM
4. NO SEPARATION OR MATERIAL SUBSTITUTION WITHOUT FCN
5. ALL ELECTRICAL SIGNS TO COMPLY WITH UL 88

DESCRIPTION

ENTERPRISE FACE SF NL
7'-0" X 23'-0" FLEX MATERIAL
FOR AWNING

DESIGNED BY	BRIAN S.	CHECKED BY	
CLIENT	ENTERPRISE HOLDINGS		
LOCATION	COVINA, CA		
ORDER #	209830	DATE	10/07/14
PROJECT #	EEY3505	REV	C
		SHEET #	
		1 OF 2	

We warrant that the materials and methods used in the construction of this sign are in accordance with the applicable codes and standards. We warrant that the sign will be installed in accordance with the applicable codes and standards. This warranty is void if the sign is not installed in accordance with the applicable codes and standards. All rights reserved.



FRONT VIEW

SECTION VIEW

100% SWIPE

FIRST SURFACE 3M DIFFUSER
BEHIND THE BLACK AND GREEN
SO THAT THERE IS NO EXPOSED SUBSTRATE

EXHIBIT 3

B

161 SQ. FT.
SCALE 1:30

By signing, you are validating the dimensions and graphic provided by Sign Resource and/or you are handling your own installation

3'-0" X 15'-0" WALL SIGN



6135 District Blvd - Maywood, CA 90270
 800-429-0281 • Fax 323-560-7148
 Website: www.signresource.com

REVISION HISTORY:

REV	DATE	REQUESTED BY	UPDATED BY
A	11/13/14	CC	BS
REVISION DESCRIPTION: INITIAL DRAWING			
B	11/24/14	CC	BS
REVISION DESCRIPTION: UPDATED PER CUSTOMER			
C	11/25/14	CC	BS
REVISION DESCRIPTION: UPDATED PER CITY CODES			
D	11/25/14	CC	BS
REVISION DESCRIPTION: UPDATED AWING			

UL THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 610 OF THE NATIONAL ELECTRIC CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

GENERAL NOTES

1. TOLERANCE (UNLESS NOTED)
 - GRAPHICS +/- 1/8" = FACE SIZE +/- 1/16"
 - CABINET +/- 1/8" = VINYL OVERLAP - 1/8" +/- 1/16"
 - ALL COPY LEVEL UNLESS NOTED OTHERWISE
2. VIEWING DISTANCE 25' TO 50' UNLESS NOTED OTHERWISE
3. PMS COLOR CALLOUT INDICATES USE OF SPATLAY AND SYSTEM
4. NO DETACHMENT OR MATERIAL SUBSTITUTION WITHOUT ECR
5. ALL ELECTRICAL SIGNS TO COMPLY WITH UL 48

ENTERPRISE OVERLAY

DESIGNED BY:	BRIAN S.	CHECKED BY:	
CLIENT:	ENTERPRISE HOLDINGS		
LOCATION:	COVINA, CA		
DATE:	ERAC 3252	DATE:	11/13/14
REVISIONS:	PACKET	REV:	D 8 OF 11

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South Elevation

EXISTING VIEW



South Elevation

PROPOSED VIEW

EXHIBIT 3

C



ILLUMINATION VIEW

ITEM	DECORATION
	ARLON 2500 SERIES 3227 GREEN VINYL
B	WHITE EXPOSED SUBSTRATE
C	ARLON 22 BLACK VINYL (MATT)
D	TRICORN BLACK SW 6258 SEMI GLOSS METAL PAINT

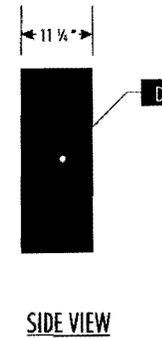
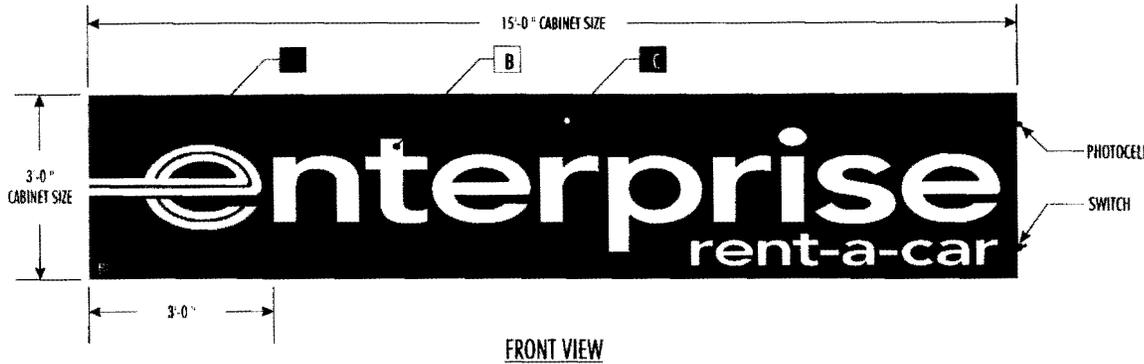


EXHIBIT 3

C

DESIGNATION:
ENTERPRISE 3'X15' WALL SIGN

The details on the drawings indicate a design approach for sign structure but do not necessarily include all fabrication details required for the complete structural integrity of the sign, including consideration for static, dynamic and suction loads during handling, erection, and service at the installed location, nor do they necessarily consider the preferred shop practices of the individual sign fabricator. Before starting the work, Company shall, in order to facilitate the construction of the Work, carefully study and compare the various Contract Documents, take field measurements of existing conditions, and investigate and observe any conditions at the site of the Project affecting how to furnish and install the work. It shall be the responsibility of Company to produce the complete structural design of the sign and to incorporate all the safety factors necessary to adequately support the sign for its intended use and purpose and to protect the public and Client. Design, which must exceed standard industry and code engineering practices, will be required. No portion of these specifications shall be interpreted or construed in any way to jeopardize public safety and / or welfare. Conformance to these specifications shall not fulfill any manufacturer's, architect's, and / or Company's obligation and responsibility to provide safe products and services. Disclosure or reproduction of any of the information contained within these documents without the written consent of the owner is strictly prohibited.

REV.	DATE	DESCRIPTION	BY:	APP.
04/04/11		GENERAL REVISION	HA	
10/20/08		REVISED "K" TO NEW GUIDELINES	JY	

GRAPHICS DEPICTED ARE FOR ILLUSTRATIVE PURPOSES ONLY
USE ONLY APPROVED ARTWORK FOR PRODUCTION.

SHT.	BY:
9	H.ABURTO
OF	DATE:
11	03/01/07

PART NO.
EE0315A01
DRAWING NO.
EE0315A01

ENTERPRISE HOLDINGS.

3'-0" X 15'-0" WALL SIGN



6135 District Blvd - Maywood, CA 90270
 909 421 4283 - Fax 923 560 7144
 Website www.signresource.com

REVISION HISTORY:			
REV	DATE	REQUESTED BY	ISSUED BY
A	11/13/14	CC	BS
REVISION DESCRIPTION: INITIAL DRAWING			
B	11/24/14	CC	BS
REVISION DESCRIPTION: UPDATED PER CUSTOMER			
C	11/25/14	CC	BS
REVISION DESCRIPTION: UPDATED PER CITY CODES			
D	11/25/14	CC	BS
REVISION DESCRIPTION: UPDATED AWNING			

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GENERAL NOTES

1. TOLERANCE (UNLESS NOTED):
 * GRAPHICS +/- 1/8" * FACE SIZE +/- 1/16" *
 * CABINET +/- 1/8" * VINYL OVERLAP +/- 1/8" +/- 1/16"
 * ALL COPY LEVEL UNLESS NOTED OTHERWISE
2. VIEWING DISTANCE 25' TO 50' UNLESS NOTED OTHERWISE
3. PMS COLOR CALLOUT INDICATES USE OF SPOTLATE INK SYSTEM
4. NO DEVIATION OR MATERIAL SUBSTITUTION WITHOUT ECH
5. ALL ELECTRICAL SIGNS TO COMPLY WITH UL 48

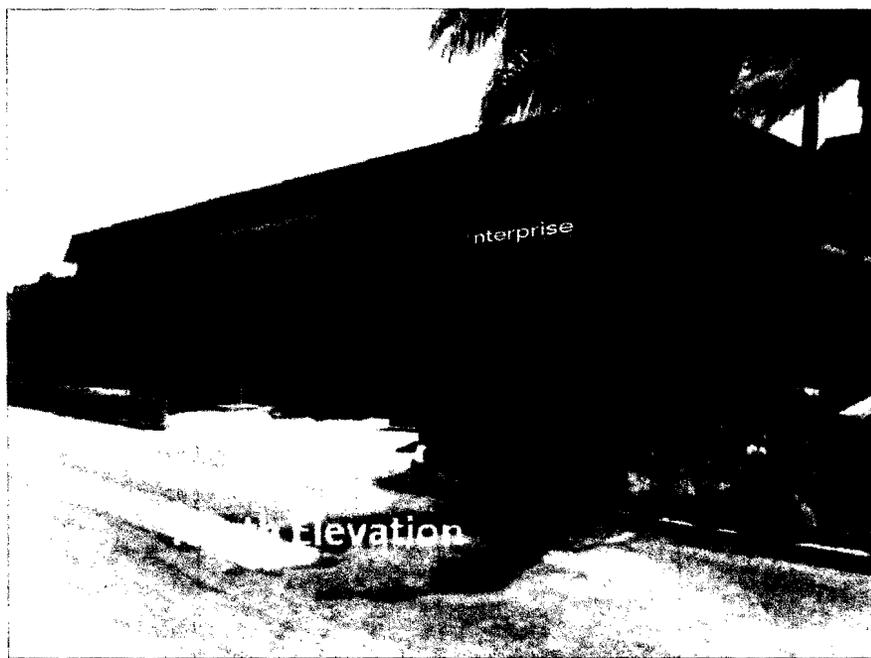
DESCRIPTION:
ENTERPRISE OVERLAY

DESIGNED BY	CHECKED BY	
BRIAN S.		
CLIENT	ENTERPRISE HOLDINGS	
LOCATION	COVINA, CA	
DRAWN	DATE	
ERAC 3252	11/13/14	
DESCRIPTION	REV	SHEET #
PACKET	D	10 OF 11

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EXISTING VIEW



PROPOSED VIEW

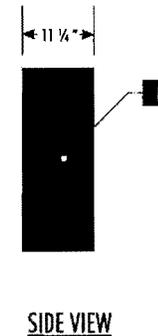
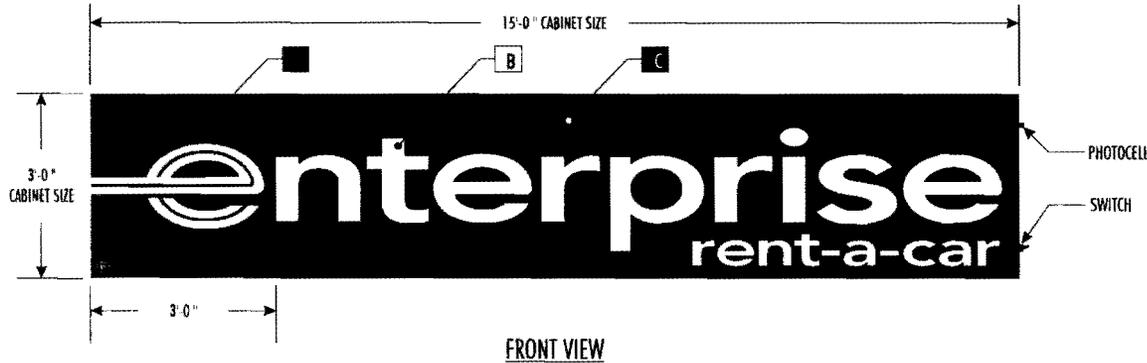
EXHIBIT 3

C



ILLUMINATION VIEW

ITEM	DECORATION
A	ARLON 2500 SERIES 3227 GREEN VINYL
B	WHITE EXPOSED SUBSTRATE
C	ARLON 22 BLACK VINYL (MATTE)
D	TRICORN BLACK SW 6258 SEMI GLOSS METAL PAINT



DESIGNATION:
ENTERPRISE 3'X15' WALL SIGN

The details on the drawings indicate a design approach for sign structure but do not necessarily include all fabrication details required for the complete structural integrity of the signs, including consideration for static, dynamic and erection loads during handling, erection, and service at the installed location. Care should be taken to consider the product's shop processes of the individual sign fabricator. Before starting the work, Company shall, in order to facilitate the construction of the Work, carefully study and compare the various Contract Documents, take field measurements of existing conditions, and investigate and observe any conditions at the site of the Project affecting how to furnish and install the work. It shall be the responsibility of Company to perform the complete structural design of the signs and to incorporate all the safety factors necessary to adequately support the sign for its intended use and purpose and to protect the public and Client. Designs, which meet or exceed standard industry and code engineering practices, will be required. No section of these specifications shall be interpreted or construed in any way to impede public safety and / or welfare. Conformance to these specifications shall not hold any manufacturer, contractor, and / or Company's obligation and responsibility to provide safe products and services. Disclosure or reproduction of any of the information contained within these documents without the written consent of the owner is strictly prohibited.

REV	DATE	DESCRIPTION	BY	APP
1	04/04/11	GENERAL REVISION	NA	
2	10/20/08	REVISED "R" TO NEW GUIDELINES	JV	

GRAPHICS DEPICTED ARE FOR ILLUSTRATIVE PURPOSES ONLY
USE ONLY APPROVED ARTWORK FOR PRODUCTION.

SHT.	BY:	PART NO.
11	H.ABURTO	EE0315A01
OF	DATE:	DRAWING NO.
11	03/01/07	EE0315A01

ENTERPRISE HOLDINGS.



CITY OF COVINA

125 East College Street • Covina, California 91723-2199

Community Development Department
Planning Division

Telephone (626) 384-5450
Fax (626) 384-5479

NOTICE OF SITE PLAN REVIEW APPLICATION REVIEW COMPLETION

September 25, 2014

Mr. Timothy Williamson, Group Operations Manager
Enterprise Holdings
333 City Boulevard West
Orange, CA 92868

SUBJECT: REVIEW COMPLETION OF APPLICATION SITE PLAN REVIEW (SPR) 14-031 - PROPOSED TEMPORARY OPERATIONS FOR ENTERPRISE RENT-A-CAR AT 728 S. CITRUS AVENUE

Dear Tim:

The City of Covina Community Development Department, Planning Division has completed its review of application Site Plan Review (SPR) 14-031. The application entails a request to permit Enterprise Rent-A-Car to operate **temporarily** on a currently vacant commercial property that was formerly occupied by a bank at 728 South Citrus Avenue. As you are aware, Enterprise has also submitted for City review and consideration zoning applications Site Plan Review (SPR) 14-028 and PCD 99-001 (Modification #1), which, if approved along with certain necessary building and other permits and submittals, would allow Enterprise to operate on the property permanently.

The following requirements are applicable to this application:

A. GENERAL

1. Under this approval, Enterprise Rent-A-Car is permitted to operate **temporarily** on the appurtenant property. The applicant, or Enterprise, has further submitted zoning applications Site Plan Review (SPR) 14-028 and PCD 99-001 (Modification #1), which, if approved along with certain necessary building and other permits and submittals by the

Exhibit 4

City, by the Los Angeles County Fire Department, and by any other applicable agencies, would allow Enterprise to operate on the property permanently. Should Enterprise not obtain City approval of the aforementioned, initially considered zoning applications, the business shall cease all operations on the date of the denial of the applications and shall completely remove all items associated with the business from the property within thirty (30) days of that date. In addition, this application shall permit Enterprise to operate on the property temporarily, in the manner prescribed herein, until March 31, 2015. If Enterprise has not secured all necessary zoning and other approvals from the City, from the Los Angeles County Fire Department, and from any other applicable entities to function permanently on the property by March 31, 2015 (and if an amendment to this SPR application authorizing the continued temporary use of the site for car rental purposes has not been approved by the City by that date), the business shall cease all operations on and vacate the property by that date.

2. Should Enterprise Rent-A-Car obtain approval of the previously-submitted zoning applications Site Plan Review (SPR) 14-028 and PCD 99-001 (Modification #1), which (along with certain above-referenced, necessary approvals from other departments) would allow Enterprise to operate on the property permanently, the conditions and requirements of those zoning applications shall supersede the conditions and requirements of this application that are listed herein.
3. Please refer to the attached requirements of the Building and Safety Division, as further referenced under item 30 below, concerning permit issuance for the permitted temporary use of the site.
4. Enterprise may offer as vehicle rentals typical passenger cars, smaller and larger pickup trucks, sport utility vehicles, so-called crossover vehicles, conventional vans, and mini-vans. The renting of any other vehicles, including, but not limited to, moving-type trucks or commercial-oriented vehicles weighing in excess of 6,000 pounds shall require further City review and approval. Enterprise may also perform on the property various administrative activities associated with maintaining this particular branch or rental location and supporting associated corporate functions.
5. The on-site parking and short-term storage of permitted rental vehicles shall appertain to activities typically associated with a car rental business. Automobile impound, standalone "car storage," or any activity or business where any vehicles would be kept on the premises for more than thirty (30) consecutive days shall be prohibited.
6. No vehicle washing, detailing, repair, servicing, or maintenance shall occur on the property (except for very minor car cleaning and associated "car rental preparation-related" activities that would not trigger any permit requirements, that would not interfere with any on-site parking or maneuverability, or that would not violate any provisions of the Covina Municipal Code or any other laws or requirements).

7. All existing reciprocal access (and any parking) agreements with adjacent properties shall remain in effect.
8. All Enterprise-related vehicles offered for rent as well as the vehicles of employees, customers, and others (such as, but not limited to, maintenance-related personnel) shall park on the appurtenant property, unless otherwise legally authorized to park on an adjacent property and done so in a safe manner. Should any reciprocal parking agreement(s) authorizing any adjoining businesses to park on the subject site exist, the applicant shall work with the adjacent property owners and, if necessary, address such agreement(s) to ensure that the provisions under the first sentence of this stipulation are met.
9. The property shall maintain a trash bin for refuse disposal, and this bin shall be maintained at all times in the existing trash bin enclosure on the property. The trash bin enclosure shall meet all applicable requirements.
10. All business-related operations shall conform to the provisions of the Covina Noise Ordinance (Chapter 9.40 of the Covina Municipal Code). In addition, no exterior speakers on the property shall be permitted.
11. Concerning any persons associated with the car rental business, the management of the business shall at all times take reasonable steps a) to prevent any outside loitering and b) to encourage all individuals to be courteous with neighboring businesses and residences.
12. The conditions noted herein shall be listed and printed upon the face of and included as part of any required construction plans.
13. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this letter, the applicable construction plans, and any laws, statutes, ordinances, or other regulations applicable to the project proposal or to any component or activity of the project. Failure of the applicant/property owner to cease any development or activity not in full compliance shall be a violation of these conditions. Any and all future construction or improvements on the site shall conform to all applicable development standards, requirements, and review-related procedures.
14. The project has been determined by the Planning Division to be Categorically Exempt under the provisions of the California Environmental Quality Act (CEQA). If a Notice of Exemption is filed with the City, then the period during which legal challenges can be filed based upon violations of CEQA would be reduced from 180 days to 35 days. To file the Notice of Exemption, please contact the Planning Division.
15. If necessary to meet City foot-candle-related standards concerning exterior lighting, additional outside lighting shall be added to the property for safety purposes. All existing and any new outside lighting shall be designed, located/oriented, and illuminated in a

manner that meets the aforementioned City standards and that does not generate any glare onto adjacent properties or streets.

16. All on-site drainage shall continue to meet the applicable requirements of the Public Works Department.
17. Signs are not a part of this approval. A separate sign permit must be submitted to the Planning Division for review and approval. In addition, it is strongly recommended that certain directional signage be installed on the property to bolster circulation safety, particularly for Enterprise-related customers. Such signage would also discourage or prevent drivers not associated with Enterprise from parking on the property and thus possibly interfering with the business.
18. The installation of any security system on the property, as addressed under Chapter 8.20 of the Covina Municipal Code, shall first be coordinated with the Covina Police Department.
19. In accordance with the Covina Design Guidelines (CDG), any new roof, wall, and ground-mounted mechanical equipment, utility equipment, and utility meters shall be screened from surrounding public views with appropriate building materials, painting, and/or landscaping.
20. The completion of this review shall not waive compliance with all other sections of the Covina Municipal Code, the Covina Design Guidelines, and all other applicable City ordinances and plans as well as applicable non-City laws and regulations in effect at this time and any and all associated permit issuances.
21. Any new and changing ordinances adopted prior to the final approval of the project by the City may warrant new review.
22. Any new site- and building-related improvements concerning the overall project shall be of good workmanship and shall be developed or installed in accordance with the generally-accepted standards of the applicable industries.
23. The applicant shall perform any project-related construction or installation work that could be heard by any residents of the adjacent properties only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Saturday (excluding legal holidays), unless a special permit is obtained from the City.
24. If any requirement noted herein is held or declared to be invalid, the entire approval shall be void and the privileges granted hereunder shall lapse.

25. The City shall have the reasonable right of entry to inspect the improvements and the key elements of the permitted temporary use that have been reviewed under this SPR application to verify compliance with these conditions.
26. The costs and expenses of any code enforcement activities, including, but not limited to, attorneys' fees, caused by the applicant and/or property owner's violation of any condition imposed by this SPR application, any other zoning-related determinations concerning the site, or any provision of the Covina Municipal Code or the Covina Design Guidelines shall be paid by the applicant/property owner.
27. The permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this application determination, which action is brought within the applicable time period of Government Code Section 65009. The City must promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
28. The permittee shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of this grant. Although the permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the permittee of any obligation under this condition.
29. The site, building, mechanical, landscaping, and other improvements on the appurtenant property shall be maintained in a sound and attractive condition, free of weeds, trash or debris, visible deterioration, graffiti, or other conditions that violate the Covina Municipal Code. The City may require that the applicant and/or property owner pay the actual and reasonable costs for code compliance services needed to address any problem conditions.
30. Certain requirements of the Building and Safety Division of the Public Works Department are applicable to this application. Please refer to attachment for details.
31. Certain requirements of the Environmental Services Division of the Public Works Department are applicable to this application. Please refer to attachment for details.

Thank you again for your cooperation in submitting the requested information and for helping the City staff to complete this review in a timely fashion. Once more, we wish you and your associates well with business operations at the new location. If you have any questions on this letter, feel free to contact me at (626) 384-5454.

Sincerely,



Alan Carter
City Planner

ENCLOSURES

CC: Nancy Fong, Interim Community Development Director
Vidal Marquez, Assistant Planner
Jonathan Perez, Planning Aide
Cyndie Petersen, Senior Administrative Technician
Lynda Lara, Planning Intern
Bill Hayes, Building Official
Vivian Castro, Environmental Services Manager
Lisa Brancheau, Assistant to the City Manager
Robert Martinez, RAM Architecture, 15487 Seneca Road, Suite 203, Victorville, CA,
92392



CITY OF COVINA

INTER-OFFICE MEMORANDUM

To: Planning Division

From: Basel Badawi, Building Division

Subject: SPR 14-031 Munis 1473 (Enterprise Rent-A-Car)

Address: 728 S. Citrus Ave.

After you have successfully completed the Planning Division's plan review process your plans should be ready for submitting to the Building Section for review of State and local Building Code requirements. These are general comments intended to prepare the applicant for a successful and expeditious plan review through the Building Section. Please be prepared to address the following checked items:

- Please submit (6) sets of complete plans including any proposed utilities and earthwork; two sets shall be "stamped approved" by the Covina Planning Division and include the Building Section's comments for consultant review. This project must comply with the 2013 California Building Standards and 2013 energy code.
- Two sets each of any structural and energy calculations shall be submitted with the above mentioned plans. All calculations must bear an original signature from the documented author.
- This project must comply with Federal and State Accessibility requirements to and throughout the building. Include compliance methods and structural details on the plans.
- Demolition and renovations activities require an asbestos containing materials (ACM) survey. (SCAQMD RULE 1403) The ACM report shall be prepared by an accredited testing laboratory in accordance with SCAQMD rules and regulations. Proof of notification to the South Coast Air Quality Management District (SCAQMD), Office of Operations, shall be submitted to the Building Division with your permit application for all renovations and demolition activities. Contact the SCAQMD at the address or number below for more information. Once any demolition activity has been approved by the SCAQMD, a formal demolition plan and permit must be obtained from the Building Division.
 - **SCAQMD Headquarters; 21865 Copley Drive, Diamond Bar, CA, (909) 396-2381**
- The Los Angeles County Fire Department needs to review your construction plans, to expedite this process you will need to contact one or more of their Regional plan check office(s): Appointments to discuss Fire Department requirements may be made between 7:30 a.m. and 10:30 a.m. Please contact Fire Inspector Jennifer Baron (626) 974-8335 for more information.

Exhibit 4

Regional plan check offices for the Los Angeles County Fire Department:

Glendora Office, Building Plan Review Only
231 W. Mountain View Avenue
Glendora, CA 91740
(626) 963-0067

Commerce Office, Sprinkler & Alarm Plan Review
5823 Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4125

Commerce Office, Land Development / Access
5823 Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4243

- Please provide an additional digital copy (pdf preferred) of the building floor plan, elevations, and site plan to be submitted to the LA County Assessor. This copy should be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of residential buildings, the intended use of each room.

-For additional information, please contact the LA County Assessor's, Public Service Desk at 888-807-2111.

- Construction activity within 500' of a residential zone is prohibited between the hours of 8:00pm and 7:00am and on Sundays and Holidays unless otherwise permitted by the City.
- The Building Section plan check process may address additional concerns.
- **No permits will be issued for the permanent use of this facility, until final approval has been granted. Permits for maintenance/repairs for existing building will be issued at the discretion of the Building Official.**

**ENVIRONMENTAL SERVICES REQUIREMENTS FOR APPLICATION
SPR 14-031 (PROPOSED ENTERPRISE CAR RENTAL TEMPORARY
OPERATIONS AT 728 S. CITRUS AV. – MUNIS #1473)**

1. Applicant is to submit a signed statement certifying that no onsite washing or detailing of cars will take place at the facility during temporary operations.
2. An initial plan review fee of \$40 is required.

For any questions here, please contact Vivian Castro, Environmental Services Manager, at 626-384-5480.

Exhibit 4

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA ESTABLISHING A REGIONAL OR COMMUNITY SHOPPING CENTER WITH A PLANNED COMMUNITY DEVELOPMENT (C-3A/PCD) COMMERCIAL ZONE CLASSIFICATION FOR CERTAIN PROPERTY IN THE CITY OF COVINA, ZCH 98-003/PCD 99-001.

THE CITY COUNCIL OF THE CITY OF COVINA DOES ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to public hearing and processing in the manner set forth by State law and local ordinance, and after recommendation thereon by the Planning Commission, the property classification set forth in Section 2 is made for the reasons of public interest, convenience and necessity.

SECTION 2. The following described real property in the City of Covina, County of Los Angeles, State of California, is hereby zoned Regional or Community Shopping Center with a Planned Community Development zone overlay Commercial (C-3A/PCD):

SEE ATTACHED LEGAL DESCRIPTIONS: (Exhibit A)

SECTION 3. After giving full consideration to all evidence presented at said HEARING, both oral and documentary, and after being fully informed, said City Council does hereby find and decide:

1. That the site for the proposed use is adequate in size and shape to accommodate the use.

Fact: The project will comply with the city's normal requirements for lot coverage, parking, landscaping and site layout. These standards were written to assure that new development in the City does not exceed the capacity of their respective sites.
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

Fact: Traffic on Citrus Avenue is currently at 73% of capacity and on Rowland Street it is at 39% of capacity. The two (2) streets can accommodate the estimated 1,250 average daily trips that would result from this proposal.
3. That the proposed use is not detrimental to the surrounding properties or uses permitted in the general area.

Fact: The project has been reviewed pursuant to the California Environmental Quality Act and the public hearing process. No major adverse impacts have been identified in this process. The project will be similar in character and nature as the existing center. No significant problems have been reported in association with the existing commercial uses.

4. That the conditions stated in the decision are deemed necessary to protect the health, safety and general welfare.

Fact: The proposed conditions of approval establish limits on the extent, nature and style and development to assure that future development will conform with City standards that protect the public.

SECTION 4. The application for a Planned Community Development Overlay Zone is hereby granted subject to the following conditions deemed necessary to protect the public health, safety and general welfare of the community:

1. This ordinance provides the ability to pursue development opportunities that will establish land uses that will improve the economic potential of all businesses, will create a pedestrian-friendly environment that fosters linkage between all businesses, and promotes the renovation of buildings and streetscapes in order to protect the unique character of this shopping area. The Planning Commission is granted the authority to approve modifications that do not exceed the overall development density of the project. All major modifications will require approval by the City Council of a new Planned Community Development.
2. This approval shall allow up to 30,000 square feet of additional commercial space in the subject area.
3. Development of new structures on Lots 5, 6 or 7 of Tract 16643 (137, 145 or 153 East Loma Vista Street) will require approval by the Planning Commission with public notice provided to adjacent properties in a 300' radius in the manner provided under Chapter 17.60 of the Covina Municipal Code (CUPs).
4. A ten (10) foot landscaped strip and a six foot (6') block wall shall be provided when any new commercial development abuts residentially zoned property.
5. All future development shall conform with the Covina Design Guidelines and the Design for Development adopted for the area by the Covina Redevelopment Agency. Future buildings shall meet the Covina Municipal Code Zoning Chapter standards for site layout in the C-3A zone including but not limited to parking lot coverage, building setback, landscaping, walls and residential buffers.
6. All new development shall include pedestrian areas that are consistent with those shown on the approved conceptual plan. Decorative sidewalks, benches, trash receptacles, light fixtures and other new improvements shall be provided with emphasis on creating an attractive environment for pedestrians and visitors. The design and details of such improvements are subject to the approval of the Chief Planning Official.
7. New development shall be limited to a maximum height of twenty-five feet (25'). Architectural details such as ornamental towers, statutes and similar unoccupied features may exceed this limit with approval from the Chief Planning Official.
8. New development shall be designed in a style that is consistent with the mid-twentieth century architecture used on existing buildings on Shoppers Lane.

9. Building setbacks shall conform with the standards of the C-3A zone district.
10. The existing detached single family residences are hereby granted the same amortization period as provided for Group A Non-conforming uses under the Covina Municipal Code.
11. Uses of property in the subject area shall conform with the following:

Permitted Uses:

- a. Retail Stores, Sales and Services:
 1. Antique home furnishings,
 2. Art gallery, show and studio,
 3. Auto parts sales, excluding body and fender work and painting and mechanical auto wash,
 4. Bakers; provided not more than five persons shall be employed and all products are sold on the premises,
 5. Bakery sales,
 6. Barber and/or beauty shop,
 7. Bicycle shop,
 8. Blueprinting and photocopying,
 9. Book and stationery store,
 10. Call office for delivery of laundry or dry cleaning,
 11. Carpet and rug sales, no cleaning,
 12. Cleaners,
 13. Clothing and wearing apparel,
 14. Coffee shop,
 15. Cosmetic shop,
 16. Craft shop,
 17. Delicatessen,
 18. Department store,
 19. Discount house,
 20. Drug store,
 21. Electrical appliance supply and repair,
 22. Fixit shop,
 23. Florist,
 24. Food stores, including poultry and egg, bakery, ice cream and confectionery; provided all products shall be sold on the premises, and provided there shall be no slaughtering, plucking or dressing of poultry on the premises,
 25. Fruit store,
 26. Furniture,
 27. Furniture upholstery,
 28. Furriers,
 29. Garage, public,
 30. Garden supply and tools,
 31. Gift shop,
 32. Haberdashery,
 33. Hardware,
 34. Health food stores,
 35. Hobby shop and supply,
 36. Home furnishings,
 37. Household appliances, supply, repair and service,
 38. Ice cream parlor,
 39. Jewelry sales and repair,
 40. Laundromat,
 41. Leather goods and luggage,

42. Linoleum stores,
43. Locksmith
44. Luggage shop,
45. Mail order house,
46. Maternity shop,
47. Meat market,
48. Medical equipment and supplies,
49. Mimeographing and duplicating,
50. Music instructions,
51. Music shop,
52. Newsstand,
53. Novelty shop,
54. Office furniture and machine, sales and repair,
55. Orthopedic equipment and supplies,
56. Paint and wallpaper materials and supplies,
57. Pet shop and food stores,
58. Pharmacy,
59. Physicians' equipment and supplies,
60. Photocopying,
61. Photographers' studios,
62. Photography supplies,
63. Piano sales and service,
64. Picture framing,
65. Plant nursery, provided fertilizer be sold only in bags,
66. Plumbing supply, retail,
67. Public utility customer service office,
68. Radio, television and phonographic supplies, sales and service,
69. Redemption centers,
70. Restaurant, tearoom, café,
71. Sewing machine sales and service,
72. Shoe sales and repair,
73. Soda fountain,
74. Sporting goods and equipment sales and rentals,
75. Stationery stores,
76. Stenographers, public,
78. Supermarket,
79. Tailor,
80. Ticket agency,
81. Tobacco store,
82. Toy store,
83. Vacuum cleaner sales and service,
84. Variety store,
85. Video store,
86. Wearing apparel,
87. Yarn shop;

B. Other:

1. Administrative or professional offices (any offices in which chattels or goods, wares or merchandise are not manufactured or sold),
2. Bank and financial institutions,
3. Bill paying office,
4. Insurance brokers, adjusters and agents,
5. Libraries and reading rooms,
6. Museums,
7. Notary public,
8. Off-street parking,

- 9. Optometrists,
- 10. Parking lot, public,
- 11. Real estate brokers.

Conditional uses (pursuant to Chapter 17.62):

- a. Automobile sales and services;
- b. Automobile service station, except as otherwise provided for in Section 17.42.020, subject to the provisions of Section 17.62.025;
- c. Drive-up facilities for permitted uses;
- d. Drop-off bins and facilities;
- e. Educational or health activities including private schools, trade schools and health spas;
- f. Liquor, off-sale, subject to the provisions of Section 17.62.026;
- g. Liquor, on sale in conjunction with a bona fide eating establishment;
- h. Public and/or private dancing;
- i. Used merchandise sales, except as provided for antique stores and book sellers.

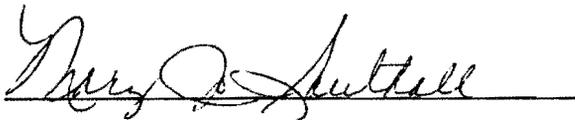
SECTION 5. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published according to law.

APPROVED AND PASSED this 7th day of September, 1999.



Mayor

ATTEST:



City Clerk

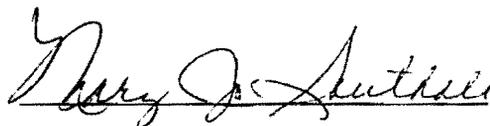
APPROVED AS TO FORM:



City Attorney

I, MARY JO SOUTHALL, City Clerk, Covina, California, hereby CERTIFY that Ordinance No. 99-1851 was regularly introduced and placed upon its first reading at a regular meeting of the Covina City Council held August 17, 1999, and that thereafter said Ordinance was duly adopted at a regular meeting of the City Council held September 7, 1999, and passed by the following vote:

AYES: Council Members: Allen, Palmeri, Stapleton, MPT/Truax, M/Christiansen
NOES: Council Members: None
ABSENT: Council Members: None
ABSTAIN: Council Members:

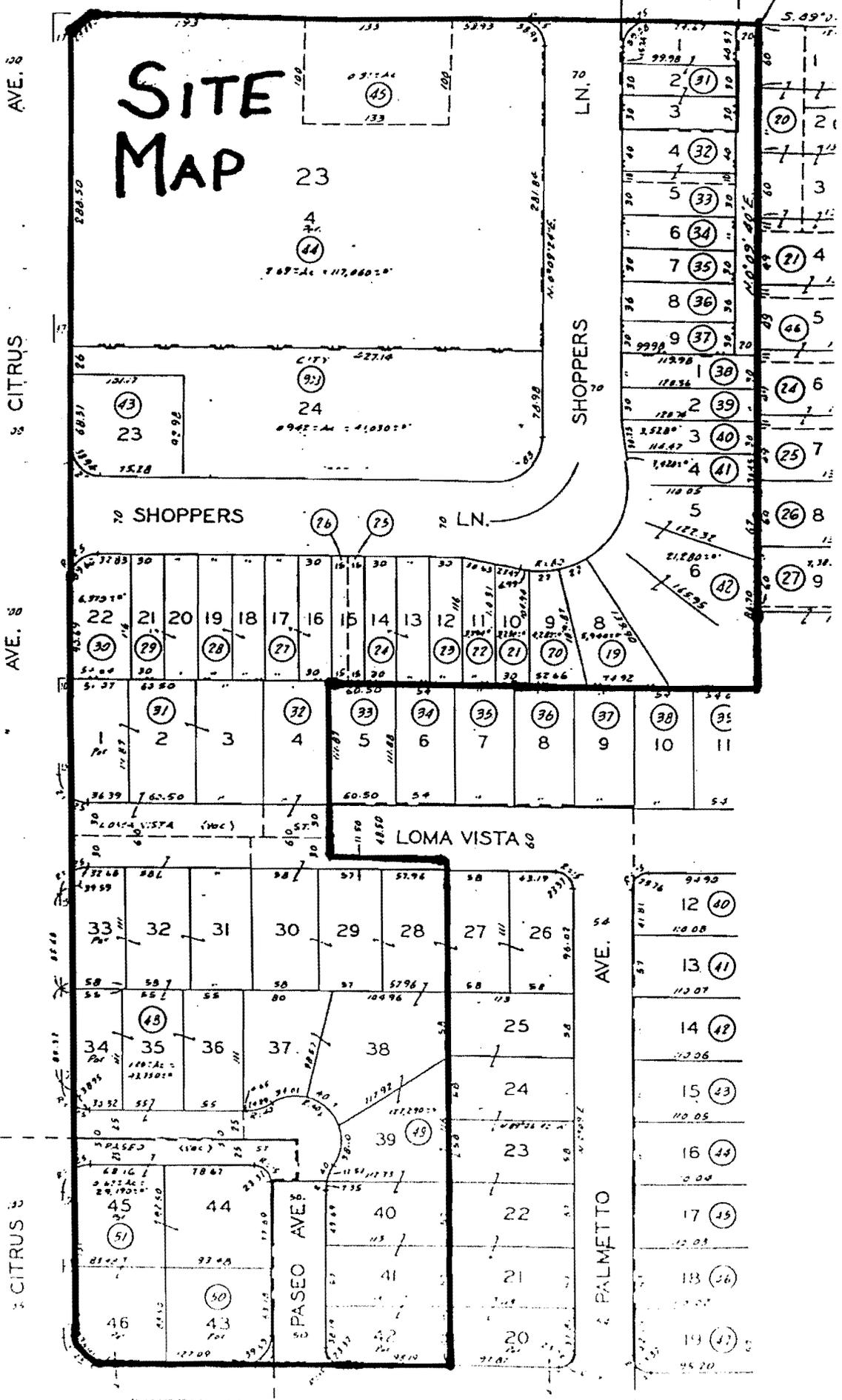

Covina City Clerk

Lots 1 through 7 and 20 through 46 of Tract 15166 as recorded in Book 334 at Pages 10 and 11, Official Records of the County of Los Angeles; and

Lots 1 through 24 of Tract 19651 as recorded in Book 506 at Pages 33 and 34, Official Records of the County of Los Angeles; and

Lots 1 through 9 of Tract 18945 as recorded in Book 579 at Pages 25 and 26, Official Records of the County of Los Angeles.

SITE MAP



RESOLUTION NO. 2014-020 PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COVINA, CALIFORNIA APPROVING A SITE PLAN REVIEW SPR 14-028 FOR THE ESTABLISHMENT OF AN AUTOMOBILE RENTAL FACILITY AT AND FOR PERFORMING VARIOUS ASSOCIATED SITE IMPROVEMENTS ON THE PROPERTY LOCATED AT 728 SOUTH CITRUS AVENUE – APN: 8451-002-048

WHEREAS, Enterprise Rent-A-Car (Applicant), has filed a Site Plan Review, SPR 14-028, (Application) to convert the existing developed site at 728 South Citrus Avenue, Covina, California 91723 (Property) to an automobile rental facility and, under this conversion, to perform certain modifications to the property to accommodate the new use; and

WHEREAS, related to the Application, the Applicant has filed a Planned Community Development Modification, PCD 99-001 (Modification #1) a) to add “automobile rental” as a permitted use for the subject property and to establish special signage criteria for proposed pylon (or freestanding) and building signage; and

WHEREAS, on December 9, 2014, the Planning Commission conducted a duly noticed public hearing at which time oral and written evidence along with written recommendation from the Planning Division was presented to the Planning Commission. The Planning Commission concluded said hearing on that date.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Based upon the entire record made available at the December 9, 2014 public hearing, the staff report, the oral presentation, and related documents submitted to the Planning Commission prior to and at the public hearing, the Planning Commission hereby finds and determines as follows:

- a. All provisions of the Zoning Ordinance are complied with.

Findings of Facts: The site is currently developed with a 6,468-square foot building and associated parking and other improvements. The proposed project is to modify the interior and southern-most parking areas only to accommodate automobile sales as well as to perform certain typical changes to existing exterior signage. The underlying automobile rental use and the exterior signage, which do not conform to current zoning provisions, are addressed in the “PCD Modification” section of the report below. All other components of the proposed project comply with the applicable provisions of the Zoning Code.

- b. The basic project elements are so arranged that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, and no adverse effects will occur on surrounding properties.

Findings of Facts: The project will consist of primarily administrative- and car rental-related uses, which are typically lower turnover-type activities (compared to retail and banking, the prior long-time use on the site). In evaluating the project proposal, the staff did not identify any potential for internal circulatory conflicts or external traffic congestion. Therefore, pedestrian and vehicular safety and welfare would be protected and there should not be any adverse effects on surrounding properties.

- c. The project design conforms to the General Plan and any Design Guidelines or Specific Plan that may be applicable to the project.

Finding of Facts: The project complies with the commercial development intensity provision of the General Plan (1.5 FAR). And any minor changes to the exterior of the building will be conditioned to conform to the existing 1960s-era though generally attractive building style and architecture, thus conforming to the Covina Design Guidelines.

- d. The project design is harmonious, consistent, and complete within itself and functionally and visually compatible with neighboring land uses.

Finding of Facts: The proposed project is designed to accommodate a car rental business. Along adjacent portions of South Citrus Avenue, there are six somewhat similar auto and truck dealerships. The design of the proposed project is harmonious, consistent and complete within itself. Furthermore, the proposed project is functionally and visually compatible with both the neighboring auto dealerships and other commercial land uses. And the staff believes that there would not be any conflicts with the easterly houses (the closest of which are non-conforming). There are no records of incompatibility-associated issues or land use-related conflicts between Enterprise and any other property during the many years that Enterprise operated across the street.

- e. The development will constitute an adequate environment for the intended use by sustaining the desirability and stability of the neighborhood and community.

Finding of Facts: The proposed project is designed primarily for the noted car rental use and should further sustain the City's Citrus Avenue auto row, which will provide stability to the neighborhood and community. In addition, the conditions of approval of the application will provide the City with safeguards for preventing any future issues.

- f. Proposed lighting is so arranged as to reflect the light away from adjoining properties.

Finding of Facts: The proposed project would consist of existing and new exterior lighting on the building and in the surface parking areas. These lights would be required to meet applicable City foot-candle standards to provide for adequate security while being directed, oriented and shielded to prevent light from shining on and spilling over onto adjacent properties and public streets.

- g. Proposed signs will not, by size, location, color, or lighting, interfere with traffic or limit visibility.

As noted above, certain exterior signage was also submitted to the City with the SPR application and, although certain components of it exceed the associated Code requirements, the sign has been determined to be acceptable under the associated "PCD Modification" application. A typical signage review requirement of the City calls for all signage to be located and designed in a manner that would not interfere with traffic or limit visibility.

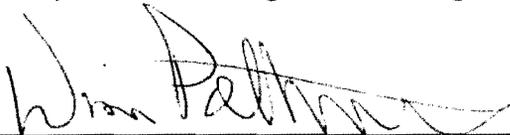
SECTION 3. The Planning Commission has determined that this application is categorically exempt pursuant to CEQA Guidelines Section 15031(a), Class 1. The scope of the project is to perform general building interior- and parking-related modifications to establish an automobile rental facility. The Planning Commission further finds that there is no substantial evidence that the project will have a significant effect on the environment.

SECTION 4. Based upon findings and conclusion set forth in Sections 1, 2 and 3 above, the Planning Commission hereby approves the application:

- a. The Site Plan Review application, SPR 14-028, is hereby approved, subject to the conditions of approval set forth in the written record before the Commission incorporated herein and attached hereto as Exhibit "A."
- b. The Secretary of the Planning Commission is directed to serve, by first-class mail, a written notice of this decision to the Applicant within five (5) days.

SECTION 5. This Resolution shall become effective immediately upon its adoption, subject to a 10 calendar-day appeal period.

PASSED, APPROVED AND ADOPTED by the members of the Planning Commission of the City of Covina at a general meeting thereof held on the 9th day of December 2014.



WIN PATTERSON, CHAIRMAN
CITY OF COVINA PLANNING COMMISSION

CITY OF COVINA
RESOLUTION NO. 14-020 PC FOR SITE PLAN REVIEW SPR 14-028
EXHIBIT A - CONDITIONS OF APPROVAL
December 9, 2014

1.0 TIME LIMITS:

- 1.1** The approval shall expire one year from the date of project approval by the Planning Commission if no project-related construction work has commenced.

2.0 GENERAL REQUIREMENTS:

- 2.1** The approval is for the conversion of the developed site to an automobile rental facility with ancillary administrative operations, including the performing of an interior tenant improvement, minor changes to the building exterior to accommodate the interior work, and certain modifications to the parking area to serve the new use, as shown in the approved project plans on file with the City.
- 2.2** The approval is contingent upon the approval of the related application Planned Community Development 99-001 (Modification #1) by the City Council for adding "automobile rental" as a permitted use and, for the property at 728 South Citrus Avenue only, for establishing a special sign criteria for wall signs and a pylon sign.
- 2.3** This approval will not be effective until the applicant has filed with the Planning Division an affidavit stating that he is aware of and agrees to accept all of the conditions of the approval.
- 2.4** The project or uses may proceed only in accordance with the approved plans on file with the Community Development Department, all representations of record made by the applicant(s), the conditions contained herein, the Covina Municipal Code, and the Covina Design Guidelines.
- 2.5** Failure to comply with any conditions of approval noted herein or any future violation of conditions may result in revocation of project approval by the City.
- 2.6** Minor modifications to this approval that are determined by the City Planner or his/her designee to be in substantial conformance with the approved project plans and that do not intensify or change the use or require any deviations from adopted standards may be approved by the City Planner upon submittal of an administrative application and the required fee.
- 2.7** Approval of this request shall not waive compliance with all other sections of the Covina Municipal Code, the Covina Design Guidelines, and all other applicable

plans and non-City laws and regulations that are in effect at the time of building permit issuance.

- 2.8** Any future proposed new or intensifies uses, building or interior expansions, and/or site improvement modifications shall first be reviewed and approved by the City for conformance with these approvals, the Covina Municipal Code, the Covina Design Guidelines, and the applicable permit issuance processes. If determined by the City Planner to exceed the scope or intent of these approvals or in any way conflict with the appurtenant conditions, then the City may require the approval of a new or additional zoning application (if needed), and/or the submittal of certain use- or impact-related studies to address any identified concerns.
- 2.9** Any outdoor ground mounted mechanical and utility equipment shall be placed away from the street frontage and public view, and shall be screened in conformance with Covina Municipal Code and Covina Design Guidelines. All roof mounted equipment and/or projections, wall-mounted equipment, and utility meters must be screened from public view with appropriate building materials that are architecturally integrated with the building design.
- 2.10** Any future building improvements shall conform to all provisions noted herein and shall address all applicable City planning- and building-related codes and standards and permit issuance requirements and processes.
- 2.11** All landscape or planter areas shown on the approved landscape plan shall remain landscaped in perpetuity. These areas shall not be paved or used for storage or any similar purpose inconsistent with the intent of this approval.
- 2.12** The automobile rental company or Enterprise may offer as vehicle rentals typical passenger cars, smaller and larger pickup trucks, sport utility vehicles, so-called crossover vehicles, conventional vans, and mini-vans. The renting of any other vehicles, including, but not limited to, moving-type trucks or commercial-oriented vehicles weighing in excess of 6,000 pounds shall require further City review and approval. Enterprise may also perform on the property various administrative activities associated with maintaining this particular branch or rental location and supporting associated corporate functions.
- 2.13** The on-site parking and short-term storage of permitted rental vehicles shall appertain to activities typically associated with a car rental business. Automobile impound, standalone "car storage," or any activity or business where any vehicles would be kept on the premises for more than thirty (30) consecutive days shall be prohibited.
- 2.14** Condition deleted by Planning Commission on December 9, 2014.

- 2.15** All existing reciprocal access (and any parking) agreements with adjacent properties shall remain in effect.
- 2.16** All Enterprise-related vehicles offered for rent as well as the vehicles of employees, customers, and others (such as, but not limited to, maintenance-related personnel) shall park on the appurtenant property, unless otherwise legally authorized to park on an adjacent property and done so in a safe manner. Should any reciprocal parking agreement(s) authorizing any adjoining businesses to park on the subject site exist, the applicant shall work with the adjacent property owners and, if necessary, address such agreement(s) to ensure that the provisions under the first sentence of this stipulation are met.
- 2.17** The property shall maintain a trash bin for refuse disposal, and this bin shall be maintained at all times in the existing trash bin enclosure on the property. The trash bin enclosure shall meet all applicable requirements.
- 2.18** The public hours of operation of the car rental facility shall be limited to a) Mondays through Fridays, 7:00 am to 8:00 pm; and b) Saturdays and Sundays, 7:00 am to 6:00 pm.
- 2.19** All business-related activities on the property shall conform to the provisions of the Covina Noise Ordinance (Chapter 9.40 of the Covina Municipal Code (CMC)). In addition, no speakers shall be permitted in any exterior area.
- 2.20** Concerning any persons associated with the car rental business, the management of the business shall at all times take reasonable steps a) to prevent any outside loitering and b) to encourage all individuals to be courteous with neighboring businesses and residences.
- 2.21** All employees shall park on site and in the portions of the parking area that lie immediately north and east of the building. Off-site parking on neighborhood streets is prohibited.
- 2.22** One parking space immediately east of the building shall be designated for (pertaining to business-related supplies and materials) loading and unloading purposes (may also be used for employee parking).
- 2.23** The automobile washing activity shall conform to all applicable City and any other requirements. No general automobile repair work (excluding, if necessary, minor maintenance or repair work associated with preparing cars for rent), no body and fender work, and no automotive painting shall occur on the property.
- 2.24** Following construction completion, the entire parking facility shall be repaved or resurfaced, meeting applicable standards.

- 2.25** The maximum number of persons permitted in the building at any time shall comply with the occupant load figure(s) to be established by the Building Division and the Los Angeles County Fire Department.
- 2.26** The property and all improvements, including landscaping, must be maintained in a sound, healthy, and attractive condition free of weeds, visible deterioration, graffiti, debris and/or other conditions that violate the Covina Municipal Code.
- 2.27** Any new site- and building-related improvements concerning the overall project shall be of good workmanship and shall be developed or installed in accordance with the generally-accepted standards of the applicable industries.
- 2.28** The City shall have the reasonable right of entry to inspect the properties on the overall project site to verify compliance with the Conditions of Approval.
- 2.29** The permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this application determination, which action is brought within the applicable time period of Government Code Section 65009. The City must promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
- 2.30** The permittee shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of this grant. Although the permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the permittee of any obligation under this condition.
- 2.31** If any provision of this approval is held or declared to be invalid, then the entire approval shall be void and the privileges granted hereunder shall lapse.
- 2.32** The costs and expenses of any code enforcement activities, including, but not limited to, attorneys' fees, caused by applicant's violation of any condition or mitigation measure imposed by this application or any provision of the Covina Municipal Code must be paid by the applicant.
- 2.33** All grading and all exterior (during construction and following project completion) drainage on the property shall conform to all applicable requirements of the Public Works Department.
- 2.34** Any proposed site features for the disabled that are associated with this project approval, including, but not limited to, property access identification, parking stall and unloading area dimensions, path of travel, and building access, must comply

with all applicable State Codes and must first be reviewed and approved by the Building Division (please contact the Building Division for specific requirements).

- 2.35** Sign permits shall be obtained prior to the installation of any temporary or permanent signs, meeting all applicable requirements.
- 2.36** The project has been determined by the Planning Division to be Categorically Exempt under the provisions of the California Environmental Quality Act (CEQA). If a Notice of Exemption is filed with the City, then the period during which legal challenges can be filed based upon violations of CEQA would be reduced from 180 days to 35 days. To file the Notice of Exemption, please contact the Planning Division.

3.0 PRIOR TO THE ISSUANCE OF A BUILDING PERMIT:

- 3.1** Final plans incorporating all conditions of approval and any plan-related changes required in the approval process shall be submitted for review and approval by the City Planner prior to building permit issuance. The construction plan/documents must include specific details and delineation incorporating these conditions of approval, including any required Planning Division-related modifications.
- 3.2** All conditions of approval listed herein must be printed upon the face of and included as part of the final plans and specifications during the plan check process.
- 3.3** All required plans must be coordinated for consistency and any easements of record or required easements shall be reflected on the site plan along with off-site improvements and off-site conditions of approval and buildings within 10 feet any property line.
- 3.4** Detailed on-site landscape and irrigation plans must be submitted for review and approval by the City Planner or his/her designee, meeting applicable standards and requirements. The landscaped and planter areas shall conform to the same areas depicted on the conceptual landscape plan. In addition, the on-site landscape plans shall reflect an enhanced landscape design for all areas where planters are to be installed and, prior to landscape plan preparation, the proposed design details of the planters shall be reviewed by the City Planner. These plans shall further conform to the provisions of the City's Water-Efficient Landscape Ordinance (Chapter 17.82 of the Covina Municipal Code);
- 3.5** In accordance with Chapter 11.36 of the Covina Municipal Code, no street trees adjacent to the site shall be cut or trimmed in any manner by any persons associated with property unless a written permit from the Public Works Department is first obtained.

- 3.6** The construction-related activities concerning the project shall conform to the following requirements that address potential noise and associated impacts:
- a. The applicant shall prepare a construction mitigation plan to mitigate noise as well as other construction-related impacts. The construction mitigation plan shall address the following areas: 1) site supervision, 2) site access, 3) delivery/haul route and traffic control, 4) material storage, 5) construction parking, 6) work hours, 7) noise reduction, 8) erosion control, 9) dust and mud control, 10) debris cleanup, 11) street sweeping, 12) pedestrian and neighborhood safety, 13) project contact-related signage, and 14) subcontractor education.
 - b. All project construction activities shall only occur on Monday through Saturdays from 7:00 a.m. to 8:00 p.m. only (unless a special construction permit is granted by the City). No construction shall occur on Sundays or legal holidays.
 - c. All construction equipment shall be in proper operating condition and shall be fitted with standard factory noise attenuation features. All equipment shall further be properly maintained to assure that no additional noise, due to worn or improperly maintained parts, would be generated.
 - d. The applicant and/or his representative(s) shall frequently monitor for and, if detected, remove any and all graffiti on and/or repair damaged or vandalized construction-related fencing and/or related elements as quickly as possible.
- 3.7** At least thirty days prior to the commencement of any project-related grading, the applicant and/or his/her representative(s) shall notify the occupants of all residential and institutional properties that lie within 150 feet of the subject property of the general parameters of the impending grading and construction activities. In addition, the applicant and/or his/her representative(s) shall attempt to address any neighbor complaints to the greatest extent practical and as expeditiously as possible.
- 3.8** A complete exterior lighting plan shall be submitted for review and approval during building plan check. The plan shall illustrate light fixture features, locations, and compliance with applicable City Code provisions on illumination, design, and lighting orientation/glare prevention, and the City's minimum one-foot candle standard. No exterior lighting on the site shall generate any glare onto any adjacent properties. The new lighting fixtures shall be reviewed with the construction plans to further ensure design compatibility with the building architecture.

- 3.9 Locate, identify and provide cross-sectional details of screening material in the construction documents to demonstrate that all new roof, wall, and ground-mounted mechanical equipment, utility equipment, and utility meters are screened from public view.
- 3.10 The installation of any security system that is associated with the use, as addressed under Chapter 8.20 of the Covina Municipal Code, shall first be coordinated with the Covina Police Department. The installation of any security system(s), as discussed under Chapter 8.20 of the Covina Municipal Code, shall be coordinated with the Covina Police Department. Please determine at the earliest possible time whether a security system is to be utilized, as failure to inform Police of security system installation plans may delay building permit issuance relating to the Plan Check process.
- 3.11 **The following are requirements from the Building Division:** After you have successfully completed the Planning Division's plan review process your plans should be ready for submitting to the Building Section for review of State and local Building Code requirements. These are general comments intended to prepare the applicant for a successful and expeditious plan review through the Building Section. Please be prepared to address the following checked items:
- a. Please submit (6) sets of complete plans including any proposed utilities and earthwork; two sets shall be "stamped approved" by the Covina Planning Division and include the Building Section's comments for consultant review. This project must comply with the 2013 California Building Standards and 2013 energy code.
 - b. Two sets each of any structural and energy calculations shall be submitted with the above mentioned plans. All calculations must bear an original signature from the documented author.
 - c. This project must comply with Federal and State Accessibility requirements to and throughout the building. Include compliance methods and structural details on the plans.
 - d. Demolition and renovations activities require an asbestos containing materials (ACM) survey. (SCAQMD RULE 1403) The ACM report shall be prepared by an accredited testing laboratory in accordance with SCAQMD rules and regulations. Proof of notification to the South Coast Air Quality Management District (SCAQMD), Office of Operations, shall be submitted to the Building Division with your permit application for all renovations and demolition activities. Contact the SCAQMD at the address or number below for more information. Once any demolition activity has been approved by the SCAQMD, a formal demolition plan and permit must be obtained from the Building Division.
SCAQMD Headquarters; 21865 Copley Drive, Diamond Bar, CA,

(909) 396-2381

- e. The Los Angeles County Fire Department needs to review your construction plans, to expedite this process you will need to contact one or more of their Regional plan check office(s): Appointments to discuss Fire Department requirements may be made between 7:30 a.m. and 10:30 a.m. Please contact Fire Inspector Jennifer Baron (626) 974-8335 for more information. Regional plan check offices for the Los Angeles County Fire Department:
 - i. Glendora Office, Building Plan Review Only
231 W. Mountain View Avenue
Glendora, CA 91740
(626) 963-0067
 - ii. Commerce Office, Sprinkler & Alarm Plan Review
5823 Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4125
 - iii. Commerce Office, Land Development / Access
Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4243
- f. Please provide an additional digital copy (pdf preferred) of the building floor plan, elevations, and site plan to be submitted to the LA County Assessor. This copy should be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of residential buildings, the intended use of each room.
- g. For additional information, please contact the LA County Assessor's, Public Service Desk at 888-807-2111.
- h. Construction activity within 500 feet of a residential zone is prohibited between the hours of 8:00pm and 7:00am and on Sundays and Holidays unless otherwise permitted by the City.
- i. The Building Section plan check process may address additional concerns.

3.12 Engineering Division requirements: Any off-site improvements within the public right-of-way will require a permit from Engineering Division of the Public Works Department.

3.13 Revised Environmental Services Division requirements:

- a. Subsequent plan review: \$40 per subsequent submission.

- b. SWPPP: \$600 plus fee for additional review for consultant if requested.
- c. Specific Mitigation Review: \$600 for any project with any of the following:
 - Vehicle or site equipment fueling areas
 - Vehicle or equipment maintenance areas including washing and repair
 - Commercial or industrial waste handling or storage
 - Outdoor handling or storage of hazardous materials
 - Outdoor manufacturing areas
 - Outdoor food handling or processing
 - Outdoor animal care, confinement, or slaughter
- d. Only Athens Services/Covina Disposal, 888-336-6100, is allowed to provide bins and pickup and dispose of trash and recyclables, including all C&D projects. Exception: Project contractor, using his own equipment and staff, can take recyclables to a recycling facility.
- e. Non-Domestic Wastewater Disposal Permit may be required. Please check with Building Section.
- f. OC1A - Complete form, sign, return original, attached copy to field plans.
- g. Grease Interceptor/Clarifier/or Lint Filter will be required.

3.14 The proposed project shall comply with the pertinent requirements of the Los Angeles County Fire Department. Submit a set of development plans that have been stamped approved by the Los Angeles County Fire Department.

3.15 The following are the requirements of the Covina Water Division: the applicant shall meet all associated requirements concerning the new car washing area.

4.0 PRIOR TO THE ISSUANCE OF CERTIFICATES OF OCCUPANCY/FINAL BUILDING PERMITS:

4.1 All building and site improvements along with landscaping and irrigation must be installed in accordance with plans and information on file with the Planning, Building, and Engineering Divisions, and the irrigation systems must be fully operational. Furthermore, all on-site landscaped areas must be maintained free of weeds and debris.

- 4.2** All building, structural, parking, lighting, and landscape improvements shall be constructed, installed, or handled in a good workmanlike manner, consistent with the standard best practices of the subject trades and in a manner acceptable to the City.
- 4.3** All exterior lighting fixtures must be installed in accordance with plans and analyses on file with the Planning and Building Divisions, and the lighting fixtures must be fully operational.
- 4.4** The project site must be clean and free of trash and construction debris, and all construction equipment must be removed from the site.
- 4.5** Any broken, damaged, or blighted features of the property or any building(s) thereon shall be repaired or removed.
- 4.6** The applicant must comply with all of the requirements listed above as well as requirements determined during the Building Plan Check process.
- 4.7** Final occupancy shall not be granted until such time as the applicant has obtained approval from the City Planner who has inspected the premises and the use for compliance with all terms and conditions of this of approval.

- END OF CONDITIONS -

RESOLUTION NO. 2014-017 PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COVINA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF COVINA APPROVAL OF AN ORDINANCE AMENDING ORDINANCE 99-1851 (PCD 99-001 (MODIFICATION #1) TO ADD "AUTOMOBILE RENTAL" AS A PERMITTED USE AND MODIFYING THE SIGN REGULATIONS FOR ONE PROPERTY WITHIN THE SHOPPERS LANE/TERRADO PLAZA PLANNED COMMUNITY DEVELOPMENT AREA.

WHEREAS, California Government Code, Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, "auto rental" is identified as a permitted use in the "C-3 - Commercial Zone" of the City (Covina Municipal Code, Section 17.40.020); and

WHEREAS, any use permitted in the "C-3 - Commercial Zone" of the City is also permitted in the "C-3A - Commercial Zone" of the City (Covina Municipal Code, Section 17.42.020). Therefore, "auto rental" is a permitted use in the "C-3A - Commercial Zone"; and

WHEREAS, there is that certain area of the City known as the "Shoppers Lane/Terrado Plaza Planned Community Development Area" (the "Area") which is zoned "C-3A", but is also currently subject to special planned community development (PCD) zoning regulations under Ordinance 99-1851 (PCD 99-001) (the "PCD Ordinance"); and

WHEREAS, while the Covina Municipal Code would generally permit "auto rental" uses within the Area, this type of use is not explicitly identified as permitted in the PCD Ordinance;

WHEREAS, out of an abundance of caution, City staff is proposing an Ordinance which amends certain sections of the PCD Ordinance in order to explicitly add "auto rental" as a permitted use in order to be consistent with the general "C-3A" zoning; and

WHEREAS, one building within the Area, more commonly known as 728 S. Citrus Avenue (the "Building"), currently has a legal non-conforming freestanding pylon sign adjacent to it that is proposed to be modified and additional signage is proposed on the Building that varies from the Covina Zoning Code and Design Guidelines; and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff reports presented during a duly noticed public hearing on December 9, 2014.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COVINA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made in the staff reports and this Resolution, the Planning Commission of the City of Covina hereby recommends that the City Council adopt an Ordinance which makes the following amendment(s) to the PCD Ordinance:

Amend paragraph B of subsection 11 of Section 4 of Ordinance 99-1851 (PCD 99-001) to state as follows:

“11. Uses of property in the subject area shall conform with the following:

Permitted Uses:

.....

B. Other:

1. Administrative or professional offices (any offices in which chattels or goods, wares or merchandise are not manufactured or sold).
2. ***Auto rental,***
3. Bank and financial institutions,
4. Bill paying office,
5. Insurance brokers, adjusters and agents,
6. Libraries and reading rooms,
7. Museums,
8. Notary public,
9. Off-street parking,
10. Optometrists,
11. Parking lot, public,
12. Real estate brokers.”

SECTION 2: Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made in the staff reports and this Resolution, the Planning Commission of the City of Covina also hereby recommends that the City Council adopt an Ordinance which also makes the following additional amendment(s) to the PCD Ordinance:

Add subsection 12 to Section 4 of Ordinance 99-1851 (PCD 99-001) to state as follows:

“12. Permitted Signage at 728 South Citrus Avenue:

With respect only to the Building located at 728 South Citrus Avenue, (presently occupied by “Enterprise Rent-a-Car”), up to four (4) permanent, principal business-advertising signs may be located thereon, subject to the following standards:

Sign “A”: The existing legal non-conforming and freestanding pylon sign along the Building’s west-facing frontage along South Citrus Avenue may be modified, provided that the total new sign copy area shall not exceed fifty (50) square feet.

***Sign “B”:* A building-mounted sign may be erected above the Building’s western entrance facing South Citrus Avenue, provided that the total sign copy area may not exceed 16.5% of the building face area, and the total sign height may not exceed seven (7) feet.**

***Signs “C-1” and “C-2”:* Two wall-mounted signs may be erected on the northern and southern sides of the Building (one sign on each building side), provided that the total sign height of either sign may not exceed three (3) feet.**

Except as provided herein, all signage within the property covered by this PCD Ordinance shall comply with the provisions of the Covina Municipal Code and Covina Design Guidelines.”

SECTION 3: The Planning Commission finds that the above referenced Ordinance is in the public interest and reasonably related to the public welfare because:

A. With respect to the “auto rental” use, it merely makes certain technical and clarifying amendments to the PCD Ordinance so that it conforms to those uses already permitted by the Covina Municipal Code for “C-3A” zoning.

B. With respect to the signage regulations, the Ordinance only makes minor alterations to the existing sign program governing the Area and only affects one building therein (728 S. Citrus Ave.). It does not alter the underlying zoning, the existing layout of buildings, on-site parking, vehicle and pedestrian circulation, or other physical elements of the Area. Therefore, the site remains adequate in size and shape to accommodate the use, as amended by the Ordinance. Further, although the Ordinance may result in additional customer traffic coming to the Area, the impact on traffic will be negligible relative to South Citrus Avenue and Workman Avenue. Both are primary arterial streets serving the Area and will remain adequate in width and pavement to carry the quantity and kind of traffic generated by the proposed uses benefitting from this Ordinance. Lastly, the additional signage would not dominate or detract from the architectural integrity of the Building nor will it face toward any residential or other sensitive uses in the vicinity.

SECTION 4: The Planning Commission also finds that adoption of this Ordinance is consistent with the City of Covina General Plan because:

A. With respect to the “auto rental” use, it merely makes certain technical and clarifying amendments to the PCD Ordinance so that it conforms to those uses already permitted by the Covina Municipal Code for “C-3A” zoning. Overall, this technical amendment to the PCD Ordinance remains consistent with the objectives and policies of each element of the General Plan and does not obstruct their attainment.

B. With respect to the signage regulations, the Area will continue to conform to the existing “General Commercial” land use designation set forth in the General Plan. Further, the Ordinance fosters the occupancy of vacant tenant spaces within the Area and will

enhance their ability to attract customers along South Citrus Avenue, thereby boosting the economic base of the City. On the other hand, the amendment made by this Ordinance is relatively minor, focused on one building within the Center (728 S. Citrus Ave.) and, therefore, will not result in excessive signage or visual blight which would be contrary to the goals and policies of the Covina General Plan.

SECTION 5: The Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which merely involves making certain technical and clarifying amendments to the PCD Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Should specific projects subject to this Ordinance be proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 6: The Secretary shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED by the members of the Planning Commission of Covina this 9th day of December, 2014.



CHAIRMAN WIN PATTERSON
CITY OF COVINA PLANNING COMMISSION

ORDINANCE NO. 15-2037

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING ORDINANCE 99-1851 (PCD 99-001) TO ADD "AUTOMOBILE RENTAL" AS A PERMITTED USE AND MODIFYING THE SIGN REGULATIONS FOR ONE PROPERTY WITHIN THE SHOPPERS LANE/TERRADO PLAZA PLANNED COMMUNITY DEVELOPMENT AREA, AND MAKING CERTAIN FINDINGS AND CONDITIONS.

THE CITY COUNCIL OF THE CITY OF COVINA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to a Council public hearing conducted on February 17, 2015, and processing in the manner set forth by State law and local ordinance, and after recommendation thereon by the Planning Commission after a duly noticed public hearing on December 9, 2014, this modification ("Modification") to Planned Community Development (PCD 99-001) is made for the reasons of public interest, convenience, and necessity.

SECTION 2. The following described real property in the City of Covina, County of Los Angeles, State of California, is hereby subject to the Modification:

Lots 1 through 7 and 20 through 46 of Tract 15166; and Lots 1 through 24 of Tract 19651; and Lots 1 through 9 of Tract 18945, as documented in Official Records in the County of Los Angeles Registrar/Recorder's Office, State of California, also known as the "Shoppers Lane/Terrado Plaza Planned Community Development Area" at 602 – 770 South Citrus Avenue; 750 Terrado Plaza; 112 – 672 Shoppers Lane; and 130 – 186 East Rowland Street (the "Area").

SECTION 3. The proposed Modification amends paragraph B of subsection 11 of Section 4 of Ordinance 99-1851 (PCD 99-001) to state as follows:

"11. Uses of property in the subject area shall conform with the following:

Permitted Uses:

.....

B. Other:

1. Administrative or professional offices (any offices in which chattels or goods, wares or merchandise are not manufactured or sold).
2. ***Auto rental,***
3. Bank and financial institutions,
4. Bill paying office,
5. Insurance brokers, adjusters and agents,
6. Libraries and reading rooms,
7. Museums,
8. Notary public,
9. Off-street parking,
10. Optometrists,
11. Parking lot, public,
12. Real estate brokers.”

SECTION 4. The proposed Modification also adds subsection 12 to Section 4 of Ordinance 99-1851 (PCD 99-001) to state as follows:

“12. Permitted Signage at 728 South Citrus Avenue:

With respect only to the Building located at 728 South Citrus Avenue, (presently occupied by “Enterprise Rent-a-Car”), up to four (4) signs may be located thereon, subject to the following standards:

***Sign “A”:* The existing legal non-conforming and freestanding pylon sign along the Building’s west-facing frontage along South Citrus Avenue may be modified, provided that the total new sign copy area shall not exceed fifty (50) square feet.**

***Sign “B”:* A building-mounted sign may be erected above the Building’s western entrance facing South Citrus Avenue, provided that the total sign copy area may not exceed 16.5% of the building face, and the total sign height may not exceed seven (7) feet.**

***Signs “C-1” and “C-2”:* Two wall-mounted signs may be erected on the northern and southern sides of the Building, provided that the total sign height of either sign may not exceed three (3) feet.**

Except as provided herein, all signage within the property covered by this PCD Ordinance shall comply with the provisions of the Covina Municipal Code and Covina Design Guidelines.”

SECTION 5. After giving full consideration to all evidence presented at said hearing, both oral and documentary, reviewing the recommendation of the Planning Commission, and after being fully informed, the City Council hereby finds as follows:

1. The Modification to PCD 99-001 is consistent with the Covina General Plan because:
 - A. With respect to the “auto rental” use, it merely makes certain technical and clarifying amendments to the PCD Ordinance so that it conforms with those uses already permitted by the Covina Municipal Code for “C-3A” zoning. Overall, this technical amendment to the PCD Ordinance remains consistent with the objectives and policies of each element of the General Plan and does not obstruct their attainment.
 - B. With respect to the signage regulations, the Area will continue to conform to the existing “General Commercial” land use designation set forth in the General Plan. Further, the Ordinance fosters the occupancy of vacant tenant spaces within the Area and will enhance their ability to attract customers along South Citrus Avenue, thereby boosting the economic base of the City. On the other hand, the amendment made by this Ordinance is relatively minor, focused on one building within the Center (728 S. Citrus Ave.) and, therefore, will not result in excessive signage or visual blight which would be contrary to the goals and policies of the Covina General Plan.
2. The Modification only makes minor clarifying amendments with respect to “auto rental” use, and alterations to the existing sign program only affect one building within the Area. This Modification does not alter the existing layout of buildings and other structures, on-site parking, vehicle and pedestrian circulation, or other physical elements of the Area. Therefore, the site remains adequate in size and shape to accommodate the use, as amended by this Modification;
3. No additional buildings within the Area are proposed by this Modification. Further, although this Modification may result in additional customer traffic coming to the Area, the impact on traffic will be negligible relative to South Citrus Avenue and Workman Avenue. Both are four-lane primary arterial streets serving the Area and will remain adequate in width and pavement to carry the quantity and kind of traffic generated by the proposed uses benefitting from this Modification;

4. The Modification is relatively minor in the context of the entire Area. With the exception of allowing additional and slightly larger signage on one building within the Area, all signage within the Area must continue to comply with all applicable local ordinances and regulations to minimize its impact on neighboring properties. Further, the additional signage would not dominate or detract from the architectural integrity of the building at 728 S. Citrus Avenue. The additional signage allowed by this Modification will either face westerly into South Citrus Avenue or toward the adjacent commercial parking lots. It will not face toward any residential properties nor toward any other sensitive uses in the vicinity. Therefore, this Modification is not detrimental to the surrounding property or uses permitted in the Area;
5. The additional signage allowed by this Modification will result in a more balanced combination of signage and design on the southerly, western and northerly sides of the building at 728 S. Citrus Avenue. In addition, the change would be consistent with prior direction about signage from the City Council and Planning Commission. Therefore, the Modification is necessary to protect the public peace, health, and safety.

SECTION 6. In considering this application, the City Council affirms the determination of the Planning Commission that this Modification is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which merely involves making certain technical and clarifying amendments to the PCD Ordinance, will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Should specific projects subject to this Ordinance be proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 7. The Modification to PCD 99-001, as set forth in Sections 3 and 4 above, is hereby granted, subject to the following conditions of approval which are deemed necessary to protect the public health, safety, and general welfare of the community:

(Conditions of Approval attached behind this Ordinance)

SECTION 8. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute

passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local weekly newspaper of general circulation and which is hereby designated for that purpose.

PASSED AND APPROVED on this _____ day of _____, 2015.

PEGGY DELACH, MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF COVINA
AGENDA ITEM COMMENTARY

PH 2

MEETING DATE: February 17, 2015

ITEM NO.:

STAFF SOURCE: Nancy Fong, Interim Director of Community Development
Alan Carter, City Planner



ITEM TITLE: Introduce and Waive Further Reading of Ordinance No. 15-2035, allowing medical, dental, and therapeutic offices as a permitted use in the “C-2/Neighborhood Shopping Center,” “C-3/Central Business,” “C-3A/Regional or Community Shopping Center,” “C-4/Highway Commercial,” and “C-5/Specified Highway” zoning districts, subject to certain requirements.

STAFF RECOMMENDATION

- 1.) Open the public hearing and receive public testimony;
- 2.) Introduce and waive further reading of Ordinance No. 15-2035, allowing medical, dental, and therapeutic offices as a permitted use in the “C-2/Neighborhood Shopping Center,” “C-3/Central Business,” “C-3A/Regional or Community Shopping Center,” “C-4/Highway Commercial,” and “C-5/Specified Highway” zoning districts, subject to certain requirements.

FISCAL IMPACT

There is no direct impact to the General Fund. While permitting these uses on retail-oriented properties could result in less sales tax generation, the proposal could enable long-time vacancies to be filled, thus fostering increased business activity or sales taxes at adjacent retail establishments.

BACKGROUND

Since the 1980s, medical, dental, and therapeutic offices have been prohibited in the City’s retail-oriented zoning districts. The City Council and the Planning Commission have discouraged non-retail use in retail-oriented zoning districts because they believed that retail centers should focus on uses that would maximize the sales tax generation.

In September 2014, staff received a letter of request from the property owner of the community shopping center on the northwest corner of Azusa Avenue and San Bernardino Road. The proposed request was to allow medical and dental offices to address a longstanding vacancy problem in the center. The request was considered by the City Council and the Planning Commission at the special joint meeting on November 20, 2014. The Council and Commission believed that medical, dental, and therapeutic offices could be considered in the commercial-retail zoning districts, though not medical clinics, oral surgical offices, or other more intense

medical/health care uses, and directed staff to proceed with a Zoning Ordinance Amendment (ZOA) application.

ANALYSIS

In formulating the proposed ordinance to allow medical, dental, and therapeutic offices in the commercial-retail zones, staff found that various types of similar administrative offices, such as accountants and insurance agents, are permitted by right in the retail zones. Further, staff researched a number of similar-sized nearby cities and found that limited medical, dental, and therapeutic offices are allowed in commercial centers. It appeared that many communities have responded to the changing economy and embraced the concept of diversifying the uses by mixing retail with medical, dental, and/or therapeutic offices in commercial centers. Accordingly, staff has prepared an ordinance that would allow medical, dental, and therapeutic offices for chiropractors, physical therapists and similar uses, provided that the sum total of such uses occupy no greater than ten percent (10%) of the floor area of all buildings on the commercial site or 10,000 square feet, whichever is less.

On January 27, 2015, the Planning Commission conducted a public hearing to consider the proposed ordinance. The Commission received one comment from the public who questioned the city's determination of an exemption from the California Environment Quality Act. Staff responded in the hearing that the proposal to add this minor amendment to the Municipal Code is not a project as defined by CEQA because it will not result in a direct or reasonably foreseeable indirect physical change to the environment. Staff explained to the Commission that if and when a parcel is proposed to develop a medical, dental or therapeutic office, then that proposal would be reviewed subjected to CEQA. Findings to this effect are included later in this report, as well as in the Planning Commission's resolution of recommendation and the proposed ordinance.

At the conclusion of the hearing, the Commission stated that they were in agreement with staff's recommendations including the explanation of CEQA. However, the Commission deliberated on the issue of a maximum of 10,000 square feet. The Commission understood that the intent was to have such offices in tenant spaces between 2,000 or 3,000 square feet and not concentrated in any one building or area of a commercial center. The Commission raised concerns that the proposed ordinance did not prohibit a single medical, dental or therapeutic office from taking up all 10,000 square feet in a building. The Commission recommended that a maximum individual use shall not exceed 3,500 square feet.

The Commission then voted 4-0-1 to approve Resolution No. 2015-002 PC recommending to the City Council approval of the Ordinance request with the added restriction that no individual medical, dental, or therapeutic office shall be allowed to occupy more than 3,500 square feet of floor area. The final proposed ordinance reads as follows:

“Administrative or professional offices (any offices in which chattels or goods, wares or merchandise are not manufactured or sold); Medical, dental and therapeutic offices for chiropractors, physical therapists and similar uses are also permitted, provided that such medical, dental and therapeutic office uses occupy no greater than ten percent (10%) or 10,000 square feet whichever is less of the floor area of all buildings on the commercial site; and no individual use occupies greater than 3,500 square feet of floor area.”

ENVIRONMENTAL DETERMINATION

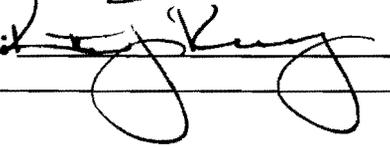
The proposed Zoning Ordinance Amendment is not subject to the California Environmental Quality Act ("CEQA") because a) pursuant to Section 15060(c)(2) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3), the activity, which involves amending the City's regulations as to where medical, dental, and therapeutic offices can locate, will not result in a direct or reasonably foreseeable indirect physical change in the environment; b) pursuant to Guidelines Section 15060(c)(3), the activity is not a project; and c) as defined in Section 15378 of the CEQA Guidelines, it would not have a potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to the associated, implementing ordinance are proposed, appropriate CEQA analyses will be conducted on a project-by-project basis.

RELEVANCE TO THE STRATEGIC PLAN

The Strategic Plan calls for the adoption of measures that would strengthen the economic base of the City. It is believed that the proposal would meet this aim by likely bolstering the vitality in and around many commercial centers by filling vacancies with complementing uses.

EXHIBITS

- A. January 27, 2105 Planning Commission staff report and exhibits.
- B. Approved Planning Commission Resolution 2015-002 PC
- C. Ordinance No. 15-2035.

REVIEW TEAM ONLY	
City Attorney: 	Finance Director:  (For Delu)
City Manager: 	Other: _____



CITY OF COVINA

PLANNING COMMISSION AGENDA REPORT ITEM NUMBER PH 1 January 27, 2015

TO: Chairman and Members of the Planning Commission

FROM: Alan Carter, City Planner

SUBJECT: Application ZOA 14-003, a Zoning Ordinance Amendment to allow medical, dental, and therapeutic offices as permitted uses in the "C-2/Neighborhood Shopping Center," "C-4/Highway Commercial," and "C-5/Specified Highway" zoning districts.

BACKGROUND

Since 1984, medical, dental, and therapeutic offices have been prohibited in the following commercial zoning districts: C-2/Neighborhood Shopping Center, C-3/Central Business, C-3A/Regional or Community Shopping Center, C-4/Highway Commercial, and C-5/Specified Highway. For years, many commercial property owners or real estate agents/brokers have inquired about leasing tenant space for medical and dental offices within the commercial centers. However, the City Council and the Planning Commission have voiced their concerns and discouraged changes to allow non-retail use in retail-focused areas.

In mid-2014, the Planning staff was contacted several times by the owner of the community shopping center on the northwest corner of Azusa Avenue and San Bernardino Road requesting the City's consideration to allow medical and dental offices in the center to address its longstanding vacancy problem. The property owner submitted a letter of request on September 30, 2014 as shown in Exhibit "3".

As a result of considering a recent land use General Plan Amendment and Zone Change, the City Council and the Planning Commission conducted a special joint meeting on November 20, 2014 to discuss city-wide land use issues. At the joint meeting, staff informed the City Council and Planning Commission about the letter of request from the property owner of the Azusa/San Bernardino commercial center to allow medical and dental offices in the center. The City Council and Planning Commission directed staff to proceed with a Zoning Ordinance Amendment (ZOA) application.

ANALYSIS

- A. Are Medical, Dental and Therapeutic offices appropriate uses within a commercial center? In 1984, the City believed that medical and dental uses should be oriented in and around the Inter-Community Medical Center in the downtown on properties zoned TC-P/Town Center-Medical and Professional Office and on properties around the community zoned C-P/Commercial-Administrative and Professional Office. At that time, the City also believed that retail centers should focus on uses that would maximize the sales tax generation. Further, medical and dental offices have a more restrictive parking ratio of 1 parking space per 150 square feet of total building area than retail centers which require 1 parking space per 200 square feet of total building area. There are a few medical or dental offices now operating on retail-zoned properties, but they are legal non-conforming uses, since they were established prior to 1984.

In reviewing the various commercial zoning districts, staff found that general administrative offices, tax accountants, real estate agents/brokers, banks, insurance agents/brokers, optometrists, stock brokers are permitted by right. These types of office uses are side by side with retail stores, sandwich shops, restaurants and personal service stores like hair salons and dry-cleaning. The medical, dental and therapeutic offices are very similar to the nature of these types of office uses and businesses. General practice or family practice physicians, pediatricians, family practice dentists would be under the category of medical and dental offices. Chiropractors, physical therapist would be under the category of therapeutic offices. The patients visit the offices by appointment only. **Staff would like to emphasize that the consideration of medical, dental and therapeutic offices in commercial zones does not include medical clinics, oral surgical offices or other more intense medical/health care uses and labs.**

Staff researched a number of similar-sized nearby cities and found that limited medical, dental, and therapeutic offices are allowed in commercial centers. Many communities have responded to the changing economy and embraced the concept of diversifying the uses by mixing retail with medical, dental, and/or therapeutic offices in commercial centers. Further, the medical, dental or therapeutic offices would allow the infill of vacant tenant spaces. Therefore, the City's current prohibition of medical, dental, and therapeutic offices from the commercial zoning districts could be considered too restrictive and dated.

- B. The Proposed Changes to the Various Commercial Zoning Districts:
Based on the above analysis, adding medical, dental and therapeutic offices to commercial zoning districts might be appropriate. It would allow for more flexible zoning provisions, without adversely affecting the public health, safety, or welfare, and may bolster the vitality in and around many commercial centers by filling vacancies with these types of complementing uses. In addition, this change could result in at least some overall trip reductions around the community.

In order to preserve the retail uses in commercial centers, staff recommends limiting the amount of square footage set aside for medical, dental or therapeutic offices. Because medical, dental, and therapeutic offices require 1 parking space per 150 square feet of total building area while retail uses require 1 per 200 square feet of total building area, limiting the amount of total building area they can be leased for medical, dental or therapeutic offices would accommodate the uses without negatively impacting the parking requirements. Staff recommends a maximum of ten (10) percent of the floor area of the commercial center or 10,000 square feet, whichever is less. Staff can easily track the percentage or the square footage through business license records.

The proposed changes will be added to the C-2/Neighborhood Shopping Center, C-4/Highway Commercial, and C-5/Specified Highway. The proposed changes do not need to be added to C-3/Central Business or C-3A/Regional or Community Shopping Center, because the zonings districts reference the C-2/Neighborhood Shopping Center. The proposed changes will read as follows:

“Administrative or professional offices (any offices in which chattels or goods, wares or merchandise are not manufactured or sold); Medical, dental and therapeutic offices for chiropractors, physical therapists and similar uses are also permitted, provided that such medical, dental and therapeutic office uses occupy no greater than ten percent (10%) or 10,000 square feet whichever is less of the floor area of all buildings on the commercial site;”

ZONING ORDINANCE AMENDMENT FINDINGS OF FACTS

The Planning Commission should make the following findings so as to forward a recommendation of approval to the City Council for the proposed Zoning Ordinance Amendment.

1. The Zoning Ordinance Amendment application is in the public interest and related to furthering the public welfare because it reasonably amends the City’s zoning provisions to permit limited medical, dental, and therapeutic offices in the retail-oriented zoning districts (as defined in the associated resolution and ordinance), which the staff believes would result in positive effects to the overall City and would not generate any negative parking-related or other impacts.
2. As indicated in the staff report, the current prohibition of medical, dental, and therapeutic offices from shopping centers and properties in the retail-focused zoning districts could be considered to be too restrictive as well as dated. This amendment will allow for more flexible zoning provisions, without adversely affecting the public health, safety, or

welfare, and may bolster the vitality in and around many commercial centers by filling vacancies with typically innocuous, complementing uses. In addition, as also noted in the report, this change could result in at least some overall trip reductions around the community. And by allowing more such activities in the City, the Code amendment could meet the needs of an aging, more medical/therapeutic service-dependent population.

3. The approval of this Zoning Ordinance Amendment is consistent with the City of Covina General Plan as follows.
 - a. It accommodates moderate commercial infill development and redevelopment of underutilized parcels through reasonable amendments to the City's zoning provisions that would preserve Covina's economic base, image and character while minimizing adverse traffic impacts.
 - b. It encourages the creative and appropriate reuse of land to foster economic growth within the City.
 - c. It provides a more flexible but still reasonable framework for permitting medical, dental, and therapeutic offices in additional suitable locations in the City, thereby maintaining an adequate amount of and distribution of such uses around the community, but not in a manner that would inhibit or impose an undue burden on the City's ability to accommodate traffic and public safety needs. (No other special land use, circulation, environmental, or public safety impacts are identified with this Code amendment that could render it to be inconsistent with the General Plan. And no additional regulations governing such uses would be changed.) Therefore, this proposed Zoning Ordinance Amendment is believed to further the objectives and policies of each Element of the General Plan.

PUBLIC HEARING NOTICE AND NOTIFICATION

The public hearing notice was published in the San Gabriel Valley Examiner newspaper on January 15, 2015.

ENVIRONMENTAL DETERMINATION

The proposed Zoning Ordinance Amendment is not subject to the California Environmental Quality Act ("CEQA") because a) pursuant to Section 15060(c)(2) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3), the activity, which involves amending the City's regulations as to where medical, dental, and therapeutic offices can locate, will not result in a direct or reasonably foreseeable indirect physical change in the environment; b) pursuant to Guidelines Section 15060(c)(3), the activity is not a project; and c) as defined in Section 15378

of the CEQA Guidelines, it would not have a potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to the associated, implementing ordinance are proposed, appropriate CEQA analyses will be conducted on a project-by-project basis.

RECOMMENDATION

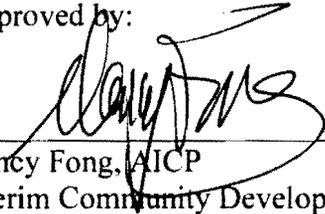
The Planning staff recommends that the Planning Commission conduct a public hearing to consider the proposed Zoning Ordinance Amendment and recommend approval of the application to the City Council.

Prepared by:



Alan Carter
City Planner

Approved by:



Nancy Fong, AICP
Interim Community Development Director

EXHIBITS

- 1. Resolution 2015-002 PC recommending approval to City Council
- 2. Proposed Ordinance
- 3. Letter of Request from Property Owner, Mr. Navi

Covina Properties, LLC

595 Evelyn Place
Beverly Hills, California 90210

Telephone: (323) 277-7500
Facsimile: (323) 277-7501

Jonathan B. Navi
In-house counsel

September 30, 2014

City Council of the City of Covina
125 E College St
Covina, CA 91723

To Whom It May Concern:

Covina Properties, LLC is the owner and property manager for the shopping center located at 513-621 North Azusa Avenue, Covina, California 91722. We have been working diligently with the City of Covina to get permission to lease spaces to a wider spectrum of tenants such as doctors, dentists, chiropractors and massage parlors.

Accordingly, the number of parking spaces was a question raised by the City of Covina. On September 18, 2010 we met with Ms. Nancy Fong to review relevant documents pertaining to this matter. We also met with Mr. Alan Carter regarding the number of available parking spaces and also adequate Handicap parking and Van Accessible Handicap parking spaces on May 28, 2014. The results of both meetings were positive: we have adequate parking spaces to be able to lease 10% of our total square footage to the new kind of tenants previously mentioned.

Ms. Nancy Fong advised that we write this formal letter to the City Council of the City of Covina requesting allowing us to lease to the wider spectrum of tenants, including doctors, dentists, chiropractors and massage parlors.

During our meetings with both Ms. Nancy Fong and Mr. Alan Carter, it was discussed how such a permit was granted in the past to other property owners. In fact, a shopping center located just north of our property was granted these permits and they were able to lease to West Coast Dental located at 1406 North Azusa Avenue, Covina, CA 91722.

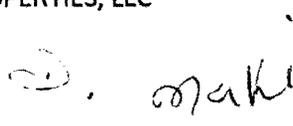
We kindly request the issuance of permission to our property so that we, like other property owners in Covina, can also lease to doctors, dentists, chiropractors and massage parlors.

Please let us know the next step in this process. We look forward to hearing back from you shortly.

Very truly yours,

COVINA PROPERTIES, LLC

Parviz Navi
(323) 277-7500



EXHIBIT

RESOLUTION NO. 2015-002 PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COVINA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF COVINA APPROVAL OF ORDINANCE NO. 15-2035, AMENDING SECTIONS 17.38.020, 17.44.020 AND 17.46.020 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO ALLOW LIMITED MEDICAL, DENTAL AND THERAPEUTIC CLINICS AS A PERMITTED USE IN THE CITY'S C-2, C-3, C-3A, C-4 AND C-5 COMMERCIAL ZONES.

WHEREAS, California Government Code, Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, City staff has prepared Ordinance No. 15-2035, which amends Sections 17.38.020, 17.44.020 and 17.46.020 of Title 17 (Zoning) of the Covina Municipal Code in order to allow limited "medical, dental and therapeutic clinics" as a permitted use in the City's C-2, C-3, C-3A, C-4, and C-5 commercial zones, provided that such uses do not occupy greater than ten percent (10%) of all buildings on the commercial site or 10,000 square feet, whichever is less, and no individual use occupies greater than 3,500 square feet of floor area; and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report presented during a duly noticed public hearing on January 27, 2015 for Ordinance No. 15-2035.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COVINA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made in the staff report and this Resolution, the Planning Commission of the City of Covina hereby recommends that the City Council adopt Ordinance No. 15-2035 entitled: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING SECTIONS 17.38.020, 17.44.020 AND 17.46.020 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO ALLOW LIMITED MEDICAL, DENTAL AND THERAPEUTIC CLINICS AS A PERMITTED USE IN THE CITY'S C-2,C-3, C-3A, C-4 AND C-5 COMMERCIAL ZONES", which is attached hereto as Attachment "A" and incorporated herein by reference.

SECTION 2: The Planning Commission finds that the above referenced ordinance is in the public interest and reasonably related to the public welfare because it reasonably amends the City's zoning regulations to permit limited medical, dental, and therapeutic offices in retail-oriented commercial zoning districts. The City's current total prohibition on such uses in the City's commercial zones is outdated and not consistent with standards adopted by other similar cities. Such

amendments will help in reducing vacancies in the City's commercial centers by allowing more uses that, in a limited amount, can be complementary and not detrimental to the City's commercial centers. By limiting medical, dental and therapeutic clinics to ten percent (10%) of the total floor area of a commercial site or 10,000 square feet, whichever is less, with no individual use occupying greater than 3,500 square feet of floor area, any potential negative parking and traffic-related impacts will be avoided.

SECTION 3: The Planning Commission also finds that adoption of this ordinance is consistent with the City of Covina General Plan because (i) it accommodates moderate commercial infill development and redevelopment of underutilized parcels as a high priority through reasonable amendments to the City's zoning provisions in order to preserve the City's economic base, image and character while minimizing adverse traffic impacts, (ii) it encourages creative and appropriate reuse of land to foster economic growth within the City, (iii) it provides more flexible but still reasonable land use standards that limit the amount of "medical, dental and therapeutic clinics" to ten percent (10%) of a commercial site or 10,000 square feet, whichever is less, with no individual use occupying greater than 3,500 square feet of floor area. This will ensure that an adequate amount of and distribution of parking assets and traffic facilities are maintained, and so that they do not inhibit or impose an undue burden on the City's ability to accommodate traffic and public safety needs. Therefore, this Ordinance furthers the objectives and policies of each element of the General Plan and does not obstruct their attainment.

The Planning Commission also finds that this ordinance is consistent with the City of Covina General Plan because it merely adds a new use to the City's commercial zones to a very limited extent. No other special land use, circulation, environmental or public safety impacts are identified with such an amendment that could render it inconsistent with the General Plan. No other regulations governing such uses would be changed. They would remain subject to the same setback, height, floor area and other development standards as provided in the Code.

SECTION 4: The ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which involves a minor amendment to the City's commercial zoning rules to allow limited medical, dental and therapeutic offices on commercial sites will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to this ordinance are proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 5: The Secretary shall certify to the adoption of this resolution.

APPROVED AND ADOPTED by the members of the Planning Commission of Covina this 27th day of January, 2015.

CHAIRMAN WIN PATTERSON
CITY OF COVINA PLANNING COMMISSION

I hereby certify that the foregoing is a true copy of a resolution adopted by the Planning Commission of the City of Covina at a regular meeting thereof held on the 27th day of January, 2015, by the following vote of the Planning Commission:

AYES: CONNORS, HODAPP, MANNING, PATTERSON
NOES: NONE
ABSENT: MCMEEKIN
ABSTAIN: NONE

COVINA PLANNING COMMISSION SECRETARY

Attachment "A"

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING SECTIONS 17.38.020, 17.44.020 AND 17.46.020 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO ALLOW LIMITED MEDICAL, DENTAL AND THERAPEUTIC CLINICS AS A PERMITTED USE IN THE CITY’S C-2, C-3, C-3A, C-4 AND C-5 COMMERCIAL ZONES”

[Attached behind this page]

ORDINANCE NO. 15-2035

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING SECTIONS 17.38.020, 17.44.020 AND 17.46.020 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO ALLOW LIMITED MEDICAL, DENTAL AND THERAPEUTIC CLINICS AS A PERMITTED USE IN THE CITY'S C-2, C-3, C-3A, C-4 AND C-5 COMMERCIAL ZONES.

THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Subsection (C)(1) of Section 17.38.020 of Chapter 17.38 of Title 17 (C-2 Zoning) of the Covina Municipal Code is hereby amended to read as follows:

“17.38.020 Permitted uses. Buildings, structures and land shall be used, and buildings and structures shall hereafter be erected, structurally altered or enlarged only for the following uses, plus such other uses as the commission and council may deem (pursuant to Chapter 17.60 CMC) to be similar and not more obnoxious or detrimental to the public health, safety and welfare. All uses shall be subject to the property development standards in CMC 17.38.050 through 17.38.210:

....

C. Other:

1. Administrative or professional offices (any offices in which chattels or goods, wares or merchandise are not manufactured or sold). *Medical, dental and therapeutic offices for chiropractors, physical therapists and similar uses are also permitted, provided that the sum total of such uses occupy no greater than ten percent (10%) of the floor area of all buildings on the commercial site or 10,000 square feet, whichever is less; and no individual use occupies greater than 3,500 square feet of floor area;*
2. Bank and financial institutions;

....”

SECTION 2. The first listed use in Section 17.44.020 of Chapter 17.44 of Title 17 (C-4 Zoning) of the Covina Municipal Code is hereby amended to read as follows:

“17.44.020 Permitted uses. Buildings, structures and land shall be used, and buildings and structures shall hereafter be erected, structurally altered or enlarged only for the following uses, plus such other uses as the commission and council may deem (pursuant to Chapter 17.60 CMC) to be similar and not more obnoxious or detrimental to the public health, safety and welfare. All uses shall be subject to the property development standards in CMC 17.44.050 through 17.44.220:

Administrative or professional offices (any office in which chattels or goods, wares or merchandise are not manufactured or sold), *Medical, dental and therapeutic offices for chiropractors, physical therapists and similar uses are also permitted, provided that the sum total of such uses occupy no greater than ten percent (10%) of the floor area of all buildings on the commercial site or 10,000 square feet, whichever is less; and no individual use occupies greater than 3,500 square feet of floor area;*

Aerial photography and survey service;

....”

SECTION 3. The first listed use in Section 17.46.020 of Chapter 17.46 of Title 17 (C-5 Zoning) of the Covina Municipal Code is hereby amended to read as follows:

“17.46.020 Permitted uses. Buildings, structures and land shall be used, and structures shall hereafter be erected, structurally altered or enlarged only for the following uses, plus such other uses as the commission and council may deem (pursuant to Chapter 17.60 CMC) to be similar and not more obnoxious or detrimental to the public health, safety and welfare. All uses shall be subject to the property development standards in CMC 17.46.050 through 17.46.210:

Administrative or professional offices (any office in which chattels or goods, wares or merchandise are not manufactured or sold). *Medical, dental and therapeutic offices for chiropractors, physical therapists and similar uses are also permitted, provided that the sum total of such uses occupy no greater than ten percent (10%) of the floor area of all buildings on the commercial site or 10,000 square feet, whichever is less; and no individual use occupies greater than 3,500 square feet of floor area;*

Animal hospital;

....”

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to

be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 6. CEQA. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which involves a minor amendment to the City's commercial zoning rules to allow limited medical, dental and therapeutic offices on commercial sites will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to this ordinance are proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 7. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

ORDINANCE PASSED AND APPROVED on this ____ day of _____, 2015.

PEGGY DELACH, MAYOR

ATTEST:

Mary Lou Walczak, City Clerk

APPROVED AS TO FORM:

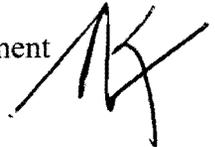
Marco Martinez, City Attorney

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.: PH 3

STAFF SOURCE: Nancy Fong, AICP, Interim Director of Community Development
Alan Carter, City Planner *a.c.*



ITEM TITLE: Application Zoning Ordinance Amendment (ZOA) 14-002, a request to modify the City's parking requirements citywide concerning automotive repair shops and automotive body and paint shops.

STAFF RECOMMENDATION

- 1.) Open the public hearing and receive public testimony;
- 2.) Introduce and waive further reading of Ordinance No. 15-2036, modifying the City's parking requirements citywide concerning automotive repair shops and automotive body and paint shops.

FISCAL IMPACT

There is no direct impact to the General Fund. However, the proposed changes in parking standards for automotive related businesses would allow the opportunities for in-fill redevelopment of existing parcels and for filling vacancies of existing buildings or expansion of existing automotive related businesses. This would result in fostering increased business activity or sales tax revenue for the City.

BACKGROUND

In November 2014, staff received a Site Plan Review (SPR) application to establish an auto body and paint shop in a vacant, former warehouse and storage building at 781 East San Bernardino Road. The proposed shop did not meet the applicable parking standard of 1 parking space per 200 square feet of building area. Based on the advice of the City Attorney, the appropriate way to address the shortfall in parking is to amend the Zoning Ordinance to change the parking standard for automotive body and paint shops as well as automotive repair shops.

ANALYSIS

In formulating the proposed ordinance to change the parking standard for automotive body and paint shops plus automotive repair shops, staff first considered the basic operational characteristics of these types of uses to determine the practical parking demand for typical shops. Staff determined that automotive body and paint shops and automotive repair shops had similar operational features and, therefore, should continue to have the same parking standard. Second, staff surveyed several surrounding cities to identify their parking requirements for both types of automotive shops. Staff determined from the survey that the City's current parking requirement for automotive body and paint shops and for automotive repair shops is restrictive and warranted modification. Accordingly, staff has prepared an ordinance that would require for both auto

body and paint shops and auto repair shops three parking spaces for each service bay or roll-up door plus additional parking spaces based on the applicable floor area standards for the office/retail/customer areas.

On January 13, 2015, the Planning Commission conducted a public hearing to consider the proposed ordinance. There were no public comments made at the meeting. At the conclusion of the hearing, the Commission stated that they were in agreement with staff's recommendations, with one exception. The Commission deliberated on the issue of whether the proposed parking requirement should be based on a standard of three parking spaces per service bay or three parking spaces per roll-up door, noting that there are certain automotive-associated businesses in the City (such as the Sears Auto Repair at 710 West Arrow Highway) that have more service bays than roll-up doors. In sum, the Commission wanted to ensure that the new parking standard that they would recommend to the City Council would be viable. The Commission then voted 5-0 to approve Resolution No. 2015-001 PC, recommending to the City Council approval of the Ordinance request with the added clarification that the parking standard would be "three (parking spaces) per service bay or roll-up door, *whichever is greater*, plus..." The final proposed ordinance reads as follows (under Section 1, off-street parking space requirements for both "Automotive repair shops" and "Automotive body and paint shops"):

"Three per service bay or roll-up door, whichever is greater, plus additional parking spaces based on the applicable floor area standard for office/retail/customer areas."

ENVIRONMENTAL DETERMINATION

The proposed Zoning Ordinance Amendment is not subject to the California Environmental Quality Act ("CEQA") because a) pursuant to Section 15060(c)(2) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3), the activity, which involves amending the City's off-street parking regulations, will not result in a direct or reasonably foreseeable indirect physical change in the environment; b) pursuant to Guidelines Section 15060(c)(3), the activity is not a project; and c) as defined in Section 15378 of the CEQA Guidelines, it would not have a potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to the associated, implementing ordinance are proposed, appropriate CEQA analyses will be conducted on a project-by-project basis.

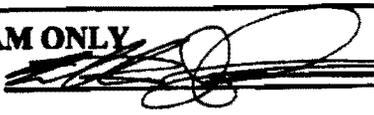
RELEVANCE TO THE STRATEGIC PLAN

The Strategic Plan calls for the adoption of measures that would strengthen the economic base of the City. The proposed Ordinance would accommodate moderate commercial infill development and redevelopment of underutilized parcels as a high priority through reasonable amendments to the City's zoning provisions in order to preserve the City's economic base, image, and character, while minimizing adverse traffic impacts. It encourages creative and appropriate reuse of land to foster economic growth within the City.

EXHIBITS

- A. January 13, 2015 Planning Commission staff report and exhibits.
- B. Approved Planning Commission Resolution 2015-001 PC.
- C. Ordinance No. 15-2036.

REVIEW TEAM ONLY

City Attorney: ~~_____~~ 

Finance Director: PC (For Duke)

City Manager: VE

Other: _____



CITY OF COVINA

PLANNING COMMISSION AGENDA REPORT ITEM NUMBER PH 1 January 13, 2015

TO: Chairman and Members of the Planning Commission

FROM: Nancy Fong, AICP, Interim Community Development Director

SUBJECT: Application ZOA 14-002, a Zoning Ordinance Amendment to change off-street parking standards for automobile repair shops and to add off-street parking standards for automobile body and paint shops to Section 17.72.010 of Chapter 17.72 of the Covina Municipal Code

BACKGROUND

In late November 2014, staff received a Site Plan Review application request to establish an auto body and paint shop on an existing building and site located at 781 East San Bernardino Road. The site and building was a warehouse and storage facility but is unoccupied now. The existing building is 8,962 square feet in gross floor area. The current Zoning Code only shows parking standard for automobile repair shops at a ratio of 1 parking space per 200 square feet of building area but it does not specify the parking standard for automobile body and paint shops. Using the auto repair shops parking standard, it becomes clear that the site having only 14 parking spaces does not meet the parking requirement. The applicant has been advised that a Variance application will be required. However, after consulting with the City Attorney, it was his advice that the appropriate way to address the shortfall of parking spaces issue is to amend the Zoning Ordinance to add and change the current parking standard for automobile repair and automobile body and paint shops. The City Attorney stated that it would be difficult to make the legal findings to support the Variance request to reduce the number of required parking spaces.

ANALYSIS

- A. The Basic Operational Characteristics of Automobile Repair and Automobile Body and Paint Shops: Understanding the basic operation characteristic of an automobile repair shop or automobile body and paint shop would help in determining the parking needs for this type of land use. Usually, an automobile repair shop is conducted inside a building that has individual bays with roll-up doors. The individual bay may have a hoist to elevate a car for engine/transmission repair or for maintenance purposes where a mechanic or employee works on the car. The car to be repaired stays in the bay until repaired or maintained, and the duration it stays in the bay could range for a short period of a couple of hours to a day or two depending on the extensiveness of the work. Most of the time, the repair is done

within the day and a few cars may need to be stored on site for further repair, but usually the cars are parked inside the bay for safety and security. Automobile body and paint shop operation is similar except that the repair of automobile body with painting may take a couple of days or even longer if auto parts have to be ordered. A car may move from one bay to another bay depending on the work that needs to be done on the automobile body such as assembling the parts, sanding and preparing for painting. Cars being worked on would be stored inside the bay and cars waiting in line may be stored on site but most likely in a screened and fenced area. This type of business usually does not have a large office area and customer area.

- B. The Comparison of City Auto Repair Parking Standards with the Nearby Cities: As mentioned in the background section of the report, the current parking standard for automobile repair shop is 1 parking space per 200 square feet of building area. How does this parking standard stand with nearby the cities and would nearby cities have specific parking standards for automobile body and paint shops? Staff surveyed 9 nearby cities and the following table summarized their parking standards for automobile services use such as repair and body shops.

CITY	USE	PARKING REQUIREMENT
1. Covina	Auto Repair	1 parking space/ 200 s.f. of gross floor area
2. Baldwin Park	Automotive Service Repair	1 parking space/ 250 s.f. of building area + 3 per service bay
3. Azusa	Vehicle Service	2 parking spaces + 3 spaces per service bay (service bays do not count as spaces)
4. Glendora	Automotive services	1 parking space/ 250 s.f. of gross floor area, but not less than 7
5. El Monte	Auto Repair	1 parking space/ 300 s.f. of gross floor area
6. Monrovia	Auto Repair	1 parking space/ 250 s.f. of gross floor area
7. West Covina	Automobile service stations	1 parking space/2 employees Minimum of 2 such spaces+ 1 parking space per service bay
8. La Puente	Automobile and truck repair garages	1 parking space/ 250 s.f. of gross floor area
9. Ontario	Automotive Repair minor/major, body and paint	1 parking space/ 400 s.f. of gross floor area
10. Pomona	Automotive repair facility	1 parking space/ 300 s.f. of gross floor area

Six surveyed cities have parking standards based on square footage of the building area ranging from 1 space per 250 square feet to 400 square feet of gross floor area. Three surveyed cities have different parking standards and are by number of bays ranging from 1 space to 3 spaces per bay, plus additional parking spaces for employees or building area.

The City parking standard for auto repair shop is the most restrictive; that is, it requires the most number of parking spaces. Therefore, a change to the parking standard is worth considering. Staff believes that requiring spaces per bay, as opposed to the size of the building, will reflect the parking demand more accurately.

- C. Proposed Standards for Auto Repair and Auto Body and Paint Shops: Based on the basic operational characteristics of the auto repair and body shop use, most bays generate an employee plus one or two cars that are waiting for service. Therefore, staff recommends the Off-Street Parking Standards contained in Chapter 17.72.010 be amended by modifying and adding the off-street parking standards for automobile repair and automobile body and paint shops as follows:

Use	Parking Spaces Required
Automotive repair shops	Three per service bay or roll-up door plus additional parking space based on the applicable floor area standard for office/retail/customer areas
Automotive body and paint shops	Three per service bay or roll-up door plus additional parking space based on the applicable floor area standard for office/retail/customer areas

Under the current Zoning Code, the parking requirement for an “automotive repair shop” is restrictive. Due to the limited off-street parking space available to some commercial sites, this higher parking requirement has limited infill redevelopment opportunities in the City. The proposed amendment to the parking standards described above will allow for the more efficient use of limited off-street parking assets tailored to this specific land use.

ZONING ORDINANCE AMENDMENT FINDINGS OF FACTS

The Planning Commission should make the following findings so as to forward a recommendation of approval to the City Council for the proposed Zoning Ordinance Amendment.

1. The zoning ordinance amendment is in the public interest and reasonably related to the public welfare because it reasonably amends the applicable off-street parking standard to a more realistic figure for “automobile repair shops” and provides specific off-street parking standards for “automobile body and paint shops,” that previously did not have such standards.

2. Under the current Zoning Code and as staff has indicated in the report, the parking requirements for an “automotive repair shop” is restrictive. Due to the limited off-street parking space available to some commercial sites, this higher parking requirement has limited infill redevelopment opportunities in the City. This amendment will allow for the more efficient use of limited off-street parking assets tailored to this specific use, based upon the researched parking requirements for “automobile repair shop,” and “automotive body and paint shops”.
3. The approval of this zoning ordinance amendment is consistent with the City of Covina General Plan as follows.
 - a. It accommodates moderate commercial infill development and redevelopment of underutilized parcels as a high priority through reasonable amendments to the City’s zoning provisions in order to preserve the City’s economic base, image and character while minimizing adverse traffic impacts.
 - b. It encourages creative and appropriate reuse of land to foster economic growth within the City.
 - c. It provides a more flexible but still reasonable off-street parking standard for “automotive repair shops” and “automobile body and paint shops” so that an adequate amount of, and distribution of, parking assets are maintained, and so that they do not inhibit or impose an undue burden on the City’s ability to accommodate traffic and public safety needs. Therefore, this proposed zoning ordinance amendment furthers the objectives and policies of each element of the General Plan and does not obstruct their attainment
4. This approval of the zoning ordinance amendment is consistent with the City of Covina General Plan because it merely changes off-street parking standards for “automobile repair shops” and adds a specific off-street parking standard for “automotive body and paint shops”, and changes the off-street parking standard for “automobile repair shop”, wherever they are currently permitted in the City under the Zoning Code. No other special land use, circulation, environmental or public safety impacts are identified with such an amendment that could render it inconsistent with the General Plan. No other regulations governing such uses would be changed. They would remain subject to the same setback, height, floor area and other development standards as provided in the Code.

PUBLIC HEARING NOTICE AND NOTIFICATION

The public hearing notice was published in the San Gabriel Examiner newspaper on December 18, 2014.

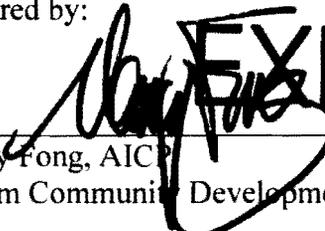
ENVIRONMENTAL DETERMINATION

The proposed zoning ordinance amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which involves amending the City's off-street parking regulations will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to this ordinance are proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

RECOMMENDATION

Staff recommends that the Planning Commission conduct a public hearing to consider the proposed zoning ordinance amendment and make a recommendation of approval to the City Council.

Prepared by:



Nancy Fong, AICP
Interim Community Development Director

EXHIBIT

EXHIBITS

1. Resolution 2015-001 PC recommending approval to City Council
2. Proposed Ordinance

RESOLUTION NO. 2015-001 PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COVINA RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF COVINA APPROVAL OF ORDINANCE NO. 15-XXXX, AMENDING SECTION 17.72.010 OF CHAPTER 17.72 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO CHANGE OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE REPAIR SHOPS AND TO ADD OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE BODY AND PAINT SHOPS.

WHEREAS, California Government Code, Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, City staff has prepared Ordinance No. 15-xxxx, which amends Section 17.72.010 of Chapter 17.72 of Title 17 (Zoning) of the Covina Municipal Code in order to change off-street parking standards for “automotive repair shops” and to add off-street parking standards for “automotive body and paint shops”; and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report presented during a duly noticed public hearing on January 13, 2015 for Ordinance No. 15-xxxx.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF COVINA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made in the staff report and this Resolution, the Planning Commission of the City of Covina hereby recommends that the City Council adopt Ordinance No. 15-xxxx entitled: “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING SECTION 17.72.010 OF CHAPTER 17.72 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO CHANGE OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE REPAIR SHOPS AND TO ADD OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE BODY AND PAINT SHOPS”, which is attached hereto as Attachment “A” and incorporated herein by reference.

SECTION 2: The Planning Commission finds that the above referenced ordinance is in the public interest and reasonably related to the public welfare because, with respect to “automotive repair shops”, it reasonably amends the applicable off-street parking standard to a more realistic figure. With respect to “automotive body and paint shops”, the ordinance provides similar off-street parking standards for a use that previously did not have such standards. Due to the limited off-street parking space available to some commercial sites, the current parking standard in the Zoning Code has limited infill redevelopment opportunities in the City. This amendment will allow for the more

efficient use of limited off-street parking assets tailored to these specific uses, based upon actual researched parking requirements for “automotive repair shops” and “automotive body and paint shops”.

SECTION 3: The Planning Commission also finds that adoption of this ordinance is consistent with the City of Covina General Plan because (i) it accommodates moderate commercial infill development and redevelopment of underutilized parcels as a high priority through reasonable amendments to the City’s zoning provisions in order to preserve the City’s economic base, image and character while minimizing adverse traffic impacts, (ii) it encourages creative and appropriate reuse of land to foster economic growth within the City, (iii) it provides more flexible but still reasonable off-street parking standards for “automotive repair shops” and “automotive body and paint shops” so that an adequate amount of and distribution of parking assets are maintained, and so that they do not inhibit or impose an undue burden on the City’s ability to accommodate traffic and public safety needs. Therefore, this Ordinance furthers the objectives and policies of each element of the General Plan and does not obstruct their attainment.

The Planning Commission also finds that this ordinance is consistent with the City of Covina General Plan because it merely changes off-street parking standards for “automotive repair shops” and adds a specific off-street parking standard for “automotive body and paint shops”, wherever they are currently permitted in the City under the Zoning Code. No other special land use, circulation, environmental or public safety impacts are identified with such an amendment that could render it inconsistent with the General Plan. No other regulations governing such uses would be changed. They would remain subject to the same setback, height, floor area and other development standards as provided in the Code.

SECTION 4: The ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) because the activity, which involves amending the City’s off-street parking regulations will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to this ordinance are proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 5: The Secretary shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED by the members of the Planning Commission of Covina this 13th day of January, 2015.



CHAIRMAN WIN PATTERSON
CITY OF COVINA PLANNING COMMISSION

Attachment "A"

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING SECTION 17.72.010 OF CHAPTER 17.72 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO CHANGE OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE REPAIR SHOPS AND TO ADD OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE BODY AND PAINT SHOPS"

[Attached behind this page]

ORDINANCE NO. 15- _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING SECTION 17.72.010 OF CHAPTER 17.72 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO CHANGE OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE REPAIR SHOPS AND TO ADD OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE BODY AND PAINT SHOPS.

THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 17.72.010 of Chapter 17.72 of Title 17 (Zoning) of the Covina Municipal Code is hereby amended to read as follows:

“17.72.010 Off-street parking – Space requirements.

At the time of the erection of any building and/or structure permitted hereinafter listed or at the time any such building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, second dwelling units, floor area or seats, or at such time that a higher usage is applied, there shall be provided for such new construction or intensified use, enlargement or increased capacity and use of land the following minimum off-street parking space with adequate provisions for safe ingress and egress, and the parking space or spaces shall thereafter be maintained in connection with such building or structure and use of land:

Use	Parking Spaces Required
Animal hospital, shelter and kennel	Two for each employee
Automobile courts and motels	One for each sleeping unit or dwelling unit, plus one for each employee (covered or uncovered)
Automotive repair shops	One for each 200 square feet of gross floor area <i>Three per service bay or roll-up door, whichever is greater, plus additional parking spaces based on the applicable floor area standard for office/retail/customer areas.</i>

<i>Automotive body and paint shops</i>	<i>Three per service bay or roll-up door, whichever is greater, plus additional parking spaces based on the applicable floor area standard for office/retail/customer areas.</i>
Batting cage	Two for each cage, plus one for each employee
Bowling alleys	Five for each alley

...."

SECTION 2. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 4. CEQA. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which involves amending the City's off-street parking regulations will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to this ordinance are proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 5. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

ORDINANCE PASSED AND APPROVED on this ____ day of _____,
2015.

PEGGY DELACH, MAYOR

ATTEST:

Mary Lou Walczak, City Clerk

APPROVED AS TO FORM:

Marco Martinez, City Attorney

ORDINANCE NO. 15-2036

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING SECTION 17.72.010 OF CHAPTER 17.72 OF TITLE 17 (ZONING) OF THE COVINA MUNICIPAL CODE, TO CHANGE OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE REPAIR SHOPS AND TO ADD OFF-STREET PARKING STANDARDS FOR AUTOMOTIVE BODY AND PAINT SHOPS.

THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 17.72.010 of Chapter 17.72 of Title 17 (Zoning) of the Covina Municipal Code is hereby amended to read as follows:

“17.72.010 Off-street parking – Space requirements.

At the time of the erection of any building and/or structure permitted hereinafter listed or at the time any such building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, second dwelling units, floor area or seats, or at such time that a higher usage is applied, there shall be provided for such new construction or intensified use, enlargement or increased capacity and use of land the following minimum off-street parking space with adequate provisions for safe ingress and egress, and the parking space or spaces shall thereafter be maintained in connection with such building or structure and use of land:

Use	Parking Spaces Required
Animal hospital, shelter and kennel	Two for each employee
Automobile courts and motels	One for each sleeping unit or dwelling unit, plus one for each employee (covered or uncovered)
Automotive repair shops	One for each 200-square feet of gross floor area Three per service bay or roll-up door plus additional parking spaces based on the applicable floor area standard for office/retail/customer areas.
Automotive	Three per service bay or roll-up

<i>body and paint shops</i>	<i>door plus additional parking spaces based on the applicable floor area standard for office/retail/customer areas.</i>
Batting cage	Two for each cage, plus one for each employee
Bowling alleys	Five for each alley

...."

SECTION 2. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 4. CEQA. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) because the activity, which involves amending the City's off-street parking regulations will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. As specific projects subject to this ordinance are proposed to the City, appropriate CEQA analysis will be conducted on a project-specific basis.

SECTION 5. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

ORDINANCE PASSED AND APPROVED on this ____ day of _____, 2015.

PEGGY DELACH, MAYOR

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015

ITEM NO.:

PH 4

STAFF SOURCE: Kim Raney, Interim City Manager
Elizabeth Hull, Successor Agency Attorney
Lisa Brancheau, Assistant to the City Manager



ITEM TITLE: City Council to conduct a public hearing and consider adoption of resolutions reapproving Lease with Option to Purchase, approving an Amended and Restated Operating Covenant Agreement, and accepting an Economic Development Subsidy Report as they pertain to 633 – 635 South Citrus Avenue, Covina

STAFF RECOMMENDATION

- 1) Open the public hearing and consider public testimony; and
- 2) Adopt **Resolution No. 15-7318** of the City of Covina Accepting the Economic Development Subsidy Report prepared pursuant to Government Code 53083 for property located at 633 – 635 South Citrus Avenue, Covina, CA
- 3) Adopt **Resolution No. 15-7319** of the City Council of the City of Covina Reapproving a Lease with Option to Purchase by and between the City of Covina and Covina MJL, LLC, for property located at 633 – 635 South Citrus Avenue, Covina, CA; and
- 4) Adopt **Resolution No. 15-7320** Approving an Amended and Restated Operating Covenant Agreement by and between the City of Covina and Covina MJL, LLC for property located at 633 – 635 South Citrus Avenue, Covina, CA

FISCAL IMPACT

There is a positive long-term impact to the General Fund that will occur as a result of increased sales tax revenues. Other benefits that will be experienced are the creation of significant new numbers of employment opportunities and property tax values will increase.

It should be noted that as an incentive for the development and operation of an auto dealership within the City, Sage has requested financial assistance from the City for a period of up to thirty (30) years in an amount equal to twenty-five percent (25%) of all sales tax revenue received by the City from sales over \$50 million generated on the property annually.

The cumulative total of any and all Covenant payments paid by the City pursuant to this Covenant Agreement shall not exceed Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000).

BACKGROUND

The City Council considered these documents at the October 21, 2014 meeting. At which time, the City Council approved all of the documents. Following that meeting, it was determined that the Operating Covenant Agreement inaccurately described the operating covenant payment cap.

Additionally, Sage Automotive Group has been able to provide additional information regarding the job creation and tax generation that are relevant to the Economic Development Subsidy Report. Finally, a change in the law related to prevailing wages became effective on January 1, 2015 so the Operating Covenant Agreement was revised to address that change.

The specific changes in the Economic Development Subsidy report between the October 21, 2014 version approved by the Council and draft presented for consideration this evening are:

1. Changing the subsidy cap under the Operating Covenant Agreement from \$20 million to \$3.75 million.
2. Clarifying the rent subsidy under the Lease Agreement commenced on October 22, 2014, the day following the approval of the Lease.
3. Providing additional explanation of the public purpose of the economic development subsidies.
4. Clarifying the amount of additional tax revenue to be received by the City as a result of the development of the site, including approximately \$775,000 in sales tax and \$5000 in property tax. At the time of the original report the plans and financial data was still being reviewed and the dollar values necessary to determine the tax revenue was not available.
5. Clarifying the number and types of jobs to be created as a result of the economic development subsidy. The original report inaccurately reported the total number of jobs being created was 35 and it was unknown at the time how many of those would be full time or part time jobs. Sage Automotive has subsequently clarified that they have or will be creating approximately 130 permanent jobs and 130 temporary jobs. All of the jobs are anticipated to be full time jobs.

The specific changes in the Operating Covenant Agreement between the October 21, 2014 version approved by the Council and the draft presented for consideration this evening are:

1. In Section 2..2.1, to clarify the subsidy cap as \$3,750,000. It was incorrectly reported originally as \$20 million.
2. In Section 2.8, to clarify that pursuant to SB 854, effective January 1, 2015, prevailing wages will be required and there are specific reporting/monitoring requirements that must be complied.

There are no changes to the Lease Agreement. It is presented for re-approval in an abundance of caution as the rent abatement provisions are described in the Economic Development Report which is being reconsidered this evening.

CEQA DETERMINATION

City staff, with the assistance of the City's CEQA consultant, reviewed the Project and prepared an Initial Study pursuant to State CEQA Guidelines section 15063. The Initial Study evaluated potential environmental impacts in the following categories: Aesthetic Resources, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use/Planning, Mineral Resources, Noise, Population and Housing, Public Services,

Recreation, Traffic and Transportation, Utilities and Service Systems, and Mandatory Findings of Significance. The Initial Study identified potentially significant impacts related to Aesthetic Resources, Cultural Resources, Hazards and Hazardous Materials, and Noise. However, the Initial Study also identified various mitigation measures that would reduce all impacts to less than significant levels. Each mitigation measure identified in the Initial Study has been included in the Mitigation Monitoring Program, which is attached as Exhibit A to the Resolution attached to this Staff Report. Therefore, a Mitigated Negative Declaration (“MND”) was prepared for the Project pursuant to State CEQA Guidelines section 15070.

The City provided copies of the draft MND and Initial Study to the public and the State Clearinghouse for a thirty-day review and comment period beginning on September 11, 2014 and ending on October 13, 2014 pursuant to Public Resources Code section 21091(b). During the review period, the City received 1 comment letter on the MND and Initial Study and has drafted a written response to the comment letter, which are included in the Final MND ((See Exhibit A to this report for the Final MND document).

The City Council approved the Final MND on October 21, 2014. Since the approval of the Final MND, staff has not identified any changes to the Project, changes to the circumstances under which the Project is being undertaken, or significant new information that would indicate that there would be new significant impacts not analyzed in the Final MND. Thus, the preparation of a subsequent EIR under State CEQA Guidelines section 15162 is not required.

PROJECT

Sage Automotive Group (“Applicant”) proposes to develop a car dealership at 635 South Citrus Avenue in the City of Covina, California (“Project”). The site is currently occupied by an existing 21,101 square-foot building that supports office space, customer areas, and an on-site car washing facility for Enterprise Rent-A-Car, as well as an approximately 82,210 square-foot parking lot. The Project would convert the existing use and enlarge the existing building by approximately 8,777 square feet and increase the building height by approximately 6 feet. Construction would involve two phases: Phase 1 would involve construction and operation of a temporary dealership. While dealership activities are operating from the temporary structures, construction to prepare the existing commercial building for use as a permanent dealership would begin (“Phase 2”).

LEASE WITH OPTION TO PURCHASE & OPERATING COVENANT AGREEMENT

On October 7, 2014, the City Council approved the appropriation of funds to the Successor Agency for the transfer of property at 633-635 S. Citrus Avenue, Covina. As owner of the property, the City wishes to lease the property with an option to purchase to Covina MJL, LLC. Covina MJL, LLC will hold the property which will be developed by Sage Automotive Group as Sage Covina Chevrolet (“Sage”). Sage will build and operate an auto dealership on the property. To accomplish this, Covina MJL, LLC and the City executed a Lease With Option To Purchase Agreement (635 S. Citrus Avenue) (“Lease”) and Operating Covenant Agreement (Sage Auto Group) (“Original OCA”), which were approved by the City on October 21, 2014 by Resolution No. 14-7299 and Resolution No. 14-7300, respectively.

The Lease is for fair market value. Under the Lease, Sage has the option to purchase the Property for \$3.3 million with escalator if the option is not exercised in the first 5 years. The Lease provides for a six month rent abatement and then rent of \$30,000 per month. Under the terms of the Lease, Sage took control of the property effective October 22, 2014 and, having received all appropriate permits, opened a temporary dealership on November 18, 2014. The

leasehold interest in the property is conveyed subject to the City's police powers set forth under California Constitution Article XI, Section 7. Pursuant to the City's general police powers, the City may take those actions which benefit the health, safety and welfare of the community. The City determined that entering into the Lease is in the best interest of the community for the economic development reasons addressed below and to ensure the rehabilitation of a historically underutilized property at the gateway to the community.

The Lease authorizes Sage to convert the Property to a car dealership and enlarge the existing building by approximately 8,777 square feet and increase the building height by approximately 6 feet, with construction in two phases: Phase 1 would involve construction and operation of a temporary dealership and, while dealership activities are operating from the temporary structures, Phase 2 will involve construction the permanent dealership facilities.. The City has determined that the dealership would result in substantial benefits to the City and its citizens. The proposed development will revitalize a corner at the entrance to the City which has been underdeveloped for many years. The City's Redevelopment Agency, before its dissolution, had actively sought the development of the site. The Redevelopment Agency staff had worked with a number of potential developers but had been unable to bring a development to fruition at the site. This project will bring new jobs, both technical and professional, to the community.

Consistent with the Lease, the OCA requires Sage, for a period of no less than thirty (30) years, to operate a new vehicle car dealership at the site. For the term of the OCA Sage may use the property, or allow a third party to use the property, only for the purposes of the operation of the car dealership in accordance with the OCA. A new automobile dealership serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community and revitalizing a site that has been substantially underused for decades.

The OCA requires Sage to operate the dealership on the Property for a period of no less than 30 years. The OCA also requires Sage to maintain the site, not to accept incentives from another community to relocate the dealership, and other commitments and covenants designed to maximize the benefit to the community to ensure the Lease and OCA benefit the public health, safety and welfare of the community. In consideration for these operating covenants and commitments, the original OCA provided the City would pay an economic development subsidy to Sage in an amount equal to twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$20,000,000, for a period of no more than 30 years.

Because both the Lease and OCA provide an economic development subsidy, Government Code section 53083 required the City to prepare an Economic Development Subsidy Report which outlines: (1) the name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy; (2) the start and end dates and schedule, if applicable, for the economic development subsidy; (3) a description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy; (4) a statement of the public purposes for the economic development subsidy; (5) projected tax revenue to the local agency as a result of the economic development subsidy; (6) estimated number of jobs created by the economic development subsidy, broken

down by full-time, part-time, and temporary positions. The City prepared an Economic Development Subsidy Report in written form and made it available to the public and on its website at www.ci.covina.ca.us. A noticed public hearing was held on October 21, 2014 to consider all written and oral comments on the economic development subsidy provided under the Lease, in the form of rent abatement for the first six months of the Lease term, and the economic development subsidy provided under the Original OCA in the form of twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$20,000,00. These economic development subsidies purchase from Sage a long term operating covenant to continue to operate the Project on the Property, provide increased maintenance obligations, and create a contractual obligation not to seek incentives from another jurisdiction and relocate.

After providing the requisite noticed public hearing, the City accepted the Economic Development Report on October 21, 2014 concurrently with its approval of the Lease and Original OCA.

Subsequent to the approval of the Lease, Original OCA and Economic Development Report on October 21, 2014, the City determined that the Economic Development Report and Original OCA inaccurately memorialized the economic development subsidy provided under the Original OCA, and that the economic development subsidy under the Original OCA should instead be twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$3,750,000 over the life of the subsidy.

To correct the misrepresentation of the value of the subsidy under the OCA and, based upon additional information being available, the Economic Development Report has been revised. The additional detail in the Economic Development Report relates to the increased property tax revenue, additional public benefits and clarifies the anticipated jobs that will result from the Lease and OCA. The City and Sage have negotiated an Amended and Restated Operating Covenant Agreement to reflect the cap of \$3,750,000 in subsidy under the OCA and City staff has prepared a new Economic Development Report.

RELEVANCE TO STRATEGIC PLAN

This project is in keeping with the Strategic Plan goal of enhancing financial well-being.

EXHIBITS

- A. Resolution No. 15-7318
- B. Resolution No. 15-7319
- C. Resolution No. 15-7320

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

RESOLUTION NO. 15-7318

**A RESOLUTION OF THE CITY OF COVINA
ACCEPTING THE ECONOMIC DEVELOPMENT
SUBSIDY REPORT PREPARED PURSUANT TO
GOVERNMENT CODE 53083 FOR PROPERTY LOCATED
AT 633-635 SOUTH CITRUS AVENUE, COVINA**

WHEREAS, the City of Covina owns that certain real property located at 633-635 South Citrus Avenue, in the City of Covina, California (APN 8453-001-900 & 8453-001-906) (“Property”); and

WHEREAS, Covina MJL, LLC, doing business as Sage Automotive Group (“MJL, LLC”), desires to develop a car dealership (“Project”) on the Property, which is currently occupied by an existing 21,101 square-foot building that supports office space, customer areas, and an on-site car washing facility for Enterprise Rent-A-Car, as well as an approximately 82,210 square-foot parking lot; and

WHEREAS, the Project would convert the Property to a car dealership and enlarge the existing building by approximately 8,777 square feet and increase the building height by approximately 6 feet, with construction in two phases: Phase 1 would involve construction and operation of a temporary dealership and, while dealership activities are operating from the temporary structures, Phase 2 would involve construction to prepare the existing commercial building for use as a permanent dealership would begin; and

WHEREAS, on October 21, 2014, the City adopted Resolution No. 14-7299 approving a Lease With Option To Purchase Agreement (635 S. Citrus Avenue) between City and MJL, LLC (“Lease”), in which City agrees to lease the Property, with an option to purchase the Property, to MJL, LLC so that it could build and operate the Project on the Property; and

WHEREAS, on October 21, 2014, the City also adopted Resolution No. 14-7300 approving an Operating Covenant Agreement (Sage Auto Group) between City and MJL, LLC (“Original OCA”) to assist MJL, LLC with the construction and operation of the Project to the Property for a period of 30 years; and

WHEREAS, Pursuant to Government Code Section 53083, the City prepared an Economic Development Report regarding the economic development subsidy provided under the Lease to the MJL, LLC in the form of the first six months of the Lease rent-free, and the economic development subsidy provided under the Original OCA to MJL, LLC in the form of twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$20,000,000, and after providing the requisite noticed public hearing, accepted the Economic Development Report on October 21, 2014 concurrently with its approval of the Lease and Original OCA; and

WHEREAS, subsequent to the approval of the Lease, Original OCA and Economic Development Report, the City determined that the Economic Development Report and Original OCA inaccurately calculated the economic development subsidy provided under the Original

OCA, and that the economic development subsidy under the Original OCA should instead be twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$3,750,000 for the term of the subsidy; and

WHEREAS, City and MJL, LLC have negotiated an Amended and Restated Operating Covenant Agreement (“OCA”), and City staff has prepared a new Economic Development Report, a copy of which is attached hereto as Exhibit A, to correct this inaccurate calculation as well as provide additional detail to the Economic Development Report regarding the increased property tax revenue, additional public benefits and anticipated jobs that will result from the Lease and OCA; and

WHEREAS, the City reaffirms its determination that the Lease and OCA will result in substantial benefits to the City and its citizens in the way of the creation of significant new numbers of employment opportunities, property tax values, sales tax revenues and other ancillary benefits; and

WHEREAS, the City additionally reaffirms its determination that the Project on the Property serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom; and

WHEREAS, the Project will revitalize and redevelop a site that has been underutilized for many years; and

WHEREAS, based on information provided by City staff, and other such written and oral evidence as presented to the City, the City reaffirms its prior findings and determination that the Project on the Property is reasonably related to a legitimate governmental purpose in that the Project will assist the City in its goal of furthering the development of the community; and

WHEREAS, in accordance with Government Code Section 53083, the City provided the Economic Development Report on its website and held a noticed public hearing on February 17, 2015 to consider all written and oral comments on the OCA; and

WHEREAS, the City is authorized pursuant to California Constitution Article XI, Section 7 to convey the Property for economic development purposes; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY OF COVINA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

Section 2. Findings. The City Council additionally finds and determines that: (a) there are identifiable public purposes fulfilled by the Lease and OCA, as set forth in the Recitals; (b) the public purposes set forth in the Recitals outweigh the private benefit to private persons; and (c)

the findings set forth in this Resolution are based upon substantial written and oral evidence presented to the City Council.

Section 3. CEQA. Pursuant to the California Environmental Quality Act (“CEQA”) (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), the City is the lead agency for the proposed Project. In the City’s role as the lead agency under CEQA, City staff reviewed the Project and prepared an Initial Study pursuant to CEQA Guidelines section 15063. On the basis of the Initial Study, the City concluded that the Project will not have significant impacts on the environment with implementation of mitigation and prepared a Mitigated Negative Declaration (“MND”). After completion of all legal prerequisites for the approval of the MND, the City Council adopted Resolution No. 14-7298 finding that the MND and Initial Study contain a complete and accurate reporting of the environmental impacts associated with the Project and adopting the MND. The City Council further finds that no changes in the Project, changes in circumstances under which the Project is being undertaken, or significant information has arisen that would result in new significant impacts, and that consequently no subsequent CEQA document under State CEQA Guidelines section 15162 need be prepared.

Section 4. Acceptance of Economic Development Subsidy Report. The City Council finds and determines that the Economic Development Subsidy Report is in compliance with applicable law and specifically Government Code Section 53083.

Section 5. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

Section 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 17th day of February, 2015.

Peggy Delach, Mayor
City of Covina

ATTEST:

APPROVED AS TO FORM:

Mary Lou Walczak, City Clerk

City Attorney

Exhibit: A –Economic Development Subsidy Report

EXHIBIT "A"

ECONOMIC DEVELOPMENT SUBSIDY REPORT

**ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083**

**FOR AN OPERATING COVENANT AGREEMENT
BY AND BETWEEN
CITY OF COVINA
AND
COVINA MJL, LCC**

AND

**FOR A LEASE WITH OPTION TO PURCHASE
BY AND BETWEEN
CITY OF COVINA
AND
COVINA MJL, LLC**

Pursuant to Government Code Section 53083, the City Council of the City of Covina must hold a noticed public hearing and, prior to the public hearing, provide all of the following information in written form and available to the public and through the City's website, regarding a proposed economic development subsidy to be provided by the City pursuant to an Amended and Restated Operating Covenant Agreement by and between the City of Covina and Covina MJL, LLC ("Agreement") and a Lease with Option to Purchase ("Lease") between the same entities. Notice was published in the local newspaper for a public hearing to be held on February 17, 2015. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy, as further described in number 2 below.

There are two (2) economic development subsidies; one economic development subsidy is provided through the Agreement and the other economic development subsidy is provided through the Lease.

- 1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy.**

The Agreement and Lease are with Covina MJL, LLC, who will lease the property and own and operate the business that will benefit from the economic development subsidy.

Business Address:
Sage Chevrolet – Covina
633-635 South Citrus Avenue
Covina, CA 91722

Corporation Address:
Covina MJL, LLC
812 South Brand
Glendale, CA 91204

2. The start and end dates and schedule, if applicable, for the economic development subsidy.

(1) If the Agreement is approved by the City Council, the start date of the economic development subsidy under the Agreement will be on or around February 17, 2015 and the end date will be no later than 30 years after the start date, on or around February 17, 2045. The end date may occur earlier than 30 years from the effective date upon payment of the economic development subsidy in the aggregate amount of \$3,750,000. The economic development subsidy will be paid annually, one hundred twenty days following the end of each Operating Year, as defined in the Agreement.

(2) If the Lease is approved by the City Council, the start date of the economic development subsidy under the Lease was October 22, 2014 and the end date will be no later than 6 months from the start date, on or around April 22, 2015. The rent subsidy commenced following the initial approval of the Lease and the Economic Development Report.

3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

(1) The economic development subsidy in the Agreement is equal to twenty-five percent (25%) of the sales tax revenue in excess of the sales tax revenue received from the first \$50 million of sales by the business operating on the property during each calendar year, not to exceed a total aggregate payment amount of Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) during the term of the Agreement.

(2) The economic development subsidy in the Lease is equal to a rent abatement for the first six months of the Lease term. The monthly lease amount is \$30,000 so the abated lease payments equal \$180,000. The rent abatement commenced with the original execution of the Lease following the approval of the Lease and Economic Development Report on October 21, 2014.

4. A statement of the public purposes for the economic development subsidy.

Covina MJL, LLC is a subsidiary of Sage Holding Co., which is an established automobile dealership operator. Covina MJL, LLC desires to lease (with an option to purchase) property located at 633-635 S. Citrus Ave, Covina, in order to operate a new General Motors point of service in the Covina market area. However, it is not financially feasible for Covina MJL, LLC to do so at this time based on the current market conditions.

If Covina MJL, LLC is able to lease the Property and use it to establish a new automobile dealership, the City has determined that this would result in substantial benefits to the City and its citizens including, without limitation, the creation of significant new numbers of employment opportunities, property tax revenues, sales tax revenues and other ancillary benefits.

Further, the creation of a new automobile dealership serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community and revitalizing a site that has been substantially underused for decades.

By entering into the Agreement and Lease with Covina MJL, LLC, the City is able to ensure that the dealership will operate on the Property for a period of no less than 30 years and obtain MJL, LLC's commitment to maintain the Property and not to seek incentives from another jurisdiction and relocate, the occurrence of which could result in the Property being vacant or underutilized and cause a severe decline in sales and property taxes from the Property.

5. The projected tax revenue to the local agency as a result of the economic development subsidy.

The City anticipates that the development of a new General Motors dealership at the Property will result in an approximate increase of sales tax revenue 8.4% which increased revenue will be distributed between the City and Covina MJL, LLC as provided for in the Agreement until the end date of the Agreement, as set forth in number 2 above.

It is estimated that the new dealership on the Property will generate approximately Eighty Million Dollars (\$80,000,000) in annual revenue. Pursuant to the Agreement, the City will annually receive all sales tax revenue for the first Fifty Million Dollars (\$50,000,000) in the dealership's revenue, equal to approximately Five Hundred Thousand Dollars (\$500,000). Thereafter, Covina MJL, LLC and City will split the sales tax revenue generated by the remaining revenue of the dealership, estimated to be approximately Thirty Million Dollars (\$30,000,000), which would result in approximately Three Hundred Thousand Dollars (\$300,000) of sales tax revenue, with the City receiving seventy-five percent (75%), equal to approximately Two Hundred Twenty Five Thousand Dollars (\$225,000) and Covina MJL, LLC receiving Twenty-Five percent (25%), equal to approximately Seventy Five Thousand Dollars (\$75,000).

Additionally, the City anticipates that the development of a new General Motors dealership at the Property will result in an approximate increase of property tax revenue equal to \$5,000 annually due to the fact that the property will be owned by a private owner as opposed to the property being owned by a governmental agency where no property tax was generated. The property tax will be distributed to the City and other local agencies in accordance with applicable state law.

6. The estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

The development of the new automobile dealership is anticipated to result in approximately 260 full-time jobs, as follows:

- 130 temporary jobs

- 130 permanent jobs

The automobile dealership is not anticipated to generate any part-time positions.

**REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(633-635 S. Citrus, Covina)**

Buyer: Covina MJL, LLC
Buyer's Address: 812 South Brand
Glendale, Ca 91204
Atten: Joseph Sage

Purchase Price: \$3,300,000.00

Initial Deposit Amount: \$300,000

This REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS ("**Agreement**") is dated as of _____ ("**Effective Date**"), and is entered into by and between the CITY OF COVINA, a municipal corporation ("**Seller**"), and Buyer, as listed above. Seller and Buyer enter into this Agreement with reference to the following recitals of fact (each, a "**Recital**");

RECITALS

A. Seller owns certain real property located in the City of Covina, California, as further described in Exhibit "A" attached to this Agreement ("**Premises**);

B. Buyer has made an offer to purchase the Premises from Seller for fair market value, and Seller desires to sell the Premises to Buyer pursuant to the terms and conditions of this Agreement

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS OF SELLER AND BUYER SET FORTH IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, SELLER AND BUYER AGREE, AS FOLLOWS:

TERMS AND CONDITIONS

1. DEFINITIONS

1.1 **Definitions.** The following words, terms and phrases are used in this Agreement with the following meanings, unless the particular context or usage of a word, term or phrase requires another interpretation:

1.1.1 **Agreement.** This Real Property Purchase and Sale Agreement and Joint Escrow Instructions by and between Seller and Buyer, including all of the attached exhibits.

1.1.2 **Business Day.** Monday through Friday, exclusive of Federal, State or City holidays.

1.1.3 **Buyer.** Defined in the initial paragraph of this Agreement.

1.1.4 **Buyer Title Policy.** A standard CLTA owners' policy of title insurance issued by the Title Company, with coverage in the amount of the Purchase Price, showing title to the Premises vested in Buyer, subject only to Permitted Exceptions.

1.1.5 **City.** The City of Covina, a California municipal corporation.

1.1.6 **Claim.** Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses and investigation costs of whatever kind or nature and, if an Indemnitor improperly fails to provide a defense for an Indemnitee, then Legal Costs of the Indemnitee) and any judgment.

1.1.7 **Close of Escrow.** The first date on which the Escrow Agent files the Grant Deed with the County for recording in the official records of the County.

1.1.8 **County.** The County of Los Angeles, California.

1.1.9 **Default.** An Escrow Default, a Monetary Default or a Non-Monetary Default.

1.1.10 **Effective Date.** Defined in the initial paragraph of this Agreement.

1.1.11 **Escrow.** An escrow, as defined in Civil Code Section 1057 and Financial Code Section 17003(a), that is conducted by the Escrow Agent with respect to the sale of the Premises from Seller to Buyer pursuant to this Agreement.

1.1.12 **Escrow Agent.** Fidelity National Title or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.13 **Escrow Closing Date.** The earlier of: (a) on or before the thirtieth (30th) day after the Escrow Agent's receipt of written confirmation from both Seller and Buyer of the satisfaction or waiver of all other conditions precedent to the Close of Escrow; (b) _____; or (c) another date mutually agreed upon in writing between the Parties for the Close of Escrow, in the Parties' respective sole and absolute discretion.

1.1.14 **Escrow Closing Statement.** A statement prepared by the Escrow Agent indicating, among other things, the Escrow Agent's estimate of all funds to be deposited or received by Seller or Buyer, respectively, and all charges to be paid by Seller or Buyer, respectively, through the Escrow.

1.1.15 **Escrow Default.** The unexcused failure of a Party to submit any document or funds to the Escrow Agent as reasonably necessary to close the Escrow, pursuant to the terms and conditions of this Agreement.

1.1.16 **Escrow Opening Date.** The first date on which a copy of this Agreement signed by both Seller and Buyer is deposited with the Escrow Agent, as provided in Section 2.1.

1.1.17 **Event of Default.** The occurrence of any one or more of the following:

(a) *Monetary Default.* A Monetary Default that continues for seven (7) calendar days after Notice to the Party in Default, specifying in reasonable detail the amount of money not paid or the bond or surety not provided;

(b) *Escrow Default.* An Escrow Default that continues for seven (7) calendar days after Notice to the Party in Default, specifying in reasonable detail the document or funds not submitted to the Escrow Agent;

(c) *Non-Monetary Default.* Any Non-Monetary Default that is not cured within thirty (30) days after Notice to the Party in Default describing the Non-Monetary Default in reasonable detail. In the case of such a Non-Monetary Default that cannot with reasonable diligence be cured within thirty (30) days after the effective date of Notice of such Default, an Event of Default shall occur, if the Party in Default does not do all of the following: (a) within thirty (30) days after Notice of such Non-Monetary Default, advise the other Party of the intention of the Party in Default to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure within such thirty (30) day period; and (c) diligently prosecute such cure to completion within a reasonable time under the circumstances.

1.1.18 **Federal.** The federal government of the United States of America.

1.1.19 **FIRPTA Affidavit.** A certification that Seller is not a “foreign person” within the meaning of such term under Section 1445 of the United States Internal Revenue Code.

1.1.20 **Form 593.** A California Franchise Tax Board Form 593-C.

1.1.21 **Government.** Any and all courts, boards, agencies, commissions, offices or authorities of any nature whatsoever of any governmental unit (Federal, State, County, district, municipal or otherwise) whether now or later in existence.

1.1.22 **Grant Deed.** A deed conveying Seller’s interest in the Premises from Seller to Buyer, at the Close of Escrow, substantially in the form of **Exhibit “C”** attached to this Agreement.

1.1.23 **Hazardous Substance.** Any flammable substance, explosive, radioactive material, asbestos, asbestos-containing material, polychlorinated biphenyl, chemical known to cause cancer or reproductive toxicity, pollutant, contaminant, hazardous waste, medical wastes, toxic substance or related material, explosive, petroleum, petroleum product or any “hazardous” or “toxic” material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (a) defined as a “hazardous substance” under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (b) designated as “hazardous substances” pursuant to 33 U.S.C. § 1321; (c) defined as a “hazardous waste” under Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., as amended; (d) defined as a “hazardous substance” or “hazardous waste” under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601, et seq., or any so-called “superfund” or

“superlien” law; (e) defined as a “pollutant” or “contaminant” under 42 U.S.C. § 9601(33); (f) defined as “hazardous waste” under 40 C.F.R. Part 260; (g) defined as a “hazardous chemical” under 29 C.F.R. Part 1910; (h) any matter within the definition of “hazardous substance” set forth in 15 U.S.C. § 1262; (i) any matter, waste or substance regulated under the Toxic Substances Control Act (“TSCA”) [15 U.S.C. Sections 2601, et seq.]; (j) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; (k) those substances listed in the United States Department of Transportation (DOT) Table [49 C.F.R. 172.101]; (l) any matter, waste or substances designated by the EPA, or any successor authority, as a hazardous substance [40 C.F.R. Part 302]; (m) defined as “hazardous waste” in Section 25117 of the California Health and Safety Code; (n) defined as a “hazardous substance” in Section 25316 of the California Health and Safety Code; (o) that is subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (p) that is or becomes regulated or classified as hazardous or toxic under Law or in the regulations adopted pursuant to Law.

1.1.24 **Hazardous Substance Discharge.** Any deposit, discharge, generation, release or spill of a Hazardous Substance that occurs at, on, under, into or from the Premises or during transportation of any Hazardous Substance to or from the Premises, or that arises at any time from any construction, installation, use or operation or other activities conducted at, on, under or from the Premises, whether or not caused by a Party.

1.1.25 **Indemnify.** Where this Agreement states that any Indemnitor shall “indemnify” any Indemnitee from, against or for a particular Claim, that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against such Claim (alleged or otherwise). “**Indemnified**” shall have the correlative meaning.

1.1.26 **Indemnitee.** Any Person entitled to be Indemnified under the terms of this Agreement.

1.1.27 **Indemnitor.** A Party that agrees to Indemnify any other Person under the terms of this Agreement.

1.1.28 **Initial Deposit.** The amount listed as the Initial Deposit on page 1 of this Agreement, which shall be deposited with the Escrow Agent by Buyer on the Escrow Opening Date.

1.1.29 **Law.** Every law, ordinance, requirement, order, proclamation, directive, rule or regulation of any Government applicable to the Premises, in any way, including relating to any development, construction, use, maintenance, taxation, operation, occupancy of or environmental conditions affecting the Premises, or relating to any taxes, or otherwise relating to this Agreement or any Party’s rights, obligations or remedies under this Agreement, or any transfer of any of the foregoing, whether in force on the Effective Date or passed, enacted, modified, amended or imposed at some later time, subject in all cases, however, to any applicable waiver, variance or exemption.

1.1.30 **Legal Costs.** In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding or other matter for which such Person is entitled to be reimbursed for its Legal Costs, including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses.

1.1.31 **Monetary Default.** Any failure by either Party to pay or deposit, when and as this Agreement requires, any amount of money, bond or surety required to be provided under this Agreement, whether to or with a Party or a Third Person.

1.1.32 **Non-Monetary Default.** The occurrence of any of the following, except to the extent constituting a Monetary Default or an Escrow Default: (a) any failure of a Party to perform any of such Party's obligations under this Agreement; (b) any failure of a Party to comply with any material restriction or prohibition in this Agreement; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, or neither, would constitute a breach of this Agreement by a Party.

1.1.33 **Notice.** Any consent, demand, designation, election, notice or request relating to this Agreement, including any Notice of Default. All Notices must be in writing.

1.1.34 **Parties.** Collectively, Seller and Buyer.

1.1.35 **Party.** Individually, either Seller or Buyer, as applicable.

1.1.36 **Permitted Exception.** All of the following: (a) all items shown in the Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy; (b) any lien for non-delinquent property taxes or assessments; (c) any Laws applicable to the Premises; (d) this Agreement; (e) any existing improvements on the Premises, if any; (f) any other document or encumbrance expressly required or allowed to be recorded against the Premises pursuant to the terms of this Agreement.

1.1.37 **Person.** Any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization or other entity of any kind.

1.1.38 **Preliminary Report.** A preliminary report issued by the Title Company in contemplation of the issuance of the Buyer Title Policy, accompanied by copies of all documents listed in Schedule B of the report as exceptions to coverage under the proposed Buyer Title Policy.

1.1.39 **Premises.** That certain real property specifically described in Exhibit "A" attached to this Agreement.

1.1.40 **Purchase Price.** The amount listed as the Purchase Price on page 1 of this Agreement.

1.1.41 **Real Estate Taxes.** All general and special real estate taxes (including taxes on fixtures and equipment, sales taxes, use taxes and the like), supplemental taxes, possessory interest taxes, special taxes imposed pursuant to a special taxing district, assessments,

municipal water and sewer rents, rates and charges, excises, levies, license and permit fees, fines, penalties and other governmental charges and any interest or costs with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind or nature whatsoever regarding the Premises that may be assessed, levied, imposed upon, or become due and payable out of or in respect of, or charged with respect to or become a lien on, the Premises.

1.1.42 **Seller.** The City of Covina, California.

1.1.43 **State.** The State of California.

1.1.44 **Third Person.** Any Person that is not a Party, an Affiliate of a Party or an officer, director, manager, shareholder, member, principal, partner, employee or agent of a Party.

1.1.45 **Title Company** or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.46 **Unavoidable Delay.** A delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strikes, labor troubles or other union activities, casualty, war, acts of terrorism, riots, litigation, governmental action or inaction, regional natural disasters or inability to obtain required materials. Unavoidable Delay shall not include delay caused by a Party's financial condition or insolvency.

2. **PURCHASE AND SALE OF PREMISES**

2.1 **Escrow.** Seller shall sell the Premises to Buyer and Buyer shall purchase the Premises from Seller, subject to the Permitted Exceptions, on the terms and conditions of this Agreement. For the purposes of exchanging funds and documents to complete the sale of the Premises from Seller to Buyer and the purchase of the Premises by Buyer from Seller, pursuant to the terms and conditions of this Agreement, Seller and Buyer agree to open the Escrow with the Escrow Agent. Buyer shall cause the Escrow to be opened within two business (2) days following the Effective Date. Escrow Agent shall promptly confirm the Escrow Opening Date in writing to each of the Parties. The provisions of Section 3 are the joint escrow instructions of the Parties to the Escrow Agent for conducting the Escrow.

2.2 **Payment of Purchase Price.** Buyer shall purchase the Premises from Seller for the Purchase Price, subject to the terms and conditions of this Agreement. Buyer shall pay the Purchase Price to Seller at the Close of Escrow in immediately available funds.

2.3 **Initial Deposit.** Buyer shall deliver the Initial Deposit to Escrow Agent on the Escrow Opening Date.

2.4 Buyer's Approval of Title to Premises. Buyer acknowledges and agrees that it has received the Preliminary Report for the Premises and has approved the status of title to the Premises.

2.5 "AS-IS" Acquisition. Except for the representations and warranties set forth herein that expressly survive the Close of Escrow, the Close of Escrow shall evidence Buyer's unconditional and irrevocable acceptance of the Premises in the Premises' AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION, AS OF THE CLOSE OF ESCROW, WITHOUT WARRANTY as to character, quality, performance, condition, title, physical condition, zoning, land use restrictions, the availability or location of utilities or services, the location of any public infrastructure on or off of the Premises (active, inactive or abandoned), the suitability of the Premises for Buyer's intended use or any other use or the existence or absence of Hazardous Substances affecting the Premises and with full knowledge of the physical condition of the Premises, the nature of Seller's interest in and use of the Premises, all laws applicable to the Premises and any and all conditions, covenants, restrictions, encumbrances and all matters of record relating to the Premises. The Close of Escrow shall further constitute Buyer's representation and warranty to Seller that: (a) Buyer has had ample opportunity to inspect and evaluate the Premises and the feasibility of the uses and activities Buyer is entitled to conduct on the Premises; (b) Buyer is experienced in real estate development; (c) Buyer is relying entirely on Buyer's experience, expertise and Buyer's own inspection of the Premises in the Premises' current state in proceeding with acquisition of the Premises; (d) Buyer accepts the Premises in the Premises' condition as of the Close of Escrow; (e) to the extent that Buyer's own expertise with respect to any matter regarding the Premises is insufficient to enable Buyer to reach an informed conclusion regarding such matter, Buyer has engaged the services of Persons qualified to advise Buyer with respect to such matters; (f) Buyer has received assurances acceptable to Buyer by means independent of Seller or Seller's agents of the truth of all facts material to Buyer's acquisition of the Premises; and (g) the Premises is being acquired by Buyer as a result of Buyer's own knowledge, inspection and investigation of the Premises and not as a result of any representation made by Seller or Seller's agents relating to the condition of the Premises, unless such statement or representation is expressly and specifically set forth in this Agreement. Seller hereby expressly and specifically disclaims any express or implied warranties regarding the Premises other than those expressly set forth herein.

3. **JOINT ESCROW INSTRUCTIONS**

3.1 Escrow Instructions. This Section 3 constitutes the joint escrow instructions of the Parties to Escrow Agent for conduct of the Escrow for the purchase and sale of the Premises, as contemplated by this Agreement. Buyer and Seller shall sign such further escrow instructions consistent with the provisions of this Agreement as may be reasonably requested by Escrow Agent. In the event of any conflict between the provisions of this Agreement and any further escrow instructions requested by Escrow Agent, the provisions of this Agreement shall control.

3.2 Escrow Agent Authority. Seller and Buyer authorize Escrow Agent to:

3.2.1 **Charges.** Pay and charge Seller and Buyer for their respective shares of the applicable fees, taxes, charges and costs payable by either Seller or Buyer regarding the Escrow;

3.2.2 **Settlement/Closing Statements.** Release each Party's Escrow Closing Statement to the other Party;

3.2.3 **Document Recording.** File any documents delivered for recording through the Escrow with the office of the Recorder of the County for recordation in the official records of the County, pursuant to the joint instructions of the Parties; and

3.2.4 **Counterpart Documents.** Utilize documents signed by Seller or Buyer in counterparts, including attaching separate signature pages to one original of the same document.

3.3 **Buyer's Conditions Precedent to Close of Escrow.** Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Buyer, Buyer's obligation to purchase the Premises from Seller on the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Buyer) of each of the following conditions:

3.3.1 **Title Policy.** Title Company is committed to issue the Buyer Title Policy to Buyer upon payment of Title Company's premium for such policy;

3.3.2 **Seller Escrow Deposits.** Seller deposits all of the items into Escrow required by Section 3.6;

3.3.3 **Settlement/Closing Statement.** Buyer reasonably approves Buyer's Escrow Closing Statement;

3.3.4 **Seller Pre-Closing Obligations.** Seller performs all of the material obligations required to be performed by Seller pursuant to this Agreement prior to the Close of Escrow.

3.4 **Seller's Conditions Precedent to Close of Escrow.** Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Seller, Seller's obligation to sell the Premises to Buyer on the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Seller) of each of the following conditions precedent to such sale on or before the Escrow Closing Date:

3.4.1 **Buyer Escrow Deposits.** Buyer deposits all of the items into Escrow required by Section 3.5;

3.4.2 **Settlement/Closing Statement.** Seller reasonably approves Seller's Escrow Closing Statement; and

3.4.3 **Buyer Pre-Closing Obligations.** Buyer performs all of the material obligations required to be performed by Buyer pursuant to this Agreement prior to Close of Escrow.

3.5 **Buyer's Escrow Deposits.** Buyer shall deposit the following items into Escrow and, concurrently, provide a copy of each document submitted into Escrow to Seller, at least one (1) Business Day prior to the Escrow Closing Date:

3.5.1 **Closing Funds.** All monetary amounts required to be deposited into Escrow by Buyer under the terms of this Agreement to close the Escrow, all in immediately available funds;

3.5.2 **Escrow Closing Statement.** Buyer's Escrow Closing Statement signed by the authorized representative(s) of Buyer; and

3.5.3 **Other Reasonable Items.** Any other money or documents required to be delivered by Buyer under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not previously been delivered by Buyer.

3.6 **Seller's Escrow Deposits.** Seller shall deposit the following items into Escrow and, concurrently, provide a copy of each document (excluding the Grant Deed) deposited into Escrow to Buyer, at least one (1) Business Day prior to the Escrow Closing Date:

3.6.1 **Grant Deed.** The Grant Deed signed by the authorized representative(s) of Seller in recordable form;

3.6.2 **Escrow Closing Statement.** Seller's Escrow Closing Statement signed by the authorized representative(s) of Seller;

3.6.3 **FIRPTA Affidavit.** A FIRPTA affidavit signed by the authorized representative(s) of Seller, in the form used by the Escrow Agent;

3.6.4 **Form 593.** A Form 593 signed by the authorized representative(s) of Seller; and

3.6.5 **Other Reasonable Items.** Any other money or documents required to be delivered by Seller under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not been previously delivered by Seller.

3.7 **Closing Procedure.** Upon Escrow Agent's receipt of written confirmation from both Buyer and Seller that each of their respective conditions precedent to the Close of Escrow are satisfied or waived, Escrow Agent shall close the Escrow by doing all of the following:

3.7.1 **Recording and Distribution of Documents.** Escrow Agent shall cause the following documents to be filed with the Recorder of the County for recording in the official records of the County regarding the Premises in the following order of priority at Close of Escrow: (a) the Grant Deed; and (b) any other documents to be recorded regarding the Premises through the Escrow upon the joint instructions of the Parties. At Close of Escrow, Escrow Agent shall deliver conformed copies of all documents filed with the Recorder of the County for recording in the official records of the County through the Escrow to Seller, Buyer and any other

RESOLUTION NO. 15-7319

**A RESOLUTION OF THE CITY OF COVINA
REAPPROVING AN AGREEMENT FOR A
LEASE WITH OPTION TO PURCHASE
BY AND BETWEEN THE CITY OF COVINA
AND MJL, LLC, FOR PROPERTY LOCATED AT
633-635 SOUTH CITRUS AVENUE, COVINA**

WHEREAS, well in advance of the Dissolution Act, the Covina Redevelopment Agency (“Redevelopment Agency”) purchased that certain real property located at 633-635 South Citrus Avenue, in the City of Covina, California (APN 8453-001-900 & 8453-001-906) (“Property”) and, upon its dissolution, the Property automatically transferred to the Successor Agency to the Covina Redevelopment Agency (“Successor Agency”); and

WHEREAS, in accordance with Health and Safety Code section 34177(e), the Successor Agency is responsible for disposing of the assets and properties of the dissolved Redevelopment Agency expeditiously and in a manner aimed at maximizing value; and

WHEREAS, the Department of Finance (“DOF”) approved the Successor Agency Long Range Property Management Plan on July 31, 2014, which authorized the Successor Agency to sell the Property for fair market value; and

WHEREAS, previously the Successor Agency and City had approved the sale of the property from the Successor Agency to the City; and

WHEREAS, that action was approved by the DOF and on October 7, 2014, the Covina City Council adopted Resolution No. 14-7289 appropriating funds to the Successor Agency for the purchase of the Property; and

WHEREAS, Covina MJL, LLC, doing business as Sage Automotive Group (“MJL, LLC”), desires to develop a car dealership (“Project”) on the Property, which is currently occupied by an existing 21,101 square-foot building that supports office space, customer areas, and an on-site car washing facility for Enterprise Rent-A-Car, as well as an approximately 82,210 square-foot parking lot; and

WHEREAS, the Project converts the Property to a car dealership by enlarge the existing building by approximately 8,777 square feet and increasing the building height by approximately 6 feet, with construction in two phases: Phase 1 involves construction and operation of a temporary dealership and, while dealership activities are operating from the temporary structures, Phase 2 involves construction to prepare the existing commercial building for use as a permanent dealership; and

WHEREAS, the City wishes to lease the Property, with an option to purchase the Property, to Sage Auto Group so that they can build and operate the Project on the Property, which will result in substantial benefits to the City and its citizens in the way of the creation of significant new numbers of employment opportunities, property tax values, and sales tax revenues; and

WHEREAS, on October 21, 2014, the City adopted Resolution No. 14-7299 approving a Lease With Option To Purchase Agreement (635 S. Citrus Avenue) between City and MJL, LLC (“Lease”), in which City agrees to lease the Property, with an option to purchase the Property, to MJL, LLC so that it could build and operate the Project on the Property; and

WHEREAS, on October 21, 2014, the City also adopted Resolution No. 14-7300 approving an Operating Covenant Agreement (Sage Auto Group) between City and MJL, LLC (“Original OCA”) to assist MJL, LLC with the construction and operation of the Project to the Property for a period of 30 years; and

WHEREAS, Pursuant to Government Code Section 53083, the City prepared an Economic Development Report regarding the economic development subsidy provided under the Lease to the MJL, LLC in the form of a rent abatement for the first six months of the Lease term, and the economic development subsidy provided under the Original OCA to MJL, LLC in the form of twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$20,000,000, and after providing the requisite noticed public hearing, accepted the Economic Development Report on October 21, 2014 concurrently with its approval of the Lease and Original OCA; and

WHEREAS, subsequent to the approval of the Lease, Original OCA and Economic Development Report, the City determined that the Economic Development Report and Original OCA inaccurately memorialized the economic development subsidy provided under the Original OCA, and that the economic development subsidy under the Original OCA should instead be twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$3,750,000 during the term of the subsidy; and

WHEREAS, City has prepared a new Economic Development Report and an Amended and Restated Operating Covenant Agreement to correct this inaccuracy as well as provide additional detail to the Economic Development Report regarding the increased property tax revenue, additional public benefits and anticipated jobs that will result from the Lease and OCA; and

WHEREAS, the City is required to hold a noticed public hearing and publish the Economic Development Report on its website prior to granting an economic development subsidy; and

WHEREAS, because the City has completed a new Economic Development Report, it is required to reapprove the Lease; and

WHEREAS, the City is authorized pursuant to California Constitution Article XI, Section 7 to convey the Property for economic development purposes; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY OF COVINA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

Section 2. CEQA. Pursuant to the California Environmental Quality Act (“CEQA”) (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), the City is the lead agency for the proposed Project. In the City’s role as the lead agency under CEQA, City staff reviewed the Project and prepared an Initial Study pursuant to CEQA Guidelines section 15063. On the basis of the Initial Study, the City concluded that the Project will not have significant impacts on the environment with implementation of mitigation and prepared a Mitigated Negative Declaration (“MND”). After completion of all legal prerequisites for the approval of the MND, the City Council adopted Resolution No. 14-7298 finding that the MND and Initial Study contain a complete and accurate reporting of the environmental impacts associated with the Project and adopting the MND. The City Council further finds that no changes in the Project, changes in circumstances under which the Project is being undertaken, or significant information has arisen that would result in new significant impacts, and that consequently no subsequent CEQA document under State CEQA Guidelines section 15162 need be prepared.

Section 3. Reapproval of Agreement. The City Council hereby reapproves the Ground Lease and Option to Purchase Agreement (635 S. Citrus Avenue) between the City of Covina and MJL, LLC, in substantially the form attached hereto as Exhibit “A”. The City Manager is hereby authorized and directed to take any action necessary to carry out the purposes of this Resolution, including without limitation, executing the Ground Lease and Option to Purchase Agreement and executing any documents necessary to convey the Property to Sage Automotive Group upon its exercise of the option to purchase the Property, if applicable.

Section 4. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 17th day of February, 2015.

Peggy Delach, Mayor
City of Covina

ATTEST:

APPROVED AS TO FORM:

Mary Lou Walczak, City Clerk

City Attorney

Exhibit: A –Lease with Option to Purchase

EXHIBIT "A"

LEASE WITH OPTION TO PURCHASE

GROUND LEASE AND OPTION TO PURCHASE AGREEMENT

(635 S. Citrus Avenue)

This Ground Lease and Option to Purchase Agreement (635 S. Citrus Avenue) (this “**Agreement**”) is dated October 21, 2014, for reference purposes only, and is entered into by and between the CITY OF COVINA, a California municipal corporation (“**Landlord**”), and Covina MJL, LLC, a limited liability company (“**Tenant**”). Landlord and Tenant may be referred to in this Agreement each individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. The Successor Agency to the Redevelopment Agency of the City of Covina (“**Successor Agency**”) conveyed to Landlord that certain improved real property located at 635 S. Citrus Avenue, City of Covina, County of Los Angeles, State of California (Assessor Parcel Number 8453-001-906), more particularly described in Exhibit A attached to and incorporated into this Agreement by this reference (“**Property**”), following approval by the Oversight Board to the Successor Agency and the California Department of Finance.

B. Tenant desires to lease the Property and obtain an option to purchase the Property from Landlord and Landlord desires to lease the Property and grant Tenant an option to purchase the Property.

C. Tenant also desires to obtain certain entitlements on the Property and to develop the Property, which currently contains a 23,350 square foot building, into a General Motors automobile sales and service center, as more particularly described in Exhibit B attached to and incorporated into this Agreement by this reference (the “**Business**”).

TERMS

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS AND AGREEMENTS CONTAINED IN THIS AGREEMENT, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS ACKNOWLEDGED BY LANDLORD AND TENANT, LANDLORD AND TENANT AGREE AS FOLLOWS:

ARTICLE 1

GROUND LEASE

1.1 **Tenant to Lease Property from Landlord.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Property on the terms and conditions contained in this Agreement. This grant of an exclusive leasehold interest in the Property shall not relieve Tenant from the requirement to obtain, at its sole expense, any land use permits or other approvals for Tenant’s use of the Property.

1.2 **Use.** Subject to the provisions of this Agreement and the requirements of any approvals obtained in connection therewith, Tenant shall use the Property for the sole purpose of

developing and operating the Business. Tenant's use of the Property shall comply with all applicable laws, ordinances and regulations. Tenant shall only use the Property during the Term for the uses set forth in this Section 1.2 and for no other use without the express written consent of Landlord, which may be granted in Landlord's sole and absolute discretion.

1.2.1 Operation of Business. Tenant shall develop and operate the Business on the Property in accordance with that certain Operating Covenant Agreement, dated October 21, 2014 and by and between Landlord and Tenant.

1.2.2 Compliance with CEQA Conditions. Tenant shall at all times and at Tenant's sole expense comply with all mitigation measures included within the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the 635 South Citrus Avenue Project pursuant to the California Environmental Quality Act ("CEQA").

1.2.3 Abandonment. Tenant shall not abandon, vacate without the payment of Rent or surrender the Property or any portion of the Business during the Term.

1.2.4 Nuisance. Tenant shall not itself and shall not allow any other person to use all or any portion of the Property for any unlawful purpose and shall not itself and shall not allow any other person to perform, permit or suffer any act or omission upon or about all or any portion of the Property that would result in a nuisance or a violation of any applicable law, or that would violate, suspend, void or increase the rate of any insurance required pursuant to Section 1.11.

1.2.5 Hazardous Substances. Tenant shall not use, create, generate, store, deposit, dispose of or allow any hazardous substances on, under, about or within the Property in violation of any federal, state, or local law, rule, regulation, order, decree or other requirement.

1.3 **Term**. The initial term of this Agreement shall be for a period of five (5) years commencing on the Effective Date ("**Initial Term**"). Tenant shall have six (6) five (5) year options to renew (each, an "**Option Term**") (Initial Term and any Option Terms exercised by Tenant are collectively referred to as the "**Term**"). Tenant shall exercise its right to an Option Term by providing Landlord with written notice of such exercise, which delivery of such notice to renew shall be binding upon the Parties.

1.3.1 Holding Over. In the event Tenant shall hold over and continue to occupy the Property after the Term has expired, Tenant's occupancy of the Property shall be pursuant to the same terms and conditions of this Agreement, subject to the following:

1.3.1.1 *Month-to-Month*. Should Tenant still occupy the Property after the Term of this Agreement has expired, tenancy may continue on a month-to-month basis if Landlord consents in writing. Tenant shall pay a new rental amount equal to one-hundred twenty-five percent (125%) of the Rent owed in the last month of the Initial Term or any exercised Option Term, whichever is later, and shall pay all other amounts due to Landlord under this Agreement. Such month-to-month tenancy shall continue until any of the following occur: (a) Tenant formally exercises its right to an Option Term, as set forth in Section 1.3; (b) either Party terminates this Agreement in accordance with Section 1.8; or (c) either Party gives the other written notice of intent to terminate the Agreement at least one (1) month prior to the date

of termination. Landlord's receipt of increased monthly rent under this Section 1.3.1.1 shall not constitute an extension of the Term or Tenant's exercise of an Option Term.

1.3.1.2 *Tenant at Sufferance.* Should Tenant still occupy the Property after the Term has expired and without Landlord's written consent, Tenant will be a tenant at sufferance. Without waiving any rights given the wrongful holding over of the Property, Tenant shall pay a new rental amount for each month or portion thereof while Tenant wrongfully holds over, equal to two hundred percent (200%) of the Rent owed in the last month of the Initial Term or any exercised Option Term, whichever is later, and shall pay all other amounts and penalties due to Landlord under this Agreement. Landlord's receipt of increased monthly rent under this Section 1.3.1.2 shall not constitute an extension of the Term or Tenant's exercise of an Option Term, nor a waiver of Tenant's wrongful holding over and shall not prejudice any other rights or remedies available to Landlord under this Agreement or by law.

1.4 **Rent.** Tenant shall not be required to submit any payment of rent for the first six (6) months subsequent to the Effective Date. Commencing on the seventh (7th) month following the Effective Date ("**Rent Commencement Date**") and for each month thereafter, Tenant shall pay to Landlord monthly rental payments equal to Thirty Thousand Dollars (\$30,000) per month, to be paid in cash no later than the first of each month ("**Rent**"). In addition to any increases in Rent required pursuant to Section 1.3.1, on each anniversary of the Rent Commencement Date during the Term, the Rent shall increase by the Los Angeles-Riverside-Orange County CPI-U, not to exceed 2 percent, for the following twelve month period. All Rent shall be paid to Landlord at the address to which notices to Landlord are given, or to such other person or such other place as directed from time to time by written notice to Tenant by Landlord.

1.4.1 Accord and Satisfaction; Partial Payments. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent owed under this Agreement shall be deemed to be other than a partial payment by Tenant. Any endorsement or statement on any check or letter accompanying any check or payment shall not be deemed an accord or satisfaction. Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of the Rent due to Landlord or pursue any other remedy.

1.4.2 Tenant's Late Payments; Administrative Charges. If Tenant fails to make any payment to Landlord required under this Agreement within ten (10) days after such payment is first due and payable, then in addition to any other remedies of Landlord, and without reducing or adversely affecting any of Landlord's other rights or remedies, Tenant shall pay interest at an annual rate equal to the lesser of: (a) twelve percent (12%) per annum; or (b) the highest rate of interest, if any, that law allows under the circumstances, to Landlord on such late payment, beginning on the date such payment was first due and payable and continuing until the date when Tenant actually makes such payment in full.

1.4.3 Possessory Interest Tax. Tenant hereby recognizes and understands that this Agreement may create a possessory interest subject to property taxation, and that Tenant may be subject to the payment of property taxes levied on such interest. Any such imposition of a possessory interest tax shall be a tax liability of Tenant solely, and shall be paid for by Tenant; and any such tax payment shall not reduce any Rent due to Landlord. Tenant shall also pay all interest and penalties any government entity assesses for late payment of any possessory interest

taxes that this Agreement requires Tenant to pay. Tenant shall within a reasonable time after written notice from Landlord give Landlord reasonable proof that Tenant has paid any possessory interest taxes that this Agreement requires Tenant to pay. Nothing herein shall prohibit Tenant from the right to challenge any assessment of possessory interest tax in accordance with the procedures set forth by the taxing authority and where applicable withhold any overcharge by such taxing authority until the disputed matter is resolved.

1.4.4 Personal Property Taxes. Tenant shall pay and discharge all personal property taxes relating to any personal property stored at, used in the operation of or otherwise relating to the Property, before delinquency. Tenant shall also pay all interest and penalties any governmental agency assesses for late payment of any such personal property tax.

1.4.5 Utilities. Tenant shall arrange and pay for all fuel, gas, light, power, water, sewage, garbage disposal, telephone, television, internet, satellite and other similar charges or services, and the expenses of installation, maintenance, use, and service in connection with any and all of the foregoing, for the Property. Landlord shall have no responsibility for providing or paying for any utilities or services for the Property. Landlord shall not be liable for any interference with or disruption of any utilities or services for the Property.

1.4.6 Security Deposit.

1.4.6.1 *Amount.* Tenant shall provide Landlord with a security deposit in the amount of One Hundred Thousand Dollars (\$100,000) (“**Deposit**”) on or before the Effective Date.

1.4.6.2 *Tenant Default.* Should Tenant default with respect to any provision of this Agreement, including but not limited to the payment of Rent, Landlord may use, apply or retain all or any part of the Deposit for the payment of Rent, any other sum in default, or for the payment of any other amount Landlord may spend or become obligated to spend by reason of Tenant’s default, or to compensate Landlord for any other loss or damage Landlord may suffer by reason of Tenant’s default. If any portion of the Deposit is so used, applied or retained, Tenant shall within five (5) calendar days after written demand deposit cash with the Landlord in an amount sufficient to restore the Deposit to its original amount. The Deposit shall not be deemed a limitation on Landlord’s damages or a payment of Rent due for the last month of the Term.

1.4.6.3 *Commingling of Funds.* Landlord is not required to keep the Deposit separate from its general funds, and Tenant is not entitled to any interest earned on the Deposit.

1.4.6.4 *Waiver.* Tenant specifically waives the provisions for California Civil Code Section 1950.7 regarding the use and repayment of the Deposit.

1.4.6.5 *Deposit Return.* At the expiration of the Term the Deposit shall be first applied to any monetary defaults of Tenant and thereafter any remaining balance, if any, shall be fully refundable to Tenant within sixty (60) calendar days after Tenant has vacated the Property.

1.4.7 Additional Expenses. Tenant shall be solely responsible for and shall discharge before delinquency each and every item of expense, of every kind and nature whatsoever, related to or arising from the Property, or by reason of or in any manner connected with or arising from the leasing, operation, management, maintenance, repair, use, or occupancy of, or construction affecting, the Property, except as otherwise expressly set forth in this Agreement.

1.4.8 Damages. Landlord may recover from Tenant all damages Landlord incurs by reason of a default of this Agreement by Tenant, including reasonable costs of recovering possession and any and all other damages legally recoverable by Landlord, and reimbursement of Landlord's reasonable out of pocket costs, including legal costs and bank fees for dishonored checks. Landlord may recover such damages at any time after a default of this Agreement has occurred, including after termination of this Agreement. Notwithstanding any law to the contrary, Landlord need not commence separate actions to enforce Tenant's obligations for each month's Rent not paid, or each month's accrual of damages for Tenant's default, but may bring and prosecute a single combined action for all such Rent and damages.

1.5 **"As Is" Condition of Property**. Tenant accepts the Property in its "As Is/Where Is" condition, without warranty of any kind, express or implied, including any warranty as to title, physical condition, soil conditions, zoning, land use restrictions, CEQA restrictions, the availability or location of utilities or services, the suitability of the Property for the Business or any other use, and with full knowledge of the physical condition of the Property and all laws applicable to the Property. Tenant has not relied and is not relying on any express or implied, oral or written representations or warranties made by Landlord or its representatives, and all such representations and warranties are specifically disclaimed by Landlord. Landlord makes no representations and warranties concerning the physical condition of the Property and the presence or absence of hazardous materials, lawsuits and other adverse facts or conditions relating to the Property.

1.6 **Risk of Loss**. Tenant shall bear the sole and complete risk of loss or damage to all fixtures, improvements and personal property of Tenant while on the Property.

1.7 **No Discrimination**. Tenant, for itself and its successors and assigns, agrees that Tenant will not discriminate against any employee or applicant for employment because of sex, marital status, race, color, religion, creed, national origin, or ancestry, and that Tenant will comply with all applicable local, state and federal fair employment laws and regulations. Tenant covenants and agrees for itself, its successors and assigns, and every successor in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin in the lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Tenant, or any person claiming under or through Tenant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, use or occupancy of lessees, sublessees or vendees of the Property.

1.8 **Termination**.

1.8.1 By Landlord. Without limiting Landlord's ability to seek other remedies (either at law or in equity) that may be available to Landlord pursuant to statute or judicial decision, Landlord may terminate this Agreement and all of its obligations hereunder, at its option, upon the occurrence of either of the following:

1.8.1.1 Tenant's breach of any of its monetary obligations under this Agreement and failure to cure such breach within five (5) days after receipt of written notice from Landlord; or

1.8.1.2 Tenant's breach of any of Tenant's non-monetary obligations under this Agreement and failure to cure such breach within ten (10) days after receipt of written notice from Landlord or, if such cure cannot be completed within ten (10) days, Tenant's failure to commence such cure within ten (10) days after its receipt of written notice and thereafter diligently prosecute such cure to completion.

1.8.2 By Tenant. Tenant may terminate this Agreement upon Landlord's breach of any of Landlord's obligations under this Agreement and Landlord's failure to cure such breach within ten (10) days after receipt of written notice from the Tenant or, if such cure cannot be completed within ten (10) days, Landlord's failure to commence such cure within ten (10) days after its receipt of written notice and thereafter diligently prosecute such cure to completion. Tenant sole and exclusive remedy in the event of a default by Landlord is to terminate this Agreement. Tenant hereby waives any right to maintain an action against Landlord for specific performance of any term or provision of this Agreement.

1.8.3 Recovery of Damages Following Termination. If this Agreement is terminated by Landlord pursuant to Section 1.8.1, then upon any such termination of this Agreement, Landlord may recover from Tenant:

1.8.3.1 Any unpaid Rent at time of termination;

1.8.3.2 Any other amount actually incurred and reasonably necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

1.8.4 Vacating the Property. At the termination of this Agreement, Tenant shall quit and surrender possession of the Property to Landlord in as good order and condition as they were delivered to Tenant on the Effective Date, reasonable wear and tear and damage by the elements excepted, and shall remove its personal property and any equipment from the Property, with the exception of any improvements constructed on the Property as set forth in Exhibit B or as approved, in writing, by Landlord. Tenant agrees to pay any costs incurred by Landlord if Tenant fails to comply with the provisions of this Section 1.8.4, including reasonable attorneys' fees and costs expended on any action by Landlord to compel removal by Tenant of its personal property and any equipment. Landlord may remove Tenant's personal property and equipment and dispose of or store them at Tenant's sole cost and expense. For purposes of this Agreement, the improvements and fixtures to the Property set forth in Exhibit B or as approved, in writing,

by Landlord shall not be deemed to be Tenant's personal property or equipment in application of this Section 1.8.4.

1.8.5 Governmental Approvals. Tenant understands and agrees that Landlord is required to complete certain actions prior to Tenant's occupancy and use of the Property. Such actions include, but are not limited to, review of the Business on the Property in accordance with CEQA and approval by the Oversight Board to the Successor Agency and the California Department of Finance of the transfer of the Property from the Successor Agency to Landlord. In the event that these actions are not completed prior to the Effective Date, either Party shall have the right to terminate this Agreement.

1.9 **Maintenance.**

1.9.1 Maintenance Standard. Tenant shall, at its sole cost and expense, keep the Property free of noxious weeds and trash, and in good and proper condition in compliance with all applicable laws and regulations concerning the use of the Property. Tenant shall make any repairs to the Property caused by or incident to Tenant's use of the Property or implementation of this Agreement.

1.9.2 Maintenance Default. If, at any time during the Term there is an occurrence of an adverse condition on any area of the Property in contravention of Section 1.9.1 (each such occurrence being a "**Maintenance Deficiency**"), then Landlord may provide notice to Tenant in writing of the Maintenance Deficiency. If Tenant fails to cure or commence and diligently pursue to cure the Maintenance Deficiency within ten (10) calendar days of Tenant's receipt of notice of the Maintenance Deficiency, a default shall be deemed to have occurred and Landlord may exercise any and all remedies available to Landlord hereunder including, but not limited to, curing the Maintenance Deficiency by Landlord at Tenant's sole expense.

1.9.3 Graffiti. Graffiti, as defined in Government Code Section 38772(d)(2), that has been applied to any exterior surface of a structure or improvement on the Property, that is visible from any public right-of-way adjacent or contiguous to the Property, shall be removed by Tenant by either painting over the evidence of such vandalism with a paint that has been color-matched to the surface on which the paint is applied or removed with solvents, detergents or water, as appropriate. If any such graffiti is not removed within seventy-two (72) hours after the time Tenant discovers or receives written notice of the graffiti or, in the case of graffiti that cannot reasonably be removed within seventy-two (72) hours after the time Tenant discovers or receives notice of the graffiti if Tenant does not duly commence such cure and diligently complete such cure within a reasonable time under the circumstances, then Landlord may exercise any and all remedies available to Landlord hereunder including, but not limited to, removal of the graffiti by Landlord at Tenant's sole expense.

1.9.4 Water Quality Management Plan and Stormwater BMP Maintenance Agreement. Tenant shall, at its sole cost and expense, maintain the property consistent with the Water Quality Management Plan Stormwater BMP Maintenance and Right of Entry Agreement attached hereto as Exhibit D.

1.10 **Entry and Inspection.** Tenant shall permit Landlord or Landlord's agents to enter the Property at all times upon reasonable prior written notice for the purpose of inspecting the Property, exhibiting the Property to lenders, insurer or lessees, for maintaining and making necessary repairs, restorations and replacements to the Property, and for otherwise determining Tenant's compliance with this Agreement. Any entry to the Property obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or detainer of the Property or an eviction, actual or constructive, of Tenant from the Property, or any portion thereof.

1.11 **Insurance.**

1.11.1 Time for Compliance. This Agreement shall not be effective until Tenant provides satisfactory proof to Landlord that it has secured all insurance required under this Section 1.11.

1.11.2 Types; Amounts. Tenant shall obtain, and shall require any subcontractor to obtain, insurance in the amounts described below unless specifically altered or waived by Landlord in writing ("**Required Insurance**"). In the event that Tenant breaches its obligations under this Section 1.11.2, Landlord may, in its reasonable discretion, require Tenant to increase the policy limits for any or all of the Required Insurance or obtain the Required Insurance at Tenant's sole expense.

1.11.2.1 *General Liability Insurance.* Tenant shall maintain occurrence version general liability insurance, or equivalent form, with a combined single limit of not less than Five Million Dollars (\$5,000,000) per occurrence, which limit may be satisfied by a combination of primary and umbrella policies.

1.11.2.2 *Property Insurance.* Tenant shall maintain property insurance against loss, damage, or destruction by fire or other hazards, in an amount equal to 100 percent of the replacement value (without deduction for depreciation) of all improvements set forth in Exhibit B and any additional improvements approved, in writing, by Landlord pursuant to this Agreement.

1.11.2.3 *Automobile Insurance.* Tenant shall maintain a policy of automobile insurance in customary commercially reasonable form of not less than One Million Dollars (\$1,000,000) per occurrence, which limit may be satisfied by a combination of primary and umbrella policies as determined by Tenant.

1.11.3 General Provisions. The general liability insurance and property insurance policies shall name Landlord, its elected officials, officers, employees, agents, and volunteers as additional insureds. The Required Insurance shall be primary as to Tenant's defense and indemnification obligations herein with respect to any insurance or self-insurance programs covering Landlord, its elected officials, officers, employees, agents, and volunteers, or if in excess stand in an unbroken chain of coverage in excess of Tenant's scheduled underlying coverage. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to Landlord, its elected officials, officers, employees, agents, and volunteers.

1.11.4 Certificates; Insurer Rating; Cancellation Notice. Prior to the Effective Date, Tenant shall furnish to Landlord properly executed certificates of insurance which evidence all Required Insurance. Tenant shall maintain the Required Insurance at all times while this Agreement is in effect, and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days prior written notice to Landlord. Unless approved in writing by Landlord, Tenant shall place the Required Insurance with insurers authorized to do business in the State of California and with a current A.M. Best rating of at least A-:VII.

ARTICLE 2

DEVELOPMENT OF THE PROPERTY

2.1 Feasibility Period.

2.1.1 Feasibility Period; Documents. Tenant shall have forty-five (45) days after the Effective Date to approve title matters and to determine in Tenant's discretion the feasibility of leasing the Property ("**Feasibility Period**"). Landlord shall provide Tenant with copies of all documents in Landlord's possession or control relating to the Property and the general feasibility of the Business, including but not limited to, zoning, use permits for commercial use, government approvals and entitlements, engineering drawings, biological surveys or reports, grading plans, improvement plans, conditions of approval, soils reports, surveys, and environmental reports ("**Due Diligence Materials**"). On or before the expiration of the Feasibility Period, Tenant, in its sole and absolute discretion, will have the right to terminate the Agreement. In the event Tenant terminates the Agreement pursuant to this Section 2.1.1: (a) Tenant shall receive a full refund of the Deposit; and (b) except for obligations that the Agreement expressly states survive termination, neither Party shall have any further rights against the other. On or prior to the end of the Feasibility Period, Tenant shall provide written notice to Landlord of its approval of the Property. Failure by Tenant to provide written notice to Landlord of its approval of the Property shall be deemed to be an approval of the Property by Tenant.

2.1.2 Right of Access. During the Feasibility Period, Landlord will give Tenant and its inspecting agents, architects and engineers access to the Property for purposes of conducting physical and environmental inspections of the Property and a detailed review of contracts, books, records, accounts and other matters pertaining thereto; provided, however, that Tenant shall not conduct any test that disturbs the condition of the Property or the use of the Property by Landlord without Landlord's prior approval, not to be unreasonably withheld or delayed, and Tenant provides proof of insurance pursuant to Section 1.11 and indemnifies Landlord for any damage, costs or claims arising from Tenant or its agents' entry or tests on the Property pursuant to Section 4.17.

2.2 **Tenant's Covenant to Develop Business.** Upon the expiration of the Feasibility Period, Tenant covenants to and for the exclusive benefit of Landlord that Tenant shall develop and operate the Business on the Property. Tenant covenants and agrees for itself, its successors and assigns that the Property shall be improved and developed with the Business, in conformity

with the terms and conditions of this Agreement and all applicable laws and conditions of each governmental authority with jurisdiction over the Business. The covenants of this Section 2.2 shall run with the land of the Property, until the earlier of: (a) the date of issuance of a Certificate of Completion for the Business; or (b) termination of this Agreement.

2.3 Tenant to Obtain all Governmental Approvals. Tenant shall be solely responsible for preparing and submitting a complete development application and any other required application, document, fee, charge or other item (including, without limitation, deposit, fund or surety) required for construction of the Business, pursuant to all applicable laws and approvals, to each necessary governmental entity for review and approval (including but not limited to Planning, Building, Public Works and Health Departments). The City of Covina's zoning, building and land use regulations (whether contained in ordinances, the City's municipal code, conditions of approval or elsewhere), shall be applicable to the construction of the Business on the Property by Tenant, pursuant to this Agreement. Tenant acknowledges that any changes to any plans or specifications for the Business shall be subject to all applicable laws and approvals. Tenant shall obtain all entitlements, permits and other approvals for construction of the Business on the Property from each governmental entity, within One Hundred Twenty (120) days of the Effective Date of this Agreement, and prior to the commencement of any construction of the applicable portion(s) of the Business. This One Hundred Twenty (120) day timeframe may be extended upon the receipt of written request for such extension from Tenant and approval by the City Manager, in its sole and absolute discretion.

2.4 Reservations. The approval of this Agreement by Landlord shall not be binding on the City Council or the Planning Commission, Design Review Committee or any other commission, committee, board or body of Landlord regarding any approvals of the Business required by such bodies. No action by Landlord with reference to this Agreement or any related documents shall be deemed to constitute issuance or waiver of any required City permit, approval or authorization regarding the Property, the Business or Tenant. Except as otherwise expressly provided in this Agreement, Tenant obtains no right, permit or entitlement to construct or install the Business on the Property or any portion of the Property by virtue of this Agreement.

2.5 Completion of the Business. Tenant shall open the Business to the general public within twelve (12) months of the Effective Date. This twelve (12) month timeframe may be extended upon the receipt of written request for such extension from Tenant and approval by the City Manager, in its sole and absolute discretion.

2.5.1 Tenant understands and agrees not to make any modifications to the plans and specifications for the Business, as set forth in Exhibit B, without first obtaining written approval of Landlord, which shall not be unreasonably withheld, unless expressly provided otherwise herein. Any changes to the plans and specifications for the Business, without first acquiring said approval, will be at the sole risk and expense of Tenant.

2.5.2 Inspections. Landlord may enter upon the Property at any time, without notice to Tenant, in order to inspect the Property, the improvements thereon, and Tenant's operations, provided that all of Landlord's representatives shall comply at all times with Tenant's health and safety procedures. Tenant shall not be liable to Landlord or its representatives for damage to property or bodily injury in any circumstances where there is a breach of Tenant's

health and safety procedures by such representatives. After development of the Property is completed as anticipated by this Section, Landlord shall be required to provide notice as set forth in Section 1.10.

2.6 Tenant's Payment of Costs and Fees. Tenant and Landlord agree that Landlord shall not provide any financial assistance to Tenant in connection with the construction or installation of the Business, nor shall Landlord bear any responsibility for the construction of the Business. Tenant shall be solely responsible for paying for the costs of all design work, construction, labor, materials, fees, permits, applications, surety bonds and other expenses associated with the Business and the Property. Tenant shall pay any and all fees pertaining to the review and approval of the Business by each governmental and utility service providers, including the costs of preparation of all required construction, planning and other documents reasonably required by each governmental authority or utility service provider pertinent to the construction, installation or operation of the Business on the Property, including, but not limited to, specifications, drawings, plans, maps, permit applications, land use applications, zoning applications, environmental review and disclosure documents and design review documents. Tenant shall obtain any and all necessary governmental approvals, prior to the commencement of applicable portions of construction of the Business, and Tenant shall take reasonable precautions to ensure the safety and stability of surrounding properties during the construction and installation of the Business.

2.7 Prevailing Wages.

2.7.1 Tenant acknowledges that Landlord has made no representation, express or implied, to Tenant or any person associated with Tenant regarding whether or not laborers employed relative to any construction on the Property must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to California Labor Code Sections 1720 *et seq.* Tenant agrees with Landlord that Tenant shall assume the responsibility and be solely responsible for determining whether or not laborers employed relative to any construction on the Property must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to California Labor Code Sections 1720 *et seq.* Landlord shall not be under any duty to monitor or ensure the compliance of Tenant with any State of California labor laws, including, without limitation, prevailing wage laws.

2.7.2 Tenant shall indemnify Landlord in accordance with the provisions of Section 4.17 against any claims pursuant to California Labor Code Section 1781 arising from the construction of the Business or any additional improvements on the Property.

2.8 Prohibited Liens.

2.8.1 Prohibited Liens. Tenant shall keep the Property free from any liens arising out of any work performed, material furnished, or obligations incurred by Tenant ("**Prohibited Lien**"). Tenant shall provide written notice to Landlord of each Prohibited Lien within five (5) days following Tenant's receipt of notice of such Prohibited Lien. Tenant shall, within thirty (30) days after receiving notice of a Prohibited Lien (but in any case within fifteen (15) days after Tenant receives notice of commencement of foreclosure proceedings regarding

any Prohibited Lien), cause such Prohibited Lien to be paid, discharged, and cleared from title to the Property; provided, however, that if Tenant disputes such Prohibited Lien in good faith, Tenant may maintain an appropriate dispute of such Prohibited Lien without payment, if Tenant provides a bond in lieu of the Prohibited Lien which is in conformance with applicable law and which is in an amount and form reasonably acceptable to Landlord releasing the Property from the disputed Prohibited Lien. Tenant shall thereafter prosecute such action with reasonable diligence and continuity.

2.8.2 No Liens Against Public Property. Tenant acknowledges that the Property is owned by Landlord and is thus not subject to the imposition of mechanic's liens or other liens in favor of providers of labor, materials, or services on or to the Property. Tenant shall inform each provider of labor, material, or services on or to the Property of the statutory unavailability of such liens with respect to the Property, and that Landlord is not responsible for payment of any claims by such providers of labor, material, or services.

2.9 **Alterations.** Upon completion of construction of the Business, Tenant shall not make any alterations, improvements or additions in, on, or about the Property that are not set forth in Exhibit B, without first obtaining Landlord's prior written consent. However, Landlord's prior written consent will not be necessary for any alteration, improvement, or addition which costs less than five thousand dollars (\$5,000), including labor and material.

2.9.1 All alterations, improvements or additions in, on or about any of the Property by Tenant shall comply with all applicable laws.

2.9.2 Alterations, improvements or additions in, on or about the Property, whether temporary or permanent in character, shall immediately become Landlord's property upon expiration of the Term or lawful termination of this Agreement, and shall remain on the Property without compensation to Tenant, unless expressly provided otherwise herein.

ARTICLE 3

OPTION TO PURCHASE THE PROPERTY

3.1 **Grant of Option.** Landlord grants to Tenant the right and option (the "**Option**") to purchase the Property for the fair market value of the Property, as negotiated by Landlord and Tenant (the "**Purchase Price**"), on each anniversary of the Effective Date during the Term pursuant to Section 3.3. If the Option is exercised prior to the fifth (5th) anniversary of the Effective Date, the purchase price shall be Three Million Three Hundred Thousand Dollars (\$3,300,000). If the Option is exercised at some point thereafter, the Purchase Price shall increase by 5% on the fifth (5th) anniversary of the Effective Date and every five (5) years thereafter until the Option is exercised. The Purchase Price shall be paid in cash at the close of escrow. No Rent shall be applied to the Purchase Price without the express written agreement of the Parties. Tenant's right and option to purchase the Property pursuant to the Option is exclusive to Tenant, unless assigned as provided herein. Landlord agrees that any Security Deposit in Landlord's possession shall be applied to the purchase price

3.2 **Independent Contract Consideration.** Upon the Effective Date, Tenant shall deliver to Landlord the sum of Five Hundred Dollars (\$500.00) ("**Independent Contract Consideration**"), which amount has been bargained for and agreed to as adequate consideration for the Option. The Independent Contract Consideration is in addition to and independent of all other consideration provided in this Agreement and is nonrefundable to Tenant in all events.

3.3 **Exercise of Option.** If Tenant is not in material default under this Agreement it may exercise the Option prior to the termination of the Option, as set forth in Section 3.4. To exercise the Option, Tenant shall provide Landlord written notice of the intent to exercise the Option 90 days before the next anniversary of the Effective Date. Tenant shall then execute and delivery to Landlord three (3) originals of the purchase and sale agreement in substantially the same form as set forth on Exhibit C, attached to and incorporated into this Agreement by this reference, executed by the authorized representative(s) of Tenant ("**Option Purchase Agreement**"). Landlord shall counter-execute the originals of the Option Purchase Agreement signed by Tenant and deliver one fully executed original to Tenant and the escrow agent, as chosen by mutual agreement of the Parties. The Option Purchase Agreement will constitute the joint escrow instructions to the escrow agent from Landlord and Tenant regarding the purchase and sale transaction for the Property between the Parties.

3.4 **Termination of Option.** The Option shall automatically and immediately terminate, without further notice, upon the occurrence of any of the following: (a) Tenant fails to exercise the Option at expiration of the Term; (b) Tenant, at any time during the Term, gives written notice to Landlord of its election to terminate the Option; or (c) this Agreement is terminated.

3.5 **Right of First Refusal.** If at any time during the Term Landlord receives from a third party a bona fide written offer ("**Purchase Offer**") to purchase the Property at a purchase price and terms acceptable to Landlord, Tenant shall have a right of first refusal to purchase the Property ("**Right of First Refusal**") as provided in this Section 3.5. If Landlord elects to accept the Purchase Offer, Landlord shall give written notice of all of the terms of the Purchase Offer to Tenant ("**Offer Notice**"). Tenant shall have the right to exercise its Right of First Refusal for a period of thirty (30) days after Landlord delivers the Offer Notice to Tenant. Exercise of the Right of First Refusal may only be made by Tenant providing written notice to Landlord ("**Acceptance Notice**") that Tenant will purchase the Property in strict accordance with the terms set forth in the Offer Notice. In the event Tenant provides Landlord with the Acceptance Notice in strict accordance with the terms set forth in this Section 3.5, then such action shall be deemed to be a binding contract between Tenant and Landlord for the purchase of the Property in accordance with the terms of the Offer Notice. Tenant's failure to provide Landlord with the Acceptance Notice within said thirty (30) day period shall authorize Landlord to sell the Property to the third party or its assigns making the Purchase Offer on the same terms and conditions as provided in the Offer Notice, and Tenant's Right of First Refusal and Option shall be immediately, automatically and irrevocably terminated without the requirement of further notice. In the event, however, the Property is not sold to the party or its assigns that made the Purchase Offer, then Tenant shall thereafter have the same Right of First Refusal upon Landlord receiving any subsequent offer to purchase from any third party that Landlord elects to accept and which occurs during the Term.

ARTICLE 4

GENERAL TERMS AND CONDITIONS

4.1 **Effective Date.** This Agreement shall become effective on the first date on which all of the following have occurred ("**Effective Date**"): (a) Landlord has received three (3) counterpart originals of this Agreement signed by the authorized representative(s) of Tenant; (b) this Agreement has been approved by Landlord's governing body; (c) this Agreement has been signed by the authorized representative(s) of Landlord; and (d) the Property has been transferred by Quitclaim Deed from the Successor Agency to Landlord, which transfer has been approved by the Oversight Board to the Successor Agency and the California Department of Finance in accordance with Health and Safety Code Section 34181(f). Landlord shall send written notice of the Effective Date to Tenant within seven (7) days following the occurrence of the Effective Date. In the event that the Effective Date occurs later than August 1, 2014, Tenant shall have the right to terminate this Agreement and such termination shall not constitute a default by either Party.

4.2 **Waivers And Releases.** BY EXECUTING THIS AGREEMENT, TENANT WAIVES AND RELEASES LANDLORD AND ITS REPRESENTATIVES FROM ALL CLAIMS ARISING OR RELATING TO THE PROPERTY OR THE BUSINESS AS OF THE DATE OF MUTUAL EXECUTION OF THIS AGREEMENT OR AT ANY TIME PRIOR TO THE TERMINATION OF THIS AGREEMENT, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED. WITH RESPECT TO THE WAIVERS AND RELEASES CONTAINED IN THIS SECTION 4.2, TENANT WAIVES THE PROVISIONS OF CALIFORNIA CIVIL SECTION 1542 AND ALL SIMILAR PROVISIONS AND PRINCIPLES OF LAW. SECTION 1542 PROVIDES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Initials of Tenant

4.3 Notices.

4.3.1 Any and all notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, sent by recognized overnight delivery service or mailed by certified or registered mail, return receipt requested, postage prepaid, to the parties at the addresses indicated below:

Tenant: Covina MJL, LLC
812 South Brand
Glendale, CA 91204
Atten: Joseph Sage

Copy to: Feldman Berman Schwartz, LLP
20750 Ventura Boulevard, Ste. 210
Woodland Hills, CA 91364
Atten: Craig Berman

Landlord: City of Covina
125 E. College Street
Covina, CA 91723
Attention: City Manager

Copy to: Best Best & Krieger LLP
5 Park Plaza Suite 1500
Irvine, California 92614
Attention: City Attorney

4.3.2 Any party may change its address for service of notices by service of a notice to the other party in the manner set forth above. Any notice given personally shall be deemed given upon service, notices sent by overnight service shall be deemed received on the next business day and any notice given by certified or registered mail shall be deemed given on the third (3rd) business day after such notice is mailed.

4.4 **Time of Essence.** The parties acknowledge that time is of the essence in the performance of each provision of this Agreement.

4.5 **Entire Agreement.** This Agreement, together with the attached exhibits, contains the entire agreement and understanding of the Parties regarding the subject matter of this Agreement. Any modifications to this Agreement must be set forth in a writing signed by both Parties.

4.6 **Assignment or Subletting.** Tenant shall not assign or sublease this Agreement without the prior express written consent of Landlord, which consent may be withheld in Landlord's reasonable discretion. Tenant may assign or sublet Tenant's interest in this Agreement or the Property without the prior written consent to the Landlord to an Affiliate or entity owned or Controlled by Tenant. "Affiliate" means and refers to any Person, directly or indirectly, Controlling or Controlled by or under common Control with the Developer, whether by direct or indirect ownership of equity interests, by contract or otherwise. "Control" means and refers to possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by ownership of equity interests, by contract or otherwise. "Controlling" and "Controlled" mean and refer to exercising or having Control.

4.7 **Construction of Agreement.** Section headings in this Agreement are for convenience of reference only and shall not be considered or referred to in resolving questions of interpretation or construction. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision in this Agreement, neither this Agreement or any uncertainty or ambiguity in this Agreement will be construed or resolved against either Party (including the Party primarily responsible for drafting and preparation of this Agreement), under

any rule of construction or otherwise, it being expressly understood and agreed that the Parties participated equally or had equal opportunity to participate in the drafting of this Agreement. Unless the context otherwise requires, all periods terminating on a given day, period of days, or date shall terminate at 5:00 p.m. Pacific Time on such date or dates and references to "days" shall refer to calendar days, unless otherwise specified in this Agreement; provided, however, in the event that any period terminates on a Saturday, Sunday or legal holiday, under the laws of the State of California or the United States of America, the termination of such period shall occur on the next succeeding business day.

4.8 Third Party Beneficiaries. The Parties intend that the rights and obligations under this Agreement shall benefit and burden only the Parties to this Agreement, and do not intend to create any rights in, or right of action to or for the use or benefit of any third party that is not one of the Parties to this Agreement, except as expressly set forth in this Agreement.

4.9 Broker's Commissions. Neither party is represented by a broker. Each party shall indemnify the other for the claims of any broker who purports to have represented such party.

4.10 Severability. If any term, provision or portion of this Agreement or the application of this Agreement to any person or circumstance shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision or portion of this Agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

4.11 No Joint Venture. Nothing in this Agreement shall be construed to constitute the creation of a partnership or joint venture between Landlord and Tenant or any contractor or other person relating to the Property. Tenant is not an agent or representative of Landlord or vice versa.

4.12 Legal Costs. In the event of the filing of any legal action between Landlord and Tenant, arising out of the obligations of the Parties pursuant to this Agreement, the prevailing Party will be entitled to payment of its costs and expenses, including its attorneys' fees.

4.13 Binding Effect. This Agreement is binding upon and will inure to the benefit of the Parties, their successors and assigns.

4.14 Counterparts. This Agreement may be executed in counterparts and when so executed by the Parties, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument that shall be binding upon the Parties, notwithstanding that the Parties may not be signatories to the same counterpart or counterparts. The Parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart.

4.15 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California. Any legal action brought to enforce or interpret this

Agreement must be brought in the Superior Court of the State of California in and for the County of Los Angeles, California.

4.16 Non-liability of Landlord, Officials and Employees. No member, official, employee, or consultant of Landlord shall be personally liable to Tenant, or any successor in interest of Tenant, in the event of any default or breach by Landlord of this Agreement or for any amount which may become due to Tenant or to its successor by virtue of this Agreement, or on any obligations under the terms of this Agreement.

4.17 Indemnity and Release.

4.17.1 Tenant Indemnity Obligations. Tenant hereby agrees to defend, indemnify and hold Landlord and its officials, officers, agents and employees free and harmless from and against any and all claims, demands, causes of action, costs, liabilities, expenses, losses, damages or injuries of any kind in law or equity, to persons or property, including wrongful death, in any manner arising from or related to this Agreement, the Business, the use or occupancy by Tenant and/or its agents, employees or subtenants of the Property, and/or Tenant's breach of any condition of this Agreement. Tenant shall defend, with counsel selected by Landlord, at Tenant's sole expense, any and all such suits, actions or proceedings, legal or equitable that may be brought or instituted against Landlord, its officials, officers, agents or employees. Tenant shall pay and satisfy any judgment, award or decree that may be rendered against Landlord, its officials, officers, agents or employees. Tenant shall reimburse Landlord for any and all legal expenses and costs incurred by Landlord in connection with this Agreement or the indemnity herein provided. Tenant's obligation shall survive termination or expiration of this Agreement, and shall not be restricted to insurance proceeds, if any, received by Landlord or its officials, officers, agents or employees.

4.17.2 Liability of Landlord. Landlord shall not be liable for and Tenant shall indemnify Landlord in accordance with Section 4.17.1 regarding any injury or damage to any property (of Tenant or any other person) or to any person occurring on or about the Property. In addition, Tenant acknowledges that Landlord would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof. Notwithstanding any provision of this Agreement to the contrary, Landlord shall not be liable in damages to Tenant, or to any successor in interest of Tenant, or to any other person, and Tenant covenants not to sue for damages or claim any damages: (a) for any breach of this Agreement or for any cause of action that arises out of this Agreement; (b) for the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or (c) arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

4.18 Legal Challenges. Subject to the provisions and conditions of this Section 4.18, Tenant assumes the risk of delays or damages that may result to Tenant from any legal action filed by any person or entity related to Landlord's approval of this Agreement or issuance of any associated governmental approvals, including but not limited to legal actions contesting the adequacy of the CEQA review undertaken in connection with this Agreement, the transfer of the Property from the Successor Agency to Landlord, or Tenant's uses of the Property. If any person or entity files a legal action regarding Landlord's approval of this Agreement or issuance of any

associated governmental approval, Tenant shall indemnify Landlord pursuant to Section 4.17 against such legal action. Nothing contained in this Section 4.18 is intended to be nor shall be deemed or construed to be an express or implied admission that Landlord may be liable to Tenant or any other person for damages or other relief regarding any alleged or established failure of Landlord to comply with any law.

4.19 **Waiver.** The waiver by Landlord or Tenant of any breach of any term, covenant, condition or provision contained herein shall not be deemed to be a waiver of such term, covenant, condition or provision for any subsequent breach of the same or any other term, covenant, condition or provision contained herein.

4.20 **No Relocation or Assistance.** Tenant acknowledges that Tenant is not entitled to relocation assistance or any other benefits under the Uniform Relocation Assistance Act or any other applicable provision of law upon termination of this Agreement.

4.21 **Compliance with Laws.** Tenant shall, at Tenant's own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, both federal and state and county or municipal, relating to any use and occupancy of the Property, whether those statutes, ordinances, regulations and requirements are now in force or are subsequently enacted.

4.22 **Independent Representation by Counsel.** The Parties represent and declare that in executing this Agreement they rely solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently-selected counsel, concerning the nature, extent and duration of their rights and claims hereunder, and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Agreement, by any representations, statements or omissions pertaining to any of the matters herein contained by any Party or by any persons representing any Party.

[Signatures on following pages]

SIGNATURE PAGE
TO
GROUND LEASE AND OPTION TO PURCHASE AGREEMENT
(635 S. Citrus Ave.)

LANDLORD

CITY OF COVINA,
a California municipal corporation

By: _____
Kim Raney, Interim City Manager

Dated: _____

Attest:

By: _____
Mary Lou Walczak
City Clerk

Approved as to legal form:

By: _____
City Attorney

SIGNATURE PAGE
TO
GROUND LEASE AND OPTION TO PURCHASE AGREEMENT
(635 S. Citrus Ave.)

TENANT
COVINA, MJL, LLC,
A California Limited Liability Company

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Dated: _____

EXHIBIT A
TO
GROUND LEASE AND OPTION TO PURCHASE AGREEMENT
(635 S. Citrus Ave.)

LEGAL DESCRIPTION OF PROPERTY

[To Be Inserted]

**EXHIBIT B
TO
GROUND LEASE AND OPTION TO PURCHASE AGREEMENT
(635 S. Citrus Ave.)**

**DESCRIPTION OF BUSINESS
Sage Covina Chevrolet dealership to sell new and used vehicles at 635 S. Citrus Ave.,
Covina, CA**

EXHIBIT C
TO
GROUND LEASE AND OPTION TO PURCHASE AGREEMENT
(635 S. Citrus Ave.)

FORM PURCHASE AND SALE AGREEMENT

Person designated in the written joint escrow instructions of the Parties to receive an original or conformed copy of each such document. Each conformed copy of a document filed for recording shall show all recording information. The Parties intend and agree that this Section 3.7.1 shall establish the relative priorities of the documents to be recorded in the official records of the County through the Escrow, by providing for recordation of senior interests prior to junior interests, in the order provided in this Section 3.7.1;

3.7.2 **Funds.** Distribute all funds held by the Escrow Agent pursuant to the Escrow Closing Statements approved in writing by Seller and Buyer, respectively;

3.7.3 **FIRPTA Affidavit.** File the FIRPTA Affidavit with the United States Internal Revenue Service;

3.7.4 **Form 593.** File the Form 593 with the California Franchise Tax Board;
and

3.7.5 **Title Policy.** Obtain from the Title Company and deliver to Buyer the Buyer Title Policy issued by the Title Company.

3.8 Close of Escrow. The Close of Escrow shall occur on or before the Escrow Closing Date. If for any reason the Close of Escrow has not occurred on or before the Escrow Closing Date, then any Party not then in Default under this Agreement may cancel the Escrow and terminate this Agreement, without liability to the other Party or any other Person for such cancellation and termination, by delivering Notice of termination to both the other Party and Escrow Agent. Following any such Notice of termination of this Agreement and cancellation of the Escrow, the Parties and Escrow Agent shall proceed pursuant to Section 3.12. Without limiting the right of either Party to cancel the Escrow and terminate this Agreement, pursuant to this Section 3.8, if the Escrow does not close on or before the Escrow Closing Date and neither Party has exercised its contractual right to cancel the Escrow and terminate this Agreement under this Section 3.8 before the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement, then the Escrow shall close as soon as reasonably possible following the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement.

3.9 Escrow Costs. Escrow Agent shall Notify Buyer and Seller of the costs to be borne by each of them at the Close of Escrow by delivering an Escrow Closing Statement to both Seller and Buyer at least four (4) Business Days prior to the Escrow Closing Date. Each party shall pay its own costs and expenses arising in connection with the Closing (including, without limitation, its own attorneys' and advisors' fees, charges, and disbursements), except the following costs (the "Closing Costs"), which shall be allocated between the parties as follows:

(a) Escrow fees and costs shall be paid one-half by Seller and one-half by Buyer;

(b) The cost of the Title Policy attributable to the standard coverage portion shall be paid by Seller;

(c) The cost of the Title Policy attributable to the extended coverage portion shall be paid by Buyer; and

(d) Buyer shall pay the cost of any documentary transfer taxes in connection with the recording of the Grant Deed;

(e) All other closing fees and costs shall be charged to and paid by Seller and Buyer in accordance with customary practices in the County.

3.10 Allocation of Taxes. Real Estate Taxes relating to the Premises, if any, shall be prorated between Seller and Buyer as of Midnight on the date prior to the Close of Escrow.

3.11 Escrow Cancellation Charges. If the Escrow fails to close due to Seller's Default under this Agreement, Seller shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively, if any. If the Escrow fails to close due to Buyer's Default under this Agreement, Buyer shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively, if any. If the Escrow fails to close for any reason other than the Default of either Buyer or Seller, Buyer and Seller shall each pay one-half (1/2) of any ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively, if any.

3.12 Escrow Cancellation. If this Agreement is terminated pursuant to a contractual right granted to a Party in this Agreement to terminate this Agreement (other than due to an Event of Default by the other Party), the Parties shall do all of the following:

3.12.1 **Cancellation Instructions.** The Parties shall, within seven (7) Business Days following Escrow Agent's written request, sign any reasonable Escrow cancellation instructions requested by Escrow Agent;

3.12.2 **Return of Funds and Documents.** Within seven (7) Business Days following receipt by the Parties of a settlement statement of Escrow and title order cancellation charges from Escrow Agent (if any) or within seven (7) Business days following Notice of termination, whichever is earlier: (a) Buyer or Escrow Agent shall return to Seller all documents previously delivered by Seller to Buyer or Escrow Agent, respectively, regarding the Escrow; (b) Seller or Escrow Agent shall return to Buyer all documents previously delivered by Buyer to Seller or Escrow Agent, respectively, regarding the Escrow; (c) Escrow Agent shall, unless otherwise provided in this Agreement, return to Buyer all funds deposited in Escrow by Buyer, less Buyer's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 3.11; and (d) Escrow Agent shall, unless otherwise provided in this Agreement, return to Seller all funds deposited in Escrow by Seller, less Seller's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 3.11.

3.13 Eminent Domain. If any portion of the Premises or any interest in any portion of the Premises becomes the subject of any eminent domain proceeding prior to Close of Escrow, including the filing of any notice of intended eminent domain action or proceedings in the nature of eminent domain, Seller shall give Buyer Notice of such occurrence and Buyer shall have the

option, exercisable within ten (10) Business Days after receipt of such Notice from Seller, to either: (a) cancel the Escrow and terminate this Agreement, in which case the Parties and the Escrow Agent shall proceed in accordance with Section 3.12; or (b) continue with this Agreement in accordance with its terms, in which event Seller shall assign to Buyer, at the Close of Escrow, any right of Seller to receive any eminent domain award attributable to the Premises acquired by Buyer pursuant to this Agreement.

4. REMEDIES

4.1 BUYER'S RIGHT TO SPECIFIC PERFORMANCE AND LIMITATION ON RECOVERY OF DAMAGES.

4.1.1 ELECTION OF REMEDIES. DURING THE CONTINUANCE OF AN EVENT OF DEFAULT BY SELLER UNDER THIS AGREEMENT PRIOR TO THE CLOSING, BUYER SHALL BE LIMITED TO EITHER OF THE FOLLOWING REMEDIES: (1) AN ACTION AGAINST SELLER FOR SPECIFIC PERFORMANCE OF THIS AGREEMENT; OR (2) TERMINATION OF THIS AGREEMENT AND AN ACTION TO RECOVER THE INITIAL DEPOSIT. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER UNDER THIS AGREEMENT FOR ANY AMOUNT EXCEEDING THE AMOUNT SET FORTH IN THIS SECTION 4.1.1, ANY SPECULATIVE, CONSEQUENTIAL, COLLATERAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES OR FOR ANY LOSS OF PROFITS SUFFERED OR CLAIMED TO HAVE BEEN SUFFERED BY BUYER.

4.1.2 WAIVER OF RIGHTS. SELLER AND BUYER EACH ACKNOWLEDGE AND AGREE THAT SELLER WOULD NOT HAVE ENTERED INTO THIS AGREEMENT IF SELLER WERE TO BE LIABLE TO BUYER FOR ANY MONETARY DAMAGES, MONETARY RECOVERY OR ANY REMEDY DURING THE CONTINUANCE OF AN EVENT OF DEFAULT UNDER THIS AGREEMENT BY SELLER, OTHER THAN SPECIFIC PERFORMANCE OF THIS AGREEMENT OR TERMINATION OF THIS AGREEMENT AND PAYMENT OF THE AMOUNT SPECIFIED IN CLAUSE "(2)" OF SECTION 4.1.1. ACCORDINGLY, SELLER AND BUYER AGREE THAT THE REMEDIES SPECIFICALLY PROVIDED FOR IN SECTION 4.1.1 ARE REASONABLE AND SHALL BE BUYER'S SOLE AND EXCLUSIVE RIGHTS AND REMEDIES DURING THE CONTINUANCE OF AN EVENT OF DEFAULT UNDER THIS AGREEMENT BY SELLER. BUYER WAIVES ANY RIGHT TO PURSUE ANY REMEDY OR DAMAGES AGAINST SELLER ARISING FROM OR RELATING TO THIS AGREEMENT OTHER THAN THOSE SPECIFICALLY PROVIDED IN SECTION 4.1.1.

4.1.3 STATE CIVIL CODE SECTION 1542 WAIVER. BUYER ACKNOWLEDGES THE PROTECTIONS OF STATE CIVIL CODE SECTION 1542 REGARDING THE WAIVERS AND RELEASES CONTAINED IN THIS SECTION 4.1, WHICH CIVIL CODE SECTION READS AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF

EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4.1.4 **ACKNOWLEDGMENT.** BY INITIALING BELOW, BUYER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF STATE CIVIL CODE SECTION 1542 AND ALL OTHER STATUTES AND JUDICIAL DECISIONS (WHETHER STATE OR FEDERAL) OF SIMILAR EFFECT SOLELY REGARDING THE WAIVERS AND RELEASES CONTAINED IN THIS SECTION 4.1.

Initials of Authorized
Buyer Representative(s)

4.1.5 **STATEMENT OF INTENT.** STATE CIVIL CODE SECTION 1542 NOTWITHSTANDING, IT IS THE INTENTION OF BUYER TO BE BOUND BY THE LIMITATIONS ON DAMAGES AND REMEDIES SET FORTH IN THIS SECTION 4.1, AND BUYER HEREBY RELEASES ANY AND ALL CLAIMS AGAINST SELLER FOR MONETARY DAMAGES, MONETARY RECOVERY OR OTHER LEGAL OR EQUITABLE RELIEF RELATED TO ANY EVENT OF DEFAULT UNDER THIS AGREEMENT BY SELLER, EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 4.1, WHETHER OR NOT ANY SUCH RELEASED CLAIMS WERE KNOWN OR UNKNOWN TO BUYER AS OF THE EFFECTIVE DATE.

4.2 **LIQUIDATED DAMAGES TO SELLER.** IF THE CLOSE OF ESCROW DOES NOT OCCUR ON OR BEFORE THE ESCROW CLOSING DATE DUE TO BUYER'S DEFAULT, THEN SELLER SHALL RETAIN THE INITIAL DEPOSIT, AS LIQUIDATED DAMAGES. THE AMOUNT OF THE INITIAL DEPOSIT IS THE REASONABLE ESTIMATE BY THE PARTIES OF THE DAMAGES SELLER WOULD SUFFER FROM SUCH DEFAULT, IT BEING AGREED THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE AND IMPRACTICABLE, TO FIX THE EXACT AMOUNT OF DAMAGE THAT WOULD BE INCURRED BY SELLER AS A RESULT OF SUCH DEFAULT BY BUYER. UPON SUCH A DEFAULT BY BUYER, ESCROW SHALL BE CANCELED AND THE PARTIES SHALL PROCEED IN ACCORDANCE WITH SECTION **Error! Reference source not found.** IN ADDITION, IF ALL OR ANY PORTION OF THE INITIAL DEPOSIT HAS BEEN DEPOSITED INTO ESCROW BY BUYER, ESCROW AGENT IS HEREBY IRREVOCABLY INSTRUCTED BY BUYER AND SELLER TO DISBURSE THE INITIAL DEPOSIT TO SELLER AS LIQUIDATED DAMAGES FOR BUYER'S DEFAULT UNDER THIS AGREEMENT AND FAILURE TO COMPLETE THE PURCHASE OF THE PREMISES, PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, ET. SEQ.

4.3 **Legal Actions.** Either Party may institute legal action, at law or in equity, to enforce or interpret the rights or obligations of the Parties under this Agreement or recover damages, subject to the provisions of Section 4.1 or Section 4.2, as applicable.

4.4 **Rights and Remedies are Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties set forth in this Agreement are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the

5.4 Governing Law. The procedural and substantive laws of the State shall govern the interpretation and enforcement of this Agreement, without application of conflicts of laws principles or statutes. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the County. All legal actions arising from this Agreement shall be filed in the Superior Court of the State in and for the County or in the United States District Court with jurisdiction in the County.

5.5 Unavoidable Delay; Extension of Time of Performance. Performance by either Party under this Agreement shall not be deemed or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within twenty (20) days after such Party knows of any such Unavoidable Delay; and (b) within twenty (20) days after such Unavoidable Delay ceases to exist. The extension of time for performance under this Agreement resulting from the occurrence of an Unavoidable Delay shall commence on the date of occurrence of the condition causing the Unavoidable Delay and shall in no event be longer than ninety (90) days after written notice is received by a Party from the other Party of the occurrence of such an Unavoidable Delay; provided, however, that failure to perform by a Party due to the occurrence of an Unavoidable Delay shall not constitute a breach or Default of this Agreement. Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

5.6 Real Estate Commissions. Seller shall not be liable for any real estate commissions, brokerage fees or finder fees that may arise from or be related to this Agreement. Buyer shall pay any fees or commissions or other expenses related to its retention or employment of real estate brokers, agents or other professionals.

5.7 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any Third Person to any Party or give any Third Person any right of subrogation or action over or against any Party.

5.8 Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

5.9 Time Declared to be of the Essence. As to the performance of any obligation under this Agreement of which time is a component, the performance of such obligation within the time specified is of the essence.

5.10 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned in this Agreement or incidental to this Agreement, and supersedes all negotiations or previous agreements between the Parties with respect to the Premises.

5.11 Waivers and Amendments. All waivers of the provisions of this Agreement must be in writing and signed by the authorized representative(s) of the Party making the waiver. Failure to insist on any one occasion upon strict compliance with any term, covenant, condition, restriction or agreement contained in this Agreement shall not be deemed a waiver of such term, covenant, condition, restriction or agreement, nor shall any waiver or relinquishment of any rights or powers under this Agreement, at any one time or more times, be deemed a waiver or relinquishment of such right or power at any other time or times. All amendments to this Agreement must be in writing and signed by the authorized representative(s) of both Seller and Buyer.

5.12 Survival of Agreement. All of the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or following expiration or termination of this Agreement, until any such dispute is finally and completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment or expiration of all applicable statutory limitations periods and all terms and conditions of this Agreement relating to dispute resolution, indemnity or limitations on damages or remedies shall survive any expiration or termination of this Agreement.

5.13 Counterparts. This Agreement may be signed in multiple counterpart originals each of which is deemed to be an original and all of which shall constitute one agreement.

5.14 Facsimile or Electronic Signatures. Signatures delivered by facsimile or electronically shall be binding as originals upon the Party so signing and delivering; provided, however, that original signature(s) of each Party shall be required for each document to be recorded.

[Signatures on following page]

**SIGNATURE PAGE
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS**

IN WITNESS WHEREOF, the Parties have signed and entered into this Agreement by and through the signatures of their respective authorized representative(s) as follow:

SELLER:

BUYER:

**CITY OF COVINA,
a municipal corporation**

By: _____

By: _____

Name: _____

Title: _____

Attest:

By: _____
City Clerk

By: _____

Name: _____

Title: _____

Approved as to form:

Best Best & Krieger LLP

By: _____
City Attorney

**EXHIBIT A
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS**

Premises Legal Description

EXHIBIT A

**EXHIBIT B
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT
ESCROW INSTRUCTIONS**

Grant Deed

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Attention: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Exempt from Recording Fees – Government Code section 27383

GRANT DEED

The undersigned declares:

Documentary Transfer Tax is:

County of Los Angeles; City of Covina

Assessor's Parcel Nos.: [SEE EXHIBIT "1"]

computed on full value of interest or property conveyed, or

computed on full value of liens or encumbrances remaining at time of

sale.

FOR VALUABLE CONSIDERATION, receipt of which is hereby
acknowledged,

City of Covina, California ("**Grantor**"),

hereby grants to

_____ ("**Grantee**"),

that certain real property legally described in Exhibit "1" attached to and by this reference
incorporated into this Grant Deed, subject to:

1. Real property taxes and assessments, not delinquent.

2. Covenants, conditions, restrictions, easements, exceptions, reservations,
rights, rights-of-way and other matters of record.

Dated: _____

CITY OF COVINA, CALIFORNIA, a public
municipal corporation

By: _____

**EXHIBIT "1"
TO
GRANT DEED**

EXHIBIT D

**WATER QUALITY MANAGEMENT PLAN AND STORMWATER BMP
MAINTENANCE AND RIGHT OF ENTRY AGREEMENT**

WATER QUALITY MANAGEMENT PLAN AND STORMWATER BMP MAINTENANCE AND RIGHT OF ENTRY AGREEMENT

THIS WATER QUALITY MANAGEMENT PLAN AND STORMWATER BMP MAINTENANCE AND RIGHT OF ENTRY AGREEMENT (“Agreement”) is made and entered into in the City of Covina, California, this _____ day of _____ 20____ by _____ and _____ hereinafter referred to as “Lessee” and the City of Covina (“City”), a municipal corporation. This Agreement applies to property located at _____, APN No. _____ in the County of Los Angeles, State of California. The Agreement is subject to the following recitals:

RECITALS

WHEREAS, the City owns real property (“Property”) in the City of Covina, County of Los Angeles, State of California, more specifically described in Exhibit “A”, which exhibit is attached hereto and incorporated herein by this reference;

WHEREAS, Lessee has entered into that certain _____ agreement with the City, dated _____, 20____ (“Lease”) whereby the City has leased the Property to Lessee in order to operate a development project known as _____ located within the Property (“Project”); and

WHEREAS, as a condition of the City’s regulatory approval of the Project and also as a condition of the Lease, the City required the Project to employ Best Management Practices, hereinafter referred to as “BMPs,” to minimize pollutants in urban runoff;

WHEREAS, in order to comply with the City’s regulatory approval and the Lease, Lessee has chosen to install and/or implement BMPs as described in the Water Quality Management Plan, on file with the City, hereinafter referred to as “WQMP”, to minimize pollutants in urban runoff and to minimize other adverse impacts of urban runoff;

WHEREAS, the WQMP has been certified by the Lessee and reviewed and approved by the City;

WHEREAS, the BMPs, as a condition of the City’s regulatory approval of the Project and of the Lease, are the sole responsibility of the Lessee in accordance with the terms of this Agreement; and

WHEREAS, the Lessee is aware that periodic and continuous maintenance, including, but not necessarily limited to, filter material replacement and sediment removal, is required to assure peak performance of all BMPs in the WQMP and that, furthermore, such maintenance activity will require compliance with all local, State, or Federal laws and regulations, including those pertaining to confined space and waste disposal methods, in effect at the time such maintenance occurs.

NOW, THEREFORE, it is mutually stipulated and agreed as follows:

1. Responsibility for Operation and Maintenance of BMPs: Lessee shall diligently maintain all BMPs in a manner assuring peak performance at all times. Lessee shall conduct a maintenance inspection of all Structural and Treatment Control BMP's on the Property at least once per year and retain documentation of such inspection. Said maintenance inspection must verify the legibility of all required stencils and signs and Lessee shall repaint and label as necessary. All reasonable precautions shall be exercised by Lessee and Lessee's representative or contractor in the removal and extraction of any material(s) from the BMPs and the ultimate disposal of the material(s) in a manner consistent with all relevant laws and regulations in effect at the time. As may be requested from time to time by the City, the Lessee shall provide the City with documentation pertaining to any and all BMP inspections and/or identifying the material(s) removed, the quantity, and disposal destination.
2. Right of Access: Lessee hereby provides the City or City's designee complete access, of any duration, to the BMPs and their immediate vicinity at any time, upon reasonable notice, or in the event of emergency, as determined by City's Director of Public Works ("Director"), upon no advance notice, for the purpose of inspection, sampling, testing of the BMPs, and in case of emergency, to undertake, in the City's sole discretion, necessary repairs or other preventative measures at Lessee's expense as provided in paragraph 3 below. City shall make every effort at all times to minimize or avoid interference with Lessee's use of the Property.
3. City Maintenance at Lessee's Expense: In the event Lessee, or its successors, sublessees or assigns, fails to accomplish the necessary maintenance contemplated by this Agreement, within five (5) calendar days after being given written notice by the City, or in the event of emergency, as determined by the Director, after 24 hours written notice, the City is hereby authorized to cause any maintenance necessary to be done and charge the entire cost and expense to the Lessee or Lessee's successors, sublessees or assigns, including administrative costs, attorneys fees and interest thereon at the maximum rate authorized by the Civil Code from the date of the notice of expense until paid in full. Nothing in this section or this Agreement creates an obligation by the City to maintain or repair any BMP, nor does this section prohibit the City from pursuing other legal recourse against Lessee, including those remedies provided for in the Lease.

4. Recording: This Agreement shall be recorded in the Office of the Recorder of Los Angeles County, California, at the expense of the Lessee and shall constitute notice to all successors and assigns of Lessee of the obligation herein set forth.
5. Attorney's Fees: In event of legal action occasioned by any default or action of either Party to this Agreement, or its successors or assigns, the defaulting Party and its successors or assigns agree(s) to pay all costs incurred by the non-defaulting Party in enforcing the terms of this Agreement, including reasonable attorney's fees and costs.
6. Binding on Successors: The obligations herein undertaken shall be binding upon the heirs, successors, executors, administrators and assigns of the parties hereto. The term "Lessee" shall include not only the present Lessee, but also its heirs, successors, executors, administrators, and assigns. Lessee shall notify any successor, assign, sublessee, or occupant in possession of all or part of the Property about the existence of this Agreement. Lessee shall provide such notice prior to such successor, assign, sublessee or occupant obtaining any interest in all or part of the Property. Lessee shall provide a copy of such notice to the City at the same time such notice is provided to the successor, assign, sublessee, or occupant in possession.
7. Indemnity and Insurance: The Lessee, its heirs, successors, executors, administrators and assigns agree to defend, indemnify and holds harmless the City, its officials, employees and its authorized agents from any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City and which are in any way connected with the construction, operation, presence, existence or maintenance of the BMP by the Lessee, or from any personal injury or property damage that may result from the City or other public entities entering the Property under Sections 2 or 3 of this Agreement except those damages, accidents, casualties, occurrences or claims or failure to act resulting from the City's negligence or willful misconduct. The Lessee shall maintain liability insurance specifically covering the BMP and City. The City shall specify amount of coverage and require proof of insurance to be provided to City on a regular basis as determined by the City.
8. Time of the Essence: Time is of the essence in the performance of this Agreement.
9. Notice: Any notice to a party required or called for in this Agreement shall be served in person, or by deposit in the U.S. Mail, first class postage prepaid or when sent by facsimile, to the address set forth below. Notice(s) shall be deemed effective, when sent by facsimile or by U.S. mail, upon receipt, or seventy-two (72) hours after deposit in the U.S. Mail, whichever is earlier. A party may change a notice address only by providing written notice thereof to the other party.

IF TO CITY:

City of Covina
125 E. College Street
Covina, CA 91723

IF TO LESSEE:

Attn: _____
Telephone: _____
Fax: _____

With a copy to:

Attn: _____
Telephone: _____
Fax: _____

IN WITNESS THEREOF, the parties hereto have affixed their signatures as of the date first written above.

CITY:

LESSEE:

By: _____

By: _____

Name

Its: _____

Title: _____

ATTEST:

OWNER:

City Clerk

Date

By: _____

Name

Title: _____

APPROVED AS TO FORM:

City Attorney

NOTARIES ON FOLLOWING PAGE

State of California)
) ss.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

County of Los Angeles)

On _____

(date), before me, _____ (here insert name and title of the officer),
personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and 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)
) ss.
County of Los Angeles)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

On _____

(date), before me, _____ (here insert name and title of the officer),
personally appeared _____

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

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

WITNESS my hand and official seal.

Signature _____

[Seal]

EXHIBIT A
(Legal description)

RESOLUTION NO. 15-7320

**A RESOLUTION OF THE CITY OF COVINA
APPROVING AN AMENDED AND RESTATED
OPERATING COVENANT AGREEMENT
BY AND BETWEEN THE CITY OF COVINA
AND COVINA MJL, LLC FOR PROPERTY LOCATED AT
633-635 SOUTH CITRUS AVENUE, COVINA**

WHEREAS, the City of Covina owns that certain real property located at 633-635 South Citrus Avenue, in the City of Covina, California (APN 8453-001-900 & 8453-001-906) (“Property”); and

WHEREAS, Covina MJL, LLC, doing business as Sage Automotive Group (“MJL, LLC”), desires to develop a car dealership (“Project”) on the Property, which is currently occupied by an existing 21,101 square-foot building that supports office space, customer areas, and an on-site car washing facility for Enterprise Rent-A-Car, as well as an approximately 82,210 square-foot parking lot; and

WHEREAS, the Project would convert the Property to a car dealership and enlarge the existing building by approximately 8,777 square feet and increase the building height by approximately 6 feet, with construction in two phases: Phase 1 would involve construction and operation of a temporary dealership and, while dealership activities are operating from the temporary structures, Phase 2 would involve construction to prepare the existing commercial building for use as a permanent dealership would begin; and

WHEREAS, on October 21, 2014, the City adopted Resolution No. 14-7299 approving a Lease With Option To Purchase Agreement (635 S. Citrus Avenue) between City and MJL, LLC (“Lease”), in which City agrees to lease the Property, with an option to purchase the Property, to MJL, LLC so that it could build and operate the Project on the Property; and

WHEREAS, on October 21, 2014, the City also adopted Resolution No. 14-7300 approving an Operating Covenant Agreement (Sage Auto Group) between City and MJL, LLC (“Original OCA”) to assist MJL, LLC with the construction and operation of the Project to the Property for a period of 30 years; and

WHEREAS, Pursuant to Government Code Section 53083, the City prepared an Economic Development Report regarding the economic development subsidy provided under the Lease to the MJL, LLC in the form of the first six months of the Lease rent-free, and the economic development subsidy provided under the Original OCA to MJL, LLC in the form of twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$20,000,000, and after providing the requisite noticed public hearing, accepted the Economic Development Report on October 21, 2014 concurrently with its approval of the Lease and Original OCA; and

WHEREAS, subsequent to the approval of the Lease, Original OCA and Economic Development Report, the City determined that the Economic Development Report and Original

OCA inaccurately calculated the economic development subsidy provided under the Original OCA, and that the economic development subsidy under the Original OCA should instead be twenty-five percent (25%) of all sales tax revenue in excess of \$50 million per year that is generated from the Project, not to exceed \$3,750,000; and

WHEREAS, City and MJL, LLC have negotiated an Amended and Restated Operating Covenant Agreement (“OCA”), a copy of which is attached hereto as Exhibit A, and City staff has prepared a new Economic Development Report to correct this inaccurate calculation as well as provide additional detail to the Economic Development Report regarding the increased property tax revenue, additional public benefits and anticipated jobs that will result from the Lease and OCA; and

WHEREAS, the City reaffirms its determination that the Lease and OCA will result in substantial benefits to the City and its citizens in the way of the creation of significant new numbers of employment opportunities, property tax values, sales tax revenues and other ancillary benefits; and

WHEREAS, the City additionally reaffirms its determination that the Project on the Property serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom; and

WHEREAS, the Project will revitalize and redevelop a site that has been underutilized for many years; and

WHEREAS, based on information provided by City staff, and other such written and oral evidence as presented to the City, the City reaffirms its prior findings and determination that the Project on the Property is reasonably related to a legitimate governmental purpose in that the Project will assist the City in its goal of furthering the development of the community; and

WHEREAS, in accordance with Government Code Section 53083, the City provided the Economic Development Report on its website and held a noticed public hearing on February 17, 2015 to consider all written and oral comments on the OCA; and

WHEREAS, the City is authorized pursuant to California Constitution Article XI, Section 7 to convey the Property for economic development purposes; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY OF COVINA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

Section 2. CEQA. Pursuant to the California Environmental Quality Act (“CEQA”) (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), the City is the lead agency for the proposed Project. In the City’s role as the lead agency under

CEQA, City staff reviewed the Project and prepared an Initial Study pursuant to CEQA Guidelines section 15063. On the basis of the Initial Study, the City concluded that the Project will not have significant impacts on the environment with implementation of mitigation and prepared a Mitigated Negative Declaration (“MND”). After completion of all legal prerequisites for the approval of the MND, the City Council adopted Resolution No. 14-7298 finding that the MND and Initial Study contain a complete and accurate reporting of the environmental impacts associated with the Project and adopting the MND. The City Council further finds that no changes in the Project, changes in circumstances under which the Project is being undertaken, or significant information has arisen that would result in new significant impacts, and that consequently no subsequent CEQA document under State CEQA Guidelines section 15162 need be prepared.

Section 3. Authorization. The City Council finds and determines that the OCA is authorized by law and constitutes a valid and binding agreement between City and MJL, LLC.

Section 4. Approval. The City Council hereby approves the OCA in substantially the form attached to this Resolution as Exhibit A. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to execute and deliver on behalf of the City the OCA and such other documents and instruments as may be necessary or convenient in furtherance of the actions authorized in this Resolution.

Section 5. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

Section 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 17th day of February, 2015.

Peggy Delach, Mayor
City of Covina

ATTEST:

APPROVED AS TO FORM:

Mary Lou Walczak, City Clerk

City Attorney

Exhibit: A – Amended and Restated Operating Covenant Agreement

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF COVINA)

I, Mary Lou Walczak, City Clerk for the City of Covina do hereby certify that the foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Covina, County of Los Angeles, State of California, held on the 17th day of February, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Mary Lou Walczak, City Clerk

EXHIBIT "A"

**AMENDED AND RESTATED
OPERATING COVENANT AGREEMENT**

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

City of Covina
125 E. College Street
Covina, California 91723-2199
Attn: City Manager

Space above line for Recorder's use only
Exempt from recording fees per Govt. Code § 27383
Exempt from Documentary Transfer Tax per Rev. &
Tax. Code § 11911

CITY OF COVINA

**AMENDED AND RESTATED OPERATING COVENANT AGREEMENT
(Sage Auto Group)**

This Amended and Restated Operating Covenant Agreement (Sage Auto Group) ("Covenant Agreement") is dated February 17, 2015, for reference purposes only and is entered into by and between the CITY OF COVINA, a California municipal corporation ("City"), and COVINA MJL, LLC, a California limited liability company ("Tenant"). City and Tenant enter into this Covenant Agreement with reference to the following recited facts (each a "Recital"):

RECITALS

A. Tenant leases property located 633-635 S. Citrus Ave., in the City of Covina, California ("Property"), on which Tenant intends to build an automobile dealership and service businesses more commonly referred to as Sage Covina Chevrolet (the "Business").

B. The City has determined that Tenant's lease of the Property and development of the Business to the Property would result in substantial benefits to the City and its citizens including, without limitation, the creation of significant new numbers of employment opportunities, property tax revenues, sales tax revenues and other ancillary benefits. Accordingly, the City has also determined that its entry into this Covenant Agreement serves a significant public purpose, while providing only incidental benefits to a private party.

C. As an incentive for the development and operation of the Business within the City, Tenant has requested financial assistance from the City for a period of up to thirty (30) years in an amount equal to twenty-five percent (25%) of all sales tax revenue received by the City from sales over \$50 million generated on the Property, subject to the limitations set forth in this Covenant Agreement.

D. Tenant has been awarded a new sales point from General Motors for the opening of the Business and is not relocating a previously operated dealership as part of this development.

E. Tenant and City previously entered into an Operating Covenant Agreement, dated October 21, 2014 (“Original OCA”). Following the adoption of the Original OCA, Tenant refined the Business’ projected revenue as it continued to develop and determined that the Business is anticipated to generate an annual revenue of approximately Eighty Million Dollars (\$80,000,000). Based on this projection, the maximum amount of Covenant Payments that Tenant could receive would not reach the original Covenant Payment cap of Twenty Million Dollars (\$20,000,000). Instead, the City will annually receive all sales tax revenue for the first Fifty Million Dollars (\$50,000,000) in revenue generated by the Business, equal to Five Hundred Thousand Dollars (\$500,000). Thereafter, Tenant and City will split the sales tax revenue generated by the remaining revenue of the Business, in the amount of approximately Thirty Million Dollars (\$30,000,000), which would result in approximately Three Hundred Thousand Dollars (\$300,000) of sales tax revenue, with the City receiving seventy-five percent (75%), equal to approximately Two Hundred Twenty Five Thousand Dollars (\$225,000) and Tenant receiving Twenty-Five percent (25%), equal to approximately Seventy Five Thousand Dollars (\$75,000). Based on these projections it is anticipated that Tenant will receive approximately Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) over the thirty (30) year Covenant Period. Prior to adoption of the Original OCA, Tenant and City staff agreed that the Covenant Payment cap would be Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000). Due to a clerical error, this revised cap was not memorialized in the Original OCA.

F. The purpose of this Covenant Agreement is to amend and restate the Original OCA with the correct Covenant Payment cap of Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000).

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS SET FORTH IN THIS COVENANT AGREEMENT, CITY AND TENANT AGREE, AS FOLLOWS:

TERMS

1. EFFECTIVE DATE; PARTIES; DEFINITIONS

1.1 Effective Date of Covenant Agreement. This Covenant Agreement will not become effective until the date (“Effective Date”) on which all of the following are true:

1.1.1 This Covenant Agreement has been approved and executed by the appropriate authorities of Tenant, as defined herein, and delivered to the City;

1.1.2 Following all legally required notices and hearings, this Covenant Agreement has been approved by the City Council; and

1.1.3 This Covenant Agreement has been executed by the appropriate authorities of the City and delivered to Tenant.

The Effective Date shall be confirmed in writing by the parties.

If all of the foregoing conditions precedent have not been satisfied by November 21, 2014, then this Covenant Agreement may not thereafter become effective and any prior signatures and approvals of the Parties will be deemed void and of no force or effect, unless the date set forth in this paragraph is extended by written agreement of the representatives of Tenant and City.

1.2 Parties to Covenant Agreement.

1.2.1 The City. Notices shall be sent to the City as follows:

To the City: City of Covina
 Attn: City Manager
 125 East College Street
 Covina, CA 91723

With a copy to: Best Best & Krieger LLP
 Attn: Covina City Attorney
 18101 Von Karman Ave, Suite 1000
 Irvine, CA 92612

1.2.1.1 The City represents and warrants to Tenant that, to the City's actual current knowledge:

(a) The City is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the laws of the State of California;

(b) The City has taken all actions required by law to approve the execution of this Covenant Agreement;

(c) The City's entry into this Covenant Agreement and/or the performance of the City's obligations under this Covenant Agreement does not violate any contract, agreement or other legal obligation of the City;

(d) The City's entry into this Covenant Agreement and/or the performance of the City's obligations under this Covenant Agreement does not constitute a violation of any state or federal statute or judicial decision to which the City is subject;

(e) There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of the City's obligations under this Covenant Agreement;

(f) The City has the legal right, power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Covenant Agreement has been duly authorized and no other action by the City is requisite to the valid and binding execution, delivery and performance of this Covenant Agreement, except as otherwise expressly set forth herein; and

(g) The individual executing this Covenant Agreement is authorized to execute this Covenant Agreement on behalf of the City.

1.2.1.2 The representations and warranties set forth above are material consideration to Tenant and the City acknowledges that Tenant is relying upon the representations set forth above in undertaking Tenant's obligations set forth in this Covenant Agreement.

1.2.1.3 As used in this Covenant Agreement, the term "City's actual current knowledge" shall mean, and shall be limited to, the actual current knowledge of the City Manager as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

1.2.1.4 All of the terms, covenants and conditions of this Covenant Agreement shall be binding on and shall inure to the benefit of the City and its nominees, successors and assigns.

1.2.2 **Tenant.** Notices shall be sent to Tenant as follows:

To Tenant:	Covina MJL, LLC 812 So. Brand Glendale, CA 91204 Atten: Joseph Sage
With copies to:	Feldman Berman Schwartz, LLP 20750 Ventura Boulevard, Ste. 210 Woodland Hills, CA 91364 Atten: Craig Berman

1.2.2.1 Tenant represents and warrants to the City that, to its actual current knowledge:

(a) Tenant is a duly formed California limited liability company, qualified and in good standing to do business under the laws of the State of California;

(b) The individual(s) executing this Covenant Agreement is/are authorized to execute this Covenant Agreement on behalf of Tenant;

(c) Tenant has taken all actions required by law to approve the execution of this Covenant Agreement;

(d) Tenant's entry into this Covenant Agreement and/or the performance of its obligations under this Covenant Agreement does not violate any contract, agreement or other legal obligation of Tenant;

(e) Tenant's entry into this Covenant Agreement and/or the performance of its obligations under this Covenant Agreement does not constitute a violation of any state or federal statute or judicial decision to which Tenant is subject;

(f) There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of Tenant's obligations under this Covenant Agreement;

(g) Tenant has the legal right, power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Covenant Agreement have been duly authorized and no other action by Tenant is requisite to the valid and binding execution, delivery and performance of this Covenant Agreement, except as otherwise expressly set forth herein; and

(h) Tenant has executed a lease agreement for the Property for a period of no less than Thirty (30) years, a copy of which has been provided to the City. Tenant and City acknowledge that the lease agreement for the Property includes an option to purchase the Property.

1.2.2.2 The representations and warranties set forth herein are material consideration to the City and Tenant acknowledges that the City is relying upon the representations set forth above in undertaking the City's obligations set forth above.

1.2.2.3 As used in this Covenant Agreement, the term "actual current knowledge of Tenant" shall mean, and shall be limited to, the actual current knowledge of Joseph Sage, as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

1.2.2.4 All of the terms, covenants and conditions of this Covenant Agreement shall be binding on and shall inure to the benefit of Tenant and its permitted nominees, successors and assigns. Wherever the term "Tenant" is used herein, such term shall include any permitted nominee, assignee, successor, or subtenant of Tenant.

1.2.2.5 The qualifications and identity of Joseph Sage and Covina MJL, LLC. are of particular concern to the City, and it is because of such qualifications and identity that the City has entered into this Covenant Agreement with Covina MJL, LLC. No voluntary or involuntary successor-in-interest of Covina MJL, LLC shall acquire any rights or powers under this Covenant Agreement without the City's prior written consent, which consent shall not be unreasonable withheld or delayed. No voluntary or involuntary successor in interest of the Tenant shall acquire any rights or powers under this Agreement except as expressly set forth herein.

(a) Tenant shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any right herein with respect to the Project, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property or the improvements thereon, without prior written approval of the City, which shall not be unreasonably withheld. Any attempted transfer that has not been so approved by City shall be void. Except as permitted below, transfers of any interest in the Tenant entity shall constitute a prohibited transfer hereunder.

(b) Notwithstanding any other provisions of this Agreement to the contrary, City approval of an assignment of this Agreement or any interest herein shall not be required in connection with any of the following:

(i) Any transfers among the principals of the Tenant entities so long as the existing principals thereof shall be and remain in management control of the Tenant entity with at least a fifty-one percent (51%) ownership or beneficial interest in the Tenant entity.

(ii) The granting of temporary or permanent easements or permits to governmental or quasi-governmental agencies to facilitate the development of the Property, or any component thereof.

(c) City consent will be granted if:

(i) the proposed assignee/transferee expressly assumes, in writing, Tenant's obligations hereunder as to times following the effective date of the assignment or transfer; and

(ii) the proposed assignee/transferee has demonstrated to the reasonable satisfaction of City that such person or entity has adequate financial capacity to fulfill all obligations of this Agreement.

1.2.3 The City and Tenant are sometimes individually referred to as "Party" and collectively as "Parties."

1.3 Definitions.

1.3.1 "Base Amount" means the amount of sales tax generated by the Business operating on the Property and actually received by the City from the first \$50 million of sales by the Business operating on the Property during each calendar year.

1.3.2 "Businesses" means the operation of Sage Covina Chevrolet on the Business Site as a permanent new and pre-owned automobile sales dealership with related service and parking and other ancillary functions, in accordance with the terms and conditions of this Covenant Agreement or such other car manufacturer or brand as may be consented to by the City, said City consent shall not be unreasonably withheld. The Business shall be operated pursuant to an agreement with General Motors, Inc., for sales and service of new and pre-owned automobiles, or pursuant to an agreement with another manufacturer of automobiles, which manufacturer has been approved by the City, in its reasonable discretion, in addition to the sale of parts for such brand(s) of automobiles and related sales of pre-owned automobiles.

1.3.3 "Business Activities" means and refers to activities of Tenant on the Business Site, over the internet, or otherwise that result in the sale or lease of any tangible personal property (including, but not limited to, new and used automobiles) through the Businesses where such sale or lease is subject to sales or use tax pursuant to the Sales Tax Law.

1.3.4 “City” means the City of Covina, a California municipal corporation, and any nominee, assignee of, or successor to, its rights, powers and responsibilities.

1.3.5 “Operating Year” means and refers to the twelve (12) month period starting on the Effective Date and each consecutive subsequent twelve (12) month period until the 30th anniversary of the Effective Date. Each Operating Year may be referred to in this Covenant Agreement in numerical succession as “Operating Year 1,” “Operating Year 2” and so on up to “Operating Year 30.”

1.3.6 “Covenant Payment(s)” means those contingent payments to be made by the City to the Tenant pursuant to Section 2.2 of this Covenant Agreement for the purchase of the Covenants and Tenant’s timely and faithful performance thereunder.

1.3.7 “Covenants” means those covenants described in Section 2.1 herein.

1.3.8 “Eligibility Period” means the period commencing as of the first (1st) day of Operating Year 1 and ending on the last day of Operating Year 30.

1.3.9 “Liquidated Damages” means, for purposes of Section 2.77, as follows:

1.3.9.1 If the breach occurs during Operating Years 1 through 10, an amount equal to sixty-six percent (66%) of the Covenant Payments paid to Tenant at any time prior to the Operating Year in which the breach occurs.

1.3.9.2 If the breach occurs during Operating Years 11 through 30, an amount equal to thirty-three percent (33%) of the Covenant Payments paid to Tenant at any time prior to the Operating Year in which the breach occurs.

1.3.10 “Penalty Assessments” means and refers to penalties, assessments, collection costs and other costs, fees or charges resulting from late or underpaid payments of Sales Tax and which are levied, assessed or otherwise collected from Tenant.

1.3.11 “Project” means the construction of the Business on the Property.

1.3.12 “Property” means that certain real property located at 633 – 635 S. Citrus Ave, Covina, California.

1.3.13 “Sales Tax” means and refers to all sales and use taxes levied under the authority of the Sales Tax Law attributable to the Business Activities excluding that which is to be refunded to Tenant because of an overpayment of such tax.

1.3.14 “Sales Tax Law” means and refers to: (a) California Revenue and Taxation Code Section 7200 et seq., and any successor law thereto; (b) any legislation allowing City or other public agency with jurisdiction in City to levy any form of local Sales Tax on the operations of Tenant; and (c) regulations of the Board of Equalization (“BOE”) and other binding rulings and interpretations relating to (a) and (b) of this Section 1.3.14.

1.3.15 “Sales Tax Revenues” means the net Sales Tax actually received by the City from the BOE pursuant to the application of the Sales Tax Law (as such statutes may hereafter be amended, substituted, replaced, re-numbered, moved or modified by any successor law) attributable to the Business Activities in a particular Operating Year. Sales Tax Revenues shall not include: (a) Penalty Assessments; (b) any Sales Tax levied by, collected for or allocated to the State of California, the County of Los Angeles, or a district or any entity (including an allocation to a statewide or countywide pool) other than City; (c) any administrative fee charged by the BOE; (d) any Sales Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except City’s) law, rule or regulation; (e) any Sales Tax attributable to any transaction not consummated within the Eligibility Period; or (f) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/or pledged to a specific use other than for deposit into or payment from the City’s general fund.

1.3.16 “Tenant” means and refers to Covina MJL, LLC, a limited liability company, and its successors and assigns, cumulatively.

2. COVENANTS RUNNING WITH THE LAND; COVENANT PAYMENTS; REMEDIES FOR BREACH.

2.1 Covenants Running with the Land.

2.1.1 Operating and Use Covenant. Tenant covenants and agrees that, for a period of no less than Thirty (30) years following the Effective Date (unless terminated sooner pursuant to specific provisions of this Covenant Agreement), Tenant shall operate, or cause to be operated upon the Property, the Business Activities in a commercially reasonable business manner, consistent with all applicable provisions of federal, state and local laws and regulations. Subject to Section 3.8, the Business Activities shall be operated in accordance with the reasonable and customary practices in surrounding communities. Tenant will operate, or cause to be operated, the Businesses in a commercially reasonable and prudent manner, with the objective of generating the greatest feasible amount of Sales Tax Revenues. Tenant’s obligations pursuant to the immediately preceding sentence include, without limitation, the obligation to obtain or cause to be obtained all federal, state and local licenses and permits required for the operation of the business and to advertise, market and promote the business in a commercially reasonable fashion, consistent with the objective of maximizing the amount of Sales Tax Revenues. For the term of this Operating Covenant, the Tenant may use the Property, or allow a third party to use the Property, only for the purposes of the operation of the Business Activities in accordance with this Covenant Agreement, unless otherwise agreed to in writing by the City Manager, in his or her sole and exclusive discretion.

2.1.2 Covenant to Designate City as Point of Sale. Tenant covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 2.1.1, Tenant shall consummate or cause to be consummated at the Business Site all taxable sales transactions resulting from the Business Activities and identify the City as such in all reports to the California State Board of Equalization (“BOE”) in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Revenue and Taxation Code 7200, et seq.), as it may be amended or

substituted. Tenant shall be solely responsible for ensuring that all taxable sales transactions for Business Activities are consummated at the Business Site, consistent with all applicable statutory and BOE regulatory requirements applicable to the Business Activities and the designation of the City as the “point of sale” for all taxable sales occurring as a result of the Business Activities.

2.1.3 Tenant’s Additional Obligations Regarding Repairs and Alterations to the Property. Tenant covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 2.1.1, the Tenant shall maintain, or cause to be maintained, the Property and the Businesses in good condition, ordinary wear and tear excepted, and free from the accumulation of trash or other debris and agrees to promptly remove, or cause the removal of, all graffiti upon the Property. Tenant shall also maintain or cause to be maintained the landscaping upon the Businesses and Property in a good condition.

2.1.4 Covenant Against Solicitation and Acceptance of Economic Incentives During the Term of the Operating Use Covenant. Tenant covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 2.1.1, Tenant will not directly or indirectly solicit or accept any “Financial Assistance” from any other public or private person or entity, if such Financial Assistance is given for the purpose of causing or would result in Tenant’s breach of any of the Covenants. For purposes of this Section 2.1.4 the term “Financial Assistance” means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief, rebates, exemptions or credits, relief from public improvement obligations, and payment for public improvements to or for the benefit of Tenant or any subtenant of Tenant. This Covenant shall not apply to financial incentives provided by General Motors related to the sale of individual car sales.

2.1.5 Use of Property. Tenant covenants and agrees that the Property shall be put to no use other than those uses specified in the City’s General Plan, the Specific Plan, zoning ordinances, and this Covenant Agreement, as the same may be amended from time to time. Nothing in this Section 2.1.5 shall limit, expand, modify or otherwise affect any right of the Tenant to continue any legal nonconforming use upon the Property following changes in the City’s General Plan or zoning ordinances.

2.2 Covenant Payments.

2.2.1 Statement of Intent. The consideration to be paid to the Tenant in exchange for the Covenants and Tenant’s performance of its obligations set forth in this Covenant Agreement, and subject to satisfaction of all conditions precedent thereto, shall consist of City’s payment to the Tenant for each Operating Year during the Eligibility Period that the City receives Sales Tax Revenue, an amount equal to the sum of twenty-five percent (25%) of the Sales Tax Revenues received by the City in excess of the Base Amount for that Operating Year (“Covenant Payment”). Notwithstanding any other provision of this Covenant Agreement, the cumulative total of any and all Covenant Payments paid by the City pursuant to this Covenant Agreement shall not exceed Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000).

2.2.2 City's Notice of Determination of Operating Year Sales Tax Revenues and Covenant Payment. Within one hundred twenty (120) calendar days following an Operating Year within the Eligibility Period, the City will determine the Sales Tax Revenues applicable to that Operating Year and send the Covenant Payment due for that Operating Year to Tenant ("Notice of Determination").

2.3 Tenant's Notice of Appeal; Negotiation Period. Notwithstanding any other provision of law, including, without implied limitation, any statutes of limitation provided therefore in the California Government Code or the California Code of Civil Procedure, the City's determination of each Covenant Payment shall be deemed final, conclusive, and non-appealable unless, within sixty (60) calendar days from the receipt of the Covenant Payment by Tenant, Tenant notifies the City in writing that Tenant appeals the Covenant Payment, which notice must specifically identify the matter appealed and all of the bases for such appeal and include the following documentation: (i) certified copies of quarterly reports to the BOE which set forth the amount of sales tax paid to the BOE during the Operating Year in connection with Business Activities; (ii) any and all bills, invoices, schedules, vouchers, statements, receipts, cancelled checks, and any other documents evidencing the amount of sales tax paid from the Business Activities during such Operating Year; and (iii) any and all invoices, and inventory records for such Operating Year, certified as accurate and complete by an authorized official of the party submitting such records ("Notice of Appeal"). Any Covenant Payment that is not appealed in the manner and within the time limits set forth above shall be final and conclusive as against Tenant and all others claiming by or through Tenant. The provisions of this Section 2.3 shall be strictly construed and Tenant waives, to the maximum legal extent, any statutory or judicially created right to institute any administrative or judicial proceeding to contest any matter set forth in a Notice of Appeal that is not timely appealed in strict accordance with this Section 2.3. If Tenant files a timely Notice of Appeal with the City, the City and Tenant shall negotiate in good faith to resolve their dispute for a period of no less than thirty (30) calendar days ("Negotiation Period"). If, by the end of the Negotiation Period, the City and Tenant are unable to resolve the dispute set forth in the Notice of Appeal, each of them may exercise any judicial remedy available to them pursuant to this Covenant Agreement for the resolution of such dispute; provided, however, that any provision of law to the contrary notwithstanding, such judicial remedy must be instituted (defined as the filing of an action in a court of competent jurisdiction in strict accordance with the terms of this Covenant Agreement) within one hundred twenty (120) calendar days following the end of the Negotiation Period or be barred forever. In connection therewith, the City and Tenant irrevocably consent to the appointment of a referee to resolve such dispute in accordance with California Code of Civil Procedure Section 638 et seq., and to pay equal amounts of the cost of such referee.

2.3.1 No Accrual of Interest for Disputed Covenant Payment(s). The City and Tenant agree that any disputed amount shall not accrue interest during the pendency of any Negotiation Period or subsequent legal proceeding (including any appeals filed in connection therewith), unless the court makes a determination upon recommendation of the referee that the City acted in bad faith with regard to the dispute, in which case, any amount ultimately adjudged to be owing by the City shall be deemed to have accrued interest at the rate of six percent (6%)

simple interest per annum, commencing on the ninetieth (90th) calendar day following the end of the Negotiation Period and continuing thereafter until paid. Tenant hereby waives, to the maximum legal extent, the right to the imposition of any different rate of interest in accordance with any provision of law.

2.3.2 Covenant Payment Paid From Any Source of City Funds. Any Covenant Payment due under this Section 2.2 may be payable from any source of any funds of the City legally available for such purpose. The City covenants to reasonably consider such actions as may be necessary to include all payments owed hereunder in each of its annual budgets during the Eligibility Period and to reasonably consider the necessary annual budgetary appropriations for all such payments.

2.3.3 Not a Pledge of Sales Tax. Tenant acknowledges that the City is not making a pledge of Sales Tax Revenues, or any other particular source of funds; the definition of Sales Tax Revenues, as used herein, is used merely as a measure of the amount payment due hereunder and as means of computing the City's payment in consideration for the Covenants. It is acknowledged by Tenant that the City's obligation to make payments is specifically contingent upon receipt by the City of the Sales Tax Revenues derived from operation of the Fulfillment Center.

2.3.4 Making Covenant Payment Is A Contingent Obligation of City. The City's obligations under this Section 2.2 are contingent on a fiscal year to fiscal year basis and, for each Operating Year within the Eligibility Period, the City's obligations to make any payments to Tenant under this Covenant Agreement are expressly contingent upon Tenant, for the entirety of such Operating Year, completely fulfilling its material obligations under this Covenant Agreement. If for any reason Tenant fails to authorize the release or use of all or any part of sales tax information regarding the Businesses in a manner satisfactory to the BOE or provide any information reasonably required by the City to perform the City's obligations under this Covenant Agreement, or if all or any part of the sales tax information of Tenant is unavailable to the City or the City is not legally authorized to use such information for the purposes of performing its obligations under this Covenant Agreement, the Covenant Payment shall be based solely upon the information so received, if any.

2.3.5 BOE Determination of Improperly Allocated Sales Tax Revenues. If, at any time during or after the Eligibility Period of this Covenant Agreement, the BOE determines that all or any portion of the Sales Tax Revenues received by the City were improperly allocated and/or paid to the City, and if the BOE requires repayment of, offsets against future sales tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Sales Tax Revenues, then Tenant shall, within thirty (30) calendar days after written demand from the City, repay all Covenant Payments (or applicable portions thereof) theretofore paid to Tenant which are attributable to such repaid, offset or recaptured Sales Tax Revenues. If Tenant fails to make such repayment within thirty (30) calendar days after the City's written demand, then Tenant shall be in breach of this Covenant Agreement and such obligation shall accrue interest from the date of the City's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment

monetary obligations, compounded monthly, until paid. Additionally, the City may deduct any amount required to be repaid by Tenant under this Section 2.3.5 from any future Covenant Payments otherwise payable to Tenant under this Covenant Agreement. This Section 2.3.5 shall survive the expiration or termination of this Covenant Agreement.

2.4 Default.

2.4.1 Tenant Default. City shall provide Tenant with written notice of Tenant's failure ("Tenant Default") to strictly abide by any material provision of this Covenant Agreement, including, without limitation, the Covenants. Tenant shall have thirty (30) days from the date of such notice to either cure such Tenant Default, or, if such Tenant Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

2.4.2 City Default. Tenant shall provide City with written notice of City's failure ("City Default") to strictly abide by any material provision of this Covenant Agreement. City shall have thirty (30) days from the date of such notice to either cure such City Default, or, if such City Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

2.5 General Remedies for Default. Except as provided in Section 2.7, upon either a City or an Tenant Default (as defined in Section 2.4) uncured within the applicable cure period, Tenant or City (as applicable) shall have the right to seek all available legal and equitable remedies, including, without implied limitation, general and consequential damages, unless otherwise expressly provided to the contrary herein. Unless prohibited by law or otherwise provided by a specific term of this Covenant Agreement, the rights and remedies of the City and the Tenant under this Covenant Agreement are nonexclusive and all remedies hereunder may be exercised individually or cumulatively, and the City may simultaneously pursue inconsistent and/or alternative remedies. Either Party may, upon the Default of the other Party and in addition to pursuing all remedies otherwise available to it, terminate this Covenant Agreement and all of its obligations hereunder without cost, expense or liability to itself. Notwithstanding the foregoing or anything to the contrary in this Covenant Agreement, in the event of a City Default, Tenant shall only be permitted to pursue collection of the Covenant Payments on an Operating Year-to-Operating Year basis as such Covenant Payments become due hereunder. Tenant hereby expressly waives any right Tenant may have to seek, demand or collect, on an accelerated basis, any Covenant Payments that may be due after the date of any City Default.

2.6 The City's Rights to Terminate its Obligations under Section 2.2. The City's obligations under Section 2.2 shall automatically terminate without cost, expense, or liability to City, upon the occurrence of any one or more of the following: (i) Tenant Default; (ii) the end of the Eligibility Period; (iii) the aggregate sum of the Covenant Payments being equal to Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000); or (iv) upon the final determination by a court of competent jurisdiction that any one or more of the Covenants are void, voidable, invalid, or even unenforceable for any reason whatsoever, including, without

limitation, legal infirmity. Termination of the City's obligations under Section 2.2 in accordance with subsection (i) of this Section 2.6 shall not operate to forgive, modify, discharge or excuse Tenant's obligations arising under this Covenant Agreement.

2.7 Liquidated Damages.

2.7.1 Tenant Default With Respect to Obligations Under Sections 2.1.1 and 2.1.2. The Parties acknowledge that the consideration to the City for its entry into this Covenant Agreement and the performance of its obligations hereunder include the City's receipt of Sales Tax Revenues, employment and other payroll taxes, property taxes, and other direct and indirect financial and non-financial benefits arising from the operation of the Business Activities and the location of the Businesses at the Property, located within the City. Tenant agrees that the City will suffer damages if Tenant commits any Tenant Default with respect to any of its obligations arising under Sections 2.1.1 and 2.1.2 that is uncured within the applicable cure period. The Parties agree that the exact determination of such damages would be impracticable and extremely difficult to quantify. Accordingly, the Parties have determined that Liquidated Damages represents a reasonable estimate of the damages which would be suffered by the City if Tenant commits any Tenant Default with respect to any of its obligations set forth in Sections 2.1.1 and 2.1.2 that is uncured within the applicable cure period. Accordingly, as its sole and exclusive monetary remedy for an Tenant Default with respect to any of its covenants and obligations set forth in Sections 2.1.1 and 2.1.2 that is uncured within the applicable cure period, the City shall be entitled to: (1) terminate this Covenant Agreement and the entirety of its obligations hereunder, including any accrued and unpaid Covenant Payments, and (2) receive from Tenant the applicable amount of Liquidated Damages.

2.7.2 ACKNOWLEDGEMENT OF REASONABLENESS OF LIQUIDATED DAMAGES. UPON AN TENANT DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 2.1.1 AND 2.1.2, FOLLOWING NOTICE AND OPPORTUNITY TO CURE PURSUANT TO SECTION 2.4.1, THE CITY AND TENANT ACKNOWLEDGE AND AGREE THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY THE CITY WITH RESPECT TO SUCH DEFAULT. HAVING MADE DILIGENT BUT UNSUCCESSFUL ATTEMPTS TO ASCERTAIN THE ACTUAL DAMAGES THE CITY WOULD SUFFER, THE PARTIES AGREE THAT THE LIQUIDATED DAMAGES AMOUNT REPRESENTS A REASONABLE ESTIMATION OF THOSE DAMAGES. THEREFORE, UPON AN TENANT DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 2.1.1 AND 2.1.2, AS ITS SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT, THE CITY SHALL BE ENTITLED TO (1) RECEIPT OF THE LIQUIDATED DAMAGES, WHICH TENANT SHALL PAY WITHIN TEN (10) DAYS FOLLOWING WRITTEN DEMAND FROM THE CITY, AND (2) TERMINATE THIS COVENANT AGREEMENT AND THE ENTIRETY OF ITS OBLIGATIONS HEREUNDER, INCLUDING ANY ACCRUED BUT YET UNPAID COVENANT PAYMENTS.

Initials of Authorized
City Representative

Initials of Authorized
Tenant Representative

2.8 Prevailing Wages.

2.8.1 TENANT ACKNOWLEDGES THAT BECAUSE PROJECT IS PAID FOR, IN PART, WITH PUBLIC FUNDS, THE PROJECT IS SUBJECT TO REQUIREMENTS FOR PAYMENT OF PREVAILING WAGES. TENANT ACKNOWLEDGES AND AGREES THAT TENANT SHALL ASSUME ANY AND ALL RESPONSIBILITY AND BE SOLELY RESPONSIBLE FOR ENSURING THAT LABORERS EMPLOYED RELATIVE TO THE CONSTRUCTION OR INSTALLATION OF THE PROJECT MUST BE PAID THE PREVAILING PER DIEM WAGE RATE FOR THEIR LABOR CLASSIFICATION, AS DETERMINED BY THE STATE, PURSUANT TO LABOR CODE SECTION 1720 *ET SEQ.* TENANT AGREES TO SUBMIT TO CITY ALL WAGE INFORMATION AND CERTIFICATIONS REQUIRED TO COMPLY WITH CALIFORNIA LAW REGARDING PREVAILING WAGES.

2.8.2 TENANT, ON BEHALF OF ITSELF, ITS SUCCESSORS, AND ASSIGNS, WAIVES AND RELEASES CITY FROM ANY RIGHT OF ACTION THAT MAY BE AVAILABLE TO ANY OF THEM PURSUANT TO LABOR CODE SECTION 1781. TENANT ACKNOWLEDGES THE PROTECTIONS OF CIVIL CODE SECTION 1542 RELATIVE TO THE WAIVER AND RELEASE CONTAINED IN THIS SECTION 2.8, WHICH READS AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

2.8.3 BY INITIALING BELOW, TENANT KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS SECTION 2.8.

Initials of Authorized
Tenant Representative

2.8.4 ADDITIONALLY, TENANT SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AGAINST ANY CLAIMS PURSUANT TO LABOR CODE SECTION 1781 ARISING FROM THIS AGREEMENT OR THE CONSTRUCTION OR INSTALLATION OF ALL OR ANY PORTION OF THE PROJECT. NOTHING IN THIS SECTION 2.8 SHALL RELEASE OR LIMIT ANY RIGHTS OF TENANT AGAINST CITY ARISING FROM A BREACH BY CITY OF ITS RESPECTIVE REPRESENTATION AND WARRANTY AS IDENTIFIED IN THIS SECTION 2.8.

2.8.5 Prevailing Wage Compliance Monitoring. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Tenant and all contractors and subcontractors performing work shall comply with all requirements and

regulations relating to labor compliance monitoring and enforcement. If Tenant awards a contract to perform public works (as defined in Labor Code section 1720 *et seq.*) on or after April 1, 2015, then pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that engage in the performance of any work on the Project shall be registered with the Department of Industrial Relations to perform public work. Tenant shall have an affirmative obligation to verify that all contractors and subcontractors remain registered with the Department of Industrial Relations throughout the course of the Project, and shall not permit a contractor or subcontractor of any tier to perform any work on the Project without first being registered. Tenant shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contracts with all contractors and subcontractors. In accordance with Labor Code section 1771.4, Tenant shall require that its contractors and subcontractors furnish certified payroll records directly to the Department of Industrial Relations on a weekly basis and in the format prescribed by the Department of Industrial Relations, which may include electronic submission. To the extent Tenant performs any work itself, Tenant shall comply with all requirements of contractors and subcontractors set forth in this section and as otherwise required by law.

3. GENERAL TERMS.

3.1 Tax Consequences. Tenant acknowledges that it may experience tax consequences as a result of its receipt of the payments provided for in this Covenant Agreement and agrees that it shall bear any and all responsibility, liability, costs, and expenses connected in any way therewith.

3.2 Rights Not Granted Under Covenant Agreement. This Covenant Agreement is not, and shall not be construed to be, a Development Agreement under Government Code Section 65864 *et seq.* This Covenant Agreement is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by the City concerning the Property, Business Activities, Businesses, or any other project, development, or construction by the Tenant in the City. This Covenant Agreement does not, and shall not be construed to, exempt Tenant from the application and/or exercise of the City's or City's power of eminent domain or its police power, including, but not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety, and welfare of its citizenry.

3.3 Consent. Whenever consent or approval of any party is required under this Covenant Agreement, that party shall not unreasonably withhold, delay or condition such consent or approval unless otherwise allowed by a specific provision of this Covenant Agreement.

3.4 Notices and Demands. All notices or other communications required or permitted between the City and Tenant under this Covenant Agreement shall be in writing, and may be (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, (iii) sent by telecopier, or (iv) sent by nationally recognized overnight courier service (e.g., Federal Express), addressed to the Parties at the addresses provided in Section 1.2, subject to the right of either party to designate a different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been given on the second business day after the same is deposited in the

United States mail. Any notice not so given by registered or certified mail, such as notices delivered by telecopier or courier service (e.g., Federal Express), shall be deemed given upon receipt of the same by the party to whom the notice is given.

3.5 Nonliability of the City or City Officials and Employees. No board member, official, contractor, consultant, attorney or employee of the City or City shall be personally liable to Tenant, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in the Property, in the event of any default or breach by the City, or for any amount which may become due to the Tenant or to its successors or assignees, or on any obligations arising under this Covenant Agreement.

3.6 Conflict of Interests. No board member, official, contractor, consultant, attorney or employee of the City or City shall have any personal interest, direct or indirect, in this Covenant Agreement nor shall any such board member, official or employee participate in any decision relating to this Covenant Agreement which affects his/her personal interests or the interests of any corporation, partnership or association in which he/she is directly or indirectly interested.

3.7 Entire Agreement; Good Faith Negotiations. This Covenant Agreement contains all of the terms and conditions agreed upon by the Parties and supersedes any previous agreements between the Parties concerning the subject matter of this Covenant Agreement. No other understanding, oral or otherwise, regarding the subject matter of this Covenant Agreement shall be deemed to exist or to bind any of the parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Covenant Agreement.

The Parties acknowledge that this Covenant Agreement is the product of mutual arms-length negotiations and that each party has been, or has had the opportunity to have been, represented by legal counsel in the negotiation and drafting of this Covenant Agreement. Accordingly, the rule of judicial construction which provides that ambiguities in a document are to be construed against the drafter of that document shall have no application to the interpretation or enforcement of this Covenant Agreement. In any action or proceeding to interpret and/or enforce this Covenant Agreement, the trier of fact may refer to extrinsic evidence not in conflict with any specific provision of this Covenant Agreement to ascertain and give effect to the intent of the Parties hereto.

3.8 Time Deadlines Critical; Extensions and Delays; No Excuse Due to Economic Changes. Time is of the essence in the performance of the City's and Tenant's obligations under this Covenant Agreement. In addition to specific provisions of this Covenant Agreement providing for extensions of time, times for performance hereunder shall be extended where delays or defaults are due to war; insurrection; any form of labor dispute; lockouts; riots; floods; earthquakes; fires; acts of God or of third parties; third party litigation; acts of a public enemy; referenda; acts of governmental authorities (except that the failure of the City to act as required hereunder shall not excuse its performance); moratoria; epidemics; quarantine restrictions; and freight embargoes (collectively, "Enforced Delays") provided, however, that the Party claiming the extension notify the other Party of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays.

3.8.1 ANYTHING IN THIS COVENANT AGREEMENT TO THE CONTRARY NOTWITHSTANDING, TENANT EXPRESSLY ASSUMES THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES AND/OR MARKET DEMAND/CONDITIONS AND WAIVES, TO THE GREATEST LEGAL EXTENT, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, FRUSTRATION OF PURPOSE, CHANGED ECONOMIC CIRCUMSTANCES OR SIMILAR THEORIES.

3.8.2 TENANT EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF TENANT SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN THE MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS COVENANT AGREEMENT. TENANT EXPRESSLY ASSUMES THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF TENANT'S EXECUTION OF THIS COVENANT AGREEMENT.

INITIALS OF AUTHORIZED TENANT REPRESENTATIVE _____

3.9 Attorneys' Fees. In the event of the bringing of an arbitration, action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants or agreements or any intentional inaccuracies in any of the representations and warranties on the part of the other Party arising out of this Covenant Agreement or any other dispute between the Parties concerning this Covenant Agreement or the Property, then, in that event, the prevailing party in such action or dispute, whether by final judgment or arbitration award, shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees. Any judgment, order or award entered in any final judgment or award shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment or award. For the purposes of this Section 3.9, "Costs" shall include, without implied limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions and appeals, (ii) contempt proceedings, (iii) garnishment, levy and debtor and third party examination, (iv) discovery; and (v) bankruptcy litigation. This Section 3.9 shall survive any termination of this Covenant Agreement.

3.10 Amendments to This Covenant Agreement. Any amendments to this Covenant Agreement must be in writing and signed by the appropriate authorities of both the City and Tenant. The City Manager is authorized on behalf of the City to approve and execute minor amendments to this Covenant Agreement, including, but not limited to, the granting of extensions of time to Tenant, not to exceed ninety (90) days in the aggregate.

3.11 Jurisdiction and Venue. Any legal action or proceeding concerning this Covenant Agreement shall be filed and prosecuted in the appropriate California state court in the County of Los Angeles, California. Both Parties hereto irrevocably consents to the personal jurisdiction of that court. The City and Tenant each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change

of venue to any other court or jurisdiction, including, without implied limitation, federal district court, due to any diversity of citizenship between the City and Tenant, due to the fact that the City is a party to such action or proceeding or due to the fact that a federal question or federal right is involved or alleged to be involved. Without limiting the generality of the foregoing, the City and Tenant specifically waive any rights provided to it pursuant to California Code of Civil Procedure Section 394. Tenant acknowledges that the provisions of this Section 3.11 are material consideration to the City for its entry into this Covenant Agreement, in that the City will avoid the potential cost, expense and inconvenience of litigating in a distant forum.

3.12 Counterpart Originals; Integration. This Covenant Agreement may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument. This Covenant Agreement and any exhibits represent the entire understanding of the Parties and supersedes all negotiations, letters of intent, memoranda of understanding or previous agreements between the parties with respect to all or any part of the subject matter hereof.

3.13 No Waiver. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.14 Successors and Assigns. This Covenant Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

3.15 No Third Party Beneficiaries. The performance of the respective obligations of the City and Tenant under this Covenant Agreement are not intended to benefit any party other than the City or Tenant, except as expressly provided otherwise herein. No person or entity not a signatory to this Covenant Agreement shall have any rights or causes of action against any party to this Covenant Agreement as a result of that party's performance or non-performance under this Covenant Agreement, except as expressly provided otherwise herein.

3.16 Warranty Against Payment of Consideration for Covenant Agreement. Tenant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Covenant Agreement. Third parties, for the purposes of this Section 3.16, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial consultants, accountants, engineers, architects and the like when such fees are considered necessary by Tenant.

3.17 Severability. The City and Tenant declare that the provisions of this Covenant Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Covenant Agreement and the remainder of the Covenant Agreement enforced in accordance with its terms. Notwithstanding the foregoing, if Section 2.2 is deemed void by a court of competent jurisdiction either Party may terminate this Agreement without penalty or cost.

3.18 Further Acts and Releases. The City and Tenant each agree to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.

3.19 Estoppels. At the request of Tenant or any holder of a mortgage or deed of trust secured by all or any portion of the Property, the City shall promptly execute and deliver to Tenant or such holder a written statement of the City as to any of the following matters as to which Tenant or such holder may inquire: (i) that no default or breach exists, or would exist with the passage of time, or giving of notice, or both, by Tenant pursuant to this Covenant Agreement, if such be the case; (ii) the total amount of Covenant Payments made by the City to Tenant pursuant to this Covenant Agreement prior to the date of such written statement; (iii) the amount of any Covenant Payments earned by or due and owing to Tenant pursuant to this Covenant Agreement as of the date of such written statement; (iv) the Covenant Payments for a particular Operating Year; (v) if the City has determined that Tenant is in default or breach hereunder, the nature of such default and the action or actions required to be taken by Tenant to cure such default or breach; and (vi) any other matter affecting the rights or obligations of Tenant hereunder as to which Tenant or such holder may reasonably inquire. The form of any estoppel letter shall be prepared by Tenant or such holder at its sole cost and expense and shall be reasonably acceptable in form and content to the City and Tenant. The City may make any of the representations described above based on the actual current knowledge of the then-current City Manager.

3.20 Joint Defense of Third Party Attack Upon Covenant Agreement. If any third party should commence any action or proceeding to set aside, annul, void or attack this Covenant Agreement or any provisions hereof, Tenant and City agree to reasonably and mutually cooperate in the defense of such action or proceeding. For purposes of this Covenant Agreement, third party shall mean any action, lawsuit, administrative action or judicial proceeding including those for injunctive relief brought by including but not limited to residents, taxpayers, taxpayer associations, business entities, municipalities, or any other person, entity or public entity that may bring such an action. The parties shall select mutually acceptable legal counsel to jointly represent them and shall share equally the expense of such legal counsel and litigation costs.

3.21 State of California Legislation Impact on Covenant Payment. Tenant acknowledges that the California legislature has in the past adopted certain legislation which diverted to the State of California a portion of the Sales Tax Revenues which were otherwise payable to the City. Tenant acknowledges that it is possible that the legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Sales Tax Revenues and that such reduction will cause Tenant a corresponding reduction and/or delay in the payment of the Covenant Payments due to Tenant during such time as such legislation is in effect. Furthermore, Tenant acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the Eligibility Period and may materially and negatively impact the amount of Sales Tax Revenues and, accordingly, Covenant Payments. The City does not make any representation, warranty or commitment concerning the future

actions of the California legislature with respect to the allocation of Sales Tax Revenues to the City. Tenant agrees that it is undertaking its obligations under this Covenant Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of such legislation.

The foregoing paragraph notwithstanding, City acknowledges that the California legislature may provide for the payment to City of other revenues for the purpose of offsetting any losses in Sales Tax Revenues resulting from the enactment of legislation of the type described in the immediately preceding paragraph. City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Covenant Agreement and the computation of any Covenant Payments which may become due to Tenant hereunder, City will consider, on an Operating Year-to-Operating Year basis, any such offsetting revenues which are (i) indexed to Sales Tax and offset the loss of Sales Tax Revenues to the City on a dollar for dollar basis, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, to be Sales Tax Revenues within the meaning of this Covenant Agreement. Notwithstanding anything herein to the contrary, to the extent the City's receipt of Sales Tax Revenue is impaired or restricted in any way or otherwise eliminated for any reason, and not offset by other revenues from the State and such revenues are not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax, the City shall not be obligated to make any Covenant Payments during the period within which the City's receipt of Sales Tax Revenue is so restricted, impaired or eliminated.

[Signatures on the following page]

**SIGNATURE PAGE TO THE
AMENDED AND RESTATED OPERATING COVENANT AGREEMENT
(Sage Auto)**

Tenant and City sign and enter into this Covenant Agreement by and through the signatures of their authorized representatives set forth below:

CITY:

CITY OF COVINA,
a California municipal corporation

By: _____
Interim City Manager, Kim Raney

TENANT:

COVINA MJL, LLC,
a California limited liability company

By: _____
Joseph Sage

Attest:

By: _____
Chief Deputy City Clerk, Catherine LaCroix

Approved as to form:

By: _____
City Attorney

Signatures must be notarized

ACKNOWLEDGMENT

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

State of California
County of _____)

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

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and 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)

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: February 17, 2015 **ITEM NO.:** NB 1

INFORMATION SOURCE: J. Scott Tiedemann, Attorney

ITEM TITLE: Approval of Agreement for Employment by and between
the City of Covina and Andrea Miller

STAFF RECOMMENDATION:

Approve the employment agreement between the City of Covina and Andrea Miller (City Manager).

FISCAL IMPACT:

The salary and benefits are described in Exhibit A.

BACKGROUND:

At the direction of the City Council, Attorney J. Scott Tiedemann has negotiated an employment agreement to retain the services of Andrea Miller as City Manager subject to approval/ ratification by the City Council. Miller would commence work on March 2, 2015. The salary, benefits and other terms and conditions of employment are outlined in Exhibit A.

EXHIBITS:

A. Agreement for Employment — City Manager

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: _____
City Manager: _____	Other: _____

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (“Agreement”) is entered into this 21st day of January 2015, by and between the CITY OF COVINA (“City”), a California City, and Andrea Miller (“Miller”), an individual.

RECITALS

WHEREAS, the City Council desires to: (1) secure and retain the services of Miller; (2) have Miller perform all the regular functions of the City Manager position as specified in the City’s Municipal Code; (3) provide inducement to Miller to maintain such employment; and (4) establish the terms and conditions of Miller’s services to the City pursuant to this agreement;

WHEREAS, Miller has the required skills and expertise to fulfill such position and desires to accept employment from the City;

NOW THEREFORE, in consideration of the mutual covenants contained herein, including the Recitals which are made a part hereof, City and Miller hereby agree as follows:

AGREEMENT

1. Employment:

The City hereby employs Miller as the City Manager of the City, and Miller hereby accepts that employment effective February 20, 2015. Miller’s actual start date will be March 2, 2015, when she will begin earning pay and benefits.

2. Duties:

Miller shall perform those duties and have those responsibilities that are commonly assigned to a city manager of a general law city in California, and as set forth in Section 2.08 of the City’s Municipal Code. Miller shall perform such other legally permissible and proper duties and functions consistent with the office of the City Manager as the City Council shall from time to time assign.

3. Term:

A. The term of Miller’s employment as City Manager shall be for an indefinite term pursuant to Section 2.08.070 of the City’s Municipal Code.

B. Miller acknowledges that she is an at-will employee. Except as set forth in Paragraph 3.C., the City Council may remove Miller as City Manager at any time by a majority vote. Miller shall have no right to appeal a decision by the City Council to remove her as City Manager.

C. Miller may not be removed as City Manager during the ninety (90) calendar days following any general municipal election held in the City in which one or more members of the City Council are elected.

D. Miller may resign from her employment as City Manager at any time during the term of this Agreement upon giving thirty (30) days written notice to the City Council.

4. Devotion to City Business:

A. Miller's position as City Manager is considered a full-time position. Miller shall focus her professional time, ability, and attention on City business during the term of this Agreement. Miller shall not spend significant time in any other non-employer connected business activities without prior approval from the City Council.

B. Miller shall not engage, without the express prior written consent of the City Council, in any other business duties or pursuits whatsoever or, directly or indirectly, render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, that is or may be competitive with the City, that might cause a conflict of interest with the City or that otherwise might interfere with the business or operation of the City or the satisfactory performance of Miller's duties as City Manager.

5. Salary:

A. City agrees to pay Miller for services rendered, beginning with an annual base salary of Two Hundred Five Thousand and Five Hundred Dollars (\$205,500.00). Said amount shall be payable in at the same time and in the same manner as other employees of the City are paid. Miller's base salary may be adjusted upward at any time in the sole discretion of the City Council.

B. The City Council shall evaluate Miller's performance during the month of February or March of each calendar year. Following the completion of the evaluation, the City Council may in its sole discretion grant Miller a performance bonus.

Following the completion of the evaluation, the City Council may in its sole discretion grant Miller a performance bonus in any amount from Zero Dollars (\$0) to a maximum of Fifteen Thousand Dollars (\$15,000) or any sum in between.

C. Any adjustment to Miller's salary does not require an amendment to this Agreement to be effective, but rather may be established by resolution of the City Council and set forth in a publically available salary schedule.

6. Retirement:

A. City agrees to maintain Miller's enrollment as a classic member of the Public Employees Retirement System (PERS) in the PERS plan selected by City in its sole discretion. Miller shall make contributions to PERS in the amounts described in the 2013 Executive Compensation Rules, including any revisions thereto, or successor rules which may be adopted from time to time by the City Council.

B. The City will contribute One Thousand Dollars (\$1,000) each month to Miller's deferred compensation plan, also known as a 457 Plan. The City also agrees that it will continue to administer a 457 plan in which Miller may participate during her employment with the City.

7. Health and Medical Benefits Insurance:

City shall provide Miller with the same health and medical benefits plan or plans which are provided to other City executive employees under the 2013 Executive Compensation Rules, including any revisions thereto, or successor rules which may be adopted from time to time by the City Council.

8. Leaves:

Miller shall receive vacation, holiday, and sick leave according to the terms of the 2013 Executive Compensation Rules, including any revisions thereto, or successor rules which may be adopted from time to time by the City Council. Miller shall be credited with one (1) week of sick leave, 72 hours of administrative leave, and two (2) weeks of vacation immediately upon her start date.

9. Miscellaneous Benefits and Insurances:

In addition to the compensation and benefits set forth herein, Miller shall be entitled to all other non-salary benefits and insurances set forth in the 2013 Executive Compensation Rules, including any revisions thereto, or successor rules which may be

adopted from time to time by the City Council, unless any such benefits and/or insurances are or become prohibited by law.

10. Equipment:

A. Miller shall be provided with appropriate technology, which is necessary to conduct City business, at City expense. If Miller elects to use her personal cell phone to conduct City business, then she shall be reimbursed for the expenses associated with her City business use of the phone subject to appropriate IRS reporting requirements. The City agrees that Miller may request City staff to provide necessary maintenance and repairs to personal devices that Miller uses to conduct City business, e.g. cell phones and laptop computers.

B. Miller will receive an automobile allowance of six hundred dollars and zero cents (\$600) to be used for leasing/purchasing, maintaining and/or insuring a personal vehicle which Miller may use from time to time in conducting City business. Miller shall maintain all statutorily required liability insurance thereon and is responsible for all expenses incurred in connection with the vehicle, including maintenance, operating, insurance, and repair expenses, including those which may exceed the monthly automobile allowance provided for herein.

11. Professional and City Business Expenses:

A. City agrees to pay the professional dues and subscriptions which are necessary for Miller's continuation or full participation in regional, state, or local associations and organizations necessary and desirable for Miller's continued professional participation, growth and advancement, or for the good of the City in an amount up to \$3000 per year. Furthermore, the City shall budget and pay for the professional dues and subscriptions to such additional organizations as may be approved by the City Council.

B. City agrees to pay the travel and subsistence expenses of Miller for official travel, meetings, and occasions reasonably adequate to continue the professional development of Miller, and for Miller's reasonable pursuit of necessary official and other functions for the City including, but not limited to, regional, state, and local conferences, governmental groups, and committees upon which Miller serves as a member.

Notwithstanding the above, the number of conferences or meetings the City will pay for

each year and attendance at out-of-state conferences and meetings shall be at the discretion of the City Council as set forth in the City's budget.

12. Taxes:

Miller shall be responsible for her federal, state, local, or other taxes resulting from any compensation or benefits provided to her by the City. The City shall withhold from any compensation or benefits provided under this Agreement all federal, state, local or other taxes as may be required pursuant to law or governmental regulation or ruling. The City shall not be liable (except in cases of City errors or omissions) for any state or federal tax consequences to Miller or to any designated beneficiary hereunder, the heirs, administrators, executors, successors, and assigns of Miller. Miller shall assume sole liability for any state or federal tax consequences of this Agreement or any related agreement and agrees to indemnify and hold the City harmless from such tax consequences.

13. Work Product:

All data, studies, reports, and any other documents prepared by Miller while performing her duties during the term of this Agreement shall be furnished to and become the property of the City, without restriction or limitations on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Miller in connection with the performance of this Agreement shall be held confidential by written consent of the City Council, and shall not be used by Miller for any purposes other than the performance of her duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

14. Severance Compensation in the Event Miller is Removed as City Manager:

In the event the City Council removes Miller as City Manager, Miller shall be entitled to severance pay in an amount equal to six (6) months of her monthly base salary on the effective date of her removal to be paid in one lump sum subject to statutorily mandated tax withholdings.

15. Conflicts of Interest:

A. During the term of this Agreement, Miller shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict in any manner, with the proper discharge of Miller's duties under this Agreement. Miller shall comply with all requirements of law, including, but not limited to, Section 87100 *et seq.*, Section 1090, and Section 1125 of the Government Code, and all other similar statutory and administrative rules. Whenever any potential conflict arises or may appear to arise, the obligation shall be on Miller to seek to legal advice concerning whether such conflict exists and Miller's obligations arising therefrom.

B. Miller is responsible for submitting to the Fair Political Practices Commission the appropriate Conflict of Interest Statements within thirty (30) days of appointment, annually thereafter, and at the time of separation from the position.

16. Reimbursement to City:

Notwithstanding anything to the contrary in this Agreement, if Miller is convicted of a crime involving an abuse of her office or position, Miller shall fully reimburse the City as follows:

A. For any paid leave salary provided by the City pending an investigation. (See Government Code section 53243).

B. For any funds provided by the City for the legal criminal defense of Miller. (See Government Code section 53243.1).

C. For any cash settlement provided by the City related to the termination of Miller's employment. (See Government Code section 53243.2).

D. For purposes of this Section, "abuse of office or position" means either of the following:

(i) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority. See Government Code section 53243.4(a).

(ii) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code. See Government Code section 53243.4(b).

17. Surety Bond:

Pursuant to Covina Municipal Code section 2.08.030, Miller may be required to secure a corporate surety bond to be approved by the City Council, in such sum as may be determined by the City Council, conditioned on the faithful performance of the duties imposed on the City Manager by Chapter 2.08 of the Covina Municipal Code. The fee for such bond shall be paid by the City.

18. Notices:

Any notices to be given hereunder by either party to the other in writing may be effected either by personal delivery or by mail. Mailed notices shall be addressed to the parties as set forth below, but each party may change its address by written notice given in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of five (5) calendar days following the date of mailing:

CITY: City of Covina
 Attention: Mayor
 125 E. College Street
 Covina, CA 91723-2199

MILLER: Andrea Miller
 125 E. College Street
 Covina, CA 91723-2199

19. Entire Agreement:

This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Miller by City, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other employment agreement, statement or promise not contained in this Agreement shall be valid or binding upon either party.

24. Indemnification:

Except for an act of misappropriation of public funds, or an indictment, the filing of an information, a plea of guilty or nolo contendere for a crime involving moral turpitude, City agrees that it shall defend, hold harmless and indemnify Miller from any and all demands, claims, suits, actions, and legal proceedings, to the maximum extent permitted by law, brought against Miller in her individual capacity for acts arising out of or omissions in the scope of her employment or as agent and employee of City. If a conflict in good faith arises with regard to defense of claims between the legal position of Miller and that of City, Miller may engage her own legal counsel, in which event City shall indemnify Miller, including direct payment of all such reasonable costs related thereto.

This Agreement is entered into this _____ day of January, 2015.

CITY OF COVINA

By: _____
Mayor Peggy Delach

Andrea Miller

Attest:

Mary Lou Walczak, City Clerk

Approved as to form:

J. Scott Tiedemann, Attorney