



City of Covina/Covina Redevelopment
Agency/Covina Public Finance Authority
Mayor Peggy Delach – Mayor Pro Tem John King
Council Members Walt Allen, III – Bob Low – Kevin Stapleton

REGULAR MEETING AGENDA
125 E. College Street, Covina, California
Council Chambers of City Hall
Tuesday, December 7, 2010
6:30 p.m.

- **The City Council/Redevelopment Agency will meet in closed session from 6:30 p.m.-7:30 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 City Council, Redevelopment Agency, and Public Finance 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 City Council/Covina Redevelopment Agency/Covina Public Finance 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 Department at (626) 384-5430. Services such as American Sign Language interpreters, a reader during the meeting, and/or large print copies of the agenda are available. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. Assisted listening devices are now available. Please see the City Clerk before the meeting or during a break for more information.
- **DOCUMENT AVAILABILITY:** Any writings or documents provided to a majority of the City Council/Redevelopment Agency/Public Finance Authority regarding any item on this agenda will be made available for public inspection at the City Clerk counter at City Hall located at 125 E. College Street and the Reference Desk at the Covina Library located at 234 N. Second Avenue during normal business hours. In addition, such writings and documents are available in the City Clerk's office and may be posted on the City's website at <http://www.covinaca.gov/clerk/agendas.htm>.
- Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the City Council/Redevelopment Agency/Public Finance 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 Deputy City Clerk of the Covina City Council hereby declares that the agenda for the **December 7, 2010** Regular City Council meeting was posted on **December 2, 2010, 2010** near the front entrance of the City Hall, 125 East College Street, Covina, in accordance with Section 54954.2(a) of the Government Code.

December 7, 2010

**CITY COUNCIL/REDEVELOPMENT AGENCY
JOINT MEETING—CLOSED SESSION
6:30 p.m.**

CALL TO ORDER

ROLL CALL

Council/Agency Members Allen, Low, Stapleton, Mayor Pro Tem/Vice Chairperson King,
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, 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 and Redevelopment Agency will adjourn to Closed Session for the following:

CLOSED SESSION

- A. G.C. §54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR -
NEGOTIATIONS TO INCLUDE BOTH PRICE AND TERMS:
DESIGNATED REPRESENTATIVE: Robert Neuber, Comm. Development Director
- Covina Valley Unified School District – 120 East School Street (APN 8430-027-900)
 - Covina Valley Unified School District – Vacant Land South Side Puente Street at Third Avenue (APN: 8444-021-904)
 - Mercy Moreno – 147-151 East College Street (APN 8445-001-918)
 - Geoffrey Scott – 542 N. Cabernet (APN 8431-014-089)
 - The Olson Company – 322 North Citrus Avenue (APN 8430-027-017)
 - The Olson Company – 316 North Citrus Avenue (APN 8430-027-907)
 - The Olson Company – 300 North Citrus Avenue (APN 8430-027-023)
 - The Olson Company – 312 North Citrus Avenue (APN 8430-027-906)
- B. G.C. §54956.9(e) – CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation
Number of Cases: One (1)

RECESS

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

CALL TO ORDER

ROLL CALL

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

PLEDGE OF ALLEGIANCE

Led by Council Member Low

INVOCATION

Led by the Covina Police Chaplain Jerry Gunderson.

PRESENTATIONS

1. Presentation of Automated Meter Reading System.
2. Presentation of coupon "Dinner for Two at Covina Restaurants" to the winner of the ShopCovina.org contest.

PUBLIC COMMENTS

To address the City Council/Redevelopment Agency/Public Finance 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 Members wishing to make any announcements of public interest or to request that specific items be added to future City Council/Redevelopment Agency/Public Finance Authority Agendas may do so at this time.

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/Redevelopment Agency/Public Finance Authority votes on them, unless a member of the Council/Agency requests a specific item be removed from the consent calendar for discussion.

- CC 1. City Council to approve the Minutes of the November 16, 2010 Regular City Council/Redevelopment Agency/Public Finance Authority Meeting.
- CC 2. City Council to receive and file Fiscal Year 2010-2011 1st Quarter Update on Major Funds.
- CC 3. City Council to receive and file the 2nd Quarter Sales Tax Report.
- CC 4. City Council to receive and file the report of the 2010 California Public Employers Labor and Relations Association (CalPelra) Conference.
- CC 5. City Council to receive and file the report on the Fueling Station Upgrade.
- CC 6. City Council to approve the Memorandum of Understanding for the 2011 Greater Los Angeles Homeless Count Opt-In Program with the Los Angeles Homeless Services Authority.
- CC 7. City Council to approve the use of funds from the Community Development Block Grant 2010-2011 funding allocation for Special Economic Development.
- CC 8. City Council to adopt **Resolution No. 10-6911**, recognizing a "Day without a Bag" in the City of Covina.
- CC 9. City Council to adopt **Resolution No. 10-6899**, approving and adopting an amended Conflict of Interest Code pursuant to the Political Reform Act of 1974.
- CC 10. City Council to adopt second reading of **Ordinance No. 10-1987**, amending Title 11 of the Covina Municipal Code Pertaining to Controls in Public Rights-of-Way.
- CC 11. City Council to consider adopting **Urgency Ordinance No. 10-1989**, to amend the Contract between the City of Covina and Public Employment Retirement System (PERS) to provide a 3% at 55 retirement formula for Sworn Employees hired after January 1, 2011.
- CC 12. City Council/Redevelopment Agency to approve a Right of Entry Agreement with the Olson Company to remove items from the public right of way at the Olson Citrus Walk project site and authorize the Executive Director to execute the agreement.
- CC 13. Redevelopment Agency to Amend the Relocation and Lease Termination Settlement Offer/Settlement Agreements with Private Beach Tanning, Salon Cielo, and Le Petit as part of the Olson Citrus Walk Project.

CC 14. Redevelopment Agency consideration of award of public works contract for at-grade demolition of Olson Citrus Walk Project site, approval of **Agency Resolution No. 10-646**, and authorization for Executive Director to execute the agreement.

PUBLIC HEARING

PH 1. City Council to conduct a Public Hearing to consider adoption of **Ordinance No. 10-1990**, second reading regarding adopting the 2010 California Administrative, Building, Residential and Green Building Codes, et al., and the 2011 Los Angeles County Fire Code by reference and amending Title 14, Buildings and Construction, of the Covina Municipal Code.

PH 2. City Council to conduct a Public Hearing to consider application Conditional Use Permit 10-008 and Variance 10-002 and Negative Declaration related to the wireless communication facility located at 1288 North Bonnie Cove Circle and determine if the required findings can be justified.

Staff Recommendation:

- a) Open the Public Hearing and consider public testimony; and
- b) Consider application CUP 10-008, a Conditional Use Permit for the construction and operation of a 50-foot high, monopine-type wireless communication facility and associated equipment; and
- c) Consider application VAR 10-002, a Variance for a) the height of the communication facility; and b) the setbacks of the communication facility from Bonnie Cove Avenue and from Cienega Street; and
- d) Close the Public Hearing, determine if the required findings can be made and approve or deny the application and related environmental document.

PH 3. City Council to conduct a Public Hearing to consider application Conditional Use Permit 10-010 and Variance 10-004 and Negative Declaration related to the wireless communication facility located at 1175 East Garvey Avenue and determine if the required findings can be justified.

Staff Recommendation:

- a) Open the Public Hearing and consider public testimony; and
- b) Consider application CUP 10-010, a Conditional Use Permit for the construction and operation of a 55-foot high, monopine-type wireless communication facility and associated equipment and the installation of compact parking; and
- c) Consider application VAR 10-004, a Variance for a reduction in the setbacks of the communication facility and the equipment from Garvey Avenue; and
- d) Close the Public Hearing, determine if the required findings can be made and approve or deny the application and related environmental document.

PH 4. City Council to conduct a Public Hearing to adopt the General Plan Amendment updating the City of Covina Housing Element and the related environmental documents and resolutions.

Staff Recommendation:

- a) Open the Public Hearing and consider public testimony and close the Public Hearing; and
- b) Adopt a Negative Declaration of Environmental Impact and Initial Study of the draft Housing Element; and
- c) Adopt General Plan Amendment 08-001, updating the City of Covina Housing Element for the period of 2008-2014. The policies and implementing programs contained in this Housing Element will serve as the City's blueprint in defining how the existing housing stock in Covina is to be maintained and conserved while facilitating new residential development in accordance with the State of California Planning and Zoning Laws and the regulations of Sections 65580 through 65589.5 of the California Government Code; and
- d) Adopt **Resolution No. 10-6912**, approving the General Plan Amendment 08-001 adopting the 2008-2014 Housing Element of the General Plan.

NEW BUSINESS

- NB 1. City Council to receive a demonstration of Downtown Covina Base Circulation Computer Model.
- NB 2. City Council/Public Finance Authority consideration of authorizing the issuance of Water Revenue Bonds and other related official actions.

Staff Recommendation:

- a) Adopt **City Resolution No. 10-6915**, authorizing proceedings and agreements relating to the financing of water system improvements, approving issuance and sale of bonds by the Covina Public Financing Authority, approving an official statement and authorizing official actions; and
 - b) Adopt **Public Financing Authority Resolution No. 10-10**, authorizing the issuance of its water revenue bonds in one or more series in an aggregate principal amount of not to exceed \$15,000,000 in connection with the financing of certain improvements of benefit of the water system of the City of Covina, authorizing and directing execution of an indenture of trust, an installment purchase agreement and an agency agreement authorizing the sale of the bonds, approving a bond purchase agreement and an official statement, and authorizing official actions and execution of related documents.
- NB 3. City Council to consider adopting **Interim Urgency Ordinance No. 10-1991**, establishing a 45-day moratorium on the permitting of new standalone wireless communication facilities.

Staff Recommendation:

That the City Council:

(1) Waive first reading, read by title only and adopt the attached interim urgency ordinance No. 10-1991 (Exhibit "A") establishing a 45-day moratorium on the permitting of new standalone wireless communications facilities.

2.) Direct staff to study revisions to the City's existing zoning regulations to address standalone wireless communications facilities.

ADJOURNMENT

The Covina City Council/Redevelopment Agency/Covina Public Finance Authority will adjourn to its Regular meeting on **Tuesday, December 21, 2010** at 6:30 p.m. for closed session and at 7:30 p.m., for open session in the Council Chambers of City Hall, 125 E. College Street, Covina, California 91723.



MINUTES OF THE NOVEMBER 16, 2010 REGULAR MEETING OF THE COVINA CITY COUNCIL/REDEVELOPMENT AGENCY/PUBLIC FINANCE AUTHORITY HELD IN THE COUNCIL CHAMBERS OF CITY HALL, 125 EAST COLLEGE STREET

CALL TO ORDER

Mayor Delach called the City Council/Redevelopment Agency/Public Finance Authority meeting to order at 6:35 p.m. and recessed to closed session.

ROLL CALL

Council Members Present: Allen, Delach, King, Low, Stapleton
Elected Officials Present: City Clerk

Staff Members Present: City Manager, City Attorney, Police Chief, Community Development Director, Public Works Director, Human Resources Director, Finance Director, Parks and Recreation Director, Police Captain, Police Lieutenant, Sr. Management Analyst, Sr. Redevelopment Manager, Redevelopment Manager, City Planner, Contract Communications Manager, Deputy City Clerk

AGENDA POSTING DECLARATION

The Deputy City Clerk of the Covina City Council hereby declares that the agenda for the November 16, 2010 Regular City Council/Redevelopment Agency/Public Finance Authority meeting was posted on November 10, 2010 near the front entrance of City Hall, 125 East College Street, Covina, in accordance with §54954.2(a) of the Government Code.

CLOSED SESSION

A. G.C. §54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR NEGOTIATIONS TO INCLUDE BOTH PRICE AND TERMS:
DESIGNATED REPRESENTATIVE: Robert Neuber, Comm. Development Director

- Covina Valley Unified School District – 120 East School Street (APN 8430-027-900)
- Covina Valley Unified School District – Vacant Land South Side Puente Street at Third Avenue (APN: 8444-021-904)
- Mercy Moreno – 147-151 East College Street (APN 8445-001-918)
- Elite Dining, Inc. – 114 E. Italia Street (APN 8445-001-905)
- Charlie Park – 116 E. School Street (APN 8430-027-009)
- Yen Yao Hsih (APN 8431-028-007)
- Yen Yao Hsih (APN 8431-028-025)
- Yen Yao Hsih (APN 8431-028-026)
- Yen Yao Hsih (APN 8431-028-029)
- Greg Bozzani – 602 S. Citrus Avenue (APN 8451-001-911)
- Greg Bozzani – 626 S. Citrus Avenue (APN 8451-001-911)
- Enterprise – 635 South Citrus Ave. (APN 8453-001-906 & 8453-001-900)

B. G.C. §54956.9(c) – CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation
Number of Cases: One (1)

CONVENE THE MEETING

The City Council/Redevelopment Agency/Public Finance Authority meeting reconvened at 7:31 p.m.

**CITY ATTORNEY
ANNOUNCEMENT**

City Attorney Marco Martinez announced that there were no reportable actions related to Closed Session item A and B. He also noted that one property listed under Closed Session item A would be discussed under the public hearing portion of the agenda.

PLEDGE OF ALLEGIANCE

Mayor Delach led the Pledge of Allegiance.

INVOCATION

Covina Police Chaplain David Truax gave the Invocation.

PRESENTATIONS

Mayor Delach invited Police Chief Kim Raney to the lectern to assist in recognizing Police Officer David Rodriguez as California SWAT Officer of the Year. Police Chief Raney summarized the events that led to Officer Rodriguez's nomination to the Tactical Officers Association.

Mayor Delach and Police Chief Raney recognized Police Department Volunteer of the Year, Phyllis Meadow. Police Chief Raney highlighted Phyllis' exemplary service to the Police Department since 1994 with over 2,700 hours of volunteer time served.

Mayor Delach invited Win Patterson to the lectern to assist in recognizing and thanking the Christmas Parade Committee Members for their work on the upcoming 60th Annual Covina Christmas Parade, which is scheduled for Saturday, December 4, 2010 beginning at 6:30 p.m. Mayor Delach and Win Patterson recognized first time Emeritus Award recipients Bob and Marilyn Humble who have volunteered their service on the Christmas Parade Committee for 36 years.

Mayor Delach randomly drew three winning tickets in for the Covina Christmas Parade opportunity drawing: 1st place winner, Vicky Van Anrooy, will ride in the upcoming parade; 2nd place winner, Julia Dominguez, will sit and view the parade from the VIP area; 3rd place winner, Jaden Allen, will receive a \$100 gift card.

Mayor Delach invited Hospice Volunteer Bob Gorski to the lectern to receive the proclamation for Hospice and Home Health Care month. Mr. Gorski reminded everyone of the Citrus Valley Foundation annual "Light up a Life" event on Thursday, December 9, 2010 at 5:30 p.m., with this years Honoree, Council Member Walter Allen.

Mayor Pro Tem King spoke on the Veterans Day Remembrance Event and thanked those military heroes that live in the City of Covina.

PUBLIC COMMENTS

Kathy Salerno extended an invitation to the "Kid of Character Concert" on December 2, 2010 at 7:00 p.m. at Covina Assembly, 250 East San Bernardino Road. Ms. Salerno stated the Kid of Character non-profit organization uses music to educate kids in applying good character traits and making good decisions. Thanks to local sponsorship, each elementary student attending the upcoming concert will receive a complimentary copy of the ABC's of Character book.

Cathy Stevens stated she is a cancer survivor and after attending an Annual Relay for Life event wanted to make a difference in her community. Ms. Stevens and Cheryl Driscoll requested the support of the City Council and the City of Covina in her quest as Event Chair of the "1st Annual Relay for Life of Covina" taking place on April 30-May 1, 2011 at Northview High School. Ms. Driscoll challenged the City Council to form a relay team and participate in the 24-hour event. Mayor Delach offered the City's support and Council Member Allen volunteered to be on the planning committee and suggested a proclamation be given in support of the event.

Dora Gomez extended an invitation to the Covina Assembly of God – Community Christmas Party on December 11, 2010 between 9:00 a.m. and 12:00 noon at 250 East San Bernardino Road. Ms. Gomez thanked the 150 volunteers that help with the event and noted that this year there will be a craft booth, pictures with Santa, gifts for children, food baskets given and a hot breakfast will be served. Ms. Gomez stated anyone may drop off an unwrapped gift valued between \$10-\$15 for a child between the ages of 6 months to 17 years at the Church Office. Monetary gifts for the Christmas Party are always welcome. For additional information, contact Sandy Footer the Covina Assembly of God at (626) 966-4488.

Maria Gutwein submitted a signed petition requesting installation of a stop sign at the southwest corner of Monte Vista Avenue and Dexter Street and also at the northwest corner of Alhambra Street and Monte Vista Avenue to reduce traffic speeds and protect children and residents from traffic hazards. Ms. Gutwein requested speed bumps if traffic signs could not be installed.

COUNCIL/AGENCY COMMENTS

Council Member Allen reminded everyone of the "Light up a Life" event at Citrus Valley Hospice on Thursday, December 9, 2010 at 5:30 p.m.

Council Member Low stated he purchased the biography of Sam Rayburn from the Covina Library. He noted the book is inspirational in that Sam Rayburn served on Congress for 50 years, ran 25 consecutive times, and won every election, devoting his life to making life better for the people that he served. Council Member Low stated he read in the newspaper that the City of Alhambra was awarded a

prize for being the most business friendly city in southern California with a population in excess of 60,000. He reported on his visit to the City of Alhambra and the changes that occurred with a new library built adjacent to Alhambra High School. Council Member Low referred to his comments from last meeting regarding the Academic Performance Index (API) test scores and that the secondary intermediate scores for Covina's schools do not meet State objectives. He noted that all the schools in the City of Alhambra exceed the API and he would like to see the City make a commitment in assisting Covina's local schools work towards accomplishing the State mandated goal. Council Member Low cited property values in the City of Alhambra are 50-percent higher than in Covina, adding that a lot of things influence property pricing with education being one of them.

Mayor Pro Tem King expressed his appreciation for the Veterans Day ceremony on November 11, 2010, adding that the event reaffirmed how the community cares for its Veterans.

Mayor Delach announced the official holiday lighting of the Christmas tree would take place this Friday, November 19, 2010 at 7:00 p.m., in Civic Center Park. Mayor Delach announced that Covina City Hall and City Yard would be closed on Thursday, November 25, 2010 for the Thanksgiving Holiday. Water and street emergencies should be reported to the Covina Police Department non-emergency number: (626) 331-3391. In addition, Parks and Recreation Offices, Covina Public Library and the Administrative Offices of the Covina Police Department will be closed from Thursday, November 25, 2010 through Saturday, November 27, 2010. Police Department patrol division and public safety functions will be available during this period. Mayor Delach announced the overnight parking enforcement moratorium of the Thanksgiving holiday. To accommodate overnight guests during the Thanksgiving Holiday, the Covina Police Department will suspend the requirement for overnight on-street parking permits from 2:00 a.m. on Wednesday, November 24, 2010 through 4:00 a.m. on Sunday, November 28, 2010.

CITY MANAGER COMMENTS

City Manager Daryl Parrish echoed Mayor Pro Tem King's comments regarding the Veterans Day event.

CONSENT CALENDAR

On a motion by Mayor Pro Tem King, seconded by Council Member Stapleton, the City Council/Redevelopment Agency/Public Finance Authority approved Consent Calendar items CC1, CC2, CC3, CC5, CC6, CC7, CC8, CC9, CC10, CC11, CC12, CC13, CC14, CC16 and CC17. **Motion carried 5-0, with a Council Member Stapleton abstaining on CC1.** Consent Calendar items CC4 and CC15 were removed for further discussion and consideration.

**REGULAR CITY
COUNCIL/CRA/CPFA
MEETING MINUTES
CC1**

City Council approved the Minutes of the November 2, 2010 Regular City Council/Redevelopment Agency/Public Finance Authority Meeting.

**PAYMENT OF DEMAND
CC2**

City Council received and filed the Payment of Demand in the amount of \$6,303,379.59.

**AUTOMATED CLEARING
HOUSE TRANSACTIONS
CC3**

City Council authorized the Automated Clearing House (ACH) Transactions between Bank of the West and Wells Fargo Bank.

**ADJUSTMENT AND
SETTLEMENT OF CLAIMS
CC4**

City Council adopted **Resolution No. 10-6905**, to rescind City Council Resolution No. 87-4833, authorizing the adjustment and settlement of claims against the City of Covina.

Council Member Low requested staff provide additional information regarding this item. Council Member Allen requested clarification that the City Manager would continue to provide settlement updates to Council.

City Manager Daryl Parrish reported the adoption of Resolution No. 10-6905 would increase the settlement authority for the City Manager from \$10,000 to \$25,000 and give the Risk Manager, who is also involved in claim settlement, authority up to \$15,000. He noted that the last increase was in adopted in 1987 and this increase is needed, as it is difficult to settle claims under \$10,000. City Manager Daryl Parrish added that staff could provide Council with a monthly or quarterly report of claims settled under \$25,000.

On a motion by Mayor Delach, seconded by Mayor Pro Tem King, the City Council/Redevelopment Agency/Public Finance Authority approved Consent Calendar item CC4, with a request that Council receives a quarterly report. **Motion carried 5-0.**

**AMEND FINE AMOUNTS FOR
PARKING VIOLATIONS
CC5**

City Council adopted **Resolution No. 10-6908**, to amend the fine amounts for parking violations to comply with state mandated legislation SB 857 and to offset increased local parking enforcement costs.

**AMENDMENT TO PERS
CONTRACT
CC6**

City Council adopted **Resolution No. 10-6909**, to approve an amendment to the contract between the City of Covina and the California Public Employees' Retirement System (CalPERS) to provide a 3% @ 55 Retirement plan for Sworn Employees hired on or after January 1, 2011.

**ORDINANCE AMENDING
TITLE 14 OF CMC
CC7**

City Council introduced and waived further reading of **Ordinance No. 10-1990**, adopting the 2010 California Administrative, Building, Residential and Green Building Codes, et al., and the 2011 Los

Angeles County Fire Code by reference and amending Title 14, Buildings and Construction, of the Covina Municipal Code.

**COMMUNITY
DEVELOPMENT BLOCK
GRANT PROGRAM
CC8**

City Council approved the determination of satisfaction of note and program requirements and terms for the program participants of the Community Development Block Grant (CDBG) Special Economic Development Program.

**REORGANIZATION OF I.T.
DIVISION OF FINANCE DEPT.
CC9**

City Council approved the reorganization of the Information Technology Division of the Finance Department.

**PW MONTHLY REPORT
CC10**

City Council received and filed the Public Works Department Monthly Activity Report.

**2010 CALPERS EDUCATIONAL
FORUM
CC11**

City Council received and filed the report of the 2010 CalPERS Educational Forum.

**AMENDMENT AGREEMENT
WITH LA WORKS
CC12**

City Council approved the amendment to the July 1, 2009 agreement between the City of Covina and LA Works for the CDBG-R program.

**AGENCY PAYMENT OF
DEMANDS
CC13**

Redevelopment Agency received and filed Payment of Demands in the amount of \$466,831.25.

**AWARD PSA TO WILLDAN
ENGINEERING
CC14**

Redevelopment Agency awarded a Professional Services Agreement contract to Willdan Engineering for an amount not to exceed \$15,000 for construction management and inspection services for Olson Citrus Walk at-grade demolition.

**APPROPRIATION OF FUNDS
CC15**

Redevelopment Agency adopted **Agency Resolution No. 10-644**, for appropriation of additional funds for Plans Specifications and Engineering (PS&E) and construction of the Heritage Plaza Project and authorize Executive Director to execute corresponding Professional Services Agreement Contracts.

Council Member Low stated he has a concern about the increase and expenditures on the Heritage Plaza Project. He stated he believes that the City should reorganize its priorities and focus on improving the quality of the Covina educational system and that the \$300,000 increase seems unreasonable.

Mayor Delach requested clarification that public purpose bonds are only designated for certain projects, to which Redevelopment Agency Executive Director Robert Neiuber responded that there were limits on the use of public purpose bond money. Mayor Delach noted the Heritage Plaza holds many public events and longed for improvements.

On a motion by Mayor Pro Tem King, seconded by Council Member Stapleton, the City Council/Redevelopment Agency/Public Finance

Authority approved Consent Calendar item CC15. **Motion carried 4-1, with Council Member Low voting no.**

**AWARD PSA TO SCS
ENGINEERS
CC16**

Redevelopment Agency awarded a Professional Services Agreement contract to SCS Engineers for oversight during pre-demolition abatement for an amount not to exceed \$10,000.

City Council and Redevelopment Agency:

**APPROVING THE SALE OF
REAL PROPERTY BY
VEHICLE PARKING DISTRICT
CC17**

Adopted **City Resolution No. 10-6907**, approving the sale of real property by Vehicle Parking District to the Covina Redevelopment Agency pursuant to that certain disposition and development agreement with Olson Land Projects, LLC, and authorize the Executive Director to execute said purchase agreement; and

Adopted **Agency Resolution No. 10-643**, approving the sale of real property by Vehicle Parking District to the Covina Redevelopment Agency pursuant to that certain disposition and development agreement with Olson Land Projects LLC and authorize the Executive Director to execute said purchase agreement.

JOINT PUBLIC HEARING

**LAND EXCHANGE
AGREEMENT WITH
CVUSD
JPH 1**

Joint Public Hearing was before City Council/Redevelopment Agency for the consideration for Land Exchange Agreement with Covina Valley Unified School District (CVUSD) for Olson Citrus Walk Project and for a joint vocational training facility.

Mayor Delach opened the public hearing at 8:36 p.m. There were no speakers. Mayor Delach closed the public hearing at 8:36 p.m.

Redevelopment Agency Executive Director Robert Neiuber reported that there were changes to the agreement, which included language clarification, and have been provided to Council and the City Clerk this evening. He reported the joint venture agreement will come before Council for later approval and that the substance of the agreement remains as provided. He reported this item would go before the School Board for approval in December and requested Council allow the Executive Director to sign the agreement as long as there were no substantial changes to the agreement.

On a motion made by Council Member Allen, seconded by Mayor Pro Tem King, incorporating the changes made to the agreement by City staff, the City Council adopted **Resolution No. 10-6906**, approving a Land Exchange Agreement with Covina Unified School District, a California School District, for property located at 120 East School Street and a portion of parcel 8444-021-904 and making certain findings pursuant to California Health and Safety Code §33433 in connection with the Covina Redevelopment Agency's sale of property acquired with tax increments funds; and the Covina Redevelopment Agency adopted **Resolution No. 10-642**, approving a Land Exchange

Agreement with Covina Unified School District, a California School District, for property located at 120 East School Street and a portion of parcel 8444-021-904 and making certain findings pursuant to California Health and Safety Code §33433 in connection with the Covina Redevelopment Agency's sale of property acquired with tax increments funds. **Motion carried 4-1, with Council Member Stapleton voting no.**

NEW BUSINESS

Introduce and waive further reading of **Ordinance No. 10-1987.**

**INTRODUCE ORDINANCE
NO 10-1987
NB 1**

At 8:42 p.m., Mayor Pro Tem King recused himself from the dais as a potential conflict due to his employer.

Public Works Director Steve Henley reported that this Ordinance would overhaul Title 11 of the Covina Municipal Code, which covers all activities within the Public Rights-of-Way. Title 11 of the Municipal Code was original drafted in 1964, with revisions made in 1978. He stated the update provides protection for the City regarding responsibility within the right-of-way, ensures the City has proper permitting and that the City is not incurring any costs.

On a motion made by Mayor Delach, seconded by Council Member Allen, the City Council introduced and waived further reading of **Ordinance No. 10-1987**, amending Title 11 of the Covina Municipal Code pertaining to Controls in Public Rights-of-Way. **Motion carried 4-1, with Mayor Pro Tem King abstention.**

Mayor Pro Tem King returned to the dais at 8:44 p.m.

**APPEAL OF TWO
PLANNING COMMISSION
DECISIONS
NB 2**

City Council to consider Council member initiated appeal of two Planning Commission Decisions.

City Attorney Marco Martinez stated the item before City Council is to determine whether to hold a public hearing to consider the items heard by the Planning Commission.

David and Olga Fernandez stated they attended the Planning Commission meeting on October 26, 2010 to express their concerns regarding the mono-pine cell tower proposed at the corner of Forest Hills Drive and Garvey Avenue. Mr. and Mrs. Fernandez requested that City Council oppose the proposed project and suggested a better location might be on City property.

Gary Rodriguez spoke in opposition of the proposed mono-pine cell tower proposed on Garvey Avenue. He stated that his property is located within 80-feet from the proposed tower location and referenced a safety concern with the possibility of children climbing the cell

tower. Mr. Rodriguez suggested a better placement might be at Forest Hill Cemetery.

Patric McKnight stated he is a 31-year resident of the City of Covina and a retired design telephone plan engineer. He spoke in opposition of the proposed monopine cell tower being installed in the neighborhood. Mr. McKnight expressed a safety concern with long-term EMF frequencies from the cell-type technology.

Jamie Jasso stated his property is located 50 yards away Garvey Avenue and shared the same concerns as the other neighbors which spoke. He expressed a concern regarding a decrease in property value with the proposed cell tower.

Mayor Pro Tem King requested that staff look into other possible locations in the surrounding area for this cell-tower and the possibility, if necessary, of a co-location tower agreement.

On a motion made by Council Member Allen, seconded by Mayor Pro Tem King, the City Council considered the merits of an appeal of the Planning Commission's decision regarding Conditional Use Permit 10-008 and related Variance 10-002 and Conditional Use Permit 10-010 and related Variance 10-004. **Motion carried 5-0.**

JOINT NEW BUSINESS

City Council and Redevelopment Agency to approve Shopper's Lane Improvements Final Concept Design.

SHOPPER'S LANE IMPROVEMENTS

Senior Management Analyst Alex Gonzalez reported that Alta Planning and Design provided, based on public input, the conceptual design presented to Council this evening. He noted the key aspects of the re-design including the removal of irrigation though out the parking lot, removal of the queen palm trees and replacing the grass shrubs with colored permeable concrete.

A brief discussion took place regarding quality of colored concrete and the location of permeable concrete in the parking lot. City Council and staff discussed if this project could score enough points for the Leadership in Energy & Environmental Design (LEED) building certification system.

On a motion made by Mayor Delach, seconded by Council Member Stapleton, the City Council and Redevelopment Agency approved Shopper's Lane Improvements Final Concept Design. **Motion carried 5-0.**

ADJOURNMENT

At 9:12 p.m., Mayor Delach adjourned the City Council/Redevelopment Agency/Public Finance Authority meeting to Tuesday, November 30, 2010 at 6:30 p.m. for a special meeting in the Council Chambers of City Hall, 125 East College Street, Covina, California, 91723.

Catherine M. LaCroix
Deputy City Clerk/Agency Secretary

Approved this 7th day of December, 2010.

Peggy Delach, Mayor/Chairperson

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 2, 2010

ITEM NO.: CC 2

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

ITEM TITLE: FY 2010-11 1st Quarter Update on Major Funds

STAFF RECOMMENDATION

Receive and file the budget update report for the quarter ended September 30, 2010.

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.

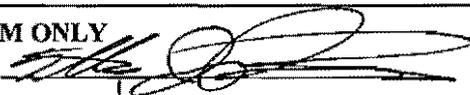
The attached report gives an overview of the budgets for the General, Redevelopment Agency, and Enterprise Funds for the City of Covina as of September 30, 2010. For analysis purposes, we have used 25% of budget to determine whether revenues and expenditures are trending over or under budget. Of the major funds presented in the report, all expenditures are below the 25% guideline for the quarter. Although revenues across the funds are mostly below the 25% threshold, this is not to be unexpected this early into the fiscal year, due to the timing of Property Tax payments to the City and Redevelopment Agency. While this current shortfall of tax revenue affects the bottom line of General Fund revenue, detailed analysis shows several other major revenue categories trending over the 25% guideline.

RELEVANCE TO STRATEGIC PLAN

None.

EXHIBITS

A. Budget Report for Quarter Ended 9/30/10

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

CITY OF COVINA/REDEVELOPMENT AGENCY
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 3

STAFF SOURCE: Dilu de Alwis, Finance Director
Robert Neiuber, Director Community Development

ITEM TITLE: Receive and File 2nd Quarter 2010 Sales Tax Report.

STAFF RECOMMENDATION

City Council to receive and file 2nd Quarter 2010 Sales Tax Report.

FISCAL IMPACT

None

BACKGROUND

Sales tax results over the past five quarters have varied significantly. The following table depicts this variation;

2 nd Quarter 2008	2 nd Quarter 2009	(21%)
3 rd Quarter 2008	3 rd Quarter 2009	(17.5%)
4 th Quarter 2008	4 th Quarter 2009	(11.1%)
1 st Quarter 2009	1 st Quarter 2010	(3.6%)
2 nd Quarter 2009	2 nd Quarter 2010	2%

After approximately six quarters the quarter over quarter comparison shows growth although slightly. This is welcome news that the Covina economy is stabilizing and staff is cautiously optimistic that the next quarter will show a slight up tic from this quarter.

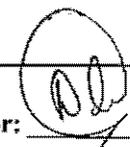
Our hope is that the economy continues to inch forward and the sales tax results return to the 2008 levels. Sales tax which makes up approximately 25% of the General Fund budget is a key funding source for many programs including public safety. Stabilization of this revenue source will enable the City of Covina to continue to maintain the level of services currently in place.

RELEVENCE TO THE STRATEGIC PLAN

This informational item is in-line with the Long-Term Financial Stability component of the Strategic Plan under "Enhance Financial Stability".

EXHIBITS

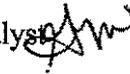
- A. Covina Sales Tax Report
- B. Major Industry Groups 13 Quarter History

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

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 4

STAFF SOURCE: Guadalupe Marquez, Human Resources Analyst 
Marie Klymkiw, Risk Manager 

ITEM TITLE: Report of 2010 CalPELRA Conference

STAFF RECOMMENDATION:

Receive and file the report of the 2010 California Public Employers Labor and Relations Association (CalPELRA) Conference, which was attended by the Human Resources Analyst and Risk Manager.

FISCAL IMPACT:

A cost of \$633.00 to attend the 2010 CalPELRA Conference was budgeted in the Human Resources Conferences and Meeting account # 101008000053200.

The cost for the Risk Manager to attend the conference was paid by CSAC (California State Association of Counties).

BACKGROUND:

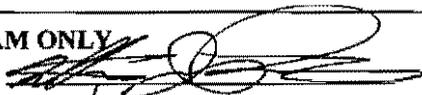
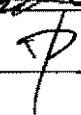
The Human Resources Analyst and Risk Manager attended the 2010 CalPELRA Conference held in Monterey, CA, on November 16, 2010 to November 19, 2010. The conference focused on a variety of topics related to labor relations and workers compensation. Staff attended a variety of sessions regarding human resources legal topics and workers' compensation issues.

RELEVANCE TO THE STRATEGIC PLAN:

None.

EXHIBITS:

None.

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

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 5

STAFF SOURCE: Steve Henley, Director of Public Works *SH*
Kalieh Honish, Assistant Director of Public Works
Bob Hogan, Equipment Supervisor

ITEM TITLE: Fueling Station Upgrade

STAFF RECOMMENDATION

Receive and file this report advising the City Council of improvements to the City's diesel and unleaded fueling station pump systems to avoid further interruptions of service.

FISCAL IMPACT

The recommended action entails no impact upon the General Fund. The funds used for this expenditure are Equipment funds currently budgeted in the Central Equipment Vehicle and Operation budget for the CNG fueling station upgrade (7010-6010-00-55200), but will be partially used in the current fiscal year for urgent repair/upgrade of the fueling station to ensure diesel and unleaded fuel remains available to the City's fleet at all times, including all safety response vehicles. The remainder of the budgeted funds will be used to procure a contractor to upgrade the CNG station to improve CNG service as outlined in the current fiscal year's budget.

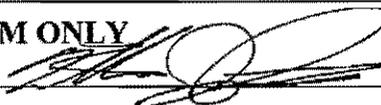
BACKGROUND

The fueling station located at the City Yard provides diesel and unleaded fuel for all City fleet vehicles, as well as the Covina Valley Unified School District, and Los Angeles County Fire Department vehicles. There are 2 pumps for diesel, and 2 pumps for unleaded gasoline. In the past 12 months, these pumps have experienced at least 10 pump failures requiring costly repairs and extensive down time to part, if not all of the available pumps. During the months of October and November 2010, only one of the unleaded fuel pumps was working, and the serviceable pump was the pump deemed less reliable by Equipment staff. In order to ensure the reliability of the fueling station, staff requested that the maintenance service provider, Charles E. Thomas Company, proceed on an emergency basis with the recommended fueling system upgrade to avoid future fueling service interruptions, as authorized by Section 2.20.080(B)(1) & (2) of the Covina Municipal Code. The repair/upgrade is estimated at \$91,000.

RELEVANCE TO THE STRATEGIC PLAN

The purpose of the fueling stations maintained by the Equipment Division is to support the City's mobile response to 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; and Provide efficient, visible and responsive public safety.

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

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 6

STAFF SOURCE: Robert Neiuber, Director of Community Development^{ANJ}
Marco Martinez, City Attorney
Nuala Gasser, Senior Redevelopment Manager^{NY}

ITEM TITLE: Memorandum of Understanding for the 2011 Greater Los Angeles Homeless Count Opt-in Program.

STAFF RECOMMENDATION

Approve the Memorandum of Understanding for the 2011 Greater Los Angeles Homeless Count Opt-In Program with the Los Angeles Homeless Services Authority.

FISCAL IMPACT

No fiscal impact. The count will be completed by volunteers.

BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) requires all Continuum of Care systems funded by HUD to complete a homeless count no less than every other year. The Los Angeles Homeless Services Authority is the Continuum of Care provider for our region, and lead agency for the 2011 Greater Los Angeles Homeless Count (Count), which will take place in the San Gabriel Valley on January 25th.

Cities are given the option of participating in the Count. Covina has indicated that it will participate, and LAHSA has requested that the Memorandum of Understanding (MOU), attached as Exhibit A, be signed. The MOU commits the City to participating in the Count, which LAHSA will run and supervise. At the Count's close, LAHSA will give the City an estimate of how many homeless people reside in the City. The most significant obligations under the MOU are as follows:

- No homeless sweeps prior to and during the Count: During the week prior to the Homeless Count (and on the nights of the Count), the City agrees NOT to conduct homeless sweeps or similar law enforcement activities that would move homeless persons out of the area.

The police department will be made aware of this provision so law enforcement efforts do not conflict with the Count.

- City facilities, volunteers and census tracts: The City must provide volunteer training and coordination facilities before and during the Count, and the City must also recruit

volunteers. Ten census tracts in Covina will be counted, and approximately fifty volunteers will be needed.

- Opt-Out: If at any time the City wants to "Opt-Out" of the Count, the City should notify the Authority in writing. However, if the City fails to fulfill obligations under the MOU, the City will be deemed as automatically opted-out of the Count.

If the City opts-out of the Count (or is deemed as opted-out), *the City will still be responsible for providing resources to the Count*, including the volunteers and City training, meeting and coordination facilities. If the City opts-out, the Authority may withhold data produced by the Count.

- Security/Police Services: Each site requires a City-provided security guard or police officer.

The Parks and Recreation Department has made the Joslyn Center available as a Deployment Site for the night of January 25, 2011. Volunteers will receive training before they are deployed. The Count will start at approximately 8 p.m. and the Site will be open up to 3 a.m.

There are five components to the Count

- Street Count (3 days in late January 2011)
- Shelter Count (3 days in late January 2011)
- Youth Count (2-3 days in March 2011)
- Hidden Homeless Telephone Survey (Begins February 2011)
- Homeless Demographic Survey (Begins March 2011)

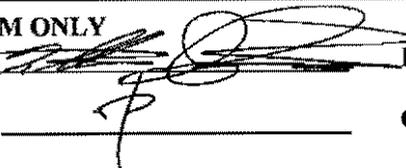
The MOU is related to the Street Count only.

RELEVANCE TO THE STRATEGIC PLAN

Not applicable.

EXHIBITS

A. MOU with LAHSA

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

MEMORANDUM OF UNDERSTANDING
FOR THE 2011 GREATER LOS ANGELES HOMELESS
COUNT OPT-IN PROGRAM

The 2011 Greater Los Angeles Homeless Count will take place on the nights of January 25, 26 & 27, 2011. As the lead agency for the Los Angeles Continuum of Care (CoC), the Los Angeles Homeless Services Authority (LAHSA) coordinates a biennial census of homeless people. The CoC includes 85 cities and the unincorporated area of Los Angeles County, excluding Glendale, Pasadena, and Long Beach. The data gathered from the Homeless Count is extremely valuable in our mission to end homelessness. It supplies government agencies, service providers, and housing providers with a reliable estimate of the homeless population in the City & County of Los Angeles, as well as an array of demographic information.

For the 2011 Homeless Count, the new **Opt-In Program** gives cities, regions and organizations the opportunity to obtain city- and region-specific data at a high confidence level. Participation will allow your City to use the methodology of the 2011 Homeless Count to obtain a point-in-time number of the unsheltered homeless population within their city or region. Full enumeration of a pre-defined area will provide more granular data and substantially aid you in evaluating existing homeless services and in planning for future measures to address local homelessness in your community.

This Memorandum of Understanding (M.O.U.) sets forth the duties and responsibilities of LAHSA and the cities/jurisdictions committing to participate in the 2011 Greater Los Angeles Homeless Count OPT-IN Program (HC11).

I. Definitions:

AGREEMENT means the cooperative agreement between LAHSA and your City as specified in this Memorandum of Understanding.

DATA PROVISION means the provision of data regarding the point in time number of unsheltered homeless persons counted within the boundaries of your City as produced by the HC11 methodology.

DATA PUBLICATION means the distribution of HC11 data provided by LAHSA to the public through oral or written presentations at meetings or through any form of public media.

DEPLOYMENT SITE means a site within your area from which volunteers will be deployed to perform the homeless count, and that meets the following requirements:

- ✓ Not currently a site where services are provided to homeless people at night.
- ✓ Capacity (sufficient space) to hold and provide chairs for the specified number of volunteers for your area.
- ✓ Access to Restrooms
- ✓ Ample Free Parking in Area
- ✓ Must possess keys to the location or a staff person at the location to provide access
- ✓ A Location within the Opt-In boundaries defined by LAHSA (unless explicitly waived by LAHSA)
- ✓ A Deployment Site Coordinator to assist with logistics the evening of the Homeless Count

DEPLOYMENT CENTER COORDINATORS means those Homeless Count Volunteers who have the following responsibilities/duties:

- ✓ Direct the operations at a volunteer deployment center for the night of the count. Including but not limited to the set-up of the site.
- ✓ Ensure that volunteers are deployed in teams to the proper locations.
- ✓ Track all volunteer teams to ensure that they return in a timely manner.
- ✓ Assist with volunteer questions.
- ✓ Review all incoming tally sheets for accuracy.
- ✓ Communicate and coordinate with regional coordinators and LAHSA headquarters on the status of the Count at their site.
- ✓ Responsible for coordinating the pick-up and drop off of all homeless count materials with LAHSA.
- ✓ Participate in training and become certified by LAHSA staff.

FULL ENUMERATION means the complete enumeration (counting) of all unsheltered homeless persons throughout all of the census tracts within the boundaries of your City or jurisdiction.

LAHSA means the Los Angeles Homeless Services Authority, a joint powers authority created by the City and County of Los Angeles.

LEAD CONTACT COORDINATOR means the person who coordinates a city's volunteers and participation in the Homeless Count and serves as the lead contact person with LAHSA.

PARTICIPATING CITY means a City incorporated under the laws of the State of California or other form of local jurisdiction authorized by State law or County ordinance who has committed to participate in the HC11 OPT-IN Program.

OPT-IN COMMITMENT means the commitment made by your City by means of executing this M.O.U. to fulfill the responsibilities listed in Section II of this AGREEMENT.

OPT OUT RESTRICTIONS means the restrictions that will be placed upon your participation in HC11 in terms of resources committed and benefits to be derived by your City should you decide to OPT OUT of the program as specified in Section VI of this AGREEMENT.

UNSHeltered Homeless Count (Count) means the process of counting homeless persons living on the street, in parks, cars, or other places not meant for human habitation.

II. CITY RESPONSIBILITIES

As a City committing to participate in the 2011 Greater Los Angeles Homeless Count Cities OPT IN Program, your City is responsible for the provision and coordination at a local level of the following information and resources required to complete the full enumeration of unsheltered homeless persons in your area:

- A. In order to achieve an accurate count of unsheltered homeless persons in your area, your City agrees NOT to conduct any law enforcement directed or other types of sweeps of homeless persons that would have the effect of moving homeless persons outside of the boundaries of your jurisdiction either within the week prior to or on the night of the Count.
- B. Designate a Lead Contact Person responsible coordinating your efforts with LAHSA and for overseeing all efforts to accomplish the Count in your area. This person will be responsible for providing LAHSA with all required information including, but not limited to weekly updates on Homeless Count Volunteer recruitment and resources committed to the project.
- C. Designate Deployment Center Coordinators who are responsible for directing the operations at the Deployment Sites the night of the Homeless Count.
- D. The City must provide and/or return to LAHSA the information and items included here below, but not limited to:
 - 1) the name, office and cellular telephone numbers and email address for your City's designated Lead Contact Person;
 - 2) the name, office and cellular telephone numbers and email address for your City's designated Deployment Center Coordinators;
 - 3) weekly communication of the name, telephone number and email address of each Homeless Count Volunteer recruited;
 - 4) the name, office and cellular telephone numbers and email address for the contact person who will be responsible to provide access to each of the designated training and deployment sites in your area on the day/evening of the training or night of the Count;
 - 5) return tally sheets, maps and other materials needed by LAHSA to compile the 2011 Greater Los Angeles Homeless Count report, and;
 - 6) return unused LAHSA provided materials, such as clipboards, flashlights, etc. must be returned.
- E. The City has provided clear geographic boundaries for the area from which the actual number of census tracts to be counted will be determined by LAHSA.
- F. The City has provided the census tracts to be counted and the required number of volunteers, as determined by LAHSA, to complete the Unsheltered Homeless Count in your area and this information is provided as the attachment prepared by LAHSA, dated

October 19, 2010, attached hereto as Attachment 3 and incorporated by reference. Depending upon deployment needs on the night of the Count, your volunteers may be deployed to conduct homeless count activities outside of or adjacent to your City or Jurisdiction.

- G.** Ensure that each volunteer signs a Standard Waiver (See Attachment 1, Standard Waiver) and each volunteer who is a minor (under 18 years of age) has a Youth Waiver completed by a legal guardian (See Attachment 2, Youth Waiver) indemnifying LAHSA and your City from any liability during their participation on the night of the Count.
- H.** A location(s) for Homeless Count Volunteer training that meets the requirements stated above under the definition of **VOLUNTEER TRAINING SITE**.
- I.** Deployment sites for the night of the Count that meet the requirements stated above under the definition of **DEPLOYMENT SITE**.
- J.** Provision of one Security Guard or Police Officer at each Deployment site on the night of the Count. Security Guards or Police Officers providing security services at the Deployment Site(s) on the night of the Count must sign a Standard Waiver (See Attachment 1, Standard Waiver) indemnifying LAHSA and your City from any liability.
- K.** Refreshments for trainings on the night of the Count.
- L.** Prior to the release and/or publication of any HC11 data results your City, the parties hereto must obtain written approval of each party for the data to be released or published.

III. LAHSA RESPONSIBILITIES

In order to ensure a successful count of unsheltered homeless persons within the boundaries of your City, LAHSA will be responsible for providing the following information and resources:

- A.** Based upon the boundary information that you provided, LAHSA has provided a determination of the specific census tracts that need to be counted in order to achieve a full enumeration of unsheltered homeless persons in your area, which is attached as Attachment 3. The City and LAHSA have mutually agreed upon the census tracts to be counted in your area prior to the execution of this M.O.U. (See Attachment 3, Approved Census Tracts).
- B.** Based upon the number of census tracts to be enumerated in your area, the parties have agreed on the determination of the number of volunteers needed for your city or region's Count as shown in Attachment 3.
- C.** Based upon the number of census tracts to be counted and the geographic characteristics of your area, LAHSA provides a determination of the specific number of Deployment Sites that will be needed for a successful count.

- D. LAHSA will provide training for your Deployment Center Coordinators and Homeless Count Volunteers. Deployment Center Coordinators will receive training on data collection and safety procedures. Homeless Count Volunteers will receive training on standard enumeration and safety procedures.
- E. Materials necessary for a successful Homeless Count;
- F. Ongoing guidance, tools, and assistance to your Lead Contact Person, and;
- G. Provide your City with data produced by the 2011 Homeless Count methodology on the number of unsheltered and sheltered homeless persons within the boundaries of your local jurisdiction. In addition, LAHSA shall provide the City a report of the emergency shelters, transitional housing and safe haven locations within your jurisdiction's census tracts within the thirty (30) days of the completion of the Count. LAHSA shall also provide to the City all data collected in all regions of the Count.

IV. INDEMNIFICATION AND INSURANCE REQUIREMENTS

Each of the parties to this Agreement is a public entity. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities, solely by reason of such entities being parties to an Agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it or upon any of its officers, agents or employees by law, for injury caused by negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2. To achieve the above-stated purpose, each party indemnifies and holds harmless the other party for all losses, costs or expenses that may be imposed upon such other party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereto as if fully set forth herein. Each of the parties certifies that they have adequate commercial insurance or self-insured retention of funds to meet any obligation arising from this Agreement. The provisions of this paragraph survive expiration or termination of this Agreement.

V. OPT IN COMMITMENT

By the execution of this Memorandum of Understanding by an authorized official of your City, you are committing to participate in the 2011 Greater Los Angeles Homeless Count OPT IN Program and to fulfill all of the responsibilities of OPT IN participants as specified in Section II of this M.O.U.

VI. OPTING OUT

If at any time after the execution of this M.O.U., your City decides not to participate in 2011 Greater Los Angeles Homeless Count OPT IN Program you should notify LAHSA of this decision to OPT OUT of the program in writing. If you decide to OPT OUT of the program you will be subject to the OPT OUT RESTRICTIONS described under Section VII below. Additionally, should your City fail to continue your participation or fail to fulfill any of the responsibilities agreed to under Section II of this M.O.U., you will be considered to have OPTED OUT of the program and will be subject to the

same restrictions as if you had notified LAHSA in writing of your intention to OPT OUT. Notwithstanding any provision to the contrary in this Agreement, the City shall not be deemed to have OPTED OUT in the event that the City, in good faith, has not been able to provide the total number of volunteers as required in Section II of this MOU after the execution of this MOU. In such event the parties agree to reduce the number of census tracts to be counted in direct proportion to the number of volunteers that the City can provide.

VII. OPT OUT RESTRICTIONS

In the event that your City decides to OPT OUT of the 2011 Greater Los Angeles Homeless Count OPT IN Program or is considered by LAHSA to have OPTED OUT by virtue of your failure to fulfill your responsibilities under this M.O.U., you will still be responsible to provide the following resources to LAHSA for the 2011 Greater Los Angeles Homeless Count:

- A.** The volunteers needed to complete the regular CoC Count in your Opt-In area.
- B.** The Deployment Site(s) that your City had originally committed to provide.
- C.** The Training Site(s) that your City had originally committed to provide.

LAHSA acknowledges and agrees that in the event the City has OPTED OUT or is deemed to have OPTED OUT, LAHSA indemnify the City for LAHSA's use of the City's Volunteer list and such shall not be construed as the responsibility of the City for liability for such volunteers.

VIII. RIGHT TO WITHHOLD DATA

In the event that your City decides to OPT OUT of the 2011 Greater Los Angeles Homeless Count or fails to fulfill its responsibilities under this M.O.U., subject to the exception on Section VI, LAHSA reserves the right to withhold any and all data produced by the 2011 Greater Los Angeles Homeless Count.

IN WITNESS WHEREOF, the participating City and the Los Angeles Homeless Services Authority have caused this M.O.U . to be executed by their duly authorized representatives.

For: _____
Name of City

By: _____
[Printed Name of Authorized Official]

Title: _____

Executed this _____ day of _____, 2010

For: Los Angeles Homeless Services Authority

By: _____
G. Michael Arnold
Executive Director

Executed this _____ day of _____, 2010

Attachment 1

**Standard (Adult) Waiver
(on next page)**

**2011 GREATER LOS ANGELES
HOMELESS COUNT**
They Count. Will You?



Release, Indemnity, And Waiver of Liability Agreement

I. Terms of Participation In 2011 Greater Los Angeles Homeless Count

- a. I understand and agree that the Los Angeles Homeless Services Authority (LAHSA) and City of Covina will be conducting the 2011 Greater Los Angeles Homeless Count (HC11) and that I will be participating as a volunteer. As such, I also understand that my behavior and actions will reflect the best example of social moral code and ethics.
- b. I understand and agree that my services are **temporary**, and therefore are only requested on the _____ nights(s) of January 25, 26, and 27, 2011 from 8:00 p.m. until my street count shift is finished (approximately between 12:00 a.m. and 2:00 a.m.). I further understand that I am eligible to participate on all three consecutive nights.
- c. I understand that my involvement in the 2011 Homeless Count may be terminated at any _____ time due to inappropriate behavior, reckless endangerment, or lack of sufficient work _____ productivity, and that I may withdraw from the 2011 Homeless Count at any time without any cause or justification.
- d. I understand and agree that I **must** complete a **30-minute training session** either prior to or on the night of the Street Count as a requirement to participate in the 2011 Homeless Count.
- e. I understand and agree that, (unless I am a registered Homeless Stipend Volunteer), I will not receive any monetary compensation for attending the 30-minute training session, nor will I receive monetary compensation for any night that I volunteer for the 2011 Homeless Count.
- f. I understand and agree that I am responsible for transportation to and from the training session and _____ deployment sites on the specified dates and times of such events.

II. Assumption of Risk

- a. I understand and agree that my participation in the 2011 Greater Los Angeles Homeless as a *Volunteer* holds inherent risks that cannot be eliminated regardless of the care taken to avoid injuries. I understand that these risks vary from minor to severe, and I hereby agree to accept and all risks of injury, of any nature whatsoever.

III. Release, Indemnity, and Waiver of Liability

- a. I understand that my participation is voluntary, and as such, I hereby agree to waive, discharge, and release LAHSA, City of Covina and any of its employees, agents, and stakeholders from all liability for any loss or claims for damages of any nature whatsoever, including injury to person or property.
- b. I further agree to indemnify and hold LAHSA, City of Covina and any of its employees, agents, and stakeholders harmless from liability for any loss or claim for damages of any nature whatsoever, including injury to person or property..

I have carefully read and fully understand the meaning and effect of the foregoing statements and without reservation would like to participate in the 2011 Greater Los Angeles Homeless Count.

Print Name

Signature

Date

Attachment 2

**Youth Waiver
(on next page)**

**2011 GREATER LOS ANGELES
HOMELESS COUNT**
They Count. Will You?



**Release, Indemnity, and Waiver of Liability Agreement
for Youth Volunteers**

I. Terms of Participation In 2011 Greater Los Angeles Homeless Count

a. I, (name of parent/legal guardian), the under signed, here by represent that I am the parent/legal guardian of _____, the program participant, a person under the age of 18 years, and that I have the legal authority to execute this Release.

b. I understand and agree that the Los Angeles Homeless Services Authority (LAHSA) and City of Covina will be conducting the 2011 Greater Los Angeles Homeless Count (HC11) and that my son or daughter may volunteer to assist in this important community effort as set forth in this Agreement. As an HC11 volunteer, I also understand and agree that my son or daughter's behavior and actions will be expected to reflect the best example of social moral code and ethics.

c. I understand and agree that my son or daughter's volunteer service will be limited to assisting with various activities within a specified Deployment Center under the supervision of the Deployment Site Coordinator (DSC), and that he or she will not participate in HC11 Street Count activities outside of the Deployment Center.

d. I understand that my son or daughter's services are temporary, and therefore are only requested on one or more the nights(s) of January 25, 26, and 27, 2011 from 8:00 p.m. until ~12:00 a.m.

e. I understand and agree that my son or daughter's involvement in the 2011 Homeless Count may be terminated at any time due to inappropriate behavior, reckless endangerment, or lack of sufficient work productivity, and that my son or daughter may withdraw from the 2011 Homeless Count at any time without any cause or justification.

f. I understand and agree that my son or daughter will not receive any monetary compensation for attending the 30-minute training session, nor will he or she receive monetary compensation for any night that he or she volunteers for the 2011 Homeless Count

g. I understand and agree that I am responsible for the transportation of my son or daughter to and from the training session and deployment sites on the specified dates and times of such events.

III. Assumption of Risk

a. Assumption of Risk: I understand and agree that my son or daughter's participation in the 2011 Greater Los Angeles Homeless Count as a *Volunteer* in the Deployment Center holds certain inherent risks that cannot be eliminated regardless of the care taken to avoid injuries. I understand that these risks vary from minor to severe, and I hereby agree to accept all risks of injury, of any nature whatsoever..

III. Release, Indemnity, and Waiver of Liability

a. Indemnification: I understand that my son or daughter's participation is voluntary, and as such I hereby agree to waive, discharge, and release LAHSA, City of Covina and any of its employees, agents and stakeholders from all liability for any loss or claims for damages of any nature whatsoever, including injury to person or property.

b. I further agree to indemnify and hold LAHSA, City of Covina and any of its employees, agents, and stakeholders harmless from liability for any loss or claims for damages of any nature whatsoever, including injury to person or property.

I have carefully read and fully understand the meaning and effect of the foregoing statements and without reservation give permission to my son or daughter to participate in the 2011 Homeless Count.

Youth Volunteer Name: _____(Print Name)

Parent/Guardian Name: _____(Print Name)

Parent/Guardian Signature: _____

Date: _____

ATTACHMENT 3

City of Covina's attached list of approved census tracts to be enumerated (*Attachment 3*)

10/19/2010

Attachment Prepared by Mark Silverbush, Los Angeles Homeless Services Authority

of Volunteers Required: 45

# of Tracts	CENSUS TRACT	CITY/AREA
1	403600	COVINA
2	403702	COVINA
3	403721	COVINA
4	403722	COVINA
5	405700	COVINA
6	405800	COVINA
7	405900	COVINA
8	406000	COVINA
9	406101	COVINA
10	406102	COVINA

FROM THE LAHSA MEMORANDUM OF UNDERSTANDING FOR THE HC11 OPT-IN PROGRAM

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 7

STAFF SOURCE: Robert Neiuber, Director of Community Development
Dilu De Alwis, Director of Finance
Nuala Gasser, Senior Redevelopment Manager

ITEM TITLE: Approval of use of funds from the Community Development Block Grant 2010-2011 funding allocation for Special Economic Development.

STAFF RECOMMENDATION

Approve the Community Development Block Grant award of \$50,000, between the City of Covina and Elite Dining Services, Inc., and authorize the City Manager or his designee to execute the documents necessary to complete the grant/loan transactions when all conditions are met.

FISCAL IMPACT

This project is funded through the federal Community Development Block Grant program. \$50,000 is available at this time in funding under the CDBG Economic Development program number 600525-10, account number 2100-4750-07-53751.

BACKGROUND

The Economic Development Loan/Grant Program ("Program") is funded through the federally funded Community Development Block Grant (CDBG) program. The Program provides financial assistance to for-profit entities to carry out economic development and job creation or job retention activities in our community.

The program has received an application from Elite Dining Services, Inc., doing business as The Sugar Bowl. George Peterson and Linda Peterson are officers in the corporation Elite Dining Services, Inc., (Elite) located at 143 N. Citrus Avenue, Covina. Elite currently operates as Giovanni's Ristorante at this address, but is relocating Giovanni's to 114 E. Italia Street. This business is scheduled to open in December.

Elite had planned to open The Sugar Bowl in another location in Covina and was awarded \$50,000 in CDBG funds on December 6, 2005. The funds were distributed, but the restaurant was unable to open at that location. Elite returned the \$50,000 to the CDBG program. Elite is now ready to move forward with the Sugar Bowl at 143 N. Citrus Avenue. The new site is the site of the original "Sugar Bowl," which will be renovated and will open as The Sugar Bowl in early 2011. Elite has re-submitted a request for \$50,000 in CDBG job creation assistance to open The Sugar Bowl.

The Economic Development Loan/Grant Policy requires a ten year period between grant awards, when the owner of the business has a proprietary interest in another business which also received assistance in the ten year period. Giovanni's received job retention assistance in FY 05-06, and met all program requirements. In their first attempt to open as a restaurant, prior to the policy change, The Sugar Bowl was granted funding. The restaurant was unable to open, therefore, an exception to the policy is requested. An exception in this case would allow the funding of this \$50,000 request.

Elite is requesting a loan/grant through the CDBG economic development program in the amount of \$50,000. The funding will cover some of the costs connected to the business, including but not limited to fixture and equipment, inventory and working capital.

Job Creation Requirement

Elite is required to create one full-time equivalent position (40 hours per week) for every \$25,000 granted for the business at 143 N. Citrus Avenue. The business states that it will be able to meet the job creation requirements of two full-time equivalent employees. A minimum of fifty-one percent (51%) of the created positions must be held by employees from low- to moderate-income households.

The business will be required to maintain records and report on a quarterly basis on the low-to moderate-income positions. Program participants shall provide copies of the DE6 form, the State of California Quarterly Wage and Withholding Report, to the CDBG Division on a quarterly basis. The positions must be maintained for a minimum of one year.

Staff Review/Collateral

Staff has reviewed the application materials and is recommending funding in the amount of \$50,000 through the CDBG Special Economic Development Program. Staff recommendation of grant award is based on the need outlined in the application and the evaluated ability of the business owner to repay the loan in case of default. As a condition of approval, the loan/grant will be secured by a Deed of Trust, or a UCC-1 on fixtures and equipment, as well as a Guarantee of Note by the business owners. The business shall comply with all federal, state and local laws applicable to conducting this business. Underwriting guidelines reveal that the project proposed above is a financially viable project, meeting the requirements as outlined in Appendix A to Part 570 of the Code of Federal Regulations.

RELEVANCE TO THE STRATEGIC PLAN

The issuance of the CDBG grant and job creation will contribute to the City strategic plan objectives of enhancing financial stability.

EXHIBITS

- A. Business plan for The Sugar Bowl.
- B. Confidential application information is on file in the CDBG office and is available for review by City Council members.

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

The Sugar Bowl

Our plan with The Sugar Bowl is to take our customers back to a much simpler time of the 1940s in Covina when Oranges still a way of life to some, and the memories of Harold Teen coming to town are still fresh in everyone's mind.

We will serve fresh Hamburgers with french fries cut from fresh potatoes, along with sandwiches made with "Boars Head" lunchmeats. We will also have homemade soups and chili made daily.

The feature of course, will be the old fashioned soda fountain with malts, shakes, and even banana splits, sundaes, and cones using 12 flavors of "Thrifty Ice Cream". The customers will be able to order phosphates, flavored sodas and even New York egg creams, right down to the "Cherry Cokes" or "Green Rivers".

We will also include 12 mouthwatering flavors of Italian Gelato and sorbet from a special freezer showcase, for sale by the cup or cone. The customer will also find a display of homemade pastries, for eating here or enjoying at home.

There will be a cooler of all the old fashioned bottled sodas we remember enjoying as children and even a display of the well recognized candies we searched for over the years.

All of this in a quaint setting with Bob Crosbys and the Bobcats' "Swinging at the Sugar Bowl" playing in the background with many of the other hits from the '30s,'40s and '50s.

We will of course be selling "Sugar Bowl" hats, t-shirts and "official" lettermen jackets, just like from our high school days. We hope to partner with the Historical Society to sell items to further their cause of remembering and preserving the historic early days of Covina.

Our hours of operation will be 11:00 - 8:00 ^{Monday} Tuesday, Wednesday and Thursday, 11:00 - 9:00 on Fridays and 8:00 - 8:00 on Saturdays and Sundays, when we will also offer breakfast.

As this is a very "labor intensive" venture we've chosen, with many different aspects of retail marketing included, we expect to use about 130 man hours in the kitchen and 170 hours on the sales floor, with a labor cost of approximately \$2500 per week, employing 11-13 people from the local area. Our expected sales should be \$8,000 - \$10,000 per week in the winter to \$11,000-\$13,000 in the summer.

We expect to get very involved with the local community, as we have with "Giovanni's International Restaurant", catering at local events and fundraisers, working to cross merchandise with the other businesses in the area, and partnering with The Historical Society to further their cause.

Linda and I look forward to bringing back, a very important part of Covina's history and reliving some of the glory days when Harold Teen was "Swinging At The Sugar Bowl".

A handwritten signature in black ink, appearing to read "Harold Teen". The signature is stylized with a large, sweeping initial 'H' and a long, horizontal flourish extending to the right.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 8

STAFF SOURCE: Steve Henley, Director of Public Works
Kalieh Honish, Assistant Director of Public Works
Vivian Castro, Environmental Services Manager



ITEM TITLE: Adoption of **Resolution No. 10-6911** Recognizing a Day Without a Bag in the City of Covina

STAFF RECOMMENDATION

a) Adopt **Resolution No. 10-6911**, recognizing the 2010 Day Without a Bag in the City of Covina and

b) Announcing free reusable shopping bag give-a-way.

FISCAL IMPACT

The recommended action entails no impact upon the General Fund. The Covina reusable bags were purchased on October 20, 2008 under account number 6200-5580-00-54150 and included in the 2008-2009 adopted City budget.

BACKGROUND

Californians use more than 19 billion plastic grocery bags each year, roughly 552 bags per person. This usage generates about 150,000 tons of unnecessary waste – enough to stretch around the globe over 250 times. The state spends \$25 million per year to collect and dispose of plastic bags. Plastic bags not only create significant litter problems for Los Angeles County streets, beaches, and the marine environment, but they also can cost cities up to 20 cents per bag for disposal.

Paper bags have long been considered a more environmentally friendly alternative to plastic bags. However, when considering their whole life cycle, the detrimental effect they have on the environment is clearly evident. Manufacturing paper bags emits 70% more global warming gasses and creates 50 times more water pollution. Paper bag manufacturing also contributes to global warming by destroying trees. At the end of their life cycle, 80 percent of all paper bags end up in landfills. Due to lack of oxygen in landfills, paper bags do not biodegrade. Paper bags also cost more to landfill because they take up much more space by weight and volume than plastic bags.

The City of Covina has set solid waste reduction and recycling goals and is taking action against the unchecked proliferation of plastic bags. Reusable bags contribute towards environmental

and financial sustainability over single-use plastic and paper carryout bags. In September 2007, the City created its own reusable bag to promote recycling and reduce solid waste here in Covina.

The City of Covina in partnership with Heal the Bay, its community partners, and Los Angeles County are urging shoppers to forego single-use plastic and paper bags in favor of reusable shopping bags and to recognize A Day Without a Bag.

To commemorate this event and encourage the use of reusable shopping bags, the City of Covina will be offering free bags (while supplies last) to all City residents on December 16, 2010, A Day Without a Bag, at the Engineering/Environmental Services counter at City Hall during business hours.

RELEVANCE TO THE STRATEGIC PLAN

This item is directly related to the City's three year goals of "becoming an environmentally sustainable community" and "enhance financial stability" by educating the residents on the environmental impact of plastic and paper bag usage and the collection and disposal costs incurred by the cities.

EXHIBITS

A. Resolution No. 10-6911

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

RESOLUTION NO. 10-6911

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COVINA, CALIFORNIA, RECOGNIZING THE 2010 DAY WITHOUT A
BAG IN THE CITY OF COVINA AND ANNOUNCING FREE REUSABLE
SHOPPING BAG GIVE-A-WAY**

WHEREAS, Californians use more than 19 billion plastic grocery bags each year, roughly 552 bags per person; and,

WHEREAS, this usage generates almost 150,000 tons of unnecessary waste, enough to stretch around the globe over 250 times; and,

WHEREAS, the state spends \$25 million per year to collect and dispose of plastic bags; and,

WHEREAS, plastic bags not only create significant litter problems for Los Angeles County streets, beaches, and the marine environment, they can also cost cities up to 20 cents per bag for disposal; and,

WHEREAS, paper bags have long been considered a more environmentally friendly alternative to plastic bags, however, when considering their whole life cycle, the detrimental effect they have on the environment is clearly evident; and,

WHEREAS, manufacturing paper bags emits 70% more global warming gasses, and creates 50 times more water pollution; and,

WHEREAS, paper bag manufacturing also contributes to global warming by destroying trees; and,

WHEREAS, at the end of their life cycle, 80 percent of all paper bags end up in landfills; and,

WHEREAS, due to lack of oxygen in landfills, paper bags do not biodegrade; and,

WHEREAS, paper bags also cost more to landfill because they take up much more space by weight and volume than plastic bags; and,

WHEREAS, reusable bags contribute towards environmental and financial sustainability over single-use plastic and paper carryout bags; and,

WHEREAS, The County of Los Angeles in partnership with Heal the Bay, its community partners, and the City of Covina ("City") are urging shoppers to forego single-use plastic and paper bags in favor of reusable shopping bags to recognize A Day Without A Bag; and,

WHEREAS, to commemorate this event and encourage the use of reusable shopping bags, the City will be offering free bags (while supplies last) to all City residents on December 16, 2010, A Day Without A Bag, at the Environmental Services/Engineering counter at City Hall during business hours.

NOW, THEREFORE, THE CITY COUNCIL of the City of Covina, California, does hereby resolve that December 16, 2010 is recognized as the "2010 Day Without a Bag" in the City of Covina and encourages all citizens to forego single-use plastic and paper bags in favor of reusable shopping bags.

Passed, approved and adopted this ____ day of _____, 2010.

Peggy Delach
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 9

STAFF SOURCE: Anthony Arroyo, Human Resources Director
Catherine LaCroix, Deputy City Clerk

ITEM TITLE: Adoption of Amended Conflict of Interest Code

STAFF RECOMMENDATION

That the City Council adopt **Resolution No. 10-6899**, approving an amended Appendix to the Conflict of Interest Code pursuant to the Political Reform Act of 1974.

FISCAL IMPACT

There is no Fiscal Impact.

BACKGROUND

The City's Conflict of Interest Code was first adopted in June 1977 and since that time, all designated Covina City Employees have filed Statement of Economic Interests annually with the City Clerk's Office.

The Political Reform Act, pursuant to Government Code §87300, requires every local government agency review its Conflict of Interest Code biennially to determine if it is accurate or, alternatively, to amend the Code. Circumstances within the City have made it advisable and necessary, pursuant to Government Code §87306 and 87037, to amend and update the Appendix.

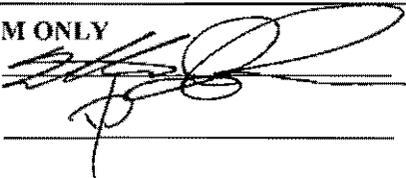
Attached is the proposed amendments to the Appendix of the Conflict of Interest Code, a legislative version of the Conflict of Interest Code and the adopting Resolution. Proper noticing has been provided in accordance with the law. A copy of the proposed amended Code is available for review in the City Clerk's Office.

RELEVANCE TO THE STRATEGIC PLAN

Not applicable.

EXHIBITS

- A. Resolution No. 10-6899
- B. Final version of Conflict of Interest Code
- C. Summary of revisions to Conflict of Interest Code

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

RESOLUTION NO. 10-6899

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA,
CALIFORNIA, APPROVING AND ADOPTING AN AMENDED APPENDIX
TO THE CONFLICT OF INTEREST CODE PURSUANT TO THE
POLITICAL REFORM ACT OF 1974**

WHEREAS, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000, et seq. (the "Act"), which contains provisions relating to conflicts of interest governing officers, employees and consultants of the City of Covina (the "City"), and which requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the City Council adopted a Conflict of Interest Code (the "Code") which was amended on December 2, 2008, in compliance with the Act; and

WHEREAS, changed circumstances within the City have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the Appendix to the City's Conflict of Interest Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are significant and may include criminal and civil liability, as well as equitable relief which could result in the City being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the City Council of, the proposed amended Appendix was provided to each affected designated employee and was publicly posted for review at the Office of the City Clerk; and

WHEREAS, a public meeting was held regarding the proposed amended Appendix at a regular meeting of the City Council on December 7, 2010, at which all persons present were given an opportunity to be heard on the proposed amended Appendix.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Covina, California, as follows:

1. The City Council does hereby approve and adopt the proposed amended Appendix of the Conflict of Interest Code, a copy of which is attached hereto and which shall remain on file with the Deputy City Clerk, together with a complete copy of the City's Conflict of Interest Code, and which shall be made available to the public for inspection and copying during regular business hours.
2. The said amended Appendix of the Conflict of Interest Code shall become effective thirty (30) days after the date of its adoption and approval.

3. The Deputy City Clerk shall certify to the adoption of this Resolution.

PASSED AND ADOPTED this 7th day of December, 2010.

Mayor of the City of Covina

ATTEST:

City Clerk of the City of Covina

APPROVED AS TO FORM:

City Attorney

CERTIFICATION

I, Catherine M. LaCroix, Deputy City Clerk of the City of Covina, California, do hereby certify that the forgoing Resolution No. 10-6899 was introduced and adopted by the Covina City Council at a regular meeting thereof held on the 7th of December, 2010, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS THEREOF, I have hereunto set my hand and affixed the official seal of the City of Covina, California, this 7th day of December, 2010.

Catherine M. LaCroix, Deputy City Clerk

EXHIBIT A

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

CITY OF COVINA

(Amended December 7, 2010)

EXHIBIT "A"

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney, the City Treasurer, and all Other City Officials who manage public investments as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the City's Code but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.). [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments¹. These positions are listed here for informational purposes only.

Finance Director

Financial Consultant

¹ Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Assistant City Manager	1, 2,
Assistant Community Development Director	1, 2
Assistant Planner	2,6
Assistant Public Works Director	2, 3, 5
Assistant to the City Manager	1, 2
Associate Civil Engineer	2, 3, 5, 6
Associate Planner	1,2
Building Inspector	3, 6
Building Official	5, 6
Business License Technician	5, 6
Chief Deputy City Clerk	5
City Attorney (not filing under GC 87200)	1, 2
City Clerk	5
City Engineer	1, 2
City Planner	1,2
Community Development Director	1, 2
Community Relations Supervisor	5
Community Services Supervisor	5
Computer Systems Analyst	5
Deputy Building Official	5, 6
Deputy City Clerk	5
Deputy Director CRA	1, 2
Director of Library Services	5
Environmental Services Manager	5
Equipment Foreman	5
Finance Manager	4

DESIGNATED EMPLOYEES'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

General Building Inspector II	6
Human Resources Analyst	5
Human Resources Director	5
Human Resources Manager	5
Information Technology Manager	5
Library Circulation Supervisor	5
Literacy Coordinator	5
Management Analyst	4
Marketing Manager	1, 2
Network Supervisor	5
Parks & Recreation Director	2, 3, 5
Parks & Recreation Manager	5
Parks Foreman	5
Parks Maintenance Supervisor	5
Plan Checker	6
Police Captain	5
Police Chief	5
Police Lieutenant	5
Police Records Supervisor	5
Principal Librarian	5
Printing and Central Services Specialist	5
Public Information Supervisor	5
Public Safety Communications Supervisor	5
Public Works Director	1, 2
Public Works Manager	5
Public Works Superintendent	5
Recreation Services Coordinator	5
Recreation Services Supervisor	5

DESIGNATED EMPLOYEES'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Redevelopment Manager	1, 2
Risk Manager	5
Senior Equipment Mechanic	5
Senior General Building Inspector	5, 6
Senior Librarian	5
Senior Management Analyst	4
Senior Planner	1, 2
Senior Redevelopment Manager	1, 2
Street Maintenance Foreman	5
Support Services Manager	5
Water Maintenance Supervisor	5
Water Services Supervisor	5

MEMBERS OF BOARDS,
COMMITTEES AND COMMISSIONS

Cultural Arts Advisory Commission	5
Historic Preservation Board	1, 2
Housing & Community Development Advisory Commission	1, 2
Public Library Board	1, 2
Parking Place Commission	1, 2

Consultants²

² Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

EXHIBIT "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the City.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside the jurisdiction of the City.

Category 3: All investments and business positions and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction, or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 5: All investments and business positions and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's department, unit or division.

Category 6: All investments and business positions and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the Designated Employee's department, unit or division.

APPENDIX

CONFLICT OF INTEREST CODE OF THE CITY OF COVINA

(Amended ~~December 2, 2008~~December 7, 2010)

EXHIBIT "A"

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney, the City Treasurer, and all Other City Officials who manage public investments as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the City's Code but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.). [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments¹. These positions are listed here for informational purposes only.

Finance Director

Financial Consultant

¹ Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS
GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Accounting Supervisor	5
Administrative Services Manager	6
Assistant City Manager	1, 2,
Assistant Community Development Director	1, 2
Assistant Planner	2, <u>76</u>
Assistant Public Works Director	2, 3, <u>65</u>
Assistant to the City Manager	1, 2
Associate Civil Engineer	2, 3, <u>65</u> , <u>76</u>
Associate Planner	1, 2
Building and Code Enforcement Coordinator	<u>76</u>
Building Inspector	3, <u>76</u>
Building Official	<u>65</u> , <u>76</u>
Business License Technician	<u>65</u> , <u>76</u>
Chief Deputy City Clerk	<u>65</u>
City Attorney (not filing under GC 87200)	1, 2
City Clerk	<u>65</u>
City Engineer	1, 2
City Planner	1, 2
Community Development Director	1, 2
Community Relations Supervisor	<u>65</u>
Community Services Supervisor	<u>65</u>
Computer Systems Analyst	<u>65</u>
<u>Deputy Building Official</u>	<u>5</u> , <u>6</u>
Deputy City Clerk	<u>65</u>
Deputy Director CRA	1, 2
Director of Library Services	<u>65</u>
Environmental Services Manager	<u>65</u>

BEST BEST & KRIEGER
ATTORNEYS AT LAW

Equipment Foreman

65

DESIGNATED EMPLOYEES'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Finance Manager

54

General Building Inspector II

6

Human Resources Analyst

5

Human Resources Director

65

Human Resources Manager

65

Information Technology Manager

65

Library Circulation Supervisor

65

Literacy Coordinator

65

Management Analyst

54

Marketing Manager

1, 2

Network Supervisor

65

Parks & Recreation Director

2, 3, 65

Parks & Recreation Manager

5

Parks Foreman

65

Parks Maintenance Supervisor

65

Plan Checker

76

Police Captain

65

Police Chief

65

Police Lieutenant

65

Police Records Supervisor

65

Principal Librarian

65

Printing and Central Services Specialist

65

Public Information Supervisor

65

Public Safety Communications Supervisor

65

Public Works Director

1, 2

Public Works Manager

65

Public Works Superintendent

65

Recreation Services Coordinator

65

DESIGNATED EMPLOYEES'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Recreation Services Supervisor

65

Redevelopment Manager

1, 2

Risk Manager

65

Senior Equipment Mechanic

65

Senior General Building Inspector

65, 76

Senior Librarian

65

Senior Management Analyst

54

Senior Planner

1, 2

Senior Redevelopment Manager

1, 2

Street Maintenance SupervisorForeman

65

Support Services Manager

65

Water Maintenance Supervisor

65

Water Services Supervisor

65

MEMBERS OF BOARDS,
COMMITTEES AND COMMISSIONS

Cultural Arts Advisory Commission

65

Historic Preservation Board

1, 2

Housing & Community Development Advisory Commission

1, 2

Public Library Board

1, 2

Parking Place Commission

1, 2

Consultants²

² Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent

of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

EXHIBIT "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions ~~in business entities~~, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the City.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside the jurisdiction of the City.

Category 3: All investments and business positions ~~in~~, and sources of income, including gifts, loans and travel payments, ~~from business entities that are engaged in~~ land development, construction, or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions ~~in~~, and sources of income ~~from~~ ~~business entities that are banking, savings and loan, or other financial institutions, insurance companies, investment companies, stockbrokers, title companies, financial consultants, data processing firms or consultants.~~

Category 54: All investments and business positions ~~in~~, and sources of income, including gifts, loans and travel payments, ~~from business entities that provide services,~~ supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 65: All investments and business positions ~~in~~, and sources of income, including gifts, loans and travel payments, ~~from business entities that provide services,~~ supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's department, unit or division.

Category 76: All investments and business positions ~~in~~, and sources of income, including gifts, loans and travel payments, ~~from business entities subject to the regulatory, permit, or licensing authority of the Designated Employee's~~ Department, unit or division.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 10

STAFF SOURCE: Steve Henley, Director of Public Works 
Kim Raney, Chief of Police
Kalieh Honish, Assistant Director of Public Works
Leo Tolentino, City Engineer

ITEM TITLE: Adoption of Ordinance No. 10-1987 Amending Title 11 of the Covina Municipal Code Pertaining to Controls in Public Rights-of-Way

STAFF RECOMMENDATION

Adopt **Ordinance No. 10-1987** amending Title 11 of the Covina Municipal Code pertaining to controls in the public rights-of-way.

FISCAL IMPACT

The proposed Ordinance seeks to update and modernize the City's current controls on and regulations of operations and activities conducted within the public rights-of-way. While its provisions strengthen the City's liability protections and reinforce the responsibility of permittees to bear the full cost of their operations and activities, the proposed Ordinance has no direct fiscal impact.

BACKGROUND

Title 11 of the Covina Municipal Code, in general, regulates and controls activities within the city's public rights-of-way including, but not limited to, construction of public improvements, underground utility installations and maintenance, house numbering, installation and maintenance of newsracks, street trees, and a variety of encroachments. The vast majority of the City's regulations in this area date back to 1964; with the last major update of the regulations having occurred in 1978. While these regulations were sufficient at the time of their adoption, 30 years later they no longer adequately address the current-day issues related to public rights-of-way regulation and their administration.

To rectify this situation and to bring the City's public rights-of-way regulations up to current-day standards, staff has prepared Ordinance No. 10-1987, which is before you for consideration this evening. The proposed Ordinance updates and modernizes the City's rights-of-way regulations to address the changes in operations and law that have evolved over the last 30 years and strengthens the City's ability to ensure that operations and activities conducted within the public rights-of-way are performed in a manner conducive to the protection of the public health, safety and welfare. A few of the key points contained within the proposed Ordinance are as follows:

- Highway construction permit regulations have been strengthened to ensure that permittees operate in a safe manner while in public rights-of-way and that any disturbed surfaces are replaced in an acceptable manner at the permittees cost.
- The long-standing general agreement between the city and its neighboring cities and the County of Los Angeles that “no fee” permits are issued to each other when needed has been codified; as the County has codified within Division 1, Title 16 of the Los Angeles County Code.
- Requirements for working near, operating and/or maintaining underground pipelines conveying toxic, corrosive or flammable liquids or high pressure natural gas have been established.
- Regulations covering the placement, operation and maintenance of roll-off bins and moving permits have been expanded and strengthened to enhance public safety and property protection.
- A separate “outdoor sidewalk dining” permit has been created to streamline the process and reduce the cost of permits for establishments placing a table(s) and chairs on the sidewalk adjacent to their businesses versus establishments encroaching on rights-of-way with semi-permanent partitions and furniture.
- Responsibility for the permitting and enforcement of newsrack installation regulations is transferred from the Police Department to the Public Works Department.
- All entities owning, operating and/or maintaining underground utility facilities within the city are required to submit current, to scale, and updated maps showing the location of all their facilities including transmission and distribution lines, isolation valves, vaults, etc.

RELEVANCE TO THE STRATEGIC PLAN

While clarified public right-of-way permitting regulations and the acquisition of updated utility maps are supportive of the City’s goal to improve and promote customer service and strengthening the permitting process to ensure that permittees bear the full cost of their encroachments or activities within the public rights-of-way is clearly supportive of the City’s goal to enhance financial stability, the proposed Ordinance has no direct relevance to the Strategic Plan.

EXHIBITS

A. Ordinance No. 10-1987

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

ORDINANCE NO. 10-1987

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF COVINA, CALIFORNIA AMENDING TITLE 11 PERTAINING
TO CONTROLS IN PUBLIC RIGHTS-OF-WAY**

THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1: Section 11.04.040 of Chapter 11.04 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“11.04.040 Procedure.

Upon application for a building permit or permit required under CMC 11.08.030, or prior to construction of any parking or storage lot, the Director of Public Works (“Director”) shall determine the improvements which are required by this chapter. The applicant shall provide construction plans, quantity and cost estimates, and construction staking. The Director shall accept or modify the quantity and cost estimates. No permits shall be issued for any building or dwelling, nor shall any parking or storage lot be constructed, nor shall any development of any area occur, until the Director certifies that the improvements required by this chapter exist or that a performance bond has been posted with the city to guarantee the construction of the improvements, and necessary rights-of-way have been dedicated. A cash deposit shall be submitted with the required performance bond, the amount based on a percentage of the estimated construction or installation cost of the improvements and the sum to be for inspection and plan checking charges. The percentage to be used shall be established by the city council from time to time by resolution.”

Section 2: Chapter 11.08 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“Chapter 11.08

HIGHWAY PERMITS AND REGULATIONS

SUBCHAPTER I – GENERAL PROVISIONS AND DEFINITIONS – PERMIT REQUIRED

Sections:

- 11.08.010 Powers of deputies.
- 11.08.020 Definitions.
- 11.08.030 Permit – Prerequisite to commencement of certain work.
- 11.08.040 Commencement of work without permit – Permit required.
- 11.08.050 Applicability of provisions to non-permittees.
- 11.08.060 Permit – Availability for inspection.

SUBCHAPTER II – APPLICATION FOR PERMIT; PERMIT ISSUANCE; FEES AND COSTS; PERMIT DENIAL AND REVOCATION; BILLING FOR COSTS

Sections:

- 11.08.070 Application - Form.
- 11.08.080 Application – Information required.
- 11.08.090 Application – Liability and Relocation Statements required.
- 11.08.100 Application – Plans or plats prepared by engineer when.
- 11.08.110 Application – Information Re: Overhead structures or encroachments.
- 11.08.120 Permits – Issuance/Denial/Revocation.
- 11.08.130 Permits – Appeal of Director’s Decision.
- 11.08.140 Permits – Period of validity to be specified - Extension.
- 11.08.150 Blanket permits.
- 11.08.160 Permits – Not transferable.
- 11.08.170 Issuance Fee.
- 11.08.180 Unit fees for highway permit inspection costs - Exception.
- 11.08.190 Costs related to permit – permittee liability.
- 11.08.200 Computation of costs.
- 11.08.210 Billing for all chargeable fees and costs.

SUBCHAPTER III – DEPOSITS AND SECURITY

Sections:

- 11.08.220 Cash deposit or other security required – Exceptions.
- 11.08.230 Cash deposit – Form and use conditions.
- 11.08.240 Other security – types acceptable.
- 11.08.250 Refund of deposits.

SUBCHAPTER IV – GENERAL CONDITIONS OF PERMIT ISSUANCE

Sections:

- 11.08.260 Permit Work – compliance with codes and Director’s orders required.
- 11.08.270 Permit – Additional Conditions for issuance.
- 11.08.280 Permit Work – Standard Specifications for Public Works Construction and other specifications applicable.
- 11.08.290 Permit Work – Safeguarding, restoration, completion and cleanup.
- 11.08.300 Permit Work – Warning signs, lights and barricades – Requirements.
- 11.08.310 Unauthorized highway work – Rehabilitation by city authorized when – Costs.
- 11.08.320 Highway closure or use restriction authorized when.
- 11.08.330 Completion of Excavation – Notice to Director – Preservation of monuments.

SUBCHAPTER V – LOCATION, EXCAVATION AND RELOCATION OF FACILITIES

Sections:

- 11.08.340 Permit Work – Relocation of facilities or plantings – Procedures and costs.
- 11.08.350 Investigation and Relocation of Facilities owned by others within highways.
- 11.08.360 Investigation and Notification to owners – Underground facilities and excavations.
- 11.08.370 Investigation – Location of Pipelines carrying hazardous substances.
- 11.08.380 Excavation Restrictions – Pipelines carrying hazardous substances.
- 11.08.390 investigation and Notice when unidentified utilities are located.

SUBCHAPTER VI – COMPLETION OF WORK; LIABILITY FOR DAMAGE – RESTORATION OF HIGHWAY AND FACILITIES

Sections:

- 11.08.400 Certificate of acceptance for completed work.
- 11.08.410 Permittee liability for damage or injury.
- 11.08.420 Restoration of highway surfaces.
- 11.08.430 Failure to comply with regulations – City to perform work when – Costs.

SUBCHAPTER VII – SPECIAL CONSTRUCTION STANDARDS – DRIVEWAYS

Sections:

- 11.08.440 Driveways – Concrete construction required when.
- 11.08.450 Driveways – Location restrictions.
- 11.08.460 Driveways – Width specifications.
- 11.08.470 Driveways – Aggregate width limitations.
- 11.08.480 Driveways – minimum intervening distance.
- 11.08.490 Driveways – Prohibited in certain locations.
- 11.08.500 Driveways - In curb return curvature – Limitations.
- 11.08.510 Driveways – Deviation from requirements authorized when.

SUBCHAPTER VIII – SPECIAL CONSTRUCTION STANDARDS – UNDERGROUND PIPELINES

Sections:

- 11.08.520 Pipelines carrying hazardous substances – Membership in one-call notification system required.
- 11.08.530 Underground pipelines – minimum depth of cover.
- 11.08.540 Pipelines carrying hazardous substances – pressure test specifications.
- 11.08.550 Pipeline system – Isolation valves required when.
- 11.08.560 Pipelines carrying hazardous substances – Cathodic protection system required – Specifications.
- 11.08.570 Pipelines carrying hazardous substances – Emergency plan requirements.

- 11.08.580 Underground cable television and telephone conduits in systems designed pursuant to special requirements of the Director.
- 11.08.590 Lines for television or audio signals – undergrounding required when.
- 11.08.600 Abandonment or removal of facilities or encroachments – Specifications.

SUBCHAPTER IX – OVERLOAD MOVING REGULATIONS

Sections:

- 11.08.610 Overload Moving permit – Relocation permit required for certain buildings.
- 11.08.620 Overload Moving permit – Issuance conditions for overweight loads.
- 11.08.630 Overload Moving permit – Director’s authority to issue and set conditions.
- 11.08.640 Overhead facilities – Overload Moving permit information available to operator – Procedure.
- 11.08.650 Facilities within highways – Overload Moving contractors and utility facilities.
- 11.08.660 Runway required under wheels of moving vehicles.
- 11.08.670 Copy of permit required on each part of shipment.

SUBCHAPTER X – OVERHEAD STRUCTURES

Sections:

- 11.08.680 Minimum height over highways.
- 11.08.690 Doorway shelters.
- 11.08.700 Awnings.
- 11.08.710 Permit allows maintenance of structures – Exception.
- 11.08.720 Removal of structures following permit expiration or revocation.

SUBCHAPTER XI – VIOLATIONS

- 11.08.730 Acts constituting misdemeanors designated.

SUBCHAPTER I. GENERAL PROVISIONS AND DEFINITIONS – PERMIT REQUIRED

11.08.010 Powers of Deputies.

Whenever a power is granted to, or a duty is imposed upon a public officer, the power may be exercised or the duty may be performed by a deputy of the officer, or by a person authorized pursuant to law or ordinance by the officer, unless this Chapter expressly provides otherwise.

11.08.020 Definitions.

For purposes of this chapter, the following terms shall have the prescribed meanings attached to them, unless the context clearly indicates otherwise:

1. ‘Base course’ means that portion of the highway located between the pavement and the native soil.
2. ‘City’ means the City of Covina.

3. 'City Council' means the City Council of the City of Covina.
4. 'Director' or 'Director of Public Works' means the Director of Public Works of the City of Covina.
5. 'Driveway' means that portion of the highway between the property line and curb, or between the property line and the pavement if no curb exists, where vehicles enter or leave the highway onto adjacent property.
6. 'Encroachment' means and includes any obstruction, tower, pole, pole line, pipe, fence, wire, cable, conduit, stand or building, or any structure or object of any kind or character not particularly mentioned in this Chapter, which is placed in, along, under, over or across the highway. This section does not apply to the temporary use of the highway for ordinary maintenance of any existing authorized or permitted encroachment; nor to the suspension or stringing on existing pole lines of additional cables, wires, transmission lines, conduits or service connections solely for cable television, wired telephone or electric power purposes.
7. 'Excavation' means any activity in which earth, rock, asphaltic concrete, cement, or other material in or on the ground is moved or otherwise displaced by means of manual or mechanical tools, equipment, or explosives and shall include grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable, conduit or pipe plowing or driving.
8. 'Facilities' or 'pipelines' means pipes, pipelines, pipe coatings and encasements, valves, tanks, mains, service lines, conduits, duct banks, cables, wires, poles, tunnels, obstructions and other apparatus, both aerial and underground.
9. 'Hazardous substance' means one having the potential for explosion, fire, poisoning, or other immediate disaster, such as, but not limited to, gasoline, fuel oil, butane, propane, chemicals, or chlorine, and natural gas transported at pressures greater than 60 psi.
10. 'Height' means that dimension measured from the level surface upon which a vehicle stands to the highest protrusion in a vertical line.
11. 'Highway' means any public highway, public street, median, public alley, public sidewalk, public way or public place in the city, either owned by the city or dedicated to the public for the purposes of pedestrian or vehicular travel. The term includes all or any part of the entire width of public right-of-way, and above and below the same, whether or not such entire width is actually used for highway purposes.
12. 'Native soil' means the compacted native material.
13. 'One-call notification system' or 'systems' means an association providing for mutual receipt of notification of construction activities in the city.
14. 'Overhead structure' means any structure, other than utility facilities authorized by State or local franchise, extending over the dedicated portion of the highway, including canopies but excluding such projections from buildings as may be enumerated in the 'Building Code' set out in Title 14 of this code.
15. 'Overload' means any object or thing which, when transported by a vehicle or combination of vehicles over, upon, along or across any highway would be required to have a special permit in accordance with the provisions of the Vehicle Code, and includes but is not limited to any house, vessel, machine, equipment, transformer, tree, girder, boat or airplane.
16. 'Overload Moving contractor' means any person who for himself or for another, moves or causes to be moved any overload over, upon, along or across any highway.
17. 'Overload Vehicle' means a vehicle or combination of vehicles as described in the Vehicle Code which:

A. Whether laden or unladen is required by the Vehicle Code to have a special permit to be on any highway; or

B. Is so laden that it is required to have such special permit.

18. 'Pavement' means the surfaced portion of the highway which is composed of various size aggregates mixed with portland cement and/or asphaltic compounds.

19. 'Permittee' means a person issued a permit pursuant to this chapter and performing work pursuant to said permit.

20. 'Person' includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, any district, any county, any city, and all departments and divisions thereof except this city.

21. 'Roadway' means that portion of a highway improved, designed or ordinarily used for vehicular traffic.

22. 'Section' means a section of the ordinance codified in Title 11 unless some other ordinance or statute is specifically mentioned.

23. 'Shall' is mandatory; 'may' is permissive.

24. 'Vehicle Code' means the state of California Vehicle Code in effect at the time of issuance of a permit.

25. 'Width' means that dimension measured at right angles to the anterior-posterior axis of the conveyance upon which the load or portion thereof is, or is to be, loaded or moved, or to the median line of the highway over which the same is being or is to be moved.

11.08.030 Permit – Prerequisite to commencement of certain work.

A. Every person, except as otherwise provided in this Chapter, is required to obtain a permit from the Director before:

1. Moving or causing to be moved over, along or across any highway any overload or overload vehicle;
2. Making or causing to be made any excavation or encroachment in any highway;
3. Placing, changing, renewing or abandoning a facility or encroachment;
4. Placing, planting or replanting any tree, sapling, bush, shrub, foliage or other material of similar nature in, over or along any highway;
5. Placing, constructing or repairing any curb, gutter, sidewalk, driveway, pavement, base course, retaining wall, storm drain, culvert, or other work of similar nature in, over, along, across or through any highway;
6. Constructing, reconstructing, repairing or maintaining any overhead structure or other appurtenant facility;
7. Constructing, reconstructing or repairing any highway light or highway lighting system in any highway or in any privately owned thoroughfare which is open to public travel; this subsection does not apply if any agreement with the city exists for the construction, reconstruction or maintenance of such installation;
8. Placing or leaving any impediment to travel upon any highway.

11.08.040 Commencement of work without permit – Permit required.

A. Any person who shall commence any work for which a permit is required by this chapter without first having obtained a permit therefor shall immediately stop work and apply for such permit.

B. Nothing in this chapter prohibits any person from maintaining by virtue of law, ordinance or permit, any facility or encroachment in any highway, or from making such excavation as may be necessary for the preservation of life or property if the person making such excavation applies for a permit no later than the next business day.

11.08.050 Applicability of provisions to non-permittees.

Whenever the provisions of this chapter require a permittee to perform any work, take any action or be liable for any fees or costs, such requirement also applies to any person who commences any work for which a permit is required by this chapter, whether such person obtains such permit or not.

11.08.060 Permit – Availability for inspection.

The permittee shall make the permit available for inspection by the Director or by any peace officer or other person having responsibility for safety or maintenance of the highway. Each permit for overload moving must be in or on the overload vehicle or combination of overload vehicles to which it refers.

SUBCHAPTER II. APPLICATION FOR PERMIT; PERMIT ISSUANCE; FEES AND COSTS; PERMIT DENIAL AND REVOCATION; BILLING FOR COSTS

11.08.070 Application – Form.

Application for a permit shall be made in writing to the Director, on the forms provided by the Director. The Director may make such reasonable changes or additions to any application as are necessary to implement the provisions of this Chapter.

11.08.080 Application – Information required.

An applicant for a permit shall state in the application: name, address, and such other information as is required by this chapter or by the Director as he may reasonably require to determine compliance with this chapter.

11.08.090 Application – Liability and Relocation Statements required.

A. On each application the applicant or his agent shall sign a statement agreeing to indemnify, defend and hold harmless the city and each officer, official, agent and employee thereof from any liability or responsibility for any accident, loss or damage to persons or property happening or occurring as a proximate result of the applicant's activities pursuant to the permit applied for.

B. Every application shall also contain a statement, signed by the applicant or his agent, that if any facility or encroachment placed in the excavation or the facility or encroachment for which a permit is issued interferes with the future use of the highway by the general public, then the applicant and his successors or assigns will at his own expense remove or relocate to a location satisfactory to the Director such facility or encroachment. The statement signed by the applicant will not apply in cases when the applicant has an easement superior to

the highway easement at the time of application and can furnish evidence when required of such superior easement.

11.08.100 Application – Plans or plats prepared by engineer required when.

A. If, in the opinion of the Director, the work proposed to be done requires the making of plans or the setting of stakes, or both, the Director may require the application be accompanied by the necessary plans, which plans shall be prepared by a licensed or certified engineer.

B. Each applicant for an excavation or encroachment permit shall file with the application a plat showing the highways in which the proposed excavation, facility or encroachment will be placed, together with the exact location and dimensions of the proposed excavations, or the specifications and characteristics of the facility or encroachment, together with any other details which the Director reasonably requires. When excavations are made for service connections or for the location of trouble in conduits, cable or pipe, or for making repairs thereto, the Director may waive the filing of a plat. Approved plats shall become public records.

C. Each applicant for a permit to abandon in place or remove any facility or encroachment in the highway shall do so under the terms and conditions prescribed by the Director. The permit application shall include a plat or other suitable means describing the facility or encroachment to be abandoned or removed, and indicating its exact location.

11.08.110 Application – Information Re: Overhead structures or encroachments.

The Director may require evidence to be submitted with the application that any proposed overhead structure or encroachment will not create a hazard of any kind to persons or property.

11.08.120 Permits – Issuance/Denial/Revocation.

A. If the applicant complies with every applicable provision of this Chapter and any other applicable ordinances and statutes, the Director shall issue to the applicant a written permit to perform the work set forth in the application, unless the Director finds that issuance of the permit will constitute a hazard to public health, safety or welfare.

B. The Director may deny a permit when the work authorized by the permit or such portions thereof is included in the proposed work to be done by any proposed assessment district for which proceedings have been initiated by the city council.

C. The Director may revoke a permit if the activity therein permitted is not commenced within the time specified in the permit, unless said date is extended by the Director.

D. The Director may revoke a permit if the permittee fails to comply with any applicable provisions of this chapter or the conditions established for the permit.

E. The Director shall notify a permittee of the Director's decision to deny or revoke a permit and the reason for the denial or revocation. The notice shall be provided to the permittee by personal service, by first class mail or by facsimile machine to the address or facsimile number provided on the permit on file with the Public Works Department. Notices made pursuant to this subsection shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail.

F. Upon any permit revocation, the permittee shall immediately restore the highway to the Director's satisfaction. If the permittee fails to do so, the Director may restore the

highway at the expense of the permittee or charge the costs against any security posted by the permittee with the City.

11.08.130 Permits – Appeal of Director’s Decision.

The Decision of the Director may be appealed as provided in Chapter 11.54.

11.08.140 Permits – Period of validity to be specified – Extension.

Each permit shall specify the time the permit shall expire and the permit shall become null and void on the date so specified unless the Director extends the time. The Director may extend the time if in his opinion the work for which the permit was issued was delayed in completion because of inclement weather, strikes, an act of God, or other causes not within the control of the permittee.

11.08.150 Blanket permits.

Blanket permits, renewable annually, may be issued for multiple activities or work subject to the compliance with all applicable provisions of this Chapter. The issuance of a blanket permit does not relieve the permittee from making such reports of activity under the blanket permit as may be required by the Director and for paying for inspection, repairs and other costs incurred by the Director due to the permittee’s activities.

11.08.160 Permits – Not transferable.

Permits issued under this Chapter are nontransferable to other persons, projects or locations.

11.08.170 Issuance Fee.

A. All persons, except as otherwise specified in this Chapter, shall pay an issuance fee prior to receipt of a permit. The issuance fee shall be established from time to time by resolution of the city council. The following shall be exempt from paying the issuance fee: the United States, the State of California, all departments of the city, and all departments of the county of Los Angeles.

B. The Director may waive the permit issuance fee if the Director finds that the work is to be done under contract with the city in connection with proposed public works.

C. At the request of a permittee who maintains with the Director adequate security, as provided in this Chapter, and to whom 10 or more permits have been issued monthly for 3 consecutive months, the Director may waive the requirement for prepayment of issuance fees, and bill said permittee for issuance fees covering permits issued subsequent to such request. The Director may revoke such billing arrangements at any time.

11.08.180 Unit fees for highway permit inspection costs - Exception.

A. Unit fees for highway permit inspection costs shall be established from time to time by resolution of the city council and shall be payable prior to issuance of a permit. If no such unit fees are set by resolution, the unit fees shall be based upon the estimated cost for such inspection.

B. The Director may issue a permit without any highway permit inspection fee if the permittee furnishes evidence to the Director that a qualified governmental agency inspector

outside the City will inspect the work and ensure that the work will comply with minimum standards required by this chapter.

C. If the governmental agency inspector fails to make the inspection pursuant to subsection (B) or fails to file evidence as required with the City, the Director may inspect the work and the permittee shall pay the actual cost for such inspection.

11.08.190 Costs related to permit – Permittee liability.

The permittee shall also be liable for and shall pay for all the Director’s costs related to the following:

- A. Engineering, which includes design, survey and tests;
- B. The cost of repairing or restoring the highways and all appurtenant facilities to the same or equal condition that they were in before being cut or damaged as a result of the permittee’s activities;
- C. The cost of furnishing and/or maintaining any lights, barricades or warning devices;
- D. The cost of alteration, removal, replacement and/or repair to traffic signals and devices, the removal of temporary and/or permanent traffic striping and markings, and any other expenses for traffic control;
- E. The cost of removing or remedying any hazardous condition;
- F. The cost of tree trimming;
- G. Any other costs to the city caused by the permittee’s activity.

11.08.200 Computation of costs.

Whenever in the provisions of this chapter any costs are to be charged to any permittee and no other method for the calculation of such costs is specified, such costs are the actual costs, including overhead and depreciation, in accordance with current practices in charging for work performed for the public.

11.08.210 Billing for all chargeable fees and costs.

A. The Director shall bill the permittee for all fees and costs chargeable under this chapter.

B. If, within 30 calendar days after a bill has been sent, the permittee does not pay same in full, such amount may be deducted from any deposit or security made by the permittee pursuant to Sections 11.08.220 through 11.08.240 of this chapter. If the deposit or security is insufficient to pay the amount due, the city may pursue collection of the remaining amount due by all means at law or equity.

C. The Director may deny issuance of further permits to the permittee and may hold any deposits or security of the permittee as long as any bill remains unpaid by the permittee.

SUBCHAPTER III. DEPOSITS AND SECURITY

11.08.220 Cash deposit or other security required – Exceptions.

A. As a condition to issuance of a permit, every permittee, unless exempt by this chapter or other applicable law, shall be required to provide a cash deposit or other adequate security, as determined by the Director, to guarantee payment of all fees and charges due under this chapter. The amount of the deposit or security shall be sufficient to recover all costs of any nature which the Director estimates will be incurred if the permittee does not fulfill its permit requirements.

B. A cash deposit or other adequate security is not required in the case of construction under contract with the city where a faithful performance bond is posted or other surety is deposited and assigned to the city which guarantees to the city the repair of the highway, including construction financed in whole or in part by special assessments.

11.08.230 Cash deposit – Form and use conditions.

A cash deposit may be in the form of a special deposit for each permit, or in the form of a general deposit to be maintained as security for all the permits issued to a permittee, including for blanket permits. If a permittee maintains a general cash deposit, it shall be with the understanding that the permittee will pay all bills sent by the Director for work covered by this chapter.

11.08.240 Other security – Types acceptable.

In lieu of a general cash deposit, the Director may accept from a permittee other types of security as specified below:

A. **Surety Bond.** The Director may accept a surety bond on a form supplied by the Director and executed by an “admitted surety insurer” authorized to make, guarantee or become a surety upon bonds by the State of California. The bond shall guarantee the payment of all fees and other charges required by this chapter which may become due because of any permits issued during the life of the said surety bond.

B. **Insurance.** As security on overload moving permits only, the Director may accept a certificate of insurance and endorsement on the standard forms provided by the Director. Such certificate and endorsement shall show that an insurance policy of not less than \$2,000,000.00 has been issued to the applicant and is in full force and effect, and in which policy the insurer directly agrees to reimburse the city for all sums due it from the permittee for damage to highway facilities.

C. **Additional Securities.** The Director may require additional security to be filed with the City in the event that he reasonably determines the original security filed with the City has become insufficient to pay all fees and other charges required by this chapter.

11.08.250 Refund of deposits.

A. The remainder of any deposit, if there is any remainder, shall be refunded to the permittee making such deposit once the Director is satisfied that all work pursuant to a permit has been satisfactorily completed and that the permittee is not liable for any further fees, costs or charges with regard to said work.

B. Any deposit made for highway inspection fees or any other unit fees may be refunded if it was erroneously collected or if the work was not constructed by the permittee.

SUBCHAPTER IV. GENERAL CONDITIONS OF PERMIT ISSUANCE

11.08.260 Permit Work – Compliance with codes and Director’s orders required.

A. Every person who commences any activity or work regulated by this chapter must comply with the provisions of this chapter, the provisions made part of any permit, and the specifications and all codes referred to by this chapter.

B. All persons shall obey and comply with every order, decision, direction or rule issued by the Director in the matters specified on the permit or any attachments to said permit,

and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents and employees, except in the case of a public utility regulated by the Public Utilities Commission when such order, decision, direction or rule is contrary to or in conflict with any order, decision, direction or rule made or prescribed by the Public Utilities Commission applicable to such public utility.

C. A person shall not obstruct the Director in making any inspection authorized by this chapter or in taking any sample or in making any test.

11.08.270 Permit – Additional Conditions for issuance.

A. Every permit issued under this chapter for activity or work in, along, on, over, across or under the highway shall be granted subject to the right of the city or of any person entitled thereto, to use that part of such highway for any purpose for which such highway may lawfully be used. Proof of the applicant's right to use the highways for the purposes set forth in the application shall be filed with the Director.

B. The Director may establish additional requirements for the work to be done under any permit, including equipment to be used, type of backfill, compaction, paving, traffic regulations, hours of work, flagmen, lights, inspection, and other similar requirements. He also may require whatever advance notice he deems proper for requests for inspection. The Director may add these requirements and conditions by rubber stamp or attachments to the permit, or both, and they shall be an integral part thereof. If any of the requirements of the permit are violated, the Director may revoke the permit and require that a new permit be secured before further work is done.

11.08.280 Permit Work – Standard Specifications for Public Works Construction and other specifications applicable.

All work shall be performed in accordance with the current version of the Standard Specifications For Public Works Construction ("Greenbook"), or according to the plans and specifications referred to in the permit and, in addition, to any special requirements and/or specifications which are made a part of the permit by the Director. In case of conflict between two specifications, the more stringent specification shall apply.

11.08.290 Permit Work – Safeguarding, restoration, completion and cleanup.

Every person who commences any activity or work regulated by this chapter shall safeguard and complete the activity or work within the time set forth in the permit, unless that time is extended for good cause by the Director. Any part of the highway that is damaged, removed or disturbed shall be repaired, restored and replaced in a condition satisfactory to the Director. All surplus material of any kind shall be removed from the highway.

11.08.300 Permit Work – Warning signs, lights and barricades – Requirements.

Any person engaged in performing work regulated by this chapter which interferes with or endangers the safe movement of traffic shall have the work safeguarded by adequate warning signs, barricades, lights and devices. Such person shall be responsible for placing and maintaining adequate warning signs, barricades, lights and devices during all periods during which traffic movement is interfered with or endangered in order to promote the safe movement of traffic, including but not limited to periods of twilight, nighttime, fog and/or rain. All warning

signs, barriers, barricades, flags and other devices shall comply with or exceed the standards required in the Vehicle Code.

11.08.310 Unauthorized highway work – Rehabilitation by city authorized when – Costs.

Whenever the Director discovers work that is not authorized by a permit issued under this chapter, in order to promote the welfare, well-being and safety of the public traveling along or across any highway, the Director may do any work within the highways of whatever nature is required in the Director's opinion to reestablish conditions as they existed prior to commencement of unauthorized work done by any person within the highways and for which a permit has been obtained. The Director shall charge the cost of this rehabilitation to the person doing the unauthorized work and may also revoke a permit on this basis.

11.08.320 Highway closure or use restriction authorized when.

The Director may restrict the use of, or close, any highway whenever he considers such closing or restriction of use necessary:

- A. For the protection of the public;
- B. For the protection of such highways from damage during storms;
- C. During construction, improvement or maintenance operations thereon.

11.08.330 Completion of Excavation – Notice to Director - Preservation of monuments.

A. Upon completion of any excavation or encroachment, or completion of the cut or fill, the permittee shall so notify the Director in writing on a form prescribed by the Director. Whenever a plat is required pursuant to Section 11.08.100(B) and there were substantial deviations approved during the work from the dimensions or locations as shown on the plat, the permittee shall transmit to the Director a concise, 'as-built plat' upon completion of the work, showing the accurate location, depth and size of the facility or encroachment so laid, removed or abandoned.

B. Any monument set for the purposes of locating or preserving the lines of any highway or property subdivision, or a survey reference points, or a permanent survey or bench mark, shall not be removed or disturbed without first obtaining permission in writing from the Director.

SUBCHAPTER V. LOCATION, EXCAVATION AND RELOCATION OF FACILITIES

11.08.340 Permit Work - Relocation of facilities or plantings – Procedures and costs.

The permittee shall make proper arrangements for and, except as otherwise set forth herein, bear the cost of the relocation of any structure, facility, tree or shrub where such relocation is made necessary by the proposed work for which a permit is issued. The Director may elect to do the necessary relocation at the permittee's expense.

11.08.350 Investigation and Relocation of Facilities owned by others within highways.

A. The permittee shall investigate and be aware of all existing facilities lawfully within the highways which are within the limits of the permittee's activity. The permittee shall not interfere with any existing public or private facility without the consent of its owner. If it

becomes necessary to relocate an existing facility, this shall be done by its owner or to the satisfaction of its owner.

B. The cost of locating, exposing, moving or relocating publicly and privately owned facilities shall be borne by the permittee unless the permittee makes other arrangements with the owner of the facility or unless the owner is required by its franchise or agreement to relocate the facility without cost.

C. The permittee shall support and protect all facilities by a method satisfactory to the owner. The owner has the right to support or protect any of its facilities at the sole expense of the permittee. In case any of said facilities should be damaged, they may be repaired by the owner at the expense of the permittee or, if authorized by the owner, may be repaired by the permittee under the supervision of the owner. The expense of repairs to any damaged facilities shall be borne by the permittee.

11.08.360 Investigation and Notification to owners - Underground facilities and excavations.

Except with respect to emergency work to immediately protect the public and property, as determined by the Director, any permittee proposing to excavate in any highway shall make a search of available records of underground facilities and shall notify owners or operators known to have such underground facilities in the vicinity of the proposed excavation by telephone or other acceptable means of communications at least 48 hours prior to the time of the proposed excavation, exclusive of weekends or legal holidays. At such time as a one-call notification system is operational in the city, the permittee shall notify those owners or operators who are members of the system by notifying the system by telephone or other acceptable means of communication at least 48 hours prior to the time of the proposed excavation, exclusive of weekends or legal holidays. No permit shall be valid until permittee receives a 'ticket' number from the system acknowledging the notification, which number permittee shall enter upon the face of the permit. Said notification is an additional method to be used in determining underground facilities, and does not relieve permittee from the responsibility to assure that owners or operators of such facilities are notified. Any permittee shall likewise notify non-members of the system who are owners or operators of facilities in the vicinity of the proposed excavation. Any person receiving notice pursuant to this chapter shall, not less than one working day in advance of proposed excavation inform the permittee of or field mark the location of any underground facility in the proposed area of excavation, unless otherwise agreed to between said person and permittee.

11.08.370 Investigation – Location of Pipelines carrying hazardous substances.

A. Prior to making any excavation within the construction area where a pipeline known to carry a hazardous substance exists, no permittee shall excavate until the pipeline has been located by potholing or other proven acceptable methods at intervals sufficient to determine its exact location. The permittee shall arrange with the owner to locate or expose private and public pipelines. Abandoned or inoperative pipelines designed to carry hazardous substances shall be considered as carrying hazardous substances until determined otherwise by the Director.

B. In no case shall the intervals between potholes or the location by proven acceptable methods exceed the distance set forth as follows:

1. Excavations for Highway Construction. The pipeline shall be located at intervals not greater than 25 feet for lines less than 8 inches in diameter, 50 feet for lines of 8 inches through 24 inches in diameter, and 200 feet for lines greater than 24 inches in diameter.

2. Trench Excavation.

a. Longitudinal Pipelines. All longitudinal pipelines in the construction area of the highway shall be located at intervals not greater than 500 feet. If determined to be within 6 feet of the excavation, it shall be further located at intervals not greater than 25 feet for lines less than 8 inches in diameter, 50 feet for lines of 8 inches to 24 inches in diameter, and 100 feet for lines greater than 24 inches in diameter.

b. Transverse Pipelines. If the location of the pipeline is above or less than 6 inches below the facility being installed, it shall be carefully hand-tool exposed before excavating. If its location is 6 inches or more below the facility, it need only be located.

11.08.380 Excavation Restrictions – Pipelines carrying hazardous substances.

A. After it is determined that the horizontal or vertical clearance between the pipeline known to carry hazardous substances and the construction limits is less than 12 inches, or 18 inches if scarifying, the permittee shall confer with the owner. Unless the owner elects to relocate, abandon or take the pipeline out of service, the permittee shall excavate until the pipeline has been completely hand-tool exposed within the limits of construction.

B. Once the physical location of the pipelines known to carry hazardous substances has been determined, as above described, the permittee doing the excavation, in cooperation with and with the concurrence of the owner and the Director, shall determine how to protect the pipeline from damage before proceeding with his work.

11.08.390 Investigation and Notice when unidentified utilities are located.

Each permittee excavating in the highway shall notify the owner, the Director and any public agency maintaining records for the jurisdiction of the owner, if known, whenever previously unidentified or unknown utilities or underground facilities are encountered so that the location can be accurately established and made a part of the permanent substructure records.

**SUBCHAPTER VI. COMPLETION OF WORK; LIABILITY FOR DAMAGE –
RESTORATION OF HIGHWAY AND FACILITIES**

11.08.400 Certificate of acceptance for completed work.

If the Director, by survey or by inspection or by both, ascertains that the work has been completed according to the requirements of the permit issued therefor, and of all the provisions of this chapter, he shall issue, if requested so to do by the permittee, a certificate of acceptance which shall contain a statement of the location, nature, and extent of the work performed under the permit.

11.08.410 Permittee liability for damage or injury.

The permittee shall indemnify, defend and hold harmless the city, its officers, officials, agents, and employees of and from any and all liability or responsibility for any property damage or loss, or injury or death to any person arising out of or occurring as the proximate results of any of the work undertaken pursuant to this chapter.

11.08.420 Restoration of highway surfaces.

A. Upon completion of the permittee's activity, the Director, at his option, may require the permittee to restore that portion of the highway facilities damaged by the permittee's activity or the Director may elect to do such restoration himself, at the permittee's cost.

B. Where pavement has been removed, the permittee shall replace it to a thickness 1 inch greater than that of the surrounding pavement or surface, and in no event to a thickness of less than 2 inches.

C. The base course removed shall be replaced to the same thickness as that of the surrounding base course.

D. When the street surface has been treated with a seal or slurry prior to the work under the permit, the seal and/or slurry shall be replaced upon the portion repaired.

E. When the structural section removed varies from or exceeds the average existing section, the Director may require the replacement of an equivalent section which would meet the average structural section requirements.

F. In those instances where the permittee's excavation is within an area of highway to be reconstructed by the city and the resurfacing of the excavation is an integral part of the general city improvement, the Director may waive such resurfacing.

G. If at any time subsequent to the first repair of a highway surface it becomes necessary again to repair such surface due to settlement or any other cause directly attributable to permittee's activity, the permittee shall pay to the Director the cost of such additional repairs or the permittee shall make the required repairs, at the Director's discretion.

11.08.430 Failure to comply with regulations – City to perform work when – Costs.

When any work authorized by a permit under this chapter does not comply with the terms or specifications of said permit or with any provision of this chapter, or when any highway facility has been damaged and the person responsible fails or refuses to repair or restore as required by any permit or this chapter; then the Director with his own forces or otherwise may cause such to be corrected, completed, repaired, restored, removed and/or maintained. The person responsible shall pay for any and all costs incurred by the city.

SUBCHAPTER VII. SPECIAL CONSTRUCTION STANDARDS - DRIVEWAYS

11.08.440 Driveways – Concrete construction required when.

Driveways shall be constructed of cement concrete where a cement concrete curb exists.

11.08.450 Driveways – Location restrictions.

A driveway shall not be constructed or maintained where fences, buildings, natural grade or any other obstacle will prevent a vehicle from being stored entirely off the public right-of-way after entering such driveway.

11.08.460 Driveways – Width specifications.

The width of an individual driveway shall be considered as being the net width thereof, exclusive of side slopes and returns, measured along the line of the curb or centerline of the highway. The net width of an individual driveway shall be not less than 10 feet and shall not exceed in width:

A. 20 feet if the driveway serves only residences or apartments;

- B. 20 feet for mixed-use or non-residential lots or parcels of land less than 100 feet wide;
- C. 30 feet or 20 percent of the frontage of the lot or parcel of land, whichever is greater, but not to exceed 60 feet, when the driveway serves mixed-use or non-residential uses on a lot or parcel of land not less than 100 feet wide.

11.08.470 Driveways – Aggregate width limitations.

The aggregate width of the total number of driveways serving any single lot or parcel of land from any one highway shall not exceed:

- A. 40 percent of the frontage, if the driveway serves only residences or apartments;
- B. 60 percent of the frontage in all other cases.

11.08.480 Driveways – Minimum intervening distance.

The minimum intervening distance between the side slopes or returns of adjacent driveways serving the same lot or parcel shall be 22 feet. In the case of adjacent driveways serving two adjoining lots or parcels, the intervening distance between the side slopes or returns shall be and the adjacent property line shall be at least 1 foot; otherwise a common or continuous driveway will be required.

11.06.490 Driveways – Prohibited in certain locations.

- A. A driveway including the side slopes, shall not be constructed:
 - 1. Between the prolonged intersecting property lines of any highways; or
 - 2. Between the points of curvature of any curb return having a radius of 20 feet or less.
- B. In applying the provisions of this section, the condition producing the greater length of curb between the specified control points in the particular case shall govern.

11.08.500 Driveways – In curb return curvature – Limitations.

- A. A driveway, including the side slopes, shall not be constructed between the points of curvature of any curb return except:
 - 1. In the case of a curb return having a radius of 25 feet or more, driveways may encroach at each end thereof for a distance of not greater than one-eighth of the total arc length of return, leaving in the clear at least three-quarters of such arc length, if such encroachment does not conflict with other requirements of this section.
 - 2. In the case of a curb return having a radius of less than 25 feet but more than 20 feet, the maximum permissible encroachment at each end of the return, subject to other requirements of this section, shall be that proportion of one-eighth of the total arc length that the difference between the length of the radius and 20 feet bears to five.
- B. Notwithstanding any of the foregoing provisions, a driveway shall not encroach on any curb return beyond or ahead of any traffic-regulating device located on or adjacent thereto.

11.08.510 Driveways – Deviation from requirements authorized when.

Where topographical or traffic conditions are such that a modification of the provisions of Sections 11.08.440 through 11.08.500 are necessary for the promotion of traffic safety and the Director so finds, he may permit a deviation from the provisions of such sections to the extent which he finds necessary.

SUBCHAPTER VIII. SPECIAL CONSTRUCTION STANDARDS – UNDERGROUND
PIPELINES

11.08.520 Pipelines carrying hazardous substances – Membership in one-call notification system required.

When a one-call notification system is operational in the territory of the city, no person shall maintain and operate a pipeline designed to carry hazardous substances below the surface of a highway unless said person is a member of the system. Such person shall provide to the Director such proof as required that said person is a member of the system in Los Angeles County.

11.08.530 Underground pipelines – Minimum depth of cover.

Except as provided in Section 11.08.580, the following minimum depths of cover below existing, finished or proposed gutter grade shall be required for all underground pipelines in the roadway area:

A. Local Streets.

1. 24 inches for service pipelines;
2. 30 inches for pipelines transporting nonhazardous substances;
3. 30 inches for all electrical facilities;
4. 42 inches for all pipelines transporting hazardous substances.

B. Major Arterials.

1. 24 inches for service pipelines;
2. 36 inches for pipelines transporting nonhazardous substances;
3. 42 inches for electrical facilities;
4. 42 inches for pipelines transporting hazardous substances.

11.08.540 Pipelines carrying hazardous substances – Pressure test specifications.

A. After initial installation under this Chapter of any pipeline used or to be used to carry hazardous substances, such pipeline shall be subject to a hydrostatic pressure test as provided herein before it is placed in operation. The duration of the hydrostatic test for this purpose shall not be less than 24 hours.

B. After repair or replacement of any pipeline used or to be used to carry hazardous substances, the affected portion of the pipeline shall be subjected to a hydrostatic pressure test as provided herein before placing in operation. The duration of the hydrostatic test for this purpose shall be not less than 24 hours. However, no such test is required for a minor repair which does not require removal of the pipeline from operation. If the affected section is isolated and tested hydrostatically, pressure test of the tie-in welds is not required; however, tie-in welds shall be examined by radiographic means.

C. No pipeline subject to this Chapter used or to be used to carry hazardous substances and over 10 years of age shall be operated beyond the successive ensuing 12-month period of time from the effective date of Ordinance No. 10-1987 unless retested annually by a hydrostatic pressure test or other test means acceptable to the Director. The duration of the periodic test, either initial or retest, shall not be less than 4 hours.

D. Each pressure test, either initial or retest, shall be in accordance with the American National Standard Institute's Code for Pressure Piping, Liquid Petroleum Transportation Piping Systems (ANSI B 31.4) in its latest revision. The Director may authorize the use of a liquid

petroleum that does not vaporize rapidly (flash point over 150 degrees Fahrenheit or 66 degrees Centigrade) as a test medium. Pressure tests after initial installation of pipelines and before they are placed in operation shall show no unexplained loss. Annual or retest pressure tests shall not show an hourly loss, for each section of the pipeline under test at the time, in excess of either 10 gallons, or the sum of one gallon and an amount computed at a rate in gallons per mile equivalent to one-tenth of the nominal internal diameter of the pipe.

E. The Director may grant administrative waiver or other relief to an owner or operator under this Chapter as to the periodic pressure testing of any pipelines as herein provided if owner or operator can demonstrate that such testing will cause the unreasonable unscheduled shutdown of plants, terminals, refineries or other facilities of which such pipelines constitute an integral part.

F. In addition to the foregoing requirements, any pipeline authorized by this Chapter and subject to pressure testing shall be subjected to a pressure test by the owner or operator at any time as may be required by the Director in the interest of public safety.

G. Within 30 calendar days after completion of any test made pursuant to the provisions of this Chapter, the owner or operator shall submit a certified report for the Director's review. The report shall show the date of test, description of portion of pipeline tested to include the identification of the right-of-way within which the pipeline is located, and the test data. The report shall be sufficient in detail to permit analysis of test results and determination of compliance with the applicable provisions of this Chapter or any other applicable ordinance, rule or regulation. The report shall also contain any other test information as may be specifically requested by the Director.

11.08.550 Pipeline system – Isolation valves required when.

Isolation valves shall be installed on each new main at locations along the pipeline system that will minimize damage from accidental product discharge. Said location shall be appropriate for terrain and the population density of the area.

11.08.560 Pipelines carrying hazardous substances – Cathodic protection system required – Specifications.

As provided in the American National Standard Institute's Code for Pressure Piping, Liquid Petroleum Transportation Piping Systems (ANSI B 31.4) in its latest revision, a cathodic protection system shall be installed for all new ferrous pipelines used to carry hazardous substances other than utility gases in order to mitigate corrosion deterioration that might result in structural failure. The cathodic protection system for all new ferrous pipelines carrying utility gases shall be installed in accordance with General Order No. 112-C of the Public Utilities Commission of the state of California. A test procedure shall be developed by the owner or operator to determine whether adequate cathodic protection has been achieved and submitted to the Director for approval. Reports of cathodic protection evaluation in accordance with such approved procedure shall be made available annually for review by the Director.

11.08.570 Pipelines carrying hazardous substances – Emergency plan requirements.

A. Each owner or operator of a pipeline used or to be used to convey hazardous substances shall have a written emergency plan approved and on file with the Director and City Fire Department. The plan shall be in accordance with the American National Standard

Institute's Code for Pressure Piping, Liquid Petroleum Transportation Piping Systems (ANSI B 31.4) in its latest revision.

B. The plan shall include but not be limited to the following elements:

1. A 'liaison' element for intercommunications between public agencies and pipeline owners or operators to provide for prompt coordinated remedial action, and the dissemination of information as to the location and ownership identification of pipelines based on the best available records and plans;

2. A 'spill contingency' element to limit the extent of accidental product discharge by which pipeline owners or operators shall involve themselves in a cooperative pipeline leak notification emergency action system;

3. A 'leak detection' element by which the pipeline owners or operators can monitor the flow of their product and can divert, reduce or stop the flow of said product at the first indication of a product leak;

4. A 'first-on-scene emergency containment' element, in cooperation with other pipeline owners or operators, to be utilized until arrival of the affected pipeline's owner's or operator's. 'First-on-scene' costs shall be borne by the owner or operator of the facility, and shall be reimbursed to the organization effecting the emergency containment.

11.08.580 Underground cable television and telephone conduits in systems designed pursuant to special requirements of the Director.

A minimum depth of cover of 18 inches below existing or proposed edge of gutter grade shall be permitted for cable television and telephone conduits, and to be placed in existing roadways as follows:

A. Mainline cable conduit in a 4- to 5-inch wide trench located adjacent to the concrete gutter or 3 feet from the edge of the curb if no gutter exists.

B. Service cable conduits crossing the roadway from the mainline to serve users on the opposite side of local streets when installed by an acceptable boring method.

11.08.590 Lines for television or audio signals – Undergrounding required when.

The Director shall require all lines for the transmission and distribution of standard television or audio signals to be placed underground in highways when all power and telephone lines are underground, and shall also require underground installation in all instances except where the applicant provides satisfactory proof or permission to use existing pole lines or where the Director finds that other conditions render underground installation impractical or infeasible. Permission to remove or disturb such monuments, reference points or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of the monument by the Director or owning agency.

11.08.600 Abandonment or removal of facilities or encroachments – Specifications.

A. Permission to abandon a facility or encroachment without removing shall be subject to removal within one year after the effective date of the abandonment if the facility or encroachment may interfere with a present or future public improvement. If it is determined that the facility or encroachment should be removed, the permittee or its successors in interest shall remove it at its expense or pay city for the cost of such removal. Permittee shall leave any abandoned facility or encroachment in a safe condition.

B. In addition to the foregoing, abandonment in place of a pipeline used to convey hazardous substances will be subject to the following requirements:

1. The pipeline shall be thoroughly purged of liquids and vapors and filled with an inert material that will remain in a solid or semisolid state if any portion of the pipeline is cut or removed in the future;

2. The permittee shall file a certificate with the Director that said requirements have been complied with and the abandoned pipeline has been left in a safe condition.

SUBCHAPTER IX. OVERLOAD MOVING REGULATIONS

11.08.610 Overload Moving permit – Relocation permit required for certain buildings.

In all cases where the Building Code, as set out in Title 14 of the Covina Municipal Code requires the owner of any premises to which it is proposed to move any building or structure to obtain a relocation permit, the Director shall not grant an overload moving permit to move such building or structure until the applicant furnishes to the Director evidence that such owner has also obtained a relocation permit.

11.08.620 Overload Moving permit – Issuance conditions for overweight loads.

The Director shall not issue an overload moving permit when the weight of the load, plus the weight of the vehicle or other equipment, exceeds the weight permitted by the Vehicle Code, except that if it appears to the Director that the size, shape or physical characteristics of the load, or portion thereof, to be moved make it impossible or impracticable to keep within such weight limits, the Director may issue a permit to move a load on an overload vehicle every wheel of which is equipped with pneumatic tires where the Director has determined that such movement will not cause injury to the highways, bridges, and appurtenances installed therein or thereunder.

11.08.630 Overload Moving permit – Director’s authority to issue and set conditions.

The Director is authorized to issue or withhold the overload moving permit, as he reasonably determines in the interests of public safety, traffic circulation and proper maintenance of the highway. If an overload moving permit is issued, the Director is further authorized to limit the number of trips, or to establish seasonal or other time limitations within which the overload vehicle or vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operation of the overload vehicle when necessary to assure against undue interference with traffic or damage to the road foundations, surfaces or structures, and may require the undertaking of other security measures as may be deemed necessary to protect the highways and bridges from injury, or to provide indemnity for any injury resulting from the operation of the vehicle. The Director may require that the moving of any overload or overload vehicle be under the supervision of an inspector to be appointed by the Director. The costs of any inspector shall be borne by the permittee.

11.08.640 Overhead facilities – Overload Moving permit information available to operator – Procedure.

Any person lawfully operating or maintaining overhead facilities across any highway in the city who desires information pertaining to any overload moving permits issued for the moving of a building of 18 or more feet in height shall file a written request with the Director. The Director shall make such information available to the requesting person. The Director shall

not allow the moving of a building for a period of 48 hours after the filing of an overload moving permit application in order to allow such person time to inspect the route the permittee intends to take. In the event the permittee needs to make any change in the route set forth on the permit, said permit shall be void until the overload moving contractor has obtained an approved change in the route.

11.08.650 Facilities within highways – Overload Moving contractors and utility facilities.

No overload moving contractor shall interfere in any manner whatsoever with any facilities or property of any public utility. When any overload is moved along or across any highway, and it is determined that the height, width or weight of said overload exceeds the height, width or weight as stated in the permit, and property damage results therefrom, the Director is authorized to withhold any further overload moving permits from the violator until the violator produces evidence satisfactory to the Director that each additional overload complies with all dimensions and weights as shown upon the application, that the overload will not interfere with any facilities or public utility, and that the violator has made arrangements satisfactory to the Director to repair such property damage.

11.08.660 Runway required under wheels of moving vehicles.

When so required by the Director, an overload moving contractor shall place under each dolly or wheel used in moving a building or structure, or under each wheel of an overload vehicle, boards or planks of adequate width and strength to carry the overload without being broken, to serve as a runway for such dolly or wheel during such moving along or across any portion of any highway which has a surface other than natural soil. The overload moving contractor shall prevent such dolly or wheel from ever revolving on or resting on such surface except upon such board, plank or runway.

11.08.670 Copy of permit required on each part of shipment.

If a building or structure is moved in more than one section, and more than one of such sections is moved at the same time, the overload moving contractor shall affix and maintain at all times in conspicuous places on each section on which the original overload moving permit is not affixed, true copies of such permit.

SUBCHAPTER X. OVERHEAD STRUCTURES

11.08.680 Minimum height over highways.

Each overhead structure which extends over the portion of a highway used by vehicles shall be not less than 15 feet above the highest portion of the highway surface. If the Director finds that traffic conditions are such that it is necessary for highway safety for such structure to be at a greater height, then such structure shall be at such greater height as specified by the Director.

11.08.690 Doorway shelters.

Each overhead structure used primarily for a covered shelter for ingress or egress into a doorway shall not exceed 10 feet in width and shall have a vertical clearance of not less than 8 feet at every point. Each structure shall be supported on metal posts on a line two feet back from

the face of the curb, if any, otherwise from the edge of the portion of the highway designed for use by motor vehicles, and shall be constructed in such a manner that no portion thereof shall extend toward the roadway more than 6 inches beyond the metal posts.

11.08.700 Awnings.

A. Moveable awnings or hoods may have combustible coverings supported on frames attached to any building in the city.

B. No awning or hood shall extend over a public sidewalk for more than two-thirds the distance from the property line to the nearest curb line in front of the building site, or from the property line to the edge of the street pavement if a curb is not present.

C. The lowest part of any moveable awning or hood frame shall not be less than seven and one-half feet above the ground immediately below. The lowest part of any fringe or covering attached to such awning or hood shall not be less than seven feet above the grade immediately below.

D. The lowest part of any permanent, non-movable awning or hood shall not be less than 8 feet above the ground immediately below.

11.08.710 Permit allows maintenance of structures – Exception.

Any permit to erect or maintain an overhead structure shall be treated as and deemed to be a permit to maintain such structure until expiration or revocation of the permit. This section does not apply to agencies operating under an approved city-awarded franchise.

11.08.720 Removal of structures following permit expiration or revocation.

Upon the effective date of the expiration or revocation of the permit, the person maintaining the overhead structure shall remove same, and restore any highway facility damaged or removed.

SUBCHAPTER XI. VIOLATIONS

11.08.730 Acts constituting misdemeanors designated.

Every person who performs any work regulated by this chapter, either without first obtaining a permit therefor from the Director or who, having a permit, fails or refuses to comply with any applicable provisions of this Chapter or with any condition of the permit, is guilty of a misdemeanor, and is guilty of a separate offense for every day during any part of which such violation occurs.”

Section 3: Chapter 11.12 is hereby added to Title 11 of the Covina Municipal Code and shall read as follows:

“CHAPTER 11.12

ROLL-OFF DEBRIS CONTAINERS ON HIGHWAYS

Sections:

11.12.010 Permit – Required.

- 11.12.020 Definition – Permitted roll-off debris container.
- 11.12.030 Permit – Application
- 11.12.040 Permit – Issuance.
- 11.12.050 Permit – Fee.
- 11.12.060 Identification and warning devices required.
- 11.12.070 Roll-off debris container – Condition.
- 11.12.080 Roll-off debris container – Prohibited use.
- 11.12.090 Roll-off debris container – Restrictions on placement.
- 11.12.100 Indemnification and insurance.
- 11.12.110 Permittee responsible for damage.
- 11.12.120 Violations.
- 11.12.130 Impoundment.
- 11.12.140 Revocation of permit.
- 11.12.150 Notices.
- 11.12.160 Appeal.
- 11.12.170 Violation – Penalty.
- 11.12.180 Remedies cumulative.

11.12.010 Permit – Required.

No person shall place or cause to be placed any roll-off debris container on or projecting onto any portion of any highway without a permit issued pursuant to this chapter.

11.12.020 Definition – Roll-off debris container.

A roll-off debris container is any container of one cubic yard in size or greater placed on or projecting onto any highway that is used for the collection and temporary holding of construction, demolition or lot clearing debris and waste.

11.12.030 Permit – Application.

The Director shall establish an application form for a roll-off debris container permit. Each application submitted to the Director for his consideration shall be accompanied by a permit fee and proof, if applicable, of a valid department of health services waste collection permit.

11.12.040 Permit – Issuance.

Upon the Director’s review of a complete application for a roll-off debris container permit and the payment of all applicable fees, the Director may issue the permit, if he reasonably determines that the placement and use of the roll-off debris container will not adversely affect public safety, traffic circulation and proper maintenance of the highway. Subject to the conditions contained in the permit, the provisions of this chapter and all other applicable laws, a valid permit will allow the placement of a roll-off debris container on a highway. A roll-off debris container permit shall expire upon the date noted within the permit but in no case later than one year from the date of issuance.

11.12.050 Permit – Fee.

Roll-off debris container permit fees shall be established from time to time by resolution of the City Council.

11.12.060 Identification and warning devices required.

Every permitted roll-off debris container shall have the following clearly displayed and visible on its exterior surface:

A. The permittee's name and telephone number (including area code) in print at least two inches in height;

B. 3-inch diameter reflectors, placed on the four corners of each side of the roll-off debris container facing traffic. The lower reflectors shall be between 3 and 4 feet above the ground and vertically aligned with the upper reflectors. The reflectors must be clearly seen when illuminated by vehicle headlights. The permittee shall replace any worn or missing reflectors so as to conform with the requirements of this section.

11.12.070 Roll-off debris container – Condition.

A permitted roll-off debris container shall be maintained in good condition. The area immediately surrounding a permitted roll-off debris container shall be maintained in a clean manner, free from any trash or deleterious material.

11.12.080 Roll-off debris container – Prohibited use.

At no time shall any permitted roll-off debris container be used for the collection or storage of hazardous substances, materials or waste as defined by federal, state or local law.

11.12.090 Roll-off debris container – Restrictions on placement.

A. Permitted roll-off debris containers shall be secured in such a manner so as to prevent any movement other than during placement and removal.

B. Permitted roll-off debris containers shall not remain at any location on a highway for more than 7 consecutive calendar days unless specifically authorized in writing by the Director.

C. Permitted roll-off debris containers shall only be placed on or project onto highways within the limits of the projected property lines where the roll-off debris container debris is generated.

D. Permitted roll-off debris containers shall not be placed on or project onto any highway in such a manner as to constitute a hazard to pedestrians or vehicular traffic.

E. Permitted roll-off debris containers shall not be placed on or project onto any highway:

1. Within 15 feet of any crosswalk;
2. Within 15 feet of any street corner, fire hydrant or disabled access ramp;
3. On any portion of any sidewalk of any highway;
4. On highways with grades in excess of 6 percent;
5. Where clear space for the safe passage of pedestrians within the highway is reduced to less than 3 feet in width.
6. Where the roadway is reduced to less than 15 feet in width;
7. Where a motorist's ability to see traffic control devices such as stop signs, traffic lights, etc., is impaired;
8. Where the roll-off debris container will block or unreasonably interfere with access to neighboring property;
9. Where the sight distance of the roll-off debris container would be less than:

- a. 150 feet on highways posted with speed limits of 25 miles per hour or less;
- b. 345 feet on highways posted with speed limits greater than 25 miles per hour and up to 40 miles per hour;
- c. 680 feet on highways posted with speed limits greater than 40 miles per hour.

11.12.100 Indemnification and insurance.

As a condition of the issuance of a roll-off debris container permit, the permittee shall agree in writing to defend, indemnify and hold the city harmless from and against any and all liability, expense, including defense costs and legal fees, claims and causes of action for damages of any nature whatsoever, including but not limited to, bodily injury, death, personal or property damage, arising from or connected with any act or omission of permittee, and any and all allegations involving the placing, maintaining and/or removing of roll-off debris containers placed on or projecting onto any portion of any highway. In addition, and without limiting the above obligation to defend, indemnify and hold harmless the city, the permittee shall, as a condition to obtaining a permit, present evidence of liability insurance providing minimum coverage of \$2,000,000 satisfactory to the Director, which insurance shall include the city of Covina as an additional insured. Each permittee shall maintain the required insurance during the life of the permit and whenever a roll-off debris container is placed on any portion of any highway. Failure to maintain the required insurance is grounds for immediate impoundment of the roll-off debris container.

11.12.110 Permittee responsible for damage.

The permittee shall be responsible for any damage to any part of any highway attributable to a roll-off debris container. The permittee shall repair, restore or replace any damage to any highway to the satisfaction of the Director.

11.12.120 Violations.

The Director may provide written notice to a permittee of a violation of any provision of this chapter by personal service, by first class mail or by facsimile machine, to the address or facsimile number provided on the permit on file with the Public Works Department. The notice shall also inform the permittee of those appeal rights set forth in Section 11.12.160 herein.

11.12.130 Impoundment.

The Director may immediately remove and impound any roll-off debris container placed on or projecting onto any highway in violation of this chapter if the violation is creating a dangerous or hazardous condition. Written notice of impoundment shall be provided to a permittee within 3 working days after the impoundment, either by personal service, by first class mail or by facsimile machine, to the address or facsimile number provided on the permit on file with the Public Works Department. If the roll-off debris container is not permitted, then such notice shall be provided to the person responsible for the placement of the roll-off debris container, if such person is known. The notice shall inform the permittee or the person responsible for placement of the roll-off debris container of how to reclaim the impounded container upon the permittee's or responsible party's payment of an impound fee as established from time to time by resolution of the City Council, plus any actual and reasonable additional

costs, if any, incurred by the City in impounding the container. The notice shall also inform the permittee of those appeal rights set forth in Section 11.12.160 herein. If the container is impounded for more than 30 calendar days after the date of the notice or, if appealed, more than 30 calendar days after the appeal becomes final, then the Director may cause the sale or disposal of the impounded container.

11.12.140 Revocation of permit.

The violation of any of the provisions of this chapter shall constitute grounds for the revocation of a permit. The Director shall notify a permittee of the Director’s intention to revoke a permit and the reason for the revocation. The notice shall be provided to the permittee by personal service, by first class mail or by facsimile machine to the address or facsimile number provided on the permit on file with the Public Works Department. The notice shall also inform the permittee of those appeal rights set forth in Section 11.12.160 herein.

11.12.150 Notices.

Notices made pursuant to any section of this chapter shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail. The failure of any person to receive a notice shall not affect in any manner the validity of any proceeding or action under this chapter.

11.12.160 Appeal.

A permittee or person responsible for a roll-off debris container may appeal any denial of a permit or notice of the Director as provided in Chapter 11.54.

11.12.170 Violation – Penalty.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor.

11.12.180 Remedies cumulative.

The remedies provided by any section of this chapter are cumulative to any other remedies authorized by this code or state law.”

Section 4: Chapter 11.16 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“CHAPTER 11.16

UNDERGROUNDING OF UTILITIES

Sections:

- 11.16.010 Definitions.
- 11.16.020 Hearing.
- 11.16.030 District designation.
- 11.16.040 Unlawful acts within districts.
- 11.16.050 Exceptions.
- 11.16.060 Exempt facilities.

- 11.16.070 Notice to property owners and utility companies.
- 11.16.080 Equipment furnishing responsibility.
- 11.16.090 Duty of property owner.
- 11.16.100 Duty of city to remove equipment.
- 11.16.110 Extension of time.

11.16.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

- A. 'Commission' means the Public Utilities Commission of the state of California;
- B. 'Poles, overhead wires and associated overhead structures' mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within a district and used or useful in supplying electric, communication or similar or associated service;
- C. 'Underground utility district' or 'district' means that area in the city of Covina within which poles, overhead wires and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 11.16.030;
- D. 'Utility' includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices.

11.16.020 Hearing.

A. The council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the city and the underground installation of wires and facilities for supplying electric, communication or similar or associated service. The Director shall notify all affected property owners, as shown on the last equalized assessment roll, and utilities concerned by mail of the time and place of such hearings at least 10 calendar days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing, all persons interested shall be given an opportunity to be heard. The decision of the council shall be final and conclusive.

B. Prior to holding such public hearing, the Director shall consult all affected utilities and shall prepare a report for submission at such hearing containing, among other information, the extent such utilities' participation and estimates of the total costs to the city and affected property owners. Such reports shall also contain an estimate of the time required to complete such underground installation and removal of overhead facilities.

11.16.030 District designation.

If, after any such public hearing, the council finds that the public necessity, health, safety and welfare require such removal and such underground installation within a designated area, the council shall, by resolution, declare such designated area an underground utility district and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within such removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment

necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

11.16.040 Unlawful acts within districts.

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 11.16.030, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when such overhead facilities are required to be removed by such resolution, except as such overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 11.16.090, and for such reasonable time required to remove such facilities after such work has been performed, and except as otherwise provided in this chapter.

11.16.050 Exceptions.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period not to exceed 30 calendar days without authority of the council in order to provide emergency service. The Director may grant special permission on such terms as the Director may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures.

11.16.060 Exempt facilities.

This chapter and any resolution adopted pursuant to Section 11.16.030 shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the Director;
- B. Poles or electroliers used exclusively for street lighting;
- C. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connected to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
- D. Poles, overhead wires and associated structures used for the transmission of electric energy at nominal voltage in excess of 34,500 volts;
- E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;
- F. Antennas, associated equipment and supporting structures used by a utility for furnishing communication services;
- G. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts.
- H. Temporary poles, overhead wires and associated structures used or to be used in conjunction with construction projects.

11.16.070 Notice to property owners and utility companies.

Within 10 calendar days after the effective date of a resolution adopted pursuant to Section 11.16.030, the Director shall notify all persons owning real property within the district created by such resolution of the adoption thereof. The Director shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication or similar associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to the applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission.

Notification by the Director shall be made by mailing a copy of the resolution adopted by Section 11.16.030, together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

11.16.080 Equipment furnishing responsibility.

If underground construction is necessary to provide utility service within a district created by a resolution adopted pursuant to Section 11.16.030, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the commission.

11.16.090 Duty of property owner.

A. Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 11.16.080 and the termination facility on or within such building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission.

B. In the event any person owning, operating, leasing, occupying or renting any such property does not comply with the provisions of subsection (A) of this section within the time provided for in the resolution enacted by Section 11.16.030, the Director shall post written notice on the property being served and 30 calendar days thereafter may authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to such property.

11.16.100 Duty of city to remove equipment.

The city shall remove at its own expense all city-owned equipment from poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 11.16.030.

11.16.110 Extension of time.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 11.16.030 cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation.”

Section 5: Chapter 11.24 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“CHAPTER 11.24

HOUSE NUMBERING

Sections:

- 11.24.010 Required.
- 11.24.020 Commercial, industrial and multi-family addresses.
- 11.24.030 Notice to owner or occupant.
- 11.24.040 Premises description.
- 11.24.050 Designation.
- 11.24.060 Location.
- 11.24.070 Size and material.
- 11.24.080 System generally.
- 11.24.090 Starting points or dividing lines.

11.24.010 Required.

All entrances from public streets of the city to buildings shall be numbered.

11.24.020 Commercial, industrial and multi-family addresses.

All commercial, industrial and multi-family building shall bear address numbers at each entrance, front and rear. This requirement shall apply even though such an entrance is from a private street, private parking lot, alley or walkway.

11.24.030 Notice to owner or occupant.

The Director shall give notice calling attention to this chapter by one publication of such notice in a newspaper published in general circulation in the city or by mailing it, postage prepaid, addressed to the occupant, lessee, tenant, subtenant or other person in control of the building, if the address of any such party is known to the Director or, if the address of any such party is not known to the Director, such notice shall be mailed, addressed to one of such parties at the City.

11.24.040 Premises description.

Within 10 calendar days after notice has been given as required by Section 11.24.030, the occupant, lessee, tenant, subtenant or other person in control of a building with an entrance from a public street shall furnish to the Director of Public Works a description of such premises as set forth in map and plans thereof recorded in the office of the county recorder.

11.24.050 Designation.

Upon receipt of the information required by Section 11.24.040, the Director shall designate the number for the premises covered thereby.

11.24.060 Location.

The number of each fronting entrance to a building or structure shall be placed in a conspicuous position over, upon or adjacent to each and every door or entranceway to such building or structure.

11.24.070 Size and material.

The figures used in numbers designated under this chapter shall be not less than 2 inches in height and made of corresponding width, made out of rustproof material including, but not limited to, aluminum, porcelain, ceramic, plastic, wood, or cement, and shall be of a color that contrasts with its background to enhance its visibility.

11.24.080 System generally.

A. For the purpose of numbering buildings and structures as required by this chapter, 100 numbers or as many thereof as shall be necessary shall be allowed to each block.

B. Number 100 shall be the first number used at the respective beginning points on the side of the street which is to contain even numbers, and number 101 for the side of the street which is to contain the odd numbers. The first number in each block shall be increased by 100 over the first number in the next preceding block, and each 15 feet of frontage or fraction thereof on the north and west side of each street in each block shall be numbered consecutive odd numbers, and each 15 feet or fraction thereof on the south and east sides of each street in each block shall be numbered with consecutive even numbers.

C. Should the door or entrance way fall on the dividing line between two sections, the number of the section best representing the premises shall be used. Should several doors or entrance ways occur in succession within less space than is provided for in this Section, the numbers may be shifted forward or backward so as to provide for a fractional number for each entrance or a new series in alphabetic order.

D. Numbers shall be calculated from the end of the block nearest to the starting point or dividing line. On all streets, the numbering shall be done as if the street extends to the dividing line or starting point for the city, as defined in Section 11.24.090.

E. Alley intersections shall not be numbered. Any fractional section of street frontage of less than 15 feet adjoining an alley on the side thereof nearest the initial number on such street shall be given a whole number. The first 15 feet on the opposite side of such alley shall be given the next odd or even number.

F. A 'block' within the meaning of this Section is that portion of any street between two intersecting streets, or between an intersecting street and an abutting street, or between two abutting streets. In the case of abutting streets, the prolonged centerline of the abutting streets shall be the dividing line of the block, and all blocks exceeding 1,000 feet in length shall be considered two equal blocks.

11.24.090 Starting points or dividing lines.

The following shall be the respective starting points or dividing lines for numbering all buildings fronting on streets heretofore laid out or hereafter to be laid out or extended:

- A. From east to west, Citrus Avenue shall be the dividing line;
- B. From north to south, Badillo Street shall be the starting point.

In designating any location in the city by number and street, the word 'East' shall precede the name of each street running easterly from Citrus Avenue, and the word 'West' shall precede

the name of each street running westerly from Citrus Avenue. The word 'North' shall precede the name of each avenue running northerly from Badillo Street, and the word 'South' shall precede the name of each avenue running southerly from Badillo Street."

Section 6: Chapter 11.26 is hereby added to Title 11 of the Covina Municipal Code and shall read as follows:

"CHAPTER 11.26

OUTDOOR SIDEWALK DINING

Sections:

- 11.26.010 Permit – Required.
- 11.26.020 Permit – Application.
- 11.26.030 Permit – Fee.
- 11.26.040 Report and recommendation of City Planner.
- 11.26.050 Permit – Director’s authority to issue and set conditions.
- 11.26.060 Minimum sidewalk clearance.
- 11.26.070 Limited to restaurants that serve food.
- 11.26.080 Limitations on outdoor dining facilities.
- 11.26.090 Indemnification and insurance.
- 11.26.100 No live entertainment or amplified music.
- 11.26.110 Notice of violation and/or termination.
- 11.26.120 Impoundment.
- 11.26.130 Appeal.
- 11.26.140 Violation – Penalty.
- 11.26.150 Violation – Other remedies.

11.26.010 Permit – Required.

Any person desiring to erect, construct, place or maintain an encroachment upon any public sidewalk for outdoor sidewalk dining facilities must first obtain an annual outdoor sidewalk dining permit pursuant to this chapter. Each applicant for an annual permit shall comply with the requirements of this chapter and any other applicable laws.

11.26.020 Permit – Application.

The Director shall establish an application form for an annual sidewalk dining permit, including any application materials deemed necessary to enable complete review of the application.

11.26.030 Permit – Fee.

Each applicant for an annual outdoor sidewalk dining permit under this chapter shall pay a nonrefundable permit application fee as established from time to time by resolution of the City Council. Each holder of such permit shall be required to submit a renewal application along with a nonrefundable renewal application fee as established from time to time by resolution of the City Council each year to obtain a new annual permit.

11.26.040 Report and recommendation of City Planner.

The Director shall transmit a copy of each application for an annual outdoor sidewalk dining permit to the Chief of Police and City Planner. The Chief of Police and/or City Planner may require of the applicant such additional information pertinent to the outdoor sidewalk dining permit as they may deem necessary, and shall advise the Director in writing of all material facts which they consider necessary for determining whether an outdoor sidewalk dining permit should be approved, approved with conditions or denied.

11.26.050 Permit – Director’s authority to issue and set conditions.

The Director in acting upon any application for an annual outdoor sidewalk dining permit shall either approve, approve with conditions, or deny the issuance of a permit based on the following principles and standards:

A. That the proposed use of the public sidewalk is in compliance with all applicable provisions of this chapter;

B. That the proposed use of the public sidewalk is so arranged as to ensure the protection of public health, safety and general welfare and prevent interference with users of the highway right-of-way and with holders of other similar permits; and

C. That the proposed outdoor sidewalk dining and the abutting restaurant will comply with the provisions and development standards prescribed in Title 17 of this Code, or as prescribed by the City Planner.

11.26.060 Minimum sidewalk clearance.

Sidewalk dining facilities shall not be permitted on sidewalks which are less than 10 feet wide. All outdoor sidewalk dining facilities shall be located at least 5 feet from the curb and any sidewalk obstruction which shall include, but not be limited to, street light poles, trees, sign posts, news racks, mail boxes, and utility poles.

11.26.070 Limited to restaurants that serve food.

All permits issued pursuant to this chapter shall be limited to outdoor sidewalk dining facilities established in conjunction with and abutting restaurants that serve food.

11.26.080 Limitations on outdoor dining facilities.

All outdoor dining facilities shall be placed, installed, used or maintained as follows:

A. All outdoor dining furnishings and equipment such as chairs, tables, fences, planters and such related furnishings and equipment shall not exceed 48 inches in height;

B. Notwithstanding, subsection (A), any umbrella used in conjunction with the aforementioned furnishings and equipment or any portable heater may exceed 48 inches in height if the umbrella or heater does not encroach upon the air space required in the 5 foot sidewalk clearance area referred to in Section 11.26.060;

C. No items of furnishings or equipment, including but not limited to umbrellas, chairs, tables, fences, planters and related furnishings and equipment shall be attached to the sidewalk or sidewalk surface, nor shall any of those items cause damage to the sidewalk in any manner, unless otherwise authorized by separate encroachment permit pursuant to Chapter 11.08;

D. Outdoor sidewalk dining shall only be allowed between the hours of 6:00 a.m. and 11:00 p.m., unless otherwise authorized by separate encroachment permit pursuant to Chapter 11.08;

E. All sidewalk dining furnishings and equipment must be removed and the sidewalk kept clear of all obstructions between the hours of 11:00 p.m. and 6:00 a.m., unless otherwise authorized by separate encroachment permit pursuant to Chapter 11.08;

F. The maximum number of tables, chairs or other items of furnishings or equipment allowed under any permit shall be consistent with the provisions of this chapter and any other applicable laws. The decision of the Director with regard to the total number of tables, chairs or other items of furnishings or equipment which may be permitted under the permit granted hereunder, shall be final.

11.26.090 Indemnification and insurance.

As a condition of the issuance of an annual outdoor sidewalk dining permit, the permit holder shall defend, indemnify and hold harmless the city, its officers, officials, agents and employees, and shall present, along with each application or renewal application for an annual permit, evidence of liability insurance in a form and in an amount acceptable to the Director.

11.26.100 No live entertainment or amplified music.

No live entertainment or amplified music shall be permitted in any outdoor sidewalk dining area established pursuant to this chapter.

11.26.110 Notice of violation and/or termination.

A. If the Director believes that a permittee is in violation of the provisions of this chapter, the Director may issue a notice of violation to the permittee. The notice shall be served on the permittee, either in person or by first class mail. The notice of violation shall set forth the basis for the violation and indicate that the permit is subject to termination unless, within 10 calendar days of service of the notice, the violation is either corrected or an appeal is requested pursuant to Section 11.26.130 herein.

B. If the Director determines that a permittee:

1. has committed a violation of this chapter; or
2. will not be able to continue to meet the requirements of this chapter because of a proposed public highway right-of-way improvement;

the Director shall notify the permittee, either in person or by first class mail, that the permit will be terminated. The notice of termination shall be served on the permittee, either in person or by first class mail. The notice shall indicate that the permit is subject to termination unless, within 10 calendar days of service of the notice, an appeal is requested pursuant to Section 11.26.130 herein.

C. Notices made pursuant to any section of this chapter shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail. The failure of any person to receive a notice shall not affect in any manner the validity of any proceeding or action under this chapter.

11.26.120 Impoundment.

A. The Director may impound any furnishings and equipment believed to be in violation of this chapter if the furnishings and equipment are deemed a hazard to public health,

safety or welfare. Before impounding any furnishings or equipment the Director shall provide not less than 10 calendar days notice prior to impoundment. The notice shall set forth the basis for the impoundment and shall also notify the permittee of its appeal rights as set forth in Section 11.26.130 herein.

B. If, however, the violation constitutes an immediate threat to the public health, safety or welfare, the Director may impound furnishings and equipment without any advance notice to the permittee. In such case, written notice of the impound shall be served to the permittee of record not later than 2 working days after the impoundment. The notice shall inform the permittee of the right to seek the return of the impounded furnishings and equipment and the right to appeal the Director's decision as set forth in Section 11.26.130 herein.

C. Notices made pursuant to any section of this chapter shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail. The failure of any person to receive a notice shall not affect in any manner the validity of any proceeding or action under this chapter.

D. The permittee, or if there is no permittee, a claimant who provides sufficient proof of ownership of impounded furnishings and equipment may, no later than 30 calendar days after impoundment or, if an appeal has been filed, not later than 30 calendar days after any such appeal becomes final, obtain a return of the furnishings and equipment, upon paying an impound fee as established from time to time by the City Council, plus the reasonable cost, if any, of impounding the furnishings and equipment in excess of the impound fee established by the City Council. The furnishings and equipment shall be returned without payment of any impound fee or costs if so determined by the Director or on appeal.

E. If any furnishings and equipment are impounded for more than 30 calendar days after impoundment or, if an appeal has been filed, for more than 30 calendar days after the appeal becomes final, then the Director may cause the sale or disposal of the impounded furnishing and equipment.

11.26.130 Appeal.

A permittee or person responsible for furnishings and equipment governed by this chapter may appeal any denial of a permit, notice of violation, notice of termination or impoundment as provided in Chapter 11.54.

11.26.140 Violation – Penalty.

Any person who violates this chapter shall be guilty of a misdemeanor.

11.26.150 Violation – Other remedies.

The provisions of this chapter are cumulative to any other remedies authorized by law.”

Section 7: Section 11.32.020 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“11.32.020 Definitions.

As used in this chapter:

A. ‘Director’ means the Director of Public Works of the city of Covina or designee thereof.

B. 'Newsrack' means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or news periodicals.

C. 'Parkway' means that area between the sidewalk and the curb of any street, and where there is no sidewalk or curb, that area between the edge of the roadway and the property line adjacent thereto.

D. 'Roadway' means that portion of a street improved, designed or ordinarily used for vehicular travel."

Section 8: Section 11.32.030 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

"11.32.030 Permit required.

No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer or any corporation, or otherwise, shall place or maintain a newsrack on or projecting onto a sidewalk or parkway unless and until a newsrack permit has been obtained from the Director."

Section 9: Section 11.32.050 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

"11.32.050 Issuance of permit – Only one permit required.

Upon proper application on forms provided by the Director, the Director shall issue the applicant a newsrack permit. Notwithstanding any other provisions of this chapter, the Director may not refuse to issue a newsrack permit properly applied for. One permit shall permit the placement and maintenance of any number of newsracks on the sidewalks in accordance with the provisions of this chapter."

Section 10: Section 11.32.060 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

"11.32.060 Permit – Application – Contents.

Any person desiring a permit pursuant to this chapter shall make application therefor to the Director. The application shall be upon a form furnished by the Director and shall set forth:

A. The name, address, telephone number (and facsimile or electronic mail address, if available) of the applicant;

B. If the applicant is a corporation, the names and addresses of the principal corporate officers and the state of incorporation;

C. The name, address, telephone number (and facsimile or electronic mail address, if available) of the person to be in immediate charge of the individual newsrack(s) who the City may notify or contract at any time;

D. The location where the newsrack(s) shall be placed;

E. A color photograph and model number of the type of newsrack(s);

F. The name of the publication to be contained in each newsrack;

G. A site map showing the width of the sidewalk and the location of each proposed newsrack installation and any and all structures, encroachments or objects of any kind or

character within 25 feet of the proposed installation including, but not limited to, traffic signals, street light poles, fire hydrants, bus benches, utility poles, telephones, building entrances, driveways and parking meters;

H. A statement that the applicant will directly control and supervise each newsrack proposed to be authorized under the permit sought and will be responsible for the operation and maintenance thereof;

I. Such other data as the Director may reasonably require in the interests of public health, safety or welfare;

J. A statement certifying on penalty of perjury the correctness of the information given on the application and agreeing on behalf of the proposed applicant that there shall be full compliance of the applicant with all state and city laws in the conduct of the activities for which a permit may be granted;

K. Copies of any permits required by this Code or other ordinances of the city or the state laws.”

Section 11: Section 11.32.080 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“11.32.080 Newsrack identification.

Every newsrack permittee shall permanently affix to each newsrack placed on or maintained on or projecting over any portion of a sidewalk or parkway the permittee’s name, address, telephone number, and the permittee’s permit number.”

Section 12: Section 11.32.100 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

11.32.100 Standards.

Any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

A. No newsrack shall exceed 48 inches in height, 30 inches in width, or 24 inches in depth.

B. Newsracks shall only be placed near a curb or adjacent to a wall of a building. Newsracks placed near the curb shall be placed no closer than 18 inches to the face of the curb and no farther than 24 inches from the face of the curb, measured from the curb face to the nearest point on the newsrack. Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than 6 inches from the wall. No newsrack shall be placed or maintained on the sidewalk or parkway opposite a newsstand or another newsrack.

C. No newsrack shall be chained, bolted or otherwise attached to any property not owned by the owner of the newsrack or to any permanently fixed object without the consent of the owner or such property. Newsracks shall be bolted to the sidewalk, unless otherwise authorized by the Director. Upon removal of a newsrack, the permittee shall fully restore the sidewalk or parkway to its original condition. No newsrack shall be chained or attached to loose objects including but not limited to, bricks, rocks, cinder blocks, pipes or other such objects.

D. Newsracks may be chained or otherwise attached to another; however, no more than 3 newsracks may be joined together in this manner, and a space of not less than 42 inches shall

separate each group of 3 newsracks so attached, unless the newsracks are placed adjacent to the wall of a building.

E. Notwithstanding the provisions of Section 11.32.090(B), no newsrack shall be placed, installed, used or maintained:

1. Within 5 feet of any marked crosswalk;
2. Within 15 feet of any curb return of any unmarked crosswalk;
3. Within 5 feet of any fire hydrant, fire call box, police call box or other emergency facility;
4. Within 5 feet of any driveway or alley approach;
5. Within 5 feet in front of, and within 25 feet to the rear of, any sign or pavement markings designating a bus stop, measured parallel to the flow of traffic;
6. Within 6 feet of any bus bench;
7. Within 3 feet of any outdoor sidewalk dining area or area improved with lawn, flowers, shrubs or trees, or within 3 feet of any display window or any building abutting the sidewalk or parkway in such a manner as to impede or interfere with the reasonable use of such window for display purposes;
8. Within 42 inches of any sidewalk obstruction which shall include, but not be limited to, traffic signals, street light poles, trees, sign posts, telephones, and utility poles;
9. Within 100 feet of any other newsrack or group of newsracks on the same side of the street containing the same edition of the same publication, unless the permittee can demonstrate to the Director that the demand for such publication within such 100 feet requires an additional newsrack or racks. The total number of newsracks within such 100 feet shall not exceed the maximum number of newsracks allowed by subsection (H) of this Section.
10. At any location where the clear space for pedestrians is reduced to less than 6 feet;
11. Which causes or constitutes a traffic hazard;
12. Which unreasonably obstructs or interferes with access to, or the use and enjoyment of abutting property;
13. Which will endanger persons or property;
14. Which will unreasonably interfere with or obstruct the flow of pedestrian or vehicular traffic flow on the highway;
15. Where a curb is painted blue, yellow or white;
16. Which obstructs the motoring public's view of pedestrian or traffic and parking signage.

F. No newsrack shall be used for advertising signs or publicity purposes other than dealing with the display, sale or purchase of the newspaper or news periodical sold therein.

G. Each newsrack shall be maintained in a clean and neat condition and in good repair at all times. Each newsrack shall be serviced and maintained so that:

1. It is free of dirt, grease and graffiti;
2. It is free of chipped, faded, peeling and cracked paint in the visible areas thereof;
3. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed, are unbroken and free of cracks, dents, blemishes and discoloration;
4. It is free of rust and corrosion in the visible areas thereof;
5. The paper or cardboard parts or inserts thereof are free of tears, peeling or fading;

6. The structural parts thereof are not broken or misshapen.

H. No more than 6 newsracks shall be permitted within a space of 100 feet on the same side of any highway where vehicles are allowed to park, load, unload or stand for any period of time.”

Section 13: Section 11.32.130 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“11.32.130 Impounding of newsracks.

A newsrack may be impounded for being in violation of Sections 11.32.030, 11.32.080, 11.32.090, 11.32.100 or 11.32.110 under the following conditions:

A. The Director must attach a tag upon the particular newsrack found in violation. Thereafter, a written notice of the violation shall be sent within 2 working days to the permittee designated in Section 11.32.060(A) and the person in immediate charge of the newsrack as designated in Section 11.32.060(C). The permittee or person in immediate charge of the newsrack must correct the violation within 10 calendar days from the date on the tag or request an appeal pursuant to Section 11.32.150 within that same time for the purpose of demonstrating that the particular newsrack is not in violation. The Director may impound the newsrack if the violation is not corrected or an appeal is not requested in writing within 10 calendar days from the date of the tag.

B. Notwithstanding the impound provisions of this section, the Director may immediately correct any violation of Section 11.32.090 and, if such violation is creating a dangerous or hazardous condition, may immediately impound any such newsrack. If the newsrack is impounded pursuant to this Section, a written notice of such action shall be sent to the permittee and person in immediate charge of the newsrack within 2 working days after the impoundment. The permittee or person in immediate charge of the newsrack may request an appeal within 10 calendar days from the date of service of the written notice pursuant to Section 11.32.150 for the purpose of demonstrating that the particular newsrack was not in violation and should not have been impounded. Notices made pursuant to any section of this chapter shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail.”

Section 14: Section 11.32.140 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“11.32.140 Return of impounded newsracks.

A. Unless the newsrack and its contents are being held as evidence in a criminal prosecution, the permittee, or if there is no known permittee a claimant, who provides sufficient proof of ownership of such newsrack may have such newsrack together with its contents and all moneys, if any, returned within a reasonable time, not to exceed 30 calendar days from the date of removal and impoundment, or if an appeal is timely requested pursuant to Section 11.32.150, within 30 calendar days from the date the appeal becomes final, upon paying an impound fee as established from time to time by resolution of the City Council plus the reasonable cost of impounding, removing, and storing the newsrack, if any, in excess of the fee established by the City Council.

B. Should there be a dismissal of an action charging a violation of this chapter, or an acquittal of such charges, the court or City official ordering such dismissal or entering such acquittal shall provide for the release of any newsrack and its contents and all moneys, if any, impounded or the return of any impound fee and costs paid for the release of a newsrack impounded pursuant to such charges.

C. If the newsrack is not being held as evidence in any criminal proceeding, and no criminal proceeding concerning the violation for which the newsrack was impounded is still pending, and if no appeal pursuant to Section 11.32.150 has been requested, or, if requested, has resulted in a final decision that the newsrack was rightfully impounded, and if the impound fees and costs specified in this chapter have not been paid within the time specified, the Director may sell or otherwise dispose of the newsrack and its contents, if any, and retain the proceeds from any such sale or other disposition and any moneys contained in said newsrack at the time of its removal and impoundment.”

Section 15: Section 11.32.150 of Chapter 11.32 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“11.32.150 Appeal.

Any applicant, permittee, or if there is no permittee any claimant, who provides sufficient proof of ownership of a newsrack may, within the time frames set forth in Section 11.32.130 above, request an appeal regarding any denial of a permit, notice of violation, or impoundment as provided in Chapter 11.54.”

Section 16: Chapter 11.36 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“CHAPTER 11.36

STREET TREES

Sections:

- 11.36.010 Definitions.
- 11.36.020 Master plan.
- 11.36.030 Enforcement.
- 11.36.040 Trimming, removing or injuring trees or other plants – Permit required.
- 11.36.050 Application – Contents.
- 11.36.060 Permit – Issuance conditions.
- 11.36.070 Permit – Denial.
- 11.36.080 Replacement of trees required when.
- 11.36.090 Tree trimming for moving buildings or structures.
- 11.36.100 Violation – Penalty.

11.36.010 Definitions.

For purposes of this chapter, the following definitions shall apply:

A. 'Director' means the Director of Public Works of the city of Covina or designee thereof.

B. 'Public street' means every way set apart for public travel or use in the city, including the entire parkway strip, sidewalk area, easements and rights-of-way granted to the city.

11.36.020 Master plan.

All trees and shrubs hereafter planted in any public street shall conform as to species, spacing and location to the master street tree plan and reports adopted by the city council, which by reference is made a part of this chapter and is on file with the Director.

Amendments and additions to the master street tree plan shall be by resolution of the city council and shall thereby become a part of the master street tree plan.

11.36.030 Enforcement.

It shall be the duty of the Director to carry out the provisions of this chapter, and for that purpose he is authorized to promulgate such rules and regulations as may be necessary for accomplishing the purpose of this chapter.

The Director may perform any necessary operations on any tree, shrub or plant in any public street for the accomplishment of the master street tree plan or for the protection of public improvements or persons using the public streets.

Any portion of any tree or shrub growing in private property but extending into a public street may have such portion trimmed or pruned by the Director for the protection of public improvements or persons using the public streets.

11.36.040 Trimming, removing or injuring trees and other plants – Permit required.

It is unlawful for any person, firm or corporation, other than the Director, to trim, prune, cut, break, deface, destroy, burn or remove any shade or ornamental tree, hedge, plant, shrub or flower growing, or to grow upon any public street a tree within the city of Covina, without first having obtained a permit from the Director; or to deface, bend, break or destroy, or in any manner injure or remove any frame, post, trellis or other structure used to protect or support any such tree, hedge, plant, shrub or flower; or to plant or place thereon or attach thereto any sign, notice or other advertising device.

11.36.050 Application – Contents.

Application for a permit shall be made in writing to the Director, on the forms provided by the Director, along with an application fee, which shall be set from time to time by City Council resolution. The Director may make such reasonable changes or additions to any application for a permit as are necessary to implement the provisions of this Chapter. An applicant for a permit shall state in the application: name, address, and such other information as is required by this chapter or by the Director as he may reasonably require to determine compliance with this chapter.

11.36.060 Permit – Issuance conditions.

A permit shall not be granted to any person, firm or corporation, except:

A. A person, firm or corporation who owns or is the tenant of the property adjacent to that portion of the public street on which the shade or ornamental trees, hedges, plants, shrubs or flowers which it is proposed to trim, prune, cut, break, deface, destroy, burn, remove or grow;

B. A person, firm or corporation having a valid, unrevoked easement or franchise, with the exercise of which the shade or ornamental trees, hedges, plants, shrubs or flowers interfere, and the trimming, pruning, cutting, breaking, defacing, destruction, burning or removing of which is necessary to the exercise of such easement or franchise;

C. A person, firm or corporation whose principal business is tree-trimming and maintenance and tree surgery, who in the opinion of the Director, is qualified for such business, and who deposits with the Director a sum sufficient, in the opinion of the Director, to reimburse the city for any expense necessarily incurred to do corrective tree-trimming, removal and replacement necessitated by any trimming done by the permittee. The city shall deduct from the deposit the actual cost of any necessary corrective trimming, pruning, removal and replacement and shall refund the balance to the permittee. Should the cost be greater than the deposit, the permittee upon demand shall pay to the Director an amount equal to such excess. Further permits shall not be issued until such payment is made.

D. After the applicant for a permit has provided proof of public liability insurance in a form satisfactory to the Director and in an amount of not less than \$300,000.00 and property damage insurance in an amount not less than \$100,000.00

11.36.070 Permit – Denial.

A permit shall be denied if, as reasonably determined by the Director, the activity proposed by the applicant will:

- A. be in violation of any provision of this chapter; or
- B. endanger the public health, safety and general welfare, or interfere with users of the public right-of-way or with holders of other similar permits.

11.36.080 Replacement of trees required when.

No permit for the removal of any tree shall be issued under this chapter unless and until the applicant agrees to replace the tree with another tree, of a type and quality to be determined by the Director. This condition may be waived by the Director when replacement of such tree is not desirable in the public interest.

11.36.090 Tree trimming for moving buildings or structures.

A. Investigation of proposed route. Before any permit is issued pursuant to this chapter, the permittee shall investigate the proposed route and determine whether the moving of any building or structure as proposed in, and over the route specified in the application can be done without any excessive or damaging tree trimming.

B. Permit issuance. If tree trimming is required to facilitate the moving of the building or structure, the Director may issue a permit to the applicant, pursuant to Section 11.36.060, authorizing such tree trimming and containing conditions prescribed by the Director to assure against damage or injury to persons or property and to provide indemnity for any damage or injury resulting from the work. In the alternative, the Director may require the permittee to select a different route which will not require excessive or damaging tree trimming, if such a route is feasible.

11.36.100 Violations – Penalty.

A. Any person, firm or corporation who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor.

B. Any person, firm or corporation who shall violate any of the provisions of this chapter shall bear the expense of replacing any tree, shrub or plant more than one-third destroyed by such violation, in addition to other penalties provided by law.”

Section 17: Chapter 11.37 of Title 11 of the Covina Municipal Code is hereby amended to read as follows:

“CHAPTER 11.37

REGULATION OF MAINTENANCE STANDARDS FOR PRIVATE PROPERTY
ENCROACHMENT ONTO THE PUBLIC RIGHTS—OF-WAY

Sections:

- 11.37.010 Intent and purpose.
- 11.37.020 Violation – Declaration of Nuisance.
- 11.37.030 Abatement.

11.37.010 Intent and purpose.

The city council has determined that the quality of life in Covina is tied to the character and conditions of its neighborhoods. It is the purpose of these regulations to prevent private property encroachment onto the public rights-of-way which shall strengthen visual continuity and preserve the integrity and safety of the pedestrian and vehicular public. The provisions of this chapter shall supplement and not supersede other regulations contained in the Covina Municipal Code.

11.37.020 Violation - Declaration of Nuisance.

A. No owner of private property shall permit any grass, plants, flowers, shrubs, trees, barriers, decorative appurtenances or any other private property condition to become overgrown, overspread, or to intrude into the public right-of-way such that it imperils or interferes with the safe travel of the pedestrian and vehicular public.

B. For purposes of this section, the term “Owner” means any person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in the private property. This definition includes any agent of the owner.

11.37.030 Abatement.

If the Director finds such conditions to exist, the Director may declare such conditions to be a public nuisance and initiate nuisance abatement proceedings in accordance with chapter 8.40 of this code.”

Section 18: Sections 11.40.025, 11.40.030, 11.40.040 and 11.40.050 of Chapter 11.40 of Title 11 of the Covina Municipal Code are hereby deleted in their entirety.

Section 19: Chapter 11.50 is hereby added to Title 11 of the Covina Municipal Code and shall read as follows:

“CHAPTER 11.50

UNDERGROUND UTILITY MAPS

Sections:

- 11.50.010 Definitions
- 11.50.020 Map – Required.
- 11.50.030 Map – Filing time.
- 11.50.040 Map – Affidavit.
- 11.50.050 Map – New map not required.
- 11.50.060 Electronic media in lieu of maps.

11.50.010 Definitions.

For purposes of this chapter, the following words and phrases shall have the ascribed meanings:

A. ‘Director’ means the Director of Public Works of the City of Covina or designee thereof.

B. ‘Highway’ means any public highway, public street, public way or public place in the city, either owned by the city or dedicated to the public for the purpose of public travel. The term includes all or any part of the entire width of right-of-way, and above and below the same, whether or not such entire area is actually used for highway purposes.

C. ‘Person’ includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, any district, any city, any county, and all departments and bureaus thereof.

11.50.020 Map – Required.

It shall be the duty of every person when such person owns, uses, controls or has an interest in any pipes, pipelines, conduits, ducts, tunnels or conveyor systems under or beneath the surface of any public highway, which pipes, pipelines, conduits, ducts, tunnels or conveyor systems shall be used or provided for the purpose of supplying or conveying gas, oil, petroleum products, hydrocarbons, ammonia, water, steam, heat, sewerage, discharge of wastes, electricity, or communication circuits in, to or from the city, or to or from any person situated within the city, or for any other similar purposes, to file in the office of the Director a map or a set of maps, each drawn to scale of not more than 200 feet to one inch, which map or maps shall show the exact location, size and description of the pipes, pipelines, conduits, ducts, tunnels, or conveyor systems, together with all mains, laterals, services and service pipes, valves, pressure regulators, traps, vents, manholes, handholes, transformer chambers or other appliances, installed beneath the surface of the highways in the city, belonging to, used by or under the control of such person or in which such person has an interest, together with the date of installation of such improvement, as hereinabove set forth, if such date of installation is known

11.50.030 Map – Filing time.

Each map or set of maps required by Section 11.50.020 shall be kept current and corrected maps shall be filed with the Director by the end of February of each calendar year.

The corrected map or set of maps shall include all installations or changes made during the previous calendar year, to and including the last day of each such calendar year.

11.50.040 Map – Affidavit.

Each map or set of maps required by Section 11.50.020 and 11.50.030 shall be accompanied by an affidavit endorsed thereon, subscribed and sworn to by such person, member of such firm, or president or secretary of such corporation or person authorized by them, to the effect that such map or set of maps correctly exhibits the details required by this Chapter to be shown thereon.

11.50.050 Map – New map not required.

In the event that any person has filed a map or set of maps in compliance with Section 11.50.020 and finds at the last day of any calendar year subsequent thereto that no changes have occurred during such calendar year, such person shall not be required to file a new map or set of maps as set forth in Section 11.50.030, but it shall be sufficient if such person, member of such firm or president or secretary of such corporation, or person authorized by them, on or before the last day of February thereafter, shall file an affidavit with the office of the Director a statement confirming that the maps on file are complete and correct as filed.

11.50.060 Electronic media in lieu of maps.

In lieu of maps required by this Chapter, persons may file electronic media containing the same information required to be shown on the maps. Each electronic file shall be in a format acceptable to the Director and shall include an identifying date for filing purposes.”

Section 20: Chapter 11.54 is hereby added to Title 11 of the Covina Municipal Code and shall read as follows:

“CHAPTER 11.54

APPEAL OF DIRECTOR’S DECISIONS UNDER TITLE 11

Sections:

11.54.010 Appeal of Director’s Decisions Under Title 11.

11.54.010 Appeal of Director’s Decisions Under Title 11.

A. Except as otherwise provided in the applicable chapter, any person who is aggrieved by the notices, orders, decisions, or determinations made by the Director relative to the application of any standards under this Title 11 may appeal to the City Manager.

B. Such appeal shall be in writing and must be filed with the Director not less than ten (10) calendar days following the date of service of the Director’s order, decision or determination on the person aggrieved. The appeal must indicate a return address, set forth the basis for the appeal, include the applicable appeal fee as set by City Council resolution, and must be filed with the Director’s office. If the appeal deadline falls on a day City Hall is closed, then the deadline shall be extended until the next regular business day.

C. As soon as practicable after receiving the written notice of appeal, the city shall fix a date, time and place for hearing before the City Manager. Written notice of the time and place for the hearing may be served by personal service, facsimile or by first-class mail, at the return address indicated on the written appeal. Service of the appeal notice must be made at least 10 calendar days prior to the date of the hearing to the person aggrieved. The notice shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail. The failure of the person aggrieved to receive such notice of the hearing shall not affect the validity of any proceedings under this chapter.

D. The City Manager shall conduct an orderly, fair hearing and accept evidence on which persons would commonly rely in the conduct of their ordinary business affairs as follows. The City Manager shall administer oaths and accept testimony by declaration under penalty of perjury relating to the issues presented on appeal. The person aggrieved, or his or her agent or attorney, or any other interested person may present testimony or evidence concerning the issues presented on appeal. For purposes of an appeal hearing, a valid notice, order, decision, or determination of the Director shall be prima facie evidence of that fact.

E. The City Manager shall make findings based on the record of the hearing and make a written decision based on the findings. The city shall preserve all exhibits submitted by the parties and shall serve the decision by first-class mail on the appellant within 10 calendar days after the hearing.

F. The City Manager may reduce, waive or modify any penalties, conclusions or conditions stated in the Director's notice, order, decision or determination if mitigating circumstances are shown and the City Manager states specific grounds for reduction, waiver or modification in the written decision. The decision of the City Manager shall be final, subject only to further review in a court of competent jurisdiction pursuant to State law. There are no appeals to the city council.

G. Failure of an aggrieved person to file an appeal and appear for a hearing in accordance with the provisions of this Section shall constitute a waiver of that person's rights to administrative determination of the merits of the Director's order, decision or determination, and shall also constitute a forfeiture of any fines, costs and appeal fees. If no timely appeal is filed to the City Manager, the Director's notice, order, decision or determination shall be deemed a final administrative order. Failure to appeal a decision to the City Manager shall also constitute a failure to exhaust the aggrieved person's administrative remedies."

Section 21: 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 or void, 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 or void.

Section 22: 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 weekly newspaper of general circulation and which is designated for that purpose.

ORDINANCE PASSED AND APPROVED on this ____ day of _____, 2010.

Peggy Delach
Mayor

ATTEST:

City Clerk

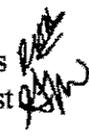
APPROVED AS TO FORM:

City Attorney

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 11

STAFF SOURCE: Anthony Arroyo, Director of Human Resources
Guadalupe Marquez, Human Resources Analyst 

ITEM TITLE: Urgency Ordinance to Amend the Contract between the City of Covina and PERS to Provide a 3% @ 55 Retirement Formula for Sworn Employees Hired After January 1, 2011

STAFF RECOMMENDATION

Council to Adopt Urgency **Ordinance No. 10-1989**, amending the contract between the City Council of the City of Covina and the Board of Administration of the California Public Employees' Retirement System (PERS).

FISCAL IMPACT

There are no immediate savings anticipated from the implementation of this two-tier system as the reduced contribution rate applies only to new hires. However, long term savings will be realized as staff turnover occurs.

BACKGROUND

On November 16, 2010 Council approved Resolution No. 10-6909, a Resolution of Intention to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (PERS) and the City Council of the City of Covina to provide, pursuant to Government Code Section 20475 and Government Code Section 21363.1, a 3% at 55 Retirement plan for all sworn police employees hired on or after January 1, 2011.

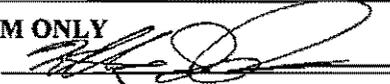
The attached Ordinance to adopt this plan is part of the final steps required by PERS prior to implementation.

RELEVANCE TO STRATEGIC PLAN

None.

EXHIBITS

- A. Urgency Ordinance No. 10-1989
- B. Contract Amendment

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

URGENCY ORDINANCE NO. 10-1989

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, AMENDING THE CONTRACT BETWEEN THE CITY OF COVINA AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM ESTABLISHING A 3%@55 RETIREMENT PLAN FOR SWORN POLICE OFFICERS HIRED BY THE CITY OF COVINA ON OR AFTER JANUARY 1, 2011.

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract.

THE CITY COUNCIL OF THE CITY OF COVINA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. An amendment to the contract between the City of Covina and the Board of Administration of the California Public Employees' Retirement System is hereby approved, a copy of said amendment being attached hereto marked "Exhibit" and by such reference made a part hereof as though set out in full.

SECTION 2. The Mayor of the City of Covina is hereby authorized, empowered and directed to execute said amendment for and on behalf of said Agency.

SECTION 3. This ordinance is an urgency ordinance and shall take effect immediately upon adoption in accordance with Section 36937 of the Government Code.

SECTION 4. 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 in its entirety 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 7th day of December, 2010.

Peggy Delach, Mayor

ATTEST:

Cathy La Croix, Deputy City Clerk

APPROVED AS TO FORM:

City Attorney



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Covina

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective January 1, 1949, and witnessed December 21, 1948, and as amended effective June 1, 1956, January 2, 1969, March 5, 1969, November 1, 1973, January 1, 1978, July 1, 1979, October 1, 1981, January 1, 1984, December 1, 1985, May 7, 1987, February 4, 1988, July 1, 1989, July 5, 1991, June 9, 1994, August 25, 2000, June 4, 2005, February 21, 2006 and April 12, 2010 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective April 12, 2010, and hereby replaced by the following paragraphs numbered 1 through 17 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members, age 50 for local fire members, and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract and age 55 for local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.

2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1949 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

- (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
 5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **PERSONS COMPENSATED ON AN HOURLY BASIS IN EMPLOYMENT ON AND AFTER MARCH 5, 1969 AND PRIOR TO FEBRUARY 4, 1988; AND**
 - b. **PERSONS IN EMPLOYMENT ON AND AFTER FEBRUARY 4, 1988 IN THE JOB CLASSIFICATIONS OF:
COMMUNITY RESOURCES SPECIALIST;
LIBRARY CLERK I;
COMMUNITY RESOURCES ASSISTANT I;
COMMUNITY RESOURCES ASSISTANT II; AND
COMMUNITY RESOURCES AIDE.**
 6. This contract shall be a continuation of the contract of the San Gabriel Valley Fire Authority, hereinafter referred to as "Former Agency". A portion of the function of Former Agency having been transferred to Public Agency on February 1, 1989. The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code.
 7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after April 12, 2010 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
 8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after April 12, 2010 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 Full).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

9. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire member shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local police member entering membership in the police classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. The percentage of final compensation to be provided for each year of credited current service as a local police member entering membership for the first time in the police classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
 - b. Section 21024 (Military Service Credit as Public Service), for local police members entering membership prior to May 7, 1987; for local fire members entering membership prior to July 1, 1989; and for all local miscellaneous members.
 - c. Section 20042 (One-Year Final Compensation).
 - d. Section 20614, Statutes of 1978, (Reduction of Normal Member Contribution Rate). From July 1, 1979 and until October 1, 1981, the normal local miscellaenous member contribution rate shall be 3.5%. Legislation repealed said Section effective September 29, 1980.
 - e. Section 20690, Statutes of 1980, (To Prospectively Revoke Section 20614, Statutes of 1978).
 - f. Section 20965 (Credit for Unused Sick Leave).
 - g. Section 21622 (\$600 Retired Death Benefit).

- h. Section 20475 (Different Level of Benefits Provided for New Employees). Section 21024 (Military Service Credit as Public Service), is not applicable to local police members entering membership after May 7, 1987; local fire members entering membership after July 1, 1989.

Section 21363.1 (3% @ 55 Full formula) is applicable to local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.
 - i. Section 20503 (To Remove the Exclusion of Persons Compensated on an Hourly Basis on or after March 3, 1969, Prospectively from February 4, 1988).
 - j. Section 20903 (Two Years Additional Service Credit).
 - k. Section 21574 (Fourth Level of 1959 Survivor Benefits).
13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on January 1, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
14. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous and local safety members of said Retirement System.
15. Public Agency shall also contribute to said Retirement System as follows:
- a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safety members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

16. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
17. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF COVINA

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

**CITY OF COVINA &
COVINA REDEVELOPMENT AGENCY
AGENDA ITEM COMMENTARY**

MEETING DATE: December 7, 2010

ITEM NO.: CC 12

STAFF SOURCE: Robert Neuber, Deputy Executive Director ^{AN}
Lisa Brancheau, Redevelopment Manager

ITEM TITLE: Right of Entry Agreement with the Olson Company to remove items from the public right of way at the Olson Citrus Walk project site and authorize Executive Director to execute the agreement

STAFF RECOMMENDATION

Approve Right of Entry Agreement with the Olson Company to remove items from the public right of way at the Olson Citrus Walk project site and authorize Executive Director to execute the agreement.

FISCAL IMPACT

There will be no impact to the General Fund.

BACKGROUND

In order to protect decorative brick, light standards and tree protector and grates that currently exist in the public right of way adjacent to the proposed Olson Citrus Walk Project for future reuse, both the Agency and The Olson Company wish to enter into a Temporary Right of Entry Agreement. Execution of the Agreement would allow the Olson Company to remove the items so that they are not damaged during the at-grade demolition of the project site which will be completed by the Agency.

The Olson Citrus Walk Project will be subject to those Green Building Code standards that currently apply. The Olson Company intends to construct the project to LEED Silver certified standards. Reuse of the existing public right of way items previously listed will assist in attaining such LEED Silver Status.

RELEVANCE TO STRATEGIC PLAN

Construction of the Olson Citrus Walk project is in keeping with the Strategic Planning Goal of Enhancing Financial Stability. The project will result in an influx of new residents and their visitors into the downtown area who will shop, dine, and relax downtown, thus furthering the revitalization of the area.

EXHIBITS

None

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

COVINA REDEVELOPMENT AGENCY
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 13

STAFF SOURCE: Robert Neiuber, Deputy Executive Director ^{AN}
Lisa Brancheau, Redevelopment Manager

ITEM TITLE: Redevelopment Agency to Amend the Relocation and Lease Termination Settlement Offer/Settlement Agreements with Private Beach Tanning, Salon Cielo, and Le Petit as part of the Olson Citrus Walk Project

AGENCY RECOMMENDATION

Approve Relocation and Lease Termination Settlement Agreement Amendments with Private Beach Tanning, Salon Cielo, and Le Petit as part of the Olson Citrus Walk Project and authorize Executive Director to execute the agreements.

FISCAL IMPACT

There is no General Fund Impact. Time extensions are being offered to the relocated businesses. No additional monies will be offered.

BACKGROUND

The Agency anticipates site mobilization by the selected demolition and asbestos abatement contractors will take place the week of December 27, 2010. As a result, all tenants that are located within the Olson Citrus Walk site will be required to vacate the site before that date. The Covina Valley Unified School District, La Tazza, and Candy Connection all have agreed to vacate prior to that date. Private Beach Tanning, Salon Cielo, and Le Petit currently have agreements with the Agency to vacate by November 1, 2010. However, the new locations to which these businesses are in the process of relocating to, are currently undergoing seismic retrofit or are undergoing tenant improvement. As a result, time extensions have been requested by the tenants. Agency staff requests that the Agency Board amend agreements with Private Beach Tanning, Salon Cielo, and Le Petit which contain language that stipulates a vacation date of no later than December 26, 2010. Should a tenant remain after December 26, 2010, liquidated damages of \$5,000 per day will be imposed. The agreement will also include a provision which forgives rent for November and December 2010.

The retrofit and tenant improvements are anticipated to be complete or very close to complete by the required vacation date of December 26, 2010.

The Agency is pleased to report that Private Beach Tanning, Salon Cielo, and Le Petit businesses are in the process of reestablishing in the City of Covina. All three businesses will be relocating to vacant locations within Downtown Covina.

RELEVANCE TO THE STRATEGIC PLAN

Construction of the Olson Citrus Walk project is in keeping with the Strategic Planning Goal of Enhancing Financial Stability. The project will result in an influx of new residents and their

visitors into the downtown area who will shop, dine, and relax downtown, thus furthering the revitalization of the area.

EXHIBITS

A. None

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

COVINA REDEVELOPMENT AGENCY
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: CC 14

STAFF SOURCE: Robert Neiuber, Director of Community Development
Lisa Brancheau, Redevelopment Manager

ITEM TITLE: Agency Board Consideration of award of public works contract for at-grade demolition of Olson Citrus Walk Project site, approval of Resolution 10-646 and authorization for Executive Director to execute the Agreement

AGENCY RECOMMENDATION

Adopt **Resolution No. 10-646** of the Covina Redevelopment Agency approving Agreement for At-Grade Demolition for the Olson Citrus Walk Project and authorize Executive Director to execute the agreement in the amount of \$235,295 and authorize staff to budget 15% in contingencies for the project, equal to \$35,295, for a total project budget of \$270,590.

FISCAL IMPACT

There will be no impact to the General Fund. \$705,024 is available to be appropriated from Redevelopment Agency Undesignated Fund Balance 5031-0000-00-33000 to Redevelopment Agency Demolition Account No. 5031-4450-00-53730.

BACKGROUND

The project was advertised for bids on November 9, 2010 and bids were received on November 30, 2010. Three bids were proposed ranging from \$158,725 to \$235,953. The lowest bid was submitted by SGV Enterprises Inc., however it was withdrawn by the bidder due to a bid calculation error. The next lowest bidder, J & G Industries Inc., submitted a bid for \$235,295. The company has been found to be responsive and responsible and as a result, staff requests that the Council award a construction contract to J&G Industries Inc in the amount of \$235,295 and authorize staff to budget 15% in contingencies for the project, equal to \$35,295, for a total project budget of \$270,590.

In keeping with requirements stipulated in the Disposition and Development Agreement (DDA) of May 18, 2010 with Developer, The Olson Company, the Agency is responsible for all demolition at-grade. The Olson Company will carry out all below-grade demolition for the project. Demolition is anticipated to commence the week of December 27, 2010.

RELEVANCE TO STRATEGIC PLAN

Construction of the Olson Citrus Walk project is in keeping with the Strategic Planning Goal of Enhancing Financial Stability. The project will result in an influx of new residents and their visitors into the downtown area who will shop, dine, and relax downtown, thus furthering the revitalization of the area.

EXHIBITS

- A. Resolution No. 10-646
- B. Bid Proposal submitted by J&G Industries Inc.

REVIEW TEAM ONLY	
City Attorney: <u>APPROVED VIA JIM PRIEST VIA EMAIL.</u>	Finance Director: <u><i>Michael Cole</i></u>
City Manager: <u><i>JP</i></u>	Other: _____

RESOLUTION NO. 10-646

A RESOLUTION OF THE COVINA REDEVELOPMENT AGENCY APPROVING AGREEMENT FOR AT-GRADE DEMOLITION FOR THE OLSON CITRUS WALK PROJECT AND AUTHORIZE EXECUTIVE DIRECTOR TO EXECUTE THE AGREEMENT

WHEREAS, the Covina Redevelopment Agency (the "Agency") is engaged in activities necessary to execute and implement the Redevelopment Plan for the Covina Revitalization Redevelopment Project No. 2 ("Project");

WHEREAS, the Agency has approved and adopted an Environmental Impact Report in connection with the adoption of the City's Specific Plan for the Downtown area within the Redevelopment Project; and

WHEREAS, the Covina Redevelopment Agency is a politic body duly organized and existing pursuant to the Constitution and laws of the State of California ("Agency"); and

WHEREAS, the budget for the Agency for fiscal year commencing July 1, 2010 and ending June 30, 2011 was approved on June 15, 2010; and

WHEREAS, the approved budget is in accordance with all applicable ordinances of the Agency and all applicable statutes of the State; and

WHEREAS, the reallocation of the appropriations between departmental activities may be made by the Executive Director, amendments (increases/decreases) to the Budget shall be by approval and Resolution of the Agency Board;

WHEREAS, the Covina Redevelopment Agency is dedicated to improving City infrastructure and the aesthetics of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COVINA REDEVELOPMENT AGENCY AS FOLLOWS:

SECTION 1. The Agreement (Exhibit 1) is hereby approved and the Executive Director is authorized to execute said Agreement on behalf of the Agency and to take all actions necessary or desirable to carry out the Agreement.

SECTION 2. Amend the fiscal year 2010 – 2011 Covina Redevelopment Agency

operating budget as follows: Appropriate \$270,590 from Redevelopment Agency Undesignated Fund Balance 5031-0000-00-33000 to Redevelopment Agency Demolition Account No. 5031-4450-00-53730.

SECTION 3. The Agency Secretary shall certify to the adoption of this resolution.

ADOPTED AND APPROVED THIS 7th day of December, 2010.

Chair

ATTEST:

Deputy City Clerk

Approved as to form:

Legal Counsel

CONTRACTOR'S PROPOSAL

**AT GRADE DEMOLITION – OLSON CITRUS WALK
PROJECT NO P-1013**

City Council
City of Covina
Covina, California

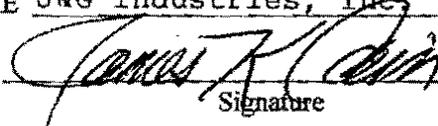
In accordance with City's Notice Inviting Bids, the undersigned BIDDER hereby proposes to furnish all materials, equipment, tools, labor, superintendence, and incidentals required for the above stated project as set forth in the Plans, Specifications, and Contract Documents therefor, and to perform all work in the manner and time prescribed therein.

BIDDER declares that this proposal is based upon careful examination of the work site, Plans, Specifications, Instructions to Bidders, and all other Contract Documents. If this proposal is accepted for award, BIDDER agrees to enter into a contract with CITY at the unit and/or lump sum prices set forth in the following Bid Schedule. BIDDER understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to CITY of the proposal guarantee/bid bond accompanying this proposal.

BIDDER understands that a bid is required for the entire work, that the estimated quantities set forth in the Bid Schedule are solely for the purpose of comparing bids, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed. THE CITY RESERVES THE RIGHT TO INCREASE OR DECREASE THE AMOUNT OF ANY QUANTITY SHOWN AND TO DELETE ANY ITEMS FROM THE CONTRACT. It is agreed that the unit and/or lump sum prices bid include all contractor markups, appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, unit prices shall govern over extended amounts, and words shall govern over figures.

If awarded the Contract, the undersigned further agrees that in the event of the Bidder's default in executing the required contract and filing the necessary bonds and insurance certificates within ten (10) working days after the date of the CITY'S notice of award of contract to the BIDDER, the proceeds of the security accompanying this bid shall become the property of the CITY and this bid and the acceptance hereof may, at the CITY'S option, be considered null and void.

ADDENDA Acknowledgment: The BIDDER has received Addenda Nos. 01, 02 and has included their provisions in the Bid.

COMPANY NAME J&G Industries, Inc
BY 
Signature
TITLE President

CONTRACTOR'S PROPOSAL

AT GRADE DEMOLITION – OLSON CITRUS WALK PROJECT NO P-1013

[May Change]NOTE: The base bid upon which bidders will be evaluated shall be based solely upon the Grand Total Lump Sum bid provided by bidders below. Unit Price Items are also required to be included in this bid as well. The purpose of including Unit Price Items is to establish the bid value of such Items in the event extra work that is not covered under the Contract (and the Lump Sum bid) is required or ordered by the City pursuant to the terms of the Contract. If extra work is required or ordered, the unit price provided by the bidder for a particular Item will be used to determine the appropriate additional compensation Contractor shall be entitled to under an applicable Change Order. The value of (and compensation for) items not included on the list of Unit Price Items shall be determined by the parties, through the process of negotiating Change Orders.

LUMP SUM BID FOR ALL CONTRACT WORK

ITEM NO.	DESCRIPTION	TOTAL PRICE
1.	AT GRADE DEMOLITION - OLSON CITRUS WALK SITE	\$ <u>235,295⁰⁰</u>

[NOTE: The Lump Sum Bid must include the following work:

- i)
- ii)

GRAND TOTAL, LUMP SUM BID; =

(FIGURES) \$ 235,295⁰⁰

(WORDS) TWO-HUNDRED & THIRTY-FIVE THOUSAND
TWO-HUNDRED & NINETY-FIVE DOLLARS⁰⁰

BID FOR UNIT PRICE ITEMS (IF EXTRA WORK IS REQUIRED)

ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE
1.	MOBILIZATION (5% MAX OF BID)	LS	\$ <u>10,000⁰⁰</u>
2.	EROSION CONTROL	LS	\$ <u>15,000⁰⁰</u>
3.	TRAFFIC CONTROL	LS	\$ <u>5,000⁰⁰</u>
4.	DEMOLISH, RECYCLE OR DISPOSE, & HAUL BLDG 1 INCLUDES ANY LEAD AND ASBESTOS ABATEMENT	SF	\$ <u>35⁵⁰</u>
5.	DEMOLISH, RECYCLE OR DISPOSE, & HAUL BLDG 2 INCLUDES ANY LEAD AND ASBESTOS ABATEMENT	SF	\$ <u>9²⁵</u>
6.	DEMOLISH, RECYCLE OR DISPOSE, & HAUL BLDG 3 INCLUDES ANY LEAD AND ASBESTOS ABATEMENT	SF	\$ <u>8⁵⁰</u>
7.	DEMOLISH, RECYCLE OR DISPOSE, & HAUL BLDG 4 INCLUDES ANY LEAD AND ASBESTOS ABATEMENT	SF	\$ <u>6⁷⁰</u>
8.	DEMOLISH, RECYCLE OR DISPOSE, & HAUL BLDG 5 INCLUDES ANY LEAD AND ASBESTOS ABATEMENT	SF	\$ <u>3⁰⁰</u>
9.	DEMOLISH, RECYCLE OR DISPOSE, & HAUL BLDG 6 INCLUDES ANY LEAD AND ASBESTOS ABATEMENT	SF	\$ <u>5⁵⁰</u>
10.	DEMOLISH, RECYCLE OR DISPOSE, & HAUL BLDG 7 INCLUDES ANY LEAD AND ASBESTOS ABATEMENT	SF	\$ <u>8⁰⁰</u>
11.	REMOVE AND STORE CITY STD LIGHT POLE	EA	\$ <u>200⁰⁰</u>
12.	REMOVE TREES & ROOTS (6-15" DIA)	EA	\$ <u>500⁰⁰</u>
13.	REMOVE TREES & ROOTS (16-36" DIA)	EA	\$ <u>2000⁰⁰</u>

ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE
14.	DEMOLISH, PROCESS, AND STOCKPILE PCC PAVEMENT, SIDEWALK, CURB, GUTTER, PARKING LOT, DECORATIVE PAVING, AND OTHER LIKE STRUCTURES	SF	\$.75
15.	DEMOLISH, PROCESS, AND STOCKPILE AC PAVEMENT, PARKING LOT AND OTHER LIKE AC PAVEMENT	SF	\$.25
16.	HAUL, RECYCLE OR DISPOSE OF UNSUITABLE AC PAVEMENT (IF NEEDED)	TON	\$ 20 ⁰⁰
17.	HAUL, RECYCLE OR DISPOSE OF UNSUITABLE PCC PAVEMENT (IF NEEDED)	TON	\$ 25 ⁰⁰
18.	REMOVE, HAUL, RECYCLE OR DISPOSE BLOCK WALL	SF	\$ 2 ⁰⁰
19.	REMOVE, RECYCLE OR DISPOSE SIGNS	EA	\$ 50 ⁰⁰
20.	REMOVE, RECYCLE OR DISPOSE BOLLARD	EA	\$ 25 ⁰⁰
21.	REMOVE, RECYCLE OR DISPOSE FENCE AND GATES	LF	\$ 2 ⁰⁰
22.	CLEAN AND CAP SS LAT AT SS MAIN	EA	\$ 750 ⁰⁰
23.	REMOVE FIRE HYDRANT	EA	\$ 1500 ⁰⁰

24. TEMPORARY 8' TALL CHAIN LINK CONSTRUCTION L.F.
 FENCE USING GREEN FABRIC NOTE 5 SHEET 4.
 COMPANY NAME J&G Industries, Inc. 4⁰⁰

By James K. Cain
 Signature

James K. Cain
 Print or Type Name

Title President

Date 11-30-2010

**CONTRACTOR'S PROPOSAL
INFORMATION REQUIRED OF BIDDERS**

**AT GRADE DEMOLITION – OLSON CITRUS WALK
PROJECT NO P-1013**

Contractor's License # 57185 class A, C21 6/30/11
Expiration Date
Covina Business License # will obtain at award
Expiration Date
Taxpayer Identification Company Name J&G Industries, Inc.
No. 33-0343018 Owner's Name James K. Cain
Twenty-four Hour Owner's Title President
Telephone No. Address 18627 Brookhurst St #302
Area Code (714) Street NAME/P.O. Box
903-2002 Fountain Valley, CA 92708
City State Zip

Name of the person from your company who inspected the project site.
Eric Cain Inspection Date 11/15/10

In compliance with the "Subletting and Subcontracting Fair Practices Act" being Sections 4100-4113 of the Public Contract Code of the State of California, and any amendments thereto, each bidder shall set forth below the name and location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the Work or improvement in an amount in excess of one-half (1/2) of one percent (1%) of the prime contractor's total bid, and shall further set forth the portion of the Work which will be done by each subcontractor. Only one subcontractor for each such portion shall be listed.

If the contractor fails to specify a subcontractor for any portion of the Work to be performed under the Contract, he shall be deemed to have agreed to perform such portion himself, and he shall not be permitted to subcontract that portion of the work except under the conditions hereinafter set forth.

Subletting or subcontracting of any portion of the Work to which subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the legislative body of the City.

List the name and address of each subcontractor who will perform work in or about the work or improvement and indicate what part of the work will be done by each subcontractor.

Name	Address	Contractors State License #	Work to be performed and Percentage of Total Work Performed
BMP SOLUTIONS	1731 MASSACHUSETTS RIVERSIDE CA	905122	EROSION CONTROL 5%
VAN DIEST BROS	15315 S. LAKEWOOD BLVD PARAMOUNT CA	157555	UTILITY WORK 5%
ENVIROCON CONTRACTING	8940 MARSHMORE CYPRESS CA	889528	HAZARDOUS ABATEMENT 20%
AMERICAN FENCE	12330 GILBERT AVE SANTA FE SPRING		TEMP FENCING 2%

List three (3) projects of a nature similar in type, scope and magnitude to this project [At-Grade demolition] completed by the Bidder. Failure to list three (3) projects of the nature described above shall constitute cause for the City to reject the bid as non-responsive.

City of Lakewood- Building Demo on 208th St; at grade demo

City of Santa Ana - Building Demo on Bristol St; at grade demo

Orange County Transportation Authority-Property Demo & Site Clearance on Placentia Ave; at grade demo

Also, list who will be the Project Superintendent for the Bidder/Contractor on this Project and, in lieu of the Superintendent, who will be his or her Alternate. Please list three projects of a nature similar in type, scope and magnitude to this project completed by the Superintendent as well as for the Alternate while employed by the Bidder/Contractor that is submitting this proposal. Failure to provide the information set forth above shall constitute cause for the City to reject the bid as non-responsive.

Eric Cain - City of Santa Ana; Bristol, Bishop & Camille St Demo; Multiple structure demo and at grade demo

OCTA- #C-5-2407-Property Demo & Site Clearance; Placentia Ave Commercial Bldg Demo

San Bernardino Redevelopment Agency- West 5th St Residential Demo & at grade demo

Mauro Ruiz - OCTA; #C-95-950-Property Demo & Site Clearance; I5 FWY North & various Measure M Projects

City of Glendale-Broadway Bldg Demo, site clearance & at grade demo

Indian Bureau Affairs, Dept of Interior- Sherman Indian High School Dorm Bldg #4 Demo; Demo, site clearance and at grade demo

Please note that all features of the Work on the Project must be supervised by the Superintendent, or his or her Alternate through Final Completion of the Project, and that no substitution of the Superintendent or the Alternate is permitted prior to Final Completion without the prior written consent of the City. The City shall

have the right to reasonably evaluate the qualifications of any individual proposed to substitute for the Superintendent or Alternate prior to giving its written consent to the substitution.

PROPOSAL

AT GRADE DEMOLITION – OLSON CITRUS WALK PROJECT NO P-1013

BIDDER'S DECLARATION

It is understood and agreed that:

1. The undersigned has carefully examined all documents which will form a part of the Contract; namely, the Notice Inviting Bids, the Instructions to Bidders, this Proposal, the Bid Bond, the Contract, the Faithful Performance Bond, the Payment Bond, the federal requirements, if any, the Plans and Specifications, the Special Provisions, and the Technical Specifications.
2. The undersigned has, by investigation at the Site of the Work and otherwise, satisfied himself/herself as to the nature and location of the Work and fully informed himself/herself as to all conditions and matters, which can in any way affect the Work or the cost thereof.
3. The undersigned fully understands the scope of Work and has checked carefully all words and figures inserted in this Proposal and he/she further understands that the City will not be responsible for any errors or omissions in the preparation of the Proposal.
4. The undersigned agrees and acknowledges that he/she is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and that the undersigned will comply with such provisions before commencing the performance of the Contract if it is awarded to the undersigned.

The undersigned will execute the Contract and furnish the required statutory bonds and certificates of insurance within the period of time specified in the Contract Documents.

The undersigned will begin Work after award of Contract and a Notice to Proceed has been given as herein specified, and will complete said Work within the time specified in the Contract.

5. The undersigned certifies that this Proposal is genuine and not sham or collusive, or made in the interest or on behalf of a person not herein named, and the undersigned has not directly or indirectly induced or solicited any other bidder to put in a sham bid nor induced any other person, firm, or corporation to refrain from bidding. The undersigned has not in any manner sought by collusion to secure for himself/herself any advantage over any other bidder.

6. The undersigned will accept an award and enter into a Contract for all Work scheduled herein on which he/she puts in a bid. The awards for such Work are to be entirely at the discretion of the City after evaluation of the bids as submitted. The undersigned agrees that the City shall recover or retain as a bid bond forfeiture an amount equal to the difference between the low bid and amount of the bid of the bidder with whom the City enters into a Contract, and the surplus, if any, shall be returned to the lowest bidder in accordance with the provisions of the Public Contract Code Sections 20172 and 20174 in the event of his failure to execute a Contract and furnish required bonds and insurance therefor within the time provided.

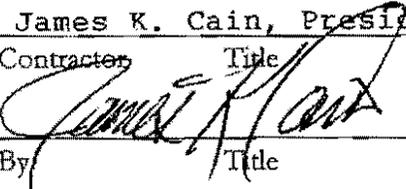
7. This bid will not be withdrawn within a period of forty five (45) calendar days after the date of its proper opening by the City.

8. The undersigned bidder states under penalty of perjury that the representations made in submitting this bid are, to the best of his/her knowledge, true, accurate, and complete.

Respectfully submitted,

J&G Industries, Inc.
Contractor's Business Name
18627 Brookhurst St #302
Business Address: Street
Fountain Valley, CA 92708
City State Zip
714-903-2002
Business Phone Number
James K. Cain President
Name Title

City State Zip

James K. Cain, President
Contractor Title

By Title
571859 A, C21, ASB, HAZ
Contractor's License No. and Classification
11-29-10
Date

Residence: Street

Residence Phone Number

Note: If the bid is made by an individual, it must be signed with the full name of the bidder, whose address must be given: if it is made by a firm, it must be signed in the co-partnership's name by a general partner thereof, who shall also sign his or her own name, and the name and full address of each partner (general and/or limited) must be given; and if it is made by a corporation, it must be signed by a properly authorized officer, the corporate name shall be set forth, and the corporate seal shall be affixed.

PROPOSAL

**AT GRADE DEMOLITION – OLSON CITRUS WALK
PROJECT NO P-1013**

NON-COLLUSION AFFIDAVIT

(To be executed by Bidder and submitted with Bid)

State of California

County of Los Angeles
Orange

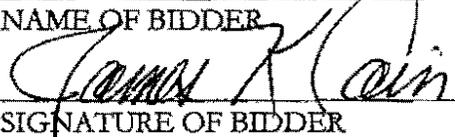
James K. Cain

_____ being first duly sworn, deposes and says
that he ~~is~~ is President _____ of J&G Industries, Inc.

_____ the party making the foregoing bid, that the bid is not made in the interest of, or on the behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay fee to any corporation, or agent thereof to effectuate a collusive or sham bid.

James K. Cain J&G Industries, INC.

NAME OF BIDDER



SIGNATURE OF BIDDER

18627 Brookhurst St #302

ADDRESS OF BIDDER

Fountain Valley, CA 92708

CITY

STATE

ZIP

ALL SIGNATURES MUST BE WITNESSED BY NOTARY

(attach appropriate jurats)

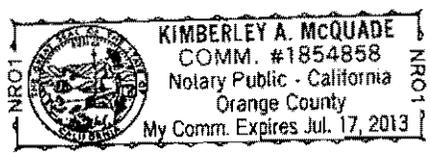
State of California)
County of Orange)

CALIFORNIA JURAT

Subscribed and sworn to (or affirmed) before me on this 29th day
of November, 20 10, by _____
James K. Cain

proved to me on the basis of satisfactory evidence to be the person(s)
who appeared before me.

Signature [Handwritten Signature]



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this jurat to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

This certificate is attached to a document titled/for the purpose of

[Empty box for description of attached document]

containing _____ pages, and dated _____.

Additional Information	
Method of Affiant Identification	
Proved to me on the basis of satisfactory evidence: <input type="radio"/> form(s) of identification <input type="radio"/> credible witness(es)	
Notarial event is detailed in notary journal on: Page # _____ Entry # _____	
Notary contact: _____	
Other	
<input type="checkbox"/> Affiant(s) Thumbprint(s)	<input type="checkbox"/> Describe: _____

DECLARATION OF ELIGIBILITY TO CONTRACT
[Labor Code Section 1777.1; Public Contract Code Section 6109]

The undersigned, a duly authorized representative of the Contractor, certifies and declares that:

1. The undersigned Contractor is aware of Sections 1777.1 and 1777.7 of the California Labor Code, which prohibit a contractor or subcontractor who has been found by the Labor Commissioner or the Director of Industrial Relations to be in violation of certain provisions of the Labor Code, from bidding on, being awarded, or performing work as a subcontractor on a public works project for specified periods of time.

2. The undersigned Contractor is not ineligible to bid on, be awarded or perform work as a subcontractor on a public works project by virtue of Sections 1771.1 or 1777.7 of the California Labor Code or any other provision of law.

3. The undersigned Contractor is aware of California Public Contract Code Section 6109, which states:

“(a) A public entity, as defined in Section 1100 [of the Public Contract Code], may not permit a contractor or subcontractor who is ineligible to bid or work on, or be awarded, a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code to bid on, be awarded, or perform work as a subcontractor on, a public works project. Every public works project shall contain a provision prohibiting a contractor from performing work on a public works project with a subcontractor who is ineligible to perform work on the public works project pursuant to Section 1771.1 or 1777.7 of the Labor Code.”

“(b) Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the awarding body. The contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.”

4. The undersigned Contractor has investigated the eligibility of each and every subcontractor the undersigned contractor intends to use on this public works project, and has determined that none of them is ineligible to perform work as a subcontractor on a public works project by virtue of the foregoing provisions of the Public Contract Code, Sections 1771.1 or 1777.7 of the Labor Code, or any other provision of law.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 29th day of NOVEMBER, 2010, at Westminster (place of execution), California.



Signature

Name: James K. Cain

Title: President

Name of Company: J&G Industries, INC.

BIDDER'S BOND TO ACCOMPANY PROPOSAL

WE, J & G Industries, Inc, as principal, and
Contractors Bonding and Insurance Company

as surety, are held and firmly bound to the City of Covina in the sum of _____
Ten Percent of the total bid amount _____ Dollars,

(\$ 10% of total bid) to be paid to the City of Covina, its successors and assignees, for which
payment we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and
severally.

THE CONDITION OF THIS OBLIGATION IS,

That if the proposal of the above bound J & G Industries, Inc
_____ to perform _____

At Demolition - Olson Citrus Walk - #P-1013

Bid dated 11/30/2010 is accepted by the City of
Covina, and if the above bounden J & G Industries, Inc

_____ his heirs, executors, administrators,
successors and assignees, shall duly enter into and execute a contract for such performance, and shall
execute and deliver the two bonds described within ten (10) working days from the date of the mailing of
a notice to the above bounden J & G Industries, Inc by _____ and
from the City of Covina that this contract is ready for execution, then this obligation shall become null
and void; otherwise it shall be and remain in full force.

IN WITNESS, we set our hands and seals this 18 day of November, 2010

Principal: J & G Industries, Inc

Surety: Contractors Bonding and Insurance Company

By: James K. Cain

By: Robert C. Elster, Jr

Title: PRESIDENT

Title: Attorney-in-Fact



LIMITED POWER OF ATTORNEY

Not Valid for Bonds

Power of Attorney

Executed On or After: FEBRUARY 28TH, 2011

Number 216654

READ CAREFULLY - to be used only with the bond specified herein

Only an unaltered original of this Power of Attorney document is valid. A valid original of this document is printed on gray security paper with black and red ink and bears the seal of Contractors Bonding and Insurance Company (the "Company"). The original document contains a watermark with the letters "cbic" embedded in the paper rather than printed upon it. The watermark appears in the blank space beneath the words "Limited Power of Attorney" at the top of the document and is visible when the document is held to the light. This document is valid solely in connection with the execution and delivery of the bond bearing the number indicated below, and provided also that the bond is of the type indicated below. This document is valid only if the bond is executed on or before the date indicated above.

KNOW ALL MEN BY THESE PRESENTS, that the Company does hereby make, constitute and appoint the following: **MARIBEL HERNANDEZ** and **ROBERT C. ELSTER, JR.** its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver on behalf of the Company: (1) any and all bonds and undertakings of suretyship given for any purpose, provided, however, that no such person shall be authorized to execute and deliver any bond or undertaking that shall obligate the Company for any portion of the penal sum thereof in excess of \$10,000,000, and provided, further, that no Attorney-in-Fact shall have the authority to issue a bid or proposal bond for any project where, if a contract is awarded, any bond or undertaking would be required with penal sum in excess of \$10,000,000; and (2) consents, releases and other similar documents required by an obligee under a contract bonded by the Company. This appointment is made under the authority of the Board of Directors of the Company.

CERTIFICATE

I, the undersigned secretary of Contractors Bonding and Insurance Company, a Washington corporation, DO HEREBY CERTIFY that this Power of Attorney remains in full force and effect and has not been revoked, and, furthermore, that the resolutions of the Board of Directors set forth on the reverse are now in full force and effect.

Bond Number CA4061

Signed and sealed this 18 day of November, 2010



R. Kirk Eland, Secretary

CBIC • 1213 Valley Street • P.O. Box 9271 • Seattle, WA 98109-0271
(206) 622-7053 • (800) 765-CBIC (Toll Free) • (800) 950-1558 (FAX)

PoaLPOA.08-1/S0061 307

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Sonoma }

On November 18, 2010 before me, Jerilee Lewis, a Notary Public
Date Here Insert Name and Title of the Officer

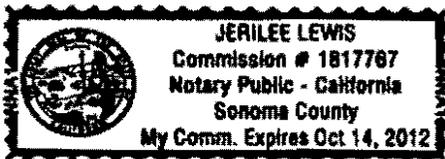
personally appeared Robert C. Elster, Jr.
Name(s) of Signer(s)

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/han/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 Jerilee Lewis
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: J & G Industries, Inc.- Bid Bond City of Covina (Olson Citrus Walk #P-1013

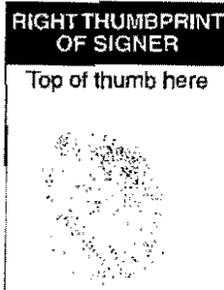
Document Date: 11/18/2010 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Robert C. Elster, Jr.

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



Signer is Representing: _____

Contractors Bonding & Insurance
Company

Signer's Name: _____

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



Signer is Representing: _____

State of California)
County of Orange)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On Nov. 19, 2010 before me, Kimberley A. McQuade, Notary Public,
(here insert name and title of the officer)

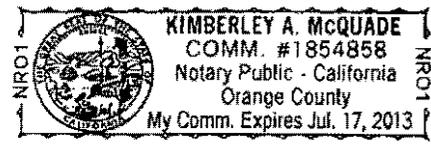
personally appeared James K. Cain

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 *Kimberley A. McQuade*



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____ containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____ Title(s) _____
- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

Additional Signer(s) Signer(s) Thumbprint(s)

Addendum No. 1
for the At Grade Demolition Project - P1013
Covina, California
November 22, 2010

This Addendum No. 1 forms a part of the Contract Documents for the At Grade Demolition Project No. P-1013 and modifies the original Contract Documents. Addendum No. 1 shall be signed and included with your Bid Proposal. Failure of the bidder to enclose said addenda or bulletins may be grounds for rejection of the bid.

Item No.	Drawing/Spec. Reference	Item Description		
1.	Sheet 2	Revise Demolition Note 13 as follows: 13. MATERIALS SUCH AS ASPHALT AND CONCRETE PAVEMENT SUITABLE FOR USE AS CRUSHED MISCELLANEOUS BASE SHALL BE DEMOLISHED, GROUND , AND STOCKPILED ON SITE FOR FUTURE USE. THE CITY OF COVINA OR ITS REPRESENTATIVE SHALL DETERMINE THE SUITABILITY OF THE MATERIALS AS THEY ARE DEMOLISHED. MATERIALS DEEMED UNSUITABLE SHALL BE REMOVED FROM THE SITE AT THE CONTRACTOR'S EXPENSE AT THE UNIT PRICE PER TON IN THE CONTRACTOR'S PROPOSAL, BID FOR UNIT PRICE ITEMS (IF EXTRA WORK IS REQUIRED), ITEM NO. 16 OR 17 RESPECTIVELY.	None	
2.	N/A	Updated Schedule for Questions: Bidders have until 2:00 PM on Tuesday November 23, 2010 to submit questions in writing to the City. After this time, no further questions will be accepted.	None	
3.	CONTRACTOR'S PROPOSAL - PAGE B2	Add the following item to the BID FOR UNIT PRICE ITEMS (IF EXTRA WORK IS REQUIRED). Write the amount in the "UNIT PRICE" box below	None	
	ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE
	24	TEMPORARY 8' TALL CHAIN LINK CONSTRUCTION FENCE W/ GREEN FABRIC PER NOTE 5 SHEET 4.	LF	\$
4.	SPECIAL PROVISIONS SECTION 7.5 PERMITS	Revise SPECIAL PROVISIONS SECTION 7.5 PERMITS, second paragraph, second sentence as follows: However, the Covina Redevelopment Agency may will reimburse the Contractor and subcontractors for all costs incurred to obtain all necessary building permits, inspections, certificates, and authorizations to perform the Work.		
5.	Sheet 2	Add the following note: <i>The Contractor shall remove all trees in the same day or within the same immediate time frame at the beginning of demolition.</i>		

Questions from Bidders

1. How will [the Contractor] be responsible to remove the slab above the basement while protecting the basement?

Response: Sawcut at a reasonable distance outward and away from the basement to protect the basement and remove the adjacent building slab - assume that this distance is 2-feet for bidding purposes. The basement is 30-feet (east/west) by 50-feet (north/south).

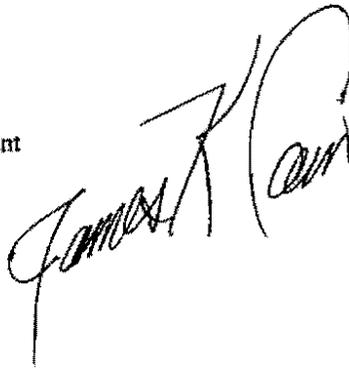
2. Can you provide a copy of the Pre-Bid Sign-In Sheet?

Response: Please see the attached sheet.

This constitutes all the modifications in Addendum No. 1 for the At Grade Demolition Project P-1013.

THIS ADDENDUM SHALL BE ACKNOWLEDGED BY BIDDERS ON PAGE B-1, CONTRACTOR'S PROPOSAL OF THE PROJECT SPECIFICATIONS.

Robert Neuber
Director of Community Development
Deputy Executive Director Redevelopment

A handwritten signature in black ink, appearing to read "Robert Neuber", is written over the typed name and title.

MAIL \$45.00

ACCT# 5031-4430-00753710

En. Preer's Estimate: \$250,000 - \$350,000		Citrus Walk At Grade Demolition		Bid Open: Nov. 30, 2 pm		
No.	Name & Address	Company Name	Phone/Fax	e-mail	Date mailed/picked up	Addendum
1	CLAUDIO STANGA	ENVIROCON CONTRACTING INC.	714 827 6200 714 827 6290	claudio@enviroconinc.com	PICKED UP ON 11/09/2010	
2	Erik Swift 151 S. 9th Ave #B City of Industry, CA 91746	SGV Construction	(626) 330-8866 (662) 330-8807	erik@sgventerprises.com	picked up on 11/15/10	
3	Tyler MAWUS 207 E ARROW HWY SAN DIMAS	J.V. COMPANY	909 592-2811 909 592-5179 FAX	thejuco@aol.com	11-15-10	
4	MATTHEW GRZER 12802 VALLEY VIEW ST. STE 409 GARDEN GROVE, CA 92645	SHELTON CONSTRUCTION	714 903 7853: PH 714 903 7865: FAX	matto@sheltoncons.com	PICKED UP 11/15/10	
5	Michael King 1328 S. Alke St Anaheim, CA 92805	AMPCO Contracting, Inc.	(949)-955-2255 (949)-955-2268 FAX	mking@ampcocontracting.com	11/15/10 PK	
6	Eric Cain 18627 Brookhurst St. FV, CA 92708	J+G Ind	714 903-2002 714 903-2003 07 FAX	Cain225@hotmail.com	(will COME BACK) 11/10 11/16 PK	

Jose Ruiz
Operations Director
Account Manager

(626) 330-8866 Office
(626) 330-8807 Fax

jos@sgventerprises.com

151 South 9th Avenue, Suite #B
City of Industry, CA 91746

General Contractor
License #941791



Addendum No. 2

For the At Grade Demolition Project P1013

Covina, California

November 22, 2010

This Addendum No. 2 forms a part of the Contract Documents for the At Grade Demolition Project P1013 and modifies the original Contract Documents. Addendum No. 2 shall be signed and included with your Bid Proposal. Failure of the bidder to enclose said addenda or bulletins might be grounds for rejection of the bid.

Item No.	Drawing/Spec. Reference	Item Description	Attachment/Sketch No.
	N/A	Updated Schedule: Bidders had until 2:00 PM on Tuesday, November 23, 2010 to submit questions in writing to the City. No further questions will be accepted.	None

Questions from Bidders

1. Who is responsible for notification of work to neighbors and for receiving neighbor grievances?

The Agency will prepare a notice to be sent to two single family residents located to the east of the project site. As to neighbor grievances, please direct to the Covina Redevelopment Agency, Lisa Brancheau, Redevelopment Manager, (626) 384-5441; Lbrancheau@covinaca.gov

2. Can you specify whether or not slab directly on top of basement is to remain?

The slab on top of the basement is to remain. Addendum 1 clarified to cut the slab just out side of the basement walls and remove from there out.

3. What extent of tree root removal is expected? When does it become extra work?

All roots should be removed within the top 3 ft of the existing soil.

4. Can engineer provide recommendation for removal procedure of x2 concrete light poles on School St?

These light poles belong to SCE. SCE will de-energize the circuit to them before the contractor gets on site. Removal of the poles is the contractor's means and methods.

5. Will the decorative sidewalk be removed by others? If any portions are remaining after, how are they to be handled?

Drawing No. 2 indicates that the decorative sidewalk will be removed by others. If there are any portions remaining when the contractor starts his work they are to be demolished like all other paving on site.

6. When is removal of temporary fence and erosion control items provided by contractor to be removed in relation to completion of work?

The work will be completed and after is completion if the temporary fence and erosion control provisions are to be removed they will then be removed. It is hope that this project's General Contractor's subcontract for the temporary construction fence and maintain of BMP's can be picked up / transferred to the Developer who will be taking over the site at the completion of this demolition project.

7. Drawing#2 DEMOLITION NOTES #21. Has it been determined if removal by others of items specified will occur before or during demolition? Can you specify whether or not the contractor is responsible for the removal, palletization, and transport of any of the items listed in #21?

It is anticipated that the removal of these items will occur prior to the project's General Contractor starting his demolition work but after the temporary construction fence has been set up.

8. Are we allowed to work on Saturday, Sunday, and/or holidays?

Requests for work during these days will be assessed on a case by case basis.

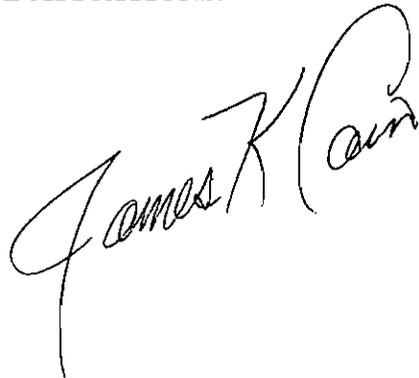
9. Can you specify how tree waste, wood, and metal is to be stored and/or disposed?

It is the General Contractor's responsibility to determine the disposal means for all tree, wood, and metal waste not required to be recycled on site.

This constitutes all the modifications in Addendum No. 2 for the At Grade Demolition Project P1013

THIS ADDENDUM SHALL BE ACKNOWLEDGED BY BIDDERS ON PAGE B-1, CONTRACTOR'S PROPOSAL OF THE PROJECT SPECIFICATIONS.

Robert Neiuber
Community Development Director
Deputy Executive Director Redevelopment



CITY OF COVINA

CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, in the year two thousand and seven, by and between the CITY OF COVINA, hereinafter referred to as the "City", party of the first part, and _____, hereinafter designated as the "Contractor", party of the second part.

WITNESSETH: That the parties hereto do mutually agree as follows:

ARTICLE I. For and in consideration of the payments and agreements hereinafter mentioned to be made and performed by the City, the Contractor agrees with the City to construct the work entitled **At Grade Demolition - Citrus Walk Project** and to perform and complete in a good and workmanlike manner all work shown on the drawings and described in the specifications, to furnish at his own proper cost and expense all tools, equipment, labor and materials, and to do everything required by this Contract and the specifications and drawings.

ARTICLE II. For furnishing all materials and labor, furnishing and removing all plant, temporary works or structures, tools, and equipment, and doing all the work contemplated and embraced in this Contract, also for all loss and damage arising out of the nature of this work, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the work until acceptance by the City and for all risks of any description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work; except such as in the specifications are expressly stipulated to be borne by the City, and for well and faithfully completing the work and the whole thereof, in the manner shown and described in the drawings and specifications and in accordance with the requirements of the Engineer, the City will pay and the Contractor shall receive in full compensation of the unit prices and lump sum prices, as applicable, named in the bidding sheets of the proposal.

ARTICLE III. The City promises and agrees with the Contractor to employ and does employ the Contractor to provide the materials and do the work according to the terms and conditions referred to for the price aforesaid, and contracts to pay the same, at the time, in the manner, and upon the conditions set forth in the specifications; and the parties for themselves, their heirs, executors, administrators, successors and assigns, do agree to the full performance of these covenants.

ARTICLE IV. The Notice Inviting Bids, Instructions to Bidders, the Proposal, the "Standard Specifications for Public Works Construction" (Greenbook), the Special Provisions (Exhibit E), the Technical Specifications and accompanying plans and drawings and all addenda issued by the City prior to the opening of bids, are incorporated in and made a part of this Contract.

ARTICLE V. As more particularly set forth in Section 6-7.1 of the Special Provisions, the Contractor shall substantially complete all Work (minus Punch List items) [timeframe] from the date of commencement of Work and, as more particularly set forth in Section 6-8.1.5 of the Special Provisions, shall complete all Punch List items of Work within [timeframe] following CITY's issuance of the Certificate of Substantial Completion and the agreed Punch List.

ARTICLE VI. Copies of the current prevailing wage rates of per diem wage, which the Contractor shall pay for each craft, classification or type of workman needed to execute this Contract are on file in the Covina City Clerk's Office and are available to any interested party on request.

ARTICLE VII. CONTRACTOR acknowledges the provisions of the State Labor Code requiring every employer to be insured against liability for worker's compensation, or to undertake self-insurance in accordance with the provisions of that code, and certifies compliance with such provisions.

ARTICLE VIII. CONTRACTOR is an independent contractor, and CONTRACTOR, its employees, agents or subcontractors shall not have any power to incur any debt, obligation or liability on behalf of AGENCY. CONTRACTOR agrees to indemnify, defend and hold harmless AGENCY and all of its officers and agents from any claims, demands, or causes of action, as more particularly set forth in the Special Provisions.

IN WITNESS, these Parties have caused this Contract to be executed the day and year first above written.

CITY OF COVINA

By: _____
Mayor

ATTEST:

City Clerk

Approved as to form
this _____ day of
_____, 20____.

Legal Counsel

Contractor

By: _____

Title

FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, THAT WE _____

hereinafter referred to as "Contractor" as PRINCIPAL, and _____

as SURETY, are held and firmly bound unto the CITY OF COVINA, hereinafter referred to as the "City," in the sum of _____ Dollars, (\$ _____), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that whereas, said Contractor has been awarded and is about to enter into the annexed Contract with said City for performance of the Work under the City's project, entitled: At Grade Demolition - Olson Citrus Walk Project is required by said City to give this bond in connection with the execution of said Contract;

NOW THEREFORE, if said Contractor shall well and truly do and perform all the covenants and obligations of said Contract on his/her part to be done and performed at the times and in the manner specified herein, then this obligation shall be null and void; otherwise it shall be and remain in full force and effect;

PROVIDED, that any alterations in the Work to be done, or the material to be furnished, which may be pursuant to the terms of said Contract, shall not in any way release said Contractor or said Surety, and notice of such alterations or extension of the Contract is hereby waived by said Surety.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

Principal

Surety

By: _____
(SEAL)

By: _____
(SEAL)

LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS, THAT WE _____ hereinafter referred to as "Contractor" as PRINCIPAL, and _____ as SURETY, are held and firmly bound unto the CITY OF COVINA, hereinafter referred to as the "City," in the sum of _____ Dollars, (\$ _____), lawful money of the United States of America, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that whereas said Contractor has been awarded and is about to enter into the annexed Contract with said City for performance of the Work under the City's Project, entitled: At Grade Demolition - Olson Citrus Walk Project, and is required by said City to give this bond in connection with the execution of said Contract;

NOW, THEREFORE, if said Contractor in said Contract, or subcontractor, fails to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor thereon of any kind, or for amounts due with respect to such Work or labor, said Surety will pay for the same, in an amount not exceeding the sum specified above, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the Court. This bond shall inure to the benefit of any and all persons entitled to file claims in accordance with Title 15 of Part 4 of Division 3rd of the California Civil Code commencing with Section 3082.

PROVIDED, that any alterations in the Work to be done, or the material to be furnished, which may be made pursuant to the terms of said Contract, shall not in any way release either said Contractor or said Surety, thereunder, nor shall any extensions of time granted under the provisions of said Contract release either said Contractor or said Surety, and notice of such alterations or extension of the Contract is hereby waived by said Surety.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

_____ Principal	_____ Surety
By: _____ (Seal)	By: _____ (Seal)

WORKERS' COMPENSATION CERTIFICATE

I am aware of, and will comply with, Section 3700 of the Labor Code requiring every employer to be insured against liability for Workers' Compensation or to undertake self-insurance before commencing any of the work.

Contractor

By: _____

Title

Date

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: PH 1

STAFF SOURCE: Steve Henley, Director of Public Works
Kalieh Honish, Assistant Director of Public Works
Kyle Randall, Building Official

ITEM TITLE: Adoption of Ordinance No. 10-1990 Adopting the 2010 California Administrative, Building, Residential and Green Building Codes, et al., and the 2011 Los Angeles County Fire Code by Reference and Amending Title 14, Building and Construction, of the Covina Municipal Code

STAFF RECOMMENDATION

- a. Conduct the public hearing and after receiving and considering all testimony that may be forthcoming; and
- b. Adopt **Ordinance No. 10-1990** adopting by reference the California Building Standards Codes (California Code of Regulations, Title 24) including the California Administrative, Building, Residential and Green Building Codes, et al., together with certain additions, insertions, deletions and changes thereto; and adopting by reference the 2011 Los Angeles County Fire Code (Los Angeles County Title 32); together with certain additions, insertions, deletions and changes thereto.

FISCAL IMPACT

The Ordinance, as proposed, adopts a variety of regulatory codes by reference; updating the City's Building & Safety codes, as well as the Fire Code. As the Ordinance addresses only regulations and not fee schedules, the proposed action entails no fiscal impact.

BACKGROUND

The California Health and Safety Code Section mandates that the California Building Standards Commission adopt and publish the California Building Code (Title 24, California Code of Regulations) every three years. The 2010 Edition of the California Code of Regulations, Title 24, becomes effective statewide on January 1, 2011. Local agencies may amend the Building Code, provided the amendments are supported by express findings.

The list below identifies the specific Codes proposed for adoption, as well as the model codes upon which the 2010 Title 24 regulations are based:

California Building Standards Code
 2010 California Administrative Code
 2010 California Building Code, Vol.1, 2 & Appendix J
 2010 California Residential Code
 2010 California Electrical Code
 2010 California Mechanical Code
 2010 California Plumbing Code
 2010 California Energy Code
 2010 California Elevator Safety Construction Code
 2010 California Historical Building Code
 2010 California Existing Building Code
 2010 California Referenced Standards
 2011 Los Angeles County Fire Code

Reference Model Code
 2009 International Building Code
 2009 International Residential Code
 2008 National Electrical Code
 2009 Uniform Mechanical Code
 2009 Uniform Plumbing Code

 2009 International Exist. Bldg. Code

 2009 International Fire Code

In addition, the 1997 Uniform Code for the Abatement of Dangerous Buildings has been included and will continue to be in effect. This Code is based upon and is consistent with the provisions found within the California Building Code. The benefit of adopting this additional Code is that it provides Building and Fire Inspectors/Officials and Plan Examiners with further clarification of the intent and applicability of the California Building Code when presented with a variety of construction issues.

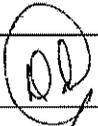
As alluded to previously, local agencies are allowed to amend the California Building Code. However, to maintain a uniform minimum level of regulation throughout the state, any changes to the Code must reflect specific needs unique to the local jurisdiction. The amendments being proposed by staff are exclusively part of the administrative or procedural aspects of the various Codes and concern themselves with subjects that either are not covered by the Codes or are reasonably necessary to effectively implement the Codes. None of the proposed amendments are related to any of the technical aspects of the Codes.

RELEVANCE TO THE STRATEGIC PLAN

Under the 3-Year Goal of developing a sustainable community, the adoption of a Green Building Code is identified as a specific objective of the City's Strategic Plan. The adoption of the proposed ordinance will fulfill this objective.

EXHIBITS

A. Ordinance No. 10-1990

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

ORDINANCE NO. 10-1990

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, AMENDING TITLE 14 OF THE COVINA MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2010 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE (CALIFORNIA CODE OF REGULATIONS, TITLE 24), INCLUDING THE CALIFORNIA ADMINISTRATIVE CODE (2010 EDITION); THE CALIFORNIA BUILDING CODE VOLUMES 1 & 2 INCLUDING APPENDIX J (2010 EDITION, INCORPORATING AND AMENDING THE 2009 INTERNATIONAL BUILDING CODE); THE CALIFORNIA RESIDENTIAL CODE (2010 EDITION, INCORPORATING AND AMENDING THE 2009 INTERNATIONAL RESIDENTIAL CODE); THE CALIFORNIA GREEN BUILDING STANDARDS CODE (2010 EDITION); THE CALIFORNIA MECHANICAL CODE (2010 EDITION, INCORPORATING AND AMENDING THE 2009 UNIFORM MECHANICAL CODE); THE CALIFORNIA PLUMBING CODE (2010 EDITION, INCORPORATING AND AMENDING THE 2009 UNIFORM PLUMBING CODE); THE CALIFORNIA ELECTRICAL CODE (2010 EDITION, INCORPORATING AND AMENDING THE 2008 NATIONAL ELECTRICAL CODE); THE CALIFORNIA EXISTING BUILDING CODE (2010 EDITION); THE CALIFORNIA ENERGY CODE (2010 EDITION), THE CALIFORNIA ELEVATOR SAFETY CONSTRUCTION CODE (2010 EDITION); THE CALIFORNIA HISTORICAL BUILDING CODE (2010 EDITION); THE CALIFORNIA REFERENCED STANDARDS CODE (2010 EDITION); AND THE 2011 LOS ANGELES COUNTY FIRE CODE, AMENDING THE 2010 CALIFORNIA FIRE CODE (INCORPORATING AND AMENDING THE 2009 INTERNATIONAL FIRE CODE); TOGETHER WITH CERTAIN ADDITIONS, INSERTIONS, DELETIONS AND CHANGES THERETO

THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, California Government Code Section 50022.1 *et seq.* authorizes the City of Covina ("City") to adopt by reference the California Building Standards Code, 2010 Edition (Title 24 of the California Code of Regulations) adopting certain uniform codes, including the 2010 California Building Code, the 2010 California Administrative Code, the 2010 California Mechanical Code, the 2010 California Plumbing Code, the 2010 California Electrical Code, the 2010 California Green Building Standards Code, the 2010 California Residential Code, 2010 California Energy Code, the 2010 California Elevator Safety Construction Code, the 2010 Historical Building Code, the 2010 California Referenced Standards Code, and the 2010 California Existing Building Code; and

WHEREAS, the California Building Standards Commission ("Commission") recently adopted new amendments to the California Building Standards Code; and

WHEREAS, California Health & Safety Code, Sections 17958.5 and 18941.5 authorize cities and counties to modify the California Building Standards Code by

adopting more restrictive building standards and modifications if such standards and modifications are accompanied by express findings that they are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, the City of Covina desires to adopt the California Building Standards Code as adopted by the State of California Building Standards Commission in Title 24 of the California Code of Regulations (collectively “the Codes”), with necessary amendments that are administrative or procedural in nature or concern subjects not covered in the Codes and which do not affect the technical building standards set forth in the Codes; and

WHEREAS, the City held a public hearing on December 7, 2010 at which time all interested persons had the opportunity to appear and be heard on the matter of adopting the California Building Standards Code as amended herein; and

WHEREAS, the City published notice of the aforementioned public hearing pursuant to California Government Code section 6066; and

WHEREAS, any and all other legal prerequisites relating to the adoption of this Ordinance have occurred;

SECTION 1: Section 14.02.010 of Title 14 of the Covina Municipal Code is hereby amended to read as follows:

“14.02.010 Adoption of codes by reference.

The City adopts by reference and makes part of this chapter by reference, subject to those certain amendments set forth in Chapters 14.04 through 14.18 of the Covina Municipal Code, the following California Building Standards Codes (California Code of Regulations, Title 24), Los Angeles County Code, and Uniform Codes (one copy of each is on file for use and examination by the public in the office of the clerk of the council of the City of Covina):

- A. California Administrative Code, 2010 Edition;
- B. California Building Code, 2010 Edition, including Volumes 1 and 2, and Appendix J, based on the 2009 Edition of the International Building Code as published by the International Code Council;
- C. California Residential Code, 2010 Edition, based on the 2009 Edition of the International Residential Code as published by the International Code Council;
- D. California Electrical Code, 2010 Edition, based on the 2008 Edition of the National Electrical Code as published by the National Fire Protection Association;
- E. California Mechanical Code, 2010 Edition, based on the 2009 Edition of the Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials;
- F. California Plumbing Code, 2010 Edition, based on the 2009 Edition of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials;

G. 2011 Los Angeles County Fire Code, amending the 2010 California Fire Code and comprised of the 2009 International Fire Code as published by the International Code Council;

H. California Energy Code, 2010 Edition;

I. California Elevator Safety Construction Code, 2010 Edition;

J. California Historical Building Code, 2010 Edition;

K. California Existing Building Code, 2010 Edition, based on the 2009 Edition of the International Existing Buildings Code as published by the International Code Council.

L. California Referenced Standards Code, 2010 Edition;

M. Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition;

N. California Green Building Standards Code, 2010 Edition.

O. Uniform Housing Code, 1997 Edition.”

SECTION 2: Chapter 14.04 of Title 14 of the Covina Municipal Code is hereby amended to read as follows:

“Chapter 14.04 BUILDING CODE

Sections:

- 14.04.010 2010 California Building Code adoption by reference.
- 14.04.020 Amendments to the 2010 California Building Code.
- 14.04.030 Section 101 of Division II California Administration amended – General.
- 14.04.040 Section 105 Permits- amended – Work exempt from permit.
- 14.04.050 Section 105 – Permits – amended – Time limitation for application.
- 14.04.060 Section 105 – Permits – amended – Expiration.
- 14.04.070 Section 107 amended – Submittal Documents – General – Exception.
- 14.04.080 Section 107 amended – Retention of documents.
- 14.04.090 Section 109 – Fees – amended – Payment of fees.
- 14.04.100 Section 109 – Fees – amended – Schedule of permit fees.
- 14.04.110 Section 109 – Fees – amended – Work commencing before permit issuance.
- 14.04.120 Section 109 – Fees – amended – Refunds.
- 14.04.130 Section 111 – Certificate of Occupancy – amended – Use and occupancy.
- 14.04.140 Section 111 – Certificate of Occupancy – amended – Temporary occupancy.
- 14.04.150 Section 112 – Service Utilities – amended – Temporary connection.
- 14.04.160 Section 113 – Board of Appeals – amended.
- 14.04.170 Section 114 – Violations – amended – Unlawful acts.
- 14.04.180 Section 114 – Violations – amended – Violation penalties.
- 14.04.190 Section 114 – Violations – amended – Legalizing procedures.
- 14.04.200 Appendix J – Grading – amended.

14.04.010 2010 California Building Code adoption by reference.

The city adopts as its building code the 2010 Edition of the California Building Code, Volumes 1 and 2, including Appendix J, based on the 2009 Edition of the International

Building Code as published by the International Code Council, together with the amendments provided in this chapter, for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all non-residential buildings and/or structures in the city. Said code shall be and become the Covina building code.

One copy of said code is on file in the office of the city clerk, and is hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

14.04.020 Amendments to the 2010 California Building Code.

The 2010 California Building Code, including the appendix adopted pursuant to Section 14.04.010 of this chapter, is amended as set forth in Covina Municipal Code Sections 14.04.030 through 14.04.200.

14.04.030 Section 101 of Division II California Administration amended - General.

Subsection 101.4 of Section 101 is amended to read as follows:

101.4 Referenced codes. Whenever any of the names or terms defined in this Section is used, each such name or term shall be deemed or construed to have the following meaning within the Covina Municipal Code:

‘Building Code’ shall mean Chapter 14.04 of the Covina Municipal Code.

‘Residential Code’ shall mean Chapter 14.05 of the Covina Municipal Code.

‘Electrical Code’ shall mean Chapter 14.06 of the Covina Municipal Code.

‘Mechanical Code’ shall mean Chapter 14.08 of the Covina Municipal Code.

‘Plumbing Code’ shall mean Chapter 14.10 of the Covina Municipal Code.

‘Fire Code’ shall mean Chapter 14.12 of the Covina Municipal Code.

‘Uniform Housing Code’ shall mean Chapter 14.14 of the Covina Municipal Code.

‘Uniform Code for the Abatement of Dangerous Buildings’ shall mean Chapter 14.16 of the Covina Municipal Code.

‘Technical Codes’ shall mean Chapters 14.04, 14.06, 14.08, 14.10, 14.12, 14.13, 14.14, 14.16, 14.18, 14.20, and 14.44 of the Covina Municipal Code.

14.04.040 Section 105 Permits - amended – Work exempt from permit.

Subsections 105.2 is amended to read as follows:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m²).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III A liquids.
5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter does not exceed 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pool accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to detached one-and two-family dwellings.
12. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of Groups R-3 and U occupancies.
13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.
14. Walls constructed of masonry materials including but not limited to brick, stone, block and concrete that are three (3) feet or less in height measured from the top of the footing to the top of the wall.
15. Window replacements which do not otherwise enlarge or reduce an existing opening or require the removal of an exterior or interior finish material.

Electrical:

Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Low Voltage Systems: Electrical wiring, devices, appliances, apparatus, or equipment operating at less than 25 volts and not capable of supplying more than 1,200 watts of energy.

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilating equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 w) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

14.04.050 Section 105 – Permits – amended – Time limitation for application.

Subsection 105.3.2 is hereby amended to read as follows:

105.3.2 Time limitation for application. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation. Submittal documents and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official.

The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant showing that circumstances

beyond the control of the applicant have prevented action from being taken. An application shall not be extended more than once.

An application shall not be extended if this Code, or other pertinent laws or ordinances, have been amended after the date of application. In order to renew action on an application after expiration, the applicant shall resubmit submittal documents and pay a new plan review fee.

14.04.060 Section 105 – Permits – amended – Expiration.

Subsection 105.5 is hereby amended to read as follows:

105.5 Expiration. Except as set forth in subsection 105.5.1, every permit issued for property within the City of Covina shall expire by limitation and become null and void as follows:

(i) If work authorized by such permit is not commenced within 180 days from the issuance date of such permit.

(ii) If work authorized by such permit is commenced within 180 days from the issuance date of such permit, such permit shall expire by limitation and become null and void if the work authorized by such permit is suspended or abandoned. For purposes of this subsection, ‘suspended or abandoned’ shall mean that the permittee has, for a period of 180 days or longer after commencing the work authorized by such permit, failed to make substantial progress toward completion of the work, as determined by the Building Official after inspection. The Building Official may, in his or her discretion, grant, in writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.”

(iii) In the event of permit expiration, before work authorized pursuant by the expired permit can be commenced or recommenced, a new permit shall first be obtained (hereafter, a ‘renewal permit’). To obtain a renewal permit, the applicant may be required to resubmit plans and specifications, if deemed necessary by the Building Official and/or Chief Planning Official. The applicant must pay all applicable fees, including but not limited to, a plan check fee and building permit fees, in the amount then established by resolution of the City Council. If renewal permits are applied for, a mandatory site inspection shall be performed by the Building Division to determine compliance of existing conditions and materials with this Code. All work to be performed under a renewal permit must be performed in accordance with all applicable technical codes, regulations, laws, and ordinances in effect on the date of issuance of the renewal permit. Renewal permits are subject to expiration as set forth in (ii), above.

(iv) In the event of permit expiration, any work performed under that permit is ‘unpermitted’ as defined in Section 114.1.1 of this chapter, and is subject to the legalization provisions of Section 114.5 of this chapter.

105.5.1 Expiration - Unpermitted Structures or Grading.

Notwithstanding any provision of Section 105.5, if a building permit was issued in order to bring an unpermitted structure or unpermitted grading (as defined in Section 14.04.100 of this Code) or other unlawful, substandard, or hazardous condition into compliance with any applicable law, ordinance, rule or regulation, such permit shall expire by limitation and become null and void sixty (60) days after the date on which the permit was issued. The Building Official may, in his or her sole discretion, extend the validity of the permit for a period not exceeding 180 days beyond the initial 60 day limit upon written request by the applicant filed with the Building Official prior to the expiration date of the original permit, if the Building Official determines that substantial progress has been made toward completing the work authorized by the permit.

14.04.070 Section 107 amended- Submittal Documents – General - Exception.

Subsection 107.1 is hereby amended to read as follows:

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code. Further, except for plans of a common interest development as defined in section 1351 of the California Civil Code, plans need not be filed for:

- (a) Single or multiple dwellings not more than two stories and basement in height.
- (b) Garages and other structures appurtenant to buildings described under subdivision (a).
- (c) Farm or ranch buildings.
- (d) Any one-story building where the span between bearing walls does not exceed 25 feet. The exemption in this subdivision does not, however, apply to a steel frame or concrete building.

14.04.080 Section 107 amended – Retention of documents.

Subsection 107.5 is hereby amended to read as follows:

107.5 Retention of Construction Documents. The Building Official shall maintain an official copy, which may be on microfilm, electronic media, or other type of

photographic copy, of the plans of every building, during the life of the building, for which a permit was issued.

14.04.090 Section 109 – Fees - amended – Payment of fees.

Subsection 109.1 is hereby amended to read as follows:

109.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

When submittal documents are required by Section 107, a plan review fee shall be paid at the time of the submittal of the documents for plan review. Said plan review fees shall be established by resolution of the City Council and may be amended from time to time. When plans are incomplete or structurally/architecturally changed after submittal, additional plan review fees shall be charged as established from time to time by resolution of the City Council.

14.04.100 Section 109 – Fees – amended – Schedule of permit fees.

Subsection 109.2 is hereby amended to read as follows:

109.2 Schedule of permit fees. The fee for each permit shall be established by resolution of the City Council and may be amended from time to time. An additional permit application fee shall be charged for issued permit alterations.

109.2.1 - Fee waiver.

A. The City Manager or designee thereof may waive plan review and/or permit fees for projects that meet one or more of the following criteria:

- (1) Housing rehabilitation project applications approved through the Covina Redevelopment Agency's low-income housing program.
- (2) City projects when the contractor is expressly exempt, under the terms of the contract, from payment of such fees.
- (3) City projects when the permit applicant is an employee, official, or representative of the City acting in his/her official capacity.
- (4) Community Development Block Grant projects that have a disposition and development agreement or an economic agreement with the City.
- (5) Projects that utilize green building practices that meet or exceed the intent of an approved national, state, regional, or private standard and the particular practices have been reviewed and approved by the City prior to permit application.

14.04.110 Section 109 – Fees – amended – Work commencing before permit issuance.

Subsection 109.4 is hereby amended to read as follows:

109.4 Work commencing before permit. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining

the necessary permits shall be subject to a fee established from time to time by resolution of the city council in addition to the required permit fees. Any person who wishes to legalize an unpermitted structure or unpermitted grading, as defined in Section 114.1 and 114.2, shall submit construction documents as set forth in Section 107 of this chapter.

14.04.120 Section 109 – Fees – amended – Refunds.

Subsection 109.6 is hereby amended to read as follows:

109.6 Refunds. The Building Official may authorize the refund of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than 80 percent of the permit, plan review, and energy fee paid when no work has been commenced under a permit, or when an application for a permit for which a plan review fee has been paid is withdrawn.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of the fee payment.

14.04.130 Section 111 - Certificate of Occupancy – amended – Use and occupancy.

Subsection 111.1 is amended to read as follows:

111.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, nor shall any person, firm, company, corporation or officer, agent or employee thereof, permit or allow a building or structure to be used or occupied or a change in the existing occupancy classification of a building or structure or portion thereof to be made until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code.

14.04.140 Section 111 – Certificate of Occupancy – amended – Temporary occupancy.

Subsection 111.3 is hereby amended to read as follows:

111.3. Temporary occupancy. The Building Official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The Building Official shall set a time period during which the temporary certificate of occupancy is valid. The fee for issuance of each temporary certificate of occupancy shall be established by resolution of the City Council and may be amended from time to time.

14.04.150 Section 112 - Service Utilities – amended – Temporary connection.

Subsection 112.2 is hereby amended to read as follows:

112.2 Temporary connection. The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power. Each such method of temporary connection shall be submitted to the Building Official for review. The fee for review of each temporary connection of utilities application shall be established by resolution of the city council and may be amended from time to time.

14.04.160 Section 113 - Board of Appeals – amended.

Section 113 is hereby amended to read as follows:

**SECTION 113
BOARD OF APPEALS**

113.1 General. Appeals of orders, decisions or determinations of the Building Official are limited to those enumerated in Section 14.04.160 of the Covina Municipal Code, and shall be filed, scheduled and conducted in accordance with said Section.

113.1 Scope. A. Notwithstanding the provisions of the Technical Codes, an appeal is limited to the following orders, decisions, or determinations of the Building Official:

- (1) Denials of the proposed use of alternative materials, design or method of construction, installation, and/or equipment;
- (2) Orders to Vacate and/or Not Enter a building, structure or premises; however, such order shall not be stayed during the pendency of the appeal;
- (3) Orders to Demolish a building or structure; however, an order to vacate that may be issued in conjunction with the Order to Demolish shall not be stayed during the pendency of the appeal.

B. The right of appeal shall not exist for determinations of the Building Official, or a designee thereof, that a violation of any provision of the Technical Codes exists in a building or structure, or portion thereof, or on any premises.

113.2 Appeal Procedure. A. Any person who is aggrieved by an order, decision or determination of the Building Official as provided in Section 113.1 may appeal said order, decision or determination. Such appeal shall be in writing and must be filed with the City Clerk within ten (10) business days from the date of service of the order, decision or determination being appealed. The appeal must specify the basis for the appeal in detail, provide a mailing address and telephone number for the appellant, and include the applicable appeal fee. Appeals shall be scheduled in the manner set forth in Section 1.26.090 of the Covina Municipal Code. If a timely appeal is not received by the

City Clerk, the right to appeal is waived and the order, decision or determination of the Building Official is deemed final and binding.

B. Appeals shall be heard before an impartial hearing officer, designated by the public works director or his/her designee. Only those matters or issues specifically raised in the written appeal shall be considered in the hearing. The order, decision or determination of the Building Official shall be prima facie evidence of the violation. The hearing officer may affirm, modify or rescind the order, decision or determination of the Building Official. Appeals before a hearing officer shall be conducted, and decisions shall be issued, in the manner set forth in Section 1.26.100 of the Covina Municipal Code.

C. Any person who is aggrieved by the decision of the hearing officer may appeal said decision to the Board of Appeals. Such appeal shall be in writing, must be filed in the same manner within the same time period, and contain the same information, as an appeal to the hearing officer, as provided in Subsection A of this Section. A second appeal fee must accompany the written appeal. If a timely appeal is not received by the City Clerk, the decision of the hearing officer is deemed final and binding. Failure to appeal a decision to the Board of Appeals shall constitute a failure to exhaust the aggrieved person's administrative remedy.

D. Appeals before the Board of Appeals shall be public, but shall otherwise be scheduled and conducted, and decisions shall be issued, in the same manner as an appeal before the hearing officer.

113.3 Board of Appeals. A. The Board of Appeals shall consist of three (3) members of the City of Covina Planning Commission, who shall be appointed by majority vote of the City Council. Each member of the Board of Appeals shall serve for a term of two (2) years, after which any member may be reappointed by the City Council. There shall be no limit to the number of terms a member of the Board of Appeals may serve. Each member of the Board of Appeals shall serve at the pleasure of the City Council and may be removed, at any time, by majority vote of the City Council.

B. A vacancy shall occur on the Board of Appeals where, prior to the expiration of a member's then current term, one of the following occurs:

(1) A member is unable to carry out the duties of the office, whether due to illness, absence, incapacity or other circumstance;

(2) A member voluntarily resigns from the Board of Appeals;

(3) A member is removed from the Board of Appeals by the City Council; or

(4) A member is no longer qualified to sit on the Board of Appeals because he or she no longer serves on the City of Covina Planning Commission.

If a vacancy occurs on the Board of Appeals, it shall be filled by the appointment of an interim member, by majority vote of the City Council, who shall serve for the remainder of the departing member's term.

113.4 Limitation on Authority of Board of Appeals. The Board of Appeals shall have no authority to waive the technical requirements of the Building Code or other technical codes adopted in Title 14 of the Covina Municipal Code.

14.04.170 Section 114 – Violations – amended – Unlawful acts.

Subsection 114.1 is hereby amended to read as follows:

114.1 Unlawful Acts. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish, occupy or maintain any building, structure, equipment, installation or land regulated by the Technical Codes, or cause or permit the same to be done, in conflict with or in violation of any of the provisions of the Technical Codes.

114.1.1 Unpermitted Structures. No person shall own, use, occupy, or maintain an unpermitted structure. For purposes of this section, ‘unpermitted structure’ shall be defined as any building or structure, or portion thereof, that was erected, constructed, enlarged, altered, repaired, moved, improved, removed, connected, converted, demolished, or equipped, at any point in time by any person, without the required permit(s) having first been obtained from the Building Official or with a valid permit as issued by the Building Official which subsequently expired and became null and void.

114.1.2 Unpermitted Grading. No person shall own, use, occupy or maintain unpermitted grading. For purposes of this section, ‘unpermitted grading’ shall be defined as any land which has been excavated, cut, filled, graded, compacted or terraced, at any point in time by any person, without the required permit(s) having first been obtained from the Building Official or with a valid permit as issued by the Building Official which subsequently expired and became null and void.

14.04.180 Section 114 – Violations – amended – Violation penalties.

Subsection 114.4 is hereby amended to read as follows:

114.4 Violation Penalties. Any person, firm or corporation who violates any provision of the Technical Codes, or fails to comply with any of the requirements thereof, or who erects, constructs, alters, repairs or maintains a building, structure, installation or equipment, or excavates, cuts, fills, grades, compacts or maintains land in violation of approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of the Technical Codes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the punishments set forth in Chapter 1.16 of the Covina Municipal Code.

Each and every day, or portion thereof, during which any violation of the Technical Codes occurs or continues constitutes a separate and distinct offense.

14.04.190 Section 114 – Violations – amended – Legalizing procedures.

Section 114 is hereby amended by adding thereto Subsection 114.5 Procedure for Legalizing Unpermitted Structures or Grading to read as follows:

114.5 Procedure for legalizing unpermitted structures or grading. The procedures specified within subsections 114.5.1 through 114.5.6 shall be followed whenever an attempt is made to legalize an unpermitted structure or unpermitted grading.

114.5.1 Permits. Any person who wishes to legalize an unpermitted structure or unpermitted grading, as defined in Section 114.1.1 and 114.1.2, shall obtain all applicable permits. Unpermitted structures and grading shall comply with all current Technical Code requirements and other required approvals pursuant to the Covina Municipal Code in order to be legalized.

Permits obtained to legalize unpermitted structures or grading shall expire as set forth in Section 105.5.1 of this code.

114.5.2 Plans. Prior to the issuance or granting of any permit to legalize an unpermitted structure, plans showing the plot plan, exterior elevations, existing structures proposed structures, and proposed finish materials shall be submitted to the Chief Planning Official and Building Official for review and approval.

114.5.3 Grading. Prior to the issuance or granting of any permit to legalize unpermitted grading, a grading and drainage plan showing the original grade and existing unpermitted grade on the premises and the existing grade on adjoining properties, and a soils report shall be submitted to the Chief Planning Official, Building Official, and City Engineer for review and approval.

114.5.4 Inspections. Unpermitted structures or unpermitted grading for which a permit has subsequently been obtained shall be subject to inspection by the Building Official in accordance with, and in the manner prescribed in, the Technical Codes. The Building Official may require the removal of finish materials in order to expose framing elements, electrical components, plumbing fixtures, or mechanical systems, or may require the removal of fill, to verify that installation, construction, or grading was performed in conformance with the Technical Codes.

114.5.5 Investigation. Whenever any work for which a permit is required by this code has commenced on land or in connection with any type of structure without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. For purposes of this section, "special investigation" shall include, but is not limited to, inspecting premises and structures, reviewing permit, license and other records of the City or other agencies, reviewing plans, taking photographs, engaging in conferences and communications with other officials of the City or other agencies, and engaging in conferences and communications with owners or other responsible persons concerning the unpermitted structure or grading.

14.5.5.1 Fee. A special investigation fee shall be paid prior to the issuance of a permit for an unpermitted structure or unpermitted grading. The fee shall be equal to the amount of time expended by city officials in undertaking the special

investigation, as defined in Section 114.5.5, charged at the hourly rate that has been established by resolution of the City Council for recovery of code enforcement fees pursuant to Section 1.28.020.

The payment of such investigation fee shall not exempt any person from compliance with all other provision of this code nor from any penalty prescribed by law.

114.5.6 Unpermitted Structures or Grading Which Cannot be Legalized.

If the Chief Planning Official determines that the City’s zoning regulations prohibit legalization of any unpermitted structure, the structure shall be demolished or, if previously permitted, restored to its original approved condition, with all requisite permits, inspections and approvals.

If the Building Official determines that an unpermitted structure cannot be made to conform to the current applicable Technical Code requirements, the structure shall be demolished or, if previously permitted, restored to its original approved condition, with all requisite permits, inspections and approvals.

If the Building Official and/or City Engineer determines that unpermitted grading and/or lot drainage cannot be made to conform with current applicable Technical Code requirements, the land shall be fully restored to the condition that preceded the unpermitted grading, with all requisite permits, inspections and approvals.

14.04.200 Appendix J – Grading - amended.

Where the term ‘Building Official’ appears in Appendix J, it shall mean ‘Building Official or City Engineer’.”

SECTION 3: Title 14 of the Covina Municipal Code is hereby amended by adding thereto a new Chapter 14.05 to read as follows:

**“Chapter 14.05
RESIDENTIAL CODE**

Sections:

- 14.05.010 2010 California Residential Code adoption by reference.
- 14.05.020 Amendments to the 2010 California Residential Code.
- 14.05.030 Section R105 – Permits – amended – Work exempt from permit.
- 14.05.040 Section R105 – Permits – amended – Time limitation for application.
- 14.05.050 Section R105 – Permits – amended – Expiration.
- 14.05.060 Section R106 – Construction Documents – amended – Submittal documents.
- 14.05.070 Section R106 – Construction Documents – amended – Retention.
- 14.05.080 Section R108 – Fees – amended.
- 14.05.090 Section R110 – Certificate of Occupancy – amended – Use and occupancy.
- 14.05.100 Section R110 – Certificate of Occupancy – amended – Temporary occupancy.

- 14.05.110 Section R111 – Service Utilities – amended – Temporary connections.
- 14.05.120 Section R112 - Board of Appeals – amended.
- 14.05.130 Section R113 - Violations – amended – Unlawful acts.
- 14.05.140 Section R113 – Violations – amended – Violation penalties.
- 14.05.150 Section R113 – Violations – amended – Legalizing procedure.

14.05.010 2010 California Residential Code adoption by reference.

The City adopts as its residential code the 2010 Edition of the California Residential Code based on the 2009 Edition of the International Residential Code as published by the International Code Council, together with the amendments provided in this chapter, for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of residential buildings and their accessory structures within the city. Said code shall be and become the Covina residential code.

14.05.020 Amendments to the 2010 California Residential Code.

The 2010 California Residential Code is amended as set forth in Covina Municipal Code Sections 14.05.030 through 14.05.150.

14.05.030 Section R105 – Permits – amended – Work exempt from permit.

Subsection R105.2 is hereby amended to read as follows:

105.2 Work exempt from permit. Permits shall not be required for the following. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 m²).
2. Fences not over 6 feet (1829 mm) high.
3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2:1.
5. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and not part of an accessible route.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
8. Swings and other playground equipment.

9. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

10. Decks not exceeding 200 square feet (18.59 m²) in area that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

11. Walls constructed of masonry materials including but not limited to brick, stone, block and concrete that are three (3) feet or less in height measured from the top of the footing to the top of the wall.

12. Window replacements which do not otherwise enlarge or reduce an existing opening or require the removal of an exterior or interior finish material.

Electrical:

1. Listed cord-and-plug connected temporary decorative lighting.
2. Reinstallation of attachment plug receptacles but not the outlets therefor.
3. Replacement of branch circuit overcurrent devices of the required capacity in the same location.
4. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
5. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Gas:

1. Portable heating, cooking or clothes drying appliances.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Mechanical:

1. Portable heating appliances.
2. Portable ventilation appliances.
3. Portable cooling units.
4. Steam, hot- or chilled-water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative coolers.
7. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.
8. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

14.05.040 Section R105 – Permits – amended – Time limitation for application.

Subsection R105.3.2 is hereby amended to read as follows:

R105.3.2 Time limitation of application. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation. Submittal documents and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official.

The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. An application shall not be extended more than once.

An application shall not be extended if this Code, or other pertinent laws or ordinances, have been amended after the date of application. In order to renew action on an application after expiration, the applicant shall resubmit submittal documents and pay a new plan review fee.

14.05.050 Section R105 – Permits – amended – Expiration.

Subsection R105.5 is hereby amended to read as follows:

R105.5 Expiration – General. Except as set forth in Section R105.5.1, every permit issued for property within the City of Covina shall expire by limitation and become null and void as follows:

(i) If work authorized by such permit is not commenced within 180 days from the issuance date of such permit.

(ii) If work authorized by such permit is commenced within 180 days from the issuance date of such permit, such permit shall expire by limitation and become null and void if the work authorized by such permit is suspended or abandoned. For purposes of this subsection, 'suspended or abandoned' shall mean that the permittee has, for a period of 180 days or longer after commencing the work authorized by such permit, failed to make substantial progress toward completion of the work, as determined by the Building Official after inspection. The Building Official may, in his or her discretion, grant, in

writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

(iii) In the event of permit expiration, before work authorized pursuant by the expired permit can be commenced or recommenced, a new permit shall first be obtained (hereafter, a 'renewal permit'). To obtain a renewal permit, the applicant may be required to resubmit plans and specifications, if deemed necessary by the Building Official and/or Chief Planning Official. The applicant must pay all applicable fees, including but not limited to, a plan check fee and building permit fees, in the amount then established by resolution of the City Council. If renewal permits are applied for, a mandatory site inspection shall be performed by the Building Division to determine compliance of existing conditions and materials with this Code. All work to be performed under a renewal permit must be performed in accordance with all applicable technical codes, regulations, laws, and ordinances in effect on the date of issuance of the renewal permit. Renewal permits are subject to expiration as set forth in (ii), above.

(iv) In the event of permit expiration, any work performed under that permit is 'unpermitted' as defined in Section R113.1.1 of this chapter, and is subject to the legalization provisions of Section R116 of this chapter.

R105.5.1 Expiration - Unpermitted structures or grading.

Notwithstanding any provision of Section R105.5, if a building permit was issued in order to bring an unpermitted structure or unpermitted grading (as defined in Section 14.05.090 of this Code) or other unlawful, substandard, or hazardous condition into compliance with any applicable law, ordinance, rule or regulation, such permit shall expire by limitation and become null and void sixty (60) days after the date on which the permit was issued. The Building Official may, in his or her sole discretion, extend the validity of the permit for a period not exceeding 180 days beyond the initial 60 day limit upon written request by the applicant filed with the Building Official prior to the expiration date of the original permit, if the Building Official determines that substantial progress has been made toward completing the work authorized by the permit.

14.05.060 Section R106 – Construction Documents – amended – Submittal documents.

Subsection R106.1 is hereby amended to read as follows:

R106.1 Submittal documents. Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of

construction documents is not necessary to obtain compliance with this code. Further, except for plans of a common interest development as defined in section 1351 of the California Civil Code, plans need not be filed for:

(a) Single or multiple dwellings not more than two stories and basement in height.

(b) Garages and other structures appurtenant to buildings described under subdivision (a).

(c) Farm or ranch buildings.

(d) Any one-story building where the span between bearing walls does not exceed 25 feet. The exemption in this subdivision does not, however, apply to a steel frame or concrete building.

14.05.070 Section R106 – Construction Documents – amended – Retention.

Subsection R106.5 is hereby amended to read as follows:

R106.5 Retention of construction documents. The Building Official shall maintain an official copy, which may be on microfilm, electronic media, or other type of photographic copy, of the plans of every building, during the life of the building, for which a permit was issued.

14.05.080 Section R108 – Fees - amended.

Section R108 is hereby amended to read as follows:

**SECTION R108
FEES**

R108.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid. Nor shall any amendment to a permit be released until the additional fee, if any, has been paid. When submittal documents are required by Section R106, a plan review fee shall be paid at the time of the submittal of the documents for plan review. Said permit and plan review fees shall be established by resolution of the city council and may be amended from time to time. When plans are incomplete or structurally/architecturally changed after submittal, additional plan review fees shall be charged as established by resolution of the city council.

R108.2 Schedule of permit fees. The fee for each permit shall be established by resolution of the City Council and may be amended from time to time. An additional permit application fee shall be charged for issued permit alterations.

R108.2.1 Fee Waiver. A. City Manager, or designee thereof, may waive plan review and/or permit fees for projects that meet one or more of the following criteria:

(1) Housing rehabilitation project applications approved through the Covina Redevelopment Agency's low-income housing program.

(2) City projects when the contractor is expressly exempt, under the terms of the contract, from payment of such fees.

(3) City projects when the permit applicant is an employee, official, or representative of the City acting in his/her official capacity.

(4) Community Development Block Grant projects that have a disposition and development agreement or an economic agreement with the City.

(5) Projects that utilize green building practices that meet or exceed the intent of an approved national, state, regional, or private standard and the particular practices have been reviewed and approved by the City prior to permit application.

R108.3 Building permit valuations. Building permit valuations shall include total value of the work for which a permit is being issued, such electrical, gas, mechanical, plumbing equipment and other permanent systems, including materials and labor.

R108.4 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

R108.5 Refunds. The Building Official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than 80 percent of the permit, plan review, and energy fee paid when no work has been commenced under a permit, or when an application for a permit for which a plan review fee has been paid is withdrawn.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of the fee payment.

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established from time to time by resolution of the city council that shall be in addition to the required permit fees. Any person who wishes to legalize an unpermitted structure or unpermitted grading, as defined in Section R113.1.1 and R113.1.2, shall submit construction documents as set forth in Section R106 of this chapter.

14.05.090 Section R110 - Certificate of Occupancy – amended – Use and occupancy.

Subsection R110.1 is hereby amended to read as follows:

R110.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, nor shall any person, firm, company, corporation or officer, agent or employee thereof, permit or allow a building or structure to be used or occupied or a change in the existing occupancy classification of a building or structure or portion thereof to be made until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the city. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the city shall not be valid.

14.05.100 Section R110 – Certificate of Occupancy – amended – Temporary occupancy.

Subsection R110.4 is hereby amended to read as follows:

R110.4 Temporary occupancy. The Building Official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The Building Official shall set a time period during which the temporary certificate of occupancy is valid. The fee for issuance of each temporary certificate of occupancy shall be established by resolution of the City Council and may be amended from time to time.

14.05.110 Section R111 - Service Utilities – amended – Temporary connections.

Subsection R111.2 is hereby amended to read as follows:

R111.2 Temporary connection. The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power. Each such method of temporary connection shall be submitted to the Building Official for review. The fee for review of each temporary connection of utilities application shall be established by resolution of the city council and may be amended from time to time.

14.05.120 Section R112 - Board of Appeals - amended.

Section R112 is hereby amended to read as follows:

**SECTION R112
BOARD OF APPEALS**

R112.1 General. Appeals of orders, decisions or determinations of the Building Official are limited to those enumerated in Section 14.05.120 of the Covina Municipal Code, and shall be filed, scheduled and conducted in accordance with said Section.

R112.2 Scope of appeal. A. Notwithstanding the provisions of the Technical Codes, an appeal is limited to the following orders, decisions, or determinations of the Building Official:

- (1) Denials of the proposed use of alternative materials, design or method of construction, installation, and/or equipment;
- (2) Orders to Vacate and/or Not Enter a building, structure or premises; however, such order shall not be stayed during the pendency of the appeal;
- (3) Orders to Demolish a building or structure; however, an order to vacate that may be issued in conjunction with the Order to Demolish shall not be stayed during the pendency of the appeal.

B. The right of appeal shall not exist for determinations of the Building Official, or a designee thereof, that a violation of any provision of the Technical Codes exists in a building or structure, or portion thereof, or on any premises.

R112.3 Appeal procedure. A. Any person who is aggrieved by an order, decision or determination of the Building Official as provided in Section 112.1 may appeal said order, decision or determination. Such appeal shall be in writing and must be filed with the Director of Public Works within ten (10) business days from the date of service of the order, decision or determination being appealed. The appeal must specify the basis for the appeal in detail, provide a mailing address and telephone number for the appellant, and include the applicable appeal fee. Appeals shall be scheduled in the manner set forth in Section 1.26.090 of the Covina Municipal Code. If a timely appeal is not received by the Director of Public Works, the right to appeal is waived and the order, decision or determination of the Building Official is deemed final and binding.

B. Appeals shall be heard before an impartial hearing officer, designated by the public works director or his/her designee. Only those matters or issues specifically raised in the written appeal shall be considered in the hearing. The order, decision or determination of the Building Official shall be prima facie evidence of the violation. The hearing officer may affirm, modify or rescind the order, decision or determination of the Building Official. Appeals before a hearing officer shall be conducted, and decisions shall be issued, in the manner set forth in Section 1.26.100 of the Covina Municipal Code.

C. Any person who is aggrieved by the decision of the hearing officer may appeal said decision to the Board of Appeals. Such appeal shall be in writing, must be filed in the same manner within the same time period, and contain the same information, as an appeal to the hearing officer, as provided in Subsection A of this Section. A second appeal fee must accompany the written appeal. If a timely appeal is not received by the Director of Public Works, the decision of the hearing officer is deemed final and binding. Failure to appeal a decision to the Board of Appeals shall constitute a failure to exhaust the aggrieved person's administrative remedy.

D. Appeals before the Board of Appeals shall be public, but shall otherwise be scheduled and conducted, and decisions shall be issued, in the same manner as an appeal before the hearing officer.

R112.4 Board of appeals. A. The Board of Appeals shall consist of three (3) members of the City of Covina Planning Commission, who shall be appointed by

majority vote of the City Council. Each member of the Board of Appeals shall serve for a term of two (2) years, after which any member may be reappointed by the City Council. There shall be no limit to the number of terms a member of the Board of Appeals may serve. Each member of the Board of Appeals shall serve at the pleasure of the City Council and may be removed, at any time, by majority vote of the City Council.

B. A vacancy shall occur on the Board of Appeals where, prior to the expiration of a member's then current term, one of the following occurs:

(1) A member is unable to carry out the duties of the office, whether due to illness, absence, incapacity or other circumstance;

(2) A member voluntarily resigns from the Board of Appeals;

(3) A member is removed from the Board of Appeals by the City Council; or

(4) A member is no longer qualified to sit on the Board of Appeals because he or she no longer serves on the City of Covina Planning Commission.

If a vacancy occurs on the Board of Appeals, it shall be filled by the appointment of an interim member, by majority vote of the City Council, who shall serve for the remainder of the departing member's term.

R112.5 Limitation on authority of board of appeals. The Board of Appeals shall have no authority to waive the technical requirements of the Building Code or other technical codes adopted in Title 14 of the Covina Municipal Code.

14.05.130 Section R113 – Violations – amended – Unlawful acts.

Subsection R113.1 is hereby amended to read as follows:

R113.1 Unlawful acts. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish, occupy or maintain any building, structure, equipment, installation or land regulated by this code, or cause or permit the same to be done, in conflict with or in violation of any of the provisions of this code.

R113.1.1 Unpermitted structures. No person shall own, use, occupy, or maintain an unpermitted structure. For purposes of this section, 'unpermitted structure' shall be defined as any building or structure, or portion thereof, that was erected, constructed, enlarged, altered, repaired, moved, improved, removed, connected, converted, demolished, or equipped, at any point in time by any person, without the required permit(s) having first been obtained from the Building Official or with a valid permit as issued by the Building Official which subsequently expired and became null and void.

R113.1.2 Unpermitted grading. No person shall own, use, occupy or maintain unpermitted grading. For purposes of this section, 'unpermitted grading' shall be defined as any land which has been excavated, cut, filled, graded, compacted or terraced, at any point in time by any person, without the required permit(s) having first

been obtained from the Building Official or with a valid permit as issued by the Building Official which subsequently expired and became null and void.

14.05.140 Section R113 – Violations – amended – Violation penalties.

Subsection R113.4 is hereby amended to read as follows:

R113.4 Violation penalties. Any person, firm or corporation who violates any provision of the Technical Codes, or fails to comply with any of the requirements thereof, or who erects, constructs, alters, repairs or maintains a building, structure, installation or equipment, or excavates, cuts, fills, grades, compacts or maintains land in violation of approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of the Technical Codes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the punishments set forth in Chapter 1.16 of the Covina Municipal Code.

Each and every day, or portion thereof, during which any violation of the Technical Codes occurs or continues constitutes a separate and distinct offense.

14.05.150 Section R113 – Violations – amended – Legalizing procedure.

Subsection R113.5 Procedure for legalizing unpermitted structures or grading is hereby added to read as follows:

R113.5 Procedure for legalizing unpermitted structures or grading. The procedures specified within subsections R113.5.1 through R113.5.6 shall be followed whenever an attempt is made to legalize an unpermitted structure or unpermitted grading.

R113.5.1 Permits. Any person who wishes to legalize an unpermitted structure or unpermitted grading, as defined in Section R113.1.1 and R113.1.2, shall obtain all applicable permits. Unpermitted structures and grading shall comply with all current Technical Code requirements and other required approvals pursuant to the Covina Municipal Code in order to be legalized.

Permits obtained to legalize unpermitted structures or grading shall expire as set forth in Section R105.5.1 of this code.

R113.5.2 Plans. Prior to the issuance or granting of any permit to legalize an unpermitted structure, plans showing the plot plan, exterior elevations, existing structures proposed structures, and proposed finish materials shall be submitted to the Chief Planning Official and Building Official for review and approval.

R113.5.3 Grading. Prior to the issuance or granting of any permit to legalize unpermitted grading, a grading and drainage plan showing the original grade and existing unpermitted grade on the premises and the existing grade on adjoining

properties, and a soils report shall be submitted to the Chief Planning Official, Building Official, and City Engineer for review and approval.

R113.5.4 Inspections. Unpermitted structures or unpermitted grading for which a permit has subsequently been obtained shall be subject to inspection by the Building Official in accordance with, and in the manner prescribed in, the Technical Codes. The Building Official may require the removal of finish materials in order to expose framing elements, electrical components, plumbing fixtures, or mechanical systems, or may require the removal of fill, to verify that installation, construction, or grading was performed in conformance with the Technical Codes.

R113.5.5 Investigation. Whenever any work for which a permit is required by this code has commenced on land or in connection with any type of structure without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. For purposes of this section, "special investigation" shall include, but is not limited to, inspecting premises and structures, reviewing permit, license and other records of the City or other agencies, reviewing plans, taking photographs, engaging in conferences and communications with other officials of the City or other agencies, and engaging in conferences and communications with owners or other responsible persons concerning the unpermitted structure or grading.

R113.5.5.1 Fee. A special investigation fee shall be paid prior to the issuance of a permit for an unpermitted structure or unpermitted grading. The fee shall be equal to the amount of time expended by city officials in undertaking the special investigation, as defined in Section R113.5.5, charged at the hourly rate that has been established by resolution of the City Council for recovery of code enforcement fees pursuant to Section 1.28.020.

The payment of such investigation fee shall not exempt any person from compliance with all other provision of this code nor from any penalty prescribed by law.

R113.5.6 Unpermitted Structures or Grading Which Cannot be Legalized. If the Chief Planning Official determines that the City's zoning regulations prohibit legalization of any unpermitted structure, the structure shall be demolished or, if previously permitted, restored to its original approved condition, with all requisite permits, inspections and approvals.

If the Building Official determines that an unpermitted structure cannot be made to conform to the current applicable Technical Code requirements, the structure shall be demolished or, if previously permitted, restored to its original approved condition, with all requisite permits, inspections and approvals.

If the Building Official and/or City Engineer determines that unpermitted grading and/or lot drainage cannot be made to conform with current applicable Technical Code requirements, the land shall be fully restored to the condition that preceded the unpermitted grading, with all requisite permits, inspections and approvals."

SECTION 4: Chapter 14.06 of Title 14 of the Covina Municipal Code is hereby amended to read as follows:

**“Chapter 14.06
ELECTRICAL CODE**

Sections:

- 14.06.010 2010 California Electrical Code adoption by reference.
- 14.06.020 Amendments to the 2010 California Electrical Code.
- 14.06.030 Subsection 89.108.4.2 – Fees – amended.
- 14.06.040 Subsection 89.108.8 – Appeals board – amended.
- 14.06.050 Subsection 89.108.9.2 – Violations and penalties – amended.

14.06.010 2010 California Electrical Code adoption by reference.

The City adopts as its electrical code the 2010 Edition of the California Electrical Code based on the 2008 Edition of the National Electrical Code as published by the National Fire Protection Association, together with the amendments provided in this chapter, for the purpose of regulating all installation, arrangement, alteration, repair, use and other operation of electrical wiring, connections, fixtures and other electrical appliances on premises within the city.

One copy of said code is on file in the office of the city clerk, and is hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

14.06.020 Amendments to the 2010 California Electrical Code.

The 2010 California Electrical Code and parts of the 2008 National Electrical Code adopted by this chapter are amended and changed as set forth in CMC 14.06.030 through 14.06.050.

14.06.030 Subsection 89.108.4.2 – Fees - amended.

Subsection 89.108.4.2 is hereby amended to read as follows:

89.108.4.2 Permit fees. A fee for each electrical permit shall be established by resolution of the City Council and may be amended from time to time. An additional permit application fee shall be charged for issued permit alterations.

89.108.4.2.1 Plan Review Fees. A fee for each plan review shall be established by resolution of the City Council and may be amended from time to time. When plans are incomplete or the design is changed after submittal, additional plan review fees shall be charged as established by resolution of the City Council.

14.06.040 Subsection 89.108.8 - Appeals board - amended.

Subsection 89.108.8 is hereby amended to read as follows:

89.108.8 Appeals. Appeals of orders, decisions or determinations of the Building Official are limited to those enumerated in Section 14.04.160 of the Covina Municipal Code, and shall be filed, scheduled and conducted in accordance with said Section.

14.06.050 Subsection 89.108.9.2 - Violations and penalties - amended.

Subsection 89.108.9.2 is hereby repealed and amended to read as follows:

89.108.9.2 Violations and Penalties. Any person, firm or corporation violating any provisions of this code shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be punishable in accordance with chapter 1.16 of this Code. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which is authorized is lawful.”

SECTION 5: Chapter 14.08 of Title 14 of the Covina Municipal Code is hereby amended to read as follows:

**“Chapter 14.08
MECHANICAL CODE**

Sections:

- 14.08.010 2010 California Mechanical Code adoption by reference.
- 14.08.020 Amendments to the 2010 California Mechanical Code.
- 14.08.030 Section 110 – Board of Appeals – amended.
- 14.08.040 Section 111 – Violations – amended.
- 14.08.050 Section 115 – Fees – amended.

14.08.010 2010 California Mechanical Code adoption by reference.

The City adopts as its mechanical code the 2010 Edition of the California Mechanical Code based on the 2009 Edition of the Uniform Mechanical Code as published by the International Association of Plumbing, and Mechanical Officials, together with the amendments provided in this chapter, for the purpose of regulating all related installations, arrangements, alterations, repairs, uses and other operations of mechanical systems, appliances, and apparatus on premises within the city.

One copy of said code is on file in the office of the city clerk, and is hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

14.08.020 Amendments to the 2010 California Mechanical Code.

The 2010 California Mechanical Code and parts of the 2009 Uniform Mechanical Code adopted by this chapter are amended and changed as set forth in CMC 14.08.030 through 14.08.050.

14.08.030 Section 110 – Board of Appeals - amended.

Section 110 of the Mechanical Code is hereby amended to read as follows:

Section 110 Appeals. Appeals of orders, decisions or determinations of the Building Official are limited to those enumerated in Section 14.04.160 of the Covina

Municipal Code, and shall be filed, scheduled and conducted in accordance with said Section.

14.08.040 Section 111 – Violations - amended.

Section 111 is hereby amended to read as follows:

Section 111 Violations and Penalties. Any person, firm or corporation violating any provisions of this code shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be punishable in accordance with chapter 1.16 of this Code. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which is authorized is lawful.

14.08.050 Section 115 – Fees - amended.

Subsections 115.2 and 115.3 of the Mechanical Code are hereby amended to read as follows:

115.2 Permit Fees. A fee for each mechanical permit shall be established by resolution of the City Council and may be amended from time to time. An additional permit application fee shall be charged for issued permit alterations.

115.3 Plan Review Fees. A fee for each mechanical plan review shall be established by resolution of the City Council and may be amended from time to time. When plans are incomplete or the design changed after submittal, additional plan review fees shall be charged as established by resolution of the City Council.”

SECTION 6: Chapter 14.10 of Title 1f of the Covina Municipal Code is hereby amended to read as follows:

**“Chapter 14.10
PLUMBING CODE**

Sections:

- 14.10.010 2010 California Plumbing Code adoption by reference.
- 14.10.020 Amendments to 2010 California Plumbing Code.
- 14.10.030 Section 102 – Organization and Enforcement – amended.
- 14.10.040 Section 103 – Fees – amended.

14.10.010 2010 California Plumbing Code adoption by reference.

The city adopts as its plumbing code the 2010 Edition of the California Plumbing Code based on the 2009 Edition of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials, together with the amendments provided in this chapter, for the purpose of regulating the erection,

installation, alteration, repair, relocation, replacement, maintenance or use of plumbing systems within the city.

One copy of said code is on file in the office of the city clerk, and is hereby referred to, adopted and made a part hereof as if fully set out in this chapter.

14.10.020 Amendments to 2010 California Plumbing Code.

The 2010 California Plumbing Code and parts of the 2009 Uniform Plumbing Code adopted by this chapter are amended and changed as set forth in CMC 14.10.030 through 14.10.040.

14.10.030 Section 102 – Organization and Enforcement - amended.

Subsection 102.3 of the Plumbing Code is hereby amended and new Subsection 102.4 is hereby added to read as follows:

102.3 Violations and penalties. Any person, firm or corporation violating any provisions of this code shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be punishable in accordance with chapter 1.16 of this Code. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which is authorized is lawful.

102.4 Appeals. Appeals of orders, decisions or determinations of the Building Official are limited to those enumerated in Section 14.04.160 of the Covina Municipal Code, and shall be filed, scheduled and conducted in accordance with said Section.

14.10.040 Section 103 – Fees - amended.

Subsections 103.4.1 and 103.4.2 of the Plumbing Code are hereby amended to read as follows:

103.4.1 Permit Fees. A fee for each Plumbing permit shall be established by resolution of the City Council and may be amended from time to time. An additional permit application fee shall be charged for issued permit alterations.

103.4.2 Plan Review Fees. A fee for each plan review shall be established by resolution of the City Council and may be amended from time to time. When plans are incomplete or the design changed after submittal, additional plan review fees shall be charged as established by resolution of the City Council.”

SECTION 7: Chapter 14.12 of Title 14 of the Covina Municipal Code is hereby amended to read as follows:

**“Chapter 14.12
FIRE CODE**

Sections:

- 14.12.010 2011 Los Angeles County Fire Code – Adoption by reference.
- 14.12.020 Amendments to the 2011 Los Angeles County Fire Code.
- 14.12.030 Section 108 – Board of Appeals – amended.
- 14.12.040 Subsection 109.3 – Violations penalties - amended
- 14.12.050 Subsection 113.2 – Fees – amended.

14.12.010 2011 Los Angeles County Fire Code – Adoption by reference.

Pursuant to the provisions of the Government Code of the State of California, the city council hereby adopts as the fire prevention code of and for the city of Covina, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, explosion, or toxic exposure, that certain code marked and designated the 2011 Los Angeles County Fire Code (Title 32, Los Angeles County Code) adopted by the Los Angeles County board of supervisors, amending the 2010 California Fire Code, incorporating the 2009 International Fire Code published by the International Code Council, of which code not less than one copy has been and is now filed in the office of the city clerk, and the same is adopted and incorporated as though fully set forth herein and from the date on which this section shall take effect the provisions thereof shall be controlling within the limits of the city, subject to the exceptions and provisions hereinafter deleted, modified or amended in this chapter. The 2011 Los Angeles County Fire Code as adopted and amended by this chapter may be cited as “the fire code.”

14.12.020 Amendments to the 2011 Los Angeles County Fire Code.

The 2011 Los Angeles County Fire Code and parts of the 2010 California Fire Code and 2009 International Fire Code adopted by this chapter are amended and changed as set forth in CMC 14.12.030 through 14.12.050.

14.12.030 Section 108 – Board of Appeals - amended.

Section 108 of the Fire Code is hereby amended to read as follows:

108 Appeals. Appeals of orders, decisions or determinations of the Building Official are limited to those enumerated in Section 14.04.160 of the Covina Municipal Code, and shall be filed, scheduled and conducted in accordance with said Section.

14.12.040 Subsection 109.3 – Violation penalties - amended.

Subsection 109.3 of the Fire Code is hereby amended to read as follows:

109.3 Violation penalties. Any person, firm or corporation violating any provisions of this code shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be punishable in accordance with chapter 1.16 of this Code. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which is authorized is lawful.

14.12.050 Subsection 113.2 – Fees - amended.

Subsection 113.2 of the Fire Code is hereby amended to read as follows:

113.2 Fees. A fee for each permit/plan review shall be established by resolution of the City Council and may be amended from time to time. An additional permit application fee shall be charged for issued permit alterations. When plans are incomplete or the design changed after submittal, additional plan review fees shall be charged as established by resolution of the City Council.”

SECTION 8: 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 or void, 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 or void.

SECTION 9: 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 passes 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 designated for that purpose.

ORDINANCE PASSED AND APPROVED on this ____ day of _____, 2010.

Peggy Delach
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: PH 2

STAFF SOURCE: Robert Neiuber, Director of Community Development 

ITEM TITLE: Consider application Conditional Use Permit 10-008, Variance 10-002 and Negative Declaration related to the wireless communication facility located at 1288 N. Bonnie Cove Avenue and determine if the required findings can be justified.

STAFF RECOMMENDATION

- A. Open the Public Hearing and consider public testimony.
- B. Consider application CUP 10-008, a Conditional Use Permit for the construction and operation of a 50-foot high, monopine-type wireless communication facility and associated equipment; and
- C. Consider application VAR 10-002, a Variance for a) the height of the communication facility; and b) the setbacks of the communication facility from Bonnie Cove Avenue and from Cienega Street.
- D. Close the Public Hearing, determine if the required findings can be made and approve or deny the application and related environmental document.

FISCAL IMPACT

None.

BACKGROUND

At the October 26, 2010 Planning Commission Meeting, the Planning Commission considered the required findings and approved an application for a wireless communication facility to be located at 1288 N. Bonnie Cove Avenue. The applicant of the wireless facility is T-Mobile West Corporation.

The application consisted of Conditional Use Permit (CUP) 10-008 and the related Variance 10-002 for a monopine-type wireless facility and associated equipment to be located on Church property at the southeast corner of Bonnie Cove and Cienega. The Variance was needed due to the height of the facility and the setback requirements.

Councilmember Walter Allen III filed an appeal of the Planning Commissions decisions in accordance with Covina Municipal Code 17.62.130(C) when he discussed this item during Council Communications at the November 2, 2010 Council Meeting and asked that the appeal be brought back for Council consideration. The Council approved the appeal at their November 16, 2010 Council Meeting and the Public Hearing was set for December 7, 2010.

A CUP is required for wireless communication facilities in this planning zone. CUPs require that four (4) findings can be made. Those findings are:

1. That the site for the use is adequate in size and shape to accommodate the proposed use.
2. That the streets adjacent to the use are adequate to handle the traffic generated.
3. That the use will have no adverse effect on abutting properties.
4. That the proposed use does not affect the public health, safety, and general welfare of the community.

Planning staff provided facts to the Planning Commission to justify the findings for the October 26, 2010 Planning Commission meeting and the Planning Commission approved the CUP. The Facts provided can be found on page 4 to page 6 of Exhibit A.

The Variance application pertains to the construction and operation of the aforementioned wireless communication facility, which would both be located within a required 300-foot setback from both Bonnie Cove Avenue and from Cienega Street and that would exceed the 35-foot height limit of the underlying zoning district. Variances also require that four (4) findings can be made. Those findings are:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the same vicinity and zone.
2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same vicinity and zone, and the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity and zone.
3. The granting of the variance will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to property and improvement in the same vicinity and zone in which the property is located.
4. The granting of such a variance will not be contrary to the objectives of the General Plan.

Planning staff provided facts to the Planning Commission to justify the findings for the October 26, 2010 Planning Commission meeting and the Planning Commission approved the Variance. The Facts provided can be found on page 6 to page 8 of Exhibit A.

Planning Staff also provided conditions of approval (Exhibit B) that the property owner and the facility owner must follow in order to construct, operate, and maintain the facility.

The applicant indicated to the Planning staff that they did explore alternate sites in the vicinity and that this site was the best option available to them. Staff does encourage applicants to try to co-locate whenever possible. Staff has asked the applicant to be available to answer Council's question and to speak during the Public Hearing should they desire to do so.

Should the City Council determine that all of the findings can be made; the City Council can approve the application. Should the City Council determine that any of the required findings for the CUP or Variance cannot be met; the City Council can deny the application. The City Council could also send this item back to the Planning Commission for further review should it be determined that additional information is required.

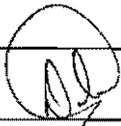
Should the City Council approve the CUP and Variance then the related Environmental Document must also be considered. Under the provisions of the California Environmental Quality Act (CEQA), staff is recommending the adoption of a Negative Declaration of Environmental Impact for the project proposal. This recommendation signifies that the project will not have a significant adverse impact on the environment. The Negative Declaration and an associated Initial Study are attached as Exhibit C.

RELEVANCE TO THE STRATEGIC PLAN

None.

EXHIBITS

- A. Planning Commission Report for CUP 10-008 and Variance 10-002 related to the wireless communication facility located at 1288 N. Bonnie Cove.
- B. Conditions of Approval related to CUP 10-008 and Variance 10-002 related to the wireless communication facility located at 1288 N. Bonnie Cove.
- C. Negative Declaration of Environmental Impact and associated Initial Study
- D. Photo Simulations of site and photo of monopine provided by the applicant

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

CITY OF COVINA
STAFF REPORT

OCTOBER 26, 2010

ITEM NUMBER 2

TO: PLANNING COMMISSION

FROM: ROBERT NEIUBER, DIRECTOR OF COMMUNITY DEVELOPMENT

COORDINATOR: ALAN CARTER, ASSOCIATE PLANNER

SUBJECT: APPLICATIONS CUP 10-008 AND VAR 10-002

APPLICANT:

T-Mobile West Corporation

REQUESTS:

- a. Application CUP 10-008, a Conditional Use Permit for the construction and operation of a 50-foot high, monopine-type wireless communication facility and associated equipment; and
- b. Application VAR 10-002, a Variance for a) the height of the communication facility; and b) the setbacks of the communication facility from Bonnie Cove Avenue and from Cienega Street.

LOCATION:

1288 North Bonnie Cove Avenue

SURROUNDING LAND USES AND ZONING:

	EXISTING LAND USE	ZONING
Site	Church	RD-3400 (PCD) (Residential-Multiple Family with a Planned Community Development overlay)
North	Residential-detached houses (in unincorporated territory)	Los Angeles County
South	Residential-detached houses	Los Angeles County

	(in unincorporated territory)	
East	Residential-detached houses (developed under condominium standards)	RD-3400 (PCD) (Residential-Multiple Family with a Planned Community Development overlay)
West	Elementary school	R-1-7500 (Residential-Single Family)

GENERAL PLAN DESIGNATION:

Medium Density Residential

NOTIFICATION OF APPLICANT AND ADJACENT PROPERTY OWNERS:

The applicant and the property owner were mailed copies of the staff report and the proposed Negative Declaration of Environmental Impact and an associated Initial Study (see following section and attachment). All property owners within a radius of 300 feet of the site were mailed notices of the public hearing on October 14, 2010, and the public hearing was advertised in the San Gabriel Examiner newspaper on the same date. Moreover, under the provisions of the California Environmental Quality Act (CEQA), notices pertaining to the two zoning applications and the proposed Negative Declaration and Initial Study were posted both at the office of the Los Angeles County Registrar-Recorder and on the subject site plus at two public places approximately 300 feet from the site on October 5, 2010.

ENVIRONMENTAL DETERMINATION:

Under the provisions of the California Environmental Quality Act (CEQA), the staff is recommending the adoption of a Negative Declaration of Environmental Impact for the project proposal. This recommendation signifies that the project will not have a significant adverse impact on the environment. The Negative Declaration and an associated Initial Study are documented on an attachment to this report and will be presented to the Planning Commission for consideration.

PROJECT DATA:

PROJECT DATA TABLE

DATA ITEM	CORRESPONDING FACT
Site Area	34,236 square feet (0.8 acres)
Total Building Area on Property	9,694 square feet (1 structure)
General Location of Proposed Communication Facility and Equipment Area	Communication facility would be located in western-central portion of property (generally just west of prolongation of western side building), its pole-type feature being 20 feet from the western property

	line (at Bonnie Cove Avenue) and its antennas and branch-like features being located closer to the property line, as depicted on project plans; equipment would be sited near eastern end of site in area currently occupied by a trash bin enclosure, as further depicted on project plans
Vehicular and Pedestrian Access to Site and Total On-site Parking	Pedestrian access is from both Bonnie Cove Avenue (at western southern side of property) and from Cienega Street (at northern side of site), though vehicular access is from Bonnie Cove only; currently site has 35 parking spaces (excluding southern-most section with 22 parking spaces, of which westerly houses have easement for guest parking), and, under project, site would have 34 parking stalls, though 32 spaces were required under existing CUP for church.
Basis for Conditional Use Permit Application	For constructing/installing a) monopine-type wireless communication facility itself, communication-related elements consisting of multiple, upper-located, and screened panel and parabolic antennas; and b) monopine-type communication facility that would deviate from certain Covina Municipal Code (CMC) requirements (outlined below).
Basis for Variance Application	For deviating from a) required 300-foot setback requirements from Bonnie Cove Avenue (would be 20 feet, as measured from base of structure or monopine) and from Cienega Street (would be 107 feet, as measured from base of structure) and b) 35-foot height limit of underlying zoning district (would be 50 feet, including upper portion of artificial branches and foliage).

BACKGROUND:

The applicant, T-Mobile West Corporation, requests Conditional Use Permit and Variance application approvals to construct and operate an unmanned wireless communication facility on a church property. The wireless communication facility would consist of 12 panel antennas and one parabolic antenna mounted at upper levels on a 50-foot high monopine-type structure (i.e., a structure resembling a pine tree). The communication facility would be located in a street-side

planter on the western portion of the property or adjacent to Bonnie Cove Avenue, roughly between the southwestern point of the church building and the southerly parking lot. All antennas on the monopine would be screened from surrounding views by the artificial foliage of the structure and by the partial painting of the antennas to match the apparatus. The supporting equipment for the wireless communication facility would be housed in multiple cabinets and appurtenances in a concrete block-composed enclosure that would be installed at the opposite or eastern end of the property or parking lot, in an area currently occupied by a trash bin enclosure. The overall project proposal calls for the trash bin enclosure to be reconstructed immediately to the north of the equipment enclosure and for one parking space adjacent to the new trash bin enclosure to be removed to accommodate this construction.

For clarification on the planning-related details of, the key code requirements concerning, and the code-related deficiencies triggering the Variance application requirement, the Planning Commission should refer to the Project Data section and to the accompanying plans. The applicant's representative has stated that the communication facility is needed to augment T-Mobile West's existing cellular public- and private-serving network, which supports portable telephones and other mobile communication devices.

ANALYSIS AND FINDINGS - CONDITIONAL USE PERMIT:

The Conditional Use Permit application pertains to the construction and operation of a wireless communication facility and associated equipment, which have been described herein and in the associated project plans. Based on an analysis of the project, the Planning staff recommends that the Planning Commission make the following findings for this application:

1. That the site for the use is adequate in size and shape to accommodate the proposed use.

Fact: The appurtenant site is slightly more than three-quarters of an acre in size, rectangular in shape, flat, and improved in a manner that could accommodate the proposed wireless communication facility and associated equipment. The property is further shaped and improved comparably to other institutional, commercial, industrial properties in the City where the City has approved monopoles and similar communication facilities, with there being no reported issues at the other locations. Moreover, the Planning staff believes that the communication facility and supporting equipment have been located in the most suitable portions of the property. Also, despite the removal of one parking space to accommodate the equipment enclosure, the minimum parking requirement of the appurtenant church would still be met. In sum, the Planning staff has not identified any major issues concerning the overall project proposal.

2. That the streets adjacent to the use are adequate to handle the traffic generated.

Fact: The project site is accessible to vehicular traffic from Bonnie Cove Avenue (the westerly street on which the existing improvements and on which the wireless communication facility would side) and from Cienega Street on the northern side, which are both fully improved, Collector-designated Streets (under the General Plan). Because the proposed wireless communication facility would be unmanned and, according to information submitted with the application, would only require maintenance approximately once a month by typically a single technician, facility-associated traffic would be negligible. In other words, no traffic or circulation issues concerning the project proposal have been identified.

3. That the use will have no adverse effect on abutting properties.

Fact: The proposed wireless communication facility and related equipment would be located in areas that the Planning staff believes would be sufficiently away from and/or buffered from abutting properties, which are easterly and southerly houses (the southerly housing being in unincorporated territory). Also, the monopine-type structure would be required to have ample artificial branches and foliage and other features to best screen the antennas (matching the project plans) or to replicate the appearance of an actual pine tree, thus blending with adjacent live trees. Moreover, the conditions of approval pertaining to the wireless communication facility and equipment will provide the City with sufficient leverage for preventing any issues. Lastly, during project review, the Planning staff did not identify any land use-related problems concerning the relation of either element of the project proposal to the surrounding properties.

4. That the proposed use does not affect the public health, safety, and general welfare of the community.

Fact: In terms of project design, the outer portion (or artificial foliage) of the wireless communication facility would be located about 80 feet away from the closest/easterly houses and, as noted herein, would be designed to resemble a live tree. In addition, the facility-related equipment would be contained within a decorative concrete block-composed, 6-foot high enclosure that would match existing improvements on the property and that would be sited roughly 3 feet away from the existing block wall that separates the church site from the easterly residences (with the equipment itself being about 6 feet from the property line-oriented wall). Therefore, as also previously stated, the overall monopine-type communication system and the related supporting equipment would be compatible with and sufficiently buffered from both on-site areas and adjacent uses as well as surrounding public areas. Regarding the matter of radio frequency (RF) emissions and the proposed wireless communication facility, the facility would be required to meet all radio frequency and related regulations of

the Federal Communications Commission (FCC) at the time of initial operation and in perpetuity. (Copies of an initial RF Report and the applicant's master plan of communication facility sites have been submitted to Planning with the Conditional Use Permit and Variance applications.) And as addressed in the conditions of approval, under certain circumstances, the City would require that the applicant certify that the radio frequency emission levels continue to meet applicable standards. Lastly, all necessary City permits would have to be obtained in conjunction with facility construction. In sum, no threats to public health or safety have been identified in the review of the wireless communication facility and its appurtenances.

ANALYSIS AND FINDINGS - VARIANCE:

The Variance application pertains to the construction and operation of the aforementioned wireless communication facility, which would both be located within a required 300-foot setback from both Bonnie Cove Avenue and from Cienega Street and that would exceed the 35-foot height limit of the underlying zoning district. Based on an analysis of the project, the Planning staff recommends that the Planning Commission make the following findings for this application:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the same vicinity and zone.

Fact: Considering all improvements on the property and the surroundings, the communication facility and associated equipment would be located in arguably the most appropriate, least intrusive sections of the site. In addition, the City encourages the placement of new communication facilities on commercial and on institutional properties. But the communication system would be located within the required 300-foot setback areas and would exceed the (building-focused) 35-foot height limit. These particular issues have not arisen in the consideration of virtually all of the other wireless communication-related applications. The Planning staff believes that the wireless communication system and equipment would meet the intent of the applicable provisions of the Covina Municipal Code by, as previously stated, being located on an institutional property, by being sufficiently buffered from the closest residential properties, by being considerably away from similar wireless communication facilities, and by being designed to be harmonious with both on-site improvements and surrounding uses.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same vicinity and zone, and the adjustment thereby

authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity and zone.

Fact: The strict adherence to the Municipal Code with respect to the required setbacks and height limit would prohibit the construction of the proposed wireless communication facility in what the staff believes is a viable section of the site. But for reasons stated in the aforementioned findings, the property is well-suited to accommodate the overall communication facility, the height and appearance of the communication facility itself would be reasonable and similar to those features of many other similar systems in the community, and the staff believes that there would be no negative impacts on adjacent properties from either the facility or the equipment. Moreover, the City has determined that the communication facility and its supporting equipment would represent reasonable improvements to the property in that they would meet the intent of the Municipal Code by, among other factors, maintaining at least some setback relief from the adjacent property lines and by being designed to be harmonious with the surroundings. Therefore, the Variance could be considered as a necessary mechanism for ensuring that the applicant's property rights are maintained.

3. The granting of the variance will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to property and improvement in the same vicinity and zone in which the property is located.

Fact: As noted under the above Conditional Use Permit findings, the proposed wireless communication facility would be required to meet the FCC radio frequency regulations and would not appear to pose any threats to public health or safety. Also, the previously-noted design, appearance, and location of the communication facility and associated equipment would be compatible with the existing improvements on the property and would be harmonious with respect to the surroundings. Therefore, the overall project proposal should sustain the welfare, character, and appearance of the appurtenant property and the surrounding area by consisting of elements that would prevent any potentially negative impacts or incursions. In particular, as stated under certain prior findings, the Planning staff believes that the project would not adversely affect the closest residences to the east. And once again, the conditions of approval pertaining to the wireless communication facility and associated equipment will provide the City with sufficient leverage for preventing any issues. In short, there should be no problems or obtrusiveness associated with the proposal.

4. The granting of such a variance will not be contrary to the objectives of the General Plan.

Fact: The General Plan regards monopine-type wireless communication facilities and their appurtenances as acceptable structures. The Plan also places a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the City Code in an appropriate fashion. Because the proposal, as noted herein, meets these goals, the staff believes that this finding can be made as well.

STAFF RECOMMENDATION:

The Planning staff recommends that the Planning Commission approve Applications CUP 10-008 and VAR 10-002 and the associated proposed Initial Study and the Negative Declaration of Environmental Impact (first attachment), subject to the proposed conditions of approval (second attachment).

EXHIBITS:

- A. 300-Foot Radius Map
- B. Area Map
- C. Project Plans and Photo Simulations (submitted under separate cover)

**CITY OF COVINA
APPLICATION CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT APPLICATION NO. 10-008
VARIANCE NO. 10-002
AS RECOMMENDED FOR APPROVAL TO THE PLANNING COMMISSION
ON OCTOBER 26, 2010**

The Conditional Use Permit shall authorize the construction and operation of an unmanned wireless communication facility (12 panel antennas on 3 sectors (4 antennas on each sector), with each antenna measuring approximately 1 foot by 5 feet in size; and 1 parabolic antenna, measuring approximately 2 feet in diameter) on a maximum 50-foot high monopine-type structure (measured to highest point of artificial branches and foliage) and associated equipment. The Variance shall permit the aforementioned wireless communication facility a) to be located within a required 300-foot setback requirement relative to Bonnie Cove Avenue and relative to Cienega Street and b) to be constructed above the 35-foot height limit of the appurtenant zoning district.

1.0 TIME LIMIT:

- 1.1 The approval of the applications shall be subject to revocation one year from the date of the affirmation of the applications by the Planning Commission if the approved use has not commenced.

2.0 GENERAL REQUIREMENTS:

- 2.1 Failure to comply with any conditions of approval noted herein shall be deemed just cause for revocation of project approval by the Planning Commission.
- 2.2 The wireless communication facility and appurtenances have been issued a Negative Declaration of Environmental Impact, pursuant to the California Environmental Quality Act (CEQA). This determination signifies that the project will not have a significant adverse impact on the environment. All documentation concerning the Negative Declaration of Environmental Impact is included as an attachment to these conditions of approval.
- 2.3 The wireless communication facility and its associated equipment shall be developed and operated in accordance with all design details as approved by the Planning Commission (notably concerning the appearance of the branch- and foliage-like features of the monopine-type structure), the approved plans on file with the City, all representations of record made by the applicant, the conditions contained herein, and the Covina Municipal Code (CMC) and Covina Design Guidelines (CDG) (except where provisions have been waived under the

appurtenant approval process). **Notwithstanding the above, the subsequent final or construction plans pertaining to the project (see condition 2.4 below) shall reflect certain minor clarifications to ensure that that the project proposal conforms to all applicable provisions of the CMC and the CDG.** Prior to completion of the approved improvements, all conditions of approval shall be complied with to the satisfaction of the City Planner or his/her designee.

- 2.4** Final or construction plans incorporating all conditions of approval and all plan-related changes required in the approval process shall be submitted for review to and approval by the City Planner or his/her designee prior to building permit issuance in conjunction with the Plan Check process of the Building Division (see condition 2.25 below). All construction/final plans and documents shall conform to the (revised) plans approved by the Planning Commission. **The construction/final plans shall further reflect in the appropriate areas the following minor clarifications to ensure that the wireless communication facility will conform to all applicable provisions of the CMC and the CDG:** a) a note(s) indicating that the antennas would be painted to match the appurtenant features, and, to the greatest extent practical, would be wrapped with branch-like features to further blend with the artificial foliage; b) a note(s) indicating that the block materials of the new trash bin enclosure would match those of the equipment enclosure and that the trash bin enclosure would conform to current City standards; c) a note(s) indicating that the wood features atop the equipment and trash bin enclosures would both be painted the same color, matching that of the block materials; and d) a note(s) indicating that the identified "non-exclusive" parking space adjacent to the equipment would be fully accessible for the general public (in addition to being earmarked for service/repair technicians of the wireless communication facility). In addition, the conditions of approval listed herein shall be printed upon the face of and included as part of the construction/final plans.
- 2.5** All equipment, equipment cabinets, and associated components concerning the wireless communication facility shall be kept within the area depicted and described in the (revised) approved project plans as the concrete block-composed equipment enclosure. In addition, the height of the equipment cabinets and any appurtenances (including any platforms) for the wireless communication facility shall not project above the highest level of the enclosure.
- 2.6** All related utility lines concerning the wireless communication facility shall be placed underground.
- 2.7** Landscape features that conform to the existing landscaping on the property and to the applicable City guidelines shall be installed around all sides of the wireless communication facility and the equipment enclosure (except areas where parking,

walkways, or other improvements exist), as depicted on the project plans. In addition, any on-site tree(s) that would need to be removed to accommodate the project must be replaced by tree(s) of the same number, species, and size, unless granted otherwise by the Planning staff. The new landscape features shall further be fully integrated with and compatible with the existing automatic irrigation system on the property. Moreover, landscape and irrigation plans for and immediately around the areas where the new landscaping will be installed, addressing all applicable City requirements, shall be submitted to and approved by planning staff.

- 2.8** Any proposed changes in the existing exterior lighting on the property as a result of the communication facility-related project, including, but not limited to, the relocation of a light standard(s), shall first be reviewed by the Planning staff to ensure that the modified lighting would not generate any glare onto the surroundings and would conform to all applicable code requirements.
- 2.9** With the exception of the one existing parking space in the eastern-most portion of the parking lot (that will be removed to accommodate the new trash bin enclosure), no parking stalls or vehicle access areas shall be removed under this application.
- 2.10** In accordance with Chapter 11.36 of the Covina Municipal Code, no street trees adjacent to the property shall be cut or trimmed in any manner by any persons associated with management, operational, or maintenance activities on the site without first obtaining a written permit from the Public Works Department.
- 2.11** In addition to obtaining approval from the City of Covina and all other applicable agencies regarding any future changes to the communication facility that is addressed under this Conditional Use Permit application, the applicant or the applicant's successor in interest a) shall make reasonable attempts to coordinate any change/modifications with any and all other communication facility operators on the site and with the appurtenant monopole and property owners and b) shall inform the owners of all abutting properties.
- 2.12** Under this approval, the initial zoning-related application pertaining to the project proposal that was reviewed by the Planning staff, application SPR 09-049, shall also be deemed to be granted by the City.
- 2.13** All current zoning entitlements pertaining to the appurtenant Church property (notably applications CUP 01-004 and PCD 00-001, and Tract Map 53139) shall remain in effect, except where certain provisions of the entitlements have been expressly superseded by this Conditional Use Permit application.

- 2.14 The new trash bin enclosure that is to be developed on the property shall be constructed in a manner meeting all current requirements of the City.
- 2.15 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.
- 2.16 The City has the right of entry to inspect the premises to verify compliance with the conditions of approval and the Covina Municipal Code and the Covina Design Guidelines at any time.
- 2.17 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 permit approval, 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.
- 2.18 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.
- 2.19 If any provision of this grant is held or declared to be invalid, the entire approval shall be void and the privileges granted hereunder shall lapse.
- 2.20 The costs and expenses of any code enforcement activities, including, but not limited to, attorneys' fees, caused by applicant's violation of any condition imposed by the Conditional Use Permit or the Variance or any provision of the Covina Municipal Code or the Covina Design Guidelines shall be paid by the applicant and/or the property owner.
- 2.21 The installation of any security system that is associated with the project, as addressed under Chapter 8.20 of the Covina Municipal Code, shall first be coordinated with the Covina Police Department.
- 2.22 The establishment of a separate address for the wireless communication facility shall first be coordinated with the Engineering Division.

- 2.23 All construction must conform to the City Noise Ordinance, prohibiting construction between 8:00 p.m. and 7:00 a.m. on any day and on Sundays and legal holidays (except by special permit).
- 2.24 Any proposed new or modified 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 (contact the Building Division for specific requirements).
- 2.25 The following items are required in order to comply with the Building Division code requirements as they pertain to this proposal:
- 2.25.1 Please submit five sets of complete plans; two sets shall be **“stamped approved”** by the Covina Planning Division and shall include the Building Division’s comments for consultant review. This project must comply with the 2007 California Building Standards and the 2008 energy code. Projects that procure permits on or after January 2, 2011 will be required to comply with the 2010 California Building Standards. A separate permit is required for any demolition, grading, and/or construction. Additional structural details and complete plans will be required at Building Division submittal, including setbacks from existing buildings and property lines.
- 2.25.2 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.
- 2.25.3 This project must comply with Federal and State Accessibility requirements to and throughout the building. Please be prepared to provide details if tenant improvements are made.
- 2.25.4 Demolition and renovation 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.**

2.25.5 The Los Angeles County Fire Department may need 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. The main office is located at 5823 Rickenbacker Road, Commerce, CA, 90040-3027. The phone number is (323) 890-4125.**

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

2.25.6 Construction activity is prohibited between the hours of 8:00 pm and 7:00 am and on Sundays and legal holidays, unless otherwise permitted by the City.

2.25.7 The Building Division Plan Check process may address additional concerns.

2.26 The following items are required in order to comply with Environmental Services Division code requirements as they pertain to this proposal:

2.26.1 The applicant shall sign and copy Form "OC 1/Owner's Certification: Minimum BMPs For All Construction Sites (see attachment)" onto the field set of construction plans, and the original copy of the Form must be returned to the Environmental Services Division via the Building Division.

2.26.2 An Environmental Services-related plan review fee of forty dollars (\$40.00) shall be paid.

3.0 PRIOR TO THE GRANTING OF FINAL APPROVAL OF THE NEW, APPROVED USE OR THE COMMENCEMENT OF OPERATIONS OF THE NEW, APPROVED USE:

- 3.1 Referring to Chapter 17.59 of the Covina Municipal Code (Maintenance of Real Property), the property owner shall address the following maintenance issue/problems on the site:
 - 3.1.1 The damaged faces of the property address on rearward portion of the western side of the Church building (which, in its current condition, could be further distorted by the monopine) shall be repaired, conforming to its originally approved condition.
 - 3.1.2 Upon project completion, in addition to the general replanting of landscaping around the project proposal (see condition 2.7 above), within 20 feet of either the base of the monopine or the equipment enclosure, any remaining damaged or overgrown landscape features shall be replaced, conforming to existing conditions and City requirements, or trimmed.
 - 3.2 All building or structural and landscape improvements shall be constructed or installed in a good workmanlike manner, consistent with the standard best practices of the subject trades and in a manner acceptable to the City.
 - 3.3 This permit shall not be effective until such time as the applicant and the property owner each obtain an Inspection and Verification Permit and the City Planner or his/her designee certifies on said permits that the premises and uses comply with all of the terms and conditions of this grant of approval.
 - 3.4 This grant shall not be effective for any purposes until the applicant and the property owner have each filed at the office of the Planning Division their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.
 - 3.5 Any and all new exterior lighting fixtures on the property associated with the wireless communication facility and/or its appurtenances shall be installed in accordance with plans on file with the Planning and Building Divisions and shall be fully operational. In general, site area illumination shall comply with the standards of the Covina Design Guidelines, which require a minimum of 1.0 foot-candle of illumination. Any exterior lighting shall match the design of the existing and new improvements on the site and shall not generate glare on adjacent properties.
- 4.0 THE APPROVED USE SHALL BE OPERATED IN ACCORDANCE WITH THE FOLLOWING:**

- 4.1 Any general repair work and/or maintenance of the wireless communication facility shall conform to the City of Covina Noise Ordinance and to any other applicable provisions of the Covina Municipal Code.
- 4.2 The Planning Commission shall review the conditions of approval of the wireless communication facility and appurtenances on the site every ten (10) years. The cost associated with the review shall be paid by the wireless communication facility operator and/or the property owner.
- 4.3 The wireless communication facility shall comply with all radio frequency (RF) emission levels of the FCC at the time of initial operation and in perpetuity.
- 4.4 Upon request by the City or when an alteration should occur, such as co-location, the applicant shall submit to the Planning Division certification that the radio frequency (RF) emission levels across the portion of the electromagnetic spectrum used by this applicant continue to meet the FCC radio frequency levels. The cost associated with the review shall be paid by the applicant or the applicant's successor in interest.
- 4.5 Any future outdoor storage on the property must conform to applicable City standards concerning location, screening, enclosure materials (if applicable), and related matters.
- 4.6 The existing walkway along the eastern portion of the property (notably between the new equipment and trash bin enclosures and the easterly block wall) shall remain completely clear and unobstructed at all times.
- 4.7 The site-, building-, communication system-, and landscape-related improvements on the site 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 the property owner pay the actual and reasonable cost for code compliance services needed to address any identified problem conditions.

CEQA APPENDIX G: ENVIRONMENTAL CHECKLIST FORM

NOTE: The following is a sample form and may be tailored to satisfy individual agencies' needs and project circumstances. It may be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential impacts that are not listed on this form must also be considered. The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

- 1. Project title: Application nos. CUP 10-008 & VAR 10-002
- 2. Lead agency name and address: CITY OF COVINA - Planning Division
125 E. College St.
Covina, CA 91723
- 3. Contact person and phone number: Alan Carter (626) 384-5454
- 4. Project location: 1288 N. Bonnie Cove Ave, Covina, CA
- 5. Project sponsor's name and address: T-Mobile West Corporation
3257 E. Quasti Rd., #200
Ontario, CA 91761
- 6. General plan designation: Commercial 7. Zoning: RD-3400 (PCD)
- 8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)
A. Construction and operation of monopole-type wireless communication facilities and equipment, and
B. Reduction in street-side yard and front yard setbacks for facility, and height of facility.
- 9. Surrounding land uses and setting: Briefly describe the project's surroundings:
A. To North - residential - detached houses
B. To South - " " " "
C. To East - " " " "
D. To West - elementary school
- 10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)
Federal Communications Commission (FCC)

(CE: CUP)
(CE: VAR)

ND-1

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology /Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Alan Carter
Signature

10-4-10
Date

Signature

Date

ND-2

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

ND-3

- 9) The explanation of each issue should identify:
- a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance

SAMPLE QUESTION

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>I. AESTHETICS.</u> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NO-5

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES:

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>VII. GREENHOUSE GAS EMISSIONS.</u>				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>VIII. HAZARDS AND HAZARDOUS MATERIALS.</u> Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. HYDROLOGY AND WATER QUALITY.

Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XI. MINERAL RESOURCES. Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. NOISE -- Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIV. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XVI TRANSPORTATION/TRAFFIC.</u> Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>XVII. UTILITIES AND SERVICE SYSTEMS.</u>				
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino*, (1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors*, (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Revised 2009

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**INITIAL STUDY AND NEGATIVE DECLARATION – APPLICATIONS CUP 10-008
AND VAR 10-002 (1288 N. BONNIE COVE AVE.)**

SECTION XIX. DISCUSSION OF ENVIRONMENTAL IMPACTS

1. AESTHETICS.

(a-d) *No Impact.* The site is presently used as a church. There are no scenic vistas of any significance and no scenic resources in the vicinity of the project. The wireless communication facility is proposed to take the shape of a pine tree, and the equipment will be fully screened from the surroundings. Therefore, no aesthetic impacts will occur from the proposed project.

2. AGRICULTURE AND FORESTRY RESOURCES.

(a-e) *No Impact.* There are no agricultural or forest-associated resources or factors associated with the proposed project. The site is presently zoned for and developed as a church.

3. AIR QUALITY.

(a-e) *No Impact.* The City of Covina is currently exposed to emissions that are in excess of State and Federal Air Quality Standards for a majority of the year. The proposed installation and utilization of the wireless communication facility and equipment are anticipated to generate a negligible amount of short- and long-term emissions.

4. BIOLOGICAL RESOURCES.

(a-f) *No Impact.* The property currently is fully developed and used as a church. Furthermore, according to the Covina General Plan, the site is not within a biologically sensitive area. Therefore, there are no biological or sensitive resources associated with the project proposal.

5. CULTURAL RESOURCES.

(a-d) *No Impact.* As stated herein, the site is fully developed and used as a church. There are no known significant archeological or historical resources that would be impacted by the proposed project, as identified in the City's General Plan.

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6. GEOLOGY AND SOILS.

(a) *No Impact.* According to the Covina General Plan, the site is not located within a designated Special Studies Seismic Hazard Zone and does not lie over any other smaller earthquake faults. In addition, the property is relatively level.

(b-e) *No Impact.* The generally-flat site has been developed in its current use for about 8 years, and, under the community's General Plan, does not lie over any geologically unstable soils.

7. GREENHOUSE GAS EMISSIONS.

(a-b) *No Impact.* The proposed (unmanned) wireless communication facility and its equipment would have a negligible impact pertaining to greenhouse gas emissions. And there would be no known conflicts with any plans pertaining to greenhouse gas reductions.

8. HAZARDS AND HAZARDOUS MATERIALS.

(a) *No Impact.* The proposal does not entail the transport, use, or disposal of hazardous materials that could create a risk of upset or a hazard to human health.

(b) *No Impact.* As a wireless communication facility, the project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or wastes.

(c) *No Impact.* Although the project site abuts an existing residential area, the proposed wireless communication facility will not result in hazardous emissions or involve the handling of hazardous wastes that would affect the area.

(d) *No Impact.* The site is not identified on the list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will not create a hazard to the public or the environment.

(e-f) *No Impact.* The site is not located within an airport land use plan or within the vicinity of a private airstrip.

(g) *No Impact.* The site is not a part of any adopted emergency response plan or emergency evacuation plan and, therefore, would not interfere with emergency response or evacuation.

(h) *No Impact.* The site is not located within or in close proximity to a wildland-related fire zone but, rather, is within an urbanized area surrounded by other institutional and residential developments.

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9. HYDROLOGY AND WATER QUALITY.

(a-f) *No Impact.* The proposed project involves no significant discharges of wastewater or the use of groundwater. Therefore, it will not violate any water quality standards or waste discharge requirements.

(g-j) *No Impact.* The proposed project is not located within a flood hazard-related area or within a mudflow-associated area. And the site is located over 40 miles away from the Pacific Ocean.

10. LAND USE AND PLANNING.

(a-c) *No Impact.* The monopine-type wireless communication facility and associated equipment would be located on an existing church property and would be sited and designed to be harmonious with the surroundings. Therefore, neither of these elements would in any way divide the community. The proposed project is consistent with General Plan policies and the intent of the Zoning Code. As the overall project is of a type and scope that would not have a significant, wide-ranging effect on the natural environment, it would not conflict with any habitat conservation or the conservation-oriented section of the Covina General Plan.

11. MINERAL RESOURCES.

(a-b) *No Impact.* No known mineral resources of value to the region and to the residents of the State have been identified within the project area, and the project would not consist of any elements that would have any effect on the resources located in outlying areas. The proposed project does not involve a site that is designated for resource recovery. Therefore, no impact to mineral resources would occur.

12. NOISE.

(a-b) *No Impact.* Construction of the project will not expose persons or neighbors to excessive noise in excess of local standards. And after the project is completed, the operation of the wireless communication facility and the associated equipment would not generate any sounds above the existing ambient noise levels. Therefore, the proposed project would not generate noise levels or vibration in excess of the City's applicable standards. In sum, no noise impacts would result from implementation of the proposed project.

13. POPULATION AND HOUSING.

(a-c) *No Impact.* The proposed project is located in a developed area and requires no significant changes to the local infrastructure for accommodation. The proposed project involves the installation of a wireless communication facility-associated apparatus and compact parking only and, therefore, would not be replacing existing housing and people

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and, accordingly, would not necessitate the construction of replacement housing elsewhere.

14. PUBLIC SERVICES.

(a) *No Impact.* The proposed project appertains to the installation of a wireless communication system. The type and scope of the project are not anticipated to have any effect upon or result in a need for new or altered public services or governmental facilities.

15. RECREATION.

(a-b) *No Impact.* The proposed project involving the installation of a wireless communication facility and equipment will not affect any existing recreational facilities. The site is presently fully developed as a church.

16. TRANSPORTATION/TRAFFIC.

a-f) *No Impact.* The proposed wireless communication system would be unmanned and would only require periodic service and maintenance by employees of the wireless provider and, therefore, would essentially not increase the number of vehicle trips or the volume to capacity ratio on the adjacent roads and would not exacerbate current conditions at surrounding intersections.

17. UTILITIES AND SERVICE SYSTEMS.

a-g) *No Impact.* No element of the proposed project would require new or modified utilities or service systems or (considering the submittal of a Variance application) would conflict with applicable laws at the different governmental levels.

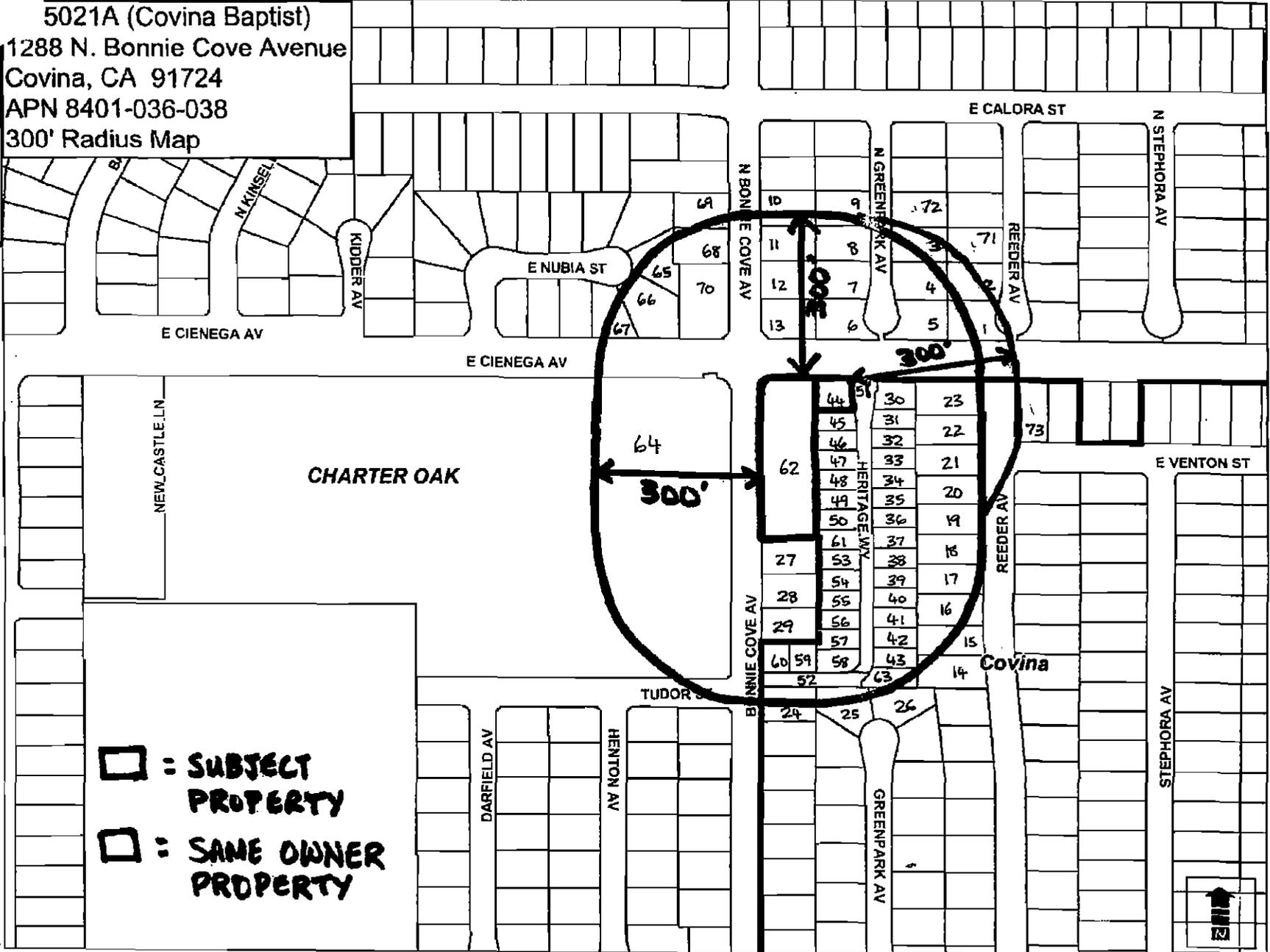
18. MANDATORY FINDINGS OF SIGNIFICANCE.

(a-c) *No Impact.* Based upon the statements and substantiations provided in this Initial Study, the proposed project will not have any adverse impacts on the environment, either individually or cumulatively, and will not negatively affect human beings. Therefore, pursuant to Section 15070(a) of the California Environmental Quality Act (CEQA), a Negative Declaration will be prepared.

NO 19



5021A (Covina Baptist)
 1288 N. Bonnie Cove Avenue
 Covina, CA 91724
 APN 8401-036-038
 300' Radius Map



AT

EXHIBIT A

300-FOOT RADIUS MAP

AREA MAP

1288 North Bonnie Cove Ave
 CUP 10-008/VARIO-002

Antenna site

Subject site

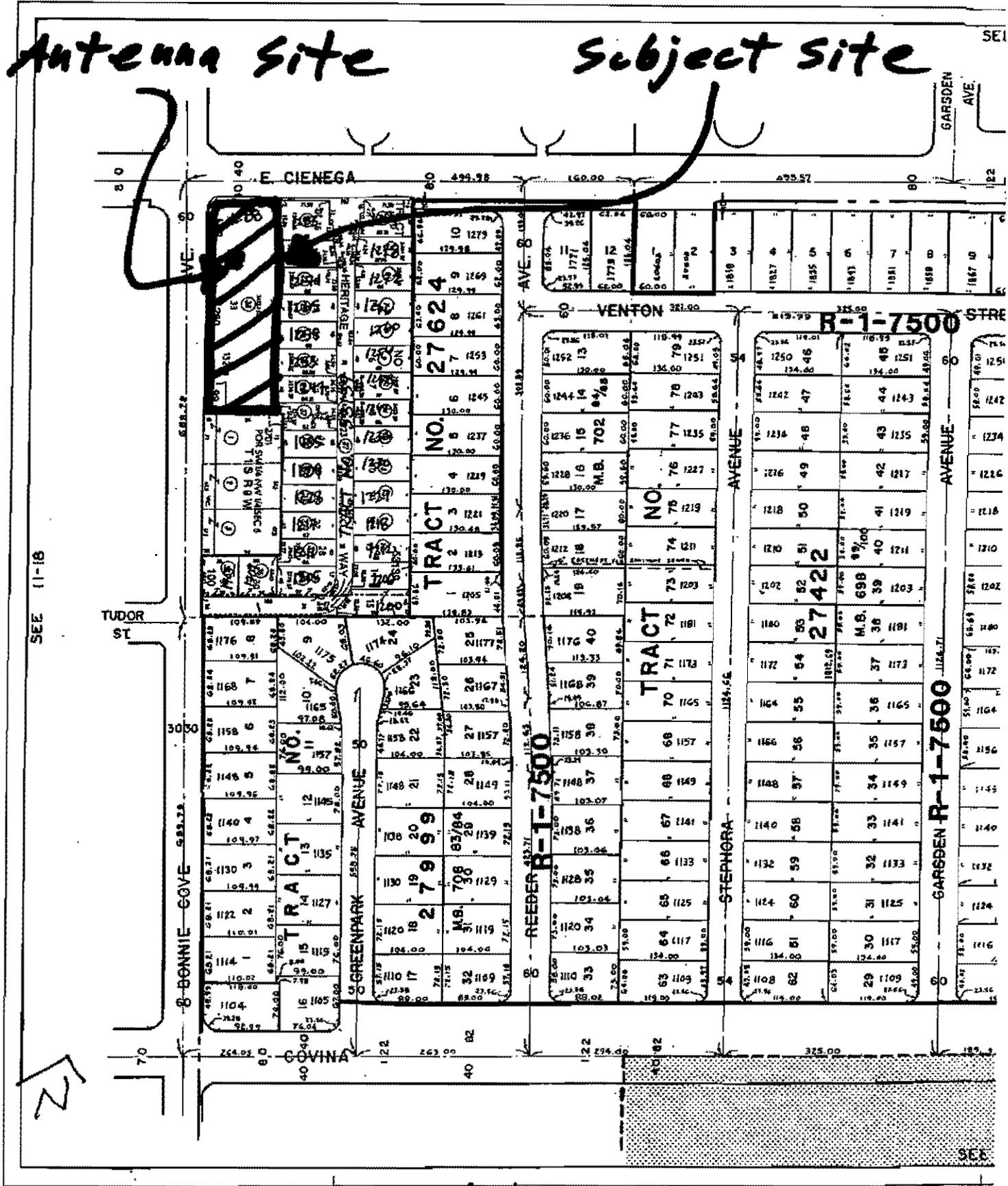


EXHIBIT B



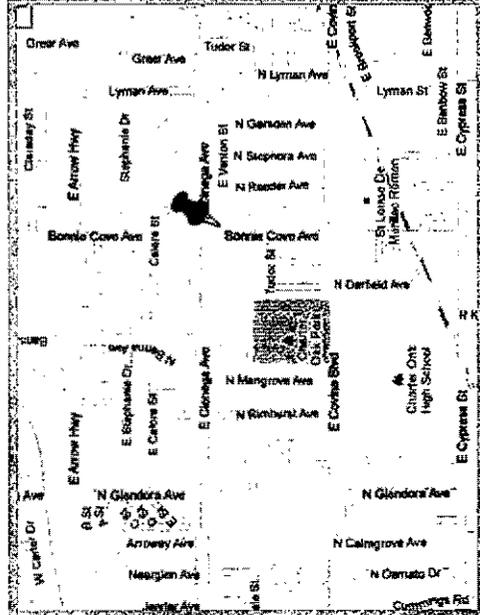
IE25021A COVINA BAPTIST
1288 North Bonnie Cove Ave.
Covina, CA 91724



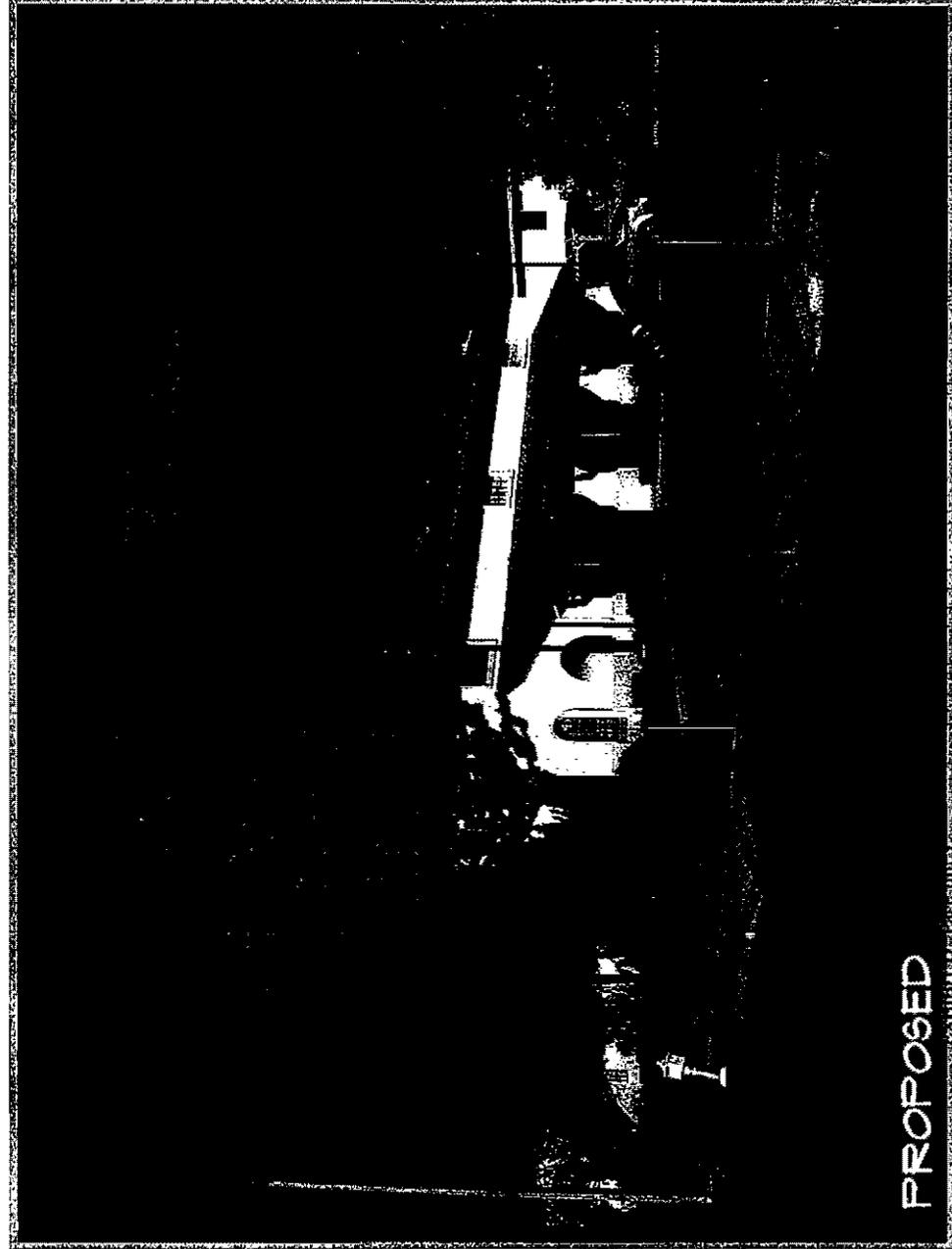
Prepared By:

IKUMA

SOUTHWEST ELEVATION



EXISTING



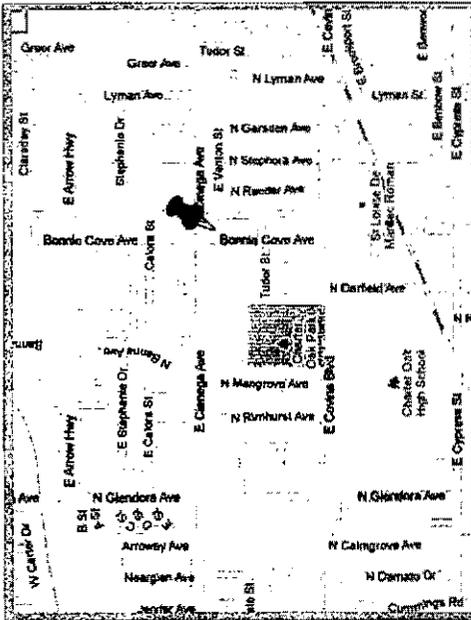
PROPOSED

IE25021A COVINA BAPTIST
 1288 North Bonnie Cove Ave.
 Covina, CA 91724

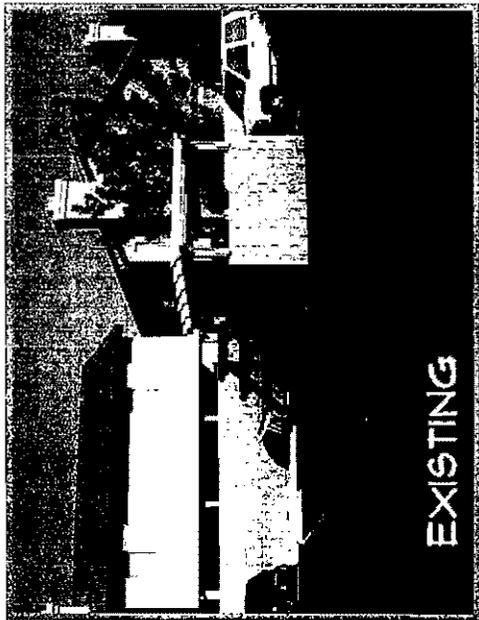
Prepared By:
IKUMA

T-Mobile

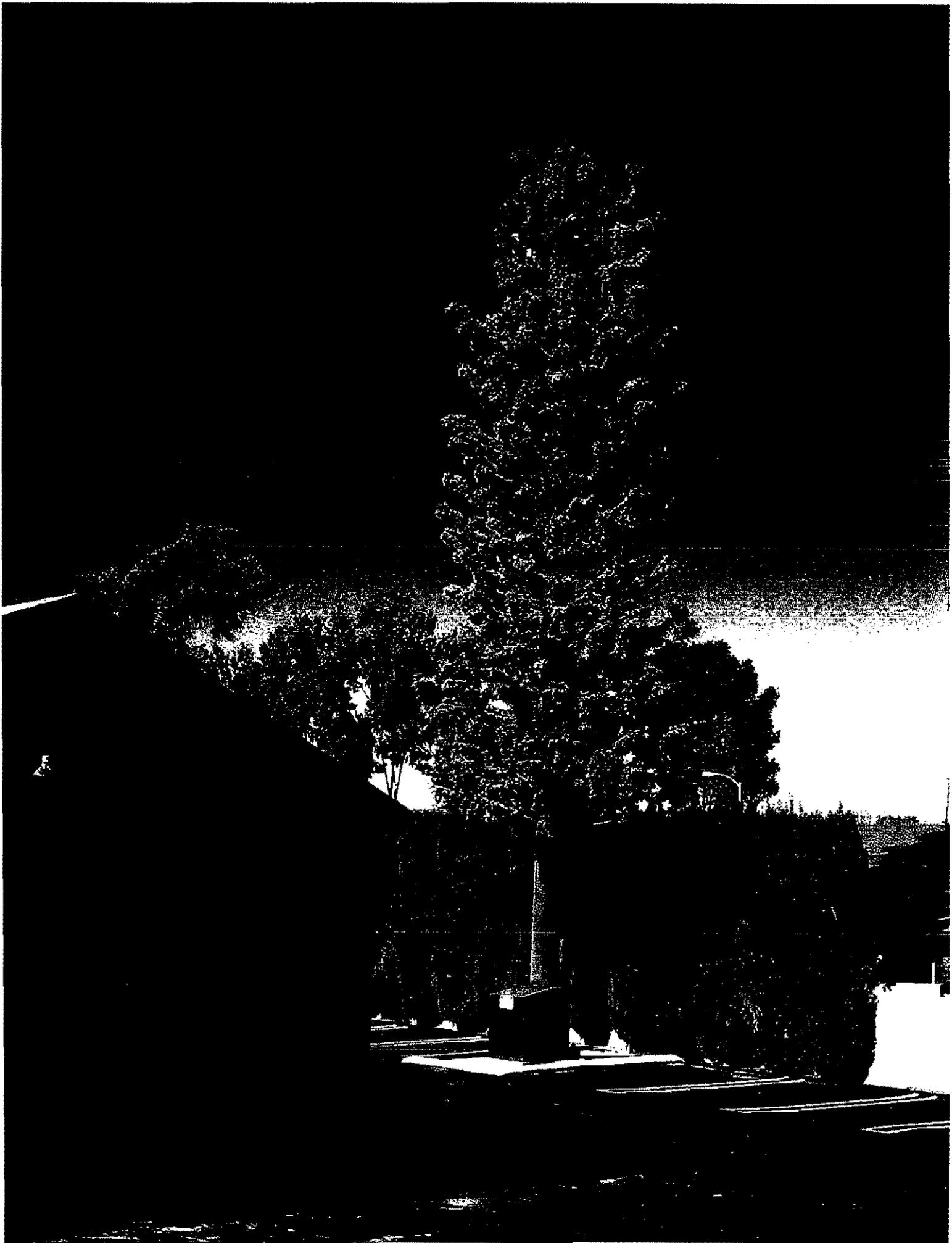
WEST ELEVATION



PROPOSED



EXISTING



CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: PH 3

STAFF SOURCE: Robert Neiuber, Director of Community Development *RN*

ITEM TITLE: Consider application Conditional Use Permit 10-010, Variance 10-004 and Negative Declaration related to the wireless communication facility located at 1175 East Garvey Avenue and determine if the required findings can be justified.

STAFF RECOMMENDATION

- A. Open the Public Hearing and consider public testimony.
- B. Consider application CUP 10-010, a Conditional Use Permit for the construction and operation of a 55-foot high, monopine-type wireless communication facility and associated equipment and the installation of compact parking; and
- C. Consider application VAR 10-004, a Variance for a reduction in the setbacks of the communication facility and the equipment from Garvey Avenue; and
- D. Close the Public Hearing, determine if the required findings can be made and approve or deny the application and related environmental document.

FISCAL IMPACT

None.

BACKGROUND

At the October 26, 2010 Planning Commission Meeting, the Planning Commission considered the required findings and approved an application for a wireless communication facility to be located at 1175 East Garvey Avenue. The applicant of the wireless facility is T-Mobile West Corporation.

The application consisted of Conditional Use Permit (CUP) 10-010 and the related Variance 10-004 for a monopine-type wireless facility and associated equipment to be located on a commercial property at the northwest corner of Forest Hills Drive and Garvey Avenue. The Variance was needed due to the setback requirements.

Councilmember Walter Allen III filed an appeal of the Planning Commissions decisions in accordance with Covina Municipal Code 17.62.130(C) when he discussed this item during Council Communications at the November 2, 2010 Council Meeting and asked that the appeal be brought back for Council consideration. The Council approved the appeal at their November 16, 2010 Council Meeting and the Public Hearing was set for December 7, 2010.

A CUP is required for wireless communication facilities in this planning zone. CUPs require that four (4) findings can be made. Those findings are:

1. That the site for the use is adequate in size and shape to accommodate the proposed use.
2. That the streets adjacent to the use are adequate to handle the traffic generated.
3. That the use will have no adverse effect on abutting properties.
4. That the proposed use does not affect the public health, safety, and general welfare of the community.

Planning staff provided facts to the Planning Commission to justify the findings for the October 26, 2010 Planning Commission meeting and the Planning Commission approved the CUP. The Facts provided can be found on page 4 to page 6 of Exhibit A.

The Variance application pertains to the construction and operation of the aforementioned wireless communication facility and associated equipment that would both be located within a required 10-foot setback from the frontward street or Garvey Avenue. Variances also require that four (4) findings can be made. Those findings are:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the same vicinity and zone.
2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same vicinity and zone, and the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity and zone.
3. The granting of the variance will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to property and improvement in the same vicinity and zone in which the property is located.
4. The granting of such a variance will not be contrary to the objectives of the General Plan.

Planning staff provided facts to the Planning Commission to justify the findings for the October 26, 2010 Planning Commission meeting and the Planning Commission approved the Variance. The Facts provided can be found on page 6 to page 8 of Exhibit A.

Planning staff also provided conditions of approval (Exhibit B) that the property owner and the facility owner must follow in order to construct, operate, and maintain the facility.

The applicant indicated to the Planning staff that they did explore alternate sites in the vicinity and that this site was the best option available to them. Staff does encourage applicants to try to co-locate whenever possible. Staff has asked the applicant to be available to answer Council's question and to speak during the Public Hearing should they desire to do so. Staff did receive a "Petition Against 55FT Cell Antenna" from residents near the proposed site. The petition will be presented to the City Council as part of the public hearing.

Should the City Council determine that all of the findings can be made; the City Council can approve the application. Should the City Council determine that any of the required findings for the CUP or Variance cannot be met; the City Council can deny the application. The City Council could also send this item back to the Planning Commission for further review should it be determined that additional information is required.

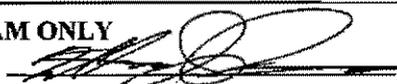
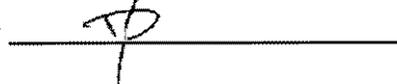
Should the City Council approve the CUP and Variance then the related Environmental Document must also be considered. Under the provisions of the California Environmental Quality Act (CEQA), staff is recommending the adoption of a Negative Declaration of Environmental Impact for the project proposal. This recommendation signifies that the project will not have a significant adverse impact on the environment. The Negative Declaration and an associated Initial Study are attached as Exhibit C.

RELEVANCE TO THE STRATEGIC PLAN

None.

EXHIBITS

- A. Planning Commission Report for CUP 10-010 and Variance 10-004 related to the wireless communication facility located at 1175 East Garvey Avenue.
- B. Conditions of Approval related to CUP 10-010 and Variance 10-004 related to the wireless communication facility located at 1175 East Garvey Avenue.
- C. Negative Declaration of Environmental Impact and associated Initial Study
- D. Photo Simulations of site and photo of monopine provided by the applicant

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

CITY OF COVINA

STAFF REPORT

OCTOBER 26, 2010

ITEM NUMBER 4

TO: PLANNING COMMISSION

FROM: ROBERT NEIUBER, DIRECTOR OF COMMUNITY DEVELOPMENT

COORDINATOR: ALAN CARTER, ASSOCIATE PLANNER

SUBJECT: APPLICATIONS CUP 10-010 AND VAR 10-004

APPLICANT:

T-Mobile West Corporation

REQUESTS:

- a. Application CUP 10-010, a Conditional Use Permit for the construction and operation of a 55-foot high, monopine-type wireless communication facility and associated equipment and the installation of compact parking; and
- b. Application VAR 10-004, a Variance for a reduction in the setbacks of the communication facility and the equipment from Garvey Avenue.

LOCATION:

1175 East Garvey Avenue

SURROUNDING LAND USES AND ZONING:

	EXISTING LAND USE	ZONING
Site	Commercial-office building	C-P (PCD) (Administrative and Professional Office with a Planned Community Development overlay)
North	Residential-detached houses	City of West Covina
South	Various commercial and residential uses (across San Bernardino Freeway and in	City of West Covina

	City of West Covina)	
East	Hotel and restaurant complex	C-P (PCD) (Administrative and Professional Office with a Planned Community Development overlay)
West	Residential-detached houses	City of West Covina

GENERAL PLAN DESIGNATION:

General Commercial

NOTIFICATION OF APPLICANT AND ADJACENT PROPERTY OWNERS:

The applicant and the property owner were mailed copies of the staff report and the proposed Negative Declaration of Environmental Impact and an associated Initial Study (see following section and attachment). All property owners within a radius of 300 feet of the site were mailed notices of the public hearing on October 14, 2010, and the public hearing was advertised in the San Gabriel Examiner newspaper on the same date. Moreover, under the provisions of the California Environmental Quality Act (CEQA), notices pertaining to the two zoning applications and the proposed Negative Declaration and Initial Study were posted both at the office of the Los Angeles County Registrar-Recorder and on the subject site plus at two public places approximately 300 feet from the site on October 5, 2010.

ENVIRONMENTAL DETERMINATION:

Under the provisions of the California Environmental Quality Act (CEQA), the staff is recommending the adoption of a Negative Declaration of Environmental Impact for the project proposal. This recommendation signifies that the project will not have a significant adverse impact on the environment. The Negative Declaration and an associated Initial Study are documented on an attachment to this report and will be presented to the Planning Commission for consideration.

PROJECT DATA:

PROJECT DATA TABLE

DATA ITEM	CORRESPONDING FACT
Site Area	31,590 square feet (.73 acres)
Total Building Area on Property	8,750 square feet (1 structure)
General Location of Proposed Communication Facility and Equipment Area	Communication facility would be located in front-central portion of property (just west of building), its pole-type feature being 9 feet, 9 inches from the southern property line (at Garvey Avenue) and its antennas and branch-like features being

	located closer to the property line, as depicted on project plans; equipment would be sited near western end of site in a parking space, its surrounding block enclosure being 2 feet, 5 inches from southern property line, as further depicted on project plans
Vehicular and Pedestrian Access to Site and Total On-site Parking	From both Garvey Avenue (at front or southern side of property) and Forest Hills Drive (at eastern side of site); currently and under project (following installation of compact parking—see below), site would have 33 total parking spaces
Basis for Conditional Use Permit Application	For constructing/installing a) monopine-type wireless communication facility itself, communication-related elements consisting of multiple, upper-located, and screened panel and parabolic antennas; b) monopine-type communication facility that would deviate from certain Covina Municipal Code (CMC) requirements (outlined below); c) monopine-type communication facility that would exceed 50 feet in height (maximum height of appurtenant zoning district) (height (including upper-located branch-like features) would be 55 feet; and d) 9 compact parking spaces (under CMC and staff policy, on commercial-office and other properties with at least 20 parking spaces, up to 50 percent of required parking may consist of employee-oriented compact parking)
Basis for Variance Application	For deviating from required 10-foot front yard (from Garvey Avenue) setback requirement (under Section 17.34.110.A of CMC) relative to a) wireless communication facility itself (would vary between immediately abutting property line to 10 feet; and b) communication facility-related equipment (including enclosure) (would vary between 2 feet, 5 inches and 10 feet)

BACKGROUND:

The applicant, T-Mobile West Corporation, requests Conditional Use Permit and Variance application approvals to construct and operate an unmanned wireless communication facility on a commercial-office property. The wireless communication facility would consist of 12 panel antennas and one parabolic antenna mounted at upper levels on a 55-foot high monopine-type structure (i.e., a structure resembling a pine tree), and the communication facility would be located in a street-side planter at the frontward or southern portion of the property, between the parking lot on the site and Garvey Avenue. All antennas on the monopine would be screened from surrounding views by the artificial foliage of the structure and by the partial painting of the antennas to match the apparatus. The supporting equipment for the wireless communication facility would be housed in multiple cabinets and appurtenances in a concrete block-composed enclosure that would be installed in a frontward parking space near the western end of the property. To compensate for the project-related loss of the single parking space, the applicant proposes to add one parking stall to an adjacent, northern row of parking spaces by incorporating compact parking into the parking row. Under the Covina Municipal Code, compact parking spaces also require a Conditional Use Permit.

For clarification on the planning-related details of, the key code requirements concerning, and the code-related deficiencies triggering the Variance application requirement, the Planning Commission should refer to the Project Data section and to the accompanying plans. The applicant's representative has stated that the communication facility is needed to augment T-Mobile West's existing cellular public- and private-serving network, which supports portable telephones and other mobile communication devices.

ANALYSIS AND FINDINGS - CONDITIONAL USE PERMIT:

The Conditional Use Permit application pertains to the construction and operation of a wireless communication facility and associated equipment and the installation of compact parking, which have been described herein and in the associated project plans. Based on an analysis of the project, the Planning staff recommends that the Planning Commission make the following findings for this application:

1. That the site for the use is adequate in size and shape to accommodate the proposed use.

Fact: The appurtenant site is roughly three-quarters of an acre in size and, though generally triangular in shape, is flat and improved in a manner that could accommodate the proposed wireless communication facility and associated equipment plus compact parking. The Planning staff believes that the communication facility and supporting equipment and the compact parking have been located in the most suitable portions of the property. In sum, the Planning staff has not identified any major issues concerning the overall project proposal.

2. That the streets adjacent to the use are adequate to handle the traffic generated.

Fact: The project site is accessible to vehicular traffic from Garvey Avenue (the southerly street on which the property fronts) and from Forest Hills Drive on the eastern side, which are both fully improved, local in designation, and commercial-oriented streets. Because the proposed wireless communication facility would be unmanned and, according to information submitted with the application, would only require maintenance approximately once a month by typically a single technician, facility-associated traffic is not an issue for this component of the CUP request, nor is traffic an issue concerning the slated compact parking. In other words, no traffic or circulation issues concerning the project proposal have been identified.

3. That the use will have no adverse effect on abutting properties.

Fact: The proposed monopine-type structure and related equipment would be located in areas that the Planning staff believes would be sufficiently away from abutting properties, which are northerly and westerly, West Covina-affiliated houses. (During the initial review of the communication system request under application Site Plan Review (SPR 09-041), the staff routed the project plans to the West Covina Planning Department for comment. West Covina officials requested, among other things, that the communication facility be located the maximum possible distance away from the aforementioned residences. Under the West Covina code, wireless communication facilities must be located a minimum of 100 feet back from any residential property; Covina's code does not have a separation requirement of this type, though communication facilities must meet the general setback requirement of the appurtenant zoning district, which here is 10 feet, and must be located at least 300 feet from any major/arterial street and 1,000 feet from any similar freestanding communication system(s).) Also, the monopine-type element would be required to have ample artificial branches and foliage and other features to best screen the antennas (matching the project plans) or to replicate the appearance of an actual pine tree, thus blending with adjacent live trees. Concerning the proposed compact parking spaces, the staff believes that the parking would not create any incursions relative to the northerly and westerly residences. Moreover, the conditions of approval pertaining to the wireless communication facility and equipment plus the compact parking will provide the City with sufficient leverage for preventing any issues. Lastly, during project review, the Planning staff did not identify any land use-related problems concerning the relation of each element of the project proposal to the surrounding properties.

4. That the proposed use does not affect the public health, safety, and general welfare of the community.

Fact: In terms of project design, the outer portion (or artificial foliage) of the wireless communication facility would be located at least 76 feet away from the closest/northerly residences and, as noted herein, would be designed to resemble a live tree. In addition, the facility-related equipment would be contained within a decorative concrete block-composed enclosure that would match existing improvements on the property and that would be sited at least 20 feet from the abutting residences. Therefore, as also previously stated, the overall monopine-type communication system and the related supporting equipment would be compatible with and sufficiently buffered from both on-site areas and adjacent uses as well as surrounding public areas. The compact parking, moreover, would be installed in a relatively limited portion of the parking lot, and this parking would not have any impacts off of the property. Regarding the matter of radio frequency (RF) emissions and the proposed wireless communication facility, the facility would be required to meet all radio frequency and related regulations of the Federal Communications Commission (FCC) at the time of initial operation and in perpetuity. (Copies of an initial RF Report and the applicant's master plan of communication facility sites have been submitted to Planning with the Conditional Use Permit and Variance applications.) And as addressed in the conditions of approval, under certain circumstances, the City would require that the applicant certify that the radio frequency emission levels continue to meet applicable standards. Lastly, all necessary City permits would have to be obtained in conjunction with facility construction. In sum, no threats to public health or safety have been identified in the review of the wireless communication facility and its appurtenances as well as the compact parking.

ANALYSIS AND FINDINGS - VARIANCE:

The Variance application pertains to the construction and operation of the aforementioned wireless communication facility and associated equipment that would both be located within a required 10-foot setback from the frontward street or Garvey Avenue. Based on an analysis of the project, the Planning staff recommends that the Planning Commission make the following findings for this application:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the same vicinity and zone.

Fact: Considering all improvements on the property and the surroundings, the communication facility and associated equipment would be located in arguably the most appropriate, least intrusive sections of the site. In addition, the City encourages the placement of new communication facilities in, among other areas, commercially-zoned districts. But the communication system and its equipment would be located within the

required 10-foot front yard setback area. This particular setback issue has not arisen in the consideration of virtually all other wireless communication-related applications. The Planning staff believes that the wireless communication system and equipment would meet the intent of the applicable provisions of the Covina Municipal Code by, as previously stated, being located in a commercial area, by being sufficiently buffered from the closest residential properties, by being considerably away from the major streets and similar wireless communication facilities, and by being designed to be harmonious with both on-site improvements and surrounding uses.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same vicinity and zone, and the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity and zone.

Fact: The strict adherence to the Municipal Code with respect to the required 10-foot front yard setback would prohibit the construction of the proposed wireless communication facility and associated equipment in what the staff believes are viable sections of the site. But for reasons stated in the aforementioned findings, the property is well-suited to accommodate the overall communication facility, the height and appearance of the communication facility itself would be reasonable and similar to those features of many other similar systems in the community, and the staff believes that there would be no negative impacts on adjacent properties from either the facility or the equipment. Moreover, the City has determined that the communication facility and its supporting equipment would represent reasonable improvements to the property in that they would meet the intent of the Municipal Code by, among other factors, maintaining at least some setback relief from Garvey Avenue and by being designed to be harmonious with the surroundings. Therefore, the Variance could be considered as a necessary mechanism for ensuring that the applicant's property rights are maintained.

3. The granting of the variance will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to property and improvement in the same vicinity and zone in which the property is located.

Fact: As noted under the above Conditional Use Permit findings, the proposed wireless communication facility would be required to meet the FCC radio frequency regulations and would not appear to pose any threats to public health or safety. Also, the previously-noted design, appearance, and location of the communication facility and associated equipment would be compatible with the existing improvements on the property and would be harmonious with respect to the surroundings. Therefore, the overall project proposal should sustain the welfare, character, and appearance of

the appurtenant property and the surrounding area by consisting of elements that would prevent any potentially negative impacts or incursions. In particular, as stated under certain prior findings, the Planning staff believes that the project would not adversely affect the closest residences to the north. And once again, the conditions of approval pertaining to the wireless communication facility and associated equipment as well as the compact parking will provide the City with sufficient leverage for preventing any issues. In short, there should be no problems or obtrusiveness associated with the proposal.

4. The granting of such a variance will not be contrary to the objectives of the General Plan.

Fact: The General Plan regards monopine-type wireless communication facilities and their appurtenances as acceptable structures. The Plan also places a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the City Code in an appropriate fashion. Because the proposal, as noted herein, meets these goals, the staff believes that this finding can be made as well. Lastly, as addressed herein, compact parking is allowed under the Conditional Use Permit process, provides reasonable flexibility in project/development design (which the General Plan calls for), and therefore could be considered to further the goals and objectives of the General Plan as well.

STAFF RECOMMENDATION:

The Planning staff recommends that the Planning Commission approve Applications CUP 10-010 and VAR 10-004 and the associated proposed Initial Study and the Negative Declaration of Environmental Impact (first attachment), subject to the proposed conditions of approval (second attachment).

EXHIBITS:

- A. 300-Foot Radius Map
- B. Area Map
- C. Project Plans and Photo Simulations (submitted under separate cover)

**CITY OF COVINA
APPLICATION CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT APPLICATION NO. 10-010
VARIANCE NO. 10-004
AS RECOMMENDED FOR APPROVAL TO THE PLANNING COMMISSION
ON OCTOBER 26, 2010**

The Conditional Use Permit shall authorize a) the construction and operation of an unmanned wireless communication facility (12 panel antennas on 3 sectors (4 antennas on each sector), with each antenna measuring approximately 1 foot by 4 feet in size; and 1 parabolic antenna, measuring approximately 2 feet in diameter) on a maximum 55-foot high monopine-type structure (measured to highest point of artificial branches) and associated equipment; and b) a maximum of 9 compact parking spaces at the western end of the northern row of parking on the property. The Variance shall permit the aforementioned wireless communication facility and the associated equipment to be located within a required 10-foot setback requirement in the front yard area or from the property line at Garvey Avenue.

1.0 TIME LIMIT:

- 1.1 The approval of the applications shall be subject to revocation one year from the date of the affirmation of the applications by the Planning Commission if the approved uses have not commenced.

2.0 GENERAL REQUIREMENTS:

- 2.1 Failure to comply with any conditions of approval noted herein shall be deemed just cause for revocation of project approval by the Planning Commission.
- 2.2 The wireless communication facility and appurtenances have been issued a Negative Declaration of Environmental Impact, pursuant to the California Environmental Quality Act (CEQA). This determination signifies that the project will not have a significant adverse impact on the environment. All documentation concerning the Negative Declaration of Environmental Impact is included as an attachment to these conditions of approval.
- 2.3 The wireless communication facility and its associated equipment shall be developed and operated in accordance with all design details as approved by the Planning Commission (notably concerning the appearance of the branch- and foliage-like features of the monopine-type structure), the approved plans on file with the City, all representations of record made by the applicant, the conditions contained herein, and the Covina Municipal Code (CMC) and Covina Design Guidelines (CDG) (except where provisions have been waived under the

appurtenant approval process). **Notwithstanding the above, the subsequent final or construction plans pertaining to the project (see condition 2.4 below) shall reflect certain minor clarifications to ensure that that the project proposal conforms to all applicable provisions of the CMC and the CDG.** Prior to completion of the approved improvements, all conditions of approval shall be complied with to the satisfaction of the City Planner or his/her designee.

- 2.4** Final or construction plans incorporating all conditions of approval and all plan-related changes required in the approval process shall be submitted for review to and approval by the City Planner or his/her designee prior to building permit issuance in conjunction with the Plan Check process of the Building Division (see condition 2.23 below). All construction/final plans and documents shall conform to the (revised) plans approved by the Planning Commission. **The construction/final plans shall further reflect in the appropriate areas the following minor clarifications to ensure that the wireless communication facility will conform to all applicable provisions of the CMC and the CDG:**
- a) a note indicating that (in addition to being painted to match the appurtenant features) the antennas, to the greatest extent practical, would be wrapped with branch-like features to further blend with the artificial foliage;**
 - b) a detail(s) illustrating that the equipment-associated enclosure would not encroach into the required 10-foot by 10-foot "corner cutback/line-of-sight" area relative to the existing/remaining, easterly driveway to ensure proper cross-visibility thereat (if necessary, the enclosure shall be moved in a westerly direction to meet this requirement);**
 - c) a note(s) indicating that the equipment-associated enclosure would consist of either decorative block features (conforming to existing block features on the property) or stucco-coated and properly capped materials (conforming to the existing building on the property);**
 - d) a note(s) indicating that the access gate of the equipment-associated enclosure would consist of solid metal materials, painted to match the appurtenant enclosure;**
 - e) a note(s) indicating that the identified "non-exclusive" (compact) parking space adjacent to the equipment would be fully accessible for the general public (in addition to being earmarked for service/repair technicians of the wireless communication facility);** and
 - f) a note(s) and/or depiction(s) that each compact parking space would be clearly stenciled "COMPACT" for proper identification.**
- In addition, the conditions of approval listed herein shall be printed upon the face of and included as part of the construction/final plans.

- 2.5** All equipment, equipment cabinets, and associated components concerning the wireless communication facility shall be kept within the area depicted and described in the (revised) approved project plans as the concrete block-composed equipment enclosure. In addition, the height of the equipment cabinets and any appurtenances (including any platforms) for the wireless communication facility shall not project above the highest level of the enclosure.

- 2.6** All related utility lines concerning the wireless communication facility shall be placed underground.
- 2.7** Landscape features that conform to the existing landscaping on the property and to the applicable City guidelines shall be installed around all sides of the wireless communication facility and the equipment enclosure (except in parking and walkway areas), as depicted on the project plans. In addition, any on-site tree(s) that would need to be removed to accommodate the project must be replaced by tree(s) of the same number, species, and size, unless granted otherwise by the Planning staff. The new landscape features shall further be fully integrated with and compatible with the existing automatic irrigation system on the property. Moreover, landscape and irrigation plans for and immediately around the areas where the new landscaping will be installed, addressing all applicable City requirements, shall be submitted to and approved by planning staff.
- 2.8** Any proposed changes in the existing exterior lighting on the property as a result of the communication facility-related project, including, but not limited to, the relocation of a light standard(s), shall first be reviewed by the Planning staff to ensure that the modified lighting would not generate any glare onto the surroundings and would conform to all applicable code requirements.
- 2.9** With the exception of the one existing parking space in the western-most portion of the parking lot (that will be removed to accommodate the equipment enclosure of the wireless communication facility), no parking stalls or vehicle access areas shall be removed under this application.
- 2.10** In accordance with Chapter 11.36 of the Covina Municipal Code, no street trees adjacent to the property shall be cut or trimmed in any manner by any persons associated with management, operational, or maintenance activities on the site without first obtaining a written permit from the Public Works Department.
- 2.11** In addition to obtaining approval from the City of Covina and all other applicable agencies regarding any future changes to the communication facility that is addressed under this Conditional Use Permit application, the applicant or the applicant's successor in interest a) shall make reasonable attempts to coordinate any change/modifications with any and all other communication facility operators on the site and with the appurtenant monopole and property owners and b) shall inform the owners of all abutting properties.
- 2.12** Under this approval, the initial zoning-related application pertaining to the project proposal that was reviewed by the Planning staff, application SPR 09-041, shall also be deemed to be granted by the City.

- 2.13** 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.
- 2.14** The City has the right of entry to inspect the premises to verify compliance with the conditions of approval and the Covina Municipal Code and the Covina Design Guidelines at any time.
- 2.15** 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 permit approval, 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.
- 2.16** 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.
- 2.17** If any provision of this grant is held or declared to be invalid, the entire approval shall be void and the privileges granted hereunder shall lapse.
- 2.18** The costs and expenses of any code enforcement activities, including, but not limited to, attorneys' fees, caused by applicant's violation of any condition imposed by the Conditional Use Permit or the Variance or any provision of the Covina Municipal Code or the Covina Design Guidelines shall be paid by the applicant and/or the property owner.
- 2.19** The installation of any security system that is associated with the project, as addressed under Chapter 8.20 of the Covina Municipal Code, shall first be coordinated with the Covina Police Department.
- 2.20** The establishment of a separate address for the wireless communication facility shall first be coordinated with the Engineering Division.

- 2.21 All construction must conform to the City Noise Ordinance, prohibiting construction between 8:00 p.m. and 7:00 a.m. on any day and on Sundays and legal holidays (except by special permit).
- 2.22 Any proposed new or modified 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 (contact the Building Division for specific requirements).
- 2.23 The following items are required in order to comply with the Building Division code requirements as they pertain to this proposal:
- 2.23.1 Please submit five sets of complete plans; two sets shall be **“stamped approved”** by the Covina Planning Division and shall include the Building Division’s comments for consultant review. This project must comply with the 2007 California Building Standards and the 2008 energy code. Projects that procure permits on or after January 2, 2011 will be required to comply with the 2010 California Building Standards. A separate permit is required for any demolition, grading, and/or construction. Additional structural details and complete plans will be required at Building Division submittal, including setbacks from existing buildings and property lines.
- 2.23.2 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.
- 2.23.3 This project must comply with Federal and State Accessibility requirements to and throughout the building. Please be prepared to provide details if tenant improvements are made.
- 2.23.4 Demolition and renovation 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.**

2.23.5 The Los Angeles County Fire Department may need 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. The main office is located at 5823 Rickenbacker Road, Commerce, CA, 90040-3027. The phone number is (323) 890-4125.**

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

2.23.6 Construction activity is prohibited between the hours of 8:00 pm and 7:00 am and on Sundays and legal holidays, unless otherwise permitted by the City.

2.23.7 The Building Division Plan Check process may address additional concerns.

2.24 The following items are required in order to comply with Environmental Services Division code requirements as they pertain to this proposal:

2.24.1 The applicant shall sign and copy Form "OC 1/Owner's Certification: Minimum BMPs For All Construction Sites (see attachment)" onto the field set of construction plans, and the original copy of the Form must be returned to the Environmental Services Division via the Building Division.

2.24.2 An Environmental Services-related plan review fee of forty dollars (\$40.00) shall be paid.

3.0 PRIOR TO THE GRANTING OF FINAL APPROVAL OF THE NEW, APPROVED USES OR THE COMMENCEMENT OF OPERATIONS OF THE NEW, APPROVED USES:

- 3.1 Referring to Chapter 17.59 of the Covina Municipal Code (Maintenance of Real Property), the property owner shall address the following maintenance issue/problems on the site:
 - 3.1.1 All graffiti shall be removed from the light standard in the front-central portion of the property, adjacent to the proposed monopine-type structure.
 - 3.1.2 The broken curbing shall be repaired or replaced on the western side of the parking space that is to be designated for "non-exclusive" use for communication system-associated service/repair technicians.
- 3.2 All building or structural and landscape improvements shall be constructed or installed in a good workmanlike manner, consistent with the standard best practices of the subject trades and in a manner acceptable to the City.
- 3.3 This permit shall not be effective until such time as the applicant and the property owner each obtain an Inspection and Verification Permit and the City Planner or his/her designee certifies on said permits that the premises and uses comply with all of the terms and conditions of this grant of approval.
- 3.4 This grant shall not be effective for any purposes until the applicant and the property owner have each filed at the office of the Planning Division their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.
- 3.5 Any and all new exterior lighting fixtures on the property associated with the wireless communication facility and/or its appurtenances shall be installed in accordance with plans on file with the Planning and Building Divisions and shall be fully operational. In general, site area illumination shall comply with the standards of the Covina Design Guidelines, which require a minimum of 1.0 foot-candle of illumination. Any exterior lighting shall match the design of the existing and new improvements on the site and shall not generate glare on adjacent properties.

4.0 THE APPROVED USES SHALL BE OPERATED IN ACCORDANCE WITH THE FOLLOWING:

- 4.1 Any general repair work and/or maintenance of the wireless communication facility shall conform to the City of Covina Noise Ordinance and to any other applicable provisions of the Covina Municipal Code.
- 4.2 The Planning Commission shall review the conditions of approval of the wireless communication facility and appurtenances on the site every ten (10) years. The cost associated with the review shall be paid by the wireless communication facility operator and/or the property owner.

- 4.3** The wireless communication facility shall comply with all radio frequency (RF) emission levels of the FCC at the time of initial operation and in perpetuity.
- 4.4** Upon request by the City or when an alteration should occur, such as co-location, the applicant shall submit to the Planning Division certification that the radio frequency (RF) emission levels across the portion of the electromagnetic spectrum used by this applicant continue to meet the FCC radio frequency levels. The cost associated with the review shall be paid by the applicant or the applicant's successor in interest.
- 4.5** The compact parking spaces that have been approved under the Conditional Use Permit application shall be intended for use by employees of the commercial office building on the property.
- 4.6** Any future outdoor storage on the property must conform to applicable City standards concerning location, screening, enclosure materials (if applicable), and related matters.
- 4.7** The site-, building-, communication system-, and landscape-related improvements on the site 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 the property owner pay the actual and reasonable cost for code compliance services needed to address any identified problem conditions.

**CEQA APPENDIX G:
ENVIRONMENTAL CHECKLIST FORM**

NOTE: The following is a sample form and may be tailored to satisfy individual agencies' needs and project circumstances. It may be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential impacts that are not listed on this form must also be considered. The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

1. Project title: Application nos. CUP 10-010 & VAR 10-004
2. Lead agency name and address: CITY OF COVINA - Planning Division
125 E. College St.
Covina, CA 91723
3. Contact person and phone number: Alan Carter (626) 384-5454
4. Project location: 1175 E. Garvey Ave., Covina, CA
5. Project sponsor's name and address: T-Mobile West Corporation
3257 E. Guasti Rd., #200
Ontario, CA 91761
6. General plan designation: General Commercial 7. Zoning: C-P (PCD)
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)
A. Construction and operation of monopole-type wireless communication facility and equipment plus installation of compact parking; and
B. Reduction in front yard setback of facility/equipment
9. Surrounding land uses and setting: Briefly describe the project's surroundings:
A. To north west - residential-detached houses
B. To south - various commercial & residential uses across Hwy 10 (Hwy 10) in West Covina.
C. To east - hotel and restaurant complex.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)
Federal Communications Commission (FCC)

(RE: CUP)
(RE: VAR)

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality |
| <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Alan Carter
Signature

10-4-10
Date

Signature

Date

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EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

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- 9) The explanation of each issue should identify:
- a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance

SAMPLE QUESTION

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>I. AESTHETICS.</u> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ND-5

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>IV. BIOLOGICAL RESOURCES:</u>				
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ND-6

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ND-7

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>VII. GREENHOUSE GAS EMISSIONS.</u>				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>VIII. HAZARDS AND HAZARDOUS MATERIALS.</u> Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NO-8

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. HYDROLOGY AND WATER QUALITY.

Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NO-9

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ND-10

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NO-U

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIV. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NO-12

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XVI. TRANSPORTATION/TRAFFIC.</u> Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ND-13

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. UTILITIES AND SERVICE SYSTEMS.				
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

ND-14

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino*, (1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors*, (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Revised 2009

ND-15

**INITIAL STUDY AND NEGATIVE DECLARATION – APPLICATIONS CUP 10-010
AND VAR 10-004 (1175 E. GARVEY AVE.)**

SECTION XIX. DISCUSSION OF ENVIRONMENTAL IMPACTS

1. AESTHETICS.

(a-d) *No Impact.* The site is presently used as a commercial office building. There are no scenic vistas of any significance and no scenic resources in the vicinity of the project. The wireless communication facility is proposed to take the shape of a pine tree, the equipment will be fully screened from the surroundings, and the compact parking would resemble existing parking conditions. Therefore, no aesthetic impacts will occur from the proposed project.

2. AGRICULTURE AND FORESTRY RESOURCES.

(a-e) *No Impact.* There are no agricultural or forest-associated resources or factors associated with the proposed project. The site is presently zoned for and developed as a commercial office building.

3. AIR QUALITY.

(a-e) *No Impact.* The City of Covina is currently exposed to emissions that are in excess of State and Federal Air Quality Standards for a majority of the year. The proposed installation and utilization of the wireless communication facility and equipment and the compact parking are anticipated to generate a negligible amount of short- and long-term emissions.

4. BIOLOGICAL RESOURCES.

(a-f) *No Impact.* The property currently is fully developed and used as a commercial office building. Furthermore, according to the Covina General Plan, the site is not within a biologically sensitive area. Therefore, there are no biological or sensitive resources associated with the project proposal.

5. CULTURAL RESOURCES.

(a-d) *No Impact.* As stated herein, the site is fully developed and used as a commercial office building. There are no known significant archeological or historical resources that would be impacted by the proposed project, as identified in the City's General Plan.

ND-16

6. GEOLOGY AND SOILS.

(a) *No Impact.* According to the Covina General Plan, the site is not located within a designated Special Studies Seismic Hazard Zone and does not lie over any other smaller earthquake faults. In addition, the property is relatively level.

(b-e) *No Impact.* The generally-flat site has been developed in its current use for more than 20 years, and, under the community's General Plan, does not lie over any geologically unstable soils.

7. GREENHOUSE GAS EMISSIONS.

(a-h) *No Impact.* The proposed (unmanned) wireless communication facility, its equipment, and compact parking (which would not result in an increase in overall parking for the site) would have a negligible impact pertaining to greenhouse gas emissions. And there would be no known conflicts with any plans pertaining to greenhouse gas reductions.

8. HAZARDS AND HAZARDOUS MATERIALS.

(a) *No Impact.* The proposal does not entail the transport, use, or disposal of hazardous materials that could create a risk of upset or a hazard to human health.

(b) *No Impact.* As a wireless communication facility, the project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or wastes.

(c) *No Impact.* Although the project site abuts an existing residential area, the proposed wireless communication facility will not result in hazardous emissions or involve the handling of hazardous wastes that would affect the area.

(d) *No Impact.* The site is not identified on the list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will not create a hazard to the public or the environment.

(e-f) *No Impact.* The site is not located within an airport land use plan or within the vicinity of a private airstrip.

(g) *No Impact.* The site is not a part of any adopted emergency response plan or emergency evacuation plan and, therefore, would not interfere with emergency response or evacuation.

(h) *No Impact.* The site is not located within or in close proximity to a wildland-related fire zone but, rather, is within an urbanized area surrounded by commercial and residential developments.

9. HYDROLOGY AND WATER QUALITY.

(a-f) *No Impact.* The proposed project involves no significant discharges of wastewater or the use of groundwater. Therefore, it will not violate any water quality standards or waste discharge requirements.

(g-j) *No Impact.* The proposed project is not located within a flood hazard-related area or within a mudflow-associated area. And the site is located over 40 miles away from the Pacific Ocean.

10. LAND USE AND PLANNING.

(a-c) *No Impact.* The monopine-type wireless communication facility and associated equipment would be located on an existing commercial-office property and would be sited and designed to be harmonious with the surroundings. Therefore, neither these facilities nor the generally innocuous, limited compact parking would in any way divide the community. The proposed project is consistent with General Plan policies and the intent of the Zoning Code. As the overall project is of a type and scope that would not have a significant, wide-ranging effect on the natural environment, it would not conflict with any habitat conservation or the conservation-oriented section of the Covina General Plan.

11. MINERAL RESOURCES.

(a-b) *No Impact.* No known mineral resources of value to the region and to the residents of the State have been identified within the project area, and the project would not consist of any elements that would have any effect on the resources located in outlying areas. The proposed project does not involve a site that is designated for resource recovery. Therefore, no impact to mineral resources would occur.

12. NOISE.

(a-b) *No Impact.* Construction of the project will not expose persons or neighbors to excessive noise in excess of local standards. And after the project is completed, neither the operation of the wireless communication facility and the associated equipment, nor the installation of compact parking, would generate any sounds above the existing ambient noise levels. Therefore, the proposed project would not generate noise levels or vibration in excess of the City's applicable standards. In sum, no noise impact would result from implementation of the proposed project.

13. POPULATION AND HOUSING.

(a-c) *No Impact.* The proposed project is located in a developed area and requires no significant changes to the local infrastructure for accommodation. The proposed project involves the installation of a wireless communication facility-associated apparatus and

compact parking only and, therefore, would not be replacing existing housing and people and, accordingly, would not necessitate the construction of replacement housing elsewhere.

14. PUBLIC SERVICES.

(a) *No Impact.* The proposed project appertains to the installation of a wireless communication system and compact parking. The type and scope of the project are not anticipated to have any effect upon or result in a need for new or altered public services or governmental facilities.

15. RECREATION.

(a-b) *No Impact.* The proposed project involving the installation of a wireless communication facility and equipment plus compact parking will not affect any existing recreational facilities. The site is presently fully developed as a commercial office building.

16. TRANSPORTATION/TRAFFIC.

a-f) *No Impact.* The proposed wireless communication system would be unmanned and would only require periodic service and maintenance by employees of the wireless provider and, therefore, would essentially not increase the number of vehicle trips or the volume to capacity ratio on the adjacent roads and would not exacerbate current conditions at surrounding intersections. In addition, the installation of the compact parking would not result in an increase or decrease in the total number of parking spaces on the property and, therefore, would not have any impacts on the surroundings concerning this topic either.

17. UTILITIES AND SERVICE SYSTEMS.

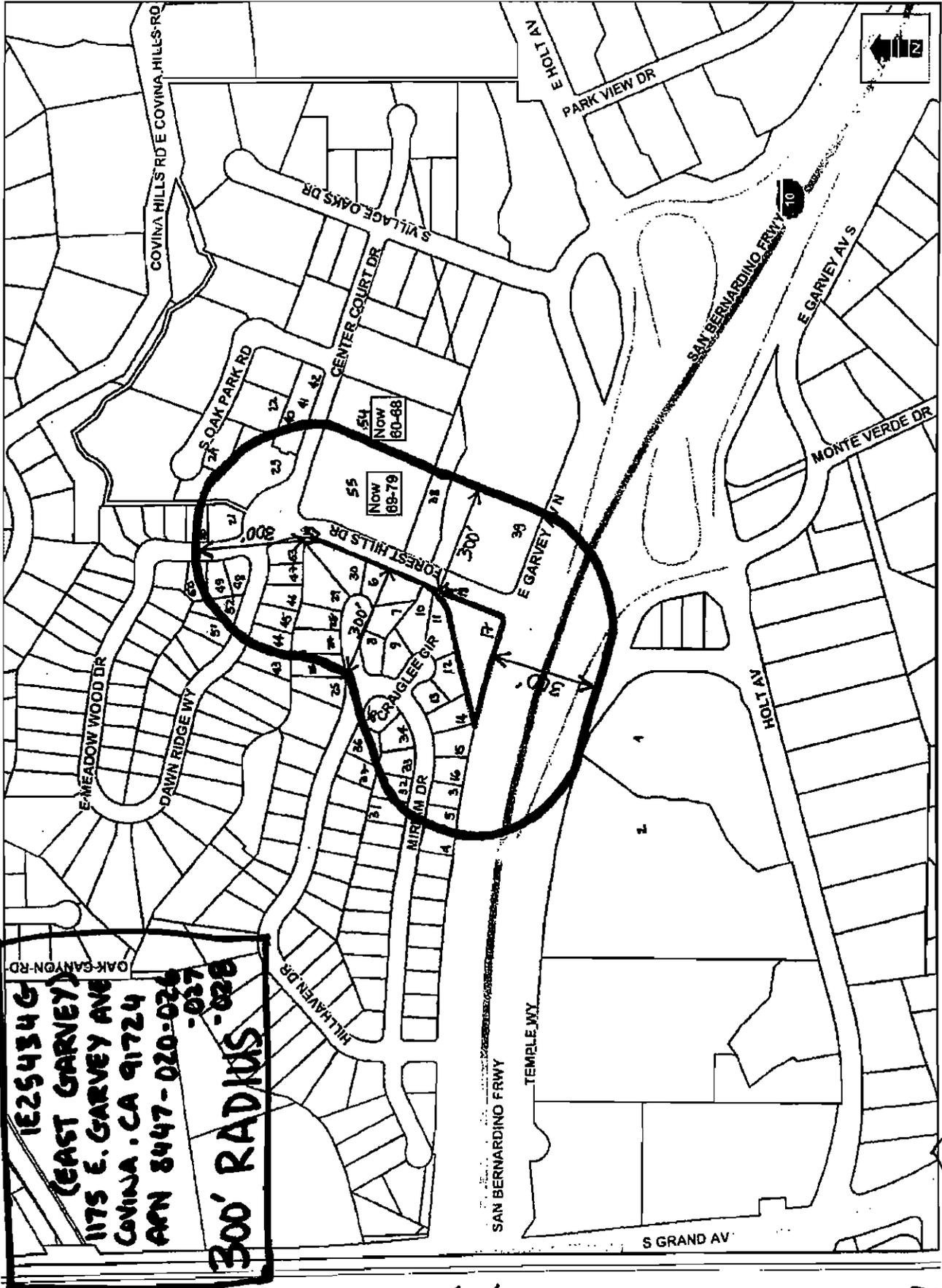
a-g) *No Impact.* No element of the proposed project would require new or modified utilities or service systems or (considering the submittal of a Variance application) would conflict with applicable laws at the different governmental levels.

18. MANDATORY FINDINGS OF SIGNIFICANCE.

(a-c) *No Impact.* Based upon the statements and substantiations provided in this Initial Study, the proposed project will not have any adverse impacts on the environment, either individually or cumulatively, and will not negatively affect human beings. Therefore, pursuant to Section 15070(a) of the California Environmental Quality Act (CEQA), a Negative Declaration will be prepared.

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300-FOOT RADIUS MAP



A-1

EXHIBIT A

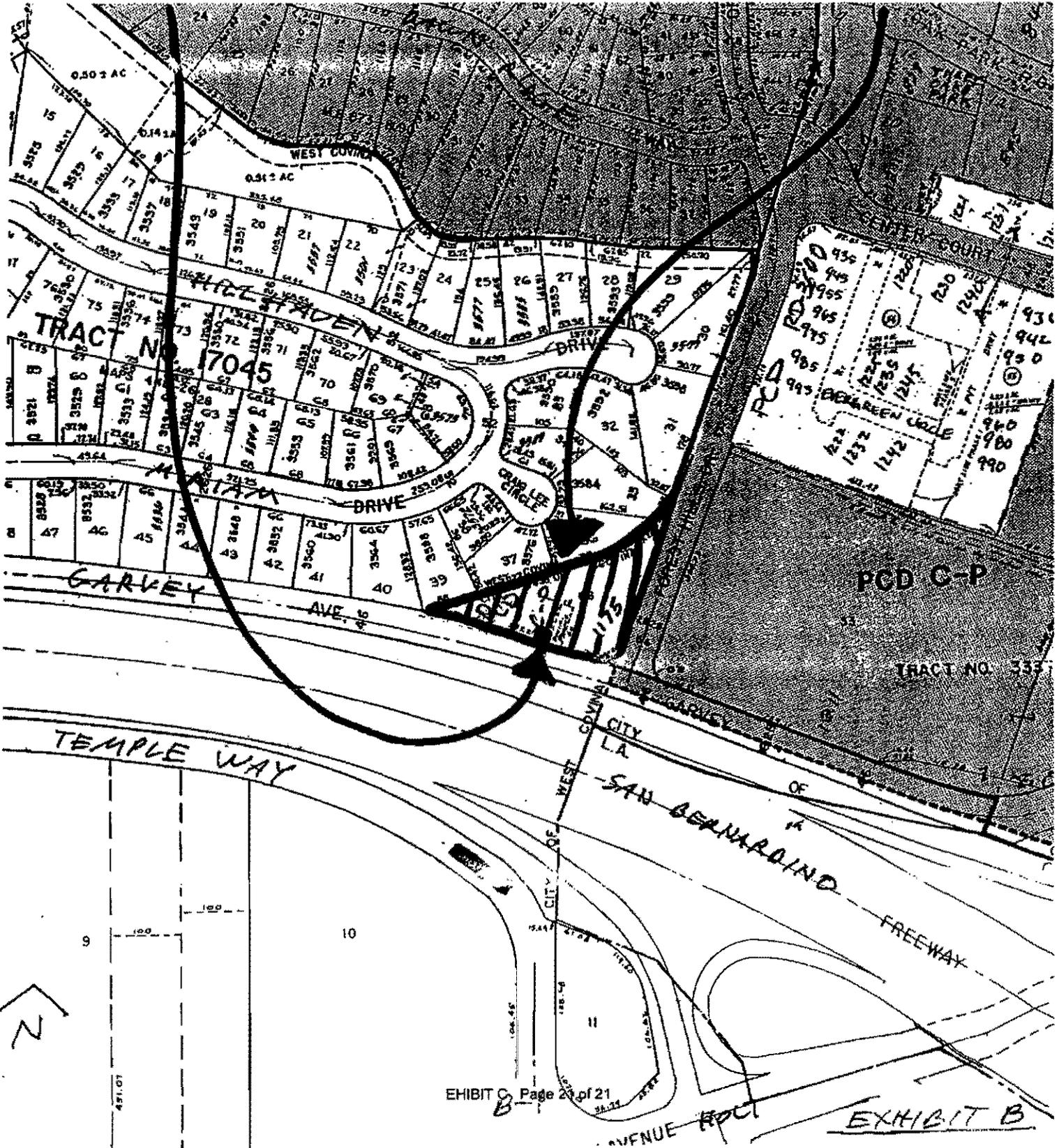
AREA MAP

1175 EAST GARVEY AVENUE

CUP 10-010 / VAR 10-004

Antenna Site

Subject Site

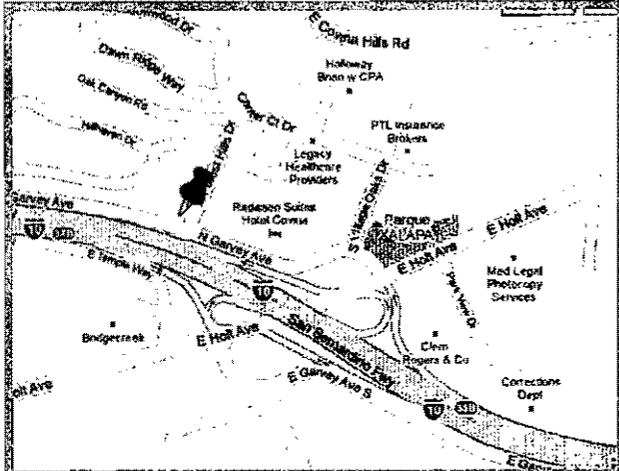


T-Mobile

IE25434G EAST GARVEY
1175 East Garvey Avenue
Covina, CA 91724

Prepared By:
IKUMA

SOUTHWEST ELEVATION



EXISTING



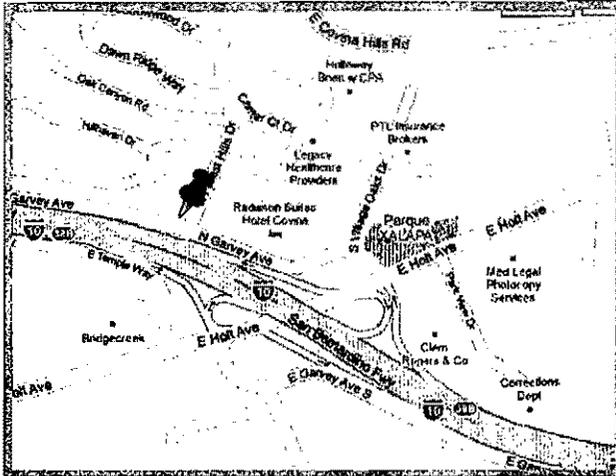
PROPOSED

T-Mobile

IE25434G EAST GARVEY
1175 East Garvey Avenue
Covina, CA 91724

Prepared By:
IKUMA

SOUTHEAST ELEVATION





CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: PH 4

STAFF SOURCE: Robert Neiuber, Director of Community Development *RN*
Shelby Williams, City Planner
Marc Blodgett, Housing Element Consultant

ITEM TITLE: Public Hearing to consider approval of the General Plan Amendment updating the City of Covina Housing Element and the related environmental document and resolutions.

STAFF RECOMMENDATION

- A. Open the Public Hearing and consider public testimony and close the Public Hearing.
- B. Adopt Resolution 10-6912 a Resolution of the City Council approving General Plan Amendment 08-001 updating the City of Covina Housing Element for the period of 2008-2014 and approving a Negative Declaration of Environmental Impact and Initial Study of the draft Housing Element. The policies and implementing programs contained in this Housing Element will serve as the City's blueprint in defining how the existing housing stock in Covina is to be maintained and conserved while facilitating new residential development in accordance with the State of California Planning and Zoning Laws and the regulations of Sections 65580 through 65589.5 of the California Government Code.

FISCAL IMPACT

None.

BACKGROUND

State law recognizes the vital role local governments play in the supply and affordability of housing. Each City Council in California is required to adopt a comprehensive, long-term General Plan for the physical development of the city. The Housing Element is one of the seven mandated elements of the local general plan. Housing Element law, enacted in 1969, mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The law acknowledges that, in order for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems which provide opportunities for, and do not unduly constrain, housing development. As a result, housing policy in the State rests largely upon the effective implementation of local general plans and, in particular, local housing elements.

Housing element law also requires the Department of Housing and Community Development (HCD) review local housing elements for compliance with State law and to report its written findings to the local government (see Exhibit E).

The Housing Element provides a planning tool for staff to use when evaluating land use issues and residential or mixed-use projects that come forward and facilitating housing for all segments

of the community. Although the City must plan for housing and accommodating the projected housing needs of all economic segments of the community, the Housing Element does not place any requirements on the City to build the housing. New housing starts are driven by market forces and housing demand.

In April 2008, the City retained Blodgett Baylosis Associates to prepare the Covina 2008-2014 Housing Element and the accompanying Negative Declaration of Environmental Impact and Initial Study. Staff, the Planning Commission, our consultant and HCD has worked on refining the Housing Element through discussion, public meetings, and public hearings over the last two years (See Exhibits C and D you can access the information on-line and download the files at http://www.covinaca.gov/index.php?option=com_content&view=category&layout=blog&id=188&Itemid=279). The Planning Commission approved the Housing Element and the related environmental documents at their November 9, 2010 Meeting and adopted the supporting resolution at their November 23, 2010 Planning Commission Meeting.

Environmental Impact:

A Revised Initial Study has been prepared to evaluate the environmental impacts of the City of Covina Draft Housing Element Update (see Exhibit B). There are no significant adverse impacts identified that would occur as a result of the draft Housing Element adoption and subsequent implementation. This is due to the fact that the four land use strategies may be accommodated through the implementation of existing land use policies and programs.

- *Strategy #1 – Continue to implement Amended General Plan land use policy for the areas designated for residential land uses.*
- *Strategy #2 – Continue to implement the Town Center Specific Plan.*
- *Strategy #3 – Promote the use of density bonuses for affordable housing.*
- *Strategy #4 – Continue to implement the provisions of the City's second unit ordinance.*

The Initial Study for the draft Housing Element indicates that the project is not expected to have significant adverse environmental impacts. As a result, the following findings can be made regarding the mandatory findings of significance set forth in Section 15065 of the CEQA (California Environmental Quality Act) Guidelines based upon the results of the environmental assessment of the draft Housing Element:

- The draft Housing Element will not have the potential to degrade the quality of the environment, with the implementation of the recommended standard conditions and mitigation measures.
- The draft Housing Element will not have the potential to achieve short-term goals to the disadvantage of long-term environmental goals with the implementation of the recommended standard conditions and mitigation measures.
- The draft Housing Element will not have impacts that are individually limited but cumulatively considerable when considering planned or proposed development in the immediate vicinity, with the implementation of the recommended standard conditions and mitigation measures.

- The draft Housing Element will not have environmental effects that will adversely affect humans, either directly or indirectly, with the implementation of the recommended standard conditions and mitigation measures.

Staff recommends Adoption of the Negative Declaration of Environmental Impact and Initial Study of the draft Housing Element and CEQA Addendum related to the Amendment of the City of Covina General Plan.

General Plan Amendment 08-001:

A general plan amendment is necessary for the following reasons:

1. To replace the existing Covina Housing Element adopted in August 1994 with the updated City of Covina Housing Element for the period of 2008-2014; and
2. To replace the existing TC-C Town Center Commercial designation presently indicated in the City of Covina General Plan with the Covina Town Center Specific Plan Land Use designations adopted by the City Council in November 2004. They are listed below:

TCSP-1	Health Services Focused Activity Area
TCSP-2	Residential Focused Activity Area
TCSP-3	Institutional Focused Activity Area
TCSP-4	Mixed-Use Focused Activity Area
TCSP-5	Retail and Service Core Focused Activity Area
TCSP-6	Parks and Open Space

In addition, the City's Housing Element must include the following components:

- a. Regional Housing Needs Assessment is determined by the Southern California Association of Governments (SCAG) for the various income groups for cities within the Southern California region. The SCAG Regional Housing Needs Assessment (RHNA) estimates the seven (7) year future housing construction need for Covina at 1,337 units.
- b. The Housing Element must address Covina's housing objectives/policies; they are as follows:
 - The City of Covina will promote the development of various types of dwelling units, at reasonable quantities, that are suitable for all economic segments.
 - The City of Covina, through comprehensive land use planning, will carefully evaluate and consider the site planning, distribution, urban design, and overall compatibility of new development, both internally and with the surrounding area.

- The City of Covina will continue in its efforts towards maintaining a high quality of life for the community's residents. In addition, the City will strive to maintain and preserve the affordable housing stock in the City and to make sure that all residential structures are legal, safe and maintained.
- The City will promote a climate where persons and households of all types and backgrounds are accommodated.
- The City will support a climate where all housing needs, particularly those needs of lower income, are acknowledged and where such needs are addressed to the greatest extent possible through viable and cost-effective programs and strategies.
- The City shall continue to promote the development of affordable housing for community residents.
- The City shall continue to support those efforts to aid those community members that are less fortunate and in need of emergency and/or transitional housing.

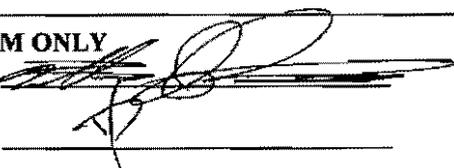
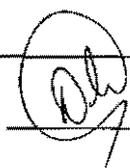
Sections 3.4 Housing Element Programs, 3.5 Program Implementation, and 3.6 Housing Strategy (found on pages 44-57 of Exhibit C), provide the outline of what staff needs to do and follow in order to implement the Housing Element. Staff recommends Adoption of General Plan Amendment 08-001 updating the City of Covina Housing Element for the period of 2008-2014.

RELEVANCE TO THE STRATEGIC PLAN

The Housing Element provides a roadmap of how Housing Development could proceed in Covina given the right Economic Conditions. It shows how Housing could enhance the financial stability of the City.

EXHIBITS

- A. Planning Commission Staff Report on the Housing Element dated November 9, 2010
- B. Initial Study dated October 2008 (Revised September 2010) and CEQA Addendum – On file with City Clerk
- C. Draft Housing Element dated November 15, 2010 – On file with City Clerk
- D. Draft Housing Element Appendices dated September 27, 2010 – On file with City Clerk
- E. Letter from the Department of Housing and Community Development dated 09-09-10
- F. Resolution 10-6912

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

CITY OF COVINA

STAFF REPORT

NOVEMBER 9, 2010

ITEM NUMBER 4

TO: PLANNING COMMISSION

FROM: ROBERT NEIUBER, COMMUNITY DEVELOPMENT DIRECTOR

COORDINATOR: SHELBY WILLIAMS, CITY PLANNER

**SUBJECT: APPLICATION GENERAL PLAN AMENDMENT 08-001
CITY OF COVINA 2008-2014 HOUSING ELEMENT**

APPLICANT:

City of Covina

REQUEST:

- a. Adoption of a Negative Declaration of Environmental Impact and Initial Study to ensure that decision-makers and the public understand the environmental implications of the draft Housing Element;
- b. Adoption of General Plan Amendment 08-001 updating the City of Covina Housing Element for the period of 2008-2014. The policies and implementing programs contained in this Housing Element will serve as the City's blueprint in defining how the existing housing stock in Covina is to be maintained and conserved while facilitating new residential development in accordance with the State of California Planning and Zoning Laws and the regulations of Sections 65580 through 65589.5 of the California Government Code.

LOCATION:

City-wide

GENERAL PLAN DESIGNATIONS:

RESIDENTIAL

- LDR- Low Density Residential (0-6 units per acre)
- MDR- Medium Density Residential (7-14 units per acre)
- HDR- High Density Residential (15-22 units per acre)

COMMERCIAL

- GC – General Commercial
- TC-C – Town Center Commercial

INDUSTRIAL

- GI - General Industrial

OTHER

- S – School
- P – Park
- OS- Open Space

NOTIFICATION:

A public hearing notice was published on October 21, 2010 in the San Gabriel Valley Examiner newspaper. As of the preparation of this report the City has received one response, written comments from the California Department of Housing and Community Development regarding the City's Draft Housing Element, dated September 9, 2010.

ENVIRONMENTAL DETERMINATION:

A Negative Declaration of Environmental Impact and Initial Study have been prepared to ensure that decision-makers and the public understand the environmental implications of the draft Housing Element.

BACKGROUND:

The Planning Commission may recall in April 2008 the City retained Blodgett Baylois Associates, Incorporated to prepare the Covina 2008-2014 Housing Element. In addition, Blodgett Baylois Associates prepared the accompanying Negative Declaration of Environmental Impact and Initial Study. It should also be noted that the draft Housing Element will apply throughout the City of Covina.

Finally, California State Law requires local governments to review and update their housing elements every five years. This draft Housing Element fulfills the requirements of the State of

California Planning and Zoning Laws and regulations of Sections 65580 through 65589.5 of the California Government Code.

For clarification on certain key aspects of the proposed Housing Element and Negative Declaration of Environmental Impact, the Commission may refer to the accompanying documents.

STAFF ANALYSIS:

Staff analysis is divided into three sections as they relate to the draft Housing Element; they are as follows:

Negative Declaration of Environmental Impact and Initial Study:

A Revised Initial Study has been prepared to evaluate the environmental impacts of the City of Covina Draft Housing Element Update. There are no significant adverse impacts identified that would occur as a result of the draft Housing Element adoption and subsequent implementation. This is due to the fact that the four land use strategies may be accommodated through the implementation of an amended General Plan and adopted Zoning Ordinances.

- *Strategy #1 – Continue to implement Amended General Plan land use policy for the areas designated for residential land uses.*
- *Strategy #2 – Continue to implement the Town Center Specific Plan.*
- *Strategy #3 – Promote the use of density bonuses for affordable housing.*
- *Strategy #4 – Continue to implement the provisions of the City's second unit ordinance.*

NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FINDINGS:

The Initial Study for the draft Housing Element indicates that the project is not expected to have significant adverse environmental impacts, with the implementation of the recommended mitigation measures. The following findings can be made regarding the mandatory findings of significance set forth in Section 15065 of the CEQA (California Environmental Quality Act) Guidelines based upon the results of the environmental assessment of the draft Housing Element:

- The draft Housing Element will not have the potential to degrade the quality of the environment, with the implementation of the recommended standard conditions and mitigation measures included in herein.
- The draft Housing Element will not have the potential to achieve short-term goals to the disadvantage of long-term environmental goals with the implementation of the recommended standard conditions and mitigation measures referenced herein.

- The draft Housing Element will not have impacts that are individually limited but cumulatively considerable when considering planned or proposed development in the immediate vicinity, with the implementation of the recommended standard conditions and mitigation measures contained herein.
- The draft Housing Element will not have environmental effects that will adversely affect humans, either directly or indirectly, with the implementation of the recommended standard conditions and mitigation measures contained herein.

General Plan Amendment 08-001:

The City has determined that a general plan amendment is necessary for the following reasons:

1. To replace the existing Covina Housing Element adopted in August 1994 with the updated City of Covina Housing Element for the period of 2008-2014; and
2. To replace the existing TC-C Town Center Commercial designation presently indicated in the City of Covina General Plan with the Covina Town Center Specific Plan Land Use designations adopted by the City Council in November 2004. They are listed below:

TCSP-1	Health Services Focused Activity Area
TCSP-2	Residential Focused Activity Area
TCSP-3	Institutional Focused Activity Area
TCSP-4	Mixed-Use Focused Activity Area
TCSP-5	Retail and Service Core Focused Activity Area
TCSP-6	Parks and Open Space

In addition, the City's Housing Element must include the following components:

- a. Regional Housing Needs Assessment is determined by the Southern California Association of Governments (SCAG) for the various income groups for cities within the Southern California region. The SCAG Regional Housing Needs Assessment (RHNA) estimates the seven (7) year future housing construction need for Covina at 1,337 units.
- b. The Housing Element must address Covina's housing objectives/policies; they are as follows:
 - The City of Covina will promote the development of various types of dwelling units, at reasonable quantities, that are suitable for all economic segments.
 - The City of Covina, through comprehensive land use planning, will carefully evaluate and consider the site planning, distribution, urban

design, and overall compatibility of new development, both internally and with the surrounding area.

- The City of Covina will continue in its efforts towards maintaining a high quality of life for the community's residents. In addition, the City will strive to maintain and preserve the affordable housing stock in the City and to make sure that all residential structures are legal, safe and maintained.
- The City will promote a climate where persons and households of all types and backgrounds are accommodated.
- The City will support a climate where all housing needs, particularly those needs of lower income, are acknowledged and where such needs are addressed to the greatest extent possible through viable and cost-effective programs and strategies.
- The City shall continue to promote the development of affordable housing for community residents.
- The City shall continue to support those efforts to aid those community members that are less fortunate and in need of emergency and/or transitional housing.

During staff's review of the draft Housing Element, we identified some deficiencies and we have the following comments:

- a. The 90-unit Condominium "Vintage Walk" development, Phase #1 consisted of 60 condominium units 2-3 bedrooms with a maximum floor area of 1,563 square feet; and Phase #2 proposed construction of 30 condominium units 2, 3, and 4 bedrooms with a maximum floor area of 1,561 square feet. (The information on page 30 should be corrected).
- b. Projects appealed to the City Council get priority scheduling and fees for appeals range from \$1465 to \$ 1,554. (The information on page 32 should be corrected).
- c. Applications for Site Plan Review or Tentative Parcel Maps are first reviewed by the Planning Division and other agencies... (The information on page 33 should be corrected).
- d. The City will be adopting the 2010 California Building Standards and 2010 California Residential Code, etc which establishes minimum construction standards as applied to all residential buildings. (The information on page 34 should be corrected).

Letter dated September 9, 2010 from the California Department of Housing and Community Development:

Staff would ask the Planning Commission to review the latest comments from HCD regarding the City's Revised Draft Housing Element. Our consultant will describe the additional revisions that were submitted to HCD.

In conclusion, staff believes this draft Housing Element scope and contents fulfills the requirements of State Law.

STAFF RECOMMENDATION:

That the Planning Commission recommend to the City Council adoption of the Negative Declaration of Environmental Impact and the approval of General Plan Amendment 08-001 and the approval of the Draft Housing Element Update.

Attachments:

- Initial Study dated October 2008 (Revised September 2010)
- Draft Housing Element dated September 27, 2010
- Draft Housing Element Appendices dated September 27, 2010
- Letter from the Department of Housing and Community Development dated 09-09-10

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177 / FAX (916) 327-2643
www.hcd.ca.gov



September 9, 2010

Mr. Robert Neiuber, Director
Community Development Department
City of Covina
125 East College Street
Covina, CA 91723

Dear Mr. Neiuber:

RE: Review of the City of Covina's Revised Draft Housing Element

Thank you for submitting Covina's revised draft housing element received on July 13, 2010 along with additional revisions on September 9, 2010. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). Communications with you and your consultant, Mr. Marc Blodgett of Blodgett/Baylosis Associates facilitated the review.

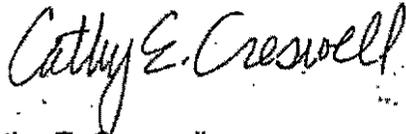
The revised draft addresses the statutory requirements described in the Department's June 1, 2009 review. For example, the element now analyzes potential constraints on the development of housing. The element will comply with State housing element law (Article 10.6 of the Government Code) when adopted and submitted to the Department, pursuant to Government Code Section 65585(g).

The City has a remaining regional housing need of 545 units for lower-income households. Capacity in Sub-area 4 of the Town Center Specific Plan (Appendix A) at appropriate densities to encourage housing for lower-income households and Program 3.4.1.2 to encourage lot consolidation and redevelopment are necessary to demonstrate adequate sites to accommodate the regional housing need for lower-income households. For example, without residential capacity in Sub-area 4, the element would no longer demonstrate adequate sites. This leaves no capacity or flexibility to account for changes in or for developments which vary in capacity from what is anticipated in the land inventory. As a result, the City must monitor and report on the effectiveness of the area and Program 3.4.1.2 in accommodating the housing need for lower-income households through the annual progress report, required pursuant to Government Code Section 65400. Should monitoring reveal the area or Program are not effective in addressing the regional housing need for lower-income households, the element should be amended to identify additional sites at appropriate densities and add or revise programs, as appropriate.

Mr. Robert Neiuber, Director
Page 2

The Department appreciates your effort and cooperation throughout the course of the review and looks forward to receiving Covina's adopted housing element. If you have any additional questions, please contact Paul McDougall, of our staff, at (916) 322-7995.

Sincerely,

A handwritten signature in cursive script that reads "Cathy E. Creswell". The signature is written in black ink and is positioned above the typed name.

Cathy E. Creswell
Deputy Director

RESOLUTION NO. 10-6912

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF COVINA, CALIFORNIA APPROVING GENERAL
PLAN AMENDMENT 08-001 ADOPTING THE 2008-2014
HOUSING ELEMENT OF THE GENERAL PLAN AND
ADOPTING A NEGATIVE DECLARATION OF
ENVIRONMENTAL IMPACT FOR SAID HOUSING
ELEMENT**

WHEREAS, State law requires all city and county general plans to include a housing element, and further requires that the housing element be updated regularly to reflect current conditions and legal requirements; and

WHEREAS, the City of Covina has an adopted General Plan which includes a Housing Element adopted by the City Council on August 3, 1994; and

WHEREAS, cities and counties within the Southern California Association of Governments region are required to have an updated housing element covering the 2008-2014 planning period; and

WHEREAS, the Draft 2008-2014 Housing Element has been reviewed by the State Department of Housing and Community Development and found to be in compliance with State Law; and

WHEREAS, on November 9, 2010, the Planning Commission held a duly-noticed public hearing and considered evidence prepared by staff and the City Attorney's office and public testimony concerning the proposed 2008-2014 Housing Element; and

WHEREAS, on November 23, 2010, the Planning Commission, after considering the record, recommended approval of the 2008-2014 Housing Element.

WHEREAS, on November 18, 2010, the City gave public notice of the consideration of General Plan Amendment 08-001 by advertising in a newspaper of general circulation; and

WHEREAS, on December 7, 2010, the City Council held a duly-noticed public hearing and considered evidence prepared by staff and the City Attorney's office and public testimony concerning the proposed 2008-2014 Housing Element;

WHEREAS, at the public hearing on December 7, 2010 the City Council also considered and heard public comments on a Negative Declaration for the Housing Element.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINA DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1. CEQA: The Covina City Council hereby finds, based on consideration of the whole record before it, the Initial Study and documents incorporated therein, the proposed Negative Declaration of Environmental Impact (“Negative Declaration”), comments received thereon, and testimony heard at the public hearing, as follows:

1. **Compliance with Law:** That the Initial Study and Negative Declaration were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), the CEQA Guidelines (14 California Code of Regulations Section 15000 *et seq.*); and
2. **Review Period:** That the City provided a public review period for the Negative Declaration that was not less than 20 days, commencing on October 18, 2010 and ending on November 9, 2010. During the public review period, the City received no written comments concerning the Negative Declaration; and
3. **Independent Judgment:** That the Negative Declaration reflects the independent judgment and analysis of the City; and
4. **No Significant Effect:** There is no substantial evidence that the proposed project will have a significant effect on the environment.

SECTION 2. GENERAL PLAN: The City Council hereby finds that the General Plan Amendment is compatible with the objectives, policies, and general plan land use programs specified in the General Plan for the City of Covina in that:

1. The City of Covina has officially adopted a General Plan.
2. The goals, policies, and programs in the Draft 2008-2014 Housing Element, are compatible with the objectives, policies, general land uses, and programs specified in the General Plan.
3. The Draft 2008-2014 Housing Element is internally consistent and is consistent with the other elements of the General Plan because the goals, policies, and programs are interrelated and are intended to work together.
4. The General Plan Amendment will not adversely affect the public health, safety, and welfare in that the goals, policies, and programs in the Draft 2008-2014 Housing Element are consistent with the other elements of the General Plan, including but not limited to the Land Use Element.

SECTION 3. LOCATION OF DOCUMENTS: The Draft 2008-2014 Housing Element and related Initial Study/Negative Declaration are on file and available for public review at Covina City Hall, 125 E. College Street, Covina, California 91723. The Community Development Director is the custodian of these documents.

SECTION 4. CITY COUNCIL ACTIONS: The City Council hereby takes the following action:

1. Approve the Negative Declaration and direct the Community Development Director to file with the Clerk of the County of Los Angeles a Notice of Determination.
2. Approve General Plan Amendment 08-001 for the 2008-2014 Housing Element.

PASSED, APPROVED AND ADOPTED this 7th day of December, 2010.

Mayor

ATTEST:

Deputy City Clerk

APPROVED AS TO FORM;

City Attorney

CERTIFICATION

I, Catherine LaCroix, Deputy City Clerk of the City of Covina, hereby CERTIFY that Resolution No. 10-.... was adopted by the Covina City Council at a regular meeting of the City Council held (mtg date), and was approved and passed by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Catherine LaCroix
Deputy City Clerk

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: NB 1

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

ITEM TITLE: Demonstration of Downtown Covina Base Circulation Computer Model .

STAFF RECOMMENDATION

Receive demonstration of Downtown Covina Base Circulation Computer Model.

FISCAL IMPACT

This project (#T0814B / 4316-4350-02) is funded through a combination of Federal SAFETEA-LU High Priority Project Funds and local Proposition A transportation funds. Accordingly, there is no effect on the City General Fund.

BACKGROUND

On July 6, 2010 the Covina City Council awarded a contract for City project T0814B to Advantec Consulting Engineers with Alta Planning and Design as a subcontractor. The funds were awarded to the City of Covina to complete a transportation planning study to “improve the efficiency of transportation facilities” in Covina near the Metrolink Station. Specifically, the project was to focus on pedestrian, bicycle and vehicle circulation and interactions along Citrus Avenue from Cypress Boulevard to Badillo Street.

The purpose of this demonstration of the Downtown Covina Base Circulation Model is to update the Covina City Council on the progress of this project and to solicit City Council commentary on the current 2010 base model that has been developed with vehicle, bicycle and pedestrian counts that were taken on Thursday, September 30, 2010 and Saturday, October 2, 2010. The consultants have collected information on projected development in the area and growth projection ratios. Using this information the consultants can then project the base model forward to the year 2017 and model probable circulation and congestion patterns. With this information, transportation engineers can suggest goals and objectives in the area to develop a transportation-oriented town center that promotes pedestrian and bicycle use while mitigating the effects of future growth on congestion patterns.

RELEVANCE TO THE STRATEGIC PLAN

This item is directly related to the City’s three year goal of “becoming an environmentally sustainable community” by providing concrete data for advance planning in a manner appropriate

for Downtown Covina, which is designated by the Southern California Association of Governments (SCAG) as a Strategic Opportunity Area for sustainable development and regional mobility. In addition, Downtown Covina is designated as a Transit Priority Project Area by California Senate Bill 375 (SB375). This item is also related to the City's three year goal of "enhancing financial stability" by developing the data necessary to promote sustainable development in Downtown Covina which assists developers in taking advantage of incentives in SB375.

EXHIBITS

None

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

COVINA PUBLIC FINANCING AUTHORITY

AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: NB 2

STAFF SOURCE: Dilu de Alwis, Finance Director ✓
Steve Henley, Public Works Director

ITEM TITLE: Consideration of Authorizing the Issuance of Water Revenue Bonds and Other Related Official Actions.

STAFF RECOMMENDATION

That the City Council/Board of Directors of the Covina Public Financing Authority;

- a. Adopt **Resolution No. 10-6915** , authorizing proceedings and agreements relating to the financing of water system improvements, approving issuance and sale of bonds by the Covina Public Financing Authority, approving an official statement and authorizing official actions; and
- b. Adopt **Resolution No. 10-10**, of the Covina Public Financing Authority authorizing the issuance of its water revenue bonds in one or more series in an aggregate principal amount of not to exceed \$15,000,000 in connection with the financing of certain improvements of benefit of the water system of the City of Covina, authorizing and directing execution of an indenture of trust, an installment purchase agreement and an agency agreement authorizing the sale of the bonds, approving a bond purchase agreement and an official statement, and authorizing official actions and execution of related documents.

FISCAL IMPACT

Estimate cost of issuance of \$15.0 million of revenue bonds to finance infrastructure improvements of the water system is about \$280,000 but may be higher if bond insurance is cost effective. Level debt service payments for this tax exempt issue fixed rate financing are estimated to be \$1.1 million over 30 years. The issuance costs will be included within the bond amounts and will be paid with bond proceeds. The debt service payments will be budgeted annually and will be funded by the Water Fund (fund 6010) through annual water sales. Accordingly, the recommendations will not have a negative impact on the General Fund.

BACKGROUND

Bond Rating and Insurance

At the City Council's regular meeting of August 17, 2010, the Council approved a Financing Team and directed staff to begin the process of issuing water revenue bonds. Accordingly the Financing Team developed and has submitted a rating request from Standard & Poor's and Moody's Investor Service on the following parameters;

- Fund approximately \$12.4 million in capital projects.
- Refund the 1999 Certificates of Participation
- Debt Service Coverage is maintained above 1.25x minimum

Method of Sale

Initially the financing team recommended that the bonds be sold on a competitive sale. Due to volatility in the municipal bond market, the finance team is recommending that the City retain two bond underwriting firms, De La Rosa & Company and Fidelity Capital Markets. The finance team believes that having the flexibility to sell bonds during a favorable day in the market and having the wider distribution capabilities of the two firms will enhance the City's potential to sell the bonds at the lowest interest cost.

RELEVANCE TO THE STRATEGIC PLAN

Financial stability and becoming an environmentally sustainable community requires the improvement of the water infrastructure. These components are part of the three-year goals for the City of Covina.

EXHIBITS

- A. Resolution 10-6915
- B. Resolution 10-10
- C. Indenture of Trust (on file with the City Clerk)
- D. Installment Purchase Agreement (on file with the City Clerk)
- E. Agency Agreement (on file with the City Clerk)
- F. Preliminary Official Statement (on file with the City Clerk)
- G. Bond Purchase Contract (on file with the City Clerk)
- H. Escrow Deposit and Trust Agreement (on file with the City Clerk)
- I. Capital Projects to be funded with proposed bond proceeds
- J. Accounting of Bond Proceeds

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: <u><i>Michael...</i></u>
City Manager: <u><i>[Signature]</i></u>	Other: _____

RESOLUTION NO. 10-6915

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA AUTHORIZING PROCEEDINGS AND AGREEMENTS RELATING TO THE FINANCING AND REFINANCING OF WATER SYSTEM IMPROVEMENTS, APPROVING ISSUANCE AND SALE OF BONDS BY THE COVINA PUBLIC FINANCING AUTHORITY, APPROVING AN OFFICIAL STATEMENT AND AUTHORIZING OFFICIAL ACTIONS

WHEREAS, the Covina Public Financing Authority (the "Authority") is a joint exercise of powers authority formed pursuant to a Joint Exercise of Powers Agreement by and between the City of Covina (the "City") and the Redevelopment Agency of the City of Covina (the "Agency") and is authorized under said Agreement and under the laws of the State of California to finance the acquisition and construction of public capital improvements for the City and the Agency; and

WHEREAS, the City desires to finance certain improvements to its water system, specifically the (the "2010 Project") through the issuance of the Authority's 2010 Water Revenue Bonds (the "2010 Bonds"), secured in part by the payment of installment payments under an Installment Purchase Agreement, dated as of December 1, 2010, by and between the Authority and the City (the "Agreement"); and

WHEREAS, the City also desires to refund and cause the prepayment of its \$2,925,000 original principal amount of City of Covina Refunding Certificates of Participation (1999 Water System Project) (the "1999 Certificates"); and

WHEREAS, to finance the 2010 Project and prepay the 1999 Certificates, the Authority proposes to issue its 2010 Water Revenue Bonds in an aggregate original principal amount of not to exceed \$15,000,000 (the "Bonds") under the provisions of Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), which are proposed to be payable in part from installment payments to be paid to the Authority by the City pursuant to a an installment purchase agreement (the "Installment Purchase Agreement"); and

WHEREAS, a portion of the proceeds of the Bonds will be applied by the Authority and the City for the construction and acquisition of the 2010 Project pursuant to an Agency Agreement, by and between the City and the Authority, pursuant to which the City will construct the project pursuant to the Agency Agreement; and

WHEREAS, a portion of the proceeds of the Bonds will be deposited in an escrow established under an Escrow Deposit and Trust Agreement (the "Escrow Agreement") and used to prepay the installment payments to be made under the 1999 Installment Sale Agreement, and to defease and prepay the 1999 Certificates; and

WHEREAS, in order to maintain the maximum flexibility in the sale of the Bonds during the current fluctuating conditions in the municipal bond market, the Authority has determined to authorize that the Bonds be offered for sale on a negotiated basis to E.J. De La

Rosa, as Underwriter, and Fidelity Capital Markets as co-manager (together, the "Underwriter"); and

NOW THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED that the City Council of the City of Covina as follows:

Section 1. Findings with Respect to Use of Proceeds and Pledge of Revenues.

(a) The City Council finds and determines that it is in the prudent management of the fiscal affairs of City to assist the Authority with the issuance of the Bonds and to defease and prepay the 1999 Certificates.

(b) Pursuant to the Act, the City Council hereby finds that the issuance of the Bonds by the Authority will result in savings in effective interest rates, underwriting costs and bond insurance costs and thereby result in significant public benefits pursuant to Section 6586 of the Act.

Section 2. Approval of Bonds. The City Council hereby approves of the issuance of the Bonds by the Authority under and pursuant to the Act provided that the maximum aggregate principal amount of the Bonds shall not exceed \$15,000,000.

Section 3. Approval of Financing Documents. The City Council hereby approves each of the following documents in substantially the respective forms on file with the City Clerk, together with such additions thereto and changes therein as the Bond Counsel shall deem necessary, desirable or appropriate, the execution of which by the Mayor, the City Manager, or the Finance Director shall be conclusive evidence of the approval of any such additions and changes.

(a) the Installment Purchase Agreement relating to the installment purchase of the 2010 Project by City from the Authority;

(b) the Escrow Agreement; and

(c) the Agency Agreement, by and between the Authority and the City.

The Mayor, the City Manager, or the Finance Director are hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of City to, the final forms of each of the above-mentioned documents for and in the name and on behalf of City.

Section 4. Award of Sale of Bonds; Final Terms of Bonds. The City Council hereby authorizes the sale of the Bonds at a negotiated sale with the Underwriter, pursuant to and consistent with the terms and conditions of this resolution; provided that the terms of the Bonds are hereby established as follows: (i) the final principal amount of the Bonds shall not exceed \$15,000,000 in the aggregate; and (ii) the true interest cost on the Bonds shall not exceed 6.00%.

Section 5. Purchase Contract. The form of Purchase Contract, as presented to this meeting, among the City, the Authority and the Underwriter and the sale of the Bonds pursuant thereto upon the terms and conditions set forth therein in the event of a negotiated sale is hereby approved. Subject to such approval and subject to the provisions of Section 4 hereof,

in the event of a negotiated sale of the Bonds, the City Manager or his designee is hereby authorized and directed to evidence the City's acceptance of the offer made by the Purchase Contract by executing and delivering the Purchase Contract in substantially the form presented to this meeting with such changes therein as the officer executing the same may approve and such matters are as authorized by Section 4 hereof, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. Official Statement; Continuing Disclosure. The City Council approves the preparation of, and hereby authorizes the City Manager or the Finance Director to deem final within the meaning of Rule 15c2-12 of the Securities and Exchange Commission except for permitted omissions, a preliminary form of Official Statement describing the Bonds. Distribution of such preliminary Official Statement is hereby approved. The City Manager or the Finance Director is hereby authorized to execute the final Official Statement in the name and on behalf of City, including any modifications resulting from additions thereto and changes therein as the City Manager shall deem necessary, desirable or appropriate, with the execution of the final Official Statement by the City Manager or the Finance Director to be conclusive evidence of the approval of any such additions and changes. The City Council hereby authorizes the distribution of the final Official Statement. The City Manager or the Finance Director is further authorized to sign on behalf of City a continuing disclosure certificate with respect to the Bonds, in such form as may be approved by Bond Counsel.

Section 7. Bond Counsel. Best Best & Krieger LLP is hereby appointed as Bond Counsel with respect to the issuance of the Bonds.

Section 8. Official Actions. The Mayor, the Vice Mayor, the City Manager, the Finance Director and the City Clerk and any and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, including obtaining a rating on the Bonds and/or a municipal bond insurance policy, and including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the transactions as described herein in connection with the issuance and sale of the Bonds.

Section 9. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

ADOPTED this 7th day of December, 2010.

Mayor, City of Covina

ATTEST:

City Clerk

CERTIFICATION

I, Toni Taber, City Clerk of the City of Covina hereby certify that the foregoing resolution was adopted by the City Council at a regular meeting thereof held on the 7th day of December, 2010, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Covina this _____ day of _____, 2010.

City Clerk

(SEAL)

RESOLUTION NO. 10-10

RESOLUTION OF THE BOARD OF DIRECTORS OF THE COVINA PUBLIC FINANCING AUTHORITY AUTHORIZING THE ISSUANCE OF ITS WATER REVENUE BONDS IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$15,000,000 IN CONNECTION WITH THE FINANCING OF CERTAIN IMPROVEMENTS OF BENEFIT TO THE WATER SYSTEM OF THE CITY OF COVINA AUTHORIZING AND DIRECTING EXECUTION OF AN INDENTURE OF TRUST, AN INSTALLMENT PURCHASE AGREEMENT AND AN AGENCY AGREEMENT, AUTHORIZING THE SALE OF THE BONDS AND AN OFFICIAL STATEMENT AND AUTHORIZING OFFICIAL ACTIONS AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, the Covina Public Financing Authority (the "Authority") has been formed pursuant to a Joint Exercise of Powers Agreement by and among the City of Covina (the "City") and the Redevelopment Agency of the City of Covina (the "Agency") and is authorized under said Agreement and under the laws of the State of California to finance the acquisition and construction of public capital improvements for the City and the Agency; and

WHEREAS, the City has requested the Authority to issue its bonds for the purpose of providing funds to enable the City to finance certain improvements of benefit to the water system of the City (the "2010 Project"); and

WHEREAS, the City also desires to refund and cause the prepayment of its \$2,925,000 original principal amount of City of Covina Refunding Certificates of Participation (1999 Water System Project) (the "1999 Certificates"); and

WHEREAS, to finance the 2010 Project and to prepay the 1999 Certificates, the Authority proposes to issue its revenue bonds in one or more series in an aggregate principal amount of not to exceed \$15,000,000 (the "Bonds") under the provisions of Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), which are proposed to be payable from the revenues to be derived by the Authority from installment payments to be made by the City pursuant to an installment purchase agreement (the "Installment Purchase Agreement"); and

WHEREAS, a portion of the proceeds of the Bonds will be deposited in an escrow established under an Escrow Deposit and Trust Agreement (the "Escrow Agreement") and used to prepay the installment payments to be made under the 1999 Installment Sale Agreement, and to defease and prepay the 1999 Certificates; and

WHEREAS, in order to maintain the maximum flexibility in the sale of the Bonds during the current fluctuating conditions in the municipal bond market, the Authority has determined to authorize that the Bonds be offered for sale on a negotiated basis to E.J. De La Rosa, as Underwriter, and Fidelity Capital Markets as co-manager (together, the "Underwriter"); and

WHEREAS, the Board of the Authority (the "Board") has duly considered such transactions and has determined that it approves said transactions in the public interests of the City and the Authority;

THEREFORE, BE IT RESOLVED by the Board of the Covina Public Financing Authority to adopt as follows:

Section 1. Findings and Determinations. Pursuant to the Act, the Board hereby finds and determines that the issuance of the Bonds will result in savings in effective interest rates, bond underwriting costs and bond issuance costs and thereby result in significant public benefits within the contemplation of Section 6586 of the Act.

Section 2. Issuance of Bonds. The Board hereby authorizes the issuance of the Bonds in one or more series under and pursuant to the Act, in the maximum aggregate principal amount not to exceed \$15,000,000.

Section 3. Approval of Financing Documents. The Board hereby approves each of the following documents in substantially the respective forms on file with the Secretary, together with such additions thereto and changes therein as Bond Counsel shall deem necessary, desirable or appropriate, the execution of which by the Chair, the Vice Chair or the Executive Director shall be conclusive evidence of the approval of any such additions and changes:

- (1) the Indenture of Trust relating to the issuance of the Bonds by and between U.S. Bank National Association (the "Trustee") and the Authority;
- (2) the Installment Purchase Agreement relating to the installment purchase of the 2010 Project and the refinancing of the 1999 Certificates by the City from the Authority;
- (3) the Agency Agreement by and between the Authority and the City; and
- (4) the Escrow Agreement.

The Chair, the Vice Chair, the Executive Director or the Treasurer (each an "Authorized Officer") are hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the Authority to the final form of each of the foregoing documents and agreements for and in the name and on behalf of the Authority. The Board hereby authorizes the delivery and performance of each of the foregoing documents and agreements.

Section 4. Award of Sale of Bonds; Final Terms of Bonds. The Board hereby authorizes the sale of the Bonds at negotiated sale with the Underwriter pursuant to and consistent with the terms and conditions of this resolution; provided that the terms of the Bonds are hereby established as follows: (i) the final principal amount of the Bonds shall not exceed \$15,000,000 in the aggregate; and (ii) provided the true interest cost on the Bonds shall not exceed 6.00%.

Section 5. Purchase Contract. The form of Purchase Contract, as presented to this meeting, among the City, the Authority and the Underwriter and the sale of the Bonds pursuant thereto upon the terms and conditions set forth therein in the event of a negotiated sale is hereby approved. Subject to such approval and subject to the provisions of Section 4 hereof, in the

event of a negotiated sale of the Bonds, the Executive Director or his designee is hereby authorized and directed to evidence the Authority's acceptance of the offer made by the Purchase Contract by executing and delivering the Purchase Contract in substantially the form presented to this meeting with such changes therein as the officer executing the same may approve and such matters are as authorized by Section 4 hereof, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. Official Statement; Continuing Disclosure. The Board hereby approves the preparation of, and hereby authorizes the Executive Director to deem final within the meaning of Rule 15c2-12 of the Securities and Exchange Commission except for permitted omissions, a preliminary form of Official Statement of the Bonds. Distribution of such preliminary Official Statement is hereby approved. The Chair, Executive Director or the Treasurer is hereby authorized to execute the final Official Statement in the name and on behalf of the Authority, including any modifications resulting from additions thereto and changes therein as Bond Counsel shall deem necessary, desirable or appropriate, with the execution of the final Official Statement by the Chair, Executive Director or Treasurer to be conclusive evidence of the approval of any such additions and changes. The Board hereby authorizes the distribution of the final Official Statement. The Chair, Executive Director or the Treasurer is further authorized to sign on behalf of the Authority a continuing disclosure certificate with respect to the financing, in such form as may be approved by Bond Counsel.

Section 7. Bond Counsel. The law firm of Best Best & Krieger LLP is hereby appointed as Bond Counsel.

Section 8. Official Actions. The Chair, the Vice Chair, the Executive Director, the Treasurer, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including obtaining a rating on the Bonds and/or a municipal bond insurance policy, and including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in connection with the issuance and sale of the Bonds.

Section 9. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

ADOPTED this 7th day of December, 2010.

Chair

ATTEST:

Secretary

CERTIFICATION

I, Toni Taber, Secretary of the Covina Public Financing Authority, do hereby certify that the foregoing resolution was adopted by the Board of Directors of the Covina Public Financing Authority at a regular meeting thereof held on the 7th day of December, 2010, by the following vote of the Board:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Covina Public Financing Authority this _____ day of _____, 2010.

Secretary

**CAPITAL PROJECTS TO BE FUNDED
WITH PROPOSED BOND PROCEEDS**

Project	Description	Estimated Cost
Charter Oak Reservoir	Construct new, steel 3 million gallon tank, piping and valves; refurbish existing 3 million gallon concrete tank	\$3,120,000
Forestdale Reservoir Valves	Upgrade operating valves for system transfer tank	\$120,000
Cypress Reservoir	Refurbish existing 1.45 million gallon tank, roof, piping and valves	\$1,920,000
Holt Avenue Pump Station	Construct new booster pump station on Holt Avenue to allow separate and/or auxiliary operation of Zones 4 and 5	\$720,000
Auxiliary/Solar Power Systems	Installation of auxiliary power systems at reservoir sites to provide emergency back-up power to system pump and photovoltaic generation facilities to reduce power demands	\$1,747,560
System Replacement Program	Construction of replacement mains, services and fire protection facilities systemwide	\$4,786,765
	TOTAL	\$12,414,325

Accounting of Bond Proceeds
City of Covina Public Financing Authority
2010 Water Revenue Bonds

Par amount of Bonds	\$	15,000,000
Cost of issuance		165,000
underwriters discount		115,000
Debt Service Reserve Fund		985,675
Refunding 1999 COP's		1,320,000
Project Fund		12,414,325

Exhibit J - Accounting of Bond Proceeds

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: December 7, 2010

ITEM NO.: NB 3

STAFF SOURCE: Robert Neiuber, Director of Community Development
William J. Priest, Assistant City Attorney

ITEM TITLE: Interim Urgency Ordinance establishing a 45-day moratorium on the permitting of new standalone wireless communications facilities

STAFF RECOMMENDATION:

That the City Council:

(1) Waive first reading, read by title only and adopt the attached interim urgency ordinance No. 10-1991 (Exhibit "A") establishing a 45-day moratorium on the permitting of new standalone wireless communications facilities.

2.) Direct staff to study revisions to the City's existing zoning regulations to address standalone wireless communications facilities.

FISCAL IMPACT:

None.

RELEVANCE TO THE STRATEGIC PLAN:

Adoption of this Urgency Ordinance will assist in the development of a sustainable community by pursuing the adoption of land use and aesthetic standards that promote neighborhood compatibility.

BACKGROUND/ANALYSIS:

Recently the City has considered a number of applications for new standalone wireless communication facilities (a.k.a. "monopoles" or "cell towers") within the City. This proliferation of standalone wireless communication facilities has raised concerns about the compatibility of some antenna structures and the potential significant aesthetic impacts to the community. More specifically, members of the community have expressed concerns that such facilities are often out of character with the design of existing residential, commercial and industrial development, contributing to aesthetic blight and reduced property values.

Indeed, the City's current wireless communications facility regulations were developed in 1998 and contain limited policies and regulations to assist the City in determining aesthetic compatibility within the neighborhoods in which they are proposed.

Consequently, even though many of the wireless service providers have established networks, staff does not foresee a reduction in the requests for new facilities. This is due to the fact that as wireless providers add new services and increase their subscriber base, there is a need to add facilities. Additionally, prior to a new provider beginning service, they need to build their network by installing facilities throughout the City.

Even though many new standalone wireless communication facilities are typically disguised (stealthed) as pine trees, palm trees, flag poles, the designs can create an aesthetic and compatibility problem with the surrounding area. Furthermore, due to the heights needed (typically between 38' and 55') and the diameter of the support structure (typically between 24" and 36"), many of the monopoles appear to be out of proportion to themselves and to surrounding structures.

Staff feels that this moratorium is necessary to allow the City to time establish a comprehensive policy that addresses concerns about aesthetic impacts to the surrounding community and to avoid potential blight impacts. Additionally, adoption of the moratorium will give staff time to move forward with any necessary changes to the land use regulations.

It should be noted, should the City Council adopt the moratorium, it will not prohibit the development of the following wireless facilities/antennas:

1. Those mounted to the side and/or roof of an existing building (new or co-located);
2. Those that co-locate onto an existing monopole/standalone wireless communication facility; and
3. Those new standalone facility applications that have already been submitted and deemed complete prior to the date of the interim urgency ordinance.

Further, California case law has established that moratorium ordinances cannot prohibit the processing of applications - only their approval. Nevertheless, it is staff's opinion that this proposed moratorium is a proactive approach to address a potential significant impact to the residents of the community, while minimizing legal risks and allowing some applications to move forward. Therefore, staff is recommending that the City Council adopt the Urgency Ordinance and direct staff to study and draft a comprehensive policy that includes protections from aesthetic impacts.

EXHIBITS

A. Interim Urgency Ordinance No. 10 - 1991

REVIEW TEAM ONLY	
City Attorney: <u></u>	Finance Director: <u></u>
City Manager: <u></u>	Other: _____

INTERIM URGENCY ORDINANCE NO. 10-1991

AN INTERIM URGENCY ORDINANCE OF THE CITY OF COVINA, CALIFORNIA, ESTABLISHING A MORATORIUM ON THE DEVELOPMENT OF NEW STANDALONE WIRELESS COMMUNICATION FACILITIES FOR A PERIOD OF 45 DAYS, PENDING THE DEVELOPMENT OF A WIRELESS COMMUNICATION FACILITIES POLICY, THE ADOPTION OF ANY AND ALL NECESSARY AMENDMENTS TO THE CITY'S LAND USE REGULATIONS, AND SETTING FORTH THE FACTUAL BASIS FOR SAME AS AN URGENCY ORDINANCE

THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. This interim urgency ordinance is adopted pursuant to Section 65858 of the California Government Code.

SECTION 2. The City of Covina shall not issue or approve any building permit, conditional use permit, variance, site plan approval, or other land use entitlement for the development of any new standalone wireless communication facility within the City of Covina during the time that this interim ordinance is in effect. For purposes of this Section 2, the term "new standalone wireless communication facility" shall include newly constructed monopoles, monopalms, monopines, lattice towers, and any other similar wireless communication facilities that require the construction of a dedicated ground-mounted structure in order to elevate the facility's antennae and other transmitting equipment to a usable altitude.

The term "new standalone wireless communication facility" shall not include, and this moratorium shall not apply to the following:

- A. new wireless communication facilities that are co-located with another existing wireless communications facility, whether the existing wireless communication facility is mounted on an existing building, lattice tower, monopole, monopalm, monopine, or similar mounting, provided the initial/existing facility otherwise met City standards; and
- B. new wireless communication facilities that are mounted onto the sides or roof of existing buildings, or concealed in a building, provided they otherwise meet City standards; and
- C. new or replaced equipment cabinets and other minor ground-based structures that service a new or existing wireless communication facility.

SECTION 3. This moratorium shall not abridge those rights and privileges granted to wireless communication providers under the United States Telecommunications Act of 1996, (47

U.S.C. §332(c)(7)) (the "Act") nor shall it preclude a wireless communication provider from seeking administrative relief under the Act.

SECTION 4. *Urgency Findings.* In accordance with California Government Code, Section 65858 and in order to protect the public health, safety and welfare, the City Council of the City of Covina hereby finds, determines and declares that this interim urgency ordinance is necessary because:

- A. The proliferation of new standalone wireless communication facilities within the City presents a current and immediate threat to the public health, safety and welfare in that such facilities are often out of character with the design of existing residential, commercial and industrial development, contributing to aesthetic blight and reduced property values. They can also physically impact access to private and public rights-of-way within the City. The City has received numerous applications and inquiries regarding the development of new standalone wireless communication facilities within the City and, given the strong desire of wireless telecommunication companies to continue expanding and enhancing their coverage, the City anticipates that it will receive additional applications and inquiries in the near future. The City must prohibit the further development of new standalone wireless communication facilities until the City Council completes its analysis of how best to regulate these kinds of uses so that the City remains in compliance with Federal and State Law, while mitigating the negative secondary effects identified above to the greatest extent possible.
- B. Government Code, Section 65858 authorizes the City to adopt an interim Urgency Ordinance to protect the public safety, health and welfare and to prohibit uses which may be in conflict with a contemplated General Plan or zoning proposal which the City is considering, studying or intends to study within a reasonable time.
- C. The purpose of this moratorium is to protect the public safety, health and welfare of the citizens of the City of Covina by prohibiting the approval of land use entitlement applications and other permits for standalone wireless communication facilities within the City. The issuance or approval of any building permit, conditional use permit, variance, site plan approval, or other land use entitlement for the development of new standalone wireless communication facilities would result in a threat to the public health, safety and welfare in that the standards or regulations in the City's municipal code addressing such facilities are outdated and do not take into consideration evolving wireless communication technology nor recent changes in Federal and State law pertaining to such facilities. Additionally, to allow the approval of land use entitlements for the development of new standalone wireless communication facilities in the City at this time while the City considers amending its zoning regulations could result in the establishment of inconsistent land uses which would be harmful to the public health, safety and welfare.

SECTION 5. This interim urgency ordinance shall not apply to land use applications for the development of new standalone wireless communications facilities that were submitted and deemed complete prior to the date this interim urgency ordinance is adopted.

SECTION 6. The City Council hereby enacts this interim urgency ordinance by not less than a four-fifths (4/5) vote, and in light of the findings set forth in Section 4, under the authority granted to it by Article XI, Section 7 of the California Constitution and Section 65858 of the California Government Code, which allows the City to adopt an interim urgency ordinance prohibiting land uses which may be in conflict with a zoning proposal that the City Council, planning commission or the planning department is considering or studying or intends to study within a reasonable time. The City Council hereby directs the Planning Division of the Community Development Department to consider and study possible means of regulating new standalone wireless communications facilities including zoning and other regulations permissible under Federal and State law.

SECTION 7. Ten (10) days prior to the expiration of this interim urgency ordinance, or an extension thereof, the City Council shall issue a written report describing the measures which the City has taken to address the conditions which led to the adoption of this ordinance.

SECTION 8. This interim urgency ordinance shall take effect immediately upon its adoption by a four-fifths vote of the City Council. This interim urgency ordinance shall continue in effect for forty-five (45) days from the date of its adoption and shall thereafter be of no further force and effect unless, after notice pursuant to California Government Code Section 65090 and a public hearing, the City Council extends this interim urgency ordinance pursuant to California Government Code Section 65858.

SECTION 9. Not later than fifteen (15) days following the passage of this interim urgency ordinance, the ordinance, or a summary of the ordinance, along with the names of the City Councilmembers voting for and against the ordinance, shall be published in a newspaper of general circulation in the City of Covina.

SECTION 10. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (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.

SECTION 11. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED AND APPROVED this 7th day of December, 2010.

Peggy Delach
Mayor of the City of Covina

ATTEST:

By: _____
City Clerk of the City of Covina

APPROVED AS TO FORM:

By: _____
City Attorney