RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Fontana
8353 Siena Avenue
Fontana, California 92335
Attn: City Manager

Exempt from Recording fee
pursuant to Gov't Code§ 27383

(Space above for Recorder's use)

PREANNEXATION AGREEMENT

between

CITY OF FONTANA

a California municipal corporation

and

INLAND SENIOR DEVELOPMENT, LLC

[Dated as of _____ for reference purposes only]

PRE-ANNEXATION AGREEMENT

This Preannexation Agreement ("Agreement") is entered into as of this _____, between the City of Fontana, a California municipal corporation ("City") and INLAND SENIOR DEVELOPMENT, LLC ("Landowner"), a California Limited Liability Company LLC, with the principal place of business located at 1 Venture, Suite 130, Irvine, CA 92618. City and Landowner are sometimes individually referred to herein and "Party" and collectively as the "Parties."

WHEREAS, Landowner has fee title to a roughly 6.69-acre piece of property, in unincorporated San Bernardino County, commonly known as APN 0230-031-20 and APN 0230-031-21 (the "Property"), more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference. An Assessor Parcel Map is attached hereto as Exhibit "B" and incorporated by this reference.

WHEREAS, the City is contemplating annexation of certain territory, including Landowner's Property which is also located within the "Western Sphere of Influence", as defined in and subject to the Memorandum of Understanding ("MOU") between the City and County of San Bernardino approved on August 26, 2008, and as it may be amended from time to time, as well as the City's annexation policy as amended from time to time. A current copy of the MOU is attached hereto as Exhibit "C" and incorporated herein by reference. A current copy of the City's annexation policy is attached hereto as Exhibit "D'' and incorporated herein by reference.

WHEREAS, the City has general planned and pre-zoned the Western Sphere of Influence and, upon annexation, the Property will be zoned Form Based Code, Transitional District in accordance with the City's Zoning District Map.

in accordance with the City's Zoning District Map.

WHEREAS, Landowner desires to build [112-unit multi-family condominium development] ("Project") in compliance with County of San Bernardino Tentative Tract Map No. 20016 (TTM No. 20016) and has requested that the City enter into this Agreement and City desires to provide sewer service to the Project. City has further determined that it is in the best interest of the citizens of the City and the Landowner to encourage the development of this Project.

WHEREAS, Government Code § 56133 allows a public agency, like the City, to extend services by contract, including the provision of sewer services, beyond its jurisdictional reach, provided the San Bernadino County Local Agency Formation Commission ("LAFCO") approves such a request; and

WHEREAS, the Parties have therefore agreed that it is in their respective interests to request LAFCO approval for the City to provide sewer services to the Property pursuant Government Code § 56133 until such time as the City annexes the Property into the City.

NOW THEREFORE, the Parties agree as follows:

1. EFFECTIVE DATE.

1.1 **Effective Date**. This Agreement will not become effective until the date ("Effective Date") on which it has been executed by Landowner and has been approved by the City Counci1, which date is ever later. City shall deliver a fully executed counterpart original of this Agreement to Landowner within ten (10) days from City's execution of this Agreement.

2. TERMS.

In order to facilitate the annexation of the Property, and the development of this Project the City and Landowner agree to the following:

2.1 **City's Obligation**.

(a) **Annexation**. Subject to Section 2.1(c) noted below, upon completion of the annexation of the Property, the Property shall be subject to the same benefits and obligations as other properties zoned Commercial and Residential by the City.

(b) **No Representation or Warranty Regarding Annexation**. Nothing herein shall be deemed as a representation or warranty by City that the annexation of the Property will be completed.

(c) **Zoning**. The Parties acknowledge that the City has pre-zoned the Property, and upon annexation, the Property will be zoned Form Based Code, Transitional District. Notwithstanding the foregoing, or anything to the contrary contained herein, this Agreement shall not limit the right of Landowner to continue any existing legal use upon the Property that is conducted prior to annexation, but is considered a legal nonconforming use following annexation and/or due to future changes to the City's General Plan or zoning ordinances. The City acknowledges that development of the Property in compliance with TTM No. 20016 and the County Conditions of Approval will be a conforming use under the City's Form Based Code, Transitional District zoning designation.

(d) **Development Standards**. The Tentative Tract Map (TTM No. 20016) will comply with the County's Conditions of Approval (see Exhibit "E" for current Conditions of Approval).

(e) **Out Of Agency Service Contract.** Within thirty (30) days from City's execution of this Agreement, the City will submit the out-of-agency service agreement application for sewer services and sewer connections to the Project.

2.2 **Landowner's Obligations**.

(a) **Development Impact Fees**. Landowner shall pay al1 fees and charges and make all deposits adopted by and in effect by the then applicable City ordinance or resolution, including those fees identified in the MOU as it may be amended from time to time. The amount of the development impact fees to be paid to the City by the developer in connection with the proposed development shall be paid to the City at the time of sewer connection permit issuance for the proposed development. Those fees shall include, but not be limited to, the following:

Fire Facilities (see Exhibit F)

Park Development (residential only) (see Exhibit F)

Storm Drainage Facilities (see Exhibit F)

Sewer Facilities (see Subsections (b) & (c) noted below)

(b) **City Provision of Sewer Service**. The City agrees to provide sewer service and a sewer connection to said Project, provided that (1) such Landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "D"), (2) the Landowner meets all other City requirements and pays all fees imposed by the City pursuant to the Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the Landowner pays to the City those development impact fees which would be applicable to the Project if it were to occur within city limits as required under the City's current fee schedule and the MOU at the time a sewer connection permit is issued and in the amounts as may be established from time-to-time by the City, provided, however, that the City shall not require the payment of any impact fee which is imposed by the County on the Project to fund the same infrastructure as being funded by the City impact fee.

(c) **Sewer Connection Charges/LAFCO Fee**. Landowner shall pay all fees and charges and make all deposits required by City to connect to and use the sewer. Landowner also agrees to pay any additional fees that may be charged by the Local Agency Formation Commission (LAFCO). Those fees shall include, but not be limited to, the following:

Sewer Deposit (see Exhibit F)

Sewer Connection Permit Fee (see Exhibit F)

City Sewer Master Connection Fee (see Exhibit F)

Sanitary Sewage Facilities Expansion Fee (see Exhibit F)

LAFCO Fee (see Exhibit F)

Landowner agrees to be bound by all City ordinances, rules and regulations respecting the sewer system.

2.3 **Event of Default**. For purposes of this Section 2.3, an "Event of Default" shall mean the occurrence of any of the following during the term hereof:

(a) Landowner materially breaches any of the obligations of this Agreement;

(b) Subject to Section 2.1(c) noted above, if after the issuance of the first building permit, Landowner suspends or ceases construction activities for a period in excess of thirty (30) days;

(c) Landowner makes a material misrepresentation of any fact or item in any document executed by the City with respect to this Agreement;

(d) Upon the attachment. levy, execution or other judicial seizure of any substantial portion of the assets of Landowner, that is not released, expunged, bonded, discharged, or dismissed within thirty (30) days after the attachment, levy, execution or seizure; and

(e) Landowner becomes insolvent or unable to pay Landowners' debts generally as they mature, makes a general assignment for the benefit of creditors, admits in writing Landowners' inability to pay Landowners' debts generally as they mature, file or have filed against it a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement with creditors or other similar relief under the Federal bankruptcy laws or under any other applicable law of the United States of America or any state thereof, or consents to the appointment of a trustee or receiver for it or for a substantial part of Landowner's Property.

2.4 **Irrevocable Consent to Annexation**. In exchange for the City's commitments hereunder to make the sewer connection available to Landowner, Landowner hereby consents to the annexation of the Property to the City. Provided that City has fully complied with its obligations under this Agreement, Landowner agrees to covenant for itself, its agents, employees, contractors, heirs, successors and assigns (including on behalf of any future owner of a portion of the Property) ("Successors") not any way object to, protest, delay, frustrate or otherwise impede any annexation proceedings concerning the annexation of the Property to the City. Provided that City has fully complied with its obligations under this Agreement, Landowner and its Successors shall cooperate in every reasonable way with the requests of the City, the San Bernardino Local Agency Formation Commission ("LAFCO"), or any other public agency in any proceedings to annex the Property to the City. The Landowner's and its Successor's cooperation shall include, but not be limited to, the filing of all necessary applications, petitions, plans, drawings, and any other documentation or information required by the City, LAFCO, or any other public agency at no cost or expense to Landowner or its Successor.

2.5 **Duration of Agreement**. This Agreement shall remain in effect until such time as the property is annexed into the City, or upon expiration of the County's land use approvals, including any extensions, or whatever occurs first.

2.6 **Property Maintenance**. Landowner agrees to maintain the Property in good condition and in compliance with reasonable residential standards. Reasonable standards are defined as the level of maintenance service necessary to keep the appearance and operation of the Property free from visible defects, deterioration, dirt and debris.

2.7 **Amendments/Time Extensions**. City and Landowner may amend this Agreement by written amendment mutually executed by both parties. Such amendments shall not invalidate this Agreement or relieve or release any Party from its obligations under this Agreement unless expressly stated so by such amendment.

3. GENERAL PROVISIONS.

3.1 **General Compliance**. Landowner agrees to comply with all applicable, federal, state and local laws and regulations, including but not limited to the City's Building, Planning, Fire and Code Enforcement Departments.

3.2 **Waiver of Liability**. Accordingly, Landowner shall waive the City from all liability resulting from any damage to property or unfinished or poor quality work caused by a contractor.

3.3 **Hold Harmless**. Landowner shall hold harmless, defend and indemnify City, and its respective elected officials, directors, officials, officers, attorneys, employees, agents, representatives and volunteers from and against any and all actual or alleged claims, actions, suits, charges, demands, judgments, and expenses (including reasonable attorneys' fees, expert witness fees and court costs) whatsoever that arise out of Landowner's or any of its contractor's performance or non-performance of this Agreement. Landowner shall defend, at Landowner's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought against City and its respective elected officials, directors, officials, officers, attorneys, employees, agents, representatives and volunteers.

3.4 **Suspension or Termination**. City may suspend or terminate this Agreement, in whole or in part, if Landowner materially fails to comply with any term of this Agreement or with any of the rules, regulations or provisions referred to herein; and the City may declare Landowner ineligible for any further participation in City contracts, in addition to other remedies as provided by law.

3.5 **Attorneys' Fees**. In the event of the bringing of an action or suit by a Party against another Party by reason of any breach of any of the covenants contained in this Agreement or any other dispute between the Parties concerning this Agreement, then, in that event, the prevailing Party in such action or dispute, whether by final judgment or out of court settlement shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment. For the purposes of this Section, Costs shall include, without limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions, (ii) contempt proceedings, (iii) garnishment, levy, and debtor and third party examination; (iv) discovery; and (v) bankruptcy litigation. This Section shall survive any expiration or termination of this Agreement.

3.6 **Interpretation**. City and Landowner acknowledge that this Agreement is the product of mutual arms-length negotiation and drafting. Accordingly, the rule of construction which provides the ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Agreement. In any action or proceeding to interpret or enforce this Agreement, the finder of fact may refer to any

extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the parties.

3.7 **Counterpart Originals; Integration; Modification**. This Agreement may be executed in by the Parties in counterparts, all of which together shall constitute a single Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the matters set forth in this Agreement and supersedes any and all writings and oral discussions concerning the same. The performances of City's and Landowner's respective obligations under this Agreement are not intended to benefit any party other than the City or Landowner, except as expressly provided otherwise herein. The foregoing notwithstanding, the City is declared to be an intended third party beneficiary of the Landowner's obligations hereunder,

3.8 **No Waiver**. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.9 **Venue; Jurisdiction; Governing Law**. Any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the appropriate court in the County of San Bernardino, California. Each Party hereto irrevocably consents to the personal jurisdiction of the court. This Agreement shall be governed by the laws of the State of California, without regard to conflict of laws principles.

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

3.11 **Authority to Enter Agreement; Subcontracting; Recordation**. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. The Parties agree that this Agreement may be recorded with the San Bernardino County Recorder's Office.

3.12 **Non Assignability**. Landowner may not assign any of their rights or obligations under this Agreement without the express written consent of the City, which may not be unreasonably withheld or delayed. Notwithstanding the foregoing, Landowner may assign this Agreement, upon written notice to City, to any entity in which Landowner owns a majority and controlling interest. No unpermitted successor or assign of Landowner's rights under this Agreement shall be deemed to possess or be entitled to exercise any such right; provided, however, that the obligations of this Agreement shall nonetheless be binding upon such unpermitted successor or assign.

3.13 **Force Majeure**. Landowner shall be excused for the period of any delay in the performance of its obligations hereunder, when prevented from so doing by any cause beyond its control including, but not limited to, construction, labor unrest, litigation, unavailability of material, weather, war, acts of God, and refusal or failure of governmental authorities to grant

necessary approvals and permits for construction of the Improvements in the manner contemplated herein ("Force Majeure").

3.14 **Notices**. All notices required or allowed by this Agreement shall be in writing and addressed as set forth below. Notices shall be deemed received upon (i) actual receipt by the intended recipient if the method of delivery is personal service, messenger service or facsimile transmission, (ii) actual receipt by the intended recipient if the method of delivery is overnight delivery service such as Federal Express or the like, or (iii) three business days after deposit in the United States mail, postage prepaid, return receipt requested. Notices shall be addressed as follows:

If to City:	City of Fontana 8353 Sierra Avenue Fontana, California 92335 Telephone: (909) 350-7654 Facsimile: (909) 350-6613 Attn: City Manager
With a copy to:	Best Best & Krieger LLP 3500 Porsche Way, Suite 200 Telephone: (909) 989-8584 Facsimile: (909) 944-1441 Attn:
If to Landowner:	Inland Senior Development, LLC 1 Venture, Suite 130 Irvine, CA 92618 Telephone: (949) 339-5337 Attn: Mohammad Monshizadeh
With a copy to:	Inland Senior Development, LLC 1 Venture, Suite 130 Irvine, CA 92618 Telephone: (949) 339-5337 Attn: Mohammad Monshizadeh

Any party's address for notices may be changed by written notice as provided above.

[Signatures on following pages]

SIGNATURE PAGE
TO
PREANNEXATION AGREEMENT

CITY:

BEST BEST & KRIEGER LLP

CITY OF FONTANA
a California municipal corporation

Dated: _____

By: _____
Matthew C. Ballantyne
City Manager

ATTEST:

_____
Germaine McClellan, City Clerk

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

By: _____
City Attorney

LANDOWNER:

Inland Senior Development, LLC

Dated: _____

By: _____
Mohammad Monshizadeh

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SAN BERNARDINO)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SAN BERNARDINO)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)

"EXHIBIT A"
TO
PREANNEXATION AGREEMENT

LEGAL DESCRIPTION OF PROPERTY
ASSESSOR PARCEL NOS. 0230-031-20 and 0230-031-21

LEGAL DESCRIPTION:

PARCEL C:

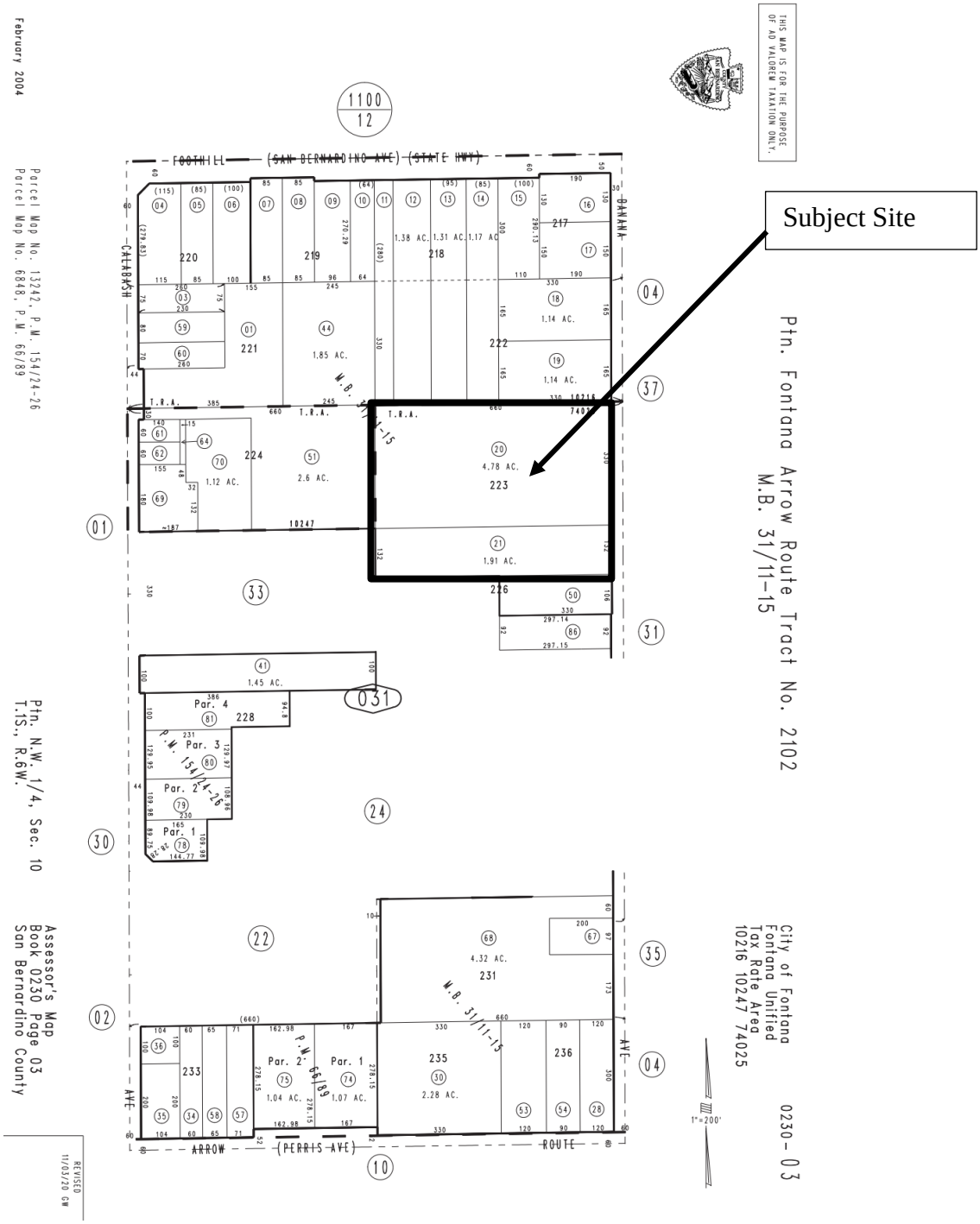
APN: 0230-031-20-0-000
LOT 223 OF TRACT NO. 2102, FONTANA ARROW ROUTE TRACT, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 31, PAGES 11, 12, 13, 14 AND 15, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL D:

APN: 0230-031-21-0-000
THE NORTH 132 FEET OF LOT 226, TRACT NO. 2102, FONTANA ARROW ROUTE TRACT, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 31, PAGES 11, 12, 13, 14 AND 15, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

"EXHIBIT B"
TO
PREANNEXATION AGREEMENT

ASSESSOR'S PARCEL MAP



"EXHIBIT C"
TO
PREANNEXATION AGREEMENT

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FONTANA AND COUNTY OF SAN BERNARDINO
(WESTERN SPHERE OF INFLUENCE)

[Attached Behind This Page]

MEMORANDUM OF UNDERSTANDING

BETWEEN
CITY OF FONTANA
AND
COUNTY OF SAN BERNARDINO
AUGUST 26, 2008

WESTERN SPHERE OF INFLUENCE

CITY OF FONTANA/COUNTY OF SAN BERNARDINO

MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)

This Memorandum of Understanding (Western Sphere of Influence) ("Agreement") is entered into between (1) the City of Fontana, a California general law city and municipal corporation ("City") and, (2) the County of San Bernardino, a political subdivision of the State of California ("County"). This Agreement is reference dated as of August 26, 2008. This Agreement will not become effective until the occurrence of the "Effective Date" defined below. If the Effective Date does not occur on or before December 31, 2008, then this Agreement may not thereafter become effective and any prior approvals and/or signatures of the Parties shall be deemed, automatically and without need of further act or instrument by either Party, rescinded and void *ab initio*. The City and the County are sometimes referred to in this Agreement, individually, as a "Party" and, collectively, as the "Parties".

This Agreement will become effective on the date ("Effective Date") on which it has been approved by both the City Council on behalf of the City and the Board of Supervisors on behalf of the County and fully executed counterpart originals have been exchanged between the Parties. The term ("Term") of this Agreement shall commence on the Effective Date and shall automatically end upon the City's annexation of the entire Western Sphere (as defined in Recital A, below), or either Party's election to terminate this Agreement, which election may be made at any time and for any reason (or for no reason), notice of which shall be given as provided by Section 6.

RECITALS

A. Immediately adjacent to the westerly border of the City is an unincorporated area of land located within the County and designated by the San Bernardino County Local Agency Formation Commission ("LAFCO") as the City's Western Sphere of Influence ("Western Sphere"). The Western Sphere is approximately 8.5 square miles in size. A map depicting the boundaries of the Western Sphere is attached as Exhibit "A".

B. The San Bernardino County Redevelopment Agency has previously adopted a redevelopment plan ("Plan") for a redevelopment project area known as the "Speedway Redevelopment Area" ("Project Area"). The boundaries of the Project Area are located entirely within the Western Sphere and are also identified on the attached Exhibit "A".

C. The City provides sanitary sewer services within portions of the Western Sphere. The City owns and maintains the pipes and other transmission infrastructure needed to provide such service, whereas the Inland Empire Utilities Agency ("IEUA") provides wastewater treatment services within portions of the Western Sphere through a series of agreements with the City. The City's current annexation policy is to require any landowner or developer within the Western Sphere who desires to connect to the City's sanitary sewer system to either sign an irrevocable agreement to annex to the City or to complete a pre-annexation agreement. By this Agreement, the City and County have agreed on certain practices and procedures that they intend will facilitate economic development within the Western Sphere.

D. The City and the County acknowledge that the Western Sphere, or some portion of it, may be annexed into the City at some future date. The County further acknowledges that the City's intent in entering into this Agreement includes ensuring that development within the Western Sphere which occurs prior to such annexation be accomplished in a manner that as closely as possible reflects the City's practices and requirements as established in the City's Development Code as it exists from time to time throughout the Term of this Agreement.

E. The Parties recognize that development within the Western Sphere will be enhanced and facilitated by the investment of public funds into the public infrastructure needed to support such development. The chief sources of public funds for such public infrastructure are those fees and charges imposed and collected from developers within the Western Sphere as a condition to the obtaining of building permits and other entitlements for such development. County has a limited program for the collection of such fees. The City, in connection with the pre-annexation agreements described in Recital "C" above, requires developers within the Western Sphere to pay to the City certain of those development impact fees that would otherwise be assessed against such development if it were located within the City's jurisdictional boundaries. As to the Western Sphere, these development impact fees will consist solely of sewer connection and expansion fees, a storm drainage facilities fee, a fire facilities fee, and a park development fee (for residential properties only) (collectively, the "Western Sphere Development Impact Fees" or "Western Sphere DIF"). The Western Sphere DIF shall be charged at the same rates which City charges for similar development projects within the City's incorporated boundaries, as such rates may be amended from time to time. To facilitate the economic development and revitalization of the Western Sphere, the City and the County have agreed that the Western Sphere DIF and the corresponding impact fees collected by the County from projects being developed within the Western Sphere shall be invested into public infrastructure projects located within the Western Sphere as more particularly described in this Agreement.

F. The Parties further recognize that development within the Western Sphere will be enhanced and facilitated by the reinvestment of sales tax revenues generated within the Western Sphere as more particularly described in Section 5 of this Agreement.

AGREEMENT

Section 1. Incorporation of Recitals. The Parties each acknowledge the accuracy of the factual matters set forth in the Recitals and further acknowledge that such facts form the material basis for their entry into this Agreement.

Section 2. County's Obligation to Consult re Development Entitlements and Development Code and Development Standard Changes. The City has reviewed the County's current Development Code and other regulations concerning development within the Western Sphere (collectively, the "County Standards"). Although not identical to City standards, the City is nonetheless satisfied that development which takes place in accordance with the County Standards will be of sufficient quality and character so as to be compatible with the development in the adjoining portion of the City. Accordingly, and in order to foster the continued development of the Western Sphere consistent with the above objective, the County agrees as follows:

2.1 The County shall submit to the City full and complete copies of any and all development or other entitlement permits or applications for development entitlements occurring within the Western Sphere. Such

information shall be provided to the City no less than thirty (30) days prior to the administrative or County Planning Commission hearing at which the development application or other entitlement is to be considered. The City shall promptly review the application and, within twenty (20) days following its receipt from the County, the City will provide written comments to the County for its consideration. The County agrees to reasonably consider the City's comments and, to the extent not in conflict with the County Standards, to incorporate such City-recommended changes as either modifications to or conditions of approval of such entitlement.

2.2 The County shall provide to the City no less than thirty (30) days prior notice of any proposed changes to any of the County Standards, including General Plan amendments and Zoning and Development Code amendments. The County shall review and reasonably respond to any suggested changes and County staff shall incorporate such City-recommended changes for consideration by the County Planning Commission or Board of Supervisors, as applicable.

2.3 The requirements of the foregoing Sections 2.1 and 2.2 shall not operate to modify, waive or abridge any County obligation arising under the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.)* ("CEQA") to provide the City with environmental notice and opportunity to comment as prescribed by CEQA.

2.4 The County shall review and consider a proposed change to the County Standards to make the County Standards consistent with the City's Automatic Fire Sprinkler Systems standards as set forth in City Code Sections 11-26 thru 11-31.

Section 3. City Provision of Sewer Service. To the extent the City/IEUA has available wastewater (sewer) treatment capacity, the City agrees to provide sewer service to and authorize a sewer connection by any landowner requesting such connection and service within the Western Sphere provided that: (1) such landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "B"); (2) the landowner meets all other City requirements and pays the applicable sewer service fees which are imposed by the City pursuant to the City's Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the landowner pays to the City the Western Sphere DIF which would be applicable to the development if it were to occur in the City at the time a sewer connection permit is issued. Provided, however, that the City shall not require the payment of any development impact fee which is imposed by the County to fund the same infrastructure as being funded by the City impact fee. City agrees that this Agreement will accomplish, in major part, what annexation would provide for the Western Sphere. Therefore, notwithstanding the requirement for a landowner to comply with the City's annexation policy, the City agrees it will not file a formal application with the Local Agency Formation Commission seeking to annex any part of Speedway Redevelopment Area as long as this Agreement is in effect, unless the annexation application is otherwise agreed upon by the City and the County.

Section 4. Use of Development Impact Fees Within Western Sphere. Each year as part of their preparation and approval of their respective Capital Improvement Plans described by Government Code Section 66002, the City and the County shall each use reasonable good faith efforts to include capital improvement/public infrastructure projects within the Western Sphere which will be funded by the Western Sphere DIF (as to the City) and those development impact fees received by the County from development occurring within the Western Sphere. Without limiting the legislative discretion granted to either the City Council or the Board of Supervisors, the Parties agree that, to the extent possible, the following projects shall be given priority in the allocation of Western Sphere DIF and those development impact fees received by the County from development occurring within the Western Sphere:

4.1 Sewer Facilities
4.2 Storm Drainage Facilities
4.3 Park Development: a central park
4.4 Fire Facilities

The above list is intended by the Parties to be precatory only and shall not be a binding commitment to fund. The County's Second District Supervisor and City's Mayor are authorized to meet and attempt to resolve any disputes regarding the priority of projects to be funded and/or add new projects, subject to the consent and ratification of the City Council and Board of Supervisors. Actual funding of such projects shall require separate agreements for each specific project, as approved by both the City Council and Board of Supervisors.

Section 5. Sales Tax Allocations. It is the desire of the Parties that a yearly General Fund commitment equal to approximately thirty-seven percent (37%) of the sales tax revenue received by the Parties and attributable to the application of the Bradley – Burns Uniform Sales and Use Tax Law (Revenue and Taxation Code Section 7200, *et seq*) upon taxable sales and lease transactions occurring within the Western Sphere (the "Western Sphere Sales Tax Revenues") shall be returned to that same area through funding of public improvement projects as approved by both Parties or projects described in Section 4, above, even if, over time, portions of the Western Sphere are incorporated within the City. The County shall provide the City with a Statement of Account upon request of the City. The Statement of Account shall include the following: Western Sphere Sales Tax Revenue received by the County to date for the current Fiscal Year; Western Sphere Sales Tax Revenue applied to public improvement projects under Section 4 above from the date of this Agreement. If the City annexes some or all of the Western Sphere, the City shall provide the same information as to Western Sphere Sales Tax Revenues received by the City to the County upon request. It is the intent of the Parties that the sales tax revenue allocations are to be above and beyond the Parties' current expenditures in the Western Sphere.

Notwithstanding anything to the contrary in this Agreement, any such Western Sphere Sales Tax Revenues received by the County and/or City, as applicable, shall remain the sole property of the County or City, as applicable, unless and until they have been contractually committed by the owning Party in a separate agreement for a specific project. Notwithstanding anything in this Section 5 or elsewhere in this Agreement to the contrary, the Parties agree that neither Party is making a pledge of Western Sphere Sales Tax Revenues or of their respective General Funds. Both Parties acknowledge that all Western Sphere Sales Tax Revenues must by law be deposited into the receiving Party's General Fund and is subject to appropriation and expenditure only in accordance with law. Nothing in this Agreement is a representation or agreement by either Party to fund a particular project or to make a particular expenditure, which

actions must be, if at all, authorized by the City Council or Board of Supervisors, as applicable, following all legally required prerequisites.

Section 6. Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective parties may provide in writing for this purpose.

City	**County**
City of Fontana	County of San Bernardino
8353 Sierra Avenue	385 North Arrowhead Avenue
Fontana, CA 92335	San Bernardino, CA 92415
Attention: City Manager	Attention: County Administrative Officer

Section 7. Integration/Modifications. This Agreement contains the entire understanding of the Parties with respect to the matters set forth in this Agreement and supercedes any and all prior writings and oral discussions concerning the same. This Agreement may not be amended except by a writing duly signed and duly approved by the City and County. This Agreement is not intended to and shall not accrue to the benefit of any person or entity other than the City and the County.

Section 8. Governing Law. This Agreement shall be governed by the procedural and substantive laws of the State of California.

Section 9. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 10. Counterpart Originals. This Agreement may be executed by the Parties in counterparts, all of which together shall constitute a single Agreement.

Section 11. Attorney's Fees. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, shall bear its own costs and attorneys' fees.

Section 12. Authority to Enter into Agreement. City and County both warrant that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind both respective Parties to this Agreement.

[Signatures on following pages]

SIGNATURE PAGE
TO
MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)

COUNTY:

COUNTY OF SAN BERNARDINO

Paul Biane, Chairman
Board of Supervisors

Dated: AUG 26 2008

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

DENA M. SMITH
Clerk of the Board of Supervisors

By: _____
Deputy

Dated: AUG 26 2008

APPROVED AS TO LEGAL FORM:

RUTH E. STRINGER
County Counsel

By: _____
Rex A. Hinesley, Chief Assistant

Dated: 8-19-08

CITY:

CITY OF FONTANA, a California legal law city and municipal corporation

By: _____
Kenneth R. Hunt
City Manager

Dated: 8/28/08

ATTEST:

Sandra Medina, Deputy
City Clerk

Dated: 9/2/08

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

_____
City Attorney

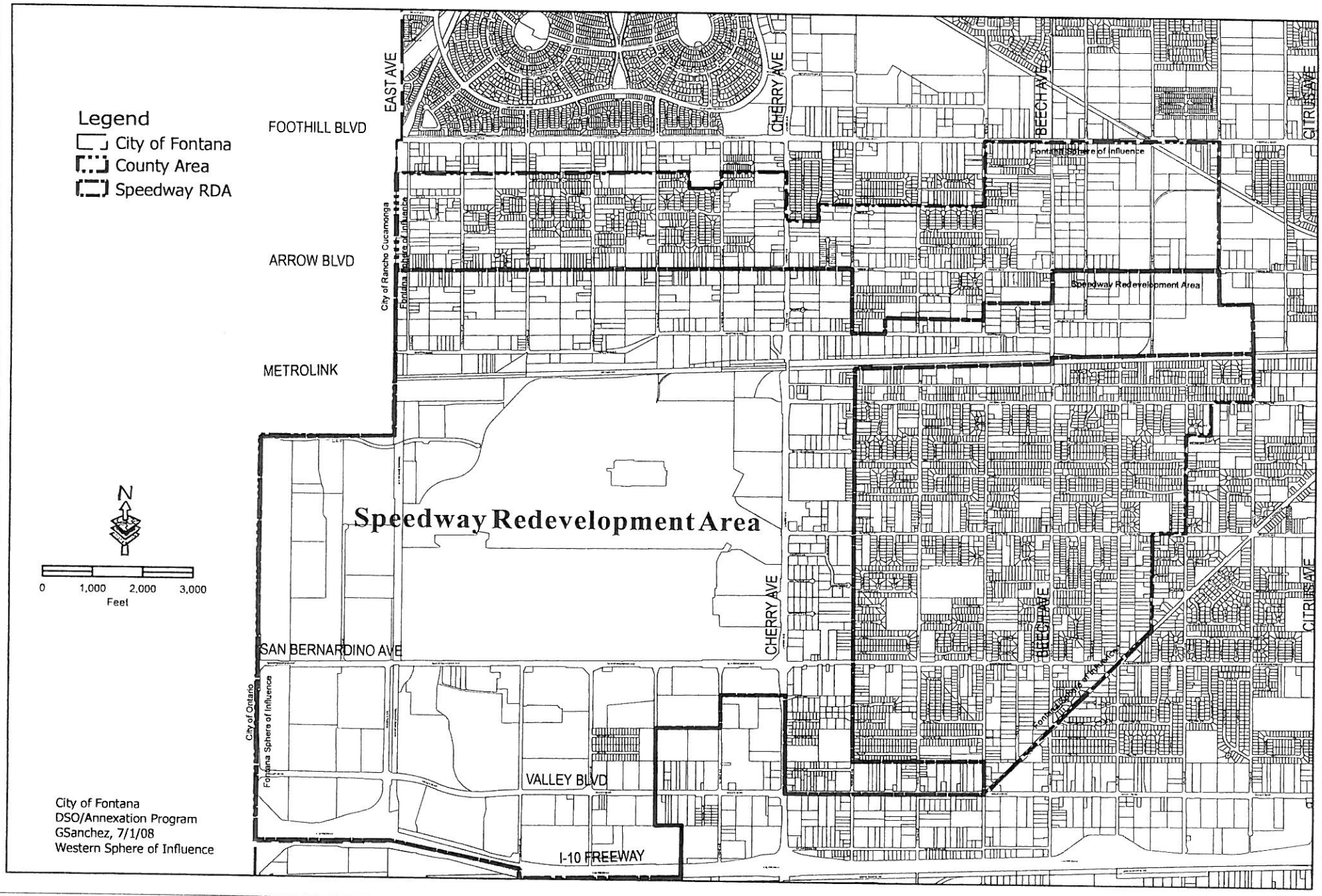
Dated: September 2, 2008

EXHIBIT A
TO
MEMORANDUM OF UNDERSTANDING

WESTERN SPHERE AREA MAP
(See following page.)

Western Sphere of Influence

CITY OF FONTANA



City of Fontana
DSO/Annexation Program
GSanchez, 7/1/08
Western Sphere of Influence

EXHIBIT B
TO
MEMORANDUM OF UNDERSTANDING

ANNEXATION POLICY
(See following pages.)

RESOLUTION NO. 2006-95

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING THE CITY OF FONTANA'S POLICY PERTAINING TO ANNEXATION.

WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

NOW THEREFORE, BE IT RESOLVED, determined and ordered by the City Council of the City of Fontana as follows:

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

A fiscal impact analysis shall be conducted for all annexation areas;

All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

CERTIFIED TRUE COPY
Linda Shum
DEPUTY CITY CLERK, CITY OF FONTANA

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

Annexation may be deferred by use of a Preannexation Agreement if the following conditions are met:

The proposed development is of a quality and design that is comparable to existing City standards.

The development mitigation fees would be paid by the developer as required by all developments in the City. The City would agree to set these mitigation fees aside for use in partnership with County Redevelopment for the creation of the necessary infrastructure to serve the growth needs of the area.

The proposed development would agree to enter into a Preannexation Agreement with the City that would include an Irrevocable Agreement to Annex to the City if and when the area is brought forward for annexation.

The County would agree to use recurring revenues generated by development in the area to support community service needs in the unincorporated area of Fontana.

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 13th day of June, 2006.

READ AND APPROVED AS TO LEGAL FORM:

/s/ Clark Alsop
City Attorney

I, Beatrice Watson, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 13th day of June, 2006 by the following vote to wit:

AYES: Council Members Roberts, Rutherford, Scialdone, Warren
NOES:
ABSENT: Mayor Nuaimi

/s/ Beatrice Watson
City Clerk of the City of Fontana

/s/ Mark N. Nuaimi
Mayor of the City of Fontana

ATTEST:

/s/ Beatrice Watson
City Clerk

"EXHIBIT D"
TO
PREANNEXATION AGREEMENT

CITY'S ANNEXATION POLICY

[Attached Behind This Page]

RESOLUTION NO. 2008-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING THE CITY OF FONTANA'S POLICY PERTAINING TO ANNEXATION.

WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

NOW THEREFORE, BE IT RESOLVED, determined and ordered by the City Council of the City of Fontana as follows:

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

A fiscal impact analysis shall be conducted for all annexation areas;

All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Irrevocable Agreements to Annex in the Western Sphere of Influence will be subject to the terms of the adopted Memorandum of Understanding (MOU) between the City and County of San Bernardino (copy attached).

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

Annexation may be deferred by use of a Preannexation Agreement if the following condition is met:

Preannexation Agreements in the Western Sphere of Influence will be subject to the terms of the adopted MOU between the City and County (copy attached).

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 9th day of December, 2008.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 9th day of December, 2008 by the following vote to wit:

AYES: Mayor Nuaimi, Council Members Roberts, Rutherford, Scialdone, Warren
NOES: None
ABSENT: None

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk of the City of Fontana

MEMORANDUM OF UNDERSTANDING

BETWEEN
CITY OF FONTANA
AND
COUNTY OF SAN BERNARDINO
AUGUST 26, 2008

WESTERN SPHERE OF INFLUENCE

ATTACHMENT 3

CITY OF FONTANA/COUNTY OF SAN BERNARDINO

MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)

This Memorandum of Understanding (Western Sphere of Influence) ("Agreement") is entered into between (1) the City of Fontana, a California general law city and municipal corporation ("City") and, (2) the County of San Bernardino, a political subdivision of the State of California ("County"). This Agreement is reference dated as of August 26, 2008. This Agreement will not become effective until the occurrence of the "Effective Date" defined below. If the Effective Date does not occur on or before December 31, 2008, then this Agreement may not thereafter become effective and any prior approvals and/or signatures of the Parties shall be deemed, automatically and without need of further act or instrument by either Party, rescinded and void *ab initio*. The City and the County are sometimes referred to in this Agreement, individually, as a "Party" and, collectively, as the "Parties".

This Agreement will become effective on the date ("Effective Date") on which it has been approved by both the City Council on behalf of the City and the Board of Supervisors on behalf of the County and fully executed counterpart originals have been exchanged between the Parties. The term ("Term") of this Agreement shall commence on the Effective Date and shall automatically end upon the City's annexation of the entire Western Sphere (as defined in Recital A, below), or either Party's election to terminate this Agreement, which election may be made at any time and for any reason (or for no reason), notice of which shall be given as provided by Section 6.

RECITALS

A. Immediately adjacent to the westerly border of the City is an unincorporated area of land located within the County and designated by the San Bernardino County Local Agency Formation Commission ("LAFCO") as the City's Western Sphere of Influence ("Western Sphere"). The Western Sphere is approximately 8.5 square miles in size. A map depicting the boundaries of the Western Sphere is attached as Exhibit "A".

B. The San Bernardino County Redevelopment Agency has previously adopted a redevelopment plan ("Plan") for a redevelopment project area known as the "Speedway Redevelopment Area" ("Project Area"). The boundaries of the Project Area are located entirely within the Western Sphere and are also identified on the attached Exhibit "A".

C. The City provides sanitary sewer services within portions of the Western Sphere. The City owns and maintains the pipes and other transmission infrastructure needed to provide such service, whereas the Inland Empire Utilities Agency ("IEUA") provides wastewater treatment services within portions of the Western Sphere through a series of agreements with the City. The City's current annexation policy is to require any landowner or developer within the Western Sphere who desires to connect to the City's sanitary sewer system to either sign an irrevocable agreement to annex to the City or to complete a pre-annexation agreement. By this Agreement, the City and County have agreed on certain practices and procedures that they intend will facilitate economic development within the Western Sphere.

D. The City and the County acknowledge that the Western Sphere, or some portion of it, may be annexed into the City at some future date. The County further acknowledges that the City's intent in entering into this Agreement includes ensuring that development within the Western Sphere which occurs prior to such annexation be accomplished in a manner that as closely as possible reflects the City's practices and requirements as established in the City's Development Code as it exists from time to time throughout the Term of this Agreement.

E. The Parties recognize that development within the Western Sphere will be enhanced and facilitated by the investment of public funds into the public infrastructure needed to support such development. The chief sources of public funds for such public infrastructure are those fees and charges imposed and collected from developers within the Western Sphere as a condition to the obtaining of building permits and other entitlements for such development. County has a limited program for the collection of such fees. The City, in connection with the pre-annexation agreements described in Recital "C" above, requires developers within the Western Sphere to pay to the City certain of those development impact fees that would otherwise be assessed against such development if it were located within the City's jurisdictional boundaries. As to the Western Sphere, these development impact fees will consist solely of sewer connection and expansion fees, a storm drainage facilities fee, a fire facilities fee, and a park development fee (for residential properties only) (collectively, the "Western Sphere Development Impact Fees" or "Western Sphere DIF"). The Western Sphere DIF shall be charged at the same rates which City charges for similar development projects within the City's incorporated boundaries, as such rates may be amended from time to time. To facilitate the economic development and revitalization of the Western Sphere, the City and the County have agreed that the Western Sphere DIF and the corresponding impact fees collected by the County from projects being developed within the Western Sphere shall be invested into public infrastructure projects located within the Western Sphere as more particularly described in this Agreement.

F. The Parties further recognize that development within the Western Sphere will be enhanced and facilitated by the reinvestment of sales tax revenues generated within the Western Sphere as more particularly described in Section 5 of this Agreement.

AGREEMENT

Section 1. Incorporation of Recitals. The Parties each acknowledge the accuracy of the factual matters set forth in the Recitals and further acknowledge that such facts form the material basis for their entry into this Agreement.

Section 2. County's Obligation to Consult re Development Entitlements and Development Code and Development Standard Changes. The City has reviewed the County's current Development Code and other regulations concerning development within the Western Sphere (collectively, the "County Standards"). Although not identical to City standards, the City is nonetheless satisfied that development which takes place in accordance with the County Standards will be of sufficient quality and character so as to be compatible with the development in the adjoining portion of the City. Accordingly, and in order to foster the continued development of the Western Sphere consistent with the above objective, the County agrees as follows:

2.1 The County shall submit to the City full and complete copies of any and all development or other entitlement permits or applications for development entitlements occurring within the Western Sphere. Such

information shall be provided to the City no less than thirty (30) days prior to the administrative or County Planning Commission hearing at which the development application or other entitlement is to be considered. The City shall promptly review the application and, within twenty (20) days following its receipt from the County, the City will provide written comments to the County for its consideration. The County agrees to reasonably consider the City's comments and, to the extent not in conflict with the County Standards, to incorporate such City-recommended changes as either modifications to or conditions of approval of such entitlement.

2.2 The County shall provide to the City no less than thirty (30) days prior notice of any proposed changes to any of the County Standards, including General Plan amendments and Zoning and Development Code amendments. The County shall review and reasonably respond to any suggested changes and County staff shall incorporate such City-recommended changes for consideration by the County Planning Commission or Board of Supervisors, as applicable.

2.3 The requirements of the foregoing Sections 2.1 and 2.2 shall not operate to modify, waive or abridge any County obligation arising under the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.)* ("CEQA") to provide the City with environmental notice and opportunity to comment as prescribed by CEQA.

2.4 The County shall review and consider a proposed change to the County Standards to make the County Standards consistent with the City's Automatic Fire Sprinkler Systems standards as set forth in City Code Sections 11-26 thru 11-31.

Section 3. City Provision of Sewer Service. To the extent the City/IEUA has available wastewater (sewer) treatment capacity, the City agrees to provide sewer service to and authorize a sewer connection by any landowner requesting such connection and service within the Western Sphere provided that: (1) such landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "B"); (2) the landowner meets all other City requirements and pays the applicable sewer service fees which are imposed by the City pursuant to the City's Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the landowner pays to the City the Western Sphere DIF which would be applicable to the development if it were to occur in the City at the time a sewer connection permit is issued. Provided, however, that the City shall not require the payment of any development impact fee which is imposed by the County to fund the same infrastructure as being funded by the City impact fee. City agrees that this Agreement will accomplish, in major part, what annexation would provide for the Western Sphere. Therefore, notwithstanding the requirement for a landowner to comply with the City's annexation policy, the City agrees it will not file a formal application with the Local Agency Formation Commission seeking to annex any part of Speedway Redevelopment Area as long as this Agreement is in effect, unless the annexation application is otherwise agreed upon by the City and the County.

Section 4. Use of Development Impact Fees Within Western Sphere. Each year as part of their preparation and approval of their respective Capital Improvement Plans described by Government Code Section 66002, the City and the County shall each use reasonable good faith efforts to include capital improvement/public infrastructure projects within the Western Sphere which will be funded by the Western Sphere DIF (as to the City) and those development impact fees received by the County from development occurring within the Western Sphere. Without limiting the legislative discretion granted to either the City Council or the Board of Supervisors, the Parties agree that, to the extent possible, the following projects shall be given priority in the allocation of Western Sphere DIF and those development impact fees received by the County from development occurring within the Western Sphere:

4.1 Sewer Facilities
4.2 Storm Drainage Facilities
4.3 Park Development: a central park
4.4 Fire Facilities

The above list is intended by the Parties to be precatory only and shall not be a binding commitment to fund. The County's Second District Supervisor and City's Mayor are authorized to meet and attempt to resolve any disputes regarding the priority of projects to be funded and/or add new projects, subject to the consent and ratification of the City Council and Board of Supervisors. Actual funding of such projects shall require separate agreements for each specific project, as approved by both the City Council and Board of Supervisors.

Section 5. Sales Tax Allocations. It is the desire of the Parties that a yearly General Fund commitment equal to approximately thirty-seven percent (37%) of the sales tax revenue received by the Parties and attributable to the application of the Bradley – Burns Uniform Sales and Use Tax Law (Revenue and Taxation Code Section 7200, *et seq*) upon taxable sales and lease transactions occurring within the Western Sphere (the "Western Sphere Sales Tax Revenues") shall be returned to that same area through funding of public improvement projects as approved by both Parties or projects described in Section 4, above, even if, over time, portions of the Western Sphere are incorporated within the City. The County shall provide the City with a Statement of Account upon request of the City. The Statement of Account shall include the following: Western Sphere Sales Tax Revenue received by the County to date for the current Fiscal Year; Western Sphere Sales Tax Revenue applied to public improvement projects under Section 4 above from the date of this Agreement. If the City annexes some or all of the Western Sphere, the City shall provide the same information as to Western Sphere Sales Tax Revenues received by the City to the County upon request. It is the intent of the Parties that the sales tax revenue allocations are to be above and beyond the Parties' current expenditures in the Western Sphere.

Notwithstanding anything to the contrary in this Agreement, any such Western Sphere Sales Tax Revenues received by the County and/or City, as applicable, shall remain the sole property of the County or City, as applicable, unless and until they have been contractually committed by the owning Party in a separate agreement for a specific project. Notwithstanding anything in this Section 5 or elsewhere in this Agreement to the contrary, the Parties agree that neither Party is making a pledge of Western Sphere Sales Tax Revenues or of their respective General Funds. Both Parties acknowledge that all Western Sphere Sales Tax Revenues must by law be deposited into the receiving Party's General Fund and is subject to appropriation and expenditure only in accordance with law. Nothing in this Agreement is a representation or agreement by either Party to fund a particular project or to make a particular expenditure, which

actions must be, if at all, authorized by the City Council or Board of Supervisors, as applicable, following all legally required prerequisites.

Section 6. Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective parties may provide in writing for this purpose.

City	**County**
City of Fontana	County of San Bernardino
8353 Sierra Avenue	385 North Arrowhead Avenue
Fontana, CA 92335	San Bernardino, CA 92415
Attention: City Manager	Attention: County Administrative Officer

Section 7. Integration/Modifications. This Agreement contains the entire understanding of the Parties with respect to the matters set forth in this Agreement and supercedes any and all prior writings and oral discussions concerning the same. This Agreement may not be amended except by a writing duly signed and duly approved by the City and County. This Agreement is not intended to and shall not accrue to the benefit of any person or entity other than the City and the County.

Section 8. Governing Law. This Agreement shall be governed by the procedural and substantive laws of the State of California.

Section 9. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 10. Counterpart Originals. This Agreement may be executed by the Parties in counterparts, all of which together shall constitute a single Agreement.

Section 11. Attorney's Fees. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, shall bear its own costs and attorneys' fees.

Section 12. Authority to Enter into Agreement. City and County both warrant that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind both respective Parties to this Agreement.

[Signatures on following pages]

SIGNATURE PAGE
TO
MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)

COUNTY:

COUNTY OF SAN BERNARDINO

Paul Biane, Chairman
Board of Supervisors

Dated: AUG 26 2008

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

DENA M. SMITH
Clerk of the Board of Supervisors

By: _____
Deputy

Dated: AUG 26 2008

APPROVED AS TO LEGAL FORM:

RUTH E. STRINGER
County Counsel

By: _____
Rex A. Hinesley, Chief Assistant

Dated: 8-19-08

CITY:

CITY OF FONTANA, a California legal law city and municipal corporation

By: _____
Kenneth R. Hunt
City Manager

Dated: 8/28/08

ATTEST:

Sandra Medina, Deputy
City Clerk

Dated: 9/2/08

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

_____
City Attorney

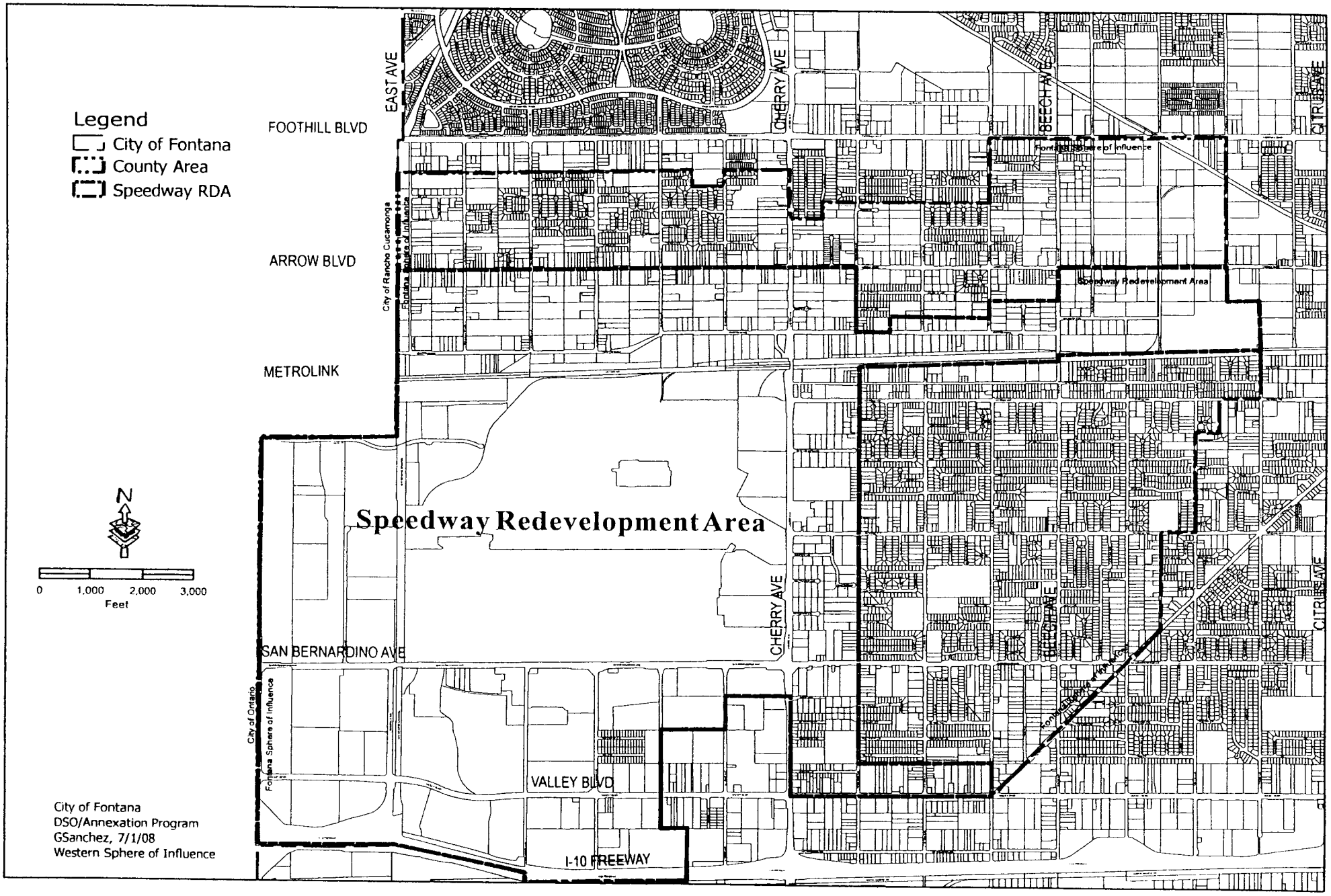
Dated: September 2, 2008

EXHIBIT A
TO
MEMORANDUM OF UNDERSTANDING

WESTERN SPHERE AREA MAP
(See following page.)

Western Sphere of Influence

CITY OF FONTANA



City of Fontana
DSO/Annexation Program
GSanchez, 7/1/08
Western Sphere of Influence

EXHIBIT B
TO
MEMORANDUM OF UNDERSTANDING

ANNEXATION POLICY
(See following pages.)

RESOLUTION NO. 2006-95

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WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

NOW THEREFORE, BE IT RESOLVED, determined and ordered by the City Council of the City of Fontana as follows:

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

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All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

CERTIFIED TRUE COPY
Linda Shuman
DEPUTY CITY CLERK, CITY OF FONTANA

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

Annexation may be deferred by use of a Preannexation Agreement if the following conditions are met:

The proposed development is of a quality and design that is comparable to existing City standards.

The development mitigation fees would be paid by the developer as required by all developments in the City. The City would agree to set these mitigation fees aside for use in partnership with County Redevelopment for the creation of the necessary infrastructure to serve the growth needs of the area.

The proposed development would agree to enter into a Preannexation Agreement with the City that would include an Irrevocable Agreement to Annex to the City if and when the area is brought forward for annexation.

The County would agree to use recurring revenues generated by development in the area to support community service needs in the unincorporated area of Fontana.

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 13th day of June, 2006.

READ AND APPROVED AS TO LEGAL FORM:

/s/ Clark Alsop
City Attorney

I, Beatrice Watson, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 13th day of June, 2006 by the following vote to wit:

AYES: Council Members Roberts, Rutherford, Scialdone, Warren
NOES:
ABSENT: Mayor Nuaimi

/s/ Beatrice Watson
City Clerk of the City of Fontana

/s/ Mark N. Nuaimi
Mayor of the City of Fontana

ATTEST:

/s/ Beatrice Watson
City Clerk

"EXHIBIT E"
TO
PREANNEXATION AGREEMENT

CONDITIONS OF APPROVAL

[Attached Behind This Page]

Conditions of Approval

Description:

CF - TENTATIVE TRACT MAP - PROPOSED 112 UNIT MULTI-FAMILY RESIDENTIAL

Informational

Land Use Services – Planning

1. Subdivisions - Development Impact Fees: Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.

2. Revisions: Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.

3. Subdivisions- Condition Compliance: Condition compliance confirmation for purposes of Final Map recordation will be coordinated by the County Surveyor.

4. Subdivisions - Project Approval Description (TT/TPM): Tentative Tract Map No. 20016 is a 112-multiple family condominium development on 6.7 acres and may be recorded in compliance with the conditions of approval, the approved stamped tentative map, and the required Composite Development Plan. The Project is located on the west side of Banana Avenue approximately 600 feet south of Foothill Blvd., in the Fontana area of San Bernardino County

5. Subdivisions - Indemnification: In compliance with SBCC §81.01.070, the "developer" shall agree, to defend, indemnify, and hold harmless the County or its "indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval. Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the "developer" of any claim, action, or proceeding and that the County cooperates fully in the defense. The "developer" shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the "developer" of their obligations under this condition to reimburse the County or its indemnitees for all such expenses. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

6. Subdivisions - Project Account (TT/TPM): The Project account number is PROJ-2020-00230. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works and County Counsel). Upon notice, the developer shall deposit additional funds to maintain or return the account to a positive balance. The developer is responsible for all expenses charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of $500.00 shall be in the project account at the time of project approval and the initiation of the Condition Compliance Review. Sufficient funds shall remain in the account to cover all estimated charges that may be made during each compliance review. All fees required for processing shall be paid in full prior to recordation.

7. Subdivisions - Additional Permits: The property owner, developer and land use operator are all responsible to ascertain and comply with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies as are applicable to the development and operation of the approved land use and project site. These may include: FEDERAL: STATE: COUNTY: LOCAL:

8. Subdivisions - State and Federal Endangered Species Act: This approval does not relieve the property owner or project proponent of responsibility to comply with State and Federal Endangered Species Acts. If any sensitive species are identified during grading, building or land disturbing activity, all on-site activities must cease, the California Department of Fish and Wildlife (CDFW) and/or U.S. Fish and Wildlife Service (USFWS) (as applicable) must be contacted to discuss specific mitigation measures and to obtain the necessary incidental take permits. Proof of an incidental take permit from the appropriate agency, or letter stating a permit is not required, must be furnished to the Planning Division. All mitigation measures must be agreed upon and implemented prior to construction activity resuming.

On-Going

Land Use Services - Planning

9. Extension of Time: Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)

10. Underground Utilities : No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.

Prior to Recordation

Land Use Services - Building and Safety

11. Geotechnical (Soil) Report Required: A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to recordation of the final map.

12. Demolition Permit Required Before Recordation: Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

Land Use Services - Land Development

13. Road Dedication/Improvements: The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. Banana Avenue (Collector Street – 66'): •Road Dedication. A 3-foot grant of easement is required to provide a half-width right-of-way of 33 feet. •Street Improvements. Design curb and gutter with match up paving 22 feet from centerline. •Sidewalks. Design sidewalks per County Standard 109 Type "C". •Driveway Approach. Design driveway approach per 2010 Caltrans Driveway Standard Detail A87A (W=12' min – 26' max) and located per San Bernardino County Standard 130.

14. Slope Easements: Slope rights shall be dedicated, where necessary.

15. Improvement Securities: Any required public road, drainage, WQMP, and/or utility improvements for subdivisions shall be bonded in accordance with County Development code unless constructed and approved prior to recordation. All necessary fees shall be provided in accordance with the latest fee schedule.

16. Road Standards and Design: All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Valley Road Standards of San Bernardino County, and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.

Public Works Department – Surveyor's Office

17. Subdivision Map Act Compliance: A Tentative and Final Map is required in compliance with the Subdivision Map Act and the San Bernardino County Development Code.

18. Non-Interference Letter: Subdivider shall present evidence to the County Surveyor's Office that he has tried to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.

19. Easements of Record: Easements of record not shown on the tentative map shall be relinquished or relocated. Lots affected by proposed easements or easement of record, which cannot be relinquished or relocated, shall be redesigned.

20. Final Map Review: Review of the Final Map by our office is based on actual cost, and requires an initial $8,000.00 deposit. Prior to recordation of the map all fees due to our office for the project shall be paid in full.

21. Title Report: A current Title Report prepared for subdivision purposes is required at the time the map is submitted to our office for review.

22. Final Monumentation: Final Monumentation, not set prior to recordation, shall be bonded for with a cash deposit to the County Surveyor's Office as established per the current County Fee Ordinance on file with the Clerk of the Board.

END OF CONDITIONS

Conditions of Approval

Record: PROJ-2020-00230 **System Date:** 05/10/2022

Record Type: Project Application **Primary APN:** 0230031210000

Record Status: In Review **Application Name:** CONCURRENT FILING - CONDITIONAL USE PERMIT AND TENTATIVE TRACT MAP

Description:

CF - CONDITIONAL USE PERMIT - PROPOSED 112 UNIT MULTI-FAMILY RESIDENTIAL

Informational

Land Use Services – Planning

1. Project Approval Description (CUP/MUP): This Conditional Use Permit is conditionally approved to proposing a Conditional Use Permit, in conjunction with a Tentative Tract Map, to construct 112 condominium units in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the San Bernardino County Fire Code (SBCFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). The developer shall provide a copy of the approved conditions and the approved site plan to every current and future project tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project.

2. Project Location: The Project site is located on the west side of Banana Avenue approximately 600 feet south of Foothill Blvd., in the Fontana area of San Bernardino County, adjacent to the Fontana City Limits.

3. Clear Sight Triangle: Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic.

4. Continuous Effect/Revocation: All of the conditions of this project approval are continuously in effect throughout the operative life of the project for all approved structures and approved land uses/activities. Failure of the property owner or developer to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner, developer or other interested party to correct the non-complying situation.

5. Revisions: Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.

County Fire - Community Safety

6. Permit Expiration: Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred with 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.
7. Additional Requirements: In addition to the Fire requirements stated herein, other onsite and offsite improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

8. Access – 150+ feet : Roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department. These shall be extended to within one hundred fifty (150) feet of and shall give reasonable access to all portions of the exterior walls of the first story of any building.

9. Jurisdiction: The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein “Fire Department”. Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable status, codes, ordinances and standards of the Fire Department.

10. Private Road Maintenance : The applicant shall construct and maintain all such roads. In addition, the applicant shall provide to the Fire Department a signed maintenance agreement as detailed in the General Requirement conditions for ongoing road maintenance and snow removal (where applicable). This shall include all primary and secondary access routes that are not otherwise maintained by a public agency.

11. Sprinkler Installation Letter: The applicant shall submit a letter to the Fire Department agreeing and committing to installation of a fire protection system prior to the building inspection for drywall and insulation.

12. Access – 30% slope : Where the natural grade between the access road and building is in excess of thirty percent (30%), an access road shall be provided within one hundred and fifty (150) feet of all buildings. Where such access cannot be provided, a fire protection system shall be installed. Plans shall be submitted to and approved by the Fire Department.

Land Use Services - Land Development

13. Tributary Drainage: Adequate provisions should be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.

14. Erosion Control Installation: Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.

15. Additional Drainage Requirements: In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

16. BMP Enforcement: In the event the property owner/"developer" (including any successors or assigns) fails to accomplish the necessary BMP maintenance within five (5) days of being given written notice by County Public Works, then the County shall cause any required maintenance to be done. The entire cost and expense of the required maintenance shall be charged to the property owner and/or "developer", including administrative costs, attorney's fees and interest thereon at the rate authorized by the County Code from the date of the original notice to the date the expense is paid in full.

17. Continuous BMP Maintenance: The property owner/"developer" is required to provide periodic and continuous maintenance of all Best Management Practices (BMP) devices/facilities listed in the County approved Water Quality Management Plan (WQMP) for the project. Refer to approved WQMP maintenance section.

On-going

Land Use Services - Planning

18. Construction Hours: Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday in accordance with the County of San Bernardino Development Code standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.

19. Cultural Resources: During grading or excavation operations, should any potential paleontological or archaeological artifacts be unearthed or otherwise discovered, the San Bernardino County Museum shall be notified and the uncovered items shall be preserved and curated, as required. For information, contact the County Museum, Community and Cultural Section, telephone (909) 798-8570.

20. Extension of Time: Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)

21. Lighting : Lighting shall comply with Table 83-7 "Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region" of the County's Development Code (i.e. "Dark Sky" requirements). All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign, an alternating message no more than once every five seconds.

22. Underground Utilities : No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.

23. Back Out Into Public Roadways: Project vehicles shall not back out into the public roadway.

24. On-going Condition: TCR-1: The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CR-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.

25. On-going Condition: TCR-2: Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.

26. Additional Permits : The developer shall ascertain compliance with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies that may apply for the development and operation of the approved land use. These may include but are not limited to: a. FEDERAL: b. STATE: c. COUNTY: d. LOCAL:

27. GHG - Operational Standards: The developer shall implement the following as greenhouse gas (GHG) mitigation during the operation of the approved project: a. Waste Stream Reduction. The “developer” shall provide to all tenants and project employees County-approved informational materials about methods and need to reduce the solid waste stream and listing available recycling services. b. Vehicle Trip Reduction. The “developer” shall provide to all tenants and project employees County-approved informational materials about the need to reduce vehicle trips and the program elements this project is implementing. Such elements may include: participation in established ride-sharing programs, creating a new ride-share employee vanpool, designating preferred parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles with benches in waiting areas, and/or providing a web site or message board for coordinating rides. c. Provide Educational Materials. The developer shall provide to all tenants and staff education materials and other publicity about reducing waste and available recycling services. The education and publicity materials/program shall be submitted to County Planning for review and approval. d. Landscape Equipment. The developer shall require in the landscape maintenance contract and/or in onsite procedures that a minimum of 20% of the landscape maintenance equipment shall be electric-powered.

28. Construction Noise : The following measures shall be adhered to during the construction phase of the project: - All construction equipment shall be muffled in accordance with manufacturer’s specifications. - All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits. - All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.

29. Project Account: The Project account number is PROJ-2020-00230. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the “developer” shall deposit additional funds to maintain or return the account to a positive balance. The “developer” is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of $2,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.

30. Continuous Maintenance : The Project property owner shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The property owner shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to: a) Annual maintenance and repair: The developer shall conduct inspections for any structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety. b) Graffiti and debris: The developer shall remove graffiti and debris immediately through weekly maintenance. c) Landscaping: The developer shall maintain landscaping in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated it shall be done in a manner designed to conserve water, minimizing aerial spraying. d) Dust control: The developer shall maintain dust control measures on any undeveloped areas where landscaping has not been provided. e) Erosion control: The developer shall maintain erosion control measures to reduce water runoff, siltation, and promote slope stability. f) External Storage: The developer shall maintain external storage, loading, recycling and trash storage areas in a neat and orderly manner, and fully screened from public view. Outside storage shall not exceed the height of the screening walls. g) Metal Storage Containers: The developer shall NOT place metal storage containers in loading areas or other areas unless specifically approved by this or subsequent land use approvals. h) Screening: The developer shall maintain screening that is visually attractive. All trash areas, loading areas, mechanical equipment (including roof top) shall be screened from public view. i) Signage: The developer shall maintain all on-site signs, including posted area signs (e.g. “No Trespassing”) in a clean readable condition at all times. The developer shall remove all graffiti and repair vandalism on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequently a County-approved sign plan. j) Lighting: The developer shall maintain any lighting so that they operate properly for safety purposes and do not project onto adjoining properties or roadways. Lighting shall adhere to applicable glare and night light rules. k) Parking and on-site circulation: The developer shall maintain all parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs in an un-faded condition as identified on the approved site plan. Any modification to parking and access layout requires the Planning Division review and approval. The markings and signs shall be clearly defined, un-faded and legible; these include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps and “No Parking”, “Carpool”, and “Fire Lane” designations. l) Fire Lanes: The developer shall clearly define and maintain in good condition at all times all markings required by the Fire Department, including “No Parking" designations and “Fire Lane” designations.

31. Expiration: This project permit approval shall expire and become void if it is not “exercised” within 36 months of the effective date of this approval, unless an extension of time is approved. The permit is deemed “exercised” when either: (a.) The permittee has commenced actual construction or alteration under a validly issued building permit, or (b.) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060) (c.) Occupancy of approved land use, occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs: - Construction permits for all or part of the project are not issued or the construction permits expire before the structure is completed and the final inspection is approved. - The land use is determined by the County to be abandoned or non- conforming. - The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination. PLEASE NOTE: This will be the ONLY notice given of this approval’s expiration date. The developer is responsible to initiate any Extension of Time application.

Public Health– Environmental Health Services

32. Refuse Storage and Disposal: All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least 1 time per week, or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the

premises at least 2 times per week, or as often if necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. seq.

33. Noise Levels: Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080.

Land Use Services – Land Development

34. WQMP Inspection Fee: The developer shall provide a $3,600 deposit to Land Development Division for inspection of the approved WQMP. Deposit amounts are subject to change in accordance with the latest approved fee schedule.

35. WQMP: A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A $2,650 deposit for WQMP review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule. The report shall adhere to the current requirements established by the Santa Ana/Mojave Watershed Region. Copies of the WQMP guidance and template can be found at: (http://cms.sbcounty.gov/dpw/Land/WQMPTemplatesandForms.aspx).

36. On-site Flows: On-site flows need to be directed to the nearest County road or drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.

37. Drainage Improvements: A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A $550 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.

38. Road Dedication/Improvements: The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. Banana Avenue (Collector Street – 66'): •Road Dedication. A 3-foot grant of easement is required to provide a half-width right-of-way of 33 feet. •Street Improvements. Design curb and gutter with match up paving 22 feet from centerline. •Sidewalks. Design sidewalks per County Standard 109 Type "C". •Driveway Approach. Design driveway approach per 2010 Caltrans Driveway Standard Detail A87A (W=12' min – 26' max) and located per San Bernardino County Standard 130.

39. Slope Easements: Slope rights shall be dedicated, where necessary.

40. Soils Testing: Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to San Bernardino County and a written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.

41. Construction Permits: Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.

42. Maintenance Bond: Once all required public road, drainage, WQMP, and/or utility improvements have been constructed and approved, a maintenance bond for a period of one year shall be required to insure satisfactory condition of all improvements. Submit necessary fees, per the latest fee schedule, for new securities.

43. Road Standards and Design: All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Valley Road Standards of San Bernardino County, and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.

44. Street Gradients: Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of County Public Works confirming the adequacy of the grade.

45. Transitional Improvements: Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.

46. Street Type Entrance: Street type entrance(s) with curb returns shall be constructed at the entrance(s) to the development.

47. Project Specific Conditions: Road Improvements. All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Department of Public Works. Completion of road and drainage improvements does not imply acceptance for maintenance by the County.

48. Project Specific Conditions: Structural Section Testing. Prior to occupancy, a thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to the County Department of Public Works.

Prior to Land Disturbance

Land Use Services - Building and Safety

49. Wall Plans: Submit plans and obtain separate building permits for any required retaining walls.

50. Geotechnical (Soil) Report Required Before Grading: A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits or land disturbance.

51. Demolition Permit Required Before Grading: Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

Land Use Services - Land Development

52. Grading Plans: Grading and Erosion control plans shall be submitted for review and approval obtained, prior to construction. All Drainage and WQMP improvements shall be shown on the Grading plans according to the approved Drainage study and WQMP reports. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.

53. Regional Board Permit: Construction projects involving one or more acres must be accompanied by Regional Board permit WDID #. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one (1) acre of land total.

54. NPDES Permit: An NPDES permit - Notice of Intent (NOI) - is required on all grading of one (1) acre or more prior to issuance of a grading/construction permit. Contact your Regional Water Quality Control Board for specifics. www.swrcb.ca.gov.

55. FEMA Flood Zone: The project is located within Flood Zone X-Shaded and X-Unshaded according to FEMA Panel Number 06071C8651H dated 8/28/2008 and FEMA Panel Number 06071C8635J dated 9/26/2016. Flood Zone X- Shaded will require the lowest floor of structure to be elevated 1 feet above highest adjacent ground in compliance with FEMA/SBC regulations. No elevation requirements for Flood Zone X-Unshaded. The requirements may change based on the most current Flood Map prior to issuance of grading permit.

56. Drainage Improvements: A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A $750 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.

57. WQMP Inspection Fee: The developer shall provide a $3,600 deposit to Land Development Division for inspection of the approved WQMP. Deposit amounts are subject to change in accordance with the latest approved fee schedule.

58. WQMP: A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A $2,650 deposit for WQMP review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule. The report shall adhere to the current requirements established by the Santa Ana/Mojave Watershed Region. Copies of the WQMP guidance and template can be found at: (http://cms.sbcounty.gov/dpw/Land/WQMPTemplatesandForms.aspx)

59. San Sevaine Fee: The project site is located within the San Sevaine Drainage Fee area and is subject to a fee of $4,405 per net developed acre that is to be paid prior to issuance of any grading or building permit. (SBC Ord, No. 3358). Total net developed acreage is 2.63 acres and the fee shall be $11,585.15.

Public Works – Surveyor's Office

60. Corner Records Required Before Grading: Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.

61. Monument Disturbed by Grading: If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

Land Use Services – Planning

62. Grading/Land Disturbance Condition: BIO-1: Construction activities, including vegetation removal, will be conducted outside the general bird nesting season (February 1 through August 31) to avoid impacts to nesting birds. If construction activities cannot be conducted outside the bird nesting season, a preconstruction nesting bird survey by a qualified biologist is required no more than three days prior to any construction activities. Should nesting birds be found on-site, an exclusionary buffer will be established by the qualified biologist. The buffer will be clearly marked in the field by construction personnel under guidance of the qualified biologist. No construction activities will be allowed within this zone until the qualified biologist determines that the young have fledged or the nest is no longer active. A copy of the biologist's report shall be filed with the County Planning Division upon completion.

63. Grading/Land Disturbance Condition: CUL-1: In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-1, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

64. Grading/Land Disturbance Condition: CUL-2: If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

65. Grading/Land Disturbance Condition: CUL-3: If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

66. Air Quality: Although the Project does not exceed South Coast Air Quality Management District thresholds, the Project proponent is required to comply with all applicable rules and regulations as the South Coast Air Basin is in non-attainment status for ozone and suspended particulates [PM10 and PM2.5 (State)]. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. This would include, but not be limited to, the following Best Available Control Measures. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures: a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. 1. The Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading. Portions of the site that are actively being graded shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday. 2. The Project proponent shall ensure that all disturbed areas are treated to prevent erosion. 3. The Project proponent shall ensure that all grading activities are suspended when winds exceed 25 miles per hour. b. Exhaust emissions from vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, will increase NOX and PM10 levels in the area. Although the Project will not exceed Mojave Desert Air Quality Management District thresholds during operations, the Project proponent will be required to implement the following requirements: 1. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. 2. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.

67. Diesel Regulations: The operator shall comply with all existing and future California Air Resources Board and South Coast Air Quality Management District regulations related to diesel-fueled trucks, which among others may include: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment. South Coast Air Quality Management District rules for diesel emissions from equipment and trucks are embedded in the compliance for all diesel fueled engines, trucks, and equipment with the statewide California Air Resources Board Diesel Reduction Plan. These measures will be implemented by the California Air Resources Board in phases with new rules imposed on existing and new diesel-fueled engines.

68. GHG - Construction Standards: The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce GHG emissions and submitting documentation of compliance. The developer/construction contractors shall do the following: a) Implement the approved Coating Restriction Plans. b) Select construction equipment based on low GHG emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment. c) Grading contractor shall provide and implement the following when possible: - training operators to use equipment more efficiently. - identifying the proper size equipment for a task can also provide fuel savings and associated reductions in GHG emissions. - replacing older, less fuel-efficient equipment with newer models. - use GPS for grading to maximize efficiency. d) Grading plans shall include the following statements: - "All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout construction duration." - "All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes." e) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flag person shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways. f) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures. g) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the availability of recycling services.

Public Health– Environmental Health Services

69. Vector Control Requirement: The project area has a high probability of containing vectors. A vector survey shall be conducted to determine the need for any required control programs. A vector clearance application shall be submitted to the appropriate Mosquito & Vector Control Program. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

Prior to Issuance

County Fire - Community Safety

70. Building Plans: Building plans shall be submitted to the Fire Department for review and approval.

71. Combustible Protection: Prior to combustibles being placed on the project site an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy.

72. Fire Fee: The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.

73. Fire Flow Test: Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety.

74. Access: The development shall have a minimum of 3 points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. a. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions. b. Multi-Story Road Access Width. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height.

75. Haz-Mat Approval: The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8401 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials.

76. Hydrant : Your project meets fire flow however the fire hydrant shown in your submittal is in excess of the required spacing and/or a substandard fire hydrant. You will be required to install an approved fire hydrant within 300 feet (as measured along vehicular travel- ways) from the driveway on the address side of the proposed structure. This requirement shall be completed prior to combination inspection by Building and Safety.

77. Primary Access Paved: Prior to building permits being issued to any new structure, the primary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions, including width, vertical clearance and turnouts.

78. Secondary Access Paved: Prior to building permits being issued to any new structure, the secondary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions including width, vertical clearance and turnouts.

79. Solar: Solar / Photovoltaic System Plans. Plans shall be submitted online through EZOP to the Fire Department for review and approval. Plans must be submitted and approved prior to Conditional Compliance Release of Building.

80. Surface: Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Road surface shall meet the approval of the Fire Chief prior to installation. All roads shall be designed to 85% compaction and/or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds.

81. Water System: Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using California Fire Code. The Fire Flow for this project shall be: 1500 GPM for a two hour duration at 20 psi residual operating pressure. Fire Flow is based on a 7457 sq. ft. structure.

82. Water System Certification: The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job site.

83. Water System Commercial: A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred (300) feet from any portion of astructure.

Land Use Services - Building and Safety

84. Temporary Use Permit: A Temporary Structures (TS) permit for non-residential structures for use as office, retail, meeting, assembly, wholesale, manufacturing, and/ or storage space will be required. A Temporary Use Permit (PTUP) for the proposed structure by the Planning Division must be approved prior to the TS Permit approval. A TS permit is renewed annually and is only valid for a maximum of five (5) years.

85. Construction Plans: Any building, sign, or structure to be added to, altered (including change of occupancy/use), constructed, or located on site, will require professionally prepared plans based on the most current adopted County and California Building Codes, submitted for review and approval by the Building and Safety Division.

Land Use Services - Land Development

86. Construction Permits: Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.

87. Regional Transportation Fee: This project falls within the Regional Transportation Development Mitigation Fee Plan Area for the Fontana Subarea. The Regional Transportation Development Mitigation Plan Fee (Plan Fee) shall be paid by a cashier's check to the Land Use Services Department. The Plan Fee shall be computed in accordance with the Plan Fee Schedule in effect as of the date that the building plans are submitted and the building permit is applied for. The Plan Fee is subject to change periodically. Currently, the fee is $4,671 per unit for Multi Family Use, which includes the 112 units per the site plan dated May 26, 2021. Therefore, the estimated Regional Transportation Fees for the Project is $523,152.00. The current Regional Transportation Development Mitigation Plan can be found at the following website: http://cms.sbcounty.gov/dpw/Transportation/TransportationPlanning.aspx

Public Works – Surveyor's Office

88. Monument Disturbed by Grading: If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

89. Corner Records Required Before Grading: Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.

Land Use Services – Planning

90. Signs: All proposed on-site signs shall be shown on a separate plan, including location, scaled and dimensioned elevations of all signs with lettering type, size, and copy. Scaled and dimensioned elevations of buildings that propose signage shall also be shown. The applicant shall submit sign plans to County Planning for all existing and proposed signs on this site. The applicant shall submit for approval any additions or modifications to the previously approved signs. All signs shall comply with SBCC Chapter 83.13, Sign Regulations, SBCC §83.07.040, Glare and Outdoor Lighting Mountain and Desert Regions, and SBCC Chapter 82.19, Open Space Overlay as it relates to Scenic Highways (§82.19.040), in addition to the following minimum standards: a. All signs shall be lit only by steady, stationary shielded light; exposed neon is acceptable. b. All sign lighting shall not exceed 0.5 foot-candle. c. No sign or stationary light source shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety. d. Monument signs shall not exceed four feet above ground elevation and shall be limited to one sign per street frontage.

Public Health– Environmental Health Services

91. Preliminary Acoustical Information: Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the EHS for review and approval. For information and acoustical checklist, contact EHS at (800) 442-2283.

92. Water and Sewer - LAFCO: Water and/or Sewer Service Provider Verification. Please provide verification that the parcel(s) associated with the project is/are within the jurisdiction of the water and/or sewer service provider. If the parcel(s) associated with the project is/are not within the boundaries of the water and/or sewer service provider, submit to EHS verification of Local Agency Formation Commission (LAFCO) approval of either: 1. Annexation of parcels into the jurisdiction of the water and/or sewer service provider; or, 2. Out-of-agency service agreement for service outside a water and/or sewer service provider's boundaries. Such agreement/contract is required to be reviewed and authorized by LAFCO pursuant to the provisions of Government Code Section 56133.

93. Sewer Service Verification Letter: Applicant shall procure a verification letter from the sewer service provider identified. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewer provider. The letter shall reference the Assessor's Parcel Number(s).

94. Sewage Disposal: Method of sewage disposal shall be sewer service provided by City of Fontana or an EHS approved onsite wastewater treatment system (OWTS) that conforms to the Local Agency Management Program (LAMP).

95. Existing Wells: If wells are found on-site, evidence shall be provided that all wells are: (1) properly destroyed, by an approved C57 contractor and under permit from the County OR (2) constructed to EHS standards, properly sealed and certified as inactive OR (3) constructed to EHS standards and meet the quality standards for the proposed use of the water (industrial and/or domestic). Evidence, such as a well certification, shall be submitted to EHS for approval.

96. Water Service Verification Letter: Applicant shall procure a verification letter from the water service provider. This letter shall state whether or not water connection and service shall be made available to the project by the water provider. This letter shall reference the File Index Number and Assessor's Parcel Number(s). For projects with current active water connections, a copy of water bill with project address may suffice.

97. Water Purveyor: Water purveyor shall be Fontana WC or EHS approved.

98. Demolition Inspection Required: All demolition of structures shall have a vector inspection prior to the issuance of any permits pertaining to demolition or destruction of any premises. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

Public Works – Traffic

99. Improvements: The applicant shall design their street improvement plans to include the following:
    - Driveways on Banana Avenue.
        - ✓ The northerly driveway shall be an emergency vehicle access only.
        - ✓ The southerly driveway shall be an exit only. Developer shall install outside the public road right-of-way and maintain, at all times, the appropriate retroreflective signage to clearly communicate and enforce this restriction.

Prior to Final Inspection

County Fire - Community Safety

100. Combustible Vegetation: Combustible vegetation shall be removed as follows: a. Where the average slope of the site is less than 15% - Combustible vegetation shall be removed a minimum distance of thirty (30) feet from all structures or to the property line, whichever is less. b. Where the average slope of the site is 15% or greater - Combustible vegetation shall be removed a minimum one hundred (100) feet from all structures or to the property line, whichever is less.

101. Commercial Addressing: Commercial and industrial developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum six (6) inches in height and with a three quarter (3/4) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances.

102. Fire Alarm - Manual: A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.

103. Fire Extinguishers: Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.

104. Fire Lanes: The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan.

105. Fire Sprinkler-NFPA #13 : An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit plans to the with hydraulic calculation and manufacturers specification sheets to the Fire Department for approval and approval. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.

106. Hydrant Marking : Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road.

107. Illuminated Site Diagram: The applicant shall submit for review and approval a site diagram plan to the Fire Department. The applicant shall install at each entrance to a multi-family complex an illuminated diagrammatic representation of the complex, which shows the location of each unit and each fire hydrant.

108. Key Box : An approved Fire Department key box is required. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Knox Lock.

109. Override Switch : Where an automatic electric security gate is used, an approved Fire Department override switch (Knox ®) is required.

110. Roof Certification: A letter from a licensed structural (or truss) engineer shall be submitted with an original wet stamp at time of fire sprinkler plan review, verifying the roof is capable of accepting the point loads imposed on the building by the fire sprinkler system design.

111. Street Sign: This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.

Prior to Occupancy

County Fire - Community Safety

112. Inspection by the Fire Department: Permission to occupy or use the building (certificate of Occupancy or shell release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

Land Use Services - Land Development

113. WQMP Improvements: All required WQMP improvements shall be completed by the applicant, inspected and approved by County Public Works. An electronic file of the final and approved WQMP shall be submitted to Land Development Division, Drainage Section.

114. Drainage Improvements: All required drainage improvements shall be completed by the applicant. The private Registered Civil Engineer (RCE) shall inspect improvements outside the County right-of-way and certify that these improvements have been completed according to the approved plans.

115. Structural Section Testing: Structural Section Testing. A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Department of Public Works, for Banana Avenue only. Structural section for the private roads shall be submitted to Land Development.

116. Road Improvements: Condition of Road Improvements. At the time of occupancy for all structures, the condition of all required on-site and off-site improvements shall be acceptable to County Department of Public Works.

117. Structural Section Testing: A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Public Works.

118. LDD Requirements: Landscape Maintenance. Trees, irrigation systems, and landscaping required to be installed on public right-of-way shall be approved by the County Department of Public Works/Current Planning, maintained by the adjacent property owner or other County-approved entity.

119. Road Improvements: All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Public Works.

Land Use Services – Planning

120. Condition Compliance: Prior to occupancy/use, all conditions shall be completed to the satisfaction of County Planning with appropriate authorizing approvals from each reviewing agency.

121. Fees Paid: Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number PROJ- 2020-00230.

122. Installation of Improvements: All required on-site improvements shall be installed per approved plans.

123. Landscaping/Irrigation: All landscaping, dust control measures, all fences, etc. as delineated on the approved Landscape Plan shall be installed. The developer shall submit the Landscape Certificate of Completion verification as required in SBCC Section 83.10.100. Supplemental verification should include photographs of the site and installed landscaping.

124. Screen Rooftop: All roof top mechanical equipment is to be screened from ground vistas.

125. Shield Lights: Any lights used to illuminate the site shall include appropriate fixture lamp types as listed in SBCC Table 83-7 and be hooded and designed so as to reflect away from adjoining properties and public thoroughfares and in compliance with SBCC Chapter 83.07, “Glare and Outdoor Lighting” (i.e. “Dark Sky Ordinance).

126. GHG - Installation/Implementation Standards: The developer shall submit for review and obtain approval from County Planning of evidence that all applicable GHG performance standards have been installed, implemented properly and that specified performance objectives are being met to the satisfaction of County Planning and County Building and Safety. These installations/procedures include the following: a) Design features and/or equipment that cumulatively increases the overall compliance of the project to exceed Title 24 minimum standards by five percent. b) All interior building lighting shall support the use of fluorescent light bulbs or equivalent energy-efficient lighting. c) Installation of both the identified mandatory and optional design features or equipment that have been constructed and incorporated into the facility/structure.

Public Works - Traffic

127. Roadway Improvements. The applicant shall construct, at 100% cost to the applicant all roadway improvements as shown on their approved street improvement plans.

Conditions of Approval

Record: PROJ-2020-00230 **System Date:** 06/28/2022

If you would like additional information regarding any of the conditions in this document, please contact the department responsible for applying the condition and be prepared to provide the Record number above for reference. Department contact information has been provided below.

Department/Agency	Office/Division	Phone Number
Land Use Services Dept.	San Bernardino Govt. Center	(909) 387-8311
(All Divisions)	High Desert Govt. Center	(760) 995-8140
Web Site	http://cms.sbcounty.gov/lus/Home.aspx	
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community Safety)	High Desert Govt. Center	(760) 995-8190
Web Site	https://www.sbcfire.org/	
County Fire	Hazardous Materials	(909) 386-8401
	Flood Control	(909) 387-7995
Dept. of Public Works	Solid Waste Management	(909) 386-8701
	Surveyor	(909) 387-8149
	Traffic	(909) 387-8186
Web Site	http://cms.sbcounty.gov/dpw/Home.aspx	
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Web Site	https://wp.sbcounty.gov/dph/programs/ehs/	
Local Agency Formation Commission (LAFCO)		(909) 388-0480
Web Site		http://www.sbclafco.org/
Special Districts	Water and Sanitation	(760) 955-9885
	Administration, Park and Recreation, Roads, Streetlights, Television Districts, and Other	(909) 386-8800
External Agencies (Caltrans, U.S. Army, etc.)		*See condition text for contact information...*

"EXHIBIT F"
TO
PREANNEXATION AGREEMENT

DEVELOPMENT IMPACT FEES

ESTIMATED DEVELOPMENT IMPACT FEES
PER MOU BETWEEN CITY AND COUNTY
(Western Sphere Area)

Impact Fees	Fee Amount	Multiplier	Fee Amount Extended
Fire Facility - Infill Benefit (@ 50% Reduction)			
Multi-Family Low	$180.00	44	$7,920.00
Multi-Family High	$190.00	68	$12,920.00
Storm Drain Fee - Infill Benefit (@ 50% reduction)			
I-10 North Benefit Area	$10,479.50	6.7 acres	$70,212.65
Park Development- Infill Benefit (@ 50% Reduction)			
Multi-Family Low	$3,239.00	44	$142,516.00
Multi-Family High	$3,409.50	68	$231,846.00
City Sewer Master Connection Fee			
Residential	$902.00 per du	112 du	$101,024.00
*IEUA Sewer Expansion Fee_Pass Thru**			
Residential	$7,600.00 per du	112 du	$851,200.00
City Sewer Connection Permit	$25.00		$25.00
Sewer Deposit			
Residential	$120.84 du [$32.21 per du x 4/mo]	112 du	$13,534.08
LAFCO fee**	$5,725.00		$5,725.00
TOTAL FEES TO BE COLLECTED:			$1,436,922.73

*Inland Empire Utility Agency
** Indicaes a pass through fee collected for other agencies.