

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Supervisor Kevin Jeffries

**SUBMITTAL DATE:**  
March 17, 2016

**SUBJECT:** Resolution No. 2016-102 Making Responsible Agency Findings Pursuant to the California Environmental Quality Act and Issuing Certain Limited Approvals; Resolution No. 2016-103 Authorization to Exchange Real Property Located in the City of Lake Elsinore, County of Riverside, State of California; Approval of Agreements between County and Castle & Cooke Commercial-CA, Inc.; District 1


**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Adopt Resolution No. 2016-102 Making Responsible Agency Findings Pursuant to the California Environmental Quality Act and Issuing Certain Limited Approvals for the Vesting Tentative Tract Map No. 35001 Project by authorizing the exchange of fee simple interests in real property and easement reservations located in the City of Lake Elsinore, County of Riverside, State of California; and

**BACKGROUND:**

**Summary**

Continued on page 2.

  
Kevin Jeffries  
1<sup>st</sup> District Supervisor

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS:				Budget Adjustment: N/A	
				For Fiscal Year: 2015/16	

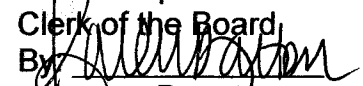
**C.E.O. RECOMMENDATION:**

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Ashley and duly carried,  
IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Benoit and Ashley  
Nays: None  
Absent: Tavaglione  
Date: April 5, 2016  
xc: Supvr. Jeffries, EDA, Recorder

Kecia Harper-Ihem  
Clerk of the Board  
By   
Deputy

Prev. Agn. Ref.: 3-17 of 01/13/2015; 3-27  
of 02/09/2016

District: 1

Agenda Number:

3-1

Departmental Concurrence

Positions Added

☐

Change Order

☐

4/5 Vote

☐

A-30

☐

# **SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**FORM 11:** Resolution No. 2016-102 Making Responsible Agency Findings Pursuant to the California Environmental Quality Act and Issuing Certain Limited Approvals; Resolution No. 2016-103 Authorization to Exchange Real Property Located in the City of Lake Elsinore, County of Riverside, State of California; Approval of Agreements between County and Castle & Cooke Commercial-CA, Inc.; District 1

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2. Adopt Resolution No. 2016-103 Authorization to Exchange Real Property located in the City of Lake Elsinore, Riverside County, California, involving the conveyance by the County of Riverside ("County") of a certain portion of fee interest in real property identified with Assessor's Parcel Numbers 390-200-009, 390-200-011, 390-130-029, 390-210-022 and 389-080-054, consisting of approximately 40 acres of vacant land, to Castle & Cooke Commercial-CA, Inc. ("C&C") via a grant deed with an easement reservation over a portion of the land with APN 390-130-029, in exchange for the conveyance by C&C of certain portion of its real property with Assessor's Parcel Numbers 390-200-010, 390-160-006, and 390-130-028 of approximately 40 acres of vacant land located adjacent to the County owned property, to the County via grant deed; and
3. Approve the Real Estate Exchange Agreement and Escrow Instructions between the County and Castle & Cooke Commercial-CA, Inc. ("Exchange Agreement") and authorize the Chairman of the Board of Supervisors to execute this Agreement on behalf of the County; and
4. Approve the Indemnification Agreement between the County and Castle & Cooke Commercial-CA, Inc. and authorize the Chairman of the Board of Supervisors to execute this Agreement on behalf of the County; and
5. Approve the Amended and Restated Temporary Operations and Permanent Maintenance Easement Agreement between the County and Castle & Cooke Commercial-CA, Inc. and authorize the Chairman of the Board of Supervisors to execute this Agreement on behalf of the County; and
6. Authorize the Chairman of the Board of Supervisors to execute the Grant Deed With the Easement Reservation conveying the County owned property to Castle & Cooke Commercial-CA, Inc. as described in the Exchange Agreement; and
7. Authorize the Assistant County Executive Officer/EDA to certify acceptance of any documents running in favor of the County as part of this transaction and to execute any other documents and administer all actions necessary to complete this transaction; and
8. Direct the Clerk of the Board to file the Notice of Determination with the County Clerk within five (5) working days of approval by the Board.

## **BACKGROUND:**

### **Summary (continued)**

Pursuant to Government Code Section 25365, a county may exchange real property or any interest therein, belonging to the county with any person, if the property or interest therein to be conveyed is not required for county use and the property to be acquired is needed for county use. This exchange may be upon the terms and conditions as are agreed upon between the parties. The value of the private real property exchanged shall be equal to or greater than 75% of the value of the county property offered in the exchange.

In 2004, when the County of Riverside ("County") acquired certain vacant land, consisting of approximately 598 acres, located in the City of Lake Elsinore, County of Riverside, State of California, including some parcels identified with APNs 390-130-029, 390-210-022, 390-200-009, 390-270-008, 390-210-018, 390-200-011, and 389-080-054 pursuant to an Acquisition Agreement and the Memorandum of Understanding (MOU), both dated February 10, 2004 between the County and Tri-Valley I, Inc. At the time of the acquisition of this property, the parties contemplated that boundary adjustments and other parcel reconfigurations may be done as described in the MOU.

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

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Later in 2004, the County entered into a Temporary Operations and Permanent Maintenance Easement Agreement Dated December 30, 2004 with T.I. Group, Inc. a California corporation ("TOPME Agreement") whereby the County was obligated to maintain a sloped area upon the completion of certain work as described in the TOPME Agreement. Subsequently, Castle & Cooke Lake Elsinore West, Inc. acquired from T.I. Group the real property located adjacent to the County owned real property subject to the TOPME Agreement. In 2014, Castle & Cooke Lake Elsinore West, Inc. merged with Castle & Cooke Commercial-CA, Inc. whereby Castle & Cooke Commercial-CA, Inc. ("C&C") is the surviving corporate entity and the successor-in-interest to the real property interests acquired by Castle & Cooke Lake Elsinore West, Inc.

On January 13, 2015, the Board of Supervisors for the County of Riverside ("Board") adopted Resolution No. 2015-030 to provide its notice of intention to exchange approximately 48 acres of land with the adjacent property owner, Castle & Cooke. After further evaluation, the parties have decreased the total number of acres to be exchanged. On February 9, 2016, the Board adopted Resolution No. 2016-074 to amend Resolution No. 2015-030 to provide the revised exchange configuration and information on the decreased acreage.

The County of Riverside will convey certain fee simple interests in real property, portions of Assessor's Parcel Numbers 390-130-029, 390-210-022, 390-200-009, 390-200-011, and 389-080-054 (County Property), subject to an easement reservation with access over a portion of the land with Assessor's Parcel Number ("APN") 390-130-029 located in the City of Lake Elsinore, County of Riverside, in exchange, C&C will convey certain fee simple interests in real property located adjacent to the County Property, portions of Assessor's Parcel Numbers 390-200-010, 390-160-006, and 390-130-028, as shown on the attached Map A, by grant deeds. The properties have been valued in equal ranges by an independent MAI appraiser hired by the County.

C&C shall be responsible for paying the escrow costs and fees for the transaction, the full cost of a title policy on the properties and the costs of clearing title for property to be conveyed to the County. The parties desire to enter into that certain Real Estate Exchange Agreement with Escrow Instructions to provide the terms and conditions for the exchange of the above described real property and that certain Indemnification Agreement whereby C&C shall indemnify the County.

C&C shall assume annual maintenance responsibilities for certain slopes described in that certain Amended and Restated Temporary Operations and Permanent Maintenance Easement Agreement between the County and C&C entered into concurrently with the Exchange Agreement and this transaction. The estimated annual cost of these maintenance responsibilities is currently between \$200,000 - \$300,000. If this exchange of property and amended TOPME Agreement are not approved, it is anticipated that the County will retain ownership and that this annual cost will be borne by the Multiple Species Habitat Conservation Plan (MSHCP) Program.

As part of this exchange transaction, the easement reservation in favor of the County over a portion of the land with APN 390-130-029 will include restrictions on development by C&C and conditions for the successful translocation of the San Diego Ambrosia plant species which may be performed by the Western Riverside County Regional Conservation Authority (RCA) or another entity approved by the County pursuant to success criteria established prior to any development being permitted within the easement area. The Exchange Agreement and the Grant Deed with Easement Reservation will include provisions indicating that the successful translocation of the San Diego Ambrosia plants from the easement area to another shall be performed prior to any development occurring on that portion of land. Once successful translocation has been confirmed by the County and RCA with input from the Wildlife Agencies, the easement interest would be relinquished by the County to C&C in the manner provided in the Grant Deed with Easement Reservations.

# **SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**FORM 11:** Resolution No. 2016-102 Making Responsible Agency Findings Pursuant to the California Environmental Quality Act and Issuing Certain Limited Approvals; Resolution No. 2016-103 Authorization to Exchange Real Property Located in the City of Lake Elsinore, County of Riverside, State of California; Approval of Agreements between County and Castle & Cooke Commercial-CA, Inc.; District 1

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The adoption of Resolution No. 2016-102 which makes responsible agency CEQA findings for the authorization to exchange real property in the City of Lake Elsinore and the approval of the agreements related to the exchange transaction is recommended. Pursuant to this Resolution, the Board finds that the County, as a responsible agency has reviewed and considered the Alberhill Ranch Specific Plan Final Environmental Impact Report No. 89-2 and EIR Addendum No. IV that were previously certified by the City of Lake Elsinore in connection with its approval of Vesting Tentative Tract Map No. 35001 which proposed to subdivide the Castle & Cooke property adjacent to the County property. Based on this review, it is proposed that the Board find the exchange transaction is within the scope of EIR Addendum No. IV; that the environmental effects have been adequately addressed; and that this Addendum No. IV is a complete and accurate reporting of the potential impacts reflecting the independent judgment of the County. It is also proposed that the Board further find that the mitigation measures imposed by the City, as lead agency, are sufficient to reduce all potentially significant impacts to a level of less than significant. Accordingly, this Resolution confirms that the Board, in its role as a responsible agency, approves the exchange transaction and all the agreements. The environmental documents and agreements referenced in Resolution No. 2016-102 can be viewed at the Clerk of the Board's office located at 4800 Lemon Street, 1<sup>st</sup> Floor, Riverside, CA 92501 during regular business hours.

Adoption of Resolution No. 2016-103, Authorization to Exchange Real Property in the City of Lake Elsinore, County of Riverside, State of California is recommended. The proposed exchange of County-owned property for the land owned by C&C would be of significant benefit to the County of Riverside, since the C&C parcels are contiguous to the existing County owned property and will release the County from the aforementioned obligation to maintain certain slopes. In addition, the exchange will preserve the wildlife corridor in the northern part of the County's property adjacent to the I-15 freeway along an existing riparian area. In connection with this exchange, the parties propose to amend the TOPME Agreement to reflect that C&C will assume the slope maintenance obligation.

In light of the above described reasons, authorization by the Board of the exchange transaction, approval of the Real Estate Exchange Agreement and Escrow Instructions, the Amended and Restated TOPME Agreement and the Indemnification Agreement is recommended to complete the exchange between the parties.

The Real Estate Exchange Agreement and Escrow Instructions, Grant Deeds, the Amended and Restated Temporary Operations and Permanent Maintenance Easement Agreement and the Indemnification Agreement have been approved as to form by County Counsel.

## **Impact on Citizens and Businesses**

There is no detrimental impact on citizens and businesses. This is an authorization of a proposed real estate exchange between the County and Castle & Cooke which will benefit the MSHCP Program and result in significant cost savings.

## **SUPPLEMENTAL:**

### **Additional Fiscal Information**

Pursuant to the requirements of the Exchange Agreement, C&C shall pay for the costs associated with this real estate exchange.

### **Contract History and Price Reasonableness**

N/A

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**ATTACHMENTS (if needed, in this order):**

Map A

Resolution No. 2016-102 Making RA CEQA Findings and Issuing Certain Limited Approvals

Resolution No. 2016-103 Authorization to Exchange Real Property

Exhibits A and B for Ambrosia Easement and Ambrosia Access Easement

Exhibits A-1 Legal Descriptions and Plat Maps for property conveyed to C&C

Exhibits B-1 Legal Descriptions and Plat Maps for property conveyed to the County

Exhibits C-1 Legal Descriptions and Depictions of Temporary Operations and Permanent Maintenance Easement

Grant Deed in favor of C&C with Easement Reservation to County (Original)

Grant Deed in favor of County (Original)

Notice of Determination

Real Estate Exchange Agreement and Escrow Instructions between County and C&C w/Exhibits A-F (4 sets)

Indemnification Agreement between County and C&C (4 sets) (attached as Exhibit E to Exchange Agreement)

Amended and Restated Temporary Operations and Permanent Maintenance Easement Agreement between County and C&C (4 sets) (attached as Exhibit F to Exchange Agreement)

**RESOLUTION NO. 2016-102**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE CONSIDERING THE ALBERHILL RANCH SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT NO. 89-2 AND EIR ADDENDUM NO. IV FOR VESTED TENTATIVE TRACT MAP NO. 35001 MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ISSUING CERTAIN LIMITED APPROVALS FOR VESTED TENTATIVE TRACT MAP NO. 35001 BY AUTHORIZING THE EXCHANGE OF FEE INTERESTS IN REAL PROPERTY AND EASEMENT RESERVATIONS LOCATED IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA WITH CASTLE & COOKE COMMERCIAL-CA, INC. BY GRANT DEEDS

**WHEREAS**, in 2004, the County, Tri Valley I, T.T. Group and the City of Lake Elsinore ("City") executed agreements concerning the County's acquisition of the real property, in the Lake Elsinore area, County of Riverside, State of California, referenced as the "Tri-Valley" property, specifically an Acquisition Agreement, Memorandum of Understanding, Addendum to the Memorandum of Understanding and a Temporary Operations and Permanent Maintenance Easement Agreement (collectively referred to as the "Tri-Valley Agreements"); and,

**WHEREAS**, the Tri-Valley Memorandum of Understanding and its Addendum ("Tri-Valley MOU"), is an agreement that addressed the acquisition of approximately 598 acres of property for conservation and roughly 392 acres of property for development as more particularly described and depicted in the Tri-Valley Agreements; and,

**WHEREAS**, the County of Riverside ("County") has a legal interest in certain unimproved real property, identified with Assessor's Parcel Numbers ("APNS") 390-130-029, 390-210-022, 390-200-009, 390-200-011, and 389-080-054 ("County Property"), a portion of the 598 acres of land acquired by the County pursuant to the Tri-Valley Agreement, also known as the Tri-Valley property, whereby portions of which is to be exchanged with Castle & Cooke Commercial-CA, Inc; and,

**WHEREAS**, Castle & Cooke Commercial-CA, Inc. ("C&C") has a legal interest in certain real property of approximately 392 acres of unimproved land located adjacent to the County Property, some of which are identified with Assessor's Parcel Numbers 390-200-010, 390-160-006, and 390-130-028 ("C&C Property") whereby portions of which is to be exchanged with the County; and,

FORM APPROVED COUNTY COUNSEL  
DATE 3/22/16  
BY KAREN WASISBAHN

1       **WHEREAS**, the County and C&C desire to exchange property to implement the intention of the  
2 parties as provided in the Tri-Valley Agreements in 2004; and,

3       **WHEREAS**, the Tri-Valley acquisition went through several discretionary approval processes: 1)  
4 prior to approval of the Western Riverside County Multiple Species Habitat Conservation Plan  
5 (“MSHCP”), the County and the former property owner negotiated terms for the acquisition of 598 acres,  
6 the Tri-Valley Property, and 392 acres of developable property, the C&C Property; 2) whereby this  
7 acquisition was incorporated into the City’s approval of the MSHCP and its Environmental Impact Report  
8 in January 2004 and was acknowledged by the U.S. Fish and Wildlife Service and the California  
9 Department of Fish and Wildlife when they approved the MSHCP and issued take authorizations (See  
10 City Consistency Findings attached to City Resolution No. 2004-11, City Resolution No. 2004-10 and  
11 associated documents; City MSHCP Transcript pp. 113, 152-143, and 172-175; and Exhibit “A”, pp. 1,5,  
12 and 11.); and 3) the City entered into an Addendum to the original Tri-Valley Memorandum of  
13 Understanding to clarify the City’s discretionary authority over the proposed development of the C&C  
14 Property and address the establishment of a potential east-west transportation corridor affecting the Tri-  
15 Valley Property; and,

16       **WHEREAS**, the terms of the Tri-Valley MOU provide that the County agreed to the finalization  
17 of the property boundaries between the County Property and the C&C Property subject to further mapping  
18 to be submitted by Tri Valley I to the County for approval and that such approval may not be  
19 unreasonably withheld; and,

20       **WHEREAS**, on November 13, 2012, the City approved Vested Tentative Map No. 35001  
21 (“VTTM No. 35001”) and certified EIR Addendum No. IV (“EIR Addendum No. IV”) to the Alberhill  
22 Ranch Specific Plan Final Environmental Impact Report No. 89-2 (“EIR”) following disclosure and  
23 assessment of the environmental impacts associated with VTTM No. 35001 and establishing a final parcel  
24 boundary (affecting less than ten percent of the County Property and C&C Property combined) thus  
25 approving “further mapping” as contemplated by the Tri-Valley MOU; and,

26       **WHEREAS**, the County and C&C intend to finalize the boundary between the County Property  
27 and the C&C Property in accordance with what was intended in the terms of the Tri-Valley MOU  
28 pursuant to the terms of Resolution No. 2016-103 which authorizes the exchange of real property between

1 the County and C&C, as well as approving a Real Estate Exchange Agreement and Escrow Instructions  
2 and an Amended and Restated Temporary Operations and Permanent Maintenance Easement Agreement  
3 both to be entered into between the County and C&C ("Action"); and,

4 **WHEREAS**, pursuant to the California Environmental Quality Act ("CEQA") and the State  
5 CEQA Guidelines, the City is the lead agency with land use authority over the proposed development of  
6 the C&C Property including specifically VTTM No. 35001, EIR, and the EIR Addendum No. IV (the  
7 "Project"); and,

8 **WHEREAS**, on November 13, 2012, the City adopted Resolution No. 2012-053, considered and  
9 certified the EIR Addendum No. IV for the Project; and,

10 **WHEREAS**, pursuant to CEQA, the City as the lead agency is responsible for assuring that an  
11 adequate environmental analysis of VTTM No. 35001 for the Project has been conducted; and,

12 **WHEREAS**, pursuant to CEQA, the County has a more limited approval and implementing  
13 authority over the Project and thus serves only as a responsible agency for the Project by issuing certain  
14 limited approvals for VTTM No. 35001, specifically by considering the approval of the Action; and,

15 **WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred,

16 **NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Board  
17 of Supervisors of the County of Riverside, ("Board") assembled in regular session on April 5, 2016, in the  
18 meeting room of the Board of Supervisors located on the 1<sup>st</sup> floor of the County Administrative Center,  
19 4080 Lemon Street, Riverside, California, based upon the evidence and testimony presented on the matter,  
20 both written and oral, including but not limited to, the EIR and the EIR Addendum No. IV, that:

21 1. Incorporation of Recitals. The above recitations constitute findings of the Board with  
22 respect to the Action and are incorporated herein.

23 2. Consideration of the EIR, EIR Addendum No. IV and Adoption of Findings Regarding  
24 CEQA Compliance. As the decision-making body for the County, and in the County's limited role as a  
25 responsible agency under CEQA, the County has received, reviewed, and considered the information  
26 contained in the EIR and the EIR Addendum No. IV prepared for VTTM No. 35001, any comment letters,  
27 and other related documents. Additionally, the Board has determined that the Action is within the scope  
28 of the EIR Addendum No. IV and its environmental effects have been adequately addressed in the EIR



1 Addendum No. IV. Based on this review, the Board finds that, as to those potential environmental  
2 impacts subject to the County's powers and authorities as responsible agency, that the EIR Addendum  
3 No. IV for the Action contains a complete, objective, and accurate reporting of those potential impacts  
4 and reflects the independent judgment and analysis of the County.

5 3. CEQA Findings on Environmental Impacts. In its limited role as a responsible agency  
6 under CEQA, the Board finds that there are no feasible alternatives to the Action which would avoid or  
7 substantially lessen the Action's potentially significant environmental impacts but still achieve most of  
8 the Action's objectives. The Board further finds that the mitigation measures imposed by the City, as lead  
9 agency, are sufficient to reduce all potentially significant impacts to a level of less than significant as  
10 described in the EIR and EIR Addendum No. IV. As such, the Board concurs with the environmental  
11 findings adopted by the City, which are attached hereto as Attachment "A", and, therefore, the Board  
12 adopts those findings as its own and incorporates them herein.

13 **BE IT FURTHER RESOLVED, DETERMINED AND ORDERED** that, as required by State  
14 CEQA Guidelines Section 15096 and in its role as responsible agency under CEQA, the Board hereby  
15 approves the Action.

16 **BE IT FURTHER RESOLVED, DETERMINED AND ORDERED** that the Board directs the  
17 Clerk of the Board to file the Notice of Determination for the Action to the Office of the County Clerk  
18 and Recorder, and to the Governor's Office of Planning and Research, all as required by law, within five  
19 (5) working days of the adoption of this Resolution and approval of the Action.

20 **BE IT FURTHER RESOLVED, DETERMINED AND ORDERED** that the documents and  
21 materials that constitute the record of proceedings on which these findings are based are located at the  
22 Offices of the Clerk of the Board of Supervisors for the County at 4080 Lemon Street, 1<sup>st</sup> Floor,  
23 Riverside, California 92501.

24 **BE IT FURTHER RESOLVED, DETERMINED AND ORDERED** that the Clerk of the Board  
25 shall sign this Resolution to attest and certify to the passage and adoption thereof.

26 ROLL CALL:

27 Ayes: Jeffries, Washington, Benoit and Ashley  
28 Nays: None  
Absent: Tavaglione

04.05.16 3-1

The foregoing is certified to be a true copy of a  
resolution duly adopted by said Board of Super-  
visors on the date therein set forth.

KECIA HARPER-HEM, Clerk of said Board

By  Deputy

ATTACHMENT A

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**RESOLUTION NO. 2012-053**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADOPTING FINDINGS TO CERTIFY ADDENDUM NO. IV TO THE ALBERHILL RANCH SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 88090517)**

**WHEREAS**, an application has been filed with the City of Lake Elsinore by Castle & Cooke Lake Elsinore West, Inc. for Vested Tentative Tract Map No. 35001 ("the Project"), located on approximately 400 acres on the west side of the I-15 Freeway at the Nichols Road and Lake Street intersections within the Alberhill Specific Plan Amendment No. 1 (Brighton Specific Plan) (the "Site"); and,

**WHEREAS**, the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 *et seq.*: "CEQA") and the State Guidelines for Implementation of CEQA (title 14, Cal. Code Regs. §§ 15000 *et seq.*: the "CEQA Guidelines") are applicable to discretionary projects, which are defined in CEQA Guidelines Section 15357 as "a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations"; and

**WHEREAS**, in June 1989, the City of Lake Elsinore (the "City") certified Final Environmental Impact Report, State Clearinghouse No. 88090517 (the "FEIR") for the Alberhill Ranch Specific Plan; and

**WHEREAS**, in September 1991, the City approved the First Amendment to the Alberhill Specific Plan prepared for Brighton Homes, and,

**WHEREAS**, Section 15164 (a) of the CEQA Guidelines provides that "The lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred"; and

**WHEREAS**, CEQA Guidelines Section 15162(a) states that "When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant

environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative"; and

**WHEREAS**, public notice of the Entitlement has been given, and the City Council has considered evidence presented by the Community Development Department and other interested parties at public hearings held with respect to this item on November 13, 2012 and December 11, 2012.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** The City Council has considered Addendum No. IV prepared for the Entitlements. The City Council determines that, based upon the following findings, Addendum No. IV was prepared in conformance with CEQA and is the appropriate environmental document for the Entitlements:

1. Addendum No. IV to the FEIR is complete, contains all required information, and has been completed in compliance with CEQA, utilizing criteria set forth in Section 15164 of the CEQA Guidelines.
2. Addendum No. IV is the appropriate document because changes and modifications proposed by the Entitlements are necessary but do not trigger any of the conditions set forth in CEQA Guidelines Section 15162 (see below).

**CITY COUNCIL RESOLUTION 2012-053**  
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3. The Entitlement does not introduce any new significant environmental effects, nor will they result in any new significant unavoidable project impacts beyond those previously identified in the FEIR.
4. The Entitlement does not propose substantial changes to the project as analyzed under the FEIR, which will require major revisions to the FEIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects.
5. No new information of substantial importance exists, which was either unknown or could not have been known at the time that the FEIR was certified, to show that the Entitlement will have significant effects that were not described in the FEIR, that significant effects that were examined in the FEIR will be more severe as a result of the Entitlement, that mitigation measures or alternatives previously found infeasible would in fact be feasible, or that new mitigation measures are necessary for the Entitlements.

**SECTION 2.** Based upon the foregoing, and based upon all oral and written testimony and other evidence presented, the City Council of the City of Lake Elsinore hereby adopts Addendum No. IV to the FEIR.

**SECTION 3.** This Resolution shall take effect from and after the date of its passage and adoption.

**PASSED, APPROVED AND ADOPTED** this 11th day of December, 2012, by the following vote:

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**BRIAN TISDALE**  
**MAYOR**

**ATTEST:**

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**VIRGINIA BLOOM**  
**CITY CLERK**

**CITY COUNCIL RESOLUTION 2012-053**  
**PAGE 4 OF 4**

APPROVED AS TO FORM:

\_\_\_\_\_  
BARBARA LEIBOLD  
CITY ATTORNEY  
CITY OF LAKE ELSINORE

STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  
CITY OF LAKE ELSINORE

I, Virginia Bloom, City Clerk of the City of Lake Elsinore, California, hereby certify that Resolution No. \_\_\_\_\_ was adopted by the City Council of the City of Lake Elsinore, California, at a regular meeting held on the 11<sup>th</sup> day of December 2012, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
VIRGINIA BLOOM  
CITY CLERK

**RESOLUTION NO. 2012-054**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE  
ELSINORE, CALIFORNIA, APPROVING VESTED TENTATIVE  
TRACT MAP NO. 35001 GENERALLY LOCATED AT ON THE  
EAST SIDE OF LAKE STREET AT TEMESCAL AND THE  
NORTH SIDE OF NICHOLS ROAD**

**WHEREAS**, an application has been filed with the City of Lake Elsinore by Castle & Cooke Lake Elsinore West, Inc., for the Vested Tentative Tract Map (VTTM), a subdivision of 1,056 single family lots, 1 High Density Multi-Family lot, 2 Suburban Village Commercial lots, 1 Commercial lot, 2 Public Parks, 1 EVMWD Tank Site, and 1 Detention Basin all having legal access consisting of approximately 400 acres ("the Project") for development purposes only. The Project is generally located on the east side of Lake Street at Temescal Road and north side of Nichols Road, further identified as Assessor Parcel Numbers (APNs) 389-020-062, 389-020-064, 389-080-055, 389-080-056, 390-130-026, 390-130-028, 390-160-003, 390-160-006, 390-190-014, 390-190-015, 390-190-017, 390-190-018, 390-200-008, 390-200-010, 390-210-021); and,

**WHEREAS**, the City Council of the City of Lake Elsinore has the responsibility of making decisions regarding Vested Tentative Tract Maps; and,

**WHEREAS**, on November 13, 2012 and December 11, 2012 at a duly noticed public hearings, the City Council considered evidence presented by the Community Development Department and other interested parties with respect to this item.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE  
DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** Prior to making a decision, the City Council has reviewed and analyzed Vested Tentative Tract Map No. 35001 pursuant to the appropriate Planning and Zoning Laws, and Chapter 16 (Subdivisions) of the Lake Elsinore Municipal Code ("LEMC").

**SECTION 2.** The City Council hereby finds and determines that Vested Tentative Tract Map No. 35001 is subject to the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*: "CEQA") and the Guidelines for Implementation of CEQA (14 California Code of Regulations §§ 15000 *et seq.*: "CEQA Guidelines"). Specifically, the City Council finds that the Alberhill Specific Plan Amendment No. 1 (Brighton Specific Plan) was subject to a full EIR and that Vested Tentative Tract Map No. 35001, Addendum IV to the EIR adequately evaluates the Project-related changes and finds that there are no significant effects on the environment pursuant to CEQA caused by these changes; and,.

**SECTION 3.** That in accordance with State Planning and Zoning Law and the Lake Elsinore Municipal Code, the City Council makes the following findings for approval of Vested Tentative Tract Map No. 35001:

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan. The proposed subdivision is compatible with the objectives, policies, general land uses and programs specified in the General Plan (Government Code Section 66473.5).

*The General Plan designates the site for a mixed land use Specific Plan. Consistent with that designation, the Vested Tract Map can accommodate future mixed land uses. The Tract Map is consistent with the designated land use, development and design standards, and all other appropriate requirements contained in the General Plan,, and Subdivision Map Act.*

2. The effects this project is likely to have upon the housing needs of the region, the public service requirements of its residents and the available fiscal and environmental resources have been considered and balanced.

*The Vested Tract Map is consistent with the Alberhill Specific Plan Amendment No. 1 (Brighton Specific Plan) land use plan, development and design standards, and programs, and all other appropriate requirements contained in the General Plan. Vested Tentative Tract Map No. 35001 is consistent with the future mixed land use specific plan designation and applicable development and design standards.*

3. Subject to the attached conditions of approval, the proposed project is not anticipated to result in any significant environmental impact.

*The project has been adequately conditioned by all applicable departments and agencies and will not therefore result in any significant environmental impacts because it is not for development purposes but only for parcel conveyances for financing purposes. The proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.*

**SECTION 4.** Based upon the evidence presented, the above findings, and the attached conditions of approval, the City Council hereby approves Vested Tentative Tract Map No. 35001.

**SECTION 5.** This Resolution shall take effect from and after the date of its passage and adoption.

**PASSED, APPROVED AND ADOPTED** this 11th day of December, 2012, by the following vote:

---

BRIAN TISDALE  
MAYOR



RESOLUTION NO. 89- 36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, MAKING AMENDMENTS TO THE LAND USE ELEMENT OF THE LAKE ELSINORE GENERAL PLAN FOR THE THIRD CYCLE OF THE CALENDAR YEAR OF 1989, AND CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT 89-9 WITH FINDINGS OF FACT AS TO THE ENVIRONMENTAL IMPACTS AND STATEMENTS OF OVERRIDING CONSIDERATIONS

THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE,  
CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, Section 65361(a) of the Government Code provides that no mandatory element of a General Plan shall be amended more frequently than four times during any calendar year; and

WHEREAS, the Planning Commission held public hearings on this round of General Plan Amendments on July 5, 1989, and that these public hearings were advertised as required by law. The Planning Commission made recommendations to the City Council concerning these General Plan Amendments and has filed with the City Council copies of maps and reports; and

WHEREAS, notice was duly given of the public hearings on the Amendments, which public hearings were held before the City Council on the 8th day of August, 1989, at the hour of 7:00 p.m., with testimony received being made a part of the public record; and

WHEREAS, all requirements of the California Environmental Quality Act have been met for the consideration of whether the projects will have a significant effect on the environment.

NOW, THEREFORE, in consideration of the evidence received at the hearings and for the reasons discussed by the Council members at said hearings, the City Council now finds that the Lake Elsinore General Plan be amended as follows:

A. GENERAL PLAN AMENDMENT 89-7

APPLICANT: Long Beach Equities, Inc.

PROPERTY OWNER: Long Beach Equities, Inc.

LOCATION: Generally bounded by I-15 to the north, Terra Cotta Road/Nichols Road to the south, El Toro Road to the east, and Robb Road/Lake Street to the west as shown in Exhibit "A" attached hereto and made a part hereof.

Designate approximately 2,667 acres as specific plan area (2.0 dwelling units per gross acres).

Approval is based on the following:

1. An Environmental Impact Report has been completed for the subject General Plan Amendment.

Exhibit I is a summary of impacts from the Environmental Impact Report. For each significant impact, measures are imposed to eliminate or substantially lessen their effect. Some of these significant impacts are unavoidable and a statement of overriding consideration is required. Specific findings on each significant impact are as listed on Exhibit II. Additionally, a program for monitoring mitigation measures contained in the Alberhill Ranch Environmental Impact Report is provided on Exhibit II.

2. This Amendment is in accordance with Policy of the City of Lake Elsinore General Plan to establish a balance of land uses throughout the community, in that the proposed Amendment would provide commercial services adjacent to a residential neighborhood.
3. This Amendment satisfies the City's General Plan Goals and Policies for providing quality housing for all income levels of the community.
4. This General Plan Amendment would not adversely affect the surrounding property with respect to value or precedent.
5. This Amendment is compatible with surrounding land use, zoning and proposed development in the area.

PURSUANT TO THE ABOVE FINDINGS, IT IS RESOLVED by the City Council of the City of Lake Elsinore, California, that the City of Lake Elsinore General Plan Land Use Map be amended for the third time in calendar year 1989 to reflect General Plan Amendment 89-7.

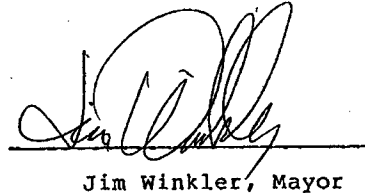
PASSED, APPROVED AND ADOPTED this 8th day of August, 1989, by the following vote:

AYES: COUNCILMEMBERS: BUCK, DOMINGUEZ, STARKEY, WASHBURN, WINKLER

NOES: COUNCILMEMBERS: NONE

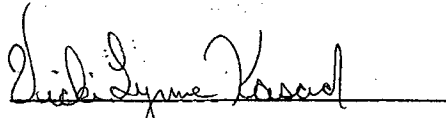
ABSENT: COUNCILMEMBERS: NONE

ABSTENTIONS: COUNCILMEMBERS: NONE



Jim Winkler, Mayor

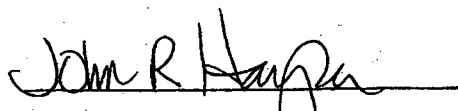
ATTEST:



Vicki Lynne Kasad, City Clerk

(SEAL)

APPROVED AS TO FORM AND LEGALITY:

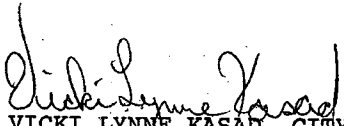


John R. Harper, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE )

I, Vicki Lynne Kasad, City Clerk of the City of Lake Elsinore,  
DO HEREBY CERTIFY that the foregoing Resolution duly adopted by the  
City Council of the City of Lake Elsinore at a regular meeting of  
said Council on the 8th day of August, 1989, and that it was so  
adopted by the following vote:

AYES: COUNCILMEMBERS: BUCK, DOMINGUEZ, STARKEY  
WASHBURN, WINKLER  
NOES: COUNCILMEMBERS: NONE  
ABSENT: COUNCILMEMBERS: NONE  
ABSTAIN: COUNCILMEMBERS: NONE

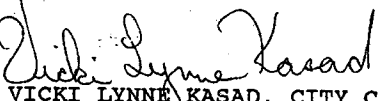
  
VICKI LYNNE KASAD, CITY CLERK  
CITY OF LAKE ELSINORE

(SEAL)

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE )

I, Vicki Lynne Kasad, City Clerk of the City of Lake Elsinore,  
DO HEREBY CERTIFY that the above and foregoing is a full, true and  
correct copy of Resolution No. 89-36 of said Council, and that the  
same has not been amended or repealed.

DATED: August 9, 1989

  
VICKI LYNNE KASAD, CITY CLERK  
CITY OF LAKE ELSINORE

(SEAL)

**RESOLUTION NO. 2004-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN AND APPROVING THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN AND IMPLEMENTING AGREEMENT, ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS**

WHEREAS, the Western Riverside County Multiple Species Habitat Conservation Plan (the "MSHCP" or "Project") is a multi-jurisdictional habitat conservation plan focusing on the conservation of both sensitive species and their associated habitats to address biological and ecological diversity and conservation needs in Western Riverside County, setting aside significant areas of undisturbed land for the conservation of sensitive habitat while preserving open space and recreational opportunities; and

WHEREAS, the MSHCP boundaries ("MSHCP Plan Area") encompass approximately 1,966 square miles, consisting of approximately 1.26 million acres and include approximately 843,500 acres of unincorporated Western Riverside County land west of the crest of the San Jacinto Mountains and extending to the Orange County line, as well as approximately 372,700 acres within the jurisdictional areas of the following 14 incorporated cities: Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, and Temecula (collectively, "Cities"); and

WHEREAS, the MSHCP establishes a framework for compliance with State and Federal endangered species regulations while accommodating future growth in Western Riverside County, including issuance of "Take" permits for certain species pursuant to Section 10(a)(1)(B) of the federal Endangered Species Act and Section 2800, et seq. of the California Fish and Game Code; and

WHEREAS, the County of Riverside ("County"), is the lead agency pursuant to the California Environmental Quality Act ("CEQA") (Public Res. Code, § 21000 et seq.) and the State CEQA Guidelines (14 CCR § 15000 et seq.); and

WHEREAS, the County determined that a joint Environmental Impact Report/Environmental Impact Statement ("EIR/EIS") should be prepared pursuant to the California Environmental Quality Act ("CEQA") and the National Environmental Quality Act ("NEPA") in order to analyze all potential adverse environmental impacts of the Project; and

WHEREAS, the Board of Supervisors of the County of Riverside, at its regularly scheduled public meeting on June 17, 2003 reviewed and considered the Initial Study, Draft EIR/EIS, Final EIR/EIS and other related documents in the record before it and by Resolution No. 2003-299, certified the Final EIR/EIS and adopted environmental findings and a Statement of Overriding Considerations; and

WHEREAS, pursuant to State CEQA Guidelines sections 15091 and 15096, sub.(h) and CEQA, the City of Lake Elsinore ("City") is a responsible agency for the Project and must therefore make certain findings prior to the approval of the MSHCP; and

WHEREAS, the City Council of the City, at its regularly scheduled public meeting on January \_\_, 2004 independently reviewed and considered the Final EIR/EIS and other related documents in the record before it; and

WHEREAS, all the procedures of CEQA and the State CEQA Guidelines have been met, and the Final EIR/EIS, prepared in connection with the Project, is sufficiently detailed so that all the potentially significant effects of the Project on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with the above-referenced Act and Guidelines; and

WHEREAS, as contained herein, the City has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, all of the findings and conclusions made by the City Council pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data presented to it, including the Draft EIR/EIS, Final EIR/EIS and other documentation relating to the Project, and all oral and written evidence presented to it; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE AS FOLLOWS:**

- A. The Final EIR/EIS prepared for the MSHCP is hereby received by the City Council in the form attached hereto as Exhibit A, and incorporated herein by this reference.
- B. The City Council hereby finds and determines that the Final EIR/EIS has been completed in compliance with CEQA and the State CEQA Guidelines

and, and as the decision-making body for the City of Lake Elsinore, the City Council has reviewed and considered the information contained in the Final EIR/EIS and related documents before it and all of the environmental effects of the MSHCP.

- C. The City Council concurs with the environmental findings in County Resolution No. 2003-299 and adopts these findings, attached hereto as Exhibit B and incorporated herein by this reference. The City Council also finds that there are no additional feasible mitigation measures or alternatives within its powers that would substantially lessen or avoid any significant effects that the MSHCP would have on the environment.
- D. The City Council concurs with the statement of overriding considerations in County Resolution No. 2003-299 and adopts the statement, and finding that the benefits of the MSHCP outweigh the adverse environmental impacts not reduced to below a level of significance.
- E. The City Council hereby approves the MSHCP and authorizes the Mayor to execute the MSHCP Implementation Agreement.
- F. The City Council hereby authorizes and directs that a Notice of Determination shall be filed with the Clerk of the County of Riverside within five (5) working days of approval of the Project.

PASSED, APPROVED AND ADOPTED this 13th day of January, 2004.

AYES:

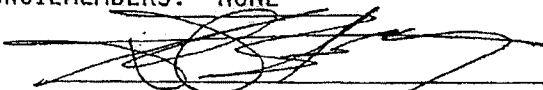
COUNCILMEMBERS: HICKMAN, MAGEE, SCHIFFNER, BUCKLEY

NOES:

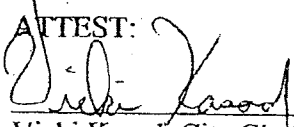
COUNCILMEMBERS: KELLEY

ABSTAIN:

COUNCILMEMBERS: NONE

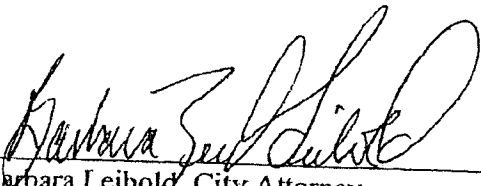
  
Tom Buckley, Mayor of the City of  
Lake Elsinore

ATTEST:

  
Vicki Kasad, City Clerk  
City of Lake Elsinore

APPROVED AS TO FORM:



  
Barbara Leibold, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE )

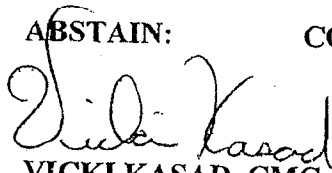
I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution duly adopted by the City Council of the City of Lake Elsinore at a Regular Meeting of said Council on the 13<sup>th</sup> of January, 2004, and that it was so adopted by the following vote:

AYES: COUNCILMEMBERS: HICKMAN, MAGEE, SCHIFFNER,  
BUCKLEY

NOES: COUNCILMEMBERS: KELLEY

ABSENT: COUNCILMEMBERS: NONE


ABSTAIN: COUNCILMEMBERS: NONE

  
VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE  
(SEAL)

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE)

I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE, DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of Resolution No. 2004-10 of said Council, and that the same has not been amended or repealed.

DATE: January 31, 2004

  
VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE  
(SEAL)

## **RESOLUTION NO. 2004-11**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR IMPLEMENTATION OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN**

THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES HEREBY RESOLVE AS FOLLOWS:

#### **SECTION I. TITLE**

This Resolution shall be known as the "Western Riverside County Multiple Species Habitat Conservation Plan Implementation Policy."

#### **SECTION II. FINDINGS AND PURPOSE**

- A. The City Council finds that the ecosystems of the City of Lake Elsinore ("City") and/or western Riverside County and the vegetation communities and sensitive species they support are fragile, irreplaceable resources that are vital to the general welfare of all residents; these vegetation communities and natural areas contain habitat value which contributes to the region's environmental resources; and special protections for these vegetation communities and natural areas must be established to prevent future endangerment of the plant and animal species that are dependent upon them. This Resolution will protect the City's and the region's biological resources, vegetation communities, and natural areas, and prevent their degradation and loss by guiding development outside of biological resource core areas, and by establishing mitigation standards which will be applied to development projects. Adoption and implementation of this Resolution will enable the City to achieve the conservation goals set forth in the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), to implement the associated Implementing Agreement executed by the City Council on January 13, 2004, and to preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of the National Environmental Policy Act ("NEPA"), the California Environmental Quality Act ("CEQA"), the Federal Endangered Species Act ("FESA"), the California Endangered Species Act ("CESA"), the California Natural Community Conservation Planning Act ("NCCP Act"), and other applicable laws.

- B. The purpose and intent of this Resolution is to maintain and restore biological diversity and the natural ecosystem processes which support this diversity, to protect vegetation communities and natural areas within the City and/or western Riverside County which support species covered under the MSHCP; to maintain a future of economic development within the City by providing a streamlined regulatory process from which development can proceed in an orderly process; and to protect the existing character of the City and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP.

### SECTION III. APPLICATION OF REGULATIONS

Except as provided in Section IV, this Resolution shall apply to all land within the City shown on the MSHCP Plan Map, attached as Exhibit "1." Upon application to the City for a development project, an applicant shall be required to comply with the procedures set forth in this Resolution. Upon the City's initiation of a project that is subject to CEQA, the City shall be required to comply with the procedures set forth in this Resolution. No project requiring a discretionary, or certain ministerial permits or approvals that could have adverse impacts to species covered under the MSHCP shall be approved by the City, and no City-initiated public project shall be undertaken, unless the project is consistent with the MSHCP and this Resolution.

### SECTION IV. EXEMPTIONS

This Resolution shall not apply to the following:

- A. The adoption or amendment of the City's General Plan.
- B. The adoption or amendment of any land use or zoning ordinance.
- C. Any project for which and to the extent that a vesting tentative map pursuant to the Subdivision Map Act, or a development agreement pursuant to Government Code sections 65864 et seq., approved or executed prior to adoption of this Resolution, confers vested rights under the City's ordinances or state law to proceed with the project notwithstanding the enactment of this Resolution. Projects subject to this exemption must comply with all provisions of any applicable state and federal law.
- D. Any project for which the City Council determines that application of this Resolution would result in the property owner being deprived of all reasonable economic use of the property in violation of federal or state constitutional prohibitions against the taking of property without just compensation.

## SECTION V. PROCEDURES

- A. The City shall implement the requirements for private and public project contributions to the MSHCP Conservation Area as set forth in MSHCP, by electing to comply with one of the following:
1. The City shall implement the Property Owner Initiated Habitat Evaluation and Acquisition Negotiation Process ("HANS"); or
  2. Upon receipt of a completed application for a project that is subject to this Resolution, or prior to the City's initiation of a project, the City shall determine whether all or a portion of the real property for the project is located within the boundaries of the Criteria Area. If the City determines that all or a portion of the real property for the project is located within the Criteria Area, then the City shall perform the following:
    - a. Determine the design criteria applicable to the project based on the particular USGS section, quadrant, and/or cell grouping in which the project property is located, as set forth in Section 3.2 of the MSHCP; and
    - b. Impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the design criteria applicable to the project.
- B. The City shall implement the requirements for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP in the following manner:
1. As part of the CEQA review of the project, the property owner shall comply, or the City shall comply if the project is City-initiated, with the surveying, mapping, and documentation procedures set forth in Section 6.1.2 of the MSHCP for Riparian/Riverine Areas and Vernal Pools on the project property; and
  2. Based on the documentation prepared for the project, the City shall impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the policies for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP.
- C. The City shall implement the requirements for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP in the following manner:

1. As part of the CEQA review of the project, the property owner shall comply, or the City shall comply if the project is City-initiated, with the site-specific focused survey procedures set forth in Section 6.1.3 of the MSHCP; and
  2. Based on the site-specific focused surveys prepared for the project, the City shall impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the Narrow Endemic Plant Species policies set forth in Section 6.1.3 of the MSHCP.
- D. The City shall impose as a condition to the City's approval of a project such conditions as are necessary to ensure the project complies with and implements the Urban/Wildlands Interface Guidelines set forth in Section 6.1.4 of the MSHCP.
- E. The City shall impose as a condition to the City's approval of a project such conditions as are necessary to ensure surveys are prepared for the project as required by Section 6.3.2 of the MSHCP.
- F. Pursuant to Section V of this Resolution and the MSHCP, the City may transfer any property interest acquired or obtained in fee title or as a conservation easement to the Western Riverside County Regional Conservation Authority for management. The City may also grant a conservation easement to the California Department of Fish and Game for any property interest obtained pursuant to Section V of this Resolution. A Sample conservation easement is attached as Exhibit "2."

## SECTION VI. DEFINITIONS

For purposes of this Resolution, the following terms shall have the meaning set forth herein:

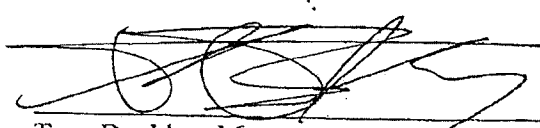
- A. "Area Plan" means the sixteen areas designated for purposes of providing an organizational framework for the Criteria Area, and for purposes of developing specific design criteria that will be utilized in assembling land within the Criteria Area that will become a part of the MSHCP Conservation Area.
- B. "Criteria Area" means the general area designated and denoted on the MSHCP Plan Map as the "Criteria Area," comprised of approximately 310,000 acres from which new habitat conservation within the MSHCP Conservation Area will be assembled.
- C. "MSHCP" means the Western Riverside County Multiple Species Habitat Conservation Plan.
- D. "MSHCP Plan Map" means the map of the area encompassed by the MSHCP as set forth in the attached Exhibit "1."

- E. "Project" means any action or activity that is subject to the City's ministerial or discretionary approval, or any action or activity undertaken directly by the City, for the purpose of developing or improving real property, including, but not limited to, the following: the sale, purchase, or lease of City-owned property; the approval of a tentative subdivision map; the issuance of a license, permit, certificate, variance, or other entitlement for the development or improvement of real property, including the clearing or grading of real property (except for weed or fire hazard abatement); and the construction or improvement of streets, water, sewer, or other public facilities or public works.


### SECTION VII. EFFECTIVE DATE

The Mayor shall sign this Resolution and the City Clerk shall attest thereto, and thereupon and thereafter this Resolution shall take effect and be in force according to law.

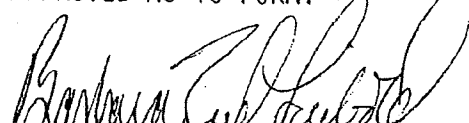
PASSED, APPROVED, AND ADOPTED, this 13th day of January, 2004.

  
Tom Buckley, Mayor

ATTEST:

  
Vicki Kasad, City Clerk

APPROVED AS TO FORM:

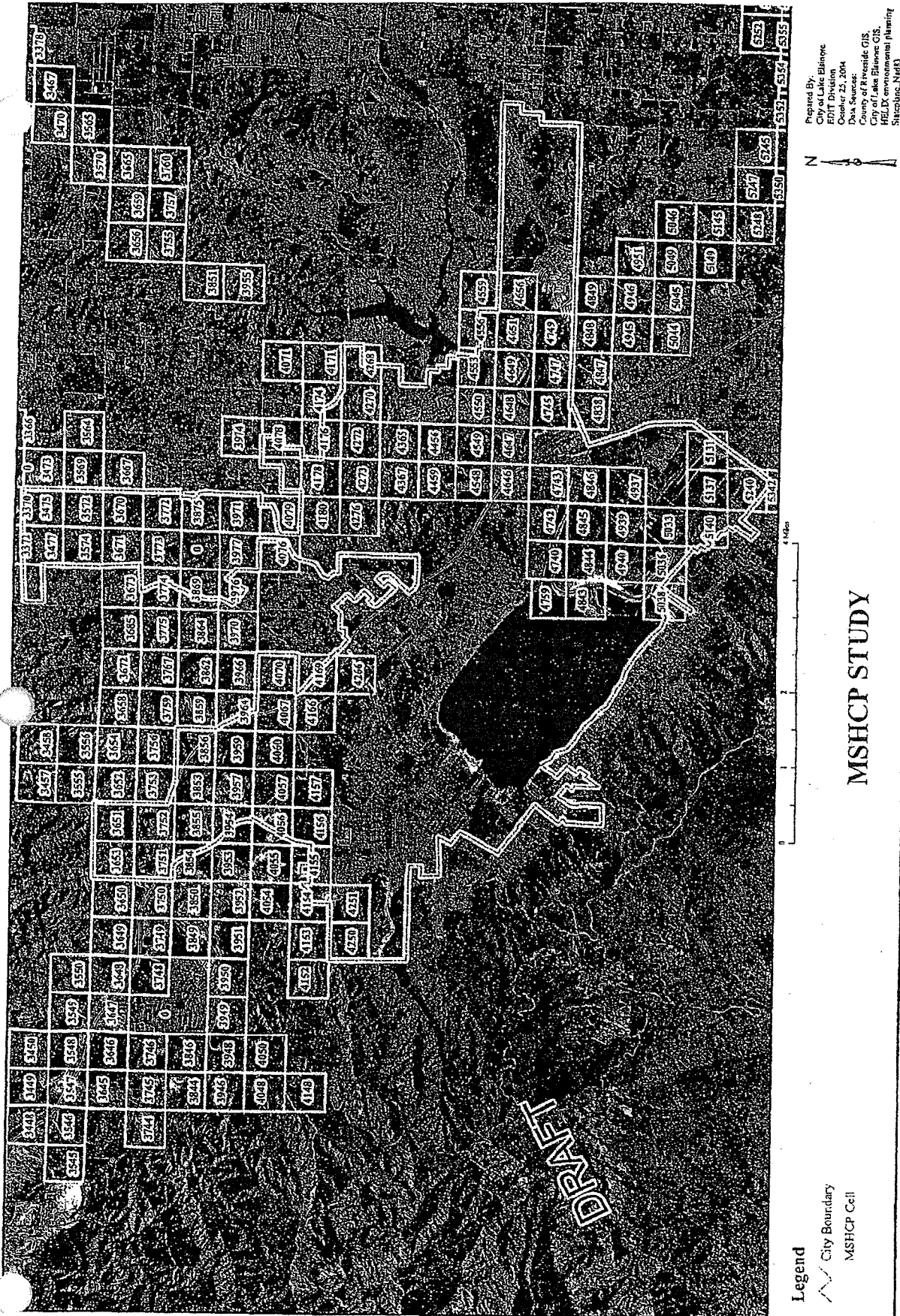
  
BARBARA LEIBOLD, CITY ATTORNEY

UPON THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

COUNCILMEMBERS:  
COUNCILMEMBERS:  
COUNCILMEMBERS:  
COUNCILMEMBERS:

HICKMAN, MAGEE, SCHIFFNER, BUCKLEY  
KELLEY  
NONE  
NONE





STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE )

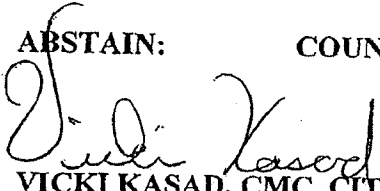
I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution duly adopted by the City Council of the City of Lake Elsinore at a Regular Meeting of said Council on the 13<sup>th</sup> of January, 2004, and that it was so adopted by the following vote:

AYES: COUNCILMEMBERS: HICKMAN, MAGEE, SCHIFFNER,  
BUCKLEY

NOES: COUNCILMEMBERS: KELLEY

ABSENT: COUNCILMEMBERS: NONE

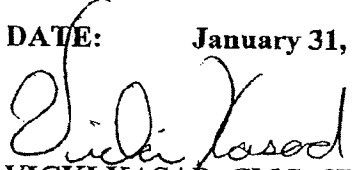
ABSTAIN: COUNCILMEMBERS: NONE

  
VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE  
(SEAL)

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE)

I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE, DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of Resolution No. 2004-11 of said Council, and that the same has not been amended or repealed.

DATE: January 31, 2004

  
VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE  
(SEAL)

**RESOLUTION No. 2004-11A**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE  
ELSINORE TO ESTABLISH PROCEDURES AND  
REQUIREMENTS FOR IMPLEMENTATION OF THE WESTERN  
RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT  
CONSERVATION PLAN**

THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES HEREBY RESOLVE AS  
FOLLOWS:

**SECTION I. TITLE**

This Resolution shall be known as the "Western Riverside County Multiple Species Habitat  
Conservation Plan Implementation Policy."

**SECTION II. FINDINGS AND PURPOSE**

- A.** The City Council finds that the ecosystems of the City of Lake Elsinore ("City") and/or western Riverside County and the vegetation communities and sensitive species they support are fragile, irreplaceable resources that are vital to the general welfare of all residents; these vegetation communities and natural areas contain habitat value which contributes to the region's environmental resources; and special protections for these vegetation communities and natural areas must be established to prevent future endangerment of the plant and animal species that are dependent upon them. This Resolution will protect the City's and the region's biological resources, vegetation communities, and natural areas, and prevent their degradation and loss by guiding development outside of biological resource core areas, and by establishing mitigation standards which will be applied to development projects. Adoption and implementation of this Resolution will enable the City to achieve the conservation goals set forth in the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), to implement the associated Implementing Agreement executed by the City Council on January 13, 2004, and to preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of the National Environmental Policy Act ("NEPA"), the California Environmental Quality Act ("CEQA"), the Federal Endangered Species Act ("FESA"), the California Endangered Species Act ("CESA"), the California Natural Community Conservation Planning Act ("NCCP Act"), and other applicable laws.
- B.** The purpose and intent of this Resolution is to maintain and restore biological diversity and the natural ecosystem processes which support this diversity, to protect vegetation communities and natural areas within the City and/or western Riverside County which support species covered under the MSHCP; to maintain a future of economic development within the City by providing a streamlined regulatory process from which development can proceed in an orderly process; and to protect the existing character of the City and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP.
- C.** In light of current habitat acquisition trends and habitat acquisition requirements within the boundaries of the City of Lake Elsinore, the MSHCP poses a risk of excessive land removal from the City's tax base. The City therefore finds that

suitable controls are necessary to buffer this risk while maintaining an incentive for early habitat acquisition and ensuring that Lake Elsinore doesn't bear a disproportionate burden and become a mitigation bank to support development throughout the region.

### **SECTION III. APPLICATION OF REGULATIONS**

A. Implementation of the MSHCP and approval of (1) this Resolution, (2) City Council Resolution 2004-10 making responsible agency findings pursuant to CEQA, (3) the Implementing Agreement for the MSHCP, (4) the Joint Exercise of Powers Agreement Creating the Western Riverside County Regional Conservation Authority, and (5) an Ordinance establishing a Development Impact Fee in connection with the MSHCP (collectively, the "MSCHP Documents") is expressly conditioned upon approval by the City Council of each of the MSCHP Documents and, where applicable, each and every party to the MSHCP Documents.

B. Except as provided in Section IV, this Resolution shall apply to all land within the City shown on the MSHCP Plan Map, attached as Exhibit "1." Upon application to the City for a development project, an applicant shall be required to comply with the procedures set forth in this Resolution. Upon the City's initiation of a project that is subject to CEQA, the City shall be required to comply with the procedures set forth in this Resolution. No project requiring a discretionary, or certain ministerial permits or approvals that could have adverse impacts to species covered under the MSHCP shall be approved by the City, and no City-initiated public project shall be undertaken, unless the project is consistent with the MSHCP and this Resolution.

### **SECTION IV. EXEMPTIONS**

This Resolution shall not apply to the following:

- A. The adoption or amendment of the City's General Plan.
- B. The adoption or amendment of any land use or zoning ordinance.
- C. Any project for which and to the extent that vested rights to proceed with the project notwithstanding the enactment of this Resolution exist under the common laws of the State of California, a vesting tentative map pursuant to the Subdivision Map Act, a development agreement pursuant to Government Code sections 65864 et seq., or other instrument, approved or executed by the City prior to adoption of this Resolution. Projects subject to this exemption must comply with all provisions of any applicable state and federal law.
- D. Any project for which the City Council determines that application of this Resolution would result in the property owner being deprived of all reasonable economic use of the property in violation of federal or state constitutional prohibitions against the taking of property without just compensation.
- E. Any action by the City of Lake Elsinore that is ministerial, not a project subject to the provisions of the California Environmental Quality Act ("CEQA"), or otherwise exempt pursuant to the provisions of CEQA or the CEQA Guidelines.

## SECTION V. PROCEDURES

- A.** The City shall implement the requirements for private and public project contributions to the MSHCP Conservation Area as set forth in MSHCP, by electing to comply with one of the following:
1. The City shall implement the Property Owner Initiated Habitat Evaluation and Acquisition Negotiation Process ("HANS") or a functionally similar Lake Elsinore Acquisition Process ("LEAP"); or
  2. Upon receipt of a completed application for a project that is subject to this Resolution, or prior to the City's initiation of a project, the City shall determine whether all or a portion of the real property for the project is located within the boundaries of the Criteria Area. If the City determines that all or a portion of the real property for the project is located within the Criteria Area, then the City shall perform the following:
    - a. Determine the design criteria applicable to the project based on the particular USGS section, quadrant, and/or cell grouping in which the project property is located, as set forth in Section 3.2 of the MSHCP; and
    - b. Impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the design criteria applicable to the project.
  3. Several properties within the City of Lake Elsinore have undergone preliminary findings of consistency with the MSHCP. These properties include proposed development projects that are the current subject of ongoing negotiations with the MSHCP wildlife agencies with a few projects having been memorialized in a memorandum of understanding with the wildlife agencies. These projects include The Village, Alberhill, North Peak, Gritton, Simard, Clurman, Abusamra, Ramsgate, Greenwald, Elsinore Lakeview Villas, Lakeview Estates, Tuscany Oaks, South Shore II, Colorado Pacific, and Donlan. The current status of these projects, concerning the MSHCP and preliminary findings of MSHCP consistency, is set forth in detail in Exhibit "3" to this Implementation Resolution and incorporated herein by this reference.
- B.** The City shall implement the requirements for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP in the following manner:
1. As part of the CEQA review of the project, the property owner shall comply, or the City shall comply if the project is City-initiated, with the surveying, mapping, and documentation procedures set forth in Section 6.1.2 of the MSHCP for Riparian/Riverine Areas and Vernal Pools on the project property; and
  2. Based on the documentation prepared for the project, the City shall impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the policies

for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP.

- C. The City shall implement the requirements for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP in the following manner:
  - 1. As part of the CEQA review of the project, the property owner shall comply, or the City shall comply if the project is City-initiated, with the site-specific focused survey procedures set forth in Section 6.1.3 of the MSHCP; and
  - 2. Based on the site-specific focused surveys prepared for the project, the City shall impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the Narrow Endemic Plant Species policies set forth in Section 6.1.3 of the MSHCP.
- D. The City shall impose as a condition to the City's approval of a project such conditions as are necessary to ensure the project complies with and implements the Urban/Wildlands Interface Guidelines set forth in Section 6.1.4 of the MSHCP.
- E. The City shall impose as a condition to the City's approval of a project such conditions as are necessary to ensure surveys are prepared for the project as required by Section 6.3.2 of the MSHCP.
- F. Pursuant to Section V of this Resolution and the MSHCP, the City may transfer any property interest acquired or obtained in fee title or as a conservation easement to the Western Riverside County Regional Conservation Authority for management. The City may also grant a conservation easement to the California Department of Fish and Game for any property interest obtained pursuant to Section V of this Resolution. A Sample conservation easement is attached as Exhibit "2."

## SECTION VI. DEFINITIONS

For purposes of this Resolution, the following terms shall have the meaning set forth herein:

- A. "Area Plan" means the sixteen areas designated for purposes of providing an organizational framework for the Criteria Area, and for purposes of developing specific design criteria that will be utilized in assembling land within the Criteria Area that will become a part of the MSHCP Conservation Area.
- B. "Criteria Area" means the general area designated and denoted on the MSHCP Plan Map as the "Criteria Area," comprised of approximately 310,000 acres from which new habitat conservation within the MSHCP Conservation Area will be assembled.
- C. "MSHCP" means the Western Riverside County Multiple Species Habitat Conservation Plan.
- D. "MSHCP Plan Map" means the map of the area encompassed by the MSHCP as set forth in the attached Exhibit "1."
- E. "Project" means any action or activity that is subject to the City's ministerial or

discretionary approval, or any action or activity undertaken directly by the City, for the purpose of developing or improving real property, including, but not limited to, the following: the sale, purchase, or lease of City-owned property; the approval of a tentative subdivision map; the issuance of a license, permit, certificate, variance, or other entitlement for the development or improvement of real property, including the clearing or grading of real property (except for weed or fire hazard abatement); and the construction or improvement of streets, water, sewer, or other public facilities or public works.

#### SECTION VII. EFFECTIVE DATE

The Mayor shall sign this Resolution and the City Clerk shall attest thereto, and thereupon and thereafter this Resolution shall take effect and be in force according to law.

PASSED, APPROVED, AND ADOPTED, this 13<sup>TH</sup> day of January, 2004.

Tom Buckley

Tom Buckley, Mayor

ATTEST:

Vicki Kasad

Vicki Kasad, City Clerk

APPROVED AS TO FORM:

Barbara Leibold

BARBARA LEIBOLD, CITY ATTORNEY

UPON THE FOLLOWING VOTE:

AYES:	COUNCILMEMBERS:	HICKMAN, MAGEE, SCHIFFNER, BUCKLEY
NOES:	COUNCILMEMBERS:	KELLEY
ABSENT:	COUNCILMEMBERS:	NONE
ABSTAIN:	COUNCILMEMBERS:	NONE

STATE OF CALIFORNIA                    )  
COUNTY OF RIVERSIDE                ) ss.  
CITY OF LAKE ELSINORE                )

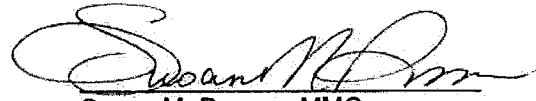
I, Susan M. Domen, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. 2011-011 was adopted by the City Council of the City of Lake Elsinore, California, at the regular meeting of January 13, 2004, and subsequently renumbered to 2011-11A and that the same was adopted by the following vote:

AYES:	HICKMAN, MAGEE, SCHIFFNER, BUCKLEY
NOES:	KELLEY
ABSENT:	Council Member Hickman
ABSTAIN:	None

Resolution No. 2004-11A  
Page | 6

I hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2004-11A as adopted by said Council as shown in the attached minutes and that the same has not been amended or repealed.

Date: March 22, 2016




Susan M. Domen, MMC  
City Clerk

- E. "Project" means any action or activity that is subject to the City's ministerial or discretionary approval, or any action or activity undertaken directly by the City, for the purpose of developing or improving real property, including, but not limited to, the following: the sale, purchase, or lease of City-owned property; the approval of a tentative subdivision map; the issuance of a license, permit, certificate, variance, or other entitlement for the development or improvement of real property, including the clearing or grading of real property (except for weed or fire hazard abatement); and the construction or improvement of streets, water, sewer, or other public facilities or public works.


#### SECTION VII. EFFECTIVE DATE

The Mayor shall sign this Resolution and the City Clerk shall attest thereto, and thereupon and thereafter this Resolution shall take effect and be in force according to law.

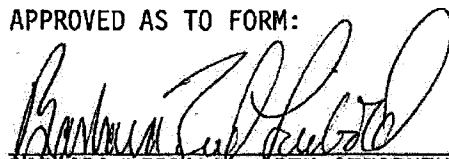
PASSED, APPROVED, AND ADOPTED, this 13th day of January, 2004.

  
Tom Buckley, Mayor

ATTEST:

  
Vicki Kasad, City Clerk

APPROVED AS TO FORM:

  
BARBARA LEIBOLD, CITY ATTORNEY

UPON THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

COUNCILMEMBERS:  
COUNCILMEMBERS:  
COUNCILMEMBERS:  
COUNCILMEMBERS:

HICKMAN, MAGEE, SCHIFFNER, BUCKLEY  
KELLEY  
NONE  
NONE



**STATE OF CALIFORNIA            )**  
**COUNTY OF RIVERSIDE        ) SS:**  
**CITY OF LAKE ELSINORE     )**

**I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution duly adopted by the City Council of the City of Lake Elsinore at a Regular Meeting of said Council on the 13<sup>th</sup> of January, 2004, and that it was so adopted by the following vote:**

**AYES:** **COUNCILMEMBERS:** **HICKMAN, MAGEE, SCHIFFNER,**  
**BUCKLEY**

**NOES: COUNCILMEMBERS: KELLEY**

**ABSENT: COUNCILMEMBERS: NONE**

**ABSTAIN: COUNCILMEMBERS: NONE**

ABSTAIN: COUNCILMEMB

*Vicki Kasad*

VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE  
(SEAL)

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) SS:  
CITY OF LAKE ELSINORE)

**I, VICKI KASAD, CITY CLERK OF THE CITY OF LAKE ELSINORE, DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of Resolution No. 2004-11 of said Council, and that the same has not been amended or repealed.**

**DATE:** **January 31, 2004**

*Vicki Kasad*  
VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE  
(SEAL)

67. In accordance with the City's Franchise Agreement for waste disposal & recycling, the applicant shall be required to contract with CR&R Inc. for removal and disposal of all waste material, debris, vegetation and other rubbish generated during cleaning, demolition, clear and grubbing or all other phases of construction.

**THE REGULAR CITY COUNCIL MEETING WAS RECESSED AT 9:25 P.M.**

**THE REGULAR CITY COUNCIL MEETING RECONVENED AT 9:38 P.M.**

36. Consideration Of The Western Riverside County Multispecies Habitat Conservation Plan. (F:76.4)

City Manager Watenpugh reminded the community of the first presentation on this topic on June 24, 2000; and stressed that it had been almost three years in the process.

Mayor Buckley requested that everyone keep their comments short and indicated that the three minute rule would be strictly enforced.

Pete Dawson, 18010 Grand Avenue, indicated that the big problem with this matter was the disproportionate handling, with big brother deciding the City's destiny. He commented that it was clear that cities like Temecula or Canyon Lake could not be made to retract their development, and questioned how to even this out. He suggested that the proposal require that those who gave up less balanced the program by giving money to assist those who gave up more. He indicated that they would not agree, but it could start a more reasonable plan.

Dennis O'Neil, 19900 MacArthur Blvd., Irvine, indicated that no one was sure if the Council would adopt the plan, but noted that they were on record and continued to affirm that Canyon Hills had all of their entitlements and environmental permits. He suggested that if the MSHCP was adopted they would submit that appropriate language should be included to exempt projects such as Canyon Hills from the program.

Ron LaPere, 16867 Wells Street, indicated everyone in the audience saw this as a hard spot for the Council, but if it was possible to condition items from the County the City could follow the progress on the implementation. He suggested that the Council was damned either way right now, but should consider written additions to make their position clear to the County and watch to see that development occurred as intended.

Carmela Loelkes, 25190 Hancock Ave., Murrieta, expressed trust that the Council would consider adopting the MSHCP, as they had received information in support of the plan. She commented that the small landowners were left out of the plan. She indicated that, as proposed, the plan was not perfect, but it would allow more developable land to be developed. She encouraged the Council to participate and not be left out, as most of the other cities had adopted the plan.

Gail Barton, P. O. Box 1929, Fallbrook, thanked the Council for the opportunity to speak and for its cautious consideration. She noted the growth of the County and indicated that the MSHCP preserved open space, allowed for recreation and preserved the beauty of the County. She indicated that as a property owner in the criteria area, she supported the plan, and noted that the benefits outweighed the burdens. She further indicated that she would not want to be a property owner in a city that did not participate. She noted that her property adjoins the Southwest Multi-species Reserve, and her property was threatened by the recent fires, but because of the fire plan in place and the efficient response by the Reserve Manager, the back fires were set on the reserve and the lands outside were protected. She stressed consideration of the positive contributions the plan would make to the future of Lake Elsinore.

Donna Franson, 7 Villa Valtelena, indicated that she was a 12 year resident of the City, and Chair of the Citizens for a Better Lake Elsinore. She advised that she had researched this issue for about six months and suggested that by accepting this plan, the Council would approve establishing another bureaucracy costing about \$1 billion over the next ten years. She indicated that the City would be sued by property owners, as the plan would have an impact on their ability to build on their property. She noted that they would receive fair value for their property, but not anything close to the potential value if they were to build on their land. She questioned what would happen if the program ran out of funds; and expressed concern that much of the designated land was the most desirable for commercial and high-tech industrial. She suggested that not adopting the plan would save \$1 billion, avoid eight pending lawsuits, and encourage business and land developers to provide more business opportunities. She indicated that she would support a reasonable plan, but was against the City being required to provide 7,800 acres. She asked that the Council plan for the future of Lake Elsinore and not adopt the plan.

Ed Sauls, The Sauls Company, indicated that he did not envy the Council on this decision, and noted the amount of property impacted in the City. He indicated that solutions had been found to address 6,700 dwelling units in the City and other

would be exempted by Development Agreements. He indicated that about 1,200 acres had not been resolved, but there was a willingness to work on solutions. He recommended adoption of the plan, with his study document attached as part of the resolution. He further recommended that the Council decide that the recommendations on the implementation were consistent with the MSHCP, as it would make life easier for the Council and the property owners, and remove uncertainties. He commented that no one was excited about the plan, and everyone would like improvements, but the Board of Supervisors had said that this was the plan. He indicated that the developers were forced to choose the best possible alternative, and after a review of the projects in the City, he would recommend adoption of the plan with specific conditions, such as the inclusion of his report. He commented on a number of general statements regarding the plan and reiterated the concern of Senator Hollingsworth that this was not a voluntary plan, and stressed that it represented about 80% of the undeveloped property in the City.

Scott Woodward, resident of Murrieta, indicated that he had built a project here; and suggested that if the council did not approve the plan, it would delay the opportunity to move forward with growth and cause obstacles for building. He commented that it was not the best plan, but it was better than independent action. He indicated that it would protect 148 species for 75 years, and he would hate to see Lake Elsinore left out of the program.

Bruce Colbert, representing the Property Owners Association of Riverside County, indicated that he outlined four key concerns on January 9<sup>th</sup>. He indicated that the first was the potential loss of revenues, which would be far greater than the Measure A funds allocated to the City. He expressed concern that the plan could result in more land being proposed for habitat than the current regulations would require. He expressed further concern that the plan used an arbitrary approach, which was not based on the presence of species. He indicated that the proposed process was more burdensome than what was currently in place, and the plan was written to make the wildlife agencies the ultimate authority. He suggested that there was no reason to participate without some level of certainty.

Jeff Drongesen, representing the California Department of Fish and Game, reiterated their support for the plan and assured the Council that they were dedicated to successful implementation of the plan. He indicated that after final approval, the final biological opinions would be finalized.

Frans Bigelow, representing Castle & Cooke, indicated that they were always in favor of the concept of the MSHCP, but he could not support this plan without changes. He expressed concern with the loss of local control in land use decisions and the seven step process for permits. He indicated that the biological assessments were not accurate, would impact taxes, and the ultimate judge and jury will be the resource agencies. He stressed that the rules would be based on the written word and not the County's interpretations. He suggested changing the words to reflect with the County says they mean. He suggested that the City should negotiate on the verbiage, while there was still some leverage.

Darren Stroud, representing Castle & Cooke, indicated that they submitted a letter earlier which detailed their concerns with the MSHCP, from the legal and practical perspectives. He noted the volume of information provided and stressed that there were major problems with the plan as drafted. He specifically stressed the issues of local control, fiscal impacts and administrative burdens. He asked that the Council not rush into approvals tonight, despite the County deadline, and noted that it was arbitrary and self-imposed by the County. He noted ongoing federal litigation on the biological review, and indicated that even if the litigation was circumvented, the City could not be arbitrarily cut out without additional work. He indicated that Lake Elsinore is the key to the plan with 7,000 acres; and noted the linkages and corridors necessary for the plan. He addressed 14.1 of the implementing agreement and indicated that the service could not issue permits until all parties have signed the implementing agreement. He indicated that Measure A funds could not be lost or become an issue for five years. He stressed the need to work out the issues and develop a better plan before it is adopted.

Ed Fitzpatrick, Eastbridge Partners, indicated that this matter had been discussed for a long time; and noted the impacts of mitigation on the Ramsgate project. He commented that with the adoption of the MSHCP he would have the opportunity to sell some conservation land and develop a deal with the regulatory agencies. He noted his past negotiations with the County and assistance from the regulatory agencies to allow him to develop 260 parcels. He noted that he worked with the Sauls Group on their study and indicated that his project would suffer further loss without the MSHCP. He urged the Council to support the MSHCP.

Jane Block, representing the Endangered Habitat League, indicated that she was still on the committee mentioned by Senator Hollingsworth and they have achieved many of their goals. She expressed hopes that the elected officials would consider existing agreements and noted that the majority of the reserve would be in place one way or another. She indicated that the MSHCP would

provide recreational opportunities, enhance the quality of life for all citizens and attract businesses. She expressed hopes that the City would make the MSHCP a success.

Jim Lunger, 15391 Regatta Way, urged a yes vote on the MSHCP. He noted the 1988 approval of Measure A, by a nearly 4 to 1 margin; and the additional funding for transportation improvements, approved in 2002. He indicated that a yes vote on the MSHCP would provide funding of \$38 million. He indicated that the failure to approve the program would cause the City to forfeit tax dollars, which would go back to the County. He suggested that the approval, would make projects easier for the developers. He encouraged a yes vote to keep tax money in the City and promote the City as managing resources in a good manner.

Jim Lacey, Mayor Pro Tem of Dana Point, and representative of the Save Proposition 13 Committee, indicated that as a founding member of the Howard Jarvis Tax Group he had long experience with Proposition 13. He advised that his organization was active in the opposition to the MSHCP. He presented a list of 884 homeowners who were opposed to this measure. He indicated that if the proposal was approved, project planning would be delayed and environmental specialist would be hit by the bureaucracy. He noted that the California Coastal Commission had not lived up to their promises; and indicated that as a Councilman in a coastal city, he knows that the Coastal Commission calls the shots. He suggested that adoption of the MSHCP would create another Coastal Commission to call the shots for the City. He addressed Measure A and indicated that they supported the Measure, because it was to help with infrastructure. He suggested that linking transportation to habitat was morally, voter fraud. He stressed that the City's arm was being twisted in an unfair way, as the plan was not well thought out and not properly funded.

Ed Roohan, President of Castle & Cooke, indicated that he was present to share brief views on the MSHCP. He indicated that the plan was hard work, put forth by good people, with great intentions, and while the concept is perfect, the application is too much and ill funded. He addressed the acreage involved and suggested that it was a massive environmentalist dream. He indicated that the proposed acreage could create an 8 lane highway from Los Angeles to New York, eight times. He commented that the County came up with the plan, but the resource agencies were the drivers, and the land owners did not have a chance to vote. He suggested that the plan would destroy land values, and he indicated that the voters were owed the chance to at least have good science say that it was well

funded. He urged the Council to oppose the land due to too much money, too much land and too much government.

Michelle Staples, representing the Riverside County Farm Bureau, indicated that the Bureau had negotiated a workable framework and would like to support the MSHCP; however in its present form, as submitted, they could not do so. She advised that the MSHCP increases exposure of farmers and ranchers to the illegal take of endangered species, and does not provide a workable framework for agricultural land owners. She stressed the heavy burdens in fees, studies and permitting; and reiterated that they did not support the MSHCP because it would add to the regulatory burden. She indicated that they were working with the County to try to amend the plan for a workable solution and streamline the regulatory process. She requested that the Council not approve the plan.

Ron Hewison, 35 Villa Valtelena stated that there was no dog in this fight. He indicated that he chose to move to Lake Elsinore instead of Temecula. He commented that it was interesting that Castle & Cooke would not commit to the Mayor in writing with regard to the corridor, but would ask that the County add words to gain their support. He suggested that generally the comments against the plan were subjective, and noted that Senator Hollingsworth did not say no. He indicated that Lake Elsinore was late in joining the process and should make the move and get in. He concurred that the action was taking a gamble, but suggested there was too much speculation. He agreed that the plan was not perfect, but recommended that the City move forward and try to negotiate.

Norm Gritton concurred with Ed Sauls, Ed Fitzpatrick and Scott Woodward on their comments. He concurred that this was not a perfect plan, but at this point it was all that was available, even though the options were not good on either side. He suggested that with the money spent by the County, it would be very expensive for the City to create its own plan; and suggested that any one City could not fund creation of a better plan. He indicated that the problem with the environmental issues was that it was not getting any better and there would probably be more problems at the City level than at the County level. He suggested that joining the program was the best action for the City Council.

Kathleen Hamilton, 42626 De Luz, indicated that joining the MSHCP, would give the City a chance to grow and create a lasting legacy for the future.

Barry Jones, representing Helix Environmental, indicated that his firm was involved in 50 projects in Riverside County, and would benefit by the plan not

being approved. He indicated that it would create more work for him, and while it was not a perfect plan it would be better for conservation. He indicated that as a landowner he sees it as a mechanism that is more user friendly to work with the County. He urged the Council to approve the plan.

Eric Lunde noted that the reoccurring theme with this plan, was that there would be more requirements and administration, but the regulations today are already burdensome enough. He indicated that while the plan was far from perfect, it was superior to the current regulations. He noted that he was in escrow on a piece of property at the end of Main Street; and indicated that under the plan he could develop 750 units vs. no units without the plan. He suggested adoption of the plan, with conditions and if the doomsayers were correct, the City could opt out. He commented that it would be easier to opt out in the future than it would be to join in the future. He suggested that the agencies would take revenge and the bureaucracy would kill growth. He indicated that if the plan did not go through, he would probably not close on the property. He suggested that the plan was more of a win-win situation. He expressed hopes that the plan would be adopted.

Ruth Atkins, 15237 Lake Trail Circle, commented on the Los Angeles County community of "Dairyland", which was originally dairy farms, but is now concrete with no greenbelts. She expressed hopes that the Council would support the MSHCP for future generations of the City.

Councilman Schiffner indicated that he had been involved in the program for about five years and had listened to hours and days of conversation from many people. He further indicated that he had read reams of documents, but he still did not know the answer to the problem. He commented that he had spoken with people on both sides of the argument, and good arguments had been presented tonight as well. He indicated that he could not disagree with anyone, but it was a very difficult decision and it was not possible to please both sides. He suggested that he would only be able, to the best of his ability, determine what he felt was in the best interest of the City of Lake Elsinore, and assumed that the rest of the Council would do the same.

Councilman Hickman addressed Mr. Sauls and Mr. Lashbrook. He asked Mr. Sauls about his study of 15 builders and questioned the number of acres involved. Mr. Sauls indicated that it included 2700 acres to conservation, about 700 acres of voluntary participation. Councilman Hickman questioned the 3,836 acres of open space. Mr. Sauls indicated that included the properties within the sphere of influence, including some at the Lake Street off-ramp. Councilman Hickman



asked Mr. Lashbrook how much acreage they wanted. Mr. Lashbrook indicated that was difficult to answer, but they would not need the high end of the possible range. He noted references to 7,800 acres, which it would not be; and suggested it might be possible to meet at 6,000 acres. He indicated that less than that would depend on the issues being discussed, configuration of the properties and the biological arguments. He was confident that 6,000 would meet the obligation, but noted that analysis was underway to look at a little more than 4,000 acres, which might meet it. He said his best estimate at this time was 6,000 acres or less. Councilman Hickman questioned the acreage for open space. Mr. Sauls indicated that it was his understanding that his property would be exempt from the multispecies plan, and they would not pay fees, as they had already been assessed. He noted that in the back basin there had been an agreement to contribute over 700 acres. He noted that the yellow areas in the study were the only ones that were still unresolved.

Councilman Hickman addressed Mr. Lashbrook, and indicated that 7,870 acres was 47% of the existing vacant land; and stressed the impact that would have on the City's finances and growth. He suggested that anything over 6,000 was a problem, and stressed the issues it would create for the City. Mr. Lashbrook expressed recognition of the concerns and stressed it would not be the maximum numbers discussed. He indicated that Mr. Saul's numbers seemed to be in the range and he was sure it would be 6,000 acres or less. Councilman Hickman inquired how long it would take to buy the land. Mr. Sauls indicated that the total acquisition was just short of \$23 million, and almost all of it was purchased or nearly funded. Councilman Hickman indicated that his only concern was that it was nearly in place.

Mayor Pro Tem Kelley indicated that she was glad to have so many people say they felt for the Council on this decision. She stressed the difficulty of the decision, as the most difficult in the last eight years. She indicated that the difficulty was due to the fact that the program was in conflict with her personal beliefs. She suggested that as a society, human beings had gone crazy to save the species, over humans. She noted the impact of mitigation on fires and flooding. She stressed that the land designated would not be a greenbelt, but rather scrub, which can not be maintained. She noted the situation of a school being postponed because of a butterfly, when the schools are already full. She concurred with Senator Hollingsworth, and indicated that this plan was overboard and goes much further than is necessary. She noted the amount of information provided and indicated that it all depends on one's perspective. She indicated that she had heard from landowners who said they would lose their land, while other people

have said the opposite. She noted that people at this meeting had said to make it work, and while she wished she could make it work, she had tried for almost four years. She concurred that there was a lot of arm twisting in this process, and expressed concern that it involved too much land, money and government. She stressed that it would create a costly bureaucracy and take 47% of the remaining developable land. She indicated that lots of property owners would be impacted. She stressed that while she would concur that greenbelts were needed, but this would not accomplish that as it would be scrub. She noted that the common thought is that no one likes the plan on either side; and questioned why it had not changed if no one liked it. She expressed disappointment that a better arrangement could not be found. She indicated that the concept was great, but it was creating another layer of government, taking dollars and increasing the price of homes. She stressed that the builder fees would be passed on to the homeowners, and there was already some difficulty affording homes in Lake Elsinore. She indicated that the plan was not being spread equally and Lake Elsinore was being impacted more than anyone. She stressed that there were still unknowns with regard to numbers and future costs. She commented that she had many concerns with the plan including the weighted vote, the costs to administer the plan, the amount of land involved the loss of revenue, the potential for litigation and the burdensome process. She stressed that she could not support the plan.

Councilman Magee questioned when "bugs and bunnies" became so important and shared the disappointment and frustration of many people. He concurred that this plan had made the species more important than the school children, noting that kids would be in temporary facilities because of the Endangered Species Act and a butterfly. He indicated that he was asked to state a position on this matter last September at a forum; and commented that it was a good idea, but too costly and requiring too much of the City. He noted that the situation was still the same. He addressed Mr. Lashbrook regarding his very pointed letter last week, and commended him on answering and addressing his concerns. He indicated that the possibility of an acreage reduction from 7,800 to 6,000 was a step in the right direction, and concurred that there was a need to indemnify the City against litigation. He addressed the acreage under negotiation, and expressed hope for a determination that 6,000 was the mark for the City for the next 75 years. He addressed Mr. Bigelow and noted that it was important to negotiate, while there was still some leverage; and the County would take that away if the plan was not passed tonight. He indicated that he had his arm twisted in his home, office and in the car on the cell phone; and noted that he had never had so many threats of lawsuits. He commented that information received today from Supervisor

Ashley's representative helped him greatly, and clarified that when the HANS process was complete and an agreement reached on the acreage to be acquired, the permit process could be done by the City and a grading permit issued. He indicated this was the most important information, if it would allow work to move forward. He advised that for him to take the step to approve the plan, he would want the County to continue to work with the Sauls Report, and include other people, such as Castle & Cooke; and maintain the ability for the corridor to Orange County to go through Lake Street or Nichols Road. He further advised that if the County proceeds to acquire property, he would need the assurance that the City is not slitting its own throat and hurting the ability to maintain the corridor. He indicated that he could not agree to adopt the plan to sell that property and have it not be touched. He further indicated that he would want County staff, at no cost to Lake Elsinore, to use the people to draft and fund the conclusion that we have reached the threshold at or before 6,000 acres. He commented that he would also love to hear from Fish and Game that they would be a good partner and act in good faith. He indicated that he would need assurance they would be there to assist. He noted that he was still uncomfortable with where the City would be legally if the plan was adopted. He indicated that he would need the County and RSA to indemnify against all legal actions, if the MSHCP is approved.

Supervisor Buster noted that there had been a number of cooperative projects between the City and the County. He indicated that while the plan was complex, the basis was simple, and the cooperative approach had the most strength and flexibility. He stressed the onerous requirements of the regulatory agencies, and reiterated the need for a collaborative approach. He noted the options accomplished to date, and indicated that the school would be able to proceed with approval of the plan. He commented that the City should not join the plan because the other cities have, but because it is right for the City of Lake Elsinore. He stressed the desire to work with the City to address the complexities of the issues. He indicated that the City would be a partner at the table, with extra voting power.

Supervisor Ashley concurred with Supervisor Buster, and indicated that the solutions by Mr. Sauls were on the right track. He indicated that the statements and requests were reasonable with the right approach; and it should not allow a future corridor to be locked up. He indicated that he would support the considerations as outlined and he felt Supervisor Tavaglione would support them as well.

Jeff Drongesen, representing the California Department of Fish and Game, thanked the Council for their question and indicated that they were here to stay and had support at high levels. He noted that he had been on both sides of the table and had participated in the planning process. He indicated that he was still involved in the plan and was present to show support for successful implementation. Councilman Magee questioned their commitment to the plan. Mr. Drongesen confirmed their commitment and noted that they had obtained a grant for this area specifically to assist with the plan. Councilman Magee inquired if 6,000 acres would satisfy them. Mr. Drongesen indicated that the numbers were flexible.

Councilman Magee indicated that he would like to hear about the staffing for continued negotiations and a report making the finding that the requirement has been met. Mr. Lashbrook indicated that was always a discussion by the Supervisors, so he believed there was support on the Board to do so. He indicated that he did not see a problem in working with the projects for a cooperative venture between the City and County staff and the property owner groups. He advised that all of that information would go to the findings; and explained that the goal was to draft the findings, narrow them down and justify the acres that would be required and lay out the lines. Councilman Magee questioned the indemnification on the General Plan. Mr. Lashbrook indicated that they would indemnify all jurisdictions on issues relating to adoption of the MSHCP; however he clarified for full disclosure, that if the General Plan was amended, causing litigation, it would not be addressed. He explained that the Board had said they would deal with cities in terms of providing litigation support. Councilman Magee questioned their willingness to work with other members of the development community. Mr. Lashbrook noted the discussion this evening and indicated that there was a desire to work with Castle and Cooke, noting that it would take two to negotiate. He indicated that with regard to the corridor, the held important land for potential roads, and that land would not be included in the reserve system. He assured Council they would work to resolve the issue.

Mayor Buckley addressed the indemnification in Section 23 and suggested verbiage to show that RCHCA would indemnify the cities, which was the intent. Mr. Lashbrook indicated that the JPA document was a function of the authority, and while he had no person problem with the change, he would have to pass it on to the lawyers, and it would be a decision by the JPA. Mayor Buckley addressed the issue of weighted voting, and indicated that he would still maintain that it was a positive for the City, but noted an issues which had arisen on the matter.

Rick Bishop, representing WRCOG, addressed the weighted vote, and indicated that it would only be called for by a member of the board, to make sure that the vote is confirmed by both sides. He indicated that with regard to a veto of the weighted vote, both the Board and the cities would have to confirm the simple majority votes, so it would work both ways.

Mayor Buckley addressed the map and concurred with Mr. Magee, that if it was just about "bugs and bunnies" he would agree. He indicated that it was more about including roads, such as the Trabuco Canyon alignment, at one of two locations. He commented that it was very possible that if the City did not participate in the MSHCP, that it would not have the possibility of that road. He indicated that he knew a lot of people who would be happy to have a quicker route to Orange County; and business owners who would love the jobs from Orange County to come to Riverside. He indicated that passing the MSHCP would not guarantee the road, but failure to do so would guarantee that it would not happen. He noted that with regard to property values, homes were scarcer, so existing home values would go up; and suggested that the MSHCP would increase the value of existing homes and encourage new homes to be of higher property values. He indicated that he heard a number of concerns about the plan, such as building a pool or deck requiring a new permit process, and a huge billion dollar bureaucracy; and stressed that someone from the Council would be sitting on the Board to decide what, when and where to buy property. He commented that the City did not have that power now with the State and Federal agencies.

Mayor Buckley requested consideration of Resolution No. 2004-10. Mayor Pro Tem Kelley questioned the resolution and if it would include the proposed changes. City Attorney Leibold clarified the required actions, noting that there were five actions, four tonight and the fifth being the hearing on the ordinance. She indicated that the first resolution related to the CEQA findings.

Councilman Schiffner requested that the votes on this matter be done by roll call vote.

**MOVED BY HICKMAN, SECONDED BY BUCKLEY TO ADOPT  
RESOLUTION NO. 2004-10:**

**RESOLUTION NO. 2004-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE  
ELSINORE, MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT**

**TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FO THE  
MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL  
COMMUNITY CONSERVATION PLAN AND APPROVING THE  
WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT  
CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION  
PLAN AND IMPLEMENTING AGREEMENT, ADOPTING  
ENVIRONMENTAL FINDINGS PURSUANT OT THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT, AND ADOPTING A STATEMENT  
OF OVERRIDING CONSIDERATIONS.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>HICKMAN, MAGEE, SCHIFFNER, BUCKLEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>KELLEY</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

City Attorney Leibold indicated that there was no need for discussion of the modifications to the implementing agreement.

**MOVED BY HICKMAN, SECONDED BY BUCKLEY TO APPROVE THE  
IMPLEMENTING AGREEMENT FOR THE WESTERN RIVERSIDE COUNTY  
MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL  
COMMUNITY CONSERVATION PLAN.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>HICKMAN, MAGEE, SCHIFFNER, BUCKLEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>KELLEY</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

Mayor Buckley noted that there were a number of changes proposed for Resolution No. 2004-11. Councilman Magee suggested that the City Attorney read the changes into the record.

City Attorney Leibold detailed the proposed changes as follow:

Section II Findings and Purpose – Addition of a recital C – In light of the current habitat acquisition trends and habitat acquisition requirements within the boundaries of the City of Lake Elsinore, the MSHCP poses a risk of excessive land removal from the City's tax base. The City therefore finds that suitable controls are necessary to buffer this risk while maintaining an incentive for early habitat acquisition and ensuring that Lake Elsinore doesn't bear a disproportionate burden and become a mitigation bank to support development throughout the region.

Section III – Application of Regulations – Addition of Paragraph A to read: "Implementation of the MSHCP and approval of (1) this Resolution, (2) City Council Resolution 2004-10 making responsible agency findings pursuant to CEQA, (3) the Implementing Agreement for the MSHCP, (4) the Joint Exercise of Powers Agreement creating the Western Riverside County Regional Conservation Authority, and (5) an Ordinance establishing a Development Impact Fee in connection with the MSHCP (collectively, the "MSHCP Documents") is expressly conditioned upon approval by the City Council of each of the MSHCP Documents and where applicable, each and every party to the MSHCP Documents.

Section IV – Exemptions, Paragraph C modified to read "Any project for which and to the extent that a vesting rights to proceed with the project notwithstanding the enactment of this Resolution exist under the common laws of the State of California, a vesting tentative map pursuant to the Subdivision Map Act, a development agreement pursuant to Government Code section 65864 et seq., or other instrument, approved or executed by the City prior to adoption of this Resolution. Projects subject to this exemption must comply with all provisions of any applicable state and federal laws.

Section IV – Exemptions – Addition of New Section E to read: Any action by the City of Lake Elsinore that is ministerial, not a project subject to the provisions of the California Environmental Quality Act ("CEQA"), or

otherwise exempt pursuant to the provisions of CEQA or the CEQA Guidelines.

Section V (A.1) Add “or a functionally similar Lake Elsinore Acquisition Negotiation Process (“LEAN”); or

Add Section V (A.3) Several properties within the City of Lake Elsinore have undergone preliminary findings of consistency with the MSHCP. These properties include proposed development projects that are the current subject of ongoing negotiations with the MSHCP wildlife agencies with a few projects having been memorialized in a memorandum of understanding with the wildlife agencies. These projects include The Village, Alberhill, North Peak, Gritton, Simard, Clurman, Abusamra, Ramsgate, Greewald, Elsinore Lakeview Villas, Lakeview Estates, Tuscany Oaks, South Shore II, Colorado Pacific and Donlan. The current status of these projects concerning the MSHCP and preliminary findings of MSHCP consistency, is set forth in detail in Exhibit “A” to this Implementation Resolution and incorporated herein by this reference.

City Manager Watenpugh questioned the list vs. the report. Mr. Sauls indicated that the sheet complimented the December 10, 2003 spiral bound report.

**MOVED BY SCHIFFNER, SECONDED BY MAGEE TO ADOPT RESOLUTION NO. 2004-11, AS MODIFIED.**

**RESOLUTION NO. 2004-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR IMPLEMENTATION OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

**AYES: COUNCILMEMBERS: HICKMAN, MAGEE, SCHIFFNER, BUCKLEY**

**NOES: COUNCILMEMBERS: KELLEY**



**ABSENT: COUNCILMEMBERS: NONE**

**ABSTAIN: COUNCILMEMBERS: NONE**

Mayor Buckley indicated that the Joint Powers Agreement was already adopted by the WRCOG Board and a number of other cities with certain changes. He commented that he was the City representative to WRCOG, but when it came to the shift of authority, he would ask Councilman Schiffner to sit on the RCA Board, if he wished. Councilman Schiffner commented that the changes might not be accepted by others on the Board. Mayor Buckley inquired how to proceed. City Attorney Leibold indicated that it would be important to make it clear that the actions were a proviso, that would need to be approved by all members or the City was not willing execute the agreement and the approval would go away.

Mayor Buckley moved to approve the Joint Powers Agreement, but questioned the "one city, one supervisor" issue. City Attorney Leibold noted the earlier discussion was a proposal under Section 7.c. for "one member one vote, with each regular member or alternate having one vote at meetings of the Board", and the deletion of other voting provisions. Mayor Buckley indicated that would probably be the only issue.

Councilman Schiffner suggested that the City Attorney read all of the changes. City Attorney Leibold concurred that should be part of the record, so the only way to understand the action would be to read it.

Mayor Buckley clarified that if it was not approved in its entirety, then the approval would not stick and that might result in future negotiations. He indicated that he would like to allow RCA to meet the first Monday in February and have the changes before the RCA Board. He indicated that if they failed to agree the other three documents would stand, but the agreement would come back. Councilman Schiffner indicated that he would not support the agreement under those conditions. City Attorney Leibold clarified that any rejections of the changes to the JPA would come back to Council for reconsideration, but all items would not need to be reconsidered. Mayor Buckley noted that the fee ordinance would be for the first meeting in February. Councilman Schiffner suggested reading the proposed changes.

City Attorney Leibold noted that there was a request for a joint exercise of powers agreement, creating the authority, with changes to the quorum in voting. She indicated that there was a concern that the agreement as proposed would provide

the County with veto power, so the Council would recommend a change to that end with the addition of a new paragraph D under Quorum and Voting:

- D. Once the lower range of estimated conservation of habitat on private lands is fulfilled within the City of Lake Elsinore (i.e., upon MSHCP acquisition of 4,830 acres of private land within the City of Lake Elsinore), habitat acquisition funds through the HANS process, imposition of the MSHCP Fee, or funding otherwise provided through the MSHCP or RCA, shall only be permitted for acreage acquisition in the City of Lake Elsinore if both of the following are fulfilled: 1) the proposed acquisition and/or funding is submitted to the Funding Coordination Committee for approval and the City of Lake Elsinore representative (or majority of representatives present) votes affirmatively to authorize RCA approval of the acquisition and/or funding, and; 2) the City of Lake Elsinore representative to the RCA votes affirmatively to approve the acquisition and/or funding.

City Attorney Leibold further addressed Section 15 of the Agreement and suggested the addition of the following verbiage:

The Board shall not appoint more than two County representatives and shall not appoint committee members in a manner that dilutes any City representation to less than 1/17<sup>th</sup> of the total representation of the committee.

And:

Once 75% of the lower range of estimated habitat conservation has been achieved within the City of Lake Elsinore (3,623 acres), acquisition of private lands within the County and other participating jurisdictions shall be prioritized by the Funding Coordination Committee.

City Attorney Leibold suggested that Section 19 regarding Contributions and Budget be amended to read:

The Parties to this Agreement shall impose a development mitigation fee on all new development to support the acquisition of additional reserve lands pursuant to the MSHCP. All development mitigation fees collected

by the Parties shall be forwarded to the RCA within ninety (90) days after receipt by each Party, subject to any specific exception set forth in the ordinances implementing the development mitigation fees for the individual participating cities. The RCA may, in its discretion, conduct an audit of the development mitigation fees collected by any Party to this agreement. Likewise, participating cities may, in their discretion, conduct an audit of the development mitigation fees forwarded to the RCA and expended by the RCA for property acquisition.

City Attorney Leibold suggested that Section 23 be amended to read:

The RCA shall defend, indemnify and hold such Party free and harmless from any loss, liability or damage incurred or suffered by such Party by reason of litigation arising from or as a result of any of the following: the Party's development mitigation fee ordinance; the Party's participation in the RCA; actions taken to approve and/or implement the MSHCP; claims of inverse condemnation or unconstitutional takings against a Party; or any other act performed or to be performed by the Party pursuant to this Agreement, the MSHCP, its Implementing Agreement or the Permits; provided however, that such indemnification or agreement to hold harmless pursuant to this Section shall be recoverable only out of RCA assets and not from other Parties. For purposes of this Section 23, the phrase "actions taken to approve and/or implement the MSHCP include, without limitation; (a) a Party's execution of a resolution making responsible agency findings pursuant to the California Environmental Quality Act in reliance on lead agency finding made by the County of Riverside; (b) Party actions or omissions of implementation of the MSHCP that result in litigation against the Party for violations of California Planning and Zoning Law; and (c) Party withdrawal from implementation of the MSHCP in accordance with the terms of the Implementing Agreement (Section 22.0 et seq).

For purposes of this Section 23, the phrase "actions taken to approve and/or implement the MSHCP include, without limitation: (a) a Party's execution of a resolution making responsible agency findings pursuant to the California Environmental Quality Act in reliance on lead agency finding made by the County of Riverside; (b) Party actions or omissions of implementation of the MSHCP that result in litigation against the Party for violations of California Planning and Zoning Law; and (c) Party

withdrawal from implementation of the MSHCP in accordance with the terms of the Implementing Agreement.

**MOVED BY SCHIFFNER, SECONDED BY MAGEE TO APPROVE THE JOINT POWERS AGREEMENT WITH THE AMENDMENTS AS DETAILED.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>HICKMAN, MAGEE, SCHIFFNER, BUCKLEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>KELLEY</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

City Attorney Leibold noted that the Council would need to schedule a noticed hearing on the fee Ordinance.

**MOVED BY SCHIFFNER, SECONDED BY BUCKLEY TO PROCEED WITH NOTICING THE HEARING FOR THE FEE ORDINANCE.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>HICKMAN, MAGEE, SCHIFFNER, BUCKLEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>KELLEY</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

**PUBLIC COMMENTS - NON-AGENDIZED ITEMS - 3 MINUTES**

No Comments.

**CITY MANAGER COMMENTS**

No Comments.

**CITY ATTORNEY COMMENTS**

No Comments.

**COMMITTEE REPORTS**

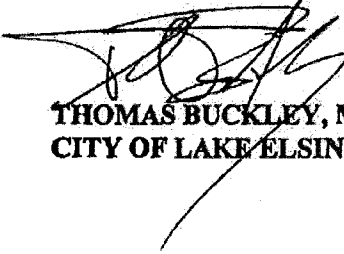
No Reports.

**CITY COUNCIL COMMENTS**

No Comments.

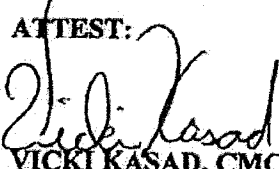
**ADJOURNMENT**

THE REGULAR CITY COUNCIL MEETING WAS ADJOURNED AT 11:58 P.M.



THOMAS BUCKLEY, MAYOR  
CITY OF LAKE ELSINORE

ATTEST:



VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE

**EXHIBIT "1" IS THE MSHCP PLAN MAP WHICH IS EXHIBIT "A" TO THE IMPLEMENTING AGREEMENT**

**EXHIBIT "2" IS THE MODEL CONSERVATION EASEMENT**

**EXHIBIT "3" WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN IMPLEMENTATION REVIEW (FINAL DRAFT) PREPARED BY THE SAULS COMPANY AND HELIX ENVIRONMENTAL PLANNING, INC DATED DECEMBER 10, 2003 AS SUPPLEMENTED BY THE MAP AND MATRIX PRESENTED TO THE CITY COUNCIL AT ITS MEETING ON THE MSCHP ON JANUARY 13, 2004**

67. In accordance with the City's Franchise Agreement for waste disposal & recycling, the applicant shall be required to contract with CR&R Inc. for removal and disposal of all waste material, debris, vegetation and other rubbish generated during cleaning, demolition, clear and grubbing or all other phases of construction.

**THE REGULAR CITY COUNCIL MEETING WAS RECESSED AT 9:25 P.M.**

**THE REGULAR CITY COUNCIL MEETING RECONVENED AT 9:38 P.M.**

36. Consideration Of The Western Riverside County Multispecies Habitat Conservation Plan. (F:76.4)

City Manager Watenpaugh reminded the community of the first presentation on this topic on June 24, 2000; and stressed that it had been almost three years in the process.

Mayor Buckley requested that everyone keep their comments short and indicated that the three minute rule would be strictly enforced.

Pete Dawson, 18010 Grand Avenue, indicated that the big problem with this matter was the disproportionate handling, with big brother deciding the City's destiny. He commented that it was clear that cities like Temecula or Canyon Lake could not be made to retract their development, and questioned how to even this out. He suggested that the proposal require that those who gave up less balanced the program by giving money to assist those who gave up more. He indicated that they would not agree, but it could start a more reasonable plan.

Dennis O'Neil, 19900 MacArthur Blvd., Irvine, indicated that no one was sure if the Council would adopt the plan, but noted that they were on record and continued to affirm that Canyon Hills had all of their entitlements and environmental permits. He suggested that if the MSHCP was adopted they would submit that appropriate language should be included to exempt projects such as Canyon Hills from the program.

Ron LaPere, 16867 Wells Street, indicated everyone in the audience saw this as a hard spot for the Council, but if it was possible to condition items from the County the City could follow the progress on the implementation. He suggested that the Council was damned either way right now, but should consider written additions to make their position clear to the County and watch to see that development occurred as intended.

Carmela Loelkes, 25190 Hancock Ave., Murrieta, expressed trust that the Council would consider adopting the MSHCP, as they had received information in support of the plan. She commented that the small landowners were left out of the plan. She indicated that, as proposed, the plan was not perfect, but it would allow more developable land to be developed. She encouraged the Council to participate and not be left out, as most of the other cities had adopted the plan.

Gail Barton, P. O. Box 1929, Fallbrook, thanked the Council for the opportunity to speak and for its cautious consideration. She noted the growth of the County and indicated that the MSHCP preserved open space, allowed for recreation and preserved the beauty of the County. She indicated that as a property owner in the criteria area, she supported the plan, and noted that the benefits outweighed the burdens. She further indicated that she would not want to be a property owner in a city that did not participate. She noted that her property adjoins the Southwest Multi-species Reserve, and her property was threatened by the recent fires, but because of the fire plan in place and the efficient response by the Reserve Manager, the back fires were set on the reserve and the lands outside were protected. She stressed consideration of the positive contributions the plan would make to the future of Lake Elsinore.

Donna Franson, 7 Villa Valtelena, indicated that she was a 12 year resident of the City, and Chair of the Citizens for a Better Lake Elsinore. She advised that she had researched this issue for about six months and suggested that by accepting this plan, the Council would approve establishing another bureaucracy costing about \$1 billion over the next ten years. She indicated that the City would be sued by property owners, as the plan would have an impact on their ability to build on their property. She noted that they would receive fair value for their property, but not anything close to the potential value if they were to build on their land. She questioned what would happen if the program ran out of funds; and expressed concern that much of the designated land was the most desirable for commercial and high-tech industrial. She suggested that not adopting the plan would save \$1 billion, avoid eight pending lawsuits, and encourage business and land developers to provide more business opportunities. She indicated that she would support a reasonable plan, but was against the City being required to provide 7,800 acres. She asked that the Council plan for the future of Lake Elsinore and not adopt the plan.

Ed Sauls, The Sauls Company, indicated that he did not envy the Council on this decision, and noted the amount of property impacted in the City. He indicated that solutions had been found to address 6,700 dwelling units in the City and other



would be exempted by Development Agreements. He indicated that about 1,200 acres had not been resolved, but there was a willingness to work on solutions. He recommended adoption of the plan, with his study document attached as part of the resolution. He further recommended that the Council decide that the recommendations on the implementation were consistent with the MSHCP, as it would make life easier for the Council and the property owners, and remove uncertainties. He commented that no one was excited about the plan, and everyone would like improvements, but the Board of Supervisors had said that this was the plan. He indicated that the developers were forced to choose the best possible alternative, and after a review of the projects in the City, he would recommend adoption of the plan with specific conditions, such as the inclusion of his report. He commented on a number of general statements regarding the plan and reiterated the concern of Senator Hollingsworth that this was not a voluntary plan, and stressed that it represented about 80% of the undeveloped property in the City.

Scott Woodward, resident of Murrieta, indicated that he had built a project here; and suggested that if the council did not approve the plan, it would delay the opportunity to move forward with growth and cause obstacles for building. He commented that it was not the best plan, but it was better than independent action. He indicated that it would protect 148 species for 75 years, and he would hate to see Lake Elsinore left out of the program.

Bruce Colbert, representing the Property Owners Association of Riverside County, indicated that he outlined four key concerns on January 9<sup>th</sup>. He indicated that the first was the potential loss of revenues, which would be far greater than the Measure A funds allocated to the City. He expressed concern that the plan could result in more land being proposed for habitat than the current regulations would require. He expressed further concern that the plan used an arbitrary approach, which was not based on the presence of species. He indicated that the proposed process was more burdensome than what was currently in place, and the plan was written to make the wildlife agencies the ultimate authority. He suggested that there was no reason to participate without some level of certainty.

Jeff Drongesen, representing the California Department of Fish and Game, reiterated their support for the plan and assured the Council that they were dedicated to successful implementation of the plan. He indicated that after final approval, the final biological opinions would be finalized.

Frans Bigelow, representing Castle & Cooke, indicated that they were always in favor of the concept of the MSHCP, but he could not support this plan without changes. He expressed concern with the loss of local control in land use decisions and the seven step process for permits. He indicated that the biological assessments were not accurate, would impact taxes, and the ultimate judge and jury will be the resource agencies. He stressed that the rules would be based on the written word and not the County's interpretations. He suggested changing the words to reflect with the County says they mean. He suggested that the City should negotiate on the verbiage, while there was still some leverage.

Darren Stroud, representing Castle & Cooke, indicated that they submitted a letter earlier which detailed their concerns with the MSHCP, from the legal and practical perspectives. He noted the volume of information provided and stressed that there were major problems with the plan as drafted. He specifically stressed the issues of local control, fiscal impacts and administrative burdens. He asked that the Council not rush into approvals tonight, despite the County deadline, and noted that it was arbitrary and self-imposed by the County. He noted ongoing federal litigation on the biological review, and indicated that even if the litigation was circumvented, the City could not be arbitrarily cut out without additional work. He indicated that Lake Elsinore is the key to the plan with 7,000 acres; and noted the linkages and corridors necessary for the plan. He addressed 14.1 of the implementing agreement and indicated that the service could not issue permits until all parties have signed the implementing agreement. He indicated that Measure A funds could not be lost or become an issue for five years. He stressed the need to work out the issues and develop a better plan before it is adopted.

Ed Fitzpatrick, Eastbridge Partners, indicated that this matter had been discussed for a long time; and noted the impacts of mitigation on the Ramsgate project. He commented that with the adoption of the MSHCP he would have the opportunity to sell some conservation land and develop a deal with the regulatory agencies. He noted his past negotiations with the County and assistance from the regulatory agencies to allow him to develop 260 parcels. He noted that he worked with the Sauls Group on their study and indicated that his project would suffer further loss without the MSHCP. He urged the Council to support the MSHCP.

Jane Block, representing the Endangered Habitat League, indicated that she was still on the committee mentioned by Senator Hollingsworth and they have achieved many of their goals. She expressed hopes that the elected officials would consider existing agreements and noted that the majority of the reserve would be in place one way or another. She indicated that the MSHCP would

provide recreational opportunities, enhance the quality of life for all citizens and attract businesses. She expressed hopes that the City would make the MSHCP a success.

Jim Lunger, 15391 Regatta Way, urged a yes vote on the MSHCP. He noted the 1988 approval of Measure A, by a nearly 4 to 1 margin; and the additional funding for transportation improvements, approved in 2002. He indicated that a yes vote on the MSHCP would provide funding of \$38 million. He indicated that the failure to approve the program would cause the City to forfeit tax dollars, which would go back to the County. He suggested that the approval, would make projects easier for the developers. He encouraged a yes vote to keep tax money in the City and promote the City as managing resources in a good manner.

Jim Lacey, Mayor Pro Tem of Dana Point, and representative of the Save Proposition 13 Committee, indicated that as a founding member of the Howard Jarvis Tax Group he had long experience with Proposition 13. He advised that his organization was active in the opposition to the MSHCP. He presented a list of 884 homeowners who were opposed to this measure. He indicated that if the proposal was approved, project planning would be delayed and environmental specialist would be hit by the bureaucracy. He noted that the California Coastal Commission had not lived up to their promises; and indicated that as a Councilman in a coastal city, he knows that the Coastal Commission calls the shots. He suggested that adoption of the MSHCP would create another Coastal Commission to call the shots for the City. He addressed Measure A and indicated that they supported the Measure, because it was to help with infrastructure. He suggested that linking transportation to habitat was morally, voter fraud. He stressed that the City's arm was being twisted in an unfair way, as the plan was not well thought out and not properly funded.

Ed Roohan, President of Castle & Cooke, indicated that he was present to share brief views on the MSHCP. He indicated that the plan was hard work, put forth by good people, with great intentions, and while the concept is perfect, the application is too much and ill funded. He addressed the acreage involved and suggested that it was a massive environmentalist dream. He indicated that the proposed acreage could create an 8 lane highway from Los Angeles to New York, eight times. He commented that the County came up with the plan, but the resource agencies were the drivers, and the land owners did not have a chance to vote. He suggested that the plan would destroy land values, and he indicated that the voters were owed the chance to at least have good science say that it was well

funded. He urged the Council to oppose the land due to too much money, too much land and too much government.

Michelle Staples, representing the Riverside County Farm Bureau, indicated that the Bureau had negotiated a workable framework and would like to support the MSHCP; however in its present form, as submitted, they could not do so. She advised that the MSHCP increases exposure of farmers and ranchers to the illegal take of endangered species, and does not provide a workable framework for agricultural land owners. She stressed the heavy burdens in fees, studies and permitting; and reiterated that they did not support the MSHCP because it would add to the regulatory burden. She indicated that they were working with the County to try to amend the plan for a workable solution and streamline the regulatory process. She requested that the Council not approve the plan.

Ron Hewison, 35 Villa Valtelena stated that there was no dog in this fight. He indicated that he chose to move to Lake Elsinore instead of Temecula. He commented that it was interesting that Castle & Cooke would not commit to the Mayor in writing with regard to the corridor, but would ask that the County add words to gain their support. He suggested that generally the comments against the plan were subjective, and noted that Senator Hollingsworth did not say no. He indicated that Lake Elsinore was late in joining the process and should make the move and get in. He concurred that the action was taking a gamble, but suggested there was too much speculation. He agreed that the plan was not perfect, but recommended that the City move forward and try to negotiate.

Norm Gritton concurred with Ed Sauls, Ed Fitzpatrick and Scott Woodward on their comments. He concurred that this was not a perfect plan, but at this point it was all that was available, even though the options were not good on either side. He suggested that with the money spent by the County, it would be very expensive for the City to create its own plan; and suggested that any one City could not fund creation of a better plan. He indicated that the problem with the environmental issues was that it was not getting any better and there would probably be more problems at the City level than at the County level. He suggested that joining the program was the best action for the City Council.

Kathleen Hamilton, 42626 De Luz, indicated that joining the MSHCP, would give the City a chance to grow and create a lasting legacy for the future.

Barry Jones, representing Helix Environmental, indicated that his firm was involved in 50 projects in Riverside County, and would benefit by the plan not

being approved. He indicated that it would create more work for him, and while it was not a perfect plan it would be better for conservation. He indicated that as a landowner he sees it as a mechanism that is more user friendly to work with the County. He urged the Council to approve the plan.

Eric Lunde noted that the reoccurring theme with this plan, was that there would be more requirements and administration, but the regulations today are already burdensome enough. He indicated that while the plan was far from perfect, it was superior to the current regulations. He noted that he was in escrow on a piece of property at the end of Main Street; and indicated that under the plan he could develop 750 units vs. no units without the plan. He suggested adoption of the plan, with conditions and if the doomsayers were correct, the City could opt out. He commented that it would be easier to opt out in the future than it would be to join in the future. He suggested that the agencies would take revenge and the bureaucracy would kill growth. He indicated that if the plan did not go through, he would probably not close on the property. He suggested that the plan was more of a win-win situation. He expressed hopes that the plan would be adopted.

Ruth Atkins, 15237 Lake Trail Circle, commented on the Los Angeles County community of "Dairyland", which was originally dairy farms, but is now concrete with no greenbelts. She expressed hopes that the Council would support the MSHCP for future generations of the City.

Councilman Schiffner indicated that he had been involved in the program for about five years and had listened to hours and days of conversation from many people. He further indicated that he had read reams of documents, but he still did not know the answer to the problem. He commented that he had spoken with people on both sides of the argument, and good arguments had been presented tonight as well. He indicated that he could not disagree with anyone, but it was a very difficult decision and it was not possible to please both sides. He suggested that he would only be able, to the best of his ability, determine what he felt was in the best interest of the City of Lake Elsinore, and assumed that the rest of the Council would do the same.

Councilman Hickman addressed Mr. Sauls and Mr. Lashbrook. He asked Mr. Sauls about his study of 15 builders and questioned the number of acres involved. Mr. Sauls indicated that it included 2700 acres to conservation, about 700 acres of voluntary participation. Councilman Hickman questioned the 3,836 acres of open space. Mr. Sauls indicated that included the properties within the sphere of influence, including some at the Lake Street off-ramp. Councilman Hickman

asked Mr. Lashbrook how much acreage they wanted. Mr. Lashbrook indicated that was difficult to answer, but they would not need the high end of the possible range. He noted references to 7,800 acres, which it would not be; and suggested it might be possible to meet at 6,000 acres. He indicated that less than that would depend on the issues being discussed, configuration of the properties and the biological arguments. He was confident that 6,000 would meet the obligation, but noted that analysis was underway to look at a little more than 4,000 acres, which might meet it. He said his best estimate at this time was 6,000 acres or less. Councilman Hickman questioned the acreage for open space. Mr. Sauls indicated that it was his understanding that his property would be exempt from the multispecies plan, and they would not pay fees, as they had already been assessed. He noted that in the back basin there had been an agreement to contribute over 700 acres. He noted that the yellow areas in the study were the only ones that were still unresolved.

Councilman Hickman addressed Mr. Lashbrook, and indicated that 7,870 acres was 47% of the existing vacant land; and stressed the impact that would have on the City's finances and growth. He suggested that anything over 6,000 was a problem, and stressed the issues it would create for the City. Mr. Lashbrook expressed recognition of the concerns and stressed it would not be the maximum numbers discussed. He indicated that Mr. Saul's numbers seemed to be in the range and he was sure it would be 6,000 acres or less. Councilman Hickman inquired how long it would take to buy the land. Mr. Sauls indicated that the total acquisition was just short of \$23 million, and almost all of it was purchased or nearly funded. Councilman Hickman indicated that his only concern was that it was nearly in place.

Mayor Pro Tem Kelley indicated that she was glad to have so many people say they felt for the Council on this decision. She stressed the difficulty of the decision, as the most difficult in the last eight years. She indicated that the difficulty was due to the fact that the program was in conflict with her personal beliefs. She suggested that as a society, human beings had gone crazy to save the species, over humans. She noted the impact of mitigation on fires and flooding. She stressed that the land designated would not be a greenbelt, but rather scrub, which can not be maintained. She noted the situation of a school being postponed because of a butterfly, when the schools are already full. She concurred with Senator Hollingsworth, and indicated that this plan was overboard and goes much further than is necessary. She noted the amount of information provided and indicated that it all depends on one's perspective. She indicated that she had heard from landowners who said they would lose their land, while other people

have said the opposite. She noted that people at this meeting had said to make it work, and while she wished she could make it work, she had tried for almost four years. She concurred that there was a lot of arm twisting in this process, and expressed concern that it involved too much land, money and government. She stressed that it would create a costly bureaucracy and take 47% of the remaining developable land. She indicated that lots of property owners would be impacted. She stressed that while she would concur that greenbelts were needed, but this would not accomplish that as it would be scrub. She noted that the common thought is that no one likes the plan on either side; and questioned why it had not changed if no one liked it. She expressed disappointment that a better arrangement could not be found. She indicated that the concept was great, but it was creating another layer of government, taking dollars and increasing the price of homes. She stressed that the builder fees would be passed on to the homeowners, and there was already some difficulty affording homes in Lake Elsinore. She indicated that the plan was not being spread equally and Lake Elsinore was being impacted more than anyone. She stressed that there were still unknowns with regard to numbers and future costs. She commented that she had many concerns with the plan including the weighted vote, the costs to administer the plan, the amount of land involved the loss of revenue, the potential for litigation and the burdensome process. She stressed that she could not support the plan.

Councilman Magee questioned when "bugs and bunnies" became so important and shared the disappointment and frustration of many people. He concurred that this plan had made the species more important than the school children, noting that kids would be in temporary facilities because of the Endangered Species Act and a butterfly. He indicated that he was asked to state a position on this matter last September at a forum; and commented that it was a good idea, but too costly and requiring too much of the City. He noted that the situation was still the same. He addressed Mr. Lashbrook regarding his very pointed letter last week, and commended him on answering and addressing his concerns. He indicated that the possibility of an acreage reduction from 7,800 to 6,000 was a step in the right direction, and concurred that there was a need to indemnify the City against litigation. He addressed the acreage under negotiation, and expressed hope for a determination that 6,000 was the mark for the City for the next 75 years. He addressed Mr. Bigelow and noted that it was important to negotiate, while there was still some leverage; and the County would take that away if the plan was not passed tonight. He indicated that he had his arm twisted in his home, office and in the car on the cell phone; and noted that he had never had so many threats of lawsuits. He commented that information received today from Supervisor

Ashley's representative helped him greatly, and clarified that when the HANS process was complete and an agreement reached on the acreage to be acquired, the permit process could be done by the City and a grading permit issued. He indicated this was the most important information, if it would allow work to move forward. He advised that for him to take the step to approve the plan, he would want the County to continue to work with the Sauls Report, and include other people, such as Castle & Cooke; and maintain the ability for the corridor to Orange County to go through Lake Street or Nichols Road. He further advised that if the County proceeds to acquire property, he would need the assurance that the City is not slitting its own throat and hurting the ability to maintain the corridor. He indicated that he could not agree to adopt the plan to sell that property and have it not be touched. He further indicated that he would want County staff, at no cost to Lake Elsinore, to use the people to draft and fund the conclusion that we have reached the threshold at or before 6,000 acres. He commented that he would also love to hear from Fish and Game that they would be a good partner and act in good faith. He indicated that he would need assurance they would be there to assist. He noted that he was still uncomfortable with where the City would be legally if the plan was adopted. He indicated that he would need the County and RSA to indemnify against all legal actions, if the MSHCP is approved.

Supervisor Buster noted that there had been a number of cooperative projects between the City and the County. He indicated that while the plan was complex, the basis was simple, and the cooperative approach had the most strength and flexibility. He stressed the onerous requirements of the regulatory agencies, and reiterated the need for a collaborative approach. He noted the options accomplished to date, and indicated that the school would be able to proceed with approval of the plan. He commented that the City should not join the plan because the other cities have, but because it is right for the City of Lake Elsinore. He stressed the desire to work with the City to address the complexities of the issues. He indicated that the City would be a partner at the table, with extra voting power.

Supervisor Ashley concurred with Supervisor Buster, and indicated that the solutions by Mr. Sauls were on the right track. He indicated that the statements and requests were reasonable with the right approach; and it should not allow a future corridor to be locked up. He indicated that he would support the considerations as outlined and he felt Supervisor Tavaglione would support them as well.



Jeff Drongesen, representing the California Department of Fish and Game, thanked the Council for their question and indicated that they were here to stay and had support at high levels. He noted that he had been on both sides of the table and had participated in the planning process. He indicated that he was still involved in the plan and was present to show support for successful implementation. Councilman Magee questioned their commitment to the plan. Mr. Drongesen confirmed their commitment and noted that they had obtained a grant for this area specifically to assist with the plan. Councilman Magee inquired if 6,000 acres would satisfy them. Mr. Drongesen indicated that the numbers were flexible.

Councilman Magee indicated that he would like to hear about the staffing for continued negotiations and a report making the finding that the requirement has been met. Mr. Lashbrook indicated that was always a discussion by the Supervisors, so he believed there was support on the Board to do so. He indicated that he did not see a problem in working with the projects for a cooperative venture between the City and County staff and the property owner groups. He advised that all of that information would go to the findings; and explained that the goal was to draft the findings, narrow them down and justify the acres that would be required and lay out the lines. Councilman Magee questioned the indemnification on the General Plan. Mr. Lashbrook indicated that they would indemnify all jurisdictions on issues relating to adoption of the MSHCP; however he clarified for full disclosure, that if the General Plan was amended, causing litigation, it would not be addressed. He explained that the Board had said they would deal with cities in terms of providing litigation support. Councilman Magee questioned their willingness to work with other members of the development community. Mr. Lashbrook noted the discussion this evening and indicated that there was a desire to work with Castle and Cooke, noting that it would take two to negotiate. He indicated that with regard to the corridor, the held important land for potential roads, and that land would not be included in the reserve system. He assured Council they would work to resolve the issue.

Mayor Buckley addressed the indemnification in Section 23 and suggested verbiage to show that RCHCA would indemnify the cities, which was the intent. Mr. Lashbrook indicated that the JPA document was a function of the authority, and while he had no person problem with the change, he would have to pass it on to the lawyers, and it would be a decision by the JPA. Mayor Buckley addressed the issue of weighted voting, and indicated that he would still maintain that it was a positive for the City, but noted an issues which had arisen on the matter.

Rick Bishop, representing WRCOG, addressed the weighted vote, and indicated that it would only be called for by a member of the board, to make sure that the vote is confirmed by both sides. He indicated that with regard to a veto of the weighted vote, both the Board and the cities would have to confirm the simple majority votes, so it would work both ways.

Mayor Buckley addressed the map and concurred with Mr. Magee, that if it was just about “bugs and bunnies” he would agree. He indicated that it was more about including roads, such as the Trabuco Canyon alignment, at one of two locations. He commented that it was very possible that if the City did not participate in the MSHCP, that it would not have the possibility of that road. He indicated that he knew a lot of people who would be happy to have a quicker route to Orange County; and business owners who would love the jobs from Orange County to come to Riverside. He indicated that passing the MSHCP would not guarantee the road, but failure to do so would guarantee that it would not happen. He noted that with regard to property values, homes were scarcer, so existing home values would go up; and suggested that the MSHCP would increase the value of existing homes and encourage new homes to be of higher property values. He indicated that he heard a number of concerns about the plan, such as building a pool or deck requiring a new permit process, and a huge billion dollar bureaucracy; and stressed that someone from the Council would be sitting on the Board to decide what, when and where to buy property. He commented that the City did not have that power now with the State and Federal agencies.

Mayor Buckley requested consideration of Resolution No. 2004-10. Mayor Pro Tem Kelley questioned the resolution and if it would include the proposed changes. City Attorney Leibold clarified the required actions, noting that there were five actions, four tonight and the fifth being the hearing on the ordinance. She indicated that the first resolution related to the CEQA findings.

Councilman Schiffner requested that the votes on this matter be done by roll call vote.

**MOVED BY HICKMAN, SECONDED BY BUCKLEY TO ADOPT  
RESOLUTION NO. 2004-10:**

**RESOLUTION NO. 2004-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE  
ELSINORE, MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT**

**TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FO THE  
MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL  
COMMUNITY CONSERVATION PLAN AND APPROVING THE  
WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT  
CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION  
PLAN AND IMPLEMENTING AGREEMENT, ADOPTING  
ENVIRONMENTAL FINDINGS PURSUANT OT THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT, AND ADOPTING A STATEMENT  
OF OVERRIDING CONSIDERATIONS.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>HICKMAN, MAGEE, SCHIFFNER, BUCKLEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>KELLEY</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

City Attorney Leibold indicated that there was no need for discussion of the modifications to the implementing agreement.

**MOVED BY HICKMAN, SECONDED BY BUCKLEY TO APPROVE THE  
IMPLEMENTING AGREEMENT FOR THE WESTERN RIVERSIDE COUNTY  
MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL  
COMMUNITY CONSERVATION PLAN.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>HICKMAN, MAGEE, SCHIFFNER, BUCKLEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>KELLEY</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

Mayor Buckley noted that there were a number of changes proposed for Resolution No. 2004-11. Councilman Magee suggested that the City Attorney read the changes into the record.

City Attorney Leibold detailed the proposed changes as follow:

Section II Findings and Purpose – Addition of a recital C – In light of the current habitat acquisition trends and habitat acquisition requirements within the boundaries of the City of Lake Elsinore, the MSHCP poses a risk of excessive land removal from the City's tax base. The City therefore finds that suitable controls are necessary to buffer this risk while maintaining an incentive for early habitat acquisition and ensuring that Lake Elsinore doesn't bear a disproportionate burden and become a mitigation bank to support development throughout the region.

Section III – Application of Regulations – Addition of Paragraph A to read: "Implementation of the MSHCP and approval of (1) this Resolution, (2) City Council Resolution 2004-10 making responsible agency findings pursuant to CEQA, (3) the Implementing Agreement for the MSHCP, (4) the Joint Exercise of Powers Agreement creating the Western Riverside County Regional Conservation Authority, and (5) an Ordinance establishing a Development Impact Fee in connection with the MSHCP (collectively, the "MSHCP Documents") is expressly conditioned upon approval by the City Council of each of the MSHCP Documents and where applicable, each and every party to the MSHCP Documents.

Section IV – Exemptions, Paragraph C modified to read "Any project for which and to the extent that a vesting rights to proceed with the project notwithstanding the enactment of this Resolution exist under the common laws of the State of California, a vesting tentative map pursuant to the Subdivision Map Act, a development agreement pursuant to Government Code section 65864 et seq., or other instrument, approved or executed by the City prior to adoption of this Resolution. Projects subject to this exemption must comply with all provisions of any applicable state and federal laws.

Section IV – Exemptions – Addition of New Section E to read: Any action by the City of Lake Elsinore that is ministerial, not a project subject to the provisions of the California Environmental Quality Act ("CEQA"), or

—

otherwise exempt pursuant to the provisions of CEQA or the CEQA Guidelines.

Section V (A.1) Add “or a functionally similar Lake Elsinore Acquisition Negotiation Process (“LEAN”); or

Add Section V (A.3) Several properties within the City of Lake Elsinore have undergone preliminary findings of consistency with the MSHCP. These properties include proposed development projects that are the current subject of ongoing negotiations with the MSHCP wildlife agencies with a few projects having been memorialized in a memorandum of understanding with the wildlife agencies. These projects include The Village, Alberhill, North Peak, Gritton, Simard, Clurman, Abusamra, Ramsgate, Greewald, Elsinore Lakeview Villas, Lakeview Estates, Tuscany Oaks, South Shore II, Colorado Pacific and Donlan. The current status of these projects concerning the MSHCP and preliminary findings of MSHCP consistency, is set forth in detail in Exhibit “A” to this Implementation Resolution and incorporated herein by this reference.

City Manager Watenpugh questioned the list vs. the report. Mr. Sauls indicated that the sheet complimented the December 10, 2003 spiral bound report.

**MOVED BY SCHIFFNER, SECONDED BY MAGEE TO ADOPT RESOLUTION NO. 2004-11, AS MODIFIED.**

**RESOLUTION NO. 2004-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR IMPLEMENTATION OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

**AYES: COUNCILMEMBERS: HICKMAN, MAGEE, SCHIFFNER, BUCKLEY**

**NOES: COUNCILMEMBERS: KELLEY**

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**ABSENT:**                    **COUNCILMEMBERS:**     **NONE**

**ABSTAIN:**                **COUNCILMEMBERS:**     **NONE**

Mayor Buckley indicated that the Joint Powers Agreement was already adopted by the WRCOG Board and a number of other cities with certain changes. He commented that he was the City representative to WRCOG, but when it came to the shift of authority, he would ask Councilman Schiffner to sit on the RCA Board, if he wished. Councilman Schiffner commented that the changes might not be accepted by others on the Board. Mayor Buckley inquired how to proceed. City Attorney Leibold indicated that it would be important to make it clear that the actions were a proviso, that would need to be approved by all members or the City was not willing execute the agreement and the approval would go away.

Mayor Buckley moved to approve the Joint Powers Agreement, but questioned the "one city, one supervisor" issue. City Attorney Leibold noted the earlier discussion was a proposal under Section 7.c. for "one member one vote, with each regular member or alternate having one vote at meetings of the Board", and the deletion of other voting provisions. Mayor Buckley indicated that would probably be the only issue.

Councilman Schiffner suggested that the City Attorney read all of the changes. City Attorney Leibold concurred that should be part of the record, so the only way to understand the action would be to read it.

Mayor Buckley clarified that if it was not approved in its entirety, then the approval would not stick and that might result in future negotiations. He indicated that he would like to allow RCA to meet the first Monday in February and have the changes before the RCA Board. He indicated that if they failed to agree the other three documents would stand, but the agreement would come back. Councilman Schiffner indicated that he would not support the agreement under those conditions. City Attorney Leibold clarified that any rejections of the changes to the JPA would come back to Council for reconsideration, but all items would not need to be reconsidered. Mayor Buckley noted that the fee ordinance would be for the first meeting in February. Councilman Schiffner suggested reading the proposed changes.

City Attorney Leibold noted that there was a request for a joint exercise of powers agreement, creating the authority, with changes to the quorum in voting. She indicated that there was a concern that the agreement as proposed would provide

the County with veto power, so the Council would recommend a change to that end with the addition of a new paragraph D under Quorum and Voting:

- D. Once the lower range of estimated conservation of habitat on private lands is fulfilled within the City of Lake Elsinore (i.e., upon MSHCP acquisition of 4,830 acres of private land within the City of Lake Elsinore), habitat acquisition funds through the HANS process, imposition of the MSHCP Fee, or funding otherwise provided through the MSHCP or RCA, shall only be permitted for acreage acquisition in the City of Lake Elsinore if both of the following are fulfilled: 1) the proposed acquisition and/or funding is submitted to the Funding Coordination Committee for approval and the City of Lake Elsinore representative (or majority of representatives present) votes affirmatively to authorize RCA approval of the acquisition and/or funding, and; 2) the City of Lake Elsinore representative to the RCA votes affirmatively to approve the acquisition and/or funding.

City Attorney Leibold further addressed Section 15 of the Agreement and suggested the addition of the following verbiage:

The Board shall not appoint more than two County representatives and shall not appoint committee members in a manner that dilutes any City representation to less than 1/17<sup>th</sup> of the total representation of the committee.

And:

Once 75% of the lower range of estimated habitat conservation has been achieved within the City of Lake Elsinore (3,623 acres), acquisition of private lands within the County and other participating jurisdictions shall be prioritized by the Funding Coordination Committee.

City Attorney Leibold suggested that Section 19 regarding Contributions and Budget be amended to read:

The Parties to this Agreement shall impose a development mitigation fee on all new development to support the acquisition of additional reserve lands pursuant to the MSHCP. All development mitigation fees collected

by the Parties shall be forwarded to the RCA within ninety (90) days after receipt by each Party, subject to any specific exception set forth in the ordinances implementing the development mitigation fees for the individual participating cities. The RCA may, in its discretion, conduct an audit of the development mitigation fees collected by any Party to this agreement. Likewise, participating cities may, in their discretion, conduct an audit of the development mitigation fees forwarded to the RCA and expended by the RCA for property acquisition.

City Attorney Leibold suggested that Section 23 be amended to read:

The RCA shall defend, indemnify and hold such Party free and harmless from any loss, liability or damage incurred or suffered by such Party by reason of litigation arising from or as a result of any of the following: the Party's development mitigation fee ordinance; the Party's participation in the RCA; actions taken to approve and/or implement the MSHCP; claims of inverse condemnation or unconstitutional takings against a Party; or any other act performed or to be performed by the Party pursuant to this Agreement, the MSHCP, its Implementing Agreement or the Permits; provided however, that such indemnification or agreement to hold harmless pursuant to this Section shall be recoverable only out of RCA assets and not from other Parties. For purposes of this Section 23, the phrase "actions taken to approve and/or implement the MSHCP include, without limitation; (a) a Party's execution of a resolution making responsible agency findings pursuant to the California Environmental Quality Act in reliance on lead agency finding made by the County of Riverside; (b) Party actions or omissions of implementation of the MSHCP that result in litigation against the Party for violations of q California Planning and Zoning Law; and (c) Party withdrawal from implementation of the MSHCP in accordance with the terms of the Implementing Agreement (Section 22.0 et seq).

For purposes of this Section 23, the phrase "actions taken to approve and/or implement the MSHCP include, without limitation: (a) a Party's execution of a resolution making responsible agency findings pursuant to the California Environmental Quality Act in reliance on lead agency finding made by the County of Riverside; (b) Party actions or omissions of implementation of the MSHCP that result in litigation against the Party for violations of California Planning and Zoning Law; and (c) Party



withdrawal from implementation of the MSHCP in accordance with the terms of the Implementing Agreement.

**MOVED BY SCHIFFNER, SECONDED BY MAGEE TO APPROVE THE JOINT POWERS AGREEMENT WITH THE AMENDMENTS AS DETAILED.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

**AYES: COUNCILMEMBERS: HICKMAN, MAGEE,  
SCHIFFNER, BUCKLEY**

**NOES: COUNCILMEMBERS: KELLEY**

**ABSENT: COUNCILMEMBERS: NONE**

**ABSTAIN: COUNCILMEMBERS: NONE**

City Attorney Leibold noted that the Council would need to schedule a noticed hearing on the fee Ordinance.

**MOVED BY SCHIFFNER, SECONDED BY BUCKLEY TO PROCEED WITH NOTICING THE HEARING FOR THE FEE ORDINANCE.**

**UPON THE FOLLOWING ROLL CALL VOTE:**

**AYES: COUNCILMEMBERS: HICKMAN, MAGEE,  
SCHIFFNER, BUCKLEY**

**NOES: COUNCILMEMBERS: KELLEY**

**ABSENT: COUNCILMEMBERS: NONE**

**ABSTAIN: COUNCILMEMBERS: NONE**

**PUBLIC COMMENTS - NON-AGENDIZED ITEMS - 3 MINUTES**

No Comments.

**CITY MANAGER COMMENTS**

No Comments.

**CITY ATTORNEY COMMENTS**

No Comments.

**COMMITTEE REPORTS**

No Reports.

**CITY COUNCIL COMMENTS**

No Comments.

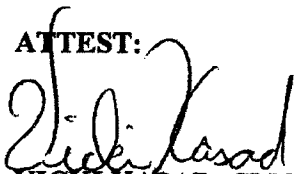
**ADJOURNMENT**

THE REGULAR CITY COUNCIL MEETING WAS ADJOURNED AT 11:58 P.M.



THOMAS BUCKLEY, MAYOR  
CITY OF LAKE ELSINORE

ATTEST:



VICKI KASAD, CMC, CITY CLERK/  
HUMAN RESOURCES DIRECTOR  
CITY OF LAKE ELSINORE

## City of Lake Elsinore MSHCP Projects

Project Name: Alberhill  
Owner: TT Group  
Contact: Stewart Fahmy  
Ed Sauls, The Sauls Company  
Biologist: HELIX Environmental Planning, Inc.

### Acreage Summary:

Acres Conserved: 596  
Acres Developed: 397  
Total Acres: 993

### MSHCP Conservation Criteria:

The project is located within Proposed Core 1, and falls within portions of eleven cells of the Elsinore Area Plan. Specifically, it is within portions of Cell Groups O, U, V and W and Cells 3853, 3854, 3855, 3964, 4057 and 4060.

Conservation within these Cells and Cell Groups will contribute to assembly of Proposed Core 1. Conservation within these Cells and Cell Groups will focus on riparian scrub, woodland, forest, coastal sage scrub, chaparral and grassland habitat, including recovery of coastal sage scrub habitat. Areas conserved within these Cells and Cell Groups will be connected to upland habitat proposed for conservation in Cells 4157 and 4162 to the south, existing PQP lands to the east, Cell Group J to the north, and Cell Groups N and S to the west. Conservation criteria applicable to the project are as follows:

- Cell Group O: 60% - 70% of the Cell Group focusing in the western portion of the Cell Group.
- Cell Group U: 40% - 50% of the Cell Group focusing in the western and the central portions of the Cell Group.
- Cell Group V: 60% - 70% of the Cell Group focusing in the eastern portion of the Cell Group.
- Cell Group W: 80% - 90% of the Cell Group focusing in the northwestern portion of the Cell Group.
- Cell 3853: 80% - 90% of the Cell focusing in the northeastern portion of the Cell.
- Cell 3854: 10% - 20% of the Cell focusing in the northeastern portion of the Cell.
- Cell 3855: 25% - 35% of the Cell focusing in the northern portion of the Cell.

- Cell 3964: 45% - 55% of the Cell focusing in the western half of the Cell.
- Cell 4097: 80% - 90% of the Cell focusing in the southeastern portion of the Cell.

The project is within Subunit 2 of the Elsinore Area Plan. The biological issues and considerations for this subunit relevant to Alberhill include:

- Provide core areas for the California gnatcatcher within suitable habitat east and west of I-15.
- Conserve alkali soils supporting sensitive plants such as San Diego ambrosia, vernal barley and Coulter's goldfields.
- Conserve clay soils supporting sensitive plants such as Munz's onion, many-stemmed dudleya, small-flowered morning glory and Palmer's grapplinghook.
- Conserve wetlands including Temescal Wash and Alberhill Creek.
- Maintain upland habitats in Alberhill and provide connection north to Estelle Mountain, North peak, and BLM lands.
- Conserve foraging habitat for raptors, providing a sage scrub-grassland ecotone.
- Maintain core and linkage habitat for bobcat.
- Maintain opportunities for core and linkage habitat for Quino checkerspot butterfly.

The project is within Area 1 for narrow endemic plant species, which requires surveys for Munz's onion (*Allium munzii*), slender-horned spineflower (*Dodecahema leptoceras*), and many-stemmed dudleya (*Dudleya multicaulis*). The project is also in Criteria Area Species Survey Area 1 which requires surveys for round-leaved filaree (*Erodium macrophyllum*), smooth tarplant (*Centromadia pungens* ssp. *laevis*), little mouse-tail (*Myosurus minimus*), and burrowing owl (*Athene cunicularia hypugaea*).

#### MSHCP Consistency Determination:

The project is consistent with the MSHCP. The conservation configuration was the subject of the extensive negotiations with the U.S. Fish and Wildlife Service and the California Department of Fish and Game. The project conserves habitat and acreage consistent with the cores and linkages, area plan, planning unit, Cell and Cell Group criteria. It provides a substantial amount of core habitat in an appropriate configuration and conserves narrow endemic plant species, including Munz's onion and San Diego ambrosia, at levels required in the plan (90 percent of the population in a configuration that provides for long-term conservation). Specifically, 100 percent of the San Diego ambrosia and 99 percent of the Munz's onion would be avoided. The project site comprises portions of a number of Cells and Cell Groups, which cover a total of approximately 2,240 acres. They provide for conservation of 1,280 to 1,504 acres and allow development ranging from 736 to 960 acres. Based upon the acreage, location, habitat and sensitive species, the proposed development, comprising approximately 394 acres, is consistent with MSHCP criteria. Additionally, other lands within the referenced Cells/Cell Groups may be developed consistent with MSHCP criteria such that development of the proposed project will not preclude other development.

The project provides for core areas for the gnatcatcher and other sage scrub dependant species, provides for raptor foraging habitat, and conserves wetland habitat along Alberhill Creek.

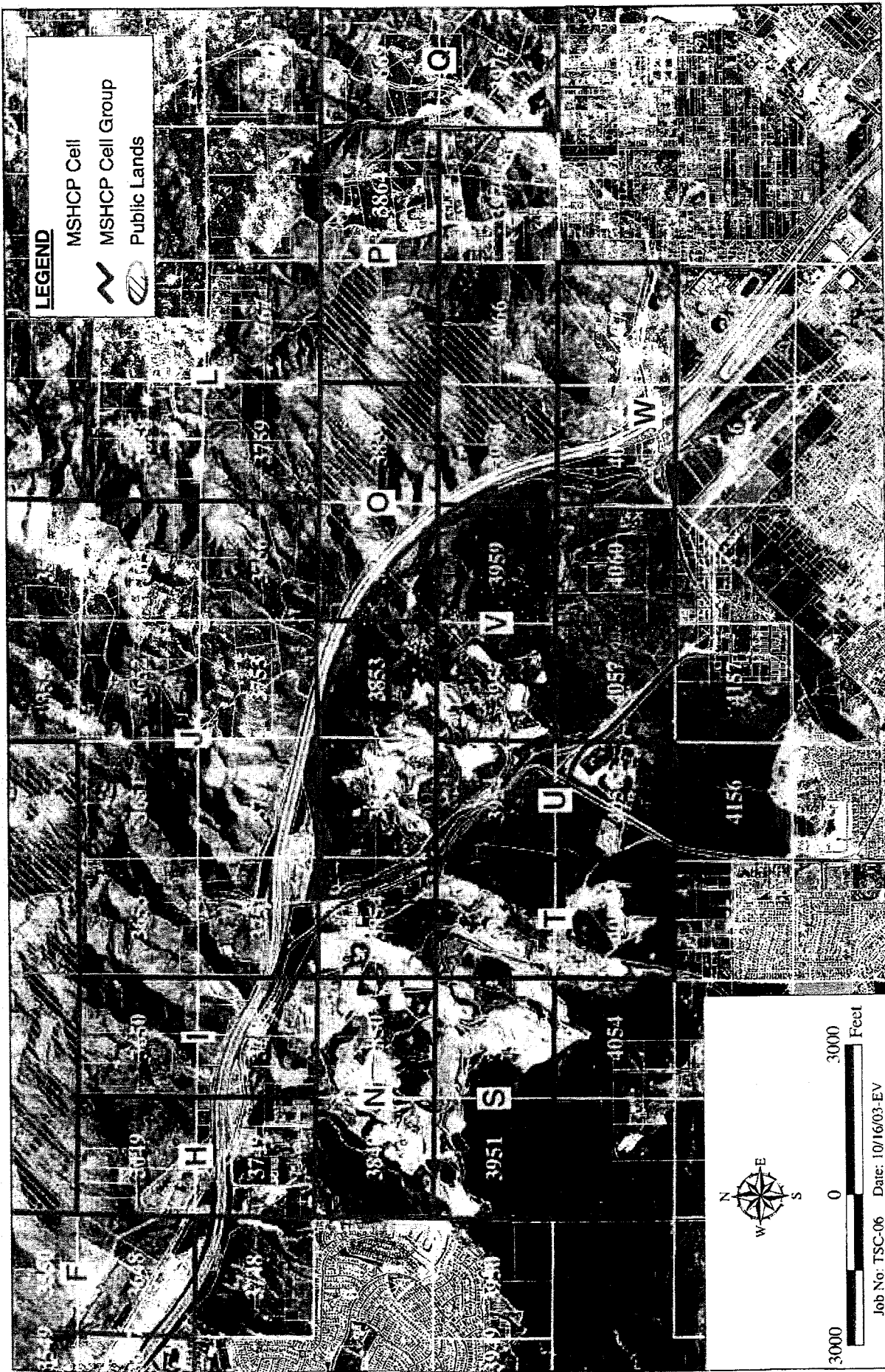
Terms:

Acres to be acquired	596
Price	\$5,164,652
Time Period	90 day Purchase Agreement.*
Fee obligation or credits	MSHCP fees for the first five years at \$470 per unit, then \$842 for another five years and thereafter at the then prevailing rate.
Phased Purchase	\$2,500,000 Purchase Price, cash in 90 days (48.4%). \$2,664,652 Option (51.6%) for five years.

\*Should the County or RCIP fail to purchase the property to be acquired as per the appropriate Acquisition Agreement or Option Agreement as may be approved by the County, City or RCIP and the property owner, or as otherwise approved by the Owner, the project shall be determined to be at the end of the HANS acquisition period and the City may then proceed to approve development of the property without application of the MSHCP Criteria as provided in Section 6 of the MSHCP.

Exhibits:

MSHCP Criteria Areas  
Proposed Conservation/Development Areas (HELIX)  
Expanded Commercial Area (HELIX)



# MSHCP Criteria Areas

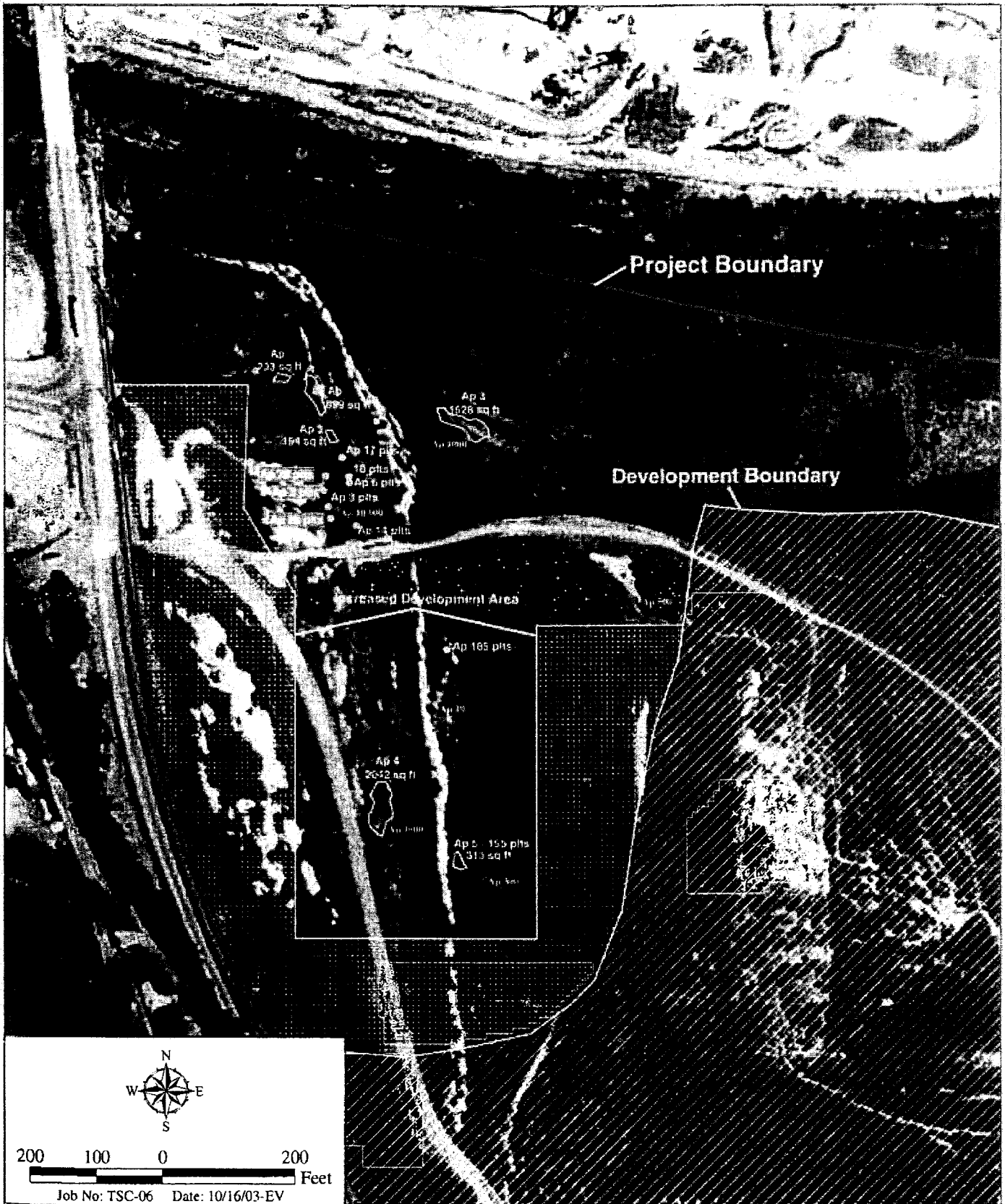
ALBERHILL PROPERTY



## Proposed Conservation/Development Areas

ALBERHILL PROPERTY

**HELIX**



## Expanded Commercial Area

ALBERHILL PROPERTY

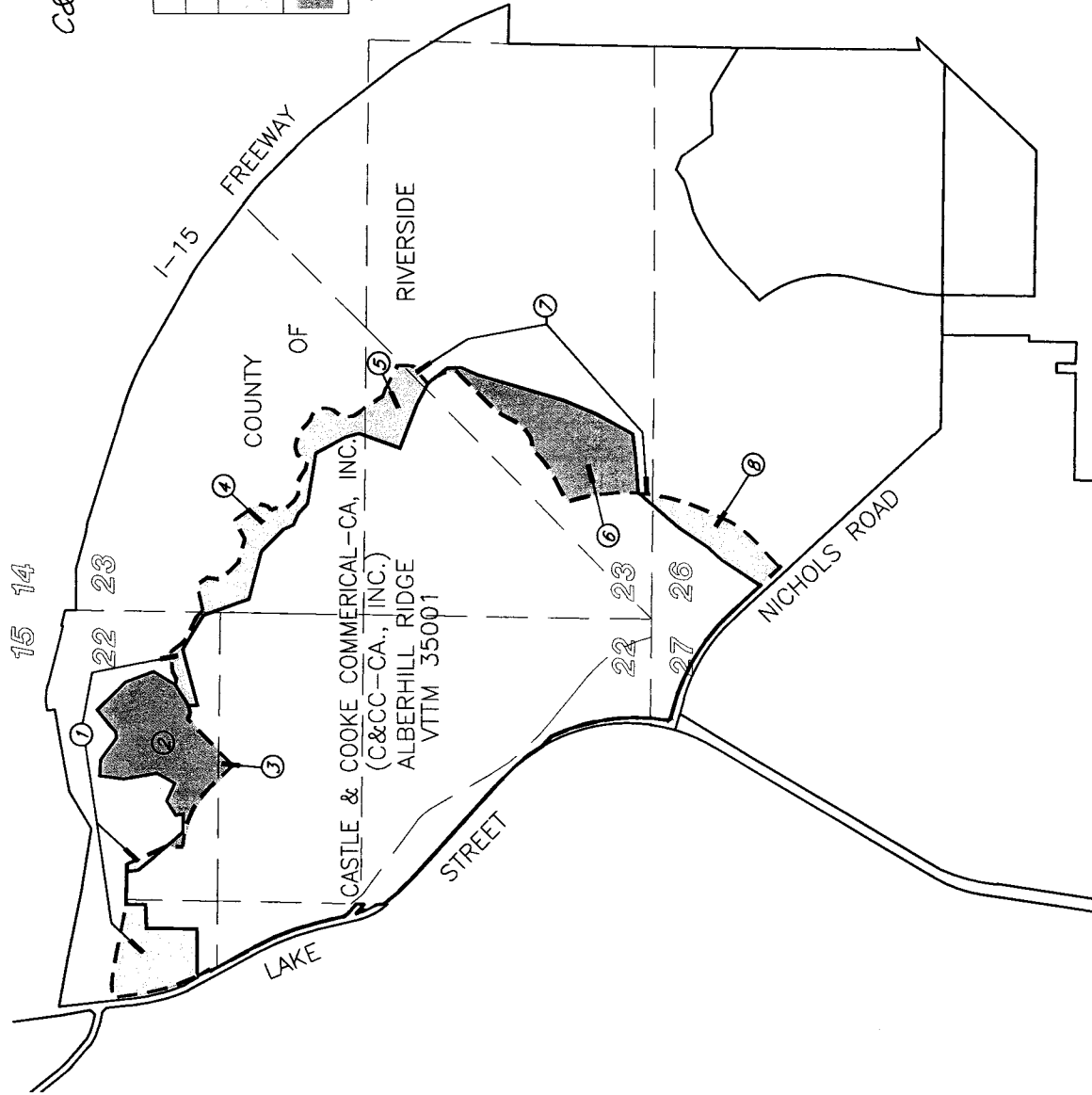
HELIX



# MAP A

## "APN" EXHIBIT

### ALBERHILL RIDGE TRI-VALLEY ACQUISITION C&CC-CA., INC./COUNTY OF RIVERSIDE APN EXHIBIT



AREA EXCHANGE SUMMARY		
AREA DESIGNATION	AREA IMPACT (AC)	
COUNTY OF RIVERSIDE TRANSFERS TO C&C	39.78	
C&C TRANSFERS TO COUNTY OF RIVERSIDE	39.98	

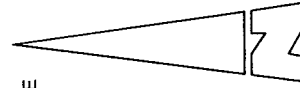
DATED: SEPTEMBER 4, 2015

#### APN LIST:

- ① APN 390-130-029
- ② APN 390-130-028
- ③ APN 390-160-006
- ④ APN 390-210-022
- ⑤ APN 390-200-009
- ⑥ APN 390-200-010
- ⑦ APN 390-200-011
- ⑧ APN 389-080-054

#### LEGEND:

- EXISTING PARCEL LINE
- - - PROPOSED PARCEL LINE
- - - APN LIMITS



**HWC ENGINEERS**

CIVIL ENGINEERS • PLANNERS • SURVEYORS  
1880 COMPTON AVENUE, SUITE 100 • CORONA, CA 92681-3570 • 951-734-2130

1 Board of Supervisors

County of Riverside

2 **RESOLUTION NO. 2016-103**

3  
4 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE  
5 AUTHORIZATION TO EXCHANGE REAL PROPERTY  
6 LOCATED IN THE CITY OF LAKE ELSINORE, COUNTY OF RIVERSIDE,  
7 STATE OF CALIFORNIA

8 **WHEREAS**, the County desires to exchange real property with Castle & Cooke Commercial-CA,  
9 Inc. to acquire certain real property for conservation purposes as shown on **MAP A**, attached hereto and  
10 by this reference incorporated herein; and,

11 **WHEREAS**, on January 13, 2015, the Board of Supervisors of the County of Riverside ("Board")  
12 adopted Resolution No. 2015-030 Notice of Intention to Exchange Real Property located in the City of  
13 Lake Elsinore, County of Riverside, State of California for a proposed exchange of approximately 48  
14 acres of vacant land; and,

15 **WHEREAS**, on February 9, 2016, the Board of Supervisors of the County of Riverside ("Board")  
16 adopted Resolution No. 2016-074 Amending Resolution No. 2015-030 Notice of Intention to Exchange  
17 Real Property located in the City of Lake Elsinore, County of Riverside, State of California reducing the  
18 proposed exchange to approximately 40 acres of vacant land; and,

19 **WHEREAS**, the County is the owner of certain vacant parcels of real property, identified with  
20 Assessor's Parcel Numbers 390-200-009, 390-200-011, 390-130-029, 390-210-022 and 389-080-054,  
21 located in the City of Lake Elsinore, County of Riverside, State of California, where an approximate 40  
22 acre portion of said vacant land is intended to be conveyed to Castle & Cooke Commercial-CA, Inc.,  
23 more particularly legally described and depicted in **EXHIBIT A1**, attached hereto and by this reference  
24 incorporated herein, with an easement reservation which contains San Diego Ambrosia plant species with  
25 access in favor of the County over a portion of the parcel with Assessor's Parcel Number 390-130-029,  
26 referenced as the Ambrosia Easement and Ambrosia Access Easement, more particularly legally  
27 described and depicted in **EXHIBITS A and B** (4 pages) attached as **ATTACHMENT A**, attached  
28 hereto and by this reference incorporated herein; and,

1       **WHEREAS**, an adjacent property owner Castle & Cooke Commercial-CA, Inc. ("C&C") is the  
2 owner of certain real property, identified with Assessor's Parcel Number 390-200-010, 390-160-006 and  
3 390-130-028, where an approximate 40 acre portion thereof is to be conveyed to the County, and is  
4 desired by the County to accommodate the County's conservation purpose resulting in significant savings  
5 to the Western Riverside County Multiple Species Habitat Conservation Plan, more particularly legally  
6 described and depicted in **EXHIBIT B1**, attached hereto and by this reference incorporated herein; and,

7       **WHEREAS**, pursuant to Government Code Section 25365, the County may exchange real  
8 property belonging to the County with any person upon the terms and conditions as are agreed upon  
9 between the parties, and if the values of each parcels of land are approximately equal; and,

10       **WHEREAS**, the County and C&C desire to exchange the fee simple interests in real property  
11 described herein with an easement reservation in favor of the County over a portion of the parcel  
12 identified with Assessor's Parcel Number ("APN") 390-130-029 to restrict development by C&C and to  
13 accommodate the successful translocation of the San Diego Ambrosia plants located thereon to another  
14 location as further described and shown on the attached **EXHIBITS A AND B** each for the Ambrosia  
15 Easement and Ambrosia Access Easement, respectively, performed pursuant to success criteria to be  
16 developed; and,

17       **WHEREAS**, the property to be acquired by the County would be of great benefit to the County  
18 due to the location and proximity of this real property for conservation purposes; now, therefore,

19       **BE IT RESOLVED, DETERMINED AND ORDERED** by the Board of Supervisors of the  
20 County of Riverside, California ("Board"), in regular session assembled on April 5, 2016, at 9:00 am or  
21 soon thereafter, in the meeting room of the Board of Supervisors, located on the 1<sup>st</sup> floor of the County  
22 Administrative Center, 4080 Lemon Street, Riverside, California, that this Board authorizes the exchange  
23 of real property interests with Castle & Cooke Commercial-CA, Inc. and approves that certain Real Estate  
24 Exchange Agreement and Escrow Instructions (Exchange Agreement) by and between the County and  
25 Castle & Cooke Commercial-CA, Inc. for the following described fee simple interests in real property and  
26 pursuant to the terms and conditions of the Exchange Agreement: County to convey to C&C  
27 approximately 40 acres of vacant land from portions of real property with Assessor's Parcel Numbers  
28 390-130-029, 390-210-022, 390-200-009, 390-200-011 and 389-080-054 with an easement reservation

1 with access over a portion of land with APN 390-130-029 reserved in favor of the County in exchange for  
2 C&C conveying to County approximately 40 acres of vacant land from portions of real property with  
3 Assessor's Parcel Numbers 390-200-010, 390-160-006, and 390-130-028 as shown on **MAP A**. The  
4 County and Castle & Cooke Lake Elsinore West, Inc. will consummate the exchange through escrow and  
5 pursuant to the Exchange Agreement whereby the County conveys a certain portion of its fee interest in  
6 real property to Castle & Cooke Commercial-CA, Inc. with an easement reservation over a portion of land  
7 with APN 390-130-029 and Castle & Cooke Commercial-CA, Inc. will convey a certain portion of its fee  
8 interest in real property as described above to the County. This exchange transaction is in conformance  
9 with Government Code Section 25365 because the parcels have the approximately the same range of  
10 values and to Castle & Cooke Commercial-CA, Inc. will assume the slope maintenance obligations  
11 described in that certain Amended and Restated Temporary Operations and Permanent Maintenance  
12 Easement Agreement between the County and to Castle & Cooke Commercial-CA, Inc. entered into  
13 concurrently with this Exchange Agreement.

14 **BE IT FURTHER RESOLVED AND DETERMINED** that the Board approves the Amended  
15 and Restated Temporary Operations and Permanent Maintenance Easement Agreement between the  
16 County and to Castle & Cooke Commercial-CA, Inc. ("TOPME Agreement") whereby Castle & Cooke  
17 Commercial-CA, Inc. will assume the slope maintenance obligations over certain real property more  
18 particularly legally described and depicted in **EXHIBIT C1**, attached hereto and by this reference  
19 incorporated herein, pursuant to the terms of the TOPME Agreement.

20 **BE IT FURTHER RESOLVED AND DETERMINED** that the Board approves the  
21 Indemnification Agreement between the County and to Castle & Cooke Commercial-CA, Inc.  
22 ("Indemnity Agreement") whereby Castle & Cooke Commercial-CA, Inc. will indemnify the County for  
23 any claims or demands initiated against the County associated with the County's actions and approvals  
24 relating to this exchange transaction.

25 **BE IT FURTHER RESOLVED AND DETERMINED** that the Chairman of the Board of  
26 Supervisors of the County of Riverside is authorized to execute the Exchange Agreement, the TOPME  
27 Agreement and the Indemnification Agreement on behalf of the County.

28 **BE IT FURTHER RESOLVED AND DETERMINED** that the Assistant County Executive

1 Officer for the Economic Development Agency, or his designee, is authorized to execute any other  
2 documents to complete this transaction, including the Certificate of Acceptance for the Grant Deed  
3 executed by C&C in favor of the County.

4 **BE IT FURTHER RESOLVED AND DETERMINED** that the Clerk of the Board of  
5 Supervisors has given notice hereof as provided in Section 6063 of the Government Code.

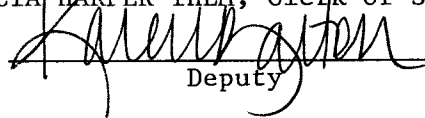
6  
7  
8 ROLL CALL:

9 Ayes: Jeffries, Washington, Benoit and Ashley  
10 Nays: None  
11 Absent: Tavaglione

12 The foregoing is certified to be a true copy of a resolution duly  
13 adopted by said Board of Supervisors on the date therein set forth.

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KECIA HARPER-IHEM, Clerk of said Board

By

  
Deputy

MAP A

DEPICTION OF REAL PROPERTY WITH ASSESSOR'S PARCEL NUMBERS  
TO BE EXCHANGED BETWEEN COUNTY OF RIVERSIDE AND CASTLE & COOKE  
COMMERCIAL-CA, INC.

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**"APN" EXHIBIT**

AREA EXCHANGE SUMMARY	
AREA DESIGNATION	AREA IMPACT (AC)
COUNTY OF RIVERSIDE TRANSFERS TO C&C	39.78
C&C TRANSFERS TO COUNTY OF RIVERSIDE	39.98

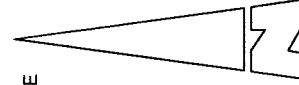
*DATED: SEPTEMBER 4, 2015*

APN LIST:

- ① APN 390-130-029
- ② APN 390-130-028
- ③ APN 390-160-006
- ④ APN 390-210-022
- ⑤ APN 390-200-009
- ⑥ APN 390-200-010
- ⑦ APN 390-200-011
- ⑧ APN 389-080-054

**LEGEND:**

- EXISTING PARCEL LINE  
PROPOSED PARCEL LINE  
APN LIMITS



**KWC** **ENGINEERS**  
CIVIL ENGINEERS • PLANNERS • SURVEYORS  
1880 COMPTON AVENUE, SUITE 100 • CORONA, CA 92681-3370 • 951-734-2130

EXHIBIT A1

LEGAL DESCRIPTION AND MAP

FOR COUNTY OF RIVERSIDE TO CASTLE & COOKE COMMERCIAL-CA, INC.

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**EXHIBIT "A1"**  
**LEGAL DESCRIPTION**  
**OF**  
**COUNTY OF RIVERSIDE TO**  
**CASTLE & COOKE COMMERCIAL-CA, INC.**

**Parcel "A":**

Being portions of that land conveyed to the County of Riverside by Grant Deed, Recorded December 30, 2004, as Instrument No. 2004-1036504, of Official Records, in the Office of the County Recorder of the County of Riverside, State of California, lying within Sections 23 and 26, Township 5 South, Range 5 West, San Bernardino Meridian, of said County, according to the official plat thereof, being more particularly described as follows:

**COMMENCING** at the southwest corner of said Section 23, as shown on a Record of Survey on file in Book 88, Pages 76 through 82, of Record of Surveys, records of said County;

Thence east along the south line of said Section 23, South 89°04'59" East, a distance of 1042.70 feet to a point lying on the westerly line of said Instrument No. 2004-1036504, said point also being the **TRUE POINT OF BEGINNING**;

Thence northeasterly along said westerly line, North 41°37'29" East, a distance of 166.45 feet to the beginning of a non-tangent curve, concave westerly and having a radius of 1745.00 feet, a radial bearing to said point bears South 85°30'24" East;

Thence southerly along said non-tangent curve, leaving said westerly line of said Instrument No. 2004-1036504, through a central angle of 18°56'26", an arc distance 576.86 feet to the beginning of a tangent line;

Thence southwesterly along said tangent line, South 23°26'02" West, a distance of 195.37 feet to the beginning of a tangent curve, concave northwesterly and having a radius of 1045.00 feet;

Thence southwesterly along said tangent curve, through a central angle of 24°22'08", an arc distance of 444.46 feet to the beginning of a tangent line;

Thence southwesterly along said tangent line, South 47°48'10" West, a distance of 268.41 feet;

Thence South 11°20'01" West, a distance of 28.60 feet to a point lying on the northeasterly right of way of Nichols Road as dedicated per Instrument No. 2008-0482210, recorded September 02, 2008, of Official Records of said County;

Thence northwesterly along said northeasterly right of way, North 42°11'50" West, a distance of 254.20 feet to a point lying on said westerly line of Instrument No. 2004-1036504;

*The following four (4) courses are along the westerly line of said Instrument No. 2004-1036504:*

1. Thence northeasterly, leaving said northeasterly right of way, North 32°56'52" East, a distance of 425.57 feet;
2. Thence North 43°06'11" East, a distance of 169.95 feet;
3. Thence North 33°14'54" East, a distance of 320.81 feet;
4. Thence North 41°37'29" East, a distance of 322.66 feet to the **TRUE POINT OF BEGINNING**.

Containing 7.91 acres, more or less.

As shown on the attached exhibit hereto and made a part hereof.

**PARCEL "B":**

Being portions of that land conveyed to the County of Riverside by Grant Deed, Recorded December 30, 2004, as Instrument No. 2004-1036504, of Official Records, in the Office of the County Recorder of the County of Riverside, State of California, lying within Sections 22 and 23, Township 5 South, Range 5 West, San Bernardino Meridian, of said County, according to the official plat thereof, being more particularly described as follows:

**COMMENCING** at the southwest corner of said Section 23, as shown on a Record of Survey on file in Book 88, Pages 76 through 82, of Record of Surveys, records of said County;

Thence north along the west line of said Section 23, North 00°53'18" East, a distance of 4036.32 feet to a point lying on the southwesterly line said Instrument No. 2004-1036504, said point also being the **TRUE POINT OF BEGINNING**;

*The following five (5) courses are along the southerly, southwesterly and westerly lines of said Instrument No. 2004-1036504:*

1. Thence North 19°45'52" West, a distance of 86.91 feet;
2. Thence North 58°17'49" West, a distance of 368.89 feet;
3. Thence South 75°09'21" West, a distance of 529.98 feet;
4. Thence North 02°49'18" West, a distance of 81.54 feet;
5. Thence North 57°38'09" East, a distance of 228.51 feet;

Thence northeasterly, leaving said westerly line of Instrument No. 2004-1036504, North 76°19'28" East, a distance of 124.91 feet;

Thence North 85°40'14" East, a distance of 184.05 feet;

Thence South 36°00'49" East, a distance of 139.07 feet;

Thence South 51°32'37" East, a distance of 53.43 feet;

Thence South 63°32'24" East, a distance of 218.06 feet;

Thence South 44°55'38" East, a distance of 82.30 feet;

Thence North 77°59'36" East, a distance of 245.09 feet;

Thence South 35°10'50" East, a distance of 110.65 feet;

Thence South 07°53'49" West, a distance of 96.34 feet;

Thence South 15°59'38" East, a distance of 33.14 feet;

Thence South 38°50'02" East, a distance of 111.07 feet;

Thence South 43°11'43" East, a distance of 105.85 feet;

Thence South 73°49'28" East, a distance of 220.27 feet;

Thence North 63°19'46" East, a distance of 201.76 feet;

Thence South 34°50'22" East, a distance of 241.54 feet;

Thence South 11°13'33" East, a distance of 28.41 feet;

Thence South 13°24'24" West, a distance of 78.25 feet;

Thence South 51°43'14" West, a distance of 50.50 feet;

Thence South 29°18'07" East, a distance of 43.81 feet;

Thence South 15°16'44" West, a distance of 45.58 feet;

Thence South 03°59'40" East, a distance of 48.14 feet;

Thence South 41°14'50" East, a distance of 115.25 feet;

Thence South 57°34'43" East, a distance of 61.68 feet;

Thence South 88°05'18" East, a distance of 127.48 feet;

Thence South 65°50'34" East, a distance of 52.57 feet;

Thence South 52°53'46" East, a distance of 70.10 feet;

Thence South 79°01'11" East, a distance of 72.19 feet to the beginning of a non-tangent curve, concave southeasterly and having a radius of 145.00 feet, a radial bearing to said point bears North 65°23'34" West;

Thence northeasterly along said non-tangent curve, through a central angle of 11°00'30", an arc distance of 27.86 feet to the beginning of a non-tangent line, a radial bearing to said point bears North 54°23'04" West;

Thence northeasterly along said non-tangent line, North 40°54'08" East, a distance of 83.38 feet;

Thence North 75°30'08" East, a distance of 67.11 feet;

Thence South 77°32'51" East, a distance of 74.84 feet;

Thence South 64°39'54" East, a distance of 104.95 feet;

Thence South 47°28'14" East, a distance of 97.29 feet;

Thence South 57°00'34" East, a distance of 26.28 feet to the beginning of a non-tangent curve, concave southwesterly and having a radius of 100.00 feet, a radial bearing to said point bears North 09°52'55" East;

Thence southeasterly along said non-tangent curve, through a central angle of 52°14'29", an arc distance of 91.18 feet to the beginning of a tangent line;

Thence southeasterly along said tangent line, South 27°52'35" East, a distance of 49.28 feet to the beginning of a tangent curve, concave westerly and having a radius of 70.00 feet;

Thence southeasterly along said tangent curve, through a central angle of 39°37'49", an arc distance of 48.42 feet to the beginning of a tangent line;

Thence southerly along said tangent line, South 11°45'13" West, a distance of 64.96 feet;

Thence South 38°41'11" West, a distance of 121.29 feet;

Thence South 10°40'02" East, a distance of 96.80 feet;

Thence South 32°18'15" East, a distance of 70.72 feet;

Thence South 41°24'37" East, a distance of 63.10 feet;