

Cooperative Agreement for the Maintenance of Peach Hill Wash and
Detention Basin within Tracts 4341 and 4342

AGREEMENT NO. FC 3-95-1A

This agreement, hereinafter "Agreement", is entered into by and between the Ventura County Flood Control District, hereinafter "DISTRICT", and the City of Moorpark, hereinafter "CITY."

This Agreement is made with respect to the following facts and for the following purposes, each of which is acknowledged as true and correct by the parties.

WHEREAS, the County of Ventura approved Mountain Meadows Planned Community No. 3 (PC-3) in October, 1981 prior to the incorporation of the City of Moorpark; and

WHEREAS, a reach of Peach Hill Wash (WASH) and the Peach Hill Detention Basin (BASIN) were constructed in connection with the development of Tracts 4341 and 4342 (TRACTS) in CITY. The WASH and BASIN are identified and shown on Exhibit "A", which is attached hereto and made a part hereof; and

WHEREAS, WASH and BASIN are under the regulatory jurisdiction of DISTRICT; and

WHEREAS, CITY caused developer of TRACTS to construct WASH as a trapezoidal channel designed to convey flow from a 100 year storm with landscaped side slopes and concrete low flow channel at its invert, as shown in drawings numbered Y-3-2882 through Y-3-2890 on file at DISTRICT (DRAWINGS); and

WHEREAS, CITY caused developer to construct a concrete low flow channel, other landscaping, and recreational amenities within the limits of BASIN, in order to provide for recreational use of BASIN; and

WHEREAS, DISTRICT reviewed and approved the DRAWINGS, and DISTRICT agrees that the landscaping including the growth to maturity of trees and shrubs and the placement of recreational amenities does not significantly affect the hydraulic capacity of the WASH and BASIN; and

WHEREAS, all such construction was carried out pursuant to Watercourse Permits issued by DISTRICT; and

WHEREAS, it is in the interest of CITY and DISTRICT to make joint use of WASH and BASIN; and

WHEREAS, it is mutually recognized by CITY and DISTRICT that certain features heretofore constructed in WASH and BASIN do not conform

to the standards of DISTRICT; and

WHEREAS, it is DISTRICT's policy to only undertake maintenance of facilities which meet its standards; and

WHEREAS, CITY is willing to undertake responsibility for specified maintenance of all features not conforming to DISTRICT's standards in consideration of DISTRICT participating in joint use of WASH and BASIN; and

WHEREAS, CITY and DISTRICT desire to define their respective areas of responsibility; and

WHEREAS, the developer of TRACTS, or its successor and assigns, is responsible for the maintenance of WASH, BASIN and all facilities and amenities installed in them for future benefit of CITY for a period of one year after acceptance of WASH and BASIN by both CITY and DISTRICT.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereto agree as follows:

- A. CITY and DISTRICT mutually agree their respective portion of the construction of BASIN and WASH are complete.
- B. DISTRICT shall:
 1. Maintain all improvements within the area it holds in fee title within the limits of the BASIN area indicated on Exhibit "B" attached hereto and made a part hereof.
 2. Remove silt and debris from BASIN within a reasonable period of time after such silt and debris accumulates to 1,400 cubic yards (25% of design debris amount), which would extend to approximate elevation 459 feet as shown on said Exhibit "B".
 3. At its sole option, elect to remove silt and debris from BASIN at such other times it deems necessary.
 4. Remove silt or debris from or restore eroded side slopes of WASH at such time, in its sole discretion, as it deems the flood control function of WASH is impaired. Such restoration shall not include landscaping or related facilities.
 5. Indemnify, defend and hold harmless CITY and its officers, employees, servants, and agents, from any claim, demand, damage, liability, loss, cost or expense, for any damage whatsoever, including but not limited to, death or injury to any person and injury to any property, proximately resulting from any act or omission of DISTRICT or any of its officers, employees, servants or agents in their performance

of this agreement, not in conformance with the standard of care and diligence set forth in Section B.6. hereof.

6. Use reasonable care and diligence while performing its maintenance responsibilities and obligations pursuant to this Agreement to avoid damage to CITY maintained irrigation, hardscape, landscape and recreational amenities (Improvements) of the WASH and BASIN.
7. When DISTRICT elects to perform its maintenance responsibilities and obligations by contract using standard, non-emergency procedures, prior to seeking bids, DISTRICT shall provide CITY with a copy of the contract plans and specifications for review. Within 14 calendar days of receipt thereof, CITY shall submit comments thereon, if any, to DISTRICT. DISTRICT shall give reasonable consideration to CITY's comments but shall retain sole discretion as to the final content of the contract plans and specifications.

C. CITY shall:

1. Grant to DISTRICT an easement for flowage and debris deposition over the portion of BASIN not already owned by DISTRICT in fee, in a form pre-approved and satisfactory to DISTRICT.
2. Grant to DISTRICT a flood control easement over WASH, in a form pre-approved and satisfactory to DISTRICT.
3. Maintain WASH to the configuration shown on DRAWINGS, including the trapezoidal channel with concrete low flow channel at its invert, all landscaping and irrigation facilities, access roads, culvert at Country Hill Road, including head walls, wing walls, constructed rock rip rap, and appurtenances.
4. Refrain from planting any new landscaping in WASH or BASIN other than that originally authorized in the Watercourse Permit issued by DISTRICT, without DISTRICT's express written approval.
5. Remove any dead trees, plants and shrubs from WASH.
6. Maintain the concrete low flow channel, landscaping, roads and recreational amenities in BASIN, except for those to be maintained by DISTRICT pursuant to Section B.1. hereof.
7. Remove any silt and debris deposited in BASIN that CITY may determine to be detrimental to its recreational use of BASIN.

8. Except for the portion to be maintained by DISTRICT pursuant to Section B.1. hereof, maintain the dam embankment within BASIN, which is also the embankment for Mountain Trail Street.
9. Hold DISTRICT harmless for damage to any features in WASH or BASIN, for which CITY has maintenance responsibility, resulting from DISTRICT's performance of activities described in Section B hereof, except for damage arising solely from DISTRICT's failure to exercise reasonable care and diligence during such performance.
10. Indemnify, defend and hold harmless DISTRICT and its officers, employees, servants, and agents, from any claim, demand, damage, liability, loss, cost or expense, for any damage whatsoever, including but not limited to, death or injury to any person and injury to any property, proximately resulting from any act or omission of CITY or any of its officers, employees, servants or agents in their performance of this agreement.

D. If CITY fails to carry out any of its responsibilities pursuant to Section C hereof and DISTRICT determines, in its sole discretion, that such failure compromises the ability of WASH or BASIN to function adequately as flood control facilities, DISTRICT may, after reasonable notice to CITY, take whatever action it deems necessary to correct CITY's failure, and CITY shall reimburse DISTRICT for its full costs within 30 calendar days after receipt of a bill thereof.

E. NOTICE:

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices shall be deemed delivered upon receipt by personal delivery or upon the third (3rd) day after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid. Either party may, from time to time, by written notice to the other, designate a different address which shall be substituted for the one below specified. Notices shall be addressed as follows:

To City: City Manager
 City of Moorpark
 799 Moorpark Avenue
 Moorpark CA 93021

To District: Deputy Director
 County of Ventura
 Flood Control Department
 800 South Victoria Avenue
 Ventura, CA 93009

F. ENTIRE AGREEMENT:

This Agreement contains the entire agreement of the parties hereto with respect to the matters contained herein, and supersedes any prior agreement or understanding, oral or written. This Agreement may not be amended except by a writing expressly purporting to be such an amendment, signed by both of the parties hereto.

G. ASSIGNMENT:

Except as otherwise provided herein, this Agreement may not be assigned by either party without the written consent of the other, and any assignment without such written consent shall be void.

H. SUCCESSORS IN INTEREST:

Subject to the provisions of Paragraphs B and C above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. This Agreement is not intended to benefit any person or entity not a party hereto.

I. INTERPRETATION:

The language in all parts of this Agreement shall be construed under the laws of the State of California according to its normal and usual meaning, and not strictly for or against either party.

J. PARAGRAPH HEADINGS:

Headings and sub-headings at the beginning of each paragraph of this Agreement are solely for the convenience of the parties and are not a part of this Agreement.

K. AGREEMENT TERMINATION:

This agreement may be terminated by mutual consent. In addition, if one party is in material default or breach of any of the terms or conditions of this Agreement, the other party may, at its option, terminate this Agreement. Provided, however, written notice must be first given of such default or breach, specifying the particulars thereof. If such breach or default is cured within fourteen (14) calendar days after receipt of such notice, then this Agreement may not be terminated.

Provided, further, that repeated default or breach of the same terms or conditions, after notice has been previously given and such default or breach previously cured, shall be considered a material breach of this agreement not subject to notice and cure as herein before provided. Termination for failure to cure a

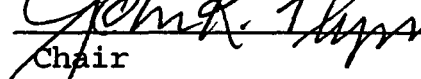
default, or for material breach not subject to notice and cure, shall be initiated by a party giving written notice of intention to terminate, and termination shall be effective one year after written notice of a party's intention to terminate is received by the other party.

If this agreement is terminated, CITY shall construct reinforced concrete channel for conveyance of a one hundred year storm, access road, and fencing in accordance with DISTRICT standards in effect as of the date of the written notice of intention to terminate. The reinforced concrete channel, access road, and fencing shall be completed by the date termination is effective or by such other date as may be mutually agreed to in writing by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

VENTURA COUNTY FLOOD
CONTROL DISTRICT

Dated: 12/16/97

BY: 
Chair
Board of Supervisors

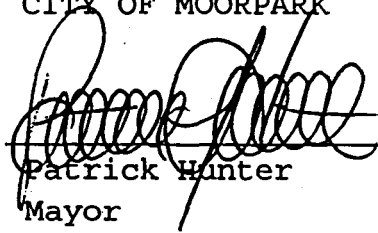
ATTEST:

RICHARD D. DEAN, County Clerk
of the County of Ventura and
Ex Officio Clerk of the Ventura
County Flood Control District
Board of Supervisors

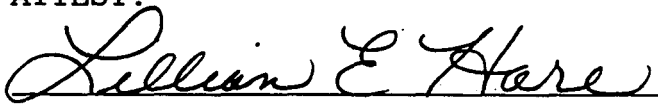
By: _____
Deputy Clerk

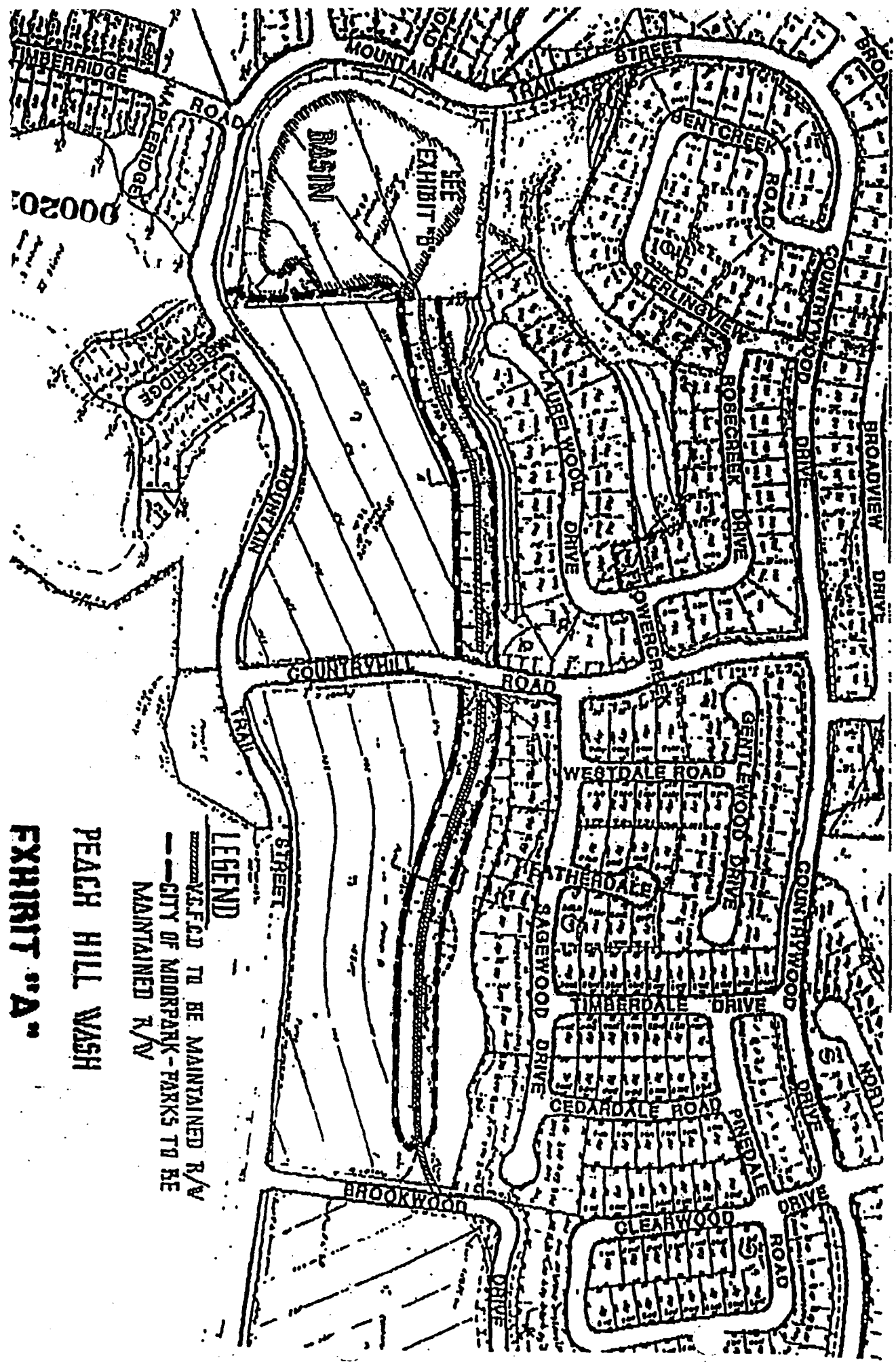
Dated: 11-19-97

CITY OF MOORPARK

BY: 
Patrick Hunter
Mayor

ATTEST:


Lillian E. Hare, City Clerk



LEGEND

--- CITY OF MOORPARK - PARKS TO BE MAINTAINED R/V

— MAINTAINED R/V

PEACH HILL WASH

EXHIBIT "A"

00020

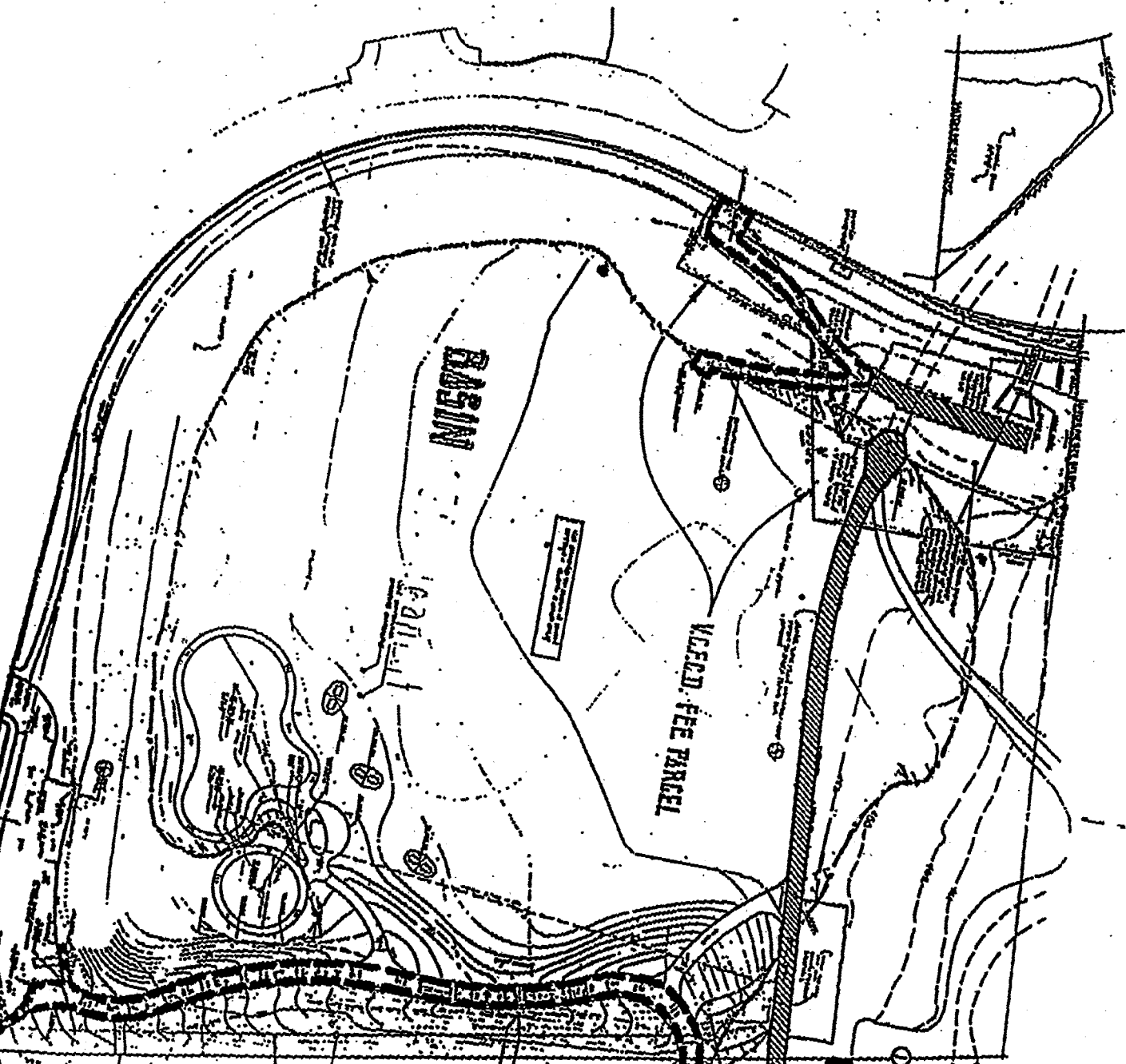


EXHIBIT "B"
 PEACH HILL WAS

LEGEND
 - - - - - V.C.F.C.D TO BE MAINTAINED R/W
 - - - - - CITY OF MOORPARK
 - - - - - PARKS TO BE MAINTAINED R/W

SEE EXHIBIT "A"



Federal Emergency Management Agency

Washington, D.C. 20472

DEC 06 1994

Steve FYI

12/12

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Mr. Robert M. Ayer, P.E.
Project Manager
Hawks & Associates
2323 Portola Road, Suite 150
Ventura, California 93003

IN REPLY REFER TO:
Case No.: 94-09-213P
Communities: City of Moorpark
and Ventura County,
California
Community Nos.: 060735 and
060413

316-INTa

Dear Mr. Ayer:

This is in regard to your December 8, 1993, request for a Letter of Map Revision for the above-referenced community. In our letter dated September 7, 1994, we indicated that we were reviewing the data submitted in support of your request and, within 30 days of the date of that letter, we would notify you if we needed additional data or if we encountered delays. However, in a facsimile transmittal dated November 30, 1994, from Mr. Alex Sheydayi, Deputy Director of Public Works, Ventura County Public Works Agency, we received acknowledgment that the County understands the impacts of the revision on the flooding conditions in the County. In addition, in a facsimile transmittal dated December 2, 1994, we received confirmation from Mr. Kenneth C. Gilbert, Director of Public Works, City of Moorpark, that the detention basin constructed on Peach Hill Wash will be jointly maintained by the City of Moorpark and Ventura County, California. We will review the additional data and will inform you of our findings within 15 days of the date of this letter.

If you write to us about your request, please include the case number shown above in your letter. If you have any questions regarding this matter, please contact Mr. John Magnotti of our staff in Washington, DC, either by telephone at (202) 646-3932 or by facsimile at (202) 646-4596.

Sincerely,

Michael K. Buckley, P.E., Chief
Hazard Identification Branch
Mitigation Directorate

cc: Mr. Kenneth C. Gilbert
Director of Public Works
City of Moorpark

Mr. Alex Sheydayi
Deputy Director of Public Works
Ventura County Public Works

Mr. Steve Howell
Vice President
Urban West Communities

RECEIVED

DEC 12 1994

CITY OF MOORPARK
OFFICE OF CITY MANAGER



MOORPARK

799 Moorpark Avenue Moorpark, California 93021 (805) 529-6864

December 2, 1994

Michael Baker Jr., Inc.
Att: Massoud Rezakani
3601 Eisenhower Avenue, Suite 600
Alexandria, VA 22304

re: Peach Hill Wash Detention Basin

Dear Mr. Rezakani,

This will serve to advise you that the subject facility will be jointly maintained by the City of Moorpark and the Ventura County Flood Control District pursuant to the terms of a Maintenance Agreement between said parties.

If you should have any questions, please feel free to give me a call.

Sincerely,

Kenneth C. Gilbert
Director of Public Works

cc: Steven Kueny, City Manager
Dirk Lovett, Assistant City Engineer
Scott Stone, California Community Builders
Robert Ayers, Hawks and Associates

wp\pw\phwash.uwc

PAUL W. LAWRASON JR.
Mayor

PATRICK HUNTER
Mayor Pro Tem

SCOTT MONTGOMERY
Councilmember

BERNARDO M. PEREZ
Councilmember

JOHN E. WOZNIAK
Councilmember



Hawks & Associates

Engineering

Planning

Surveying

Photogrammetry

TELECOPIER COVER LETTER

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Ken Gilbert
COMPANY: City of Meigs
FAX NO.: 529 - 8270

FROM:

HAWKS & ASSOCIATES

FAX NO.: (805) 658-6791

OFFICE TELEPHONE: (805) 658-6611

NO. OF PAGES SENT INCLUDING COVER LETTER: 1

DATE: 11/29/94 TIME: 11:45 AM

NOTE:

MICHAEL BACER JR
INC

Please address letter to: MASSOUD REZAKANI,
3601 EISENHOWER AVE, SUITE 600, ALEXANDRIA VA
22304. I suggest sending a FAX as soon
as possible to (703) 960-9125. It is important
to FEMA that your letter address the issues
of ultimate responsibility and maintenance schedule.
Thank you.

SENDER:

T 4792