

City Hall  
City of Calipatria  
August 9, 2011  
6 PM

REGULAR MEETING OF THE CITY COUNCIL  
OF THE CITY OF CALIPATRIA

AGENDA  
***TURN OFF ALL ELECTRONIC DEVICES***

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

INVOCATION:

ROLL CALL: Mayor Raul Navarro, Mayor Pro Tem, Trevor Green, Hector Cervantes, Peter Fuentes, Fred R. Beltran

PRESENT:

ABSENT:

ALSO PRESENT:

MAYOR’S MESSAGE/PUBLIC COMMENT

At this time the Council will hear comments on any agenda item and on any item not on this agenda. Personal attacks on individuals, slanderous comments or comments that may invade an individual’s privacy are prohibited. If you wish to be heard, please stand and address yourself to the Mayor, we request that you limit your remarks to no more than three (3) minutes.

CONSENT AGENDA

- 1. Warrants
- 2. Minutes- July 26<sup>th</sup>

NEW BUSINESS

MOTION:                   SECOND:                   VOTE:  
RESOLUTION 11-37 R. Medina; city manager

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIPATRIA  
APPROVING THE FOLLOWING “MEMORANDUM OF UNDERSTANDING”  
BETWEEN THE COUNTY OF IMPERIAL AND THE CITIES OF BRAWLEY,  
CALEXICO, CALIPATRIA, EL CENTRO, HOLTVILLE, IMPERIAL  
AND WESTMORLAND

This Memorandum of Understanding (“**MOU**”) is made and entered into by and between the County of Imperial, a political subdivision of the State of California (“County”), and the Cities of Brawley, Calexico, Calipatria, El Centro, Holtville, Imperial and

Westmorland (collectively, "Cities"), all of whom are collectively referred to as the "Parties".

**WHEREAS**, the Parties agree that it is necessary to perform a needs assessment that would evaluate the need for an animal shelter within the County and each of the Cities; *and*

**WHEREAS**, the County agrees to enter into an agreement to perform a needs assessment with the entity that submitted the most qualified proposal, so long as the Cities agree to contribute a percentage of the cost of such needs assessment, which percentage was calculated using the population of each agency's jurisdiction; *and*

**WHEREAS**, the Chairman of the Board of Supervisors is authorized to sign any documents necessary for execution the needs assessment proposal.

**NOW THEREFORE**: the Parties agree as follows:

1. The above recitals are true and correct and incorporated herein by reference.
2. The Parties approve this **MOU** in order to establish a mutual understanding and cooperative process to support each other in the development of an animal shelter needs assessment.
3. The Cities agree to pay its respective portion of the total cost for the needs assessment as set forth in Exhibit 1, which is attached hereto and incorporated by this reference. Such percentage may be increased in an amount no more than ten percent (10%).
4. The county agrees to enter into an agreement with the entity that submitted the most qualified proposal, if the Cities agree to contribute to the cost. The cost of the needs assessment shall not exceed sixty thousand dollars (\$60,000).
5. This **MOU** may be executed in multiple counterparts, each of which shall be considered an original, and such counterparts shall together constitute and be one and the same instrument.

#### EXHIBIT 1

##### Animal Shelter Needs Assessment Cost Sharing

<b>CITIES</b>	<b>POPULATION</b>	<b>PERCENTAGE</b>	<b>COST*</b>
Brawley	27,431	16	\$9,958
Calexico	39,972	23.3	\$14,501
Calipatria	3,948	2.3	\$1,431
El Centro	44,478	25.9	\$16,120
Holtville	6,511	3.8	\$2,365
Imperial	13,342	7.8	\$4,855
Westmorland	2,416	1.4	\$871
County of Imperial	33,512	19.5	\$12,136

\*Cost includes 10% contingency

MOTION:                      SECOND:                      VOTE:  
RESOLUTION 11-38 R. Medina; city manager

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIPATRIA  
AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA  
STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

FUNDING UNDER THE “HOME” INVESTMENT PARTNERSHIPS PROGRAM; AND IF SELECTED, THE EXECUTION OF A STANDARD AGREEMENT, ANY AMENDMENTS THERETO, AND OF ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE HOME INVESTMENT PARTNERSHIPS PROGRAM

**WHEREAS**, the California Department of Housing and Community Development (the “Department”) is authorized to allocate HOME Investment Partnerships Program (“HOME”) funds made available from the U.S. Department of Housing and Urban Development (“HUD”). HOME funds are to be used for the purposes set forth in Title 11 of the Cranston-Gonzalez National Affordable Housing Act of 1990, in federal implementing regulations set forth in Title 24 of the Code of Federal Regulations, part 92, and in Title 25 of the California Code of Regulations commencing with section 8200; *and*

**WHEREAS**, on June 1, 2011 the Department issued a 2011 Notice of Funding Availability announcing the availability of funds under the HOME Program (the “NOFA”) *and*

**WHEREAS**, in response to the 2011 NOFA, the City of Calipatria, a municipal corporation (the “Applicant”), wishes to apply to the Department for , and receive an allocation of, HOME funds, *and*

**NOW THEREFORE BE IT RESOLVED**, in response to the 2011 NOFA, the Applicant shall submit an application to the Department to participate in the HOME program and for an allocation of funds not to exceed Five Million One Hundred Thousand Dollars (\$5,100,000) for the following activities and/or programs:

*A 20 unit senior apartment community; to be located in the City of Calipatria.*

1. If the application for funding is approved, then the Applicant hereby agrees to use the HOME funds for eligible activities in the manner presented in its application as approved by the Department in accordance with the statutes and regulations cited above. The Applicant may also execute a standard agreement, any amendments thereto, and any and all other documents or instruments necessary or required by the Department or HUD for participation in the HOME program (collectively, the required documents).
2. The applicant authorizes Romualdo Medina, City Manager, or his/her designee(s) to execute, in the name of the applicant, the required documents.

MOTION:                      SECOND:                      VOTE:  
SECOND READING OF ORDINANCE 11-002- R. Medina, city manager

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIPATRIA, CALIFORNIA, ELECTING TO PARTICIPATE IN THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 34192, ET SEQ., SUBJECT TO CERTAIN CONDITIONS AND RESERVATIONS

**WHEREAS**, the City Council of the City of Calipatria (“City”) currently has one effective redevelopment project: The Redevelopment Plan for Calipatria Redevelopment Project Area (the “Redevelopment Plan”) was approved by Ordinance No. 292 adopted by the City Council of the City on July 23, 1991 and amended by Ordinance No. 300

adopted by the City Council of the City on December 13, 1994; *and*  
**WHEREAS**, the Redevelopment Agency for the City Calipatria (“Agency”) is engaged in activities to redevelop the Project Areas pursuant to the provision of the California Community Redevelopment Law (Health and Safety Code Sections 33000, *et seq.*); *and*  
**WHEREAS**, continued redevelopment of the Project Areas to eliminate blight, improve public facilities and infrastructure, renovate and construct affordable housing, and enter into partnerships with private industries to create jobs and expand the local economy is vital to the health, safety and welfare of the City; *and*  
**WHEREAS**, on June 28, 2011, the State of California enacted California Health and Safety Code Sections 34161, *et seq.*, immediately prohibiting further redevelopment activity by redevelopment agencies and dissolving all redevelopment agencies in the State of California on October 1, 2011; *and*  
**WHEREAS**, on June 28, 2011, the State of California also enacted California Health and Safety Code Sections 34192, *et seq.*, providing communities the opportunity to continue redevelopment activity through their local redevelopment agencies by electing to participate in the “Alternative Voluntary Redevelopment Program”; *and*  
**WHEREAS**, the Alternative Voluntary Redevelopment Program allows a community’s redevelopment agency to continue operating, without the constraints of California Health and Safety Code Sections 34161, *et seq.*; *and*  
**WHEREAS**, the City may elect to participate in the Alternative Voluntary Redevelopment Program by adoption of an ordinance, at any time prior to November 1, 2011, stating the City’s election to participate in the program and notifying the County of Imperial Auditor-Controller, the State Controller and the State Department of Finance of such election; *and*  
**WHEREAS**, participation in the Alternative Voluntary Redevelopment Program requires the City to agree to pay certain dollar amounts annually, based on formulas set forth in California Health and Safety Code Section 34194, to the County of Imperial Auditor-Controller; *and*  
**WHEREAS**, for Fiscal Year 2011-2012 the State of California Director of Finance is legally required to notify the City of the dollar amount payable by the City to participate in the Alternative Voluntary Redevelopment Program for such fiscal year, by August 1, 2011; *and*  
**WHEREAS**, the dollar amount currently estimated to be payable by the City to participate in the Alternative Voluntary Redevelopment Program for Fiscal Year 2011-2012 is Two Hundred Six Thousand Three Hundred Fifty Dollars (\$206,350) and then on an annual basis approximately Forty-Eight Thousand Five Hundred Fifty-Three Dollars (\$48,553); *and*  
**WHEREAS**, the County of Imperial Auditor-Controller may charge the City a fee that does not exceed the reasonable costs to the County of Imperial Auditor-Controller for implementing the Alternative Voluntary Redevelopment Program; *and*  
**WHEREAS**, if the City elects to participate in the Alternative Voluntary Redevelopment Program, but later fails to make the required community remittance payments to the County of Imperial Auditor-Controller, the City will have assigned its rights to receive payments under agreements with the Agency and the Agency will be subject to dissolution, pursuant to California Health and Safety Code Sections 34161, *et seq.*  
**WHEREAS**, the City anticipates that one or more legal actions challenging the

constitutionality, legality, validity, enforceability or applicability of all or a portion of California Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, and related statutes will be filed in the future; *and*

**WHEREAS**, the City intends to participate in the Alternative Voluntary Redevelopment Program, under the current state of the laws of the State of California, as of the date of adoption of this Ordinance; *and*

**WHEREAS**, the City does not intend to participate in the Alternative Voluntary Redevelopment Program, if all or any portion of California Health and Safety Code Sections 34161, *et seq.*, or California Health and Safety Code Sections 34192, *et seq.*, are determined by a court of competent jurisdiction to be unconstitutional, illegal, invalid or otherwise unenforceable or inapplicable, for any reason or in any manner that allows the Agency to continue its operations and redevelopment activities substantially in accordance with the laws of the State of California as they existed prior to January 1, 2011; *and*

**WHEREAS**, by adoption of this Ordinance, the City does not intend to waive any right or make any acknowledgment or admission regarding and fully reserves all rights to challenge the constitutionality, legality, validity, enforceability or applicability of California Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, and related statutes, repeal this ordinance and/or recover any or all amounts paid pursuant to California Health and Safety Code Sections 34192, *et seq.*; *and*

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIPATRIA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**Section 1. Recitals.** The Recitals preceding this Ordinance are true and correct and are incorporated into this Ordinance by this reference.

**Section 2. CEQA.** Adoption of this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA"), pursuant to State CEQA Guidelines (Title 14 California Code of Regulations Sections 15000, *et seq.*) Section 15061(b)(3), because it can be seen with certainty that payment of community remittance amounts to the County of Imperial will not have a significant effect on the environment and pursuant to State CEQA Guidelines 15378(b)(4) because payment of community remittance amounts to the County of Imperial is the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The City Clerk is authorized and directed to file a Notice of Exemption with the appropriate official of the County of Imperial, California, within five (5) days following the date of adoption of this Resolution.

**Section 3. Election to Participate in the Alternative Voluntary Redevelopment Program.** In accordance with Health and Safety Code Sections 34192, *et seq.*, subject to the conditions and reservations set forth in this Ordinance, the City Council hereby elects that the City shall participate in the Alternative Voluntary Redevelopment Program for Fiscal Year 2011-2012 and subsequent fiscal years, subject to annual City budget appropriations and the City's reserved legislative discretion and other rights, and pay the community remittance amounts payable pursuant to California Health and Safety Code Section 34194. The City's participation in the Alternative

Voluntary Redevelopment Program, including all community remittance payments made related to such program, shall be under protest, subject to the City's reserved rights and without prejudice to the City's right to recover any or all amounts of such payments and interest on the amounts of such payments in the future, if all or any portion of California Health and Safety Code Sections 34161, *et seq.*, or California Health and Safety Code Sections 34192, *et seq.*, are determined by a court of competent jurisdiction to be unconstitutional, illegal, invalid or otherwise unenforceable or inapplicable, for any reason or in any manner.

**Section 4. Additional Understandings and Intent.** The understanding and intent of the City Council is that, once the Agency is again authorized to enter into agreements under the California Community Redevelopment Law, the City will enter into an agreement with the Agency, as authorized pursuant to California Health and Safety Code Section 34194.2, whereby the Agency will transfer a portion of the Agency's annual tax increment revenue for each fiscal year to the City in amounts not to exceed the annual community remittance payments payable by the City for the such fiscal year to enable the City, directly or indirectly, to make the annual community remittance payments for such fiscal year. The City Council does not intend, by enactment of this Ordinance, to pledge any of the City's general fund revenues or assets to make any community remittance payments.

**Section 5. Reservation of Rights on Stay of Application of Law.** If a court of competent jurisdiction stays the effectiveness, application or enforcement of all or any portion of California Health and Safety Code Sections 34161, *et seq.*, or California Health and Safety Code Sections 34192, *et seq.*, pending resolution of one or more legal actions challenging the constitutionality, legality, validity, enforceability or applicability of any or all of such statutes, the City reserves the right to stay the City's participation in the Alternative Voluntary Redevelopment Program pursuant to this Ordinance.

**Section 6. Reservation of Rights to Challenge Law.** Notwithstanding the other provisions of this Ordinance or any payments made by the City pursuant to the Alternative Voluntary Redevelopment Program, the City reserves all rights to challenge the constitutionality, legality, validity, enforceability or applicability of all or any portion of California Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, and related statutes. The City contends that all or a portion of California Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, and related statutes are unconstitutional, illegal, invalid, unenforceable or inapplicable regarding the City and/or the Agency. Neither the adoption of this Ordinance, nor references to California Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, or related statutes in this Ordinance, nor the payment of any community remittance amounts pursuant to California Health and Safety Code Sections 34192, *et seq.*, are intended to be an acknowledgment or admission or waiver of rights by the City regarding the constitutionality, legality, validity, enforceability or applicability of all or any portion of California Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, or any related statutes.

**Section 7. Implementation.** The City Council hereby authorizes and directs the City Manager, on behalf of the City, to take any and all action and make or enter into

any and all documents or agreements necessary to implement this Ordinance, including notifying the County of Imperial Auditor-Controller, the Controller of the State of California, and the State of California Department of Finance of the adoption of this Ordinance and the City's election to participate in the Alternative Voluntary Redevelopment Program, making community remittance amount payments pursuant to California Health and Safety Code Sections 34192, *et seq.*, and entering into an agreement with the Agency to advance or reimburse the City the amount of any and all such community remittance payments paid by the City.

**Section 8. Custodian of Records.** The documents and materials constituting the record of proceedings on which the findings contained in this Ordinance are based are located at the City Clerk's office located at 125 North Park Avenue, Calipatria, California. The custodian for these records is the City Clerk of the City of Calipatria.

**Section 9. Severability.** If any provision of this Ordinance or the application of any provision of this Ordinance to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable. The City Council hereby declares that the City Council would have adopted this Ordinance irrespective of the invalidity of any particular provision of this Ordinance.

**Section 10. Certification; Publication.** The City Clerk shall certify to the adoption of this Ordinance and cause this Ordinance or a summary of this Ordinance to be published once, within 15 days following the date of adoption of this Ordinance by the City Council, in a newspaper of general circulation printed and published within the City of Calipatria and shall post a certified copy of this Ordinance, including the vote for and against this Ordinance by the members of the City Council, in the Office of the City Clerk, all in accordance with California Government Code Section 36933.

**Section 11. Effective Date.** This Ordinance shall become effective thirty (30) days following the date of adoption of this Ordinance by the City Council.

MOTION:                      SECOND:                      VOTE:  
 MOTION TO ADJOURN TO REDEVELOPMENT AGENCY  
 RESOLUTION 11-39 RDA- R. Medina; Agency Director

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CALIPATRIA APPROVING THE REAL PROPERTY DISPOSITION AGREEMENT WITH AMG & ASSOCIATES, INC.

**WHEREAS**, the Redevelopment Agency of the City of Calipatria has duly adopted a Redevelopment Plan that will eliminate blight within the territory of the Redevelopment Agency and will enhance the public health and safety of the residents of the City of Calipatria; *and*

**WHEREAS**, AMG & Associates, Inc. has proposed a plan to construct a Senior Housing Project within the territory of the Redevelopment Agency; *and*

**WHEREAS**, the proposed Senior Housing Project is in the conformity with the Redevelopment Plan, will eliminate blight, will enhance the health and safety of residents of the City of Calipatria and will otherwise further the goals and purposes of the Redevelopment Agency; *and*

**WHEREAS**, the Redevelopment Agency owns a parcel that is suitable for the project and that the parcel is undeveloped and blighted; *and*

**WHEREAS**, the Redevelopment Agency staff has prepared a draft Real Property Disposition Agreement and the Redevelopment Agency Board has reviewed that document and is agreeable to the terms therein, but understands that the Agreement is in draft form only and will require revisions; *and*

**WHEREAS**, the deadline for applying for the necessary HOME Funds financing is rapidly approaching and the Redevelopment Agency Board is desirous of having the Redevelopment Staff complete the necessary revisions to the draft Real Property Disposition Agreement and have the Executive Director execute the same on behalf of the Agency:

**NOW THEREFORE BE IT RESOLVED** that the proposed terms of the Real Property Disposition Agreement are consistent with the Redevelopment Plan and are consistent with Health and safety of the residents of the City of Calipatria and therefore the Board approves the Agreement in principal and directs staff to make the necessary revisions to put the agreement in final form and further directs the Agency's Executive Director to execute the agreement on behalf of the Redevelopment Agency, provided that the form of the Final Agreement meets with the approval of the Redevelopment Agency attorney and its Redevelopment Agency consultant Urban Futures.

MOTION:                      SECOND:                      VOTE:  
RECONVENE TO OPEN SESSION

COUNCIL REPORTS:

Beltran:

Cervantes:

Fuentes:

Green:

Navarro:

STAFF:

MOTION:                      SECOND:                      VOTE:  
ADJOURN: