

**STAFF REPORT**  
**City of Lancaster, California**

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08/14/07
RSL

Date: August 14, 2007

To: Mayor Hearn and City Council Members

From: David R. McEwen, City Attorney  
Robert S. LaSala, City Manager

Subject: Approve Agreement with L Street Properties, LLC and authorize the City Manager or his designee to execute all necessary documents in connection with the Agreement

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**Recommendation:**

Approve the Drainage Improvements Funding Agreement with L Street Properties, LLC and authorize the City Manager or his designee to execute all necessary documents in connection with the Agreement

**Fiscal Impact:**

The current design and construction cost estimate for placing the Amargosa Creek drainage way underground from Avenue L to Avenue K-8 is \$10,942,000. This estimate is based on the assumption that the California Department of Fish and Game will approve an engineering solution similar to what they recently approved for adjacent property to the north. Pursuant to the proposed Agreement, the commercial expense will be assumed by the affected property owners, L Street Properties LLC, in the amount of \$5,824,000. The remaining balance of the project within the Medical District, equal to \$5,118,000, will be paid from drainage impact fees collected from the Amargosa Creek developers and other drainage impact fees collected to construct the Master Plan of Drainage. This is an eligible use of drainage impact fees because the covering of Amargosa Creek is included in the Master Plan of Drainage.

Assuming the Council approves the proposed Agreement, staff proposes to fund the \$5,824,000 cost to cover the commercial area with available Redevelopment Agency bond funds. Based on a recently completed independent fiscal analysis, prepared by Conley Consulting Group, a copy of which is attached hereto (the "Conley Report"), the project when fully constructed will generate an estimated \$2.3 million in net general fund revenues and in excess of \$550,000 annually in tax increment revenue for the Redevelopment Agency. The Agency will be unable to make the loan repayment from the proceeds of a tax allocation bond issue to be issued by the Agency. As a result of this financing strategy, the drainage improvements associated with Amargosa Creek will be fully funded directly from developers and indirectly from revenues generated from the project.

To receive full repayment of these costs, as described below, a lien will be placed on the “Flex Commercial” property owned by L Street Properties LLC as a guarantee for the \$5,824,000 contribution. Based on a recently completed appraisal, the value of the 48 acre site is estimated at roughly \$12.5 million. Once the land is sold or developed, the moneys received from L Street Properties will be available to fund other Master Plan of Drainage projects. Staff anticipates the Flex Commercial area to be developed and full repayment to the City will occur within 5-10 years.

Below is a breakdown of the financial plan necessary to implement the proposed Agreement. The financing includes unallocated fees on hand, anticipated drainage fees collected from the developers of the Amargosa Creek Specific Plan, and project savings from drainage projects completed. As noted, when combined with the L Street Properties contribution, the City has sufficient drainage fees available to fund the necessary drainage improvements within Medical District to bring the Kaiser Hospital proposal to fruition.

**Cost Breakdown**

Commercial:	\$5,824,000
Hospital	<u>\$5,118,000</u>
<b>Total Costs:</b>	<b><i>\$10,942,000</i></b>

**Funding Strategy**

Drainage Fund Balance:	\$1,306,000
Advanced Amargosa Creek Drainage Fees:	\$1,812,000
Drainage Cost Savings:	\$2,000,000
Development Agreement (L Street Properties LLC)	<u>\$5,824,000</u>
<b>Total Revenues:</b>	<b><i>\$10,942,000</i></b>

**Background:**

*The Agreement*

Consistent with the Council’s direction, an agreement has been negotiated with L Street Properties, LLC, the owners of a portion of the property that is being included within the Amargosa Creek Specific Plan. In general terms, the property consists of the area described in the Specific Plan as the “flex-commercial” area. The Agreement provides that the owner will pay the City for the estimated cost of the portion of the Channel Improvements which cross the flex-commercial area. The payment obligation will be paid in accordance with a promissory note secured by a deed of trust on the property. The note provides that the note amount will be payable as follows:

- (a) upon the sale, lease or other conveyance of the project site, the full note amount shall be due and payable;
- (b) Upon the sale of a portion of the project site, a portion of the note amount equal to fifty percent (50%) of the proceeds of the sale shall be due and payable;

(c) Upon a lease or other conveyance (other than a sale) of a portion of the project site, a portion of the note amount shall be due and payable in a pro-rata amount equal to the portion of the project site being leased or otherwise conveyed; and

(d) Upon issuance of building permits to Developer for the development of the project site, the note amount shall be due and payable in a pro-rata amount equal to the portion of the project site as to which the permits apply.

The Agreement also provides the developer also agrees that no bona fide offer for a net price equal to or greater than \$12 per square foot but not less than the then current fair market value for all or any portion of the project site shall be rejected, if the promissory note remains unpaid.

### *Master Plan of Drainage*

Covering the Amargosa creek channel between Ave. L and Ave. K-8 is included within the City's Master Plan of Drainage adopted in February, 2005. The cost of the Channel Improvements along with the other master plan drainage facilities are expected to be paid from the drainage impact fees imposed on all development in the city. The MPD requires developers to dedicate all necessary right-of-way for planned drainage facilities listed in the MPD. It also provides: "the installation of planned drain pipes and/or R.C. [reinforced concrete] Boxes, or a portion thereof, will be required if adjacent to the development." These requirements are imposed on developments at the time of the development seeks building permits for the development of the property or upon approval of a subdivision map. Developers are given a credit against the drainage impact fees and to the extent the cost of the drainage improvements exceeds the drainage impact fees, the developer may enter into a reimbursement agreement with the City and be reimbursed for such excess costs from a portion of the drainage impact fees paid by other developers in the city. There are currently 13 projects that have executed reimbursement agreements and submitted the necessary paper work to be eligible for reimbursement. There are in excess of an additional 110 projects that have been conditioned to provide drainage improvements for which it is anticipated reimbursement agreement will be required. In the present case, in exchange for the City paying for the channel improvements for the hospital, the developer is not asking for a reimbursement agreement.

As with all public works facilities for which development impact fees are collected, the City has the option of constructing the facilities from the fees already collected or from fees to be collected by using other sources of revenue. The Amargosa Creek channel project is a significant investment and has been planned only in areas where there will be a significant return to the City. The Master Plan of Drainage shows that the estimated cost of the channel improvements based on the reinforced concrete box culvert is more than twice the cost of any other drainage improvement. Based on the cost of the channel improvements approved by CDFG north of the project, the difference between the channel improvements and the cost of other drainage facilities will be even greater. To date, the only locations where the Amargosa Creek has been covered include the are located under a portion of the Auto Mall and the area under the commercial center on the south side of Avenue K west of 10<sup>th</sup> Street West. In the case of the portions under the Auto Mall, the Agency paid for such improvements. The City has also entered into an agreement for the sale of land located north of Avenue K-8 along 10<sup>th</sup> Street West for purposes of expanding the Auto Mall and in connection therewith has agreed to cover the Amargosa Creek channel.

In each of these projects, as will be the case in connection with the Amargosa Creek project, the City received, or will receive, significantly more in sales tax and other revenues than was expended on covering the channel. In the case of the Amargosa Creek project, unlike each of the other projects, the owner of the flex-commercial area will reimburse the City for the full cost of the Channel Improvements on its property.

*The Benefits*

The benefits to be derived from the Amargosa Creek project are outlined in Attachments A and B hereto. In a study prepared by the Buxton Group for the City a few years ago, the area being included in the Amargosa Creek Specific Plan was identified as one of the key commercial opportunities available within the City. Further, the provision of quality retail and sit-down restaurants was identified by the citizens in a survey as one of the key deficiencies in the City. As described above under Fiscal Impact, the Conley Report conservatively estimates that the City will receive in excess of \$2.3 million in net general fund revenues and in excess of \$550,000 in tax increment revenues for the Agency. With the approval of the Agreement and the Specific Plan, which is being considered earlier on this agenda, the city is moving closer to fulfillment of one of the major goals of this council, the provision of high quality retail outlets with quality sit-down restaurants. In addition, this Agreement and the Specific Plan will assist in bringing the Kaiser Hospital Project to completion. Staff is currently working out the final details of a Development Agreement with Kaiser Hospital Foundation. The Kaiser Development Agreement will be presented at a future meeting of the Planning Commission followed by action by the City Council.