

**MINUTES
CITY COUNCIL OF THE CITY OF MORENO VALLEY**

**SPECIAL MEETING – 6:00 P.M.
OCTOBER 7, 2003**

CALL TO ORDER – The Special Meeting of the City Council of the City of Moreno Valley was called to order at 6:01 p.m. by Mayor Batey in the Council Chamber located at 14177 Frederick Street, Moreno Valley, California.

ROLL CALL

Council:	William H. Batey	Mayor
	Frank West	Mayor Pro Tem
	Bonnie Flickinger	Councilmember
	Richard A. Stewart	Councilmember
	Charles R. White	Councilmember
Staff:	Alice Reed	City Clerk
	Steve Chapman	Finance Director/City Treasurer
	Gene Rogers	City Manager
	Robert Herrick	City Attorney
	Barry McClellan	Assistant City Manager
	Linda Guillis	Community and Economic Development Director
	Tom Breitkruez	Enterprise Services Manager

F. REPORTS

- F1. PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE CITY OF MORENO VALLEY AND ENCO UTILITY SERVICES MORENO VALLEY, LLC FOR THE OPERATIONS AND MAINTENANCE OF THE CITY'S MUNICIPALLY OWNED ELECTRICAL DISTRIBUTION SYSTEM

Mayor Batey opened the agenda item for public comments which were received from Michael Geller; Stan Stosel; Ray Hahn; Marcia Amino; Priscilla Banks; Daryl C. Terrell; Jack Wyatt; Charles Nufo; Charley Wilson, representing SCE; J.W. Morse; Pamela Lockwood; David Stiles; Pete Bleckert; Ray Hosman; Roland Hieirs; Wybe Schaasfma; Stan Garcia; Thomas Hines; Dr. James Cowan; Petra Mendez; Raul Wilson; Victoria Baca and George Pearne.

**RECESS;
RECONVENE**

SCE Regional Manager, Charley Wilson, apologized for the comments of SCE employee, Roland Hieirs.

The following consultants presented the Due Diligence process:

1. Susie Berlin, Special Legal Counsel, McCarthy & Berlin;
2. Tim Schaefer, Financial Consultant, Fieldman, Rolapp & Assc.;
3. Gary Saleba, EES Consulting
4. Jerry Jordan, Executive Director, California Municipal Utilities Assc.;
5. Dennis Eastman, CEO and President, ENCO Utility Services;
6. Mike Powers, Chief Operating Officer; ENCO Utility Services
7. Bob DeKorne', Senior Vice President

**RECESS;
RECONVENE**

Councilmember Flickinger made a motion, seconded by Mayor Pro Tem West to approve the Professional Services Agreement by and between the City of Moreno Valley and ENCO Utility Services Moreno Valley, LLC for the Operations and Maintenance of the City's Municipally Owned Electrical Distribution System; as amended with the following amendments: Page 20 - Part B, Section 14 Assignment: A new section 14.4 has been added that reads: 14.4 City shall be given at least sixty (60) days prior written notice of any merger or consolidation of SRM-ENCO, LLC, into or with any other corporation or any sale, lease or transfer of any material amount of the assets of SRM-ENCO, LLC to any other person or entity. City shall be given immediate notice should SRM-ENCO, LLC (a) admit insolvency, (b) makes a general assignment for the benefit of creditors, (c) be unable to pay debts as they mature, (d) fail to provide adequate assurance of its ability to perform any material obligation when requested by a party entitled thereto, or (e) is subject to a Bankruptcy Proceeding. Page 46 - Attachment F, Customer Account Services, Section 7.2 Indemnity by the City: subsections (c) and (d) have been DELETED, as the addition of section 6.12-Taxes, in Part B was added to address each Party's responsibility for own taxes addresses this issue. The deleted language reads (c) ENCO's action or inaction with respect to any Tax or fee that is the subject of the

Agreement, even if same constitutes negligence, but not if it constitutes willful misconduct or gross negligence; or (d) Any audit or investigation by any taxing authority with respect to any Taxes or fees covered by this Agreement and approve the Operating Deficit Agreement by and between the City of Moreno Valley and ENCO Utility Services Moreno Valley, LLC to establish a line of credit with ENCO if additional operating funds are required by the City, (Attachment J to the Professional Services Agreement); as amended with the following amendments: Page 53 - Operating Deficit Agreement, Section 1(a): "defied" has been corrected to read "defined."Page 54 - Operating Deficit Agreement, Section 2: a new paragraph has been added at the end to read: "City shall be given at least sixty (60) days prior written notice of any merger or consolidation of Parent into or with any other corporation or any sale, lease or transfer of any material amount of the assets of Parent to any other person or entity. City shall be given immediate notice should Parent (a) admit insolvency, (b) makes a general assignment for the benefit of creditors, (c) be unable to pay debts as they mature, (d) fail to provide adequate assurance of its ability to perform any material obligation when requested by a party entitled thereto, or (e) is subject to a Bankruptcy Proceeding"and authorized the Mayor to execute said documents after the City Council has approved the agreements. Motion carried 5-0. Roll call vote.

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 9:27 p.m. by unanimous informal consent.

Submitted by:

Alice Reed, City Clerk

Approved by:

Frank West, Mayor Pro Tem

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