

CITY OF DANA POINT

**CITY COUNCIL
REGULAR
MEETING**



**TUESDAY
JUNE 3, 2008
5:00 P.M.**

AGENDA

Location: City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point, California 92629

Next City Council Ordinance No. 08-06

CALL TO ORDER

ROLL CALL OF CITY COUNCIL MEMBERS:

Joel Bishop, Mayor
Lisa A. Bartlett, Mayor Pro Tem
Lara Anderson, Council Member
Diane L. Harkey, Council Member
Steven H. Weinberg, Council Member

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b)(3)(c), (3 cases: AT&T; Scenic Drive; Clark)
- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b)(3)(a), (one case)

RECESS OF CITY COUNCIL MEETING UNTIL 6:00 P.M.

RECONVENE CITY COUNCIL MEETING

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS AND PROCLAMATIONS

Recognition of Graduating Youth Board Members
Recognition of Deputy Paul Martin, School Resource Officer
5th Marine Regiment Presentation

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and all will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the City Council, the public, or staff request specific items be removed from the Consent Calendar for separate action.

At this time, the City Clerk will read the title(s) of the ordinance(s) listed on the agenda.

1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY

RECOMMENDED ACTION: That the City Council approve the reading by title only of all ordinances on the Consent Calendar and that further reading of such ordinances be waived.

2. [REGULAR MEETING MINUTES, MAY 20, 2008](#)

RECOMMENDED ACTION: That the City Council approve the minutes.

3. [PLANNING COMMISSION MEETING MINUTES, MAY 13, 2008](#)

RECOMMENDED ACTION: That the City Council receive and file.

4. [PLANNING COMMISSION ACTIONS, MEETING OF MAY 27, 2008](#)

RECOMMENDED ACTION: That the City Council receive and file.

5. [YOUTH BOARD MEETING MINUTES, MAY 1, 2008](#)

RECOMMENDED ACTION: That the City Council receive and file.

6. [TRAFFIC IMPROVEMENT COMMISSION MINUTES, APRIL 16, 2008](#)

RECOMMENDED ACTION: That the City Council receive and file.

7. [MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR](#)

RECOMMENDED ACTION: That the City Council receive and file.

8. [CITY TREASURER'S REPORT, APRIL](#)

RECOMMENDED ACTION: That the City Council receive and file the City Treasurer's Report for the month of April.

9. [CLAIMS AND DEMANDS](#)

RECOMMENDED ACTION: That the City Council receive and file the Claims and Demands.

10. TRANSIENT OCCUPANCY TAX INSURANCE RENEWAL FOR FY 2008/2009

RECOMMENDED ACTION: That the City Council ratify the renewal of business interruption insurance coverage obtained from Landmark American Insurance Company for protection of Transient Occupancy Tax ("TOT") revenue for the policy period of June 17, 2008 to June 17, 2009.

11. 2008-2009 LAW ENFORCEMENT SERVICES AGREEMENT

RECOMMENDED ACTION: That the City Council approve the Law Enforcement Services Agreement with the County of Orange for law enforcement services for the 2008-2009 fiscal year and authorize the City Manager to execute the agreement.

12. SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING ARTICLE 9 TO THE DANA POINT MUNICIPAL CODE INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS"

RECOMMENDED ACTION: That the City Council hold second reading and adopt an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING ARTICLE 9, INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS".

13. SECOND READING AND ADOPTION OF ZONING CODE UPDATE PROGRAM – ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003

RECOMMENDED ACTION: That the City Council hold second reading and adopt an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003, REVISING THE CITY OF DANA POINT ZONING ORDINANCE TO CORRECT INCONSISTENCIES, CLARIFY EXISTING REGULATIONS, SIMPLIFY THE REVIEW PROCESS, UPDATE "NONCONFORMING USES AND STRUCTURES" CHAPTER, AND PROVIDE FOR AMENDMENTS TO PREVIOUSLY APPROVED DISCRETIONARY PERMITS.

PUBLIC COMMENTS

Any person wishing to address the City Council during the Public Comments section or on an Agenda item is asked to complete a "Request to Speak" form available on the table at the side of the Council Chamber. The completed form is to be submitted to the City Clerk prior to the Agenda item being called by the Mayor and prior to the individual being heard by the City Council.

In order to conduct a timely meeting, there will be a three-minute time limit per person and an overall time limit of fifteen minutes for this Public Comments portion of the agenda. At the Mayor's discretion, the balance of public comments will be heard after the New Business portion of the agenda. All

comments are to be directed to the City Council and shall not consist of any personal attacks. Members of the public are expected to maintain a professional, courteous decorum during their comments. State law prohibits the City Council from taking action on a specific item unless it appears on the posted Agenda.

If anyone has handouts to distribute to the City Council, please follow proper procedure and hand them to the City Clerk. The City Clerk will see that they are distributed.

PUBLIC HEARINGS

14. **GENERAL PLAN AMENDMENT (GPA06-02), ZONE CHANGE (ZC06-01), ZONE TEXT AMENDMENT (ZTA06-04), AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA06-05) TO REVIEW CALIFORNIA COASTAL COMMISSION SUGGESTED MODIFICATIONS TO THE CITY'S APPROVAL OF THE TOWN CENTER PLAN**

RECOMMENDED ACTION: That the City Council adopt the suggested modifications approved by the California Coastal Commission in its certification of the City of Dana Point Local Coastal Program Amendment LCPA06-05 for the Dana Point Town Center Plan and forward the adopted suggested modifications to the Coastal Commission for final certification by approving:

1. Resolution 08-06-03-XX (General Plan Amendment GPA06-02)
2. Hold first reading and introduction of a draft Ordinance 08-XX (Zone Text Amendment ZTA06-04 and Zone Change ZC06-01)
3. Resolution 08-06-03-XX (Submittal of LCPA06-05 to the Coastal Commission)

UNFINISHED BUSINESS

15. **AUTHORIZATION TO ISSUE CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2006-1 (CFD 2006-1), 2008 SPECIAL TAX BONDS AND ESTABLISH SPECIAL TAX FOR FISCAL YEAR 2008/2009**

RECOMMENDED ACTION: That the City Council adopt the following Resolutions:

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT AUTHORIZING THE ISSUANCE OF ITS 2008 SPECIAL TAX BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED NINE MILLION DOLLARS (\$9,000,000) AND APPROVING CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH; and,
2. A RESOLUTION OF THE CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2006-1 ESTABLISHING ANNUAL SPECIAL TAX FOR FISCAL YEAR 2008/2009.

NEW BUSINESS

There are no New Business items.

PUBLIC COMMENTS (Continued)

STAFF REPORTS

(City Manager Doug Chotkevys)

(City Attorney Patrick Muñoz)

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

The City Council may discuss, act upon or seek consensus on matters described under Council Reports only if: They are agendized with a complete written report included; or, if an item arose subsequent to the posting of the agenda and the Council determines that an emergency exists. Non-agendized items may be presented as informational only.

ADJOURNMENT

The next Regular Meeting of the City Council will be June 17, 2008, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

CERTIFICATION

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that a copy of the foregoing Agenda was posted at Dana Point City Hall, the Dana Point Post Office, the Capistrano Beach Post Office and the Dana Point Library by Friday, May 30, 2008, at 5:00 p.m.

KATHY M. WARD, CITY CLERK

DATE

Subscriptions to receive City Council Agendas on a regular basis are available through the City Clerk's Office. Agendas are also available on the City's website at www.danapoint.org.

PURSUANT TO THE AMERICANS WITH DISABILITIES ACT, PERSONS WITH A DISABILITY WHO REQUIRE A DISABILITY-RELATED MODIFICATION OR ACCOMMODATION IN ORDER TO PARTICIPATE IN A MEETING, INCLUDING AUXILIARY AIDS OR SERVICES, MAY REQUEST SUCH MODIFICATION OR ACCOMMODATION FROM THE CITY CLERK AT (949) 248-3500 (TELEPHONE) OR (949) 248-9920 (FACSIMILE). NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ASSURE ACCESSIBILITY TO THE MEETING.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
MAY 20, 2008**

CALL TO ORDER**5:00 P.M.**

The Regular Meeting of the City Council of the City of Dana Point, California, was called to order by Mayor Bishop at 5:00 p.m. in the Dana Point City Council Chamber, 33282 Golden Lantern, Suite 210, Dana Point.

ROLL CALL OF CITY COUNCIL MEMBERS:

Present: Mayor Joel Bishop
Mayor Pro Tem Lisa A. Bartlett (*arrived at 5:04 p.m.*)
Council Member Lara Anderson
Council Member Steven H. Weinberg

Absent: Council Member Diane L. Harkey

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Munoz, City Attorney; Kathy Ward, City Clerk; Mike Rose, Emergency Services Manager; Mike Killebrew, Director of Administrative Services; Lt. Mark Levy, Chief of Police; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Bobbi Ogan, Deputy City Clerk; Windy Robles, City Clerk Specialist; DyAnne Weamire, Administrative Secretary; Jackie Littler, Executive Secretary; Brian McClure, Parks Manager; Christy Teague, Economic Development Manager; and John Tilton, City Architect.

City Attorney Munoz stated that staff had an amendment to the Agenda that related to a modification for the Pacific Coast Highway median project. He added that there would need to be a unanimous vote to hear the item as Item #19.

Vote = 3-0 (Bartlett and Harkey Absent)

CLOSED SESSION

City Attorney Munoz indicated there was a need for a Closed Session as follows:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b)(1), (2 cases: AT&T and Scenic Drive)**

RECESS OF CITY COUNCIL MEETING UNTIL 6:00 P.M.

Mayor Bishop recessed the meeting into a Closed Session at 5:03 p.m. pursuant to Government Code Section 54956 *et. seq.*

RECONVENE CITY COUNCIL MEETING

Mayor Bishop called the meeting to order at 6:00 p.m.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
MAY 20, 2008**

CLOSED SESSION ANNOUNCEMENT

City Attorney Munoz stated that there was no announcement.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Richard Gardner, Director of South Coast Water District.

INVOCATION

The Invocation was led by Pastor Craig Whittaker of Capo Beach Calvary.

PRESENTATIONS AND PROCLAMATIONSEmployee Recognition

City Manager Chotkevys introduced Jorge Fuguet who currently works part time for the City's Community Service and Parks Department. He stated that Jorge goes beyond the call of duty. He is also a member of the City's CERT Team who had put in tireless hours during the Santiago Fire.

Mayor Bishop presented Jorge a Certificate of Recognition for his service to the City.

Public Service Week Recognition: Brad Fowler, Kathy Ward, and Kyle Butterwick

Mayor Pro Tem Bartlett stated that she had nominated three (3) employees through Senator Tom Harman's office for the 2008 Public Service Awards. She presented Certificates of Recognition to Brad Fowler, Director of Public Works and Engineering, Kathy Ward, City Clerk, and Kyle Butterwick, Director of Community Development. She had nominated Director Fowler in the Partnership Category for his work on water quality, and City Clerk Ward and Director Butterwick in the Individual Achievement category.

Grand Prix Bike Race

Darin Duhammel provided a report on the upcoming Dana Point Grand Prix Bike Race as well as a PowerPoint presentation. He presented the City Council Members with Dana Point Grand Prix baseball caps as a token of appreciation for their support of the race.

CONSENT CALENDAR

Council Member Anderson removed Item No. 12 and a member of staff removed Item No. 14 from the Consent Calendar.

IT WAS MOVED BY COUNCIL MEMBER STEVEN H. WEINBERG, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, APPROVE THE BALANCE OF THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEMS 12 AND 14.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
MAY 20, 2008**

The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, and Council Member Steven H. Weinberg

NOES: None

ABSENT: Council Member Diane L. Harkey

1. WAIVE THE READING OF ORDINANCES AND APPROVE READING BY TITLE ONLY

APPROVED THE READING BY TITLE ONLY OF ALL ORDINANCES ON THE CONSENT CALENDAR AND THAT FURTHER READING OF SUCH ORDINANCES BE WAIVED.

2. REGULAR MEETING MINUTES, MAY 6, 2008

APPROVED THE MINUTES.

3. PLANNING COMMISSION MEETING MINUTES, APRIL 22, 2008

RECEIVED AND FILED.

4. PLANNING COMMISSION ACTIONS, MEETING OF MAY 13, 2008

RECEIVED AND FILED.

5. CHARITABLE GRANT SUBCOMMITTEE DRAFT MINUTES, APRIL 30, 2008

RECEIVED AND FILED.

6. YOUTH BOARD MEETING MINUTES, APRIL 17, 2008

RECEIVED AND FILED.

7. OCEAN WATER QUALITY SUBCOMMITTEE MEETING MINUTES, MARCH 11, 2008

RECEIVED AND FILED.

8. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR

RECEIVED AND FILED.

**CITY OF DANA POINT, CALIFORNIA
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9. CLAIMS AND DEMANDS

RECEIVED AND FILED.

10. APPROVE AMENDMENT NO. 12 TO CONTRACT AGREEMENT NO. C-8-0370 WITH ORANGE COUNTY TRANSIT AUTHORITY TO PROVIDE SENIOR TRANSPORTATION SERVICES TO THE DEL OBISPO COMMUNITY/SENIOR CENTER THROUGH JUNE 30, 2009

APPROVED AMENDMENT NO. 12 TO THE EXISTING AGREEMENT NO. C-8-0370 WITH ORANGE COUNTY TRANSIT AUTHORITY FOR SENIOR TRANSPORTATION TO THE DEL OBISPO COMMUNITY/SENIOR CENTER THROUGH JUNE 30, 2009 AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.

11. AGREEMENT FOR DISTRICT ATTORNEY PROSECUTION SERVICES

APPROVED A FIVE YEAR AGREEMENT WITH DISTRICT ATTORNEY'S OFFICE OF ORANGE COUNTY TO PROSECUTION SERVICES FOR MUNICIPAL CODE VIOLATIONS FOR CITY OF DANA POINT.

12. ADOPTION OF A RESOLUTION DESIGNATING 34255 PACIFIC COAST HIGHWAY, DANA POINT, CALIFORNIA AS A NO ROLLERSKATING, SKATEBOARDING OR BICYCLING AREA

Council Member Anderson pulled this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Council Member Anderson asked why this item included bicycles as it will preclude people from riding their bikes to the center.

City Attorney Munoz replied that it was meant to keep the kids on BMX bikes from tearing up the property and stated that the site needs to be posted to allow the Sheriff's department to issue tickets.

City Manager Chotkevys stated that the deputies would use their discretion when issuing tickets.

IT WAS MOVED BY COUNCIL MEMBER STEVEN H. WEINBERG, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, ADOPTED RESOLUTION **08-05-20-01** ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING 34255 PACIFIC COAST HIGHWAY, DANA POINT, CALIFORNIA, AS A NO ROLLERSKATING, SKATEBOARDING OR BICYCLING AREA.

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
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The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, and Council Member Steven H. Weinberg

NOES: Council Member Lara Anderson

ABSENT: Council Member Diane L. Harkey

13. AWARD CONTRACT TO UNITED STORM WATER, INC. FOR CATCH BASIN FILTER AND CDS UNIT CLEANING AND MAINTENANCE SERVICES

AWARDED A MAINTENANCE SERVICES CONTRACT TO UNITED STORM WATER, INC. FOR CATCH BASIN FILTER AND CDS UNIT CLEANING; AUTHORIZED UP TO FOUR, OPTIONAL TWO YEAR CONTRACT RENEWALS BEYOND THE ORIGINAL TWO YEAR TERM OF JULY 1, 2008 - JUNE 30, 2010; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE MAINTENANCE SERVICES CONTRACT AND FUTURE AMENDMENTS TO THE CONTRACT.

14. FIRST READING AND INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING ARTICLE 9 TO THE DANA POINT MUNICIPAL CODE INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS"

A member of staff had pulled this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Mayor Bishop felt that the existing cable boxes are not maintained and that was one of the reasons for this item being brought forward.

Mayor Bishop opened the Public Comments.

Ann Anderson, San Clemente, spoke regarding their area receiving DSL service. She stated that AT&T has told them that they would have to receive the service through Dana Point.

John Heffernan, AT&T, stated that it was their intent to perform their network upgrade for the residents of Dana Point. He added that he has been working with City staff to identify places where the cabinets need to be placed. He felt that the proposed Ordinance would set up confrontation and that would not be in anyone's best interest.

Council Member Anderson asked why the box can't be placed in San Clemente for Mrs. Anderson's community.

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John Heffernan replied that the wiring is not always contained within the city boundaries.

City Manager Chotkevys asked if AT&T couldn't relocate the box to San Clemente to better meet the needs of Mrs. Anderson's community.

John Heffernan replied that the limitation for that community is based on the distance from that box. He stated that the addition of a new cabinet to join with the existing copper wiring would provide that community the service.

City Manager Chotkevys asked if AT&T couldn't relocate the existing box across the street into San Clemente and then add the companion box to provide the service.

John Heffernan replied that he did not have the particulars because it is a construction engineering issue but you have to be a certain distance from the cabinet to receive the DSL service and unfortunately that building is just too far.

Mayor Bishop closed the Public Comments.

Mayor Bishop stated that the point of the Ordinance is for Dana Point to say that we are serious about eliminating the blight. He added that are ways for AT&T and Cox to conduct their business within this Ordinance.

Council Member Anderson stated that she was concerned about the screening of the boxes.

IT WAS MOVED BY COUNCIL MEMBER STEVEN H. WEINBERG, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, TO HOLD A FIRST READING AND INTRODUCE AN ORDINANCE ENTITLED: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING ARTICLE 9, INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS" .

The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, and Council Member Steven H. Weinberg

NOES: None

ABSENT: Council Member Diane L. Harkey

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
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15. **SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, MODIFYING CHAPTER 12.14 OF THE DANA POINT MUNICIPAL CODE ADDRESSING NECESSARY CODE REVISIONS FOR PREFERENTIAL PARKING DISTRICTS CITYWIDE**

HELD SECOND READING AND ADOPTED **ORDINANCE 08-05** ENTITLED:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, MODIFYING CHAPTER 12.14 OF THE DANA POINT MUNICIPAL CODE ADDRESSING NECESSARY CODE REVISIONS FOR PREFERENTIAL PARKING DISTRICTS CITYWIDE.

16. **APPROVAL OF FIRST AMENDMENT TO COOPERATION AGREEMENT BETWEEN THE COUNTY OF ORANGE AND CITY OF DANA POINT TO CONTINUE AS "SMALL CITY" PARTICIPANT**

APPROVED THE FIRST AMENDMENT TO THE COOPERATION AGREEMENT BETWEEN THE COUNTY OF ORANGE AND THE CITY OF DANA POINT TO CONTINUE DESIGNATION OF DANA POINT AS A SMALL CITY PARTICIPANT IN THE URBAN COUNTY PROGRAM THROUGH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR FY2009-11, AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT.

PUBLIC COMMENTS

John Chaffetz, Dana Point, stated that he did not feel it was right to schedule a Council meeting on an election day. He asked Council to change the date of their next meeting.

PUBLIC HEARINGS

17. **ZONING CODE UPDATE PROGRAM - ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003**

City Manager Chotkevys provided an introduction of the item.

Director Butterwick summarized the proposed changes to the Zoning Code.

IT WAS MOVED BY COUNCIL MEMBER LARA ANDERSON, SECONDED BY MAYOR PRO TEM LISA A. BARTLETT, THAT THE CITY COUNCIL CONDUCT A PUBLIC HEARING AND INTRODUCE FOR FIRST READING AN ORDINANCE ENTITLED:

**CITY OF DANA POINT, CALIFORNIA
CITY COUNCIL REGULAR MEETING MINUTES
MAY 20, 2008**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003, REVISING THE CITY OF DANA POINT ZONING ORDINANCE TO CORRECT INCONSISTENCIES, CLARIFY EXISTING REGULATIONS, SIMPLIFY THE REVIEW PROCESS, UPDATE "NONCONFORMING USES AND STRUCTURES" CHAPTER, AND PROVIDE FOR AMENDMENTS TO PREVIOUSLY APPROVED DISCRETIONARY PERMITS .

The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, and Council Member Steven H. Weinberg

NOES: None

ABSENT: Council Member Diane L. Harkey

UNFINISHED BUSINESS

18. INTRODUCTION OF CITY'S REDESIGNED WEBSITE

City Clerk Ward thanked City staff for all of their hard work on preparing the City's new website and introduced William Iek of Vision Internet.

William Iek provided a presentation on the City's new website.

Mayor Bishop thanked the staff and stated that the website was beautiful.

City Clerk Ward stated that the website should go live to the public by June 2.

19. PACIFIC COAST HIGHWAY ROADWAY IMPROVEMENTS CONTRACT EXPENDITURE ADJUSTMENT

City Manager Chotkevys provided a staff report.

Mayor Bishop asked if there were any trees in the City to compare these to.

City Manager Chotkevys replied that the palm trees on Selva were similar.

IT WAS MOVED BY COUNCIL MEMBER STEVEN H. WEINBERG, SECONDED BY COUNCIL MEMBER LARA ANDERSON, TO APPROVE AN EXPENDITURE ADJUSTMENT TO SUBJECT CONTRACT, CIP PROJECT #1207.

**CITY OF DANA POINT, CALIFORNIA
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The motion carried by the following vote:

AYES: Mayor Joel Bishop, Mayor Pro Tem Lisa A. Bartlett, Council Member Lara Anderson, and Council Member Steven H. Weinberg

NOES: None

ABSENT: Council Member Diane L. Harkey

NEW BUSINESS

There were no New Business items.

PUBLIC COMMENTS

There were no additional Public Comments.

STAFF REPORTS

There were no Staff Reports.

COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Anderson reported that she attended the following:

- May 12th - Coastal Animal Services Authority meeting.
- May 15th - Library Advisory Board Meeting.
- May 18th - Doheny Blues Festival.

Mayor Pro Tem Bartlett reported that she had attended the following:

- Several TCA Board Meetings.
- May 15th - Attended the South Orange County Association of Mayors meeting at the Mission in San Juan Capistrano for Mayor Bishop.
- May 16th - Attended the ribbon cutting ceremony for Greenfield Communications, a new Dana Point business located on Violet Lantern. They offer state of the art fiber optic technology that is installed underground.
- Doheny Blues Festival last weekend.
- Appreciation Dinner at Camp Pendleton which included the Marines, elected officials and members of the Marine support groups.
- May 19th - Investment Review Committee meeting.

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She reported the following upcoming events:

- May 21st, morning: Orange County Sheriff's Peace Officers Memorial Ceremony in Santa Ana; midday: TCA Budget Workshop and afternoon: the City of Dana Point Street Sweeping meeting at City Hall at 3:00 p.m.
- May 31st - Beta Foster Care charity event at the Fairmont Hotel in Newport Beach.

Council Member Weinberg stated that he had attended the Coastal Commission Meeting in Marina Del Rey where the Town Center Plan was approved with minor modifications. He reported that he had attended the OCFA Budget and Finance Committee. He spoke about the Dana Point Grand Prix Bike Race on June 1st and encouraged everyone to come out and watch the kids' Big Wheel race.

Mayor Bishop reported that the City of Dana Point would be hosting a Teen Safety Conference at Dana Hills High School from 8:00 a.m. - 1:00 p.m. on Saturday, May 31st. The conference is sponsored by the Orange County Sheriff's Department and the Orange County Fire Authority.

He announced the following:

- Boat Show will be held on May 29 through June 1.
- South Coast Medical Center Charity Golf Tournament.
- Attended the Ocean Water Quality meeting where an evaluation on water quality was discussed and the evaluation has indicated that is it the birds that are causing the water quality problems.
- 100% biodegradable doggie bags dispensers have been installed at the top of the stairs at Dana Strands and also at Sycamore Creek Trail.
- That the bluff top trail littering has been cleaned up.

Mayor Bishop submitted other meetings that he attended and upcoming events in writing to the City Clerk (attached as [Exhibit 1](#)).

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Bishop declared the meeting adjourned at 7:03 p.m. and announced that the next Regular Meeting of the City Council will be June 3, 2008, at 5:00 p.m. in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

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EXHIBIT 1

Meetings Attended by Joel Bishop

5/13/08	Ocean Water Quality Subcommittee
5/16/08	Older American's Day presentation at the Senior Center
5/16/08	Office Hours

DRAFT

**CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING MINUTES**

May 13, 2008
7:00 – 8:27 p.m.

City Hall Offices
Council Chamber (#210)
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER – Chairman Denton called the meeting to order.

PLEDGE OF ALLEGIANCE – Commissioner Fitzgerald led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Vice-Chairwoman Michelle Brough, Commissioner Ed Conway, Alternate Commissioner Michael Dec, Chairman Norman Denton, Commissioner Liz Anderson Fitzgerald, and Commissioner J. Scott Schoeffel

Staff Present: Kyle Butterwick (Director of Community Development), John Tilton (City Architect/Planning Manager), Todd Litfin (Assistant City Attorney), Matthew Schneider (Associate Planner), Mark Sutton (Building Official), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: **Minutes of the regular Planning Commission Meeting of April 22, 2008.**

ACTION: **Motion made (Brough) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of April 22, 2008.**
Motion carried 4-0-1. (AYES: Brough, Conway, Denton, Schoeffel NOES: None ABSENT: None ABSTAIN: Fitzgerald)

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 2: A tentative parcel map and conditional use permit to allow the conversion of an approved duplex into a two unit condominium. The property is located in the residential duplex (RD 14) zone and is addressed as 26421 Via California.

Applicant: Michael Spraker
Owners: Esone LLC
Location: 26421 Via California (A.P.N. #123-142-03)

Request: Approval of Tentative Parcel Map TPM2007-113 and Conditional Use Permit CUP08-002 to allow the conversion of an approved duplex into a two unit condominium.

Environmental: This project is categorically exempt (Class 3 - Section 15303 - New Construction or Conversion of Small Structures) from the provisions of the California Environmental Quality Act (CEQA) because it consists of the construction of two new attached residential units. The proposed condominium map is categorically exempt (Class 15 - Section 15315 - Minor Land Divisions) because it will result in the division of property in an urbanized area zoned for residential use which will result in fewer than 4 parcels, it is consistent with the General Plan and zoning, no variances or exceptions are required, all services to the parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent.

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Tentative Parcel Map TPM2007-113 and Conditional Use Permit CUP08-002.

Matt Schneider (Associate Planner) presented the staff report.

There being no requests to speak on this item, Chairman Denton opened and closed the Public Hearing.

ACTION: Motion made (Schoeffel) and seconded (Fitzgerald) to adopt Resolution No. 08-05-13-13 approving Tentative Parcel Map TPM2007-113, Conditional Use Permit CUP08-002. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: None)

E. NEW BUSINESS**ITEM 3: A review of recent updates to the California Building Code and Americans with Disabilities Act.**

Recommendation: That the Planning Commission receives a presentation from the City's Building Official, Mark Sutton, regarding recent updates to California Building Codes and the Americans with Disabilities Act (ADA).

Kyle Butterwick (Director) noted the City's recent requirements to update its building codes to comply with Federal and State statutes. The City is also actively involved in administering ADA requirements. He introduced Mark Sutton, Building Official, to share an overview and summary of the Building Code and ADA requirements.

Mark Sutton (Building Official) presented a short video of the Santiago Fire that occurred in October of 2007; he narrated a slide presentation on Chapter 7A of the Building Code which covers requirements for exterior fortification of structures and high fire hazard areas; and related Title 24 accessibility standards of the Building Code and ADA requirements.

F. STAFF REPORTS

Kyle Butterwick (Director) gave an update on several City issues and projects.

- On May 8th, the Town Center Plan was approved by the California Coastal Commission by a unanimous 12-0 vote. He stated that the plan was a great model of consensus building between Coastal Commission staff and the City.
- A Request for Proposal for contract and design services to start the public improvement design phase in Town Center will be introduced to the City Council in several months.
- The Headlands project to eliminate the mid-access stairway was also considered at the California Coastal Commission on May 8th. The Commission voted 11-1 to keep the access way as originally approved.

Chairman Denton congratulated Kyle Butterwick, Director, and staff for their work on the Town Center. He also stated that the City has a lot to face ahead.

G. COMMISSIONER COMMENTS

Commissioner Schoeffel reported the upcoming Doheny Blues Festival event in May; and the Dana Point Grand Prix of Cycling Race in June. He encouraged everyone to kick off the summer with a great start and attend these City activities.

Commissioner Fitzgerald gave a special thank you on the Town Center to Chairman Denton and Commissioner Schoeffel, who served on the Planning Commission during the year under initial review; she congratulated them for their votes and approval.

Vice-Chairwoman Brough thanked staff for their great work on the Town Center. She also thanked Mark Sutton, City Building Official, for his nice presentation, and noted that it was very informative. She reminded everyone to join the exciting City events.

Commissioner Conway also thanked staff for the success on the Town Center. He also thanked Mark Sutton for his presentation.

H. ADJOURNMENT

Chairman Denton adjourned the meeting to the *next regular* meeting of the Planning Commission held on Tuesday, May 27, 2008, beginning at 7:00 p.m. (or as soon thereafter) in the Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

The meeting adjourned at 8:27 p.m.

Norman Denton, Chairman
Planning Commission

**CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING ACTION AGENDA**

May 27, 2008
7:00 – 7:21 p.m.

City Hall Offices
Council Chamber (#210)
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER – Chairman Denton called the meeting to order.

PLEDGE OF ALLEGIANCE – Vice-Chairwoman Brough led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Vice-Chairwoman Michelle Brough, Commissioner Ed Conway, Alternate Commissioner Michael Dec, Chairman Norman Denton, Commissioner Liz Anderson Fitzgerald, and Commissioner J. Scott Schoeffel

Staff Present: John Tilton (City Architect/Planning Manager), Jennifer Farrell (Assistant City Attorney), Saima Qureshy (Senior Planner), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of May 13, 2008.

ACTION: Motion made (Brough) and seconded (Fitzgerald) to approve the Minutes of the regular Planning Commission Meeting of May 13, 2008. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: None)

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS**ITEM 2: Zoning Code Update Program – Zone Text Amendment ZTA08-0004**Applicant

Owner: City of Dana Point – Community Development Department

Location: Citywide

Request: Request for Zone Text Amendment ZTA08-0004 to correct inconsistencies and provide clarification to existing regulations governing “Alcoholic Beverage Outlets”, and clarify and eliminate conflicting standards related to required landscaping/open space for Residential Zones.

Environmental: The proposed project is found not to have a significant effect on the environment and is therefore exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15305, Class 5 – Minor Alterations in Land Use Limitations. The proposed project involves minor amendments to the Zoning Ordinance.

Recommendation: That the Planning Commission approve the attached draft Resolution, recommending approval and adoption of the proposed Zone Text Amendment to the City Council.

There were no requests to speak on this item.

ACTION: Motion made (Conway) and seconded (Fitzgerald) to adopt Resolution No. 08-05-27-14 recommending to the City Council approval of Zone Text Amendment (ZTA08-0004) revising the City of Dana Point Zoning Ordinance to correct inconsistencies and provide clarification to existing regulations governing “Alcoholic Beverage Outlets”, and to clarify required landscaping standards for residential zones. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: None)

E. NEW BUSINESS

There were no New Business items.

F. STAFF REPORTS

John Tilton (City Architect/Planning Manager) spoke of the California Coastal Commission's suggested modification for the Town Center Plan, scheduled to go before the City Council at their next regular meeting on June 3rd.

G. COMMISSIONER COMMENTS

Commissioner Schoeffel encouraged everyone to attend the Second Annual Dana Point Grand Prix of Cycling Race on Sunday, June 1, 2008; he also expressed that the event will be bigger and better than last year and he would like to see everyone there.

Chairman Denton indicated that he will not be attending the Grand Prix event because he is going fishing at the Lake of the Woods in Northern America.

Commissioner Conway stated that he ran the course of the Cycling Race on Sunday and found how challenging the relay is going to be.

H. ADJOURNMENT

Chairman Denton adjourned the meeting to the *next regular* meeting of the Planning Commission held on Tuesday, June 10, 2008, beginning at 7:00 p.m. (or as soon thereafter) in the Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

The meeting adjourned at 7:21 p.m.

**CITY OF DANA POINT, CALIFORNIA
YOUTH BOARD REGULAR MEETING MINUTES
May 1, 2008**

CALL TO ORDER

The Regular Meeting of the Youth Board of the City of Dana Point, California, was called to order by Chairperson Miyazono at 4:02 p.m. in the City of Dana Point, 33282 Golden Lantern, Dana Point.

ROLL CALL

PRESENT:

Courtney Barrett
Corey Clippinger
Kaylie Fernald
David Heredia
Jennifer Kupferman
Morgan Miyazono
Kristina Spaur

ABSENT:

Alexandra de Peyster
Jonathan Gossett
Matthew Myers

STAFF PRESENT: Jennifer Anderson

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chairperson Miyazono

PUBLIC COMMENTS

None

CONSENT CALENDAR

1. Regular Meeting Minutes – Meeting Minutes from the April 17, 2008 Youth Board meeting approved.

UNFINISHED BUSINESS

There was no unfinished business

CITY OF DANA POINT, CALIFORNIA
YOUTH BOARD REGULAR MEETING MINUTES
May 1, 2008

DISCUSSION ITEMS:

1. Dana Point Arts Festival: Sunday, May 4, 2008

The Youth Board has been requested to participate in the Dana Point Arts Festival to take place on Sunday, May 2, 2008. The Youth Board will assist with set up of the Festival as well as working at the Hands-On Arts Activity Table to assist with a variety of art projects. Board Members de Peyster, Gossett and Myers will volunteer from 10:00 a.m. – 1:00 p.m. Board Members Clippinger, Miyazono and Spaur will volunteer from 1:00 p.m. to 4:00 p.m. All Youth Board members are to report to the *Art Tent* upon arrival to receive further direction from Ms. Karin Schnell.

2. Dana Point Grand Prix: Sunday, June 1, 2008:

The Youth Board discussed this upcoming volunteer event and the volunteer role the Youth Board will serve at the Grand Prix. Staff Advisor Anderson displayed a map of the Grand Prix route as a visual for the Youth Board's volunteer posts and assignments. A volunteer sign up sheet was distributed to the Youth Board members for specific time slots available during the Grand Prix to serve in the capacity of a Participant/Spectator Greeter as well as Litter Patrol. Nine Youth Board members have committed to volunteer at the Grand Prix. Staff Advisor Anderson will share more details about the day as the date nears.

3. Youth Board Recruitment: 2008-2009

Staff Advisor Anderson shared that the recruitment for the 2008-2009 Youth Board began during the week of April 21, 2008 and will continue through Friday, June 20, 2008. Recruitment flyers will be advertised in two local newspapers (Dana Point News and Dana Point Times) and applications will be available at the City Clerk's office or may be downloaded from the City's webpage. Youth Board applications have been mailed to Vice-Chairperson de Peyster for distribution at St. Margaret's Episcopal School. Chairperson Miyazono will deliver the Youth Board applications to Dana Hills High School. Youth Board applications will be delivered to San Clemente High School. Youth Board applications will be mailed to Capistrano Valley Christian High School and Santa Margarita Catholic High School.

LIAISON REPORTS:

STAFF COMMENTS:

None

**CITY OF DANA POINT, CALIFORNIA
YOUTH BOARD REGULAR MEETING MINUTES
May 1, 2008**

BOARD COMMENTS:

None

BOARD REPORTS:

The Youth Board may discuss and act upon matters described under Board Reports; however, items which are not described will be limited to Board reports, announcements or requests for clarification, or factual information, or to placement of matters on the Agenda for a future meeting.

- A. BOARD MEMBER BARRETT**
Pass
- B. BOARD MEMBER CLIPPINGER**
Pass
- C. BOARD MEMBER FERNALD**
Pass
- D. BOARD MEMBER GOSSETT**
Absent
- E. BOARD MEMBER HEREDIA**
Pass
- F. BOARD MEMBER KUPFERMAN**
Pass
- G. BOARD MEMBER MYERS**
Absent
- H. BOARD MEMBER SPAUR**
Pass
- I. VICE-CHAIRPERSON DE PEYSTER**
Absent
- J. CHAIRPERSON MIYAZONO**
Pass

**CITY OF DANA POINT, CALIFORNIA
YOUTH BOARD REGULAR MEETING MINUTES
May 1, 2008**

ADJOURNMENT

There being no further business before the Youth Board at this session, the meeting adjourned at 4:38 p.m.

The next Regular Meeting of the Youth Board will be Thursday, May 15, 2008 at 4:00 p.m. in the Council Chambers, located at 33282 Golden Lantern, Dana Point, California.

APPROVED: May 15, 2008

**CITY OF DANA POINT
TRAFFIC IMPROVEMENT COMMISSION
APPROVED ACTION MINUTES**

Wednesday, April 16, 2008
3:00 p.m.

City Hall Offices
Council Chamber (#210)
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER The meeting was called to order at 3:03 pm.

PLEDGE OF ALLEGIANCE The Pledge of Allegiance was led by Gary Gamm

ROLL CALL

Commissioners Present: Chairman Howorth, Linda Brame, Ahmad Hindiyeh, Gary Kamm, Wayne Vega (arrived during Item #3 discussion).

Staff Present: Sgt. Koehmstedt (Dana Point Police Services); Matthew Sinacori (City Engineer); Brad Fowler (Director of Public Works and Engineering Services); Conrad Lapinski (Traffic Engineer); Gail Alviar (Commission Secretary).

A. PUBLIC COMMENTS

Any person wishing to address the Commission during the Public Comments section or on an Agenda item is asked to complete a "Request to Speak" form. The completed form is to be submitted to City staff prior to the Agenda item being called and discussed.

In order to conduct a timely meeting, there will be a three-minute limit per person for the Public Comments portion of the Agenda. State law prohibits the Commission from taking action on a specific item unless it appears on the posted Agenda.

If anyone has handouts to distribute to the Commission, please follow proper procedure and hand them to the City staff. The City staff will see that they are distributed.

There were no Public Comments.

B. CONSENT CALENDAR

ITEM 1: Approval of Action Minutes from the March 19, 2008 Traffic Improvement Commission Meeting.

ACTION: Motion made by Kamm to approve the Action Minutes; Seconded by HindiyeH. The Action Minutes were approved. (AYES: Howorth, Brame, HindiyeH, Kamm. NOES: None. ABSTAIN: None. ABSENT: Vega). Motion passed 4-0.

C. PUBLIC HEARINGS

There are no Public Hearings.

There were no Public Hearings.

D. PUBLIC MEETINGS

There are no Public Meetings.

There were no Public Meetings.

E. OLD BUSINESS

ITEM 2: Camino Capistrano, New Alternatives for Signage

ACTION: Sinacori presented Commission with an option to install 2 electronic speed limit signs on Camino Capistrano between Camino de Estrella & Camino Mira Costa, as close to mid-block as possible. Commission approved Staff to work with the residents on street to provide acceptable location. Motion made by Brame to approve installation of electronic speed limit signs; Seconded by Howorth. (AYES: Howorth, Brame, HindiyeH, Kamm. NOES: None. ABSTAIN: None. ABSENT: Vega). Motion passed 4-0.

ITEM 3: Street Sweeping, Citywide – Initial Study Session

ACTION: No Action Required – for discussion only at this time. Director Fowler reported background of the issues with Street Sweeping, Citywide. Motion was made by Kamm to establish a City Ordinance to post Street Sweeping Citywide. The motion was not seconded. Motion died. Commission directed Staff provide cost of street sweeping signs; prioritize the areas that need the most attention. No further action will be required by Commission at this point.

F. NEW BUSINESS**ITEM 4: Future Agenda Items**

Traffic Commission Workshop on May 10, 2008: Hindiye, Vega, Kamm will be attending.

G. STAFF REPORTS**ITEM 5: Next meeting date**

ACTION: The next meeting date has been scheduled for Wednesday, May 21st at 3 pm.

H. COMMISSIONER COMMENTS

There were no Commissioner comments.

I. ADJOURNMENT

The *next* regular meeting of the Traffic Improvement Commission will be set at this meeting, May 21st at 3:00 PM (3rd Wednesday of the Month at 3:00 PM), unless otherwise directed by the Commission, and will be subsequently posted.

The meeting adjourned at 4:40 pm.

**Rodney Howorth, Chairman
Traffic Improvement Commission**



City of Dana Point Event Calendar

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
25 Dana Point Fine Arts Show	26 Memorial Day - City Hall Offices Are Closed	27 7:00 PM Planning Commission Meeting	28	29 Dana Point Boat Show	30 Dana Point Boat Show	31 Dana Point Boat Show 8:00 AM Teen Safety Conference 9:00 AM Farmer's Market
1 Dana Point Boat Show Dana Point Grand Prix of Cycling	2	3 Statewide Primary Election 6:00 PM City Council Meeting	4	5 4:00 PM Youth Board Meeting	6	7 9:00 AM Farmer's Market
8	9	10 3:00 PM Ocean Water Quality Meeting 7:00 PM Planning Commission Meeting	11	12	13	14 Dana Point Fine Arts Show 8:00 AM SURF-A-RAMA 9:00 AM Farmer's Market
15 Dana Point Fine Arts Show 8:00 AM SURF-A-RAMA	16	17 6:00 PM City Council Meeting	18 3:00 PM Traffic Improvement Commission	19	20	21 9:00 AM Farmer's Market 10:00 AM SCWD Community Open House
22 3:00 PM Summer Concerts In The Park	23	24 7:00 PM Planning Commission Meeting	25	26	27	28 9:00 AM Farmer's Market
29 4:30 PM Summer Concerts In the Park	30					

Reviewed By:	
DH	<u> X </u>
CM	<u> X </u>
CA	<u> </u>

CITY OF DANA POINT

DATE: JUNE 3, 2008

TO: CITY MANAGER/ HONORABLE MAYOR AND CITY COUNCIL

FROM: MIKE KILLEGREW, DIRECTOR OF ADMINISTRATIVE SERVICES

SUBJECT: CITY TREASURER’S REPORT, APRIL 2008

RECOMMENDED ACTION:

The City Council receive and file the City Treasurer's Report for the month of April, 2008.

DISCUSSION:

Government Code §53600 states that the Treasurer or Chief Financial Officer of the City shall render a report on investments at least quarterly to the legislative body. The City Council has directed that this report be rendered on a monthly basis. The attached monthly Treasurer's Report satisfies the requirements of Government Code §53600.

NOTIFICATION/FOLLOWUP:

None required.

FISCAL IMPACT:

None.

SUPPORTING DOCUMENTS:

PAGE

A. [City Treasurer’s Report, April 2008.....2](#)

B. [Local Agency Investment Fund Account Statement, April 2008.....3](#)

CITY OF DANA POINT CITY TREASURER'S REPORT For the Month Ended April 30, 2008									
CASH ACTIVITY FOR THE MONTH:									
Cash and Investments as of 03/31/08									\$51,316,615.03
Cash Receipts									4,383,861.02
Cash Disbursements									(2,076,294.34)
Cash and Investments as of 04/30/08									<u>\$53,624,181.71</u>
CASH AND INVESTMENT PORTFOLIO AS OF APRIL 30, 2008:									
Type of Investment/Coupon/CUSIP #	Institution/Issuer	Yield to Maturity	Maturity Date	# Days to Maturity	Par Value	Market Value (1)	Book Value		
Demand Deposit	Bank of America	N/A	N/A	N/A	\$375,427.25	\$375,427.25	\$375,427.25 (2)		
Petty Cash	City of Dana Point	N/A	N/A	N/A	4,200.00	4,200.00	4,200.00		
Local Agency Investment Fund	State of California	3.40%	05/01/2008	1	24,919,554.46	24,919,554.46	24,919,554.46		
Treasury Note, 5.625% (9128274F6)	U.S. Government	4.98%	05/15/2008	15	5,950,000.00	5,959,282.00	5,950,000.00		
Treasury Note, 4.625% (912828FT24)	U.S. Government	4.74%	09/30/2008	153	5,950,000.00	6,024,851.00	5,950,000.00		
Treasury Note, 4.875% (912828CF4)	U.S. Government	4.88%	01/31/2009	276	4,025,000.00	4,118,098.00	4,025,000.00		
Treasury Note, 4.875% (912828FE5)	U.S. Government	4.71%	05/15/2009	380	3,975,000.00	4,093,336.00	3,975,000.00		
Treasury Note, 4.000% (912828HD5)	U.S. Government	3.91%	09/30/2009	518	4,150,000.00	4,256,987.00	4,150,000.00		
Treasury Note, 2.125% (912828HP8)	U.S. Government	1.88%	01/31/2010	702	4,275,000.00	4,266,664.00	4,275,000.00		
					<u>\$53,624,181.71</u>	<u>\$54,018,399.71</u>	<u>\$53,624,181.71</u>		
REPORT ON COMPLIANCE WITH STATEMENT OF SAFEKEEPING AND INVESTMENT OF PUBLIC FUNDS									
The City is in compliance with the adopted Statement of Safekeeping and Investment of Public Funds.									
REPORT OF ABILITY TO MEET REQUIRED EXPENDITURES FOR THE NEXT SIX MONTHS									
Based upon currently budgeted revenues and expenditures, the City currently has sufficient liquid financial resources to meet anticipated expenditures during the period 05/01/08 through 11/01/08.									
WEIGHTED AVERAGE MATURITY OF PORTFOLIO									
As of April 30, 2008, the weighted average days to maturity of the City's investment portfolio is 165 days.									
FOOTNOTES TO REPORT/DEFINITION OF TERMS:									
(1) The market value of U.S. Government Securities was provided by the custodial agent, Union Bank For the Local Agency Investment Fund the market value represents the contract value (a copy of the most recent account statement is attached hereto). For all other investments, the market value is equal to book value.									
(2) Book value of demand deposits equals the bank balance minus outstanding checks plus deposits-in-transit.									
Par Value: Equals face value of security (value of the security when it reaches maturity).									
Market Value: The last price for which a security was bought or sold. In this case, the value as of the last day of the month of this report.									
Book Value: The amount at which the security is carried in the City's accounting records (adjusted at year-end for GASB 40 reporting purposes).									

http://laifms.treasurer.ca.gov/RegularStatement.aspx

L-AIF Regular Monthly Statement



Local Agency Investment Fund
P.O. Box 942809
Sacramento, CA 94209-0001
(916) 653-3001

www.treasurer.ca.gov/pmia-laif
May 12, 2008

CITY OF DANA POINT

PMIA Average Monthly Yields

ACCOUNTING MANAGER
33282 GOLDEN LANTERN
DANA POINT, CA 92629

Account Number: 98-30-237

Transactions

<u>Tran Type Definitions</u>		April 2008 Statement		
Effective Date	Transaction Type	Tran Confirm Number	Authorized Caller	Amount
4/15/2008	QRD	1167424	SYSTEM	245,355.46
4/29/2008	RD	1170056	ANDREW GLASS	2,000,000.00

Account Summary

Total Deposit:	2,245,355.46	Beginning Balance:	22,674,199.00
Total Withdrawal:	0.00	Ending Balance:	24,919,554.46

CITY OF DANA POINT

REGISTER OF DEMANDS

	EXPENSES	PREPAIDS	TOTAL
GENERAL FUND	\$509,923.44	\$129,115.25	\$639,038.69
TRUST/AGENCY FUND	5,820.00	660.00	6,480.00
CAPITAL IMPROVEMENTS FUND	278,085.15	0.00	278,085.15
SUPP. LAW ENFORCEMENT SER.	0.00	319.10	319.10
LOCAL LAW ENF. BLOCK GRANT	0.00	0.00	0.00
AB2766 FUND	0.00	0.00	0.00
PARK DEVELOPMENT	0.00	0.00	0.00
FACILITIES IMPROVEMENT FUND	0.00	0.00	0.00
TOTAL	\$793,828.59	\$130,094.35	\$923,922.94

CHECKS: 65939 through 66090

Received and filed by the City Council at its Regular Meeting on June 3, 2008.

City Clerk

City Manager

Mayor

The following demands will be held pending approval by appropriate departments:

None

Agenda Item No. 9

June 3, 2008 (1)

LEGEND

THE REGISTER OF DEMANDS INCLUDES CODING TO IDENTIFY THE DEPARTMENT THAT IS GENERATING EACH CHECK. EACH CODE WILL APPEAR UNDER THE DESCRIPTION COLUMN. A LIST OF CODES AND THE CORRESPONDING DEPARTMENTS FOLLOWS.

**BL - 42 BUILDING
CA - 71 CITY ATTORNEY
CC - 01 CITY COUNCIL
CE - 43 CODE ENFORCEMENT
CD - 41 COMMUNITY DEVELOPMENT
CK - 31 CITY CLERK
CM - 11 CITY MANAGER
CS - 81 COMMUNITY SERVICES
ED - 44 ECONOMIC DEVELOPMENT
EM - 12 EMERGENCY SERVICES
ES - 56 ENGINEERING SERVICES
FA - 21 ADMINISTRATIVE SERVICES
FC - 95 FACILITIES
ND - 99 NON-DEPARTMENTAL
PA - 55 PARKS
PS - 61 POLICE SERVICES
PW - 51 PUBLIC WORKS
RM - 97 RISK MANAGEMENT
SW - 54 SOLID WASTE
SM - 52 STREET MAINTENANCE
TE - 53 TRAFFIC ENGINEERING
VP - 62 VIPS
WQ - 57 WATER QUALITY**

Agenda Item No. 9

6/3/08

(2)

Check Register

ALL Data

Arranged by:
Check Number

Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	PO Date Description	
Checks Printed					
Bank Account :A - Bank Of America					
	00065940	05/15/2008	ALL CITY	ALL CITY MANAGEMENT	
	13201		00007483	07/12/2007 PS CROSSING GUARD SERVICES	2,768.00
				Check Total	2,768.00
	00065941	05/15/2008	AT&T MOBIL	AT&T MOBILITY	
	993756062X0511		00007524	08/30/2007 AS PHONE	39.42
	2008			Check Total	39.42
	00065942	05/15/2008	ATHLETIC	ATHLETIC FIELD SPECIALISTS, INC.	
	2038		00007339	07/11/2007 PA DHHS SPORTS PARK	2,486.25
				Check Total	2,486.25
	00065943	05/15/2008	BADGER	LINDA BADGER	
	3753			05/14/2008 CS RECREATION CLASS REFUND	100.00
				Check Total	100.00
	00065944	05/15/2008	BEACON	BEACON PRINTING	
	969			05/15/2008 ED POSTCARDS	150.85
				Check Total	150.85
	00065945	05/15/2008	BONEQUI	SANDRA BONEQUI	
	3761			05/14/2008 CS RECREATION CLASS REFUND	60.00
				Check Total	60.00
	00065946	05/15/2008	BUSINESS	BUSINESS TELECOMMUNICATION SYS., INC.	
	72089			05/15/2008 FAC PHONE	890.87
				Check Total	890.87
	00065947	05/15/2008	BUSINESSSU	BUSINESS SUPPLY CENTER	
	51121			05/14/2008 PS TONER	919.75
				Check Total	919.75
				April 2008	
	00065948	05/15/2008	CASA	COASTAL ANIMAL SERVICES AUTHORITY	
	05082008		00007390	07/12/2007 ND ANIMAL CONTROL SERVICES	23,833.33
				Check Total	23,833.33
	00065949	05/15/2008	CDWG	CDW GOVERNMENT, INC.	
	BCPS628			05/14/2008 TE ADOBE PHOTOSHOP MEDIA	29.00
				Check Total	29.00
				March 2008	
	00065950	05/15/2008	COMMERC	COMM. FENCE & IRON WORKS, INC.	
	17584		00007543	10/04/2007 PA FENCE. GATE REPAIRS	15,135.00
				Check Total	15,135.00
	00065951	05/15/2008	CORPEXP	CORPORATE EXPRESS	
	82647077		00007309	05/14/2008 CD/BL/CE OFFICE SUPPLIES	243.37
	83605312		00007309	05/14/2008 CD/BL/CE OFFICE SUPPLIES	160.99
	87122262		00007549	10/11/2007 EM OFFICE SUPPLIES	107.99

Agenda Item No. 9

4/3/08

(3)

Check Register

ALL Data

Arranged by:
Check Number

Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	Description	
Checks Printed					
	00065951	05/15/2008	CORPEXP	CORPORATE EXPRESS	
	87153637			05/15/2008 CC OPERATING SUPPLIES	11.91
				Check Total	524.26
	00065952	05/15/2008	COSTCO	COSTCO WHOLESALE	
	05122008			05/14/2008 PS OPERATING SUPPLIES	49.86
				Check Total	49.86
	00065953	05/15/2008	COUNTY	COUNTY OF ORANGE	
	SH20115		00007485	07/12/2007 PS LAW ENFORCEMENT SERVICES	1,864.63
				April 2008 – March 2009	
				Check Total	1,864.63
	00065954	05/15/2008	CRW	CRW SYSTEMS, INC.	
	08-1056			05/15/2008 CD TECH. SUPPORT/ MAINTENANCE	11,000.00
				Check Total	11,000.00
	00065955	05/15/2008	DOHENY	DOHENY VILLAGE HAND CAR WASH	
	CDP90053		00007396	07/12/2007 CM/CD/PW/FAC/PS/VP WASHES	125.60
				Check Total	125.60
	00065956	05/15/2008	EDD	EMPLOYMENT DEVELOPMENT DEPARTMENT	
	21760898			05/14/2008 UNEMPLOYMENT BENEFIT	450.00
				Check Total	450.00
	00065957	05/15/2008	FEDEX	FEDERAL EXPRESS	
	2-69298872		00007388	07/12/2007 ND OVERNIGHT DELIVERY SVCS	249.52
				Check Total	249.52
	00065958	05/15/2008	GULICK	JEAN GULICK AND PHILIP REICHE	
	46728			05/14/2008 CD DEPOSIT REFUND	649.40
				Check Total	649.40
	00065959	05/15/2008	GWIN	KELLY GWIN	
	41528			05/14/2008 PW C&D REFUND	1,030.00
				Check Total	1,030.00
	00065960	05/15/2008	HANNEGAN	HANNEGAN PLUMBING, INC.	
	1207			05/15/2008 FAC REPAIR/MAINTENANCE	2,555.00
				Check Total	2,555.00
	00065961	05/15/2008	HOME	HOME DEPOT	
	04282008		00007378	10/25/2007 FAC MAINTENANCE SUPPLIES	706.06
	04282008A		00007317	04/16/2008 PA SUPPLIES/EQUIPMENT	228.64
				Check Total	934.70
	00065962	05/15/2008	ICC1	INTERNATIONAL CODE COUNCIL, INC.	
	2632636			05/15/2008 BL MEMBERSHIP DUES	100.00
				Check Total	100.00
	00065963	05/15/2008	KEETON	KEETON KREITZER CONSULTING	

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Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	PO Date Description	
Checks Printed					
January – February 2008					
	00065963	05/15/2008	KEETON	KEETON KREITZER CONSULTING	
	02042008		00007595	01/03/2008 CD CONSULTING SERVICES	15,250.25
	03032008		00007595	01/03/2008 CD CONSULTING SERVICES	4,855.36
				Check Total	20,105.61
	00065964	05/15/2008	MINIMUS	MINIMUS	
	05082008			05/14/2008 PS SUPPLIES	169.46
				Check Total	169.46
	00065965	05/15/2008	OCCUPATN	OCCUPATIONAL SERVICES, INC.	
	05132008			05/15/2008 EM ON-SITE CALIBRATION	980.00
				Check Total	980.00
	00065966	05/15/2008	OCTA	ORANGE COUNTY TRANSPORTATION AUTHORITY	
	AR122884		00007367	07/12/2007 CS SENIOR TRANSPORTATION SVC	346.33
				Check Total	346.33
	00065967	05/15/2008	OPTIMA	OPTIMA, INC	
	1281		00007660	03/27/2008 PS PLANNING CALENDAR	854.00
				Check Total	854.00
	00065968	05/15/2008	PARKS	LAWANDA PARKS	
	05132008			05/15/2008 RM INSURANCE REFUND	83.32
				Check Total	83.32
	00065969	05/15/2008	PHILLIPSCO	PHILLIPS 66 CONOCO 76	
	332619436804		00007494	07/26/2007 EM/PA CITY VEHICLE FUEL	325.77
	332619436804-A			05/15/2008 EM FUELS	290.45
				Check Total	616.22
	00065970	05/15/2008	PITNEY	PITNEY BOWES	
	04282008		00007404	07/12/2007 ND POSTAGE METER LEASE	95.86
				Check Total	95.86
April 2008					
	00065971	05/15/2008	PROFSPRT	PROF. SPORTS FIELD MAINTENANCE, INC.	
	080502		00007346	07/12/2007 PA DEL OBISPO PARK	11,051.78
				Check Total	11,051.78
	00065972	05/15/2008	QUIK	QUIKSILVER	
	21160		00007305	07/11/2007 CK COURIER SERVICE	21.36
	21160-A			05/14/2008 COURIER SERVICES	132.85
	21160-B			05/14/2008 COURIER SERVICES	61.75
	21163		00007305	07/11/2007 CK COURIER SERVICE	351.40
				Check Total	567.36
	00065973	05/15/2008	REGISTER	ORANGE COUNTY REGISTER	
	04012008		00007307	10/25/2007 CK LEGAL ADVERTISING	522.34
				Check Total	522.34
	00065974	05/15/2008	RLPRUITT	R.L. PRUITT CONSTRUCTION	

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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
Checks Printed						
	00065974 41269	05/15/2008	RLPRUITT	R.L. PRUITT CONSTRUCTION 05/14/2008	PW C&D REFUND	500.00
					Check Total	500.00
	00065975 38271	05/15/2008	RUBALCANA	BOANERGES RUBALCAVA 05/14/2008	PW C&D REFUND	400.00
					Check Total	400.00
	00065976 40456	05/15/2008	SMEETS	RICHARD SMEETS 05/14/2008	PW C&D REFUND	430.00
					Check Total	430.00
	00065977 05052008	05/15/2008	SOCSTFAM	SOUTH COAST FAMILY MEDI-CENTER, INC. 05/15/2008	AS PREPLACEMENT	155.00
					Check Total	155.00
	00065978 0508 2437161	05/15/2008	SPARKLET 00007386	SPARKLETTS 07/12/2007	ND WATER SERVICE	341.05
					Check Total	341.05
	00065979 7511-76708 7511-76710 7511-76712 7511-76714 7511-76716	05/15/2008	STANDCOF 00007387 00007387 00007387 00007387 00007387	STANDARD COFFEE SERVICE 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007	ND COFFEE SERVICE ND COFFEE SERVICE ND COFFEE SERVICE ND COFFEE SERVICE ND COFFEE SERVICE	30.98 30.98 30.98 30.98 30.98
					Check Total	154.90
	00065980 05082008	05/15/2008	SUTTONM	MARK SUTTON 05/15/2008	BL REIMBURSEMENT	151.98
					Check Total	151.98
				March 2008		
	00065981 0041185-IN	05/15/2008	THELANDSCA	THE LANDSCAPE CENTER 05/14/2008	CIP STREET TREES	5,350.00
					Check Total	5,350.00
	00065982 0653016567	05/15/2008	VERIZONW	VERIZON WIRELESS 05/15/2008	CK PHONE SERVICES	24.99
					Check Total	24.99
	00065983 3747	05/15/2008	WADEG	GRAHAM WADE 05/14/2008	CS RECREATION CLASS REFUND	90.00
					Check Total	90.00
				December 2007		
	00065984 50026	05/15/2008	WESTCSTA	WEST COAST ARBORISTS, INC. 05/15/2008	CS CHRISTMAS TREE	8,900.00
					Check Total	8,900.00
	00065985 5016367	05/15/2008	WHITECAPC 00007314	WHITE CAP CONSTRUCTION SUPPLY 07/11/2007	PA CONSTRUCTION SUPPLIES	76

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Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	PO Date Description	
				Check Total	78.81
				Total of Checks Printed:	117,914.45

Manual Checks

Bank Account	Check Number	Check Date	Vendor ID	Vendor Name	Amount
A - Bank Of America				2004	
00065939	05092008	05/12/2008	IRS	DEPARTMENT OF THE TREASURY	
				TIN: 33-0324131 - 2004 AUDIT	20,187.24
				Check Total	20,187.24
				Total of Manual Checks:	20,187.24
				Report Total:	138,101.69

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Direct	Check Number	Check Date	Vendor ID	Vendor Name		Amount
Dep.	Invoice	Invoice Date	PO Number	PO Date	Description	
cks Printed						
Bank Account :A - Bank Of America						
	00065986	05/23/2008	ALARIO	05/23/2008	MELODY ALARIO CS RECREATION CLASS REFUND	46.00
	4078					
					Check Total	46.00
	00065987	05/23/2008	ALLENR	05/23/2008	ROGER ALLEN CS PARK RENTAL REFUND	30.00
	4110					
					Check Total	30.00
	00065988	05/23/2008	ALLIANTINS	05/22/2008	ALLIANT INSURANCE SERVICES, INC. CS DP GRAND PRIX - INSURANCE	1,053.78
	939951					
					Check Total	1,053.78
	00065989	05/23/2008	ANDERSONR	05/22/2008	ANDERSON REPAIR FAC REPAIR/MAINTENANCE	165.00
	33008					
					Check Total	165.00
	00065990	05/23/2008	ARTSEEK	07/11/2007	ARTSEEK WEB DESIGN PIO WEBSITE MANAGEMENT	990.00
	1707		00007300			
					Check Total	990.00
	00065991	05/23/2008	ASSTDLAB	07/12/2007	ASSOCIATED LABORATORIES WQ WATER SAMPLING SERVICES	276.00
	366645		00007471	07/12/2007	WQ WATER SAMPLING SERVICES	276.00
	366723		00007471			
					Check Total	552.00
	00065992	05/23/2008	ATHLETIC	05/22/2008	April 2008 ATHLETIC FIELD SPECIALISTS, INC. CIP RENNOVATIONS	39,725.00
	2031					
					Check Total	39,725.00
	00065993	05/23/2008	BADGER	05/23/2008	LINDA BADGER CS RECREATION CLASS REFUND	100.00
	3750					
					Check Total	100.00
	00065994	05/23/2008	BIOBAG	04/30/2008	BIOBAG PA DOGGY BAG DISPENSERS	2,700.00
	315319		00007670			
					Check Total	2,700.00
	00065995	05/23/2008	BOVEETRA	05/23/2008	TRACY BOVEE PW C&D REFUND	500.00
	47868					
					Check Total	500.00
	00065996	05/23/2008	BUILDERS	05/23/2008	GALLO BUILDERS PW DEPOSIT REFUND	400.00
	42690					
					Check Total	400.00
	00065997	05/23/2008	CADEPTTRAN	05/22/2008	CALIFORNIA DEPT. OF TRANSPORATATION AS FINGERPRINT APPS	288.00
	679635					
					Check Total	288.00

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Direct	Dep.	Check Number	Check Date	Vendor ID	Vendor Name	Amount
		Invoice	Invoice Date	PO Number	PO Date Description	
Checks Printed						
		00065998	05/23/2008	CASTATEDIS	CALIFORNIA STATE DISBURSEMENT UNIT	
		PP11-2008			05/23/2008 GARNISHMENT	1,051.15
					April 2008	
					Check Total	1,051.15
		00065999	05/23/2008	CLEANST	CLEAN STREET, INC.	
		53173		00007430	07/12/2007 SM STREET SWEEPING SERVICES	17,584.00
					Check Total	17,584.00
		00066000	05/23/2008	CORPEXP	CORPORATE EXPRESS	
		87015826		00007309	05/14/2008 CD/BL/CE OFFICE SUPPLIES	372.99
		87368253		00007402	01/24/2008 ND KITCHEN SUPPLIES	45.62
		87368254		00007402	01/24/2008 ND KITCHEN SUPPLIES	98.16
		87368255		00007402	01/24/2008 ND KITCHEN SUPPLIES	29.29
		87368256		00007402	01/24/2008 ND KITCHEN SUPPLIES	9.76
		87469616		00007309	05/14/2008 CD/BL/CE OFFICE SUPPLIES	-243.37
					Check Total	312.45
		00066001	05/23/2008	COSTAR	ROSS COSTA	
		05142008			05/22/2008 CS SENIOR ENTERTAINMENT	250.00
					Check Total	250.00
		00066002	05/23/2008	COSTCO	COSTCO WHOLESALE	
		05152008			05/22/2008 ND OPERATING SUPPLIES	162.77
					Check Total	162.77
					March 2008	
		00066003	05/23/2008	COUNTY	COUNTY OF ORANGE	
		239023		00007436	07/12/2007 SM STORM DRAIN MAINTENANCE	19,706.35
		239023A		00007429	07/12/2007 SM STREET MAINTENANCE	64,532.31
					Check Total	84,238.66
		00066004	05/23/2008	CR&R	CR&R, INC.	
		0191841		00007455	07/12/2007 SW TAGGING PROGRAM	1,093.00
					Check Total	1,093.00
		00066005	05/23/2008	CR&R/SOL	CR&R, INC./SOLAG	
		04162008		00007681	05/14/2008 SM DUMPSTER RENTAL	1,295.75
					Check Total	1,295.75
		00066006	05/23/2008	CROSSEN	STEVE CROSSEN	
		05192008			05/22/2008 CS RECREATION CLASS INSTRUTOR	340.00
					Check Total	340.00
		00066007	05/23/2008	DATALOK	DATALOK STORAGE CENTER	
		0110-0028976		00007304	07/11/2007 CK MICROFILM STORAGE	67.32
					Check Total	67.32
		00066008	05/23/2008	DIOCARES	MIRIAM DIOCARES	
		3742			05/23/2008 CS PARK RENTAL REFUND	65.00
					Check Total	65.00

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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name Description	Amount
Checks Printed					
	00066009	05/23/2008	DPEA	DANA POINT EMPLOYEE ASSOCIATION	
	PP11-2008			05/23/2008 UNION DUES	240.75
				May 2008	
				Check Total	240.75
	00066010	05/23/2008	EXCELPAY	EXCEL PAVING, INC.	
	1-19152		00007671	04/30/2008 CIP CONCRETE REPAIRS	84,672.32
				Check Total	84,672.32
	00066011	05/23/2008	FANTASCAPE	FANTASCAPES UNLTD INC.	
	41321			05/23/2008 PW C&D REFUND	260.00
				Check Total	260.00
	00066012	05/23/2008	GANAHL	GANAHL LUMBER COMPANY	
	B395369		00007415	07/12/2007 SM MISCELLANEOUS SUPPLIES	22.38
	B397117		00007087	07/01/2007 FAC MAINTENANCE SUPPLIES	18.08
	B397456		00007415	07/12/2007 SM MISCELLANEOUS SUPPLIES	126.56
	B399184		00007087	07/01/2007 FAC MAINTENANCE SUPPLIES	30.34
				Check Total	197.36
	00066013	05/23/2008	GLOBALE	GLOBAL EQUIPMENT COMPANY	
	102572392			05/22/2008 CS SUPPLIES	946.84
				Check Total	946.84
				March 2008	
	00066014	05/23/2008	GMUGEO	GMU GEOTECHNICAL, INC.	
	36996		00007460	02/07/2008 ES GEOTECHNICAL SERVICES	3,879.40
	37069		00007635	02/21/2008 CIP CONSTRUCTION OBSER. SVC.	1,404.00
				Check Total	5,283.40
	00066015	05/23/2008	GOODJ	JOHN GOOD	
	05152008			05/22/2008 PS REIMBURSEMENT	201.10
				Check Total	201.10
				April 2008	
	00066016	05/23/2008	GRANICUS	GRANICUS, INC.	
	7012		00007625	01/31/2008 PIO MINUTESMAKER	26,072.38
				Check Total	26,072.38
				May 2008	
	00066017	05/23/2008	GREEKS	GREEK'S CONCRETE	
	4397		00007422	07/12/2007 SM CONCRETE REPAIR SERVICES	1,700.00
	4398		00007422	07/12/2007 SM CONCRETE REPAIR SERVICES	2,000.00
	4399		00007422	07/12/2007 SM CONCRETE REPAIR SERVICES	1,800.00
	4400		00007422	07/12/2007 SM CONCRETE RPAIR SERVICES	1,600.00
	4401		00007422	07/12/2007 SM CONCRETE REPAIR SERVICES	1,800.00
	4402		00007422	07/12/2007 SM CONCRETE REPAIR SERVICES	3,000.00
				Check Total	11,900.00
	00066018	05/23/2008	HARTZOG	HARTZOG & CRABILL, INC.	
	08-226		00007605	01/10/2008 TE TRAFFIC SIGNAL SERVICES	335.70
				Check Total	335.70
	00066019	05/23/2008	HAWTHORN	HAWTHORNE POWER SYSTEMS	

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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
Checks Printed						
	00066019 P0142902	05/23/2008	HAWTHORN	05/22/2008	HAWTHORNE POWER SYSTEMS EM QUARTERLY SERVICE	796.25
					Check Total	796.25
	00066020 0013415-IN	05/23/2008	HDL	05/22/2008	HDL COREN & CONE AS CONTRACT SVC. PROP. TAX	3,600.00
					Check Total	3,600.00
	00066021 05142008	05/23/2008	HENRYT	05/22/2008	TRICIA HENRY CS SENIOR ENTERTAINMENT	225.00
					Check Total	225.00
	00066022 14034-IN	05/23/2008	HIND 00007299	07/11/2007	HINDERLITER, DE LLAMAS & ASSOCIATES FA SALES TAX ANALYSIS/AUDIT	1,024.37
					Check Total	1,024.37
	00066023 1044981	05/23/2008	HIRSCH	05/23/2008	HIRSCH PIPE & SUPPLY FAC PLUMBING SUPPLIES	112.76
					Check Total	112.76
	00066024 303196-PP11-20 08	05/23/2008	ICM	05/23/2008	ICMA RETIREMENT TRUST-457 EE/ER CONTRIBUTION	12,962.78
					Check Total	12,962.78
	00066025 05202008	05/23/2008	INDEPENDE	05/22/2008	INDEPENDENT PAINTING & REPAIR FAC MAINTENANCE/ REPAIR	500.00
					Check Total	500.00
	00066026 05142008	05/23/2008	JENSENKE	05/22/2008	KENNETH JENSEN CS SENIOR ENTERTAINMENT	125.00
					Check Total	125.00
	00066027 05132008 05132008A 05152008 05212008	05/23/2008	JERVIS 00007565 00007565 00007565	11/01/2007 11/01/2007 05/22/2008 11/01/2007	JERVIS BROS. MOBILE CAR WASH SM DETAIL SERVICE SM DETAIL SERVICE PS CAR WASH SM DETAIL SERVICE	38.00 86.00 13.00 68.00
					Check Total	205.00
	00066028 45562	05/23/2008	KENDLERD	05/23/2008	DEAN KENDLER PW DEPOSIT REFUND	870.00
					Check Total	870.00
	00066029 05212008 4115	05/23/2008	MARTINDAL	05/23/2008 05/23/2008	KATHLEEN MARTINDALE-TULLY INSURANCE REFUND CS PARK RENTAL REFUND	83.32 80.00
					Check Total	163.32
	00066030	05/23/2008	MCCARVER		SAM MCCARVER	

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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
Checks Printed						
	00066030 05192008	05/23/2008	MCCARVER	SAM MCCARVER	CS RECREATION CLASS INSTRUTOR	157.50
				05/22/2008		Check Total 157.50
	00066031 05122008	05/23/2008	MCCOOL	MCCOOL FLOWERS	OPERATING SUPPLIES	78.66
				05/22/2008		Check Total 78.66
	00066032 45961	05/23/2008	MILLERDAV	DAVID MILLER	PW C&D REFUND	90.00
				05/23/2008		Check Total 90.00
	00066033 29210	05/23/2008	MONOGRAM	MONOGRAM MAGIC	VP UNIFORM	1,398.58
				05/22/2008		Check Total 1,398.58
	00066034 46963	05/23/2008	MORGANW	WES MORGAN	PW C&D REFUND	600.00
				05/23/2008		Check Total 600.00
	00066035 45704	05/23/2008	MUNIFINANC	MUNIFINANCIAL	TE PROFESSIONAL SERVICES	3,790.00
				05/22/2008		Check Total 3,790.00
	00066036 05142008	05/23/2008	NETTEKOVEN	COLLEEN NETTEKOVEN	CS RECREATION CLASS INSTRUTOR	95.34
				05/22/2008		Check Total 95.34
	00066037 2007089	05/23/2008	NOBLE	NOBLE CONSULTANTS, INC.	CD PROFESSIONAL SERVICES	412.94
				05/22/2008		Check Total 412.94
	00066038 1072-08-050108	05/23/2008	OCCONSER	ORANGE COUNTY CONSERVATION CORPS	SW RECYCLING CONTAINERS	840.00
			00007456	07/12/2007		Check Total 840.00
	00066039 05162008	05/23/2008	OCTOURISM	ORANGE COUNTY TOURISM COUNCIL	PIO CALIFORNIA WELCOME CTR.	10,000.00
				05/22/2008		Check Total 10,000.00
	00066040 429118976	05/23/2008	OFFDEPOT	OFFICE DEPOT	CS OFFICE SUPPLIES	58.34
			00007360	01/10/2008		Check Total 58.34
	00066041 729380	05/23/2008	OFFICEMAX	OFFICE MAX INCORPORATED	BL TONER	2,317.56
			00007581	03/13/2008		Check Total 2,317.56
	00066042 8871	05/23/2008	PACIFICP	PACIFIC PRODUCTS & SERVICES	CIP SUPPLIES	886.51
				05/22/2008		Check Total 886.51

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Direct	Dep.	Check Number	Check Date	Vendor ID	Vendor Name	Amount
	Invoice	Invoice Date	PO Number	PO Date	Description	
					April 1 – 30, 2008	Check Total 886
	00066043	05/23/2008	PALP		PALP, INC.	
	1111-1		00007642	02/28/2008	CIP CONSTRUCTION SERVICES	123,832.80
					Check Total	123,832.80
	00066044	05/23/2008	PARADISEC		PARADISE CARPET CLEANERS	
	3071			05/22/2008	FAC CARPET CLEANING	3,085.00
	3091			05/23/2008	FAC CARPET CLEANING	1,235.00
					Check Total	4,320.00
	00066045	05/23/2008	PARKS		LAWANDA PARKS	
	3883			05/23/2008	CS PARK RENTAL REFUND	80.00
					Check Total	80.00
					May 2 – 16, 2008	
	00066046	05/23/2008	PERSRTMNT		PERS	
	05-2008-4			05/23/2008	RETIREMENT BENEFIT	36,771.91
					Check Total	36,771.91
	00066047	05/23/2008	PETRONEL		PETRONELLA ROOFING	
	47614			05/23/2008	PW C&D REFUND	500.00
					Check Total	500.00
	00066048	05/23/2008	PLAN		PLANNING DIRECTOR'S ASSOC. OF ORANGE CO.	
	05212008			05/22/2008	CD REPLACE CHECK # 65547	125.00
					Check Total	125
					March 2008	
	00066049	05/23/2008	POWELLPB		PBS&J	
	1005812		00007469	07/12/2007	ES INSPECTION SERVICES	8,191.15
					Check Total	8,191.15
	00066050	05/23/2008	PRICEDEB		DEBORAH PRICE	
	05142008			05/22/2008	CS RECREATION CLASS INSTRUTOR	2,116.80
					Check Total	2,116.80
	00066051	05/23/2008	PROJECT999		PROJECT 999 MEMORIAL RIDE	
	05202008			05/22/2008	CS DONATION	2,500.00
					Check Total	2,500.00
	00066052	05/23/2008	PRUDENTI		PRUDENTIAL OVERALL SUPPLY	
	60133497		00007368	07/12/2007	FAC FLOOR MAT SERVICE	51.20
	60133498		00007368	07/12/2007	FAC FLOOR MAT SERVICE	84.60
	60135828		00007368	07/12/2007	FAC FLOOR MAT SERVICE	51.20
	60135829		00007368	07/12/2007	FAC FLOOR MAT SERVICE	84.60
	60138144		00007368	07/12/2007	FAC FLOOR MAT SERVICE	51.20
	60138145		00007368	07/12/2007	FAC FLOOR MAT SERVICE	84.60
	60141001		00007368	07/12/2007	FAC FLOOR MAT SERVICE	51.20
	60141002		00007368	07/12/2007	FAC FLOOR MAT SERVICE	84.60
					Check Total	543.20
	00066053	05/23/2008	QUIK		QUIKSILVER	

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Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
Checks Printed						
	00066053	05/23/2008	QUIK	QUIKSILVER		
	21181		00007305	07/11/2007	CK COURIER SERVICE	64.08
					Check Total	64.08
	00066054	05/23/2008	REGISTER	ORANGE COUNTY REGISTER		
	04082008			05/22/2008	AS JOB ADVERTISEMENT	98.74
	8585770		00007307	10/25/2007	CK LEGAL ADVERTISING	149.69
	8588581		00007656	03/20/2008	SW ADVERTISING/CLEAN UP DATE	782.58
	8593321		00007307	10/25/2007	CK LEGAL ADVERTISING	294.70
					Check Total	1,325.71
					April 1 - 30, 2008	
	00066055	05/23/2008	REPUBLIC	REPUBLIC ITS		
	4081027		00007452	07/12/2007	TE EXTRAORDINARY SERVICES	342.46
	408235		00007452	07/12/2007	TE EXTRAORDINARY SERVICES	3,340.89
	408236		00007451	07/12/2007	TE MAINTENANCE SERVICES	2,753.58
					Check Total	6,436.93
	00066056	05/23/2008	REVO	REVO BICYCLES		
	7110			05/22/2008	BIKE REPAIR	118.00
					Check Total	118.00
	00066057	05/23/2008	ROCKMAINT	ROCK MAINTENANCE AND JANITORIAL		
	COM02			05/22/2008	CS MAINTENANCE SERVICE	230.00
	COM03			05/22/2008	CS MAINTENANCE SERVICE	230.00
	DPST405		00007418	07/12/2007	SM MAINTENANCE SERVICES	350.00
	DPST408		00007418	07/12/2007	SM MAINTENANCE SERVICES	1,050.00
					Check Total	1,860.00
	00066058	05/23/2008	RUT	RUTAN & TUCKER		
	527498		00007405	07/12/2007	CA/RM LEGAL EXPENSES	8,600.00
	527499		00007405	07/12/2007	CA/RM LEGAL EXPENSES	6,055.34
	527500		00007405	07/12/2007	CA/RM LEGAL EXPENSES	1,508.74
	527501		00007405	07/12/2007	CA/RM LEGAL EXPENSES	7,158.40
	527502		00007405	07/12/2007	CA/RM LEGAL EXPENSES	1,760.00
	527503		00007405	07/12/2007	CA/RM LEGAL EXPENSES	4,686.00
	527504		00007405	07/12/2007	CA/RM LEGAL EXPENSES	4,541.00
	527505		00007405	07/12/2007	CA/RM LEGAL EXPENSES	396.00
	527506		00007405	07/12/2007	CA/RM LEGAL EXPENSES	2,697.87
	527507		00007405	07/12/2007	CA/RM LEGAL EXPENSES	1,193.81
	527508		00007405	07/12/2007	CA/RM LEGAL EXPENSES	660.00
	527509		00007405	07/12/2007	CA/RM LEGAL EXPENSES	467.50
	527510		00007405	07/12/2007	CA/RM LEGAL EXPENSES	6,054.00
	527511		00007405	07/12/2007	CA/RM LEGAL EXPENSES	3,315.00
	527790		00007405	07/12/2007	CA/RM LEGAL EXPENSES	7,363.00
	527803		00007405	07/12/2007	CA/RM LEGAL EXPENSES	6,075.00
	527804		00007405	07/12/2007	CA/RM LEGAL EXPENSES	2,381.13
					Check Total	64,912.79
	00066059	05/23/2008	SAFEWAY	SAFEWAY SIGN COMPANY		

Check Register

ALL Data

Arranged by:
Check Number

Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	Description	
Checks Printed					
	00066059	05/23/2008	SAFEWAY	SAFEWAY SIGN COMPANY	
	73210		00007420	07/12/2007 SM SIGN FABRICATION SERVICES	1,015.16
				Check Total	1,015.16
	00066060	05/23/2008	SAVINGS	SAVINGS EXPRESS	
	1159		00007662	04/02/2008 ES PROFESSIONAL SERVICES	3,690.00
				Check Total	3,690.00
	00066061	05/23/2008	SBC	AT&T LONG DISTANCE	
	05042008		00007400	07/12/2007 ND LONG DISTANCE SERVICE	57.86
				Check Total	57.86
	00066062	05/23/2008	SCRENTAL	SC RENTALS	
	71128			05/22/2008 CS PODIUM / RAY OF LIFE	61.94
				Check Total	61.94
	00066063	05/23/2008	SCSHRED	SOUTHERN CALIFORNIA SHREDDING, INC.	
	3464			05/22/2008 SW SHREDDERS RENTAL	100.00
				Check Total	100.00
				March 20 - May 12, 2008	
	00066064	05/23/2008	SDG&E	SAN DIEGO GAS & ELECTRIC	
	05012008		00007329	07/11/2007 PA SECURITY LIGHTING	708.44
	05012008A		00007328	07/11/2007 PA MEDIANS	3.96
	05012008C		00007441	07/12/2007 TE TRAFFIC SIGNALS	820.84
	05062008		00007440	07/12/2007 TE CITYWIDE STREET LIGHTS	19,940
	05132008		00007441	07/12/2007 TE TRAFFIC SIGNALS	44.63
	05132008A		00007441	07/12/2007 TE TRAFFIC SIGNALS	257.04
	05132008AH		00007379	07/12/2007 FAC CITY FACILITIES	27.80
	05132008H		00007379	07/12/2007 FAC CITY FACILITIES	219.38
	05132008I		00007379	07/12/2007 FAC CITY FACILITIES	9,499.39
	05142008		00007329	07/11/2007 PA SECURITY LIGHTING	89.01
	05142008A		00007329	07/11/2007 PA SECURITY LIGHTING	357.28
	05142008B		00007328	07/11/2007 PA MEDIANS	18.35
	05142008C		00007328	07/11/2007 PA MEDIANS	18.35
	05142008F		00007379	07/12/2007 FAC CITY FACILITIES	2,156.93
	05142008G		00007379	07/12/2007 FAC CITY FACILITIES	118.93
	05152008		00007441	07/12/2007 TE TRAFFIC SIGNALS	68.57
	05152008A		00007441	07/12/2007 TE TRAFFIC SIGNALS	73.16
	05152008H		00007379	07/12/2007 FAC CITY FACILITIES	3,307.89
				Check Total	37,730.73
	00066065	05/23/2008	SHELL	SHELL FLEET PLUS	
	65186280805		00007397	07/20/2007 CM/EM/CD/PW/PS/FAC FUEL	2,560.77
				May 1, 2008	
				Check Total	2,560.77
	00066066	05/23/2008	SIERRA1	SIERRA INSTALLATIONS, INC.	
	SI-28150		00007417	02/28/2008 SM CITYWIDE BANNER SERVICES	5,005.00
				Check Total	5,005.00

Check Register

ALL Data

Arranged by:
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
cks Printed						
	00066067	05/23/2008	SIERRAAN	SIERRA ANALYTICAL LABS, INC.		
	8E12022		00007478	07/12/2007	WQ ANALYTICAL TESTING SRVCS	320.00
					Check Total	320.00
	00066068	05/23/2008	SKYLINE	SKYLINE PEST CONTROL		
	59229		00007369	07/12/2007	FAC PEST CONTROL SERVICES	765.00
					Check Total	765.00
				February 13 - May 6, 2008		
	00066069	05/23/2008	SOCSTWD	SOUTH COAST WATER DISTRICT		
	05022008		00007326	07/11/2007	PA PARK WATER	1,207.45
	05022008A		00007325	07/11/2007	PA MEDIANS/R-O-W'S	130.56
	05022008B		00007325	07/11/2007	PA MEDIANS/R-O-W'S	53.30
	05022008C		00007325	07/11/2007	PA MEDIANS/R-O-W'S	53.30
	05022008D		00007325	07/11/2007	PA MEDIANS/R-O-W'S	75.85
	05022008E		00007325	07/11/2007	PA MEDIANS/R-O-W'S	143.50
	05022008F		00007325	07/11/2007	PA MEDIANS/R-O-W'S	20.50
	05022008G		00007325	07/11/2007	PA MEDIANS/R-O-W'S	26.65
	05022008H		00007325	07/11/2007	PA MEDIANS/R-O-W'S	98.40
	05132008		00007326	07/11/2007	PA PARK WATER	42.23
	05132008A		00007326	07/11/2007	PA PARK WATER	1,278.52
	05132008AA		00007325	07/11/2007	PA MEDIANS/R-O-W'S	159.17
	05132008AB		00007325	07/11/2007	PA MEDIANS/R-O-W'S	154.71
	05132008AC		00007325	07/11/2007	PA MEDIANS/R-O-W'S	319.44
	05132008AD		00007325	07/11/2007	PA MEDIANS/R-O-W'S	1,389.52
	05132008AE		00007325	07/11/2007	PA MEDIANS/R-O-W'S	55.89
	05132008AF		00007325	07/11/2007	PA MEDIANS/R-O-W'S	186.85
	05132008AG		00007325	07/11/2007	PA MEDIANS/R-O-W'S	135.12
	05132008AH		00007325	07/11/2007	PA MEDIANS/R-O-W'S	273.98
	05132008AI		00007325	07/11/2007	PA MEDIANS/R-O-W'S	629.54
	05132008AJ		00007325	07/11/2007	PA MEDIANS/R-O-W'S	61.29
	05132008AK		00007325	07/11/2007	PA MEDIANS/R-O-W'S	45.65
	05132008AL		00007325	07/11/2007	PA MEDIANS/R-O-W'S	135.12
	05132008B		00007326	07/11/2007	PA PARK WATER	426.75
	05132008C		00007326	07/11/2007	PA PARK WATER	83.19
	05132008D		00007326	07/11/2007	PA PARK WATER	1,295.68
	05132008E		00007326	07/11/2007	PA PARK WATER	1,241.36
	05132008F		00007326	07/11/2007	PA PARK WATER	1,724.24
	05132008G		00007326	07/11/2007	PA PARK WATER	943.54
	05132008H		00007326	07/11/2007	PA PARK WATER	101.55
	05132008I		00007326	07/11/2007	PA PARK WATER	438.67
	05132008J		00007326	07/11/2007	PA PARK WATER	206.94
	05132008K		00007325	07/11/2007	PA MEDIANS/R-O-W'S	878.73
	05132008L		00007325	07/11/2007	PA MEDIANS/R-O-W'S	69.23
	05132008M		00007325	07/11/2007	PA MEDIANS/R-O-W'S	91.29
	05132008N		00007325	07/11/2007	PA MEDIANS/R-O-W'S	24.87
	05132008O		00007325	07/11/2007	PA MEDIANS/R-O-W'S	64.13
	05132008P		00007325	07/11/2007	PA MEDIANS/R-O-W'S	30.83
	05132008Q		00007325	07/11/2007	PA MEDIANS/R-O-W'S	52.45

Vendor Item No. 9
 6/3/08 17

ALL Data

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		00066069	05/23/2008	SOCSTWD	SOUTH COAST WATER DISTRICT	
		05132008R		00007325	07/11/2007 PA MEDIANS/R-O-W'S	22.01
		05132008S		00007325	07/11/2007 PA MEDIANS/R-O-W'S	179.58
		05132008T		00007325	07/11/2007 PA MEDIANS/R-O-W'S	837.95
		05132008U		00007325	07/11/2007 PA MEDIANS/R-O-W'S	508.88
		05132008V		00007325	07/11/2007 PA MEDIANS/R-O-W'S	89.43
		05132008W		00007325	07/11/2007 PA MEDIANS/R-O-W'S	610.10
		05132008X		00007325	07/11/2007 PA MEDIANS/R-O-W'S	42.23
		05132008Y		00007325	07/11/2007 PA MEDIANS/R-O-W'S	42.23
		05132008Z		00007325	07/11/2007 PA MEDIANS/R-O-W'S	44.51
		1446		00007480	11/15/2007 WQ MAINTENANCE SERVICES	12,920.00
		1449		00007434	01/10/2008 SM STORM DRAIN MAINTENANCE	460.00
					Check Total	30,106.91
		00066071	05/23/2008	TAITMIRI	MIRIAM TAIT	
		05142008			05/22/2008 CS RECREATION CLASS INSTRUTOR	280.00
					Check Total	280.00
		00066072	05/23/2008	THIRTIET	THIRTIETH STREET ARCHITECTS, INC.	
		05012008		00007584	11/29/2007 ED FEASIBILITY STUDY	1,050.00
					Check Total	1,050.00
		00066073	05/23/2008	TRAFCONT	TRAFFIC CONTROL SERVICES, INC.	
		851572		00007453	07/12/2007 TE TRAFFIC SIGN FABRICATION	397.05
					Check Total	397.05
		00066074	05/23/2008	TRUGREEN	TRUGREEN LANDCARE	
		6138617			05/22/2008 CIP MEDIANS LANDSCAPING	1,100.00
		6143428		00007570	11/08/2007 PA EXTRAORDINARY SERVICES	950.00
		6143964		00007355	01/24/2008 PA MEDIANS & R-O-W'S	185.00
		6158891		00007355	01/24/2008 PA MEDIANS & R-O-W'S	990.00
					Check Total	3,225.00
		00066075	05/23/2008	TSF	TSF CONSTRUCTION SERVICES, INC.	
		7262			05/22/2008 FAC COMM. CTR. SIGNAGE	1,500.00
					Check Total	1,500.00
		00066076	05/23/2008	UNION	UNION BANK OF CALIFORNIA	
		467078		00007297	07/11/2007 FA INVESTMENT CUSTODIAL SVCS	291.67
					Check Total	291.67
		00066077	05/23/2008	UNITEDS	UNITED SITE SERVICES OF CA, INC.	
		1-787652			05/22/2008 FAC PORTABLE TOILETS RENTAL	346.90
					April 2008	346.90
					Check Total	346.90
		00066078	05/23/2008	UNITEDST	UNITED STORM WATER, INC..	
		SW22355		00007432	07/12/2007 SM CLEANING & DISPOSAL SVSC	3,000.00
		SW22400		00007432	07/12/2007 SM CLEANING & DISPOSAL SVSC	3,000.00
		SW22402		00007432	07/12/2007 SM CLEANING & DISPOSAL SVSC	3,000.00

enda Item No. 6/3/08

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Arranged by:
Check Number

Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	PO Date Description	
Checks Printed					
	00066078	05/23/2008	UNITEDST	UNITED STORM WATER, INC..	
	SW22403		00007432	07/12/2007 SM CLEANING & DISPOSAL SVSC	3,000.00
				Check Total	12,000.00
	00066079	05/23/2008	UNITEDWAY	O.C. UNITED WAY	
	PP11-2008			05/23/2008 CONTRIBUTIONS	65.00
				Check Total	65.00
	00066080	05/23/2008	UNITSTOR	UNITED STORM WATER, INC.	
	SW22358		00007634	02/21/2008 WQ HOA INCENTIVE PROG.	120.00
	SW22359		00007634	02/21/2008 WQ HOA INCENTIVE PROG.	600.00
				Check Total	720.00
April 1 - 30, 2008					
	00066081	05/23/2008	USBANK1	U.S. BANK	
	1111-1		00007659	03/20/2008 CIP ESCROW NO. 153495306331	13,759.20
				Check Total	13,759.20
	00066082	05/23/2008	VANSKOYOC	VAN SCOYOC ASSOCIATES, INC.	
	27534		00007481	07/12/2007 WQ CONSULTANT SERVICES	4,457.02
				Check Total	4,457.02
	00066083	05/23/2008	VERIZONW	VERIZON WIRELESS	
	653016564			05/22/2008 EM PHONE SERVICES	156.93
	653016565			05/22/2008 EM PHONE SERVICES	1.75
	653016566			05/22/2008 TE PHONE SERVICES	40.32
				Check Total	199.00
	00066084	05/23/2008	VL SYSTE	VL SYSTEMS, INC	
	69428		00007393	07/12/2007 ND TECHNICAL SUPPORT	4,375.00
				Check Total	4,375.00
January - April 2008					
	00066085	05/23/2008	VOLZ	DAVID VOLZ DESIGN, INC..	
	417730			05/22/2008 PA CONSTRUCTION DOCUMENTS	5,130.00
	417766			05/22/2008 PA CONSTRUCTION DOCUMENTS	5,850.00
	417794			05/22/2008 PA CONSTRUCTION DOCUMENTS	650.00
				Check Total	11,630.00
	00066086	05/23/2008	WEETELING	DARYL R. WEETELING	
	44861			05/23/2008 PW C&D REFUND	900.00
				Check Total	900.00
	00066087	05/23/2008	WELLDYNE	WELLDYNERX	
	SLS086080		00007651	03/05/2008 SW SHARPS CONTAINER	45.32
	SLS086109		00007651	03/05/2008 SW SHARPS CONTAINER	21.91
	SLS088431		00007651	03/05/2008 SW SHARPS CONTAINER	287.08
				Check Total	354.31
April 2008					
	00066088	05/23/2008	WESTCSTA	WEST COAST ARBORISTS, INC.	
	51359		00007550	10/11/2007 PA TRIMMING & REMOVAL TREES	21,000.00
	51962			05/22/2008 CIP STREET TREE REPLACEMENT	1,556.00

Check Register

ALL Data

Arranged by:
Check Number

Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	Description	
Checks Printed					
	00066088	05/23/2008	WESTCSTA	WEST COAST ARBORISTS, INC.	
	52272		05/22/2008	CIP STREET TREE REPLACEMENT	389.00
	52418		00007613	PA CITY WIDE TREE TRIMMING	3,117.00
	52419		05/22/2008	CIP STREET TREE REPLACEMENT	1,945.00
	52420		00007613	PA CITY WIDE TREE TRIMMING	38,391.46
				Check Total	66,398.46
	00066089	05/23/2008	WHITECAPC	WHITE CAP CONSTRUCTION SUPPLY	
	9027911-01		00007314	PA CONSTRUCTION SUPPLIES	322.51
				Check Total	322.51
	00066090	05/23/2008	ZEI	ZEISER KLING CONSULTANTS, INC.	
	28363		00007465	02/13/2008 ES THIRD PARTY GEOTECHNICAL	526.25
	28453		00007465	02/13/2008 ES THIRD PARTY GEOTECHNICAL	873.75
	28647		00007465	02/13/2008 ES THIRD PARTY GEOTECHNICAL	653.75
	28649		00007465	02/13/2008 ES THIRD PARTY GEOTECHNICAL	775.00
	28650		00007465	02/13/2008 ES THIRD PARTY GEOTECHNICAL	1,180.00
				Check Total	4,008.75
				Total of Checks Printed:	785,821.25
				Report Total:	785,821.25

CITY OF DANA POINT

AGENDA REPORT

Reviewed By:	
DH	<input checked="" type="checkbox"/>
CM	<input checked="" type="checkbox"/>
CA	<input type="checkbox"/>

DATE: JUNE 3, 2008

TO: CITY MANAGER / HONORABLE MAYOR AND CITY COUNCIL

**FROM: MIKE KILLEBREW, DIRECTOR OF ADMINISTRATIVE SERVICES
JENNIFER ANDERSON, MANAGEMENT ANALYST**

**SUBJECT: TRANSIENT OCCUPANY TAX INSURANCE RENEWAL FOR
FY2008/2009**

RECOMMENDED ACTION:

That the City Council ratify the renewal of business interruption insurance coverage obtained from Landmark American Insurance Company (Landmark) for protection of Transient Occupancy Tax ("TOT") revenues for the policy period of June 17, 2008 to June 17, 2009, at a premium of \$67,562.34.

DISCUSSION:

The current TOT insurance policy covers the City in the event TOT revenues are negatively impacted by damage to Dana Point hotels as may be caused by floods, earthquakes, other perils or acts of terrorism. Estimated to provide approximately 35% of the City's General Fund revenue in FY2008/2009, it is prudent to invest in such insurance to ensure funds are available to provide critical municipal services, at all times and in any event. The City's insurance broker has for the past three years only been able to secure, and it is staff's recommendation to secure, \$5 million of coverage given reinsurance agreements entered into by Landmark American Insurance Company ("Landmark"), the insurer.

On May 28, 2008 the City's insurance agent, Tutton Insurance, provided staff with a proposal to renew the current insurance policy with Landmark at \$64,344.84, plus additional terrorism risk insurance coverage at \$3,217.50, together totaling the \$67,562.34 renewal amount. The current insurance policy expires on June 17, 2008, while the proposed renewal will cover, without interruption, the ensuing year ending June 17, 2009. Based on quotes received a year ago, the adopted budget includes \$53,000 for this proposed renewal. A budget adjustment is not necessary to cover the \$14,562.34 overage due to savings realized in other areas of the City's insurance budget.

The TOT policy, again covering floods, earthquakes and other perils, includes varying deductible amounts for each type of event. The \$5 million maximum coverage is per event, per location or per year. In the case of earthquake or flood, the coverage includes a 10 day waiting period, subject to a \$25,000 minimum deductible, while the deductible for all other perils is \$5,000.

Landmark is a non-admitted carrier but holds an A.M. Best Rating of "A" for both financial strength and for credit rating. In addition, Staff contacted the State Department of Insurance and confirmed that although Landmark is not "non-admitted" in California, they did register and provide financial information such that the State has qualified and included Landmark on its "Surplus Line" list. Since it is difficult to procure insurance for TOT revenue, staff is seeking the City Council's ratification in its binding of the renewal in insurance per the attached proposal.

STRATEGIC PLAN IMPLEMENTATION:

Achieve total excellence in municipal services and City administration/planning with excellent customer service and cost-effectiveness.

FISCAL IMPACT:

There are sufficient funds in the adopted FY2008/2009 budget to cover the \$67,562.34 proposed outlay to secure TOT interruption insurance.

ACTION DOCUMENT:

PAGE

A. [Summary of Proposal](#)

3

ACTION DOCUMENT A

Effective Date: 06/17/2008 to 06/17/2009
Prepared Date: 05/23/2008

Presented By:
Ron Meek
License # 0570425

Business Insurance Proposal

For

City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Tutton Insurance Services, Inc.

**Tutton Insurance Services
Mission Statement**

Tutton Insurance Services, Inc. is a leader in providing the highest quality insurance products and services to the business community.

We consistently deliver the most competitive products available through our excellent relationships with strong, stable Insurance carriers.

Our dedicated team of professionals, utilizing state of the art information technology, are passionate about meeting the needs of our clients in a timely and efficient manner.

We accomplish this in a friendly work environment where each team member is recognized and rewarded for their contribution to the company's goals with an emphasis on the development of personal and professional growth for all employees.

Team Members

Insurance Coverage Proposal

Your Insurance Team Members

Service Team	Title	Direct Contact Information
Ron Meek	Senior Vice President	<i>Phone (949) 261-3088 Fax (949) 261-3788</i>
Sonya Silva, CIC	Executive Marketing Service Representative	<i>Phone (949) 261-3089 Fax (949) 261-3789</i>
Valerie Gallardo	Executive Customer Service Representative	<i>Phone (949) 417-4054 Fax (949) 417-1033</i>
Susan Rojas	Certificate Department	<i>Phone (949) 417-4049 Fax (949) 261-3791</i>
Kelley Irish	Employee Benefits/Life	<i>Phone (949) 261-4042 Fax (949) 417-1048</i>
Diane Harroun	Claims	<i>Phone (949) 261-3080 Fax (949) 261-3780</i>

General Office Phone (949) 261-5335

General Office Fax (949) 261-1911

Named Insured & Locations**First Named Insured:**

1. City of Dana Point

Covered Premises:

1. Blue Lantern
2. Inn by the Sea
3. Capistrano Seaside
4. Capistrano Surfside
5. Capo Beach Resort
6. Dana Point Marina Inn
7. Doubletree
8. Dana Marina Inn
9. Marriott Laguna Cliff
10. Dana Point Harbor Inn
11. Ritz Carlton
12. St. Regis Resort
14. Dana Point Inn/Holiday Inn Express

First Named Insured:

If there is more than one insured, the term "First Named Insured", provides that the insurance company recognizes this entity as being:

- Responsible for payment of premium.
- Authorized to make changes in the policy terms with the company's consent.
- The only one authorized to cancel a policy.
- The only one designated to receive notice of cancellation.

Property Coverage

CARRIER: Landmark American Insurance Company (AM Best Rated: A XI)

Location #1: Various Per Schedule on file with the Carrier

Business Interruption Coverage

Limit	Coinsurance	Deductible	Valuation	Perils
\$5,000,000 Per Occurrence and Annual Aggregate as Respects EQ and Flood	100%	10 Day Waiting Period subject to a minimum of \$25,000 per Occurrence as respects Flood and EQ; \$5,000 All Other Perils	Actual Loss Sustained	All Risk Including EQ & Flood - Special Form

(Based on Total Values of \$12,375,000)

EXCLUSIONS:

Electronic Data
Fungus
Pathogenic or Poisonous Biological or Chemical Material
Asbestos
and all other Mandatory Company Exclusions as defined in the policy form per expiring.

CONDITIONS:

Values must be reported at 100% annual
25% Minimum Earned at Inception
Scheduled Limit of Liability
Coverage contingent upon an insured peril causing an interruption of The City's transient
occupancy tax receipts.
Non-Adjustable

PREMIUM:

\$62,395 + 1,949.84 taxes = \$64,344.84

Optional Terrorism coverage: Additional premium of \$3,120 plus \$97.50 t/f.

Premium Summary
Insurance Company – Landmark American Ins. Co. AMBEST RATING AXII

Property-Business Interruption Incl EQ & Flood	\$62,395
TRIA Fee (Optional) \$2,755 + \$87.47 <i>lf</i>	Optional
Wholesale Broker Fee	Waived
Taxes and Fees	\$1,949.84
TOTAL PREMIUM:	\$64,344.84

This Quote is Valid to: 6/17/08

Payment Terms

The Annual Premium of \$64,344.84. may be paid in full or you may elect to finance the premium. In order to finance, a deposit of \$16,086.21 is required upon binding coverage. The balance will be financed into nine monthly installments of \$5,602.81 with an A.P.R of 10.65% and a Finance Charge of \$2,166.66 through Western Pacific Finance.

Conditions to Bind:

- Check made payable to Tutton Insurance-either for the down payment or full amount
- Acceptance of Proposal form signed (Attached)
- Signed D-1 Form attached

Acceptance of Proposal
AGENCY BILL / FINANCED/ PAID IN FULL

I, AS THE INSURED, ACCEPT THE TUTTON INSURANCE SERVICES PROPOSAL AS PRESENTED. I UNDERSTAND THE PROPOSAL IS FOR ILLUSTRATION PURPOSE ONLY AND COVERAGES OUTLINED ARE SUBJECT TO THE INSURANCE POLICY TERMS, CONDITIONS, LIMITATIONS, AND EXCLUSIONS.

IT IS FURTHER UNDERSTOOD AND AGREED THAT THE POLICY AND BROKER FEES CHARGED ON THIS PROPOSAL ARE FULLY EARNED AND WILL NOT BE RETURNED IF THIS POLICY IS CANCELED FOR ANY REASON (INCLUDING NON-PAYMENT TO A FINANCED COMPANY).

I UNDERSTAND THAT NO INSURANCE COVERAGE WILL BE BOUND UNTIL MY PREMIUM DEPOSIT IS RECEIVED AND ACKNOWLEDGED BY TUTTON INSURANCE SERVICES.

Signature of Insured and Official Title

Date

Line of Business

Payment Option

Finance

Paid In Full

Company Name

Insurance Company Status
Tutton Insurance is not responsible for any changes
in the rating or financial condition of the carrier(s) being presented.

Note

This proposal is based upon the information made available to us and is offered as a brief description of the coverage only. The complete terms and conditions of the coverage are set forth by the applicable insurance policy and endorsements.

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	<u>X</u>
CM	<u>X</u>
CA	_____

DATE: JUNE 3, 2008

TO: CITY MANAGER/ HONORABLE MAYOR AND CITY COUNCIL

**FROM: MIKE KILLEBREW, DIRECTOR OF ADMINISTRATIVE SERVICES
JENNIFER ANDERSON, MANAGEMENT ANALYST**

SUBJECT: 2008-2009 LAW ENFORCEMENT SERVICES AGREEMENT

RECOMMENDED ACTION:

That the City Council approve the Law Enforcement Services Agreement with the County of Orange for law enforcement services for the 2008-2009 fiscal year and authorize the City Manager to execute the agreement.

DISCUSSION:

The City of Dana Point contracts with the Orange County Sheriff's Department ("OCSD") for dedicated law enforcement services. The OCSD is responsible for providing professional, responsive law enforcement services to our residents, businesses and visitors. Attached is the proposed Law Enforcement Services Agreement ("OCSD Agreement") for fiscal year 2008-2009.

The OCSD Agreement provides for primarily the same staffing level as is in place currently, with a few minor percentage adjustments to positions shared with other area contract cities that are dedicated particularly to traffic and auto theft functions. It is important to point out that OCSD continues to provide outstanding service to the City. Police Services continues to develop and train their sworn and professional staff in the COPS model policing philosophy that has been implemented in Dana Point. In keeping with that philosophy, Police Services has formed the Community Services Unit ("CSU"). This CSU unit continues to work closely with Code Enforcement and the City Attorney's Office to deal with public nuisances and other misdemeanor crime(s) that otherwise would not garner the attention of the District Attorney's Office. Working together, this approach has been very successful in dealing with the "broken window" aspect of community-based policing. The CSU unit will work with the community in untraditional partnerships to solve community problems and foster an open relationship between the citizens and Police Services.

Chief of Police Services Mark Levy and his staff made two substantial policy changes late last year, one being the deployment of the City Council approved police resources at our schools. With those additional, dedicated resources the second policy change was effected by way of an enhanced level of reporting of on campus petty thefts (i.e. larceny) and burglaries that historically have gone unreported by students. This enhanced reporting led to the appearance of an increase in larcenies and burglaries, while the balance of Part I crimes, (violent crimes against persons) remained constant from calendar year 2006 to 2007. It is worthy to note that it appears that there is a leveling off of Part I crimes after several years of steady decline. It is also important to point out that when we have been impacted by serious Part I crime, the team of Deputies assigned to Dana Point, under the extremely capable leadership of Chief of Police Mark Levy, have been able to respond in an outstanding fashion to any situation.

The County and the Association of Orange County Deputy Sheriffs' reached agreement earlier this fiscal year on a labor contract. The new contract was retroactive to October 2006 and will run to October 2009. The contract called for general salary increases as follows: 4.75% retroactive to October 2006; 4.6% effective in October 2007; and 3.0% effective October 2008. The net effect on the FY2007-08 budget was a 5.4% increase. The City Council recently approved an amendment of the Police Service's FY2007-08 budget for the OCSD contract to cover both the retroactive and current year costs of the new agreement. The adjusted FY 2007-08 budget for the OCSD contract stands at \$8,335,000.

The base agreement's costs include direct and shared salaries, wages, benefits, services, supplies and transportation expenses, as well as division, department and County General (CWCAP) overhead.

The Law Enforcement Services Agreement for FY 2008-2009 also includes costs for replacing the existing Patrol Video Systems ("PVS") that OCSD uses in their vehicles. The current PVS is obsolete and by the end of the calendar year, manufacturers will no longer provide support. The new PVS is state of the art and will provide the following benefits, among others:

- Better video quality and more reliable evidence;
- No moving parts, resulting in less downtime and maintenance;
- More detailed information displayed on the video such as GPS location, vehicle speed, officer's name etc.;
- Wireless download of video equates to deputies not having to handle the tapes;
- Better security of the video and a chain of custody log;
- Immediate access to the video via networked computers;
- Ability to quickly copy video to DVD or email video clips;
- Videos may be searched by date, unit number, time, deputy, etc., thus reducing time spent retrieving and viewing tapes;

The maintenance and eventual replacement/upgrade costs of the PVS system are included in the base services agreement for FY 2008-09 and will not result in additional charges of said PVS during the period of July 1, 2008 through June 30, 2009.

FISCAL IMPACT:

Looking forward to FY2008-09, the proposed base agreement is for \$8,558,972, or 2.9% more than the adjusted FY2007-08 contract amount. The increase is mostly attributable to the aforementioned labor agreement. The FY2008-09 budget has not been adjusted since it was adopted a year ago June, and stands at \$8,345,000, or \$213,972 less than the proposed base contract amount of \$8,558,972.

In addition, however, there is a one-time acquisition cost for the new PVS of \$93,652. Combined, the base agreement and PVS acquisition cost bring the FY2008-09 OCSD contract to \$8,652,624. The specifics of the FY 2008-09 budget adjustment will be determined as staff closes out FY 2007-08.

ACTION DOCUMENT:

- A. Law Enforcement Services Agreement (Hard copies provided)
- Attachment A: City of Dana Point Ordinance No. 90-07
 - Attachment B: County Billing Policy
 - Attachment C: Policy for Distribution of Forfeited and Seized Assets
 - Attachment D: Resolution No. 00-07-25-03
 - Attachment E: Traffic Violator Apprehension Program

(Hard copies will be provided of all attachments)

CITY OF DANA POINT
MEMORANDUM

Reviewed By:	
DH	X
CM	X
CA	X

DATE: JUNE 3, 2008

TO: CITY COUNCIL

FROM: BRAD FOWLER, DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES

SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING ARTICLE 9 TO THE DANA POINT MUNICIPAL CODE INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS"

RECOMMENDED ACTION

That the City Council Adopt an Ordinance of the City of Dana Point (Action Document A) entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING ARTICLE 9, INCLUDING SECTIONS 14.01.780 THROUGH 14.01.950, ENTITLED "CONSTRUCTION OF CABLE COMMUNICATIONS SYSTEMS"

BACKGROUND:

The City has been approached by our franchised communications cable service providers AT&T and Cox regarding plans for additional cable system facilities, requesting public right-of-way encroachment permits. Staff has conducted a number of meetings with these providers to ascertain their construction plans. Given the sensitivity in the community for the proliferation of new utility boxes in the public view, Staff has provided an ordinance for City Council consideration in detailing the Encroachment Permit process, tailored to communications cable facilities construction.

DISCUSSION:

The recommended Ordinance, attached as Action Document A, recognizes the heightened sensitivity to these utility boxes and provides a strong preference for underground facilities where feasible. The Ordinance provides for safe, timely construction or replacement of facilities, placement, right-of-way repair, and maintenance, as well as Public Notice for material public right-of-way construction. The

proposed Ordinance is similar to Ordinances adopted by the cities of Irvine and Newport Beach.

The introduction and first reading of this Ordinance was held at the City Council Meeting on April 15, 2008.

Since the original first reading of the Ordinance on April 15, 2008, the City received correspondence from AT&T. The correspondence was reviewed by the City Attorney. A first reading was again held on May 20th after having made revisions as a result of reviewing AT&T's correspondence. Revisions were made to Section 14.01.800. At the May 20th meeting a second revision to Section 14.01.930 was made changing the appeal officer from the City Manager to the City Council. This is the second reading.

NOTIFICATION/FOLLOW-UP:

AT&T
Cox

FISCAL IMPACT:

No Fiscal Impact

ACTION DOCUMENT:

PAGE#:

A. [Ordinance](#)3

Action Document A – Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DANA POINT RELATING TO
CONSTRUCTION AND REPLACEMENT OF CABLE COMMUNICATIONS
SYSTEMS

THE CITY COUNCIL OF DANA POINT DOES ORDAIN AS FOLLOWS:

A NEW ARTICLE OF CHAPTER 14, STREETS AND SIDEWALKS, OF THE DANA POINT
MUNICIPAL CODE ENTITLED “CONSTRUCTION OF CABLE COMMUNICATIONS
SYSTEMS” IS HEREBY ADDED TO READ AS FOLLOWS:

**ARTICLE 9 CONSTRUCTION OF CABLE COMMUNICATIONS
SYSTEMS**

Sections:

- 14.01.780 Title**
- 14.01.790 Definitions**
- 14.01.800 Design, Installation, and Construction of Cable System**
- 14.01.810 Encroachment Permit-Applicability**
- 14.01.820 Encroachment Permit Application**
- 14.01.830 Issuance of an Encroachment Permit**
- 14.01.840 Notification Plan**
- 14.01.850 Construction Plan**
- 14.01.860 Conditions of Utilization of PROW**
- 14.01.870 Conditions of Construction.**
- 14.01.880 Post-Excavation Obligations**
- 14.01.890 Duty to Remove Facilities from PROW and Public Property**
- 14.01.900 Maintenance of Facilities**
- 14.01.910 City Vacation or Abandonment**
- 14.01.920 System Location Data**
- 14.01.930 Appeals from Action of the Director**
- 14.01.940 Financial Security**
- 14.01.950 Indemnity and Liability Insurance**

14.01.780 Title.

This Article is known and may be cited as the “Construction of Cable Communications
Systems Article” of the City of Dana Point, California.

14.01.790 Definitions.

A. For the purposes of this Chapter, the following words, terms, phrases, and their derivations have the meanings given herein. Terms defined in the Cable Act shall have the same meanings herein unless expressly defined otherwise. When not inconsistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

“Above Ground Facility” or “AGF” means all structures, poles, pedestals, cabinets, and any other Facility installed above surrounding grade in the PROW (Defined Herein) excluding antennas.

“1984 Cable Act” means the Cable Communications Policy Act of 1984.

“1992 Cable Act” means the Cable Television Subscriber Protection and Competition Act of 1992.

“Cable Act” means the 1984 Cable Act, as amended by the 1992 Cable Act and by the Telecommunications Act.

“Cable Operator” means any Person or group of Persons (i) who provides Cable Service over a Cable System in the City and, directly or through one or more affiliates, owns a significant interest in that Cable System; or (ii) who otherwise controls or is responsible for, through any arrangement, the management and operation of a Cable System in the City.

“Cable service” means (i) the one-way transmission to subscribers of video programming or other programming service; and (ii) subscriber interaction which is required for the selection of or use of video programming or other programming service.

“Cable System” or “Cable Communications System” or “System” means a Facility, consisting of a set of closed transmission paths and associated signal generation reception, and control equipment that is designed to provide Cable Service, and which is provided to multiple subscribers within the City; but this term does not include: (i) a Facility that serves one or more television broadcast stations; (ii) a Facility that serves subscribers without using any PROW; (iii) a Facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934 (47 U.S.C. § 201 et seq.), except that the Facility shall be considered a Cable System (other than for purposes of section 621(c) of the Cable Act) to the extent the Facility is used in the transmission of video programming directly to subscribers, unless the extent of the use is solely to provide interactive on-demand services; (iv) an open video system that complies with Section 653 of the Cable Act; or (v) any Facilities of any electric utility used solely for operating its electric utility systems.

“California Public Utilities Commission” or “CPUC” means the California Public Utilities Commission.

“City” means the City of Dana Point, California, acting by and through its City Council, or a representative as the governing body may designate to act on cable matters on its behalf.

“Company” means the Person granted a Franchise by any governmental entity to install, operate, maintain, or reconstruct a Cable System, and the lawful successors, transferees, or assignees of that Person.

“Company Manager” means an employee of the Company who is designated by the Company in writing to the City to be the contact Person for the Company in accordance with the provisions of this Chapter.

“Construction Plan” means a plan that describes in detail the designs, locations, and an estimated time schedule for construction of the Facilities.

“Department” means the Department of Public Works.

“Director” means the Director of the City’s Department of Public Works or his or her designee.

“Encroachment Permit” means a permit for work on City owned property including, but not limited to, parks, rights-of-way, facilities, buildings, or other property.

“Excess Capacity” means the volume or capacity in any existing or future duct, conduit, manhole, hand hole or Facility that is or will be available for use by third party Facilities.

“Facility” or “Facilities” means any cable or other wire or line, pipeline, pipes, duct, conduit, converter, cabinet, pedestal, meter, tunnel, vault, equipment, drain, manhole, splice box, surface location marker, pole, structure, utility, or other appurtenance, structure, property, or tangible thing owned, leased, operated, or licensed by Company to provide, in whole or in part, Cable Services, that are located or are proposed to be located on the PROW which constitute, in whole or in part, a Cable System.

“FCC” means the Federal Communications Commission.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account appropriate environmental, physical, legal, economical and technological factors.

“Franchise” means a written legal undertaking or action issued by any level of government, which authorizes a specific Person to utilize the City’s PROW for the purpose of installing, operating, maintaining, or reconstructing a Cable System to provide Cable Service.

“Person” means any person, corporation, partnership, proprietorship, individual, or organization.

“Public Property” means all real property and improvements owned, operated or controlled by City, other than PROW, within the City’s jurisdiction. Public Property includes, but is not limited to, City owned buildings/facilities, recreational facilities, parks, libraries, street trees, signs, medians and traffic signal facilities.

“Public Right-of-Way” or “Right of Way” or “PROW” means any public Street, public way, public place or rights-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of City.

“Service Area” means all or a portion of the City of Dana Point, as further defined in a Franchise.

“Street” or “Streets” means any street, road, highway, alley, lane, court, boulevard, or other similar PROW, including related facilities such as medians, parkways, sidewalks, traffic signals and signs.

“Standard Encroachment Permit Conditions”, hereafter described as SEPC, means the conditions imposed by the City pursuant to existing ordinance, local and State regulations, or City policies.

“Telecommunications Act” means the Telecommunications Act of 1996.

“Traffic Control Plan” means a plan describing the manner in which Company will manage vehicle, bicycle, and pedestrian traffic along affected Streets when installing or maintaining Facilities.

B. Terms Not Defined. Words, terms, or phrases not defined herein shall first have the meaning as defined in the Cable Act, and then the special meanings or connotations used in any industry, business, trade, or profession where they commonly carry special meanings. If those special meanings are not common, they will have the standard definitions as set forth in commonly used and accepted dictionaries of the English language.

14.01.800 Design, Installation, and Construction of Cable System.

A. Promotion of Undergrounding. It is the policy of City to promote undergrounding of Facilities whenever and wherever Feasible. When existing Facilities are located underground along a particular PROW, new Facilities must be installed, at Company’s sole expense, underground along that PROW. Further, whenever any Above Ground Facilities are located or relocated underground along a particular PROW, all Companies shall concurrently relocate Company’s Facilities underground on a cost-sharing basis for all Companies involved in a manner consistent with applicable law. No new Above Ground Facilities will be allowed except as provided in subsections (B) and (C).

B. Exceptions to Limits on Above Ground Facilities. The limitations on Above Ground Facilities shall not apply to (1) an insubstantial modification to an existing Above Ground Facility which does not produce a significant impact on the PROW and/or Public Property and the environment surrounding it; (2) to any new Above Ground Facility which, as determined by the Director, does not produce a significant impact upon the PROW and/or Public Property and the environment surrounding it; and (3) to any installation specifically authorized pursuant to a pre-existing and valid local franchise agreement to the extent said exclusion is required by applicable law.

C. Limits on Above Ground Facilities. Except as provided in subsection B above, Companies shall place all newly installed Facilities underground or in flush mounted vaults unless said underground installation is not Feasible, as determined by the Director pursuant to the standards set forth herein. Companies shall coordinate with all affected property owners to locate all newly installed Above Ground Facilities to minimize inconvenience and disruption to residents in a manner approved in writing by the Director.

D. Excess Capacity. Facilities shall be installed within existing underground ducts or conduits whenever Excess Capacity is available on reasonable terms.

14.01.810 Encroachment Permit--Applicability.

A. Except as provided in subsection (B), in addition to any agreement, license, permit or Franchise required by this Chapter or any other Chapter of this Code, and in addition to any other permit or entitlement required by local, state or federal law, any Person or Company which is a Cable Operator shall obtain an Encroachment Permit prior to performing any work in the PROW relating to, in whole or in part, the construction, installation, or repair of a Cable System, or a portion thereof, and shall pay all fees required by this Code.

B. Notwithstanding anything stated herein, an Encroachment Permit shall not be required if, in the determination of the Director, the proposed project relates solely to work on the inside of the Facility without alteration to the enclosure itself. In lieu of the necessity of an Encroachment Permit, the Company shall obtain all otherwise necessary City permits including, without limitation building permits, electrical permits, and other permits which may be required by the Municipal Code and shall comply with the undergrounding requirements of Section 14.01.800. Further, the Company shall be responsible to coordinate with the Director in regard to needed permits or determinations.

C. Annual Encroachment Permits. The Director in his/her discretion may issue an annual Encroachment Permit to Company to make extensions, routine maintenance and emergency repairs. Annual Encroachment Permits shall be issued on a yearly basis. Except as specifically provided otherwise in this Chapter, excavations authorized by this section shall be subject to all fees and requirements of this Chapter.

14.01.820 Encroachment Permit Application.

An application for an Encroachment Permit, along with payment of any fees or deposit required by the City, shall be filed with the Director, in the form and manner required by the Director and shall contain, at a minimum, all of the following: in accordance with the City's Encroachment Permit application requirements, as determined by the Director.

A. The Identity of Company. If the application is made by an authorized agent of Company, written authorization shall be provided.

B. Engineering plans, specifications and a network map of the Facilities to be located within the PROW, including a map in electronic and/or other form required by the City. The plans and specifications shall show:

1. The location of all existing and proposed Facilities in the PROW or Public Property along proposed route including the type and location of existing and proposed pedestals and other Above Ground Facilities, along with, if required by the Director, photographs or artists renderings, of all above-ground visible equipment, from which their fully-dimensioned size must be apparent. The submission may be required to include a detailed description of the equipment included within the above-ground installation including the electronic components, natural gas generator, electrical fans, anticipated noise levels during winter and summer months, the emergency backup operations and the proposed maintenance schedule for the Facilities.

2. The specific trees, structures, improvements, Facilities and obstructions, if any that Company proposes to temporarily or permanently remove or relocate.

3. Existing improvements and appurtenances, including but not limited to, sidewalk, asphalt pavement, trees, landscaping, traffic signs and pavement markings, traffic signals, and any other improvement that is in the vicinity of the planned work.

4. Detailed information to clearly show how all existing improvements shall be protected or restored to their original condition during the planned work. In addition, dimensions showing exact locations as to where new Facilities are to be constructed.

5. Specifically how all City ordinances and the SEPC are planned to be addressed with any proposed project.

C. Excess Capacity. If Company is proposing an underground installation within new Facilities to be constructed within the PROW, it shall agree to provide, upon request, information regarding any Excess Capacity that will exist in such ducts or conduits after installation of Company's Facilities, to the City or a subsequent permit applicant.

D. A Construction Plan. A Construction Plan disclosing, at a minimum, construction schedule, final completion date, and specific construction benchmark dates as to identify portions of the project.

E. A Traffic Control Plan. A Traffic Control Plan in accordance with such guidelines established by the Director.

F. A Public Notification Plan. Companies may be required by the Director to provide reasonable advance notice to the public via a public notification plan of the proposed quantity, precise dimensions, design, color, type, potential noise and location of Above Ground Facilities pursuant to guidelines promulgated by the Director. The Plan is subject to the prior written approval of the Director.

14.01.830 Issuance of an Encroachment Permit.

A. Each Encroachment Permit shall be subject to the criteria and provisions of this Chapter. The Encroachment Permit shall be issued upon review of a completed application and a determination by the Director that Company has complied with all applicable requirements of this Chapter.

B. Criteria. The determination to grant or deny an Encroachment Permit shall be exclusively based upon the criteria set forth in this subsection. The Director shall consider the following:

1. The capacity of the PROW to accommodate Company's proposed Facilities and Facilities known to be needed in the future.
2. The capacity of the PROW to accommodate known additional Facilities if the permit is granted.
3. The damage or disruption, if any, to the PROW or any public or private facilities, improvements, pedestrian or vehicle travel, landscaping, or any other existing improvement if the permit is granted.
4. The availability of technically compatible existing Facilities or Excess Capacity, or alternate routes and/or locations for the proposed Facilities, which would be less disruptive or which better protects the PROW for its dedicated use.
5. The adverse aesthetic or blighting effect of any Above Ground Facilities by virtue of their design, color, dimensions, locations, new obstructions and quantity.
6. Completion of any necessary environmental review under the California Environmental Quality Act (CEQA).
7. Agreement for compliance with all City ordinances, regulations, policies, and the SEPC related to the issuance of an Encroachment Permit.

C. Modifications. Any approval of an Encroachment Permit may require modifications to the proposed activities pursuant thereto as a result of the Director's consideration of the factors set forth above, including by limiting or changing the number, size, color and location of the Above Ground Facilities proposed to be installed and/or requiring the installation of landscape or other camouflaging techniques, screening, relocation or requiring undergrounding to minimize adverse visual impacts and obstructions.

D. Fees. As a condition of the issuance of any Encroachment Permit, Company shall pay and submit all applicable cost-based fees assessed by resolution of the City Council.

E. Right to Inspect. Upon the provision of reasonable written notice by the Director, Company shall allow the City the right to inspect Company's work at any reasonable time the City deems appropriate.

F. Duration and Validity. Encroachment Permits shall be void if the permitted work has not commenced within sixty (60) calendar days of the permit issuance date, if the permitted work is not prosecuted diligently to its conclusion, or if the permitted work, including restoration, has not been completed within the duration limits of the permit. The Director may, upon good cause, issue extensions to the time of commencement of work, the duration of the Encroachment Permit, or both upon request from Company.

14.01.840 Notification Plan

Companies may be required by the Director to provide reasonable advance notice to the public via a public notification plan of the proposed quantity, precise dimensions, design, color, type, potential noise and location of Above Ground Facilities pursuant to guidelines promulgated by the Director and/or meet with the public as determined by the Director. The plan is subject to the prior written approval of the Director.

14.01.850 Construction Plan.

A. Initial Submittal Requirements. Not less than thirty (30) days prior to proposed commencement of any work in the PROW and only after an Encroachment Permit is secured, Company shall submit to the Director for his or her review a Construction Plan containing the following information:

1. Dates for Work Start and Completion. Company shall identify a start and completion date for the work and shall complete the Cable System construction authorized by the Encroachment Permit no later than the date specified in the permit. If Company requires additional time to complete work, it shall so notify Director and Director may grant a work completion extension.

2. Telephone Contact. Company shall provide the Director with a telephone contact number, answered twenty-four (24) hours a day during the construction period, to enable the Director to report any concerns regarding construction of the Facilities.

B. Construction Status Report. During construction, Company shall, at the request of the Director, submit to the Director regular progress reports describing in detail the status of construction in relation to the Construction Plan. The first report shall be submitted within seven days after commencement of construction and shall be updated days thereafter, as may be required by the Encroachment Permit. Work plans shall be provided in advance to the Director for review and approval.

C. Notification. Company shall provide written notification to the Director of any construction and/or maintenance activities undertaken in the PROW, whether undertaken pursuant to permit or otherwise, prior to the commencement of such activities unless the activities have been previously reported to the Director, or a valid emergency due to system failure.

14.01.860 Conditions of Utilization of PROW.

A. All Facilities of Company shall be so located, constructed, installed and maintained so as not to endanger, interfere with or limit the usual and customary use and/or traffic and travel upon the PROW as well as adjacent private property pursuant to a routing plan to be approved by the Director.

B. In the event Company creates a hazardous or unsafe condition or an unreasonable interference with the PROW or adjacent private property, such Company shall remove or modify that part of the Facility to eliminate such condition.

C. Company shall not place equipment where it will interfere with existing and known future City uses of the PROW, with the rights of private property owners as determined by the Director, with gas, electric, sewer or telephone fixtures, with water hydrants and mains, with sewers, storm drains or v-ditches, or any wastewater stations, with any traffic control system, or any other City facility.

D. Company, at its own expense and pursuant to a timeline approved by the Director, shall protect the PROW and support or temporarily disconnect or relocate any of Company's Facilities when necessitated by reason of:

1. Traffic conditions;
2. Public safety;
3. Temporary or permanent Street closing not for the benefit of a private party;
4. Street construction or resurfacing;
5. A change or establishment of Street grade; and
6. Installation of sewers, drains, water pipes, storm drains, lift stations, force mains, street light facilities, traffic signal facilities, tracks, or any other public use of the PROW.
7. Any other City approved construction activity.

E. It shall be the responsibility of Company to mark its Facilities with search wire and to locate and mark or otherwise visibly indicate and alert others to the location of its underground Facilities before employees, agents, of independent contractors of any entity perform work in the marked-off area. Company shall participate in and adhere to the practices of Underground Services Alert ("USA") or its successor notification system and provide at least forty-eight (48) hours prior notice to USA prior to any excavation.

14.01.870 Conditions of Construction.

A. Applicability. Each excavation and/or installation of Above Ground Facilities in the PROW pursuant to this Chapter shall be performed in accordance with this Chapter, with the City's SEPC, with the standard plans and specifications of the Department and with any Department orders or regulations, except where the Director, at his or her discretion, grants prior written approval to deviate from the standard plans and specifications, orders, or regulations.

B. Notice for Emergency Excavation or installation. For emergency excavation or installation, Company shall post and maintain notice at the site of the excavation or installation during the construction period. The notice shall include the name, telephone number, and address

of Company, a description of the excavation or installation to be performed, and the duration of the excavation or installation. The notice shall be posted along any Street where the excavation or installation is taking place. The Director shall be advised immediately during normal weekday working hours.

C. Marking of Subsurface Facilities. If Company excavates in the PROW, it shall comply with the requirements of Government Code 4216 (Underground Service Alert of its successor notification system) regarding notification of excavation or installation and marking of subsurface Facilities.

D. Limits on Excavation in the Public Right-of-Way.

1. Scope. It is unlawful for Company to make, cause, or permit to be made, any excavation in the PROW outside the boundaries, times, and description set forth in the Encroachment Permit.

2. Trenchless Technology. Use of trenchless equipment to excavate in the PROW is allowed with prior written approval of the Director.

3. Single excavation maximum of one thousand two hundred (1,200) feet. No single excavation site shall be longer than one thousand two hundred (1,200) feet in length at any time except with the prior written approval of the Director.

4. Moratorium on new or newly repaved streets. Municipal Code, Section 14.01.540 shall expressly apply.

5. Company shall adhere to all requirements listed in the SEPC.

E. Company assumes all responsibility for damage or injury resulting from the construction of any Above Ground Facility. If Company fails to comply with any written Director's demand relating thereto, the City may perform said work at Company's expense and may withdraw its costs and expenses from the security deposit or other security provided by Company, or charge Company.

F. Modification to Requirements. Upon written request, and for good cause as determined by the Director, the Director may grant written approval for modifications to the requirements of this section.

G. Incomplete Excavation--Completion by the City. In any case where an excavation is not completed or restored in the time and manner specified in the Encroachment Permit, this Chapter, or the orders, regulations, conditions, and standard plans and specifications of the Department, the Director shall order Company to complete the excavation as directed within twenty-four (24) hours. If Company should fail, neglect, or refuse to comply with the order, the Director may complete or cause to be completed such excavation to temporarily cover or mitigate hazards in such manner as the Director deems expedient and appropriate. The Company shall compensate the City for any costs associated with the administration, construction, consultants, equipment, inspection, notification, remediation, repair, restoration, or any other actual costs incurred by the City or other agencies, boards, commissions, departments of the City

that were made necessary by such excavation. The cost of such work also may be deducted from Company's security fund.

H. Subject to the limitation set forth in this Chapter, completion of an excavation or restoration by the Department in accordance with this Chapter shall not relieve the owner or Company from liability for future pavement failures at the excavation site.

14.01.880 Post-Excavation Obligations.

A. **Repair and Maintenance Obligations of Company.** Each Company that excavates or causes to be made an excavation in the PROW shall be responsible to maintain, repair, or reconstruct the site of the excavation so as to maintain a condition acceptable to the Director, and in compliance with the City's SEPC, until such time as the site of the excavation is repaved or resurfaced by the Department, or pursuant to a subsequently issued PROW permit. The Director may also withhold issuance of new Encroachment Permits or rescind approval of previously approved Encroachment Permits for Company failure to remediate or repair excavation or to maintain Facility to the satisfaction of the Director or for lack of payment to the City for City's repair of excavation or maintenance of Facility to the satisfaction of Director.

B. **Subsurface or Pavement Failures.** In the event that subsurface material or pavement over or immediately adjacent to any excavation should become depressed, broken, or fail in any way at any time after the work has been completed, the Director shall exercise his or her best judgment to determine the Person(s) responsible, if any, for the failure in the subsurface or surface of the PROW and shall designate such Person as the responsible party. The Director shall notify such Person(s) of the condition, its location, and the required remedy, and such Person(s) shall repair or restore, or cause to be repaired or restored, such condition to the satisfaction of the Director within seventy-two (72) hours of the notification, unless, considering the interest of public safety, the Director extends the time for the responsible party to repair or restore the affected PROW.

C. **Repairs by the City.** Municipal Code, Sections 14.01.550 and 14.01.560 shall expressly apply.

D. **Emergency Remediation by City.**

1. If, in the judgment of the Director, the site of an excavation is considered hazardous or if it constitutes a public nuisance, public emergency, or other imminent threat to the public health, safety, or welfare that requires immediate action, the Director may order the condition remedied by a written, electronic, or facsimile communication to the Person(s) responsible, if any, for remedying the condition and shall designate such Person as the responsible party.

2. If the responsible party is inaccessible or fails, neglects, or refuses to take immediate action to remedy the condition as specified in the communication, the Director may remedy the condition or cause the condition to be remedied in such manner as the Director deems expedient and appropriate. The Person(s) identified by the Director as the responsible party shall compensate the City for any reasonable costs associated with the administration,

construction, consultants, equipment, inspection, notification, remediation, repair, restoration, or any other actual costs incurred by the Department or other agencies, boards, commissions, departments of the City that were made necessary by reason of the emergency remediation undertaken by the Department. The cost of such work also may be deducted from Company's security deposit.

3. Remediation by the Department in accordance with this section shall not relieve the Person(s) from liability for future pavement failures at the site of the remediation.

14.01.890 Duty to Remove Facilities from PROW and Public Property.

A. The Director may order Company to remove its Facilities from public property or PROW at its own expense whenever Company ceases and fails to complete construction of the Facility outlined in the PROW Permit within the term or duration of the PROW Permit.

B. If not removed voluntarily by Company, then the Director may notify Company that should removal of the property not be accomplished within a reasonable time specified by the Director, the Director may order the removal of the Facilities at that Company's expense. The Company's security deposit shall be available to pay for such work.

C. If officials or representatives of the City remove Facilities, and if Company does not claim the property within thirty (30) days of its removal, then the City may take whatever steps are available under State law to declare the property surplus, and sell it, with the proceeds of such sale going to the City.

D. When such Company removes its Facilities from the PROW, Company shall, at its own expense, and in a manner approved by the Director, replace and restore such PROW to a condition comparable to that which existed before the work causing the disturbance was done.

14.01.900 Maintenance of Facilities.

A. Construction, installation, maintenance and repair of any Facilities shall comply with the most current editions of the Zoning Codes, Building Codes, Excavation Codes, Construction Codes, Plumbing Codes, National Electrical Safety Code, the National Electric Code, the City-adopted Public Works Construction Standards, Specifications and Plans, the Municipal Code, as they are modified from time to time, and any applicable Federal, State or local statutes, regulations, guidelines, or requirements.

B. To the extent permitted to remain above ground, Company shall place all Above Ground Facilities in flush mounted or low profile waterproof pedestals whose design, size, location, color within manufacturer's specifications, appearance, and placement have been previously approved by the Director in writing and shall be in conformity with all applicable City ordinances, codes, regulations, rules, and guidelines.

C. Cabinet Treatment, Graffiti Mitigation and Landscaping. The exterior of Above Ground Facilities shall resist graffiti or be painted with anti-graffiti paint and be maintained in a "like-new" condition. Applications for Above Ground Facilities must include a Graffiti

Mitigation Plan detailing how Company will maintain the Above Ground Facilities free from graffiti and other defacements (i.e. stickers, posters, decals, and other markings), and a landscaping plan detailing how the landscape installation will minimize visual impact, and how said landscaping will be maintained. The Graffiti Mitigation Plan and Landscaping Plan shall commit to inspection at least four (4) times a year and shall include identification of the resources dedicated to mitigating graffiti. Additionally, the Graffiti Mitigation Plan shall provide the name, mailing address, phone number, and e-mail address of a single point of contact responsible to resolve graffiti issues should they occur. The Graffiti Mitigation Plan shall clearly state that graffiti shall be removed within forty-eight (48) hours of the time at which Company is notified of graffiti and that the Above Ground Facility's surfaces shall be restored to their original exterior appearance. Director at his/her discretion may require a bond or other security to insure compliance with this section.

D. Each Above Ground Facility installed in the PROW shall be discretely, yet clearly identified with the name of the owner of the Above Ground Facility and a toll-free telephone number for Company. The Department shall adopt orders or regulations to specify other appropriate methods for identification.

E. During construction and maintenance, Company shall identify its construction sites, vehicles and equipment, by name and category with sufficient clarity so that traffic flowing in both directions can determine the nature of the project and the entity upon whose behalf the construction is being undertaken.

F. Company assumes all responsibility for damage or injury resulting from the maintenance of any Above Ground Facility. If Company fails to comply with any written Director's demand relating thereto, the City may perform said work at Company's expense and withdraw its costs and expenses from the security deposit or other security provided by Company, or charge Company.

14.01.910 City Vacation or Abandonment.

In the event any PROW or portion thereof used by Company shall be vacated by the City for a governmental purpose, upon reasonable notice Company shall forthwith remove its Facilities from the PROW unless specifically permitted to continue. As a part of the removal, Company shall restore, repair or reconstruct the area where the removal has occurred, to a condition as may be required by the Director, but not in excess of the original condition. In the event of any failure, neglect or refusal of Company, after thirty (30) days notice by the Director, to do such work, Director may cause it to be done, and Company shall, within forty-five (45) days of billing, pay to City the actual costs incurred.

14.01.920 System Location Data.

To the extent reasonably available, Company shall provide the Director with data in a digital or other format specified by the Director which details and documents all the geographic locations of Facilities located in PROW. The computer disk or other record shall be updated whenever there have been significant changes in the location of the Facilities at the Director's discretion. In addition, Company shall maintain in its local office a complete, fully-

dimensioned, and up-to-date set of as-built system maps and drawings upon completion of construction. As-built drawings shall show all Facilities. The scale of maps and drawings shall be sufficient to show the required details in easily readable form and size.

14.01.930 Appeals from Action of the Director.

If Company is aggrieved by any decision of the Director under this Chapter, Company may appeal the decision to the City Council by filing with the City Clerk a statement addressed to the City Council setting forth the facts and circumstances regarding the Director's decision and the basis for the appeal. The appeal shall be accompanied by a fee as established by resolution of the City Council. The City Council, not less than ten (10) business days from the date on which the appeal was filed with the City Clerk, shall hear the appeal and all relevant evidence, and shall determine the merits of the appeal. The City Clerk shall provide written notification of the time and place set for hearing the appeal. The City Council may sustain, overrule or modify the action of the Director, and decision of the City Council shall be final.

The right to appeal to the City Council shall terminate upon the expiration of ten (10) business days following personal delivery to Company or the deposit of a letter in the United States mail advising Company of the action of the Director and of the right to appeal such action to the City Council.

14.01.940 Financial Security.

The Encroachment Permit may require that the Company provide financial security pursuant to this section. The Director shall determine the appropriate level of financial security, which may include all of the following protections for the City against Company default or failure to comply with this Chapter.

14.01.950 Indemnity and Liability Insurance.

A. To the maximum extent permitted by applicable law, Company shall at all times defend, indemnify, protect, hold harmless, and exempt the City, the City Council, its officers, agents, servants, attorneys and employees, from any and all penalties, damages or charges arising out of claims, suits, demands, causes of action, award of damages, imposition of fines and penalties, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which arise out of, or are caused by, the construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal or restoration of Facilities within the City based upon any act or omission of a Company, its agents or employees, contractors, subcontractors, independent contractors, or representatives except for that which is attributable to the sole negligence or willful misconduct of the City, the City Council, its officers, agents, servants, attorneys and employees. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included as those costs which shall be recovered by the City.

B. Except as provided in or as supplemented by any Encroachment Permit, a Company shall secure and maintain, public liability, property damage insurance, and umbrella coverage in at least the following amounts:

1. Public Liability. Two million dollars (\$2,000,000.00) per Person/per occurrence;
2. Property Damage. Two million dollars (\$2,000,000.00) per any one claim;
or
3. Umbrella Liability. Five million dollars (\$5,000,000.00).

C. The public and Personal liability and property damage insurance policy shall specifically include the City, the City Council, its employees, and agents as additional insureds.

D. The public and Personal liability and property damage insurance policies shall be issued by an agent or representative of an insurance Company licensed to do business in the State and which has one of the three highest or best ratings from the Alfred M. Best Company.

E. The public liability and property damage insurance policies shall contain an endorsement obligating the insurance Company to furnish the Director with at least thirty (30) days written notice in advance of the cancellation of the policy.

F. Renewal or replacement policies or certificates shall be delivered to the Director at least fifteen (15) days before the expiration of the insurance which such policies are to renew or be replaced.

G. Before a Company commences any construction, the Company shall deliver the policies or certificates representing the insurance to the Director as required herein.

H. The Director may adjust the coverage amounts specified in subsection B of this section provided that the adjustments result in the Company meeting or exceeding the coverage specified in this section.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2008.

Joel Bishop, Mayor

ATTEST:

Kathy M. Ward, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Dana Point held on the 20th day of May, 2008, and was thereafter duly and regularly passed and adopted by the Council of the City of Dana Point at its regular meeting held on the _____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Said Ordinance has been published or posted pursuant to law. Witness my hand and official seal of the City of Dana Point this 3rd day of June 2008.

Kathy M. Ward, City Clerk

CITY OF DANA POINT

AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	

DATE: JUNE 3, 2008

TO: CITY MANAGER/CITY COUNCIL

FROM: KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT

**SUBJECT: SECOND READING AND ADOPTION OF ZONING CODE UPDATE PROGRAM
– ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003**

RECOMMENDED ACTION:

That the City Council hold a second reading and adopt an Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003, REVISING THE CITY OF DANA POINT ZONING ORDINANCE TO CORRECT INCONSISTENCIES, CLARIFY EXISTING REGULATIONS, SIMPLIFY THE REVIEW PROCESS, UPDATE “NONCONFORMING USES AND STRUCTURES” CHAPTER, AND PROVIDE FOR AMENDMENTS TO PREVIOUSLY APPROVED DISCRETIONARY PERMITS.

BACKGROUND/ DISCUSSION:

At a regular meeting held on May 20, 2008, the City Council introduced and conducted the first reading of an Ordinance amending the Dana Point Zoning Code to correct inconsistencies, clarify existing regulations, simplify the review process, update “Nonconforming Uses and Structures” Chapter, and provide for amendments to previously approved discretionary permits.

The following sections and chapters of the Code are proposed to be amended:

Zone Text Amendment ZTA08-0002:

1. A misleading statement, “under no circumstances”, is deleted from Section 9.05.110(a)(3).
2. A reference on how to measure building height for residential structures on a hillside lot is added to Section 9.05.110(a)(2).
3. Section 9.05.110(a)(5) is updated to state that in new residential subdivisions height of fences and walls is also measured from the finished grade.
4. A statement is added in Section 9.05.110(c) to clarify that only in non-residential zones may accessways to roof decks extend above the building height.

- 5. The reference to setbacks from the “street” in the Table in Section 9.09.030 is deleted.
- 6. Section 9.09.040(a)(2) is updated for clarification to state that stairways are allowed for beach access from the “lowest level patio” to the beach.

Zone Text Amendment ZTA08-0003:

- 1. Chapter 9.63, Nonconforming Uses and Structures, is amended to streamline the process, rearrange the Chapter to make it user friendly and to incorporate new regulations that are less restrictive than current standards regarding re-establishment of nonconforming uses and structures which are destroyed or damaged due to natural disasters/accidents such as a fire or an earthquake.
- 2. A Section is added in Chapter 9.61 – “Administration of Zoning”, to state that minor amendments can be approved by the Director of Community Development and major amendments will be referred to the original decision making authority (Planning Commission/City Council) for review.

CONCLUSION:

The proposed Zone Text Amendments are consistent with the General Plan, Local Coastal Program and Municipal Code. The Amendment ZTA08-0002 eliminates internal conflicts and clarifies and simplifies standards and the Amendment ZTA08-0003 updates “Nonconforming Uses and Structures” Chapter and provides for amendments to previously approved discretionary permits.

NOTIFICATION:

Notification of the proposed Ordinance was published in the newspaper in accordance with the noticing requirements. In addition, all affected agencies and interested parties were provided notice of the hearing date. The Council’s action is final unless modified through legal action.

FISCAL IMPACT:

There will be no fiscal impacts resulting from the adoption of the proposed Ordinance.

STRATEGIC PLAN IMPLEMENTATION:

In compliance with the Strategic Plan Initiative to evaluate land use issues to ensure goals, policies and programs of the General Plan reflect the community vision and mission, the proposed action supports and improves the existing Zoning Ordinance regulations.

ACTION DOCUMENT:

PAGE NO.

A. Draft Ordinance No.08-xx	3
Exhibit “A”: Zone Text Amendment ZTA08-0002	7
Exhibit “A”: Zone Text Amendment ZTA08-0003	24

SUPPORTING DOCUMENTS:

None

ACTION DOCUMENT A**ORDINANCE NO. 08-xx**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENTS ZTA 08-0002 AND ZTA 08-0003, REVISING THE CITY OF DANA POINT ZONING ORDINANCE TO CORRECT INCONSISTENCIES, CLARIFY EXISTING REGULATIONS, SIMPLIFY THE REVIEW PROCESS, UPDATE “NONCONFORMING USES AND STRUCTURES” CHAPTER AND PROVIDE FOR AMENDMENTS TO PREVIOUSLY APPROVED DISCRETIONARY PERMITS.

APPLICANT: City of Dana Point - Community Development Department
FILE NUMBER: ZTA 08-0002 and ZTA 08-0003

The City Council for the City of Dana Point does hereby ordain as follows:

WHEREAS, in January, 1994, the City of Dana Point adopted its Zoning Ordinance; and

WHEREAS, the City seeks to amend the Zoning Ordinance to correct inconsistencies, simplify the review process, update “Nonconforming Uses and Structures” Chapter and provide for amendments to previously approved discretionary permits; and

WHEREAS, the Planning Commission did, on the 25th of March, 2008, and on the 22nd of April, 2008, held duly noticed public hearings as prescribed by law to consider the proposed Zone Text Amendments (ZTA08-0002 and ZTA08-0003) and voted to recommend the City Council approve the said requests; and

WHEREAS, the City Council did, on the 20th of May, 2008, hold a duly noticed public hearing as prescribed by law to consider said requests; and

WHEREAS, at said public hearing, upon hearing and considering all testimony, if any, of all persons desiring to be heard, said Council considered all factors related to Zone Text Amendments ZTA 08-0002 and ZTA 08-0003; and

WHEREAS, the City’s proposed amendments are identified as “Exhibit A -ZTA08-0002” and “Exhibit A – ZTA08-0003”, attached hereto and made a part of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

- A) That the above recitations are true and correct.
- B) That based on the evidence presented at the public hearing, the City Council adopts the following findings:

Findings:

- 1) The amendments proposed are consistent with the Dana Point General Plan and Local Coastal Program.
- 2) The proposed amendments comply with all other applicable requirements of state law and local ordinances.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, is for any reasons held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2008.

JOEL BISHOP, MAYOR

ATTEST:

KATHY WARD,
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, KATHY WARD, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 08-xx was duly introduced at a regular meeting of the City Council on the ___ day of _____, 2008, and was duly adopted and passed at a regular meeting of the City Council on the ___ day of _____, 2008, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHY WARD, CITY CLERK

ORDINANCE NO. 08-xx

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

AFFIDAVIT OF POSTING
AND PUBLISHING

KATHY WARD, being first duly sworn, deposes, and says:

That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 08-____, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENTS ZTA08-0002 AND ZTA08-0003 REVISING THE CITY OF DANA POINT ZONING ORDINANCE TO CORRECT INCONSISTENCIES, CLARIFY EXISTING REGULATIONS, SIMPLIFY THE REVIEW PROCESS, UPDATE "NONCONFORMING USES AND STRUCTURES" CHAPTER AND PROVIDE FOR AMENDMENTS TO PREVIOUSLY APPROVED DISCRETIONARY PERMITS.

was published in summary in the Dana Point News newspaper on the ____ day of _____, 2008, and the ____ day of _____, 2008, and, in further compliance with City Resolution No., on the ____ day of _____, 2008, and the ____ day of _____, 2008, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

- Dana Point City Hall
- Capistrano Beach Post Office
- Dana Point Post Office
- Dana Point Library

KATHY WARD, CITY CLERK
Dana Point, California

Exhibit “A”

ZONE TEXT AMENDMENT ZTA08-0002

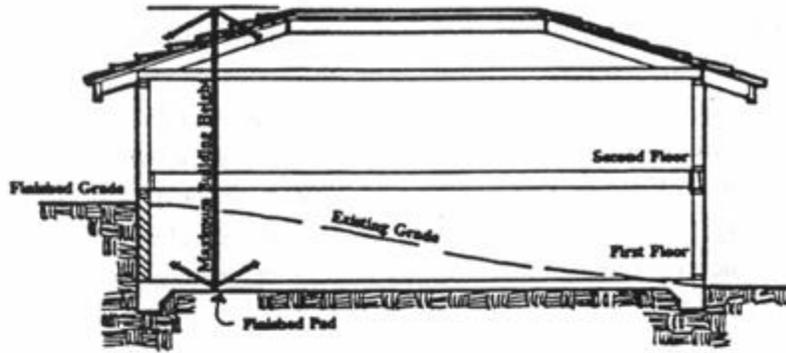
Section 9.05.110 - Measurement of Building Height, to be amended as follows (deletions are shown as strikeout and inserts are underlined):

(a) Residential Building Height.

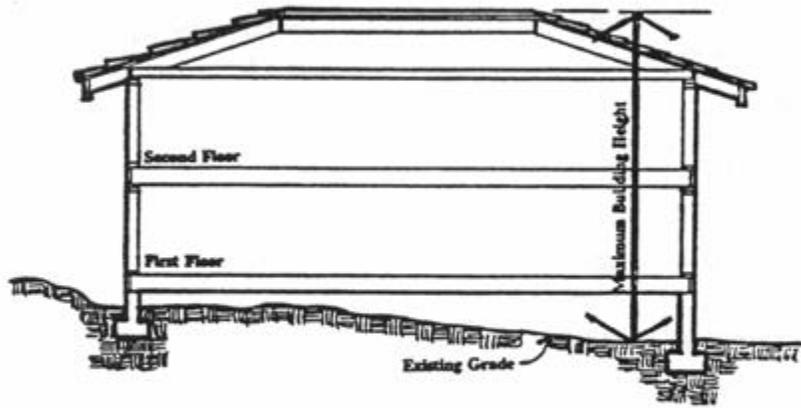
(1) The maximum building height for residential buildings is described in Chapter 9.09 for each of the individual zoning districts.

(2) For residential structures, building height is defined as the vertical distance, by which the uppermost portion of the roof of a structure extends above the existing grade, finished pad elevation, (excluding the basement finished pad elevation), ceiling of a maximum ten (10) foot, zero (0) inch high basement, or eighteen (18) inches above the flood protection level, whichever is lower, as measured from the lowest portion of the structure. In no case may this vertical distance exceed the maximum height limit specified in Section 9.05.110(a)(6). For residential structures on Beach Road, building heights shall be measured at eighteen (18) inches above the FP-3 elevation, or the elevation of Beach Road, whichever is higher. For residential structures on lots with hillside conditions, in cases where the garage is the lowest floor level, the building height is measured from the garage floor or existing grade, whichever is lower.

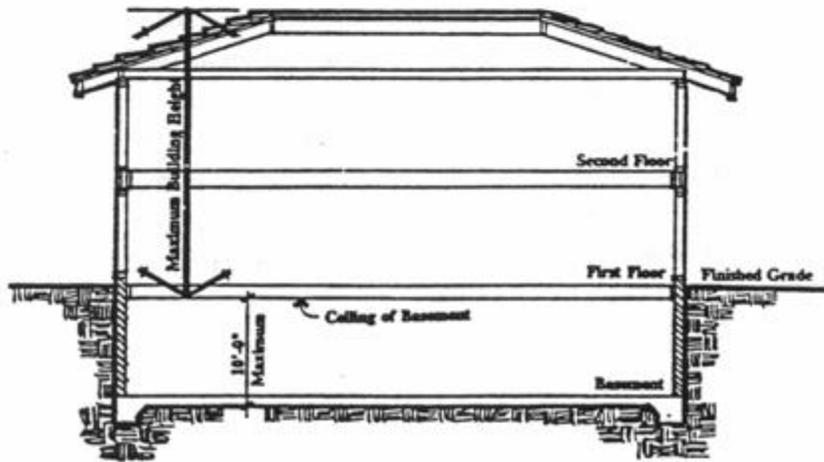
SECTION 9.05.110 (a)(2) MEASUREMENT OF BUILDING HEIGHT



Building Height Measured from Finished Pad



Building Height Measured from Existing Grade



Building Height Measured from Ceiling of Basement

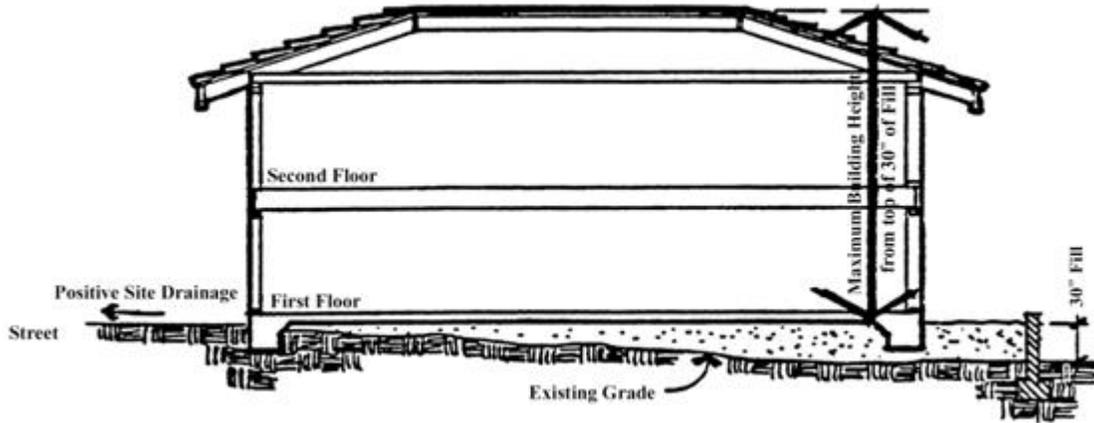
(3) Subject to the approval of a minor Site Development Permit, non-residential or residential building height may be measured from the top of not more than thirty (30) inches of fill. Approval of such a minor Site Development Permit, by the Director of Community Development, may only be granted if the applicant can demonstrate compliance with the following criteria:

- (A) That the proposed fill is required only for the purpose of creating positive drainage flow (via gravity) to the street or to otherwise correct an existing drainage problem; and
- (B) That the proposed fill is necessary to create a minimum percentage grade for drainage flow consistent with a gravity flow drainage pattern as verified by the Director of Public Works; and
- (C) That the amount of fill proposed is the minimum amount necessary to create the desired drainage pattern.

Should the proposed fill be deemed by the Director of Community Development to be proposed for any purpose other than providing the drainage pattern promoted by this Section, the application shall be denied. Structures shall only be granted credit for enough height to achieve positive (gravity) drainage flow.

Should additional (more than thirty (30) inches) fill be required to create the desired drainage pattern, it may be allowed through the approval of the minor Site Development Permit, ~~but under no circumstances may~~ however the height of the structure cannot be measured from any point higher than thirty (30) inches above existing grade.

SECTION 9.05.110(a)(3)

MEASUREMENT OF BUILDING HEIGHT
ATOP THIRTY (30) INCHES MAXIMUM FILL

**Building Height Measured from Top
of Not More than Thirty (30) Inches of Fill**

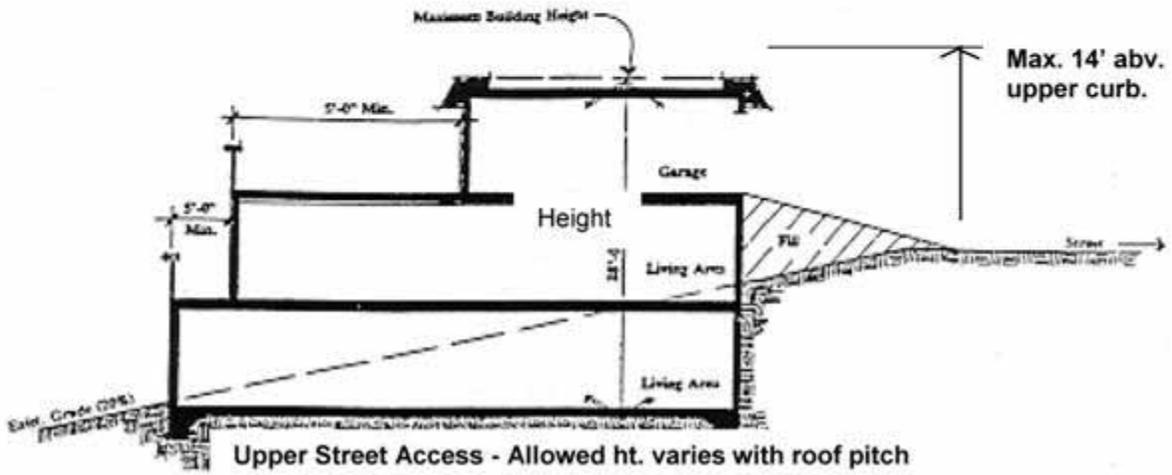
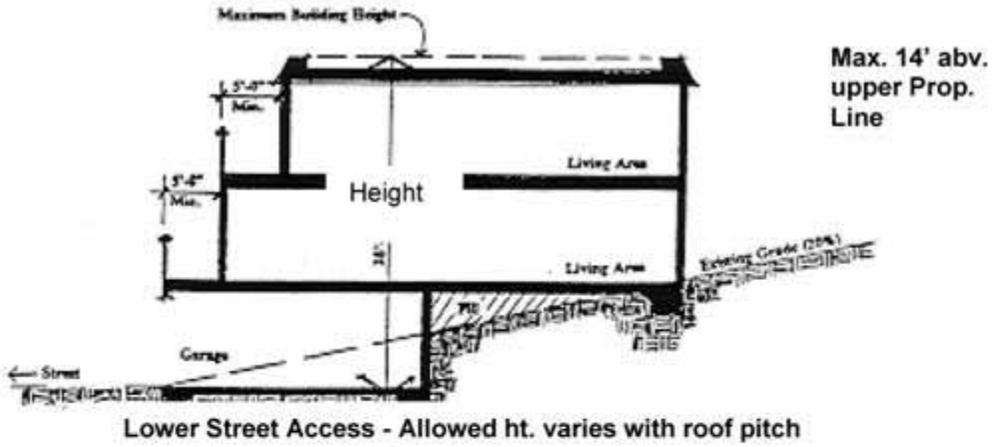
(4) Subject to the approval of a Site Development Permit, a residential structure proposed in a hillside condition may be allowed to have three (3) stories in accordance with the following provisions:

(A) For purposes of this Section, a hillside condition shall mean a lot with a topographic slope percentage, as defined in Section 9.75.190 of this Title, either front to rear or side to side, of twenty (20) percent or greater. The topographic slope percentage shall be calculated by determining the vertical differential between the highest elevation point of the property at the front or rear property line (whichever is higher) and the lowest elevation point along the opposing rear or front property line (whichever is lower) or between the highest elevation point along the higher side property line to the lowest elevation point along the opposing, lower side property line and dividing that vertical differential by the horizontal distance between the two (2) points.

- (B) Three (3) story structures shall be designed so that the second story has an average, additional yard setback area of five (5) feet times the total width of the structure at the street elevation and the third story, an average additional yard setback area of ten (10) feet times the total width of the structure at the street elevation. This additional setback area shall occur on the portions of the structure having three (3) stories exposed above grade. Maximum allowed projections into the additional setback areas are as specified in Section 9.05.080 (Projections into Required Yard Areas) of this Chapter.
- (C) Residential structures having three (3) stories shall be limited to a maximum Floor Area Ratio (FAR) of .75 the area of the lot, excluding garage area. The amount of garage area in excess of that required for minimum compliance with parking standards, as specified in Section 9.35.070 of this Title, shall be considered part of the floor area when calculating the FAR.
- (D) Building height shall be measured as specified in Subsection (a)(2) of this Section, and in no case may the overall height of the structure exceed thirty-three (33) feet or as specified in Subsection (a)(7) of this Section.
- (E) The applicant shall demonstrate that the proposed design will result in a reduction in grading and the disruption to existing topography that would be incurred with a standard two (2) story design on the subject site, pursuant to Subsection (a)(2) of this Section, to the satisfaction of the Director of Community Development.
- (F) The height of the third story shall not exceed a height of fourteen (14) feet above the upper property line or upper street curb elevation, as measured perpendicular to any point along said line or curb.
- (G) Applications for Site Development Permits to allow three (3) story developments on hillside properties shall include story pole staking as described in the City's application requirements for a Site Development Permit.

SECTION 9.05.110(a)(4)

MEASUREMENT OF BUILDING HEIGHT
IN HILLSIDE CONDITIONS



(5) Building height and height of fences and walls for new residential subdivisions shall be measured from finished grade, subject to approval by the Planning Commission.

(6) Additional criteria in determining maximum building height in residential districts are as follows:

Criteria	Height Limit
Roof pitch of 6/12 or greater	28 feet
Roof pitch of 3/12 or greater but less than 6/12	26 feet
Roof pitch of less than 3/12	24 feet

(7) Building height for hillside lots in residential districts is as follows:

Criteria (Lots with 20% or greater slope per Subsection (a)(4) of this Section)	Height Limit
Roof pitch of 6/12 or greater	33 feet
Roof pitch of 3/12 or greater but less than 6/12	31 feet
Roof pitch of less than 3/12	29 feet

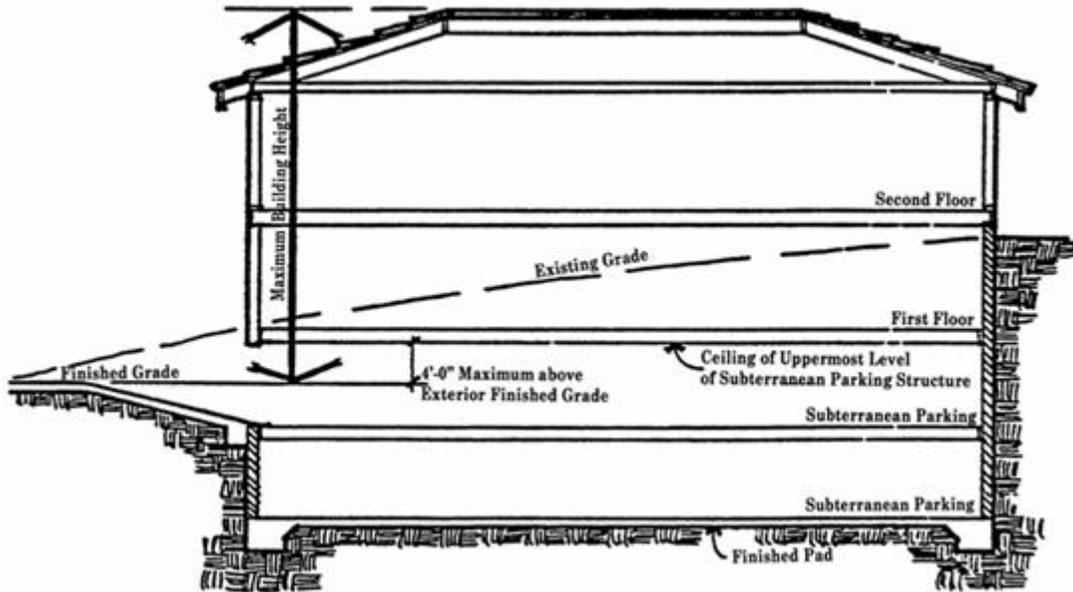
(b) Non-Residential Building Height Criteria.

(1) The maximum building height for non-residential buildings is described in Chapters 9.11 through 9.25 for each of the individual zoning districts.

(2) For non-residential structures, building height is defined as the vertical distance by which the uppermost portion of a building extends above the existing grade, finished grade, finished pad elevation (excluding subterranean parking structure finished pad elevation), ceiling of uppermost level of subterranean parking structure, or eighteen (18) inches above the flood protection level, whichever is lower, to the top of the roof.

SECTION 9.05.110(b)(2)

MEASUREMENT OF NON-RESIDENTIAL BUILDING HEIGHT



**Building Height Measured from Ceiling of
Subterranean Parking Structure**

(3) Subject to approval of a Site Development Permit, in order to correct existing site drainage problems, a provision to permit non-residential and residential building height to be measured from the top of not more than thirty (30) inches of fill, will be granted in all zones, provided that the fill will contribute to positive site drainage flow (via gravity) to the street, at a minimum percentage grade as verified by the Director of Public Works and Director of Community Development. (See Section 9.05.110(a)(3) for Exhibit).

(4) Additional criteria in determining maximum building height in non-residential districts are as follows:

CRITERIA	HEIGHT LIMIT
Structures which have sloped roof elements (pitched at 4/12 or greater) that comprise a substantial proportion of the roof plan and which utilize high-quality, aesthetic roofing materials. (Examples include architectural grade shingles, various metals, wood, wood type, tile, slate, etc.)	35 feet
Structures which have sloped roof elements (pitched at less than 4/12) that comprise a substantial portion of the roof plan or any pitched roof with lower quality aesthetic materials than those specified above, or any other roof with a parapet of 18” or greater	33 feet
Structures which have sloped elements but with a roof plan that is predominantly flat or any roof not otherwise specified under the above standards	31 feet

(c) Permitted Encroachments into the Required Height Limit.

(1) Permitted Encroachments.

(A) Screened mechanical or electrical towers, chimneys, cupolas, weather vanes or other decorative architectural elements that are not used for sleeping or eating quarters, occupying no greater than five (5) percent of the horizontal roof area, may extend above the maximum building height by a maximum of three (3) feet.

(B) In non-residential buildings, ~~A~~accessways such as stairwells or elevators to roof decks occupying no greater than ten (10) percent of the horizontal roof area, may extend above the maximum building height up to a maximum of five (5) feet.

(2) The Director of Community Development may choose to require the applicant to obtain approval of a Site Development Permit, pursuant to Chapter 9.71, if the proposed encroachment creates conditions which may be incompatible, objectionable or detrimental to the surrounding land uses.

Section 9.09.030 - Development Standards, to be amended as follows (deletions are shown as strikethrough and inserts are underlined):

The following Table provides the minimum acceptable standards for development within the Residential Districts necessary to assure quality development and attractive local residential areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.09.040. Parking standards are provided in Chapter 9.35.

SECTION 9.09.030

RESIDENTIAL DEVELOPMENT STANDARDS

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS			
	RSF 2	RSF 3	RSF 4	RSF 7
(a) Minimum Lot Size: (2)	17,500 sf	12,000 sf	8,700 sf	5,000 sf
(b) Minimum Lot Width - (2)				
Standard Lot:	70 ft	50 ft	50 ft	50 ft
Cul-De-Sac Lot (at front building setback line):	30 ft	30 ft	30 ft	30 ft
Flag Lot (for access extension):	20 ft	20 ft	20 ft	20 ft
(c) Minimum Lot Depth: (2)	100 ft	80 ft	75 ft	75 ft
(d) Maximum Lot Coverage:	35%	35%	45%	60% <u>(12)</u>
(e) Minimum Land Area Per Unit: (3)	17,500 sf	11,667 sf	8,750 sf	5,000 sf
(f) Maximum Height:	28 ft/ (4)	28 ft/ (4)	28 ft/ (4)	28 ft/ (4)
	2 stories	2 stories	2 stories	2 stories
(g) Minimum Front Yard Building Setback - (5)				
From Ultimate Public Street ROW line:	20 ft	10 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	10 ft	10 ft	10 ft	10 ft
(h) Minimum Side Yard Setback - (5)				
Interior Side:	10 ft	8 ft	5 ft	5 ft
Exterior Side:	15 ft	10 ft	10 ft	10 ft
Flag Lot: (6)	10 ft	8 ft	5 ft	5 ft
(i) Minimum Rear Yard Setback - (5)			(7)	
Standard Lot:	30 ft	25 ft (7)	25 ft	25 ft
Flag Lot and Cul-De-Sac Lot:	30 ft	25 ft (7)	25 ft	25 ft
Adjacent to Alley or Street (from ROW line): <u>(13)</u>	20 ft	20 ft	15 ft	15 ft
(j) Minimum Open Space (private):	30%	30%	30%	30%
(k) Minimum Landscape Coverage:	25%	25%	25%	25%
(l) Minimum Building Separation -				
(between primary and accessory buildings on the same lot):	10 ft	10 ft	10 ft	10 ft

* See footnotes at end of section.

SECTION 9.09.030

RESIDENTIAL DEVELOPMENT STANDARDS

(continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RSF 12	RBR 12	RBRD 18
(a) Minimum Lot Size: (2)	3,000 sf	4,200 sf	4,800 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	40 ft	45 ft	45 ft
Cul-De-Sac Lot (at front setback line):	30 ft	N/A	N/A
Flag Lot (for access extension):	20 ft	10 ft	10 ft
(c) Minimum Lot Depth: (2)	60 ft	50 ft	50 ft
(d) Maximum Lot Coverage:	60% (12)	N/A	N/A
(e) Minimum Land Area Per Unit: (3)	2,917 sf	2,917 sf	1,945 sf
(f) Maximum Height:	28 ft/ (4)	28 ft/ (4)	28 ft/ (4)
	2 stories	2 stories (8)	2 stories (8)
(g) Minimum Front Yard Setback: (5)			
From Ultimate Public Street ROW line:	20 ft	20 ft (10)	20 ft (10)
Flag Lot (from connection with access extension):	10 ft	N/A	N/A
(h) Minimum Side Yard Setback - (5)			
Interior Side:	5 ft	3.5 ft	3.5 ft
Exterior Side:	10 ft	3.5 ft	3.5 ft
Flag Lot: (6)	5 ft	5 ft	5 ft
(i) Minimum Rear Yard Setback - (5)			
Standard Lot:	15 ft	(9)	(9)
Flag Lot and Cul-De-Sac Lot:	15 ft	(9)	(9)
Adjacent to Alley or Street (from ROW line): (13)	10 ft	(9)	(9)
(j) Minimum Open Space (private):	700 sf per du	700 sf per du	700 sf per du
(k) Minimum Landscape Coverage:	25%	10% (11)	10% (11)
(l) Minimum Building Separation -			
(between primary and accessory buildings on the same lot):	10 ft	10 ft	10 ft

* See footnotes at end of section.

SECTION 9.09.030

RESIDENTIAL DEVELOPMENT STANDARDS

(continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RSF 22	RD 14	RMF 7
(a) Minimum Lot Size: (2)	2,000 sf	5,000 sf	15,000 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	40 ft	45 ft	60 ft
Cul-De-Sac Lot (at front setback line):	25 ft	30 ft	30 ft
Flag Lot (for access extension):	N/A	25 ft	25 ft
(c) Minimum Lot Depth: (2)	50 ft	100 ft	100 ft
(d) Maximum Lot Coverage:	60% (12)	50%	50%
(e) Minimum Land Area Per Unit: (3)	1,591 sf	2,500 sf	5,000 sf
(f) Maximum Height:	28 ft/ (4)	28 ft/ (4)	28 ft/ (4)
	2 stories	2 stories	2 stories
(g) Minimum Front Yard Setback - (5)			
From Ultimate Public Street ROW line:	7.5 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	7.5 ft	15 ft	15 ft
(h) Minimum Side Yard Setback - (5)			
Interior Side:	4 ft	4 ft	5 ft
Exterior Side:	4 ft	10 ft	10 ft
Flag Lot: (6)	4 ft	4 ft	5 ft
(i) Minimum Rear Yard Setback - (5)			
Standard Lot:	7.5 ft	15 ft	15 ft
Flag Lot and Cul-De-Sac Lot:	7.5 ft	15 ft	15 ft
Adjacent to Alley or Street (from ROW line): (13)	7.5 ft	10 ft	10 ft
(j) Minimum Open Space	Private:	250 sf	20% net ac
	Common:	none	N/A
(private and common):			30% net ac
(k) Minimum Landscape Coverage:	20%	15%	25%
(l) Minimum Building Separation			
(between primary and accessory buildings on the same lot):	8 ft	10 ft	10 ft

* See footnotes at end of section.

SECTION 9.09.030

RESIDENTIAL DEVELOPMENT STANDARDS

(continued)

DEVELOPMENT STANDARDS (1)	RESIDENTIAL ZONING DISTRICTS		
	RMF 14	RMF 22	RMF 30
(a) Minimum Lot Size: (2)	7,500 sf	4,800 sf	4,800 sf
(b) Minimum Lot Width - (2)			
Standard Lot:	45 ft	45 ft	45 ft
Cul-De-Sac Lot (at front setback line):	25 ft	25 ft	25 ft
Flag Lot (for access extension):	25 ft	25 ft	25 ft
(c) Minimum Lot Depth: (2)	100 ft	90 ft	90 ft
(d) Maximum Lot Coverage:	60%	60%	60%
(e) Minimum Land Area Per Unit: (3)	2,600 sf	1,591 sf	1,167 sf
(f) Maximum Height:	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories	28 ft/ (4) 2 stories
(g) Minimum Front Yard Setback - (5)			
From Ultimate Public Street ROW line:	20 ft	20 ft	20 ft
Flag Lot (from connection with access extension):	15 ft	15 ft	15 ft
(h) Minimum Side Yard Setback - (5)			
Interior Side:	5 ft	10 ft	15 ft
Exterior Side:	10 ft	10 ft	15 ft
Flag Lot: (6)	15 ft	10 ft	15 ft
(i) Minimum Rear Yard Setback - (5)			
Standard Lot:	15 ft	20 ft	20 ft
Flag Lot and Cul-De-Sac Lot:	15 ft	N/A	N/A
Adjacent to Alley or Street (from ROW line):-(13)	10 ft	15 ft	15 ft
(j) Minimum Open Space (private and common):	Private:	200 sf/du	200 sf/du
	Common:	30% net ac	25% net ac
(k) Minimum Landscape Coverage:	25%	20%	15%
(l) Minimum Building Separation (between primary and accessory buildings on the same lot):	10 ft	10 ft	10 ft

Footnotes for Section 9.09.030:

(1) See Chapter 9.75 for definitions and illustrations of development standards.

(2) Development standard applies to any proposed subdivision of land. These standards do not apply to existing lots where no subdivision is proposed nor to proposed condominiums or other common lot subdivisions.

(3) Land Area per Dwelling Unit may not be rounded up. (Example: 14,250 square feet/2,500 square feet of land per dwelling unit = 5.7 dwelling units which equals 5 dwelling units, not 6 dwelling units.)

(4) Subject to the measurement and design criteria in Section 9.05.110(a).

(5) For existing lots less than fifty (50) feet wide and/or less than one hundred (100) feet deep, see Section 9.05.190 for reduced front, side and rear building setbacks.

(6) If the side yard of a flag lot is adjacent to the rear yard of a residentially zoned lot, that side yard setback shall be a minimum of ten (10) feet.

(7) Additional rear yard building setback from a bluff top may be required by Section 9.27.030.

(8) For RBR 12 and RBRD 18, maximum building height is twenty-eight (28) feet as measured eighteen (18) inches above the Flood Plain Overlay 3 (FP-3) requirement or Beach Road which ever is higher. Mezzanines may be allowed subject to compliance with the applicable provisions of the Uniform Building Code.

(9) See Section 9.09.040(a) for special building setbacks and standards for maximum projections into required yards applicable to properties on Beach Road.

(10) Setback for the first floor as measured from the right-of-way line of Beach Road. The second floor may project a maximum of five (5) feet into the required front yard setback.

(11) A minimum of ten (10) percent of that portion of the lot area bounded by the side property lines, the Beach Road property line and the structure stringline.

(12) The maximum lot coverage standard for hillside lots, as defined in Section 9.05.110(a)(4)(A) of this Title, within the RSF7, RSF12 and RSF22 Zoning Districts shall be no greater than fifty percent (50%).

(13) Subject to standards in Section 9.35.040(e) for garage setbacks.

Section 9.09.040(a)(2) - Development Standards, to be amended as follows (deletions are shown as ~~strikeout~~ and inserts are underlined):

SECTION 9.09.040 (a)(2)

MAXIMUM PROJECTION INTO REQUIRED YARDS

Item	Maximum Projection			Minimum Distance From Property Lines (B)	Maximum Projection Above District Height Limit	Other Limitations
	Front Yard Area	Seaward Of Structure Stringline	Side Yard Area (A)			
(a) Antennas (C)	NP	NP	NP	N/A	Not Permitted (D)	2 maximum
(b) Architectural Projections:(i.e. Eaves,Cornices and Roof Overhangs)	2'6"	2'6"	2'6"	2'0"	NP	None
(c) Balconies	5'0"	8'0"	NP	6'0"	NP	(E)(F)
(d) Barbecues and Other Appliances	N/A	To patio stringline	To PL	0'0"	N/A	(G)(H)
(e) Basements	NP	NP	NP	N/A	N/A	None
(f) Bay Windows	2'6"	NP	NP	3'0"	NP	(I)
(g) Chimneys (J)	2'0"	NP	6"	3'0"	3'0"	(E)(K)
(h) Decks, Patios and Walks (between Front Yard Setback and Structure Stringline)	N/A	N/A	To PL	0'0"	N/A	Horizontal surface to a maximum height of 18" above FP-3 elevation for the site. (I)(L)(M)
(i) Decks, Patios and Walks (between Structure Stringline and Patio Stringline)	N/A	To patio stringline (Except as provided in Section 9.09.040(a)(1) Footnote (b))	To PL	0'0"	N/A	The surface must be the lower of: 1) 18" above FP-3 elevation for the site; or 2) 30" above the average pregraded/existing elevation at the structure stringline; or 3) 4 feet above Beach Road at the centerline of the site. (I)(L)(M)

(j) Detached Accessory Structures	NP	To patio stringline (N)	None	None (N)	None	(O)
(k) HVAC, Mech. Equip. and Window Mounted Air Conditioners	NP	NP	1'6"	2'0"	NP	(P)
(l) Patio Covers	NP	8'0"	NP	6'0"	NP	(Q)
(m) Planter Boxes	2'0"	2'0"	NP	10'0"	N/A	(R)
(n) Pool Equipment	NP	N/A	2'6"	2'0"	N/A	(P)(S)
(o) Roof Decks	NP	NP	NP	3'0"	NP	None
(p) Second Stories	5'0"	NP	NP	N/A	NP	(T)
(q) Stairways and Stairway Landings	2'6"	NP (<u>Except as provided in Section 9.09.040(a)(1) Footnote (b)</u>)	NP	5'0"	NP	(E)
(r) Swimming Pools and Spas	NP	NP	NA	3'0" (U)	N/A	(V)

NP = Not Permitted

N/A = Not Applicable

PL = Property Line

Section 9.09.040(a)(1)-Footnotes - Development Standards, to be amended as follows (deletions are shown as strikeout and inserts are underlined):

(a) No enclosed portion of any structure shall extend seaward of a straight line drawn between the structure stringline measurements set forth in this section for the east and west property lines of the subject property.

(b) No patio or unenclosed portion of any structure shall extend seaward of a straight line drawn between the patio stringline measurements set forth in this section for the east and west property lines of the subject property. Where vertical displacement exists between the lowest level patio and sandy beach, a stairway may encroach seaward of the patio stringline no more than three (3) feet. Where the patio stringline lies inland of an ocean protective device (OPD), an accessway from the lowest level patio to the OPD may be constructed as necessary to link the patio with a stairway to the beach.

(c) Deleted by Ord. 99-05, 4/27/99.

(d) Location of a twelve (12) foot wide walkway extending from Beach Road to the beach. According to Tract Map No. 889, walkways are for the use of the property owners within the Capistrano Bay Community.

(e) May be reduced to the figure shown in parenthesis. If the setback on the ground floor is less than eighteen (18) feet, three parking spaces must be provided perpendicular to Beach Road.

(f) The second floor of any structure may project a maximum of five (5) feet into the required front setback for the first floor, but no closer than five (5) feet to the ultimate right-of-way line for Beach Road.

(g) The roadside line from which measurements are taken juts five (5) feet inland at this turnaround point. For properties directly seaward of the turnaround, the roadside measurement line is not necessarily their property line.

(h) A modification has been made that applies to the three indicated lots only. A control value of 101 feet shall extend from the midpoint of the lot a 35561 across 35565 to the midpoint of the lot at 35567. Therefore, any construction on the eastern half of 35561, on any portion of 35565 or on the western half of 35567 may extend no further than 101 feet. Any construction on the western half of 35561 or the eastern half of 35567 may extend no further than the control values established for their western and eastern property lines respectively.

(i) This parcel is not a part of Tract No. 889. The stringline measurements set forth in this section for this parcel are based upon a line twenty (20) feet seaward of and parallel to the inland property line.

Exhibit “A” (includes approved Addendum)

ZONE TEXT AMENDMENT ZTA08-0003

Chapter 9.63 - NONCONFORMING USES AND STRUCTURES, to be amended as follows (deletions are shown as strikeout and inserts are underlined):

9.63.010 Intent and Purpose.

This Chapter provides for the regulation of nonconforming uses and structures. This Chapter recognizes the legal status nonconforming uses and structures have. It is the intent of this Chapter to promote and encourage the ultimate conversion of nonconforming uses and structures to uses and structures that are conforming to this Code. The Chapter recognizes that until such conversion, the improvement of nonconforming uses and structures which promote compatibility and enhancement to surrounding land uses and which do not increase in nonconformity are permitted.

9.63.020 Land Uses Permitted.

No property in the City of Dana Point shall be used for any purposes except those permitted by this Code.

9.63.030 ~~Restriction on Improvements to Nonconformities~~ Expansion, Improvement, and Maintenance of Nonconforming Structures.

Nonconformities may be continued subject to the following conditions.

- (a) Expansion of Nonconforming Structures Conforming as to Use. Except as provided for in the Floodplain Overlay District, nonconforming structures which are conforming as to use may be expanded provided that the proposed expansion meets the current requirements of this code and positively contributes to the neighborhood. An expansion of ten (10) percent or less of the existing ~~structural~~ gross floor area is allowed by right. ~~shall require approval of a minor Site Development Permit issued by the Director of Community Development.~~ An expansion of more than ten (10) percent of the existing ~~structural~~ gross floor area may be approved by the Director as a minor Site Development Permit or forwarded by the Director for review by the Planning Commission.
- (b) Improvements to and Maintenance of Nonconforming Structures Conforming as to Use. Nonconforming structures which are conforming as to use may be, and are encouraged to be, maintained and aesthetically improved in compliance with the Dana Point Municipal Code. Maintenance and aesthetic improvement includes repainting and resurfacing, reroofing, recarpeting and reflooring, relandscaping, and other minor cosmetic improvements. ~~replacement of a structure's materials or systems.~~ Maintenance and aesthetic improvements shall not serve to expand the nonconforming structure in any way.
- ~~(c) Improvement to Nonconforming Uses. Improvements and/or additions to nonconforming uses which are conforming to this Code, result in no increase intensity of nonconforming~~

use, and serve to positively contribute to the neighborhood are encouraged. Improvements to nonconforming uses shall be allowed as follows:

(1) ~~Nonconforming Residential Uses.~~

~~(A) Aesthetic Improvements and Minor Alterations. The repair, maintenance, replacement, and aesthetic improvement of nonconforming uses which are conforming to this Code and promote neighborhood enhancement, and which do not enlarge or expand the nonconforming use as determined by the Director of Community Development shall be permitted and encouraged. Repair, maintenance, replacement, and aesthetic improvements typically include painting, landscaping, paving the replacement and addition of skylights, windows, doors, open spaces, and other features which promote the liveability of the dwelling and its compatibility with and enhancement to the neighborhood.~~

9.63.035 Expansion, Improvement, and Maintenance of Nonconforming Uses.

Nonconforming uses shall not be enlarged or expanded except as provided in Sections 9.63.040 (a) and (b) below.

(a) Expansion of Nonconforming Residential Uses.

~~(B) Minor Alterations and/or Expansions. A one-time minor alteration and/or expansion of ten (10) percent or less of the gross floor area of the structure containing the nonconforming residential use ~~an area or intensity of an existing nonconforming residential use~~ may be permitted and conditioned by the Director of Community Development subject to a consent approval of a minor Conditional Use Permit by the Planning Commission. ~~The minor alteration and/or expansion may be subject to conditions to promote neighborhood compatibility and enhancement. Any expansion greater than ten (10) percent requires approval of a Conditional Use Permit by the Planning Commission. The expansions may be subject to conditions to promote neighborhood compatibility and enhancement.~~~~

~~(C) Major Alterations and/or Expansions. Any alteration and/or expansion in area or intensity greater than ten (10) percent of an existing nonconforming residential use may be permitted and conditioned by a Conditional Use Permit approved by the Planning Commission. The major alteration and/or expansion may be subject to conditions to promote neighborhood enhancement.~~

(2)(b) Expansion of Nonconforming Non-Residential Uses.

~~(A) Aesthetic Improvements and Minor Alterations. The repair, maintenance, replacement, and aesthetic improvement of nonconforming uses which are conforming to this Code and promote area enhancement and improvement, and which do not enlarge or expand the nonconforming uses termed by the Director of Community Development shall be encouraged.~~

~~————— The repair, maintenance, replacement, and aesthetic improvements to painting, landscaping, paving, the replacement and addition of signage, windows, doors, public spaces, and other similar features to promote the uses, compatibility and enhancement to the surrounding area.~~

~~(B) — Alterations and/or Expansions. A one-time expansion of a nonconforming non-residential use is allowed subject to the approval of a Conditional Use Permit by the Planning Commission. Alterations and/or Expansions which substantially bring the use into better conformance with this Code are encouraged. The alteration or expansion shall result in the required number of parking spaces to be substantially complied with and result in compliance with the signage and landscaping regulations of this Code. The area of expansion is required to comply with current parking standards. A one-time alteration or expansion of a nonconforming use is allowed subject to approval of a Conditional Use Permit by the Planning Commission.~~

- (c) Maintenance of Structures Containing Nonconforming Uses. The repair, maintenance, replacement, and aesthetic improvement of structures containing nonconforming uses which promote neighborhood enhancement, and which does not enlarge or expand the nonconforming use, as determined by the Director of Community Development shall be permitted and encouraged. Repair, maintenance, replacement, and aesthetic improvements typically include painting, landscaping, paving, the replacement and addition of skylights, windows, doors, open spaces, and other features which promote the livability and usability of the structure and its compatibility with and enhancement to the neighborhood.

9.63.040 Destruction and Restoration Termination of Nonconformance.

- ~~(a) — Destruction of Nonconforming Uses.~~

- ~~(1) — Residential Districts.~~

~~(A) — Destruction Due to Accident. Any nonconforming non-residential use that is lawfully existing at the time of the adoption of this Code shall not be reestablished if the structure that the use occupies is destroyed beyond fifty (50) percent of its market value, by fire, flood, explosion, act of God, or act of the public enemy. However, if the use is a residential use, it may be reestablished up to the number of pre-existing dwelling units provided the reestablished density is no greater than one hundred twenty five (125) percent of the maximum density allowed within the Zoning District. Nonconforming residential condominiums may be reestablished up to the number of pre-existing dwelling units. Approval of the Site Development Permit shall be based on the proposed reestablishment's improvement of the site's liveability, parking situation, building setbacks, and landscaping. Any reestablishments of use or reconstruction of structure must comply with current building and related codes.~~

~~(B) — Abandonment or Destruction due to Insufficient Maintenance or Non-Accident. Any nonconforming use that is lawfully existing at the time of the adoption of this Code which is abandoned for more than 180 consecutive calendar days or where the structure occupied by the nonconforming use is destroyed beyond fifty (50) percent of its market value by insufficient maintenance or non-accident shall be converted or reconstructed to conform to the requirements of this Code.~~

~~(2) — Non Residential Districts. Any structure occupied by a nonconforming use that is lawfully existing at the time of the adoption of this Code which is~~

~~destroyed beyond fifty (50) percent of its market value for any reason shall be converted or reconstructed to conform the regulations of this Code.~~

~~(b)-(a) Destruction of Damage to Nonconforming Structures due to Accidents.~~

~~(1) — Destruction Due to Accident. Excluding properties in the Floodplain and Coastal Overlay Districts, any nonconforming structure that is lawfully existing at the time of adoption of this Code which may, if it is accidentally destroyed up to fifty (50) percent of its market value by fire, flood, explosion, earthquake, landslide, act of God, or act of the public enemy, may be restored and reconstructed to the limits of the pre-existing nonconformity reconstruct those structural components that are not in conformance with this Code to the development standards in effect at the time the nonconforming structural component was erected provided that all such construction and repair work commence within a period of five (5) years from the date of the accidental damage. However, ~~a~~Any reconstruction of a nonconforming structure must comply with current building and related codes.~~

(b) Voluntary Demolition of Nonconforming Structures.

(1) If any nonconforming portion of a structure is removed, that portion shall be reconstructed in conformance with current requirements of this Code.

~~(2) Abandonment or Destruction due to Insufficient Maintenance or Non-Accident. Any nonconforming structure lawfully existing at the time of adoption of this Code which is abandoned for more than 180 consecutive calendar days or destroyed demolished beyond fifty (50) percent of ~~it's~~ the total linear length of all walls, market value by insufficient maintenance or non-accident shall be converted or reconstructed to conform to the current requirements of this Code.~~

(c) Damage to Structures Containing Nonconforming Uses due to Accidents.

When a structure containing a nonconforming use is destroyed due to fire, flood, explosion, earthquake, landslide, act of God, or act of the public enemy, the nonconforming use may be re-established and the structure rebuilt to the limits of the pre-existing nonconformity. Any reconstruction of the structure must comply with current building and related codes.

(d) Voluntary Demolition of Structures containing Nonconforming Uses.

When a structure containing a nonconforming use is voluntarily demolished beyond fifty (50) percent of the total linear length of all walls, that structure shall be reconstructed to conform to the requirements of this Code and the nonconforming use shall be converted to a use which conforms to the current zoning designation of the site.

(e) Abandonment of Nonconforming Uses.

When a nonconforming use is abandoned or discontinued for more than 365 consecutive calendar days, the use shall be converted to conform to the current requirement of this code.

9.63.050 Notice.

(a) Upon determination that the provisions of this Chapter apply to a given ~~parcel of land~~ nonconforming use, the Director of Community Development shall send a notice thereof by

certified mail, return receipt requested, to the property owner thereof as shown on the last equalized assessment roll, shall cause such property to be posted with a similar notice, and shall publish such notice at least once in a newspaper of general circulation.

(b) The notice provided for in this Section shall state that the property in question ~~is~~ contains a non-conformity ng use, shall state the date of abatement established in Section 9.63.040 and shall state that the date of abatement may be appealed to the Planning Commission within thirty (30) days of the date appearing on the notice.

9.63.060 Nonconforming Historic Structures and Uses.

~~(a) A nonconforming designated national, State or local historic structure may be exempted from the provisions of this Chapter through the approval of a Site Development Permit issued by the Planning Commission. A nonconforming historic structure must be consistent with the land use designation and goals of the General Plan. If a nonconforming historic structure is destroyed beyond fifty (50) percent of its market value by fire, flood, explosion, act of God, or act of the public enemy, or otherwise eliminated, it may not be rebuilt except in accordance with the requirements of this Code.~~

~~(b) A nonconforming designated national, State or local historic use may be exempted from the provisions of this Chapter through the approval of a Conditional Use Permit issued by the Planning Commission. If a nonconforming structure occupied by a historic use is destroyed beyond fifty (50) percent of its market value by fire, flood, explosion, act of God, or act of the public enemy, or otherwise eliminated, the use may not be reestablished except in a structure built in accordance with the requirements of this Code.~~

~~(c) Approval of a Site Development Permit or Conditional Use Permit for the purpose of exempting a nonconforming historical structure or use from the provisions of this Chapter require the following findings:~~

- ~~(1) That the subject historical structure or use is a resource with local historical significance.~~
- ~~(2) That the deviations allowed through the exception are granted as a vehicle to preserve the historical structure or use.~~
- ~~(3) That the applicant has provided adequate assurances for the ongoing maintenance and preservation of the historic resource.~~
- ~~(4) That the historic resource will be a positive contribution to the community.~~

9.63.070 060 Right of Further Appeal.

(a) Any interested person may appeal the decision of the Planning Commission to the City Council within 15 days of service or the order upon the owner. The appeal hearing shall be noticed in the same manner as the original hearing before the Planning Commission.

(b) Each appeal shall be accompanied by such other documents and information the Director of Community Development deems to be necessary to adequately explain and to provide proper notification for the appeal. Each appeal shall set forth specifically and in detail the grounds for the appeal. The City Council may refuse to consider issues not raised in the written appeal.

(c) When an appeal has been accepted, the Director of Community Development shall forward to the City Council all documents and information on file pertinent to the appeal,

together with the minutes or official action of the approving authority, and a report on the basis of the decision and the appropriateness of the appeal.

(d) The City Council shall consider the appeal at a public hearing, including all information and evidence submitted with the original application, and any additional information and evidence the appellant may submit which the City Council finds to be pertinent.

(e) The action of the City Council shall be to sustain, deny, conditionally sustain, or refer the appeal back to the Planning Commission with the directions, all in compliance with the same requirements and procedures that were applicable to the Commission.

9.63.080 070 Public Nuisance.

Any nonconformity continuing beyond the date for abatement as established by this Chapter or as extended by the Planning Commission or City Council is a public nuisance. (Added by Ord. 93-16, 11/23/93)

9.63.090 080 Substitution of a Nonconforming Use.

Subject to Planning Commission approval, a nonconforming use may be replaced by another nonconforming use, provided that such substitute use is less detrimental to the public welfare and to the property of persons located in the vicinity thereof than is the original conforming use. Any such change of use shall not extend the termination date established for the original nonconforming use.

9.63.100-090 Termination—Violation of Law.

Any of the following violations of the Municipal Code shall immediately terminate the right to operate a nonconformity, except as otherwise provided in this Chapter:

- (a) Changing a nonconforming use to a use not permitted in the zoning district;
- (b) Increasing or enlarging the area, space or volume occupied by or devoted to a nonconformity;
- (c) The addition to a nonconforming use of another use not permitted in the zoning district.

Chapter 9.61 – Administration of Zoning, to be amended as follows (deletions are shown as ~~strikeout~~ and inserts are underlined):

9.61.075 Amendment and Modifications to Discretionary Permits.

An approved discretionary permit, variance or other entitlement may be amended or modified as long as the amendment is found to further the purposes of the Zoning Ordinance. An amendment request shall be filed prior to the expiration date of the previously approved permit. The Director of Community Development shall make one of the following determinations regarding the request:

(a) Minor Amendments. If requested amendments are found to be minor in nature by the Director of Community Development, the amendments may be approved administratively.

(b) Major Amendments. If the Director of Community Development determines that the requested amendments are significant enough to require a discretionary review, then the amendments shall be referred to the original decision making authority. If the original

application for the project required a public hearing, then the original decision making authority's review of amendments shall require a public hearing in accordance with Section 9.61.050, Notice and Conduct of Public Hearings.

**CITY OF DANA POINT
AGENDA REPORT**

Reviewed By:	
DH	<u>X</u>
CM	<u>X</u>
CA	<u>X</u>

DATE: JUNE 3, 2008

TO: CITY MANAGER/CITY COUNCIL

FROM: KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT

SUBJECT: GENERAL PLAN AMENDMENT (GPA06-02), ZONE CHANGE (ZC06-01), ZONE TEXT AMENDMENT (ZTA06-04) AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA06-05) TO REVIEW CALIFORNIA COASTAL COMMISSION SUGGESTED MODIFICATIONS TO THE CITY'S APPROVAL OF THE TOWN CENTER PLAN

RECOMMENDED ACTION: That the City Council adopt the suggested modifications approved by the California Coastal Commission in its certification of the City of Dana Point Local Coastal Program Amendment LCPA06-05 for the Dana Point Town Center Plan and forward the adopted suggested modifications to the Coastal Commission for final certification by approving:

1. **Resolution 08-06-03-XX (General Plan Amendment GPA06-02 – Action Document A)**
2. **Hold first reading and introduction of an Ordinance 08-XX (Zone Text Amendment ZTA06-04 and Zone Change ZC06-01 – Action Document B)**
3. **Resolution 08-06-03-XX (Submittal of LCPA06-05 to the Coastal Commission – Action Document C)**

ISSUES:

1. Are the Coastal Commission modifications generally consistent with the approval previously granted by the City Council?
2. Will the project resulting from the modifications be generally consistent with the City Council's intent when it previously approved the project?

STRATEGIC PLAN IMPLEMENTATION:

The proposed modifications are consistent with and further the Strategic Planning Initiatives. Specifically, initiatives I, II, III, IV, V, IX and X are directly furthered should the modifications be approved. When implemented in accordance with the modifications, the Town Center Plan will help to restore and maintain the integrity of ocean waters and beaches, protect the health, safety and welfare of our residents and reflect the community's vision and mission. Additionally, the Plan will maintain, modernize and beautify the City's infrastructure and neighborhoods, foster a vibrant business climate

and promote cultural arts. Finally, the Plan will create a vibrant, pedestrian-orientated Town Center which meets the needs of our residents, visitors and businesses.

BACKGROUND:

Improving the Town Center as one of the City's primary shopping districts with a small town ``village" atmosphere has been a primary goal of the City since the adoption of the City's General Plan. The Town Center Plan area extends over approximately a one-mile area and encompasses properties adjacent to Pacific Coast Highway and Del Prado, from Street of the Green Lantern to Street of the Copper Lantern, and north to and including La Plaza.

The following provides a brief chronology of the actions pertaining to approval of the Dana Point Town Center Plan:

- *June 29, 2005 – May 25, 2006:* During this period of time, the Town Center Subcommittee conducted 17 public meetings to formulate recommendations for the development of the Dana Point Town Center Plan.
- *September 26, 2006:* Planning Commission recommends approval of the draft Dana Point Town Center to the City Council.
- *October 25, 2006:* After conducting a hearing on the Plan, the City Council continued the item to the meeting of November 8, 2006.
- *November 8, 2006:* The City Council adopted a Negative Declaration for the Plan, approved the Town Center Plan, including modifications to the General Plan, the Town Center's zoning and the Zoning Code and requested the Coastal Commission's certification of a Local Coastal Program Amendment (LCP) for the Town Center area.
- *December 13, 2006:* The City Council conducted a second reading of an ordinance establishing the Town Center zoning district.
- *May 8, 2008:* The Coastal Commission denied certification of the LCP Amendment as originally submitted by the City but approved the LCP Amendment with suggested modifications.

The Coastal Commission's suggested modifications to the LCP Amendment must be adopted by the City of Dana Point in order for the LCP to become effective. The purpose of this hearing is to review the modifications and determine whether the City's approval should be revised to be consistent with the modifications adopted by the Coastal Commission. The more significant modifications are outlined in the discussion section of this report. Should the City not accept the modifications proposed by the Coastal Commission, the Local Coastal Program Amendment can not be certified. The City only has the discretion to vote yes or no on the modifications suggested to the City by the Coastal Commission.

DISCUSSION:

The Coastal Commission suggested a total of 46 modifications to the Town Center Plan originally approved by the City including 23 modifications to the Plan's Goals and Policies and 23 modifications to the Land Use Matrix and Development Standards in the Plan. The Commission's suggested modifications (Supporting Document D) are intended to 1) give priority to visitor serving/retail commercial uses; 2) preserve existing lower cost overnight accommodations; 3) encourage use of drought resistant and non-invasive landscape plant materials; and, 4) encourage water quality and conservation measures.

The following is a description of the suggested modifications as shown in Supporting Document D:

Suggested Modifications to Town Center Plan Goals and Policies

Suggested Modification No. 1: This modification is an added policy that strengthens the encouragement of visitor serving commercial uses and makes those types of uses a priority of the Plan. This is not a significant change to the Plan.

Suggested Modification No. 2: This modification to the Town Center boundary would remove the Blue Lantern Inn and Cannon's Restaurant properties from the Plan. This change would satisfy the Commission staff's concern that the Inn would become a "non-conforming use" due to the Town Center Plan only allowing hotels in that area between Pacific Coast Highway and Del Prado (the inner couplet) and not adjacent to residential zones (the outer couplet). Additionally, the area's proximity to coastal bluffs is a unique condition not shared by the rest of the Town Center area. This is not a significant change to the Plan.

Suggested Modification No. 3: This modification also refers to the change in the Plan's boundary.

Suggested Modification No. 4: This modification would add a policy that encourages preservation of existing, lower cost overnight accommodations and, if existing accommodations are demolished, would require, as a condition of approval, an in-lieu fee (payable to the California Dept. of Parks and Recreation) that would be used to renovate the historic cottages at Crystal Cove State Park. The only property that would be affected by this policy would be the Dana Marina Inn Hotel at the corner of Pacific Coast Highway /Del Prado and Ruby Lantern. That fee is not specified, but would be established at the time of a new development project.

Suggested Modification No. 5: This modification strengthens existing landscape policies that require drought resistant and non-invasive landscape plant material.

Suggested Modification No. 6: (Same as #5 above).

Suggested Modification No. 7: This modification requires Coastal Commission approval of a subsequent LCP amendment to implement a shared parking program for the Town Center, as described in the implementation section of the plan.

Suggested Modification No. 8: (Same as #7 above).

Suggested Modification No. 9: This modification requires Coastal Commission approval of a subsequent LCP amendment for any changes to the City's Zoning Code made for the purpose of creating an "in-lieu" parking program program for the Town Center, as described in the implementation section of the plan.

Suggested Modification No. 10: This modification strengthens existing landscape policies that require drought resistant and non-invasive landscape plant material.

Suggested Modifications Nos. 11- 23: These modifications recognize and emphasize the City's existing water quality program requirements.

Modifications to Town Center Land Use Regulations Matrix:

The Commission staff report notes that the Town Center Plan currently gives the same priority to professional business/office uses as it does to retail service and visitor serving commercial uses. Their suggested modifications to the Land Use Regulations Matrix (**pages 21-25 of the Town Center Plan**) would give greater priority to retail service and visitor serving commercial uses over professional business/office uses in the following ways:

- Rather than being allowed on the ground floor of buildings in the Town Center, these suggested modifications would restrict the following uses to upper floors and ground floors only if 40 feet back of building frontage on Pacific Coast Highway and Del Prado between Blue Lantern and Golden Lantern: Administrative Office Uses; Business Service Uses; Caretakers Residences; Clinical Services; Convalescent Facility; Educational Uses; Hospitals; Institutional Uses; Medical Offices; Professional Offices; Residential Care Facilities; Senior Housing; Single Room Occupancies.
- Rather than requiring a conditional use permit, the following uses would be allowed "by right": Bed and Breakfasts; Commercial Recreation Uses; Hotels; Marine Uses (sales/rentals).
- References to "Convenience store", "Drinking Establishments" and "Mixed Use Center" categories are deleted as they are already included and redundant with other categories.

Modifications to Town Center Development Regulations:

A policy (similar to that in suggested modification no. 4 above) regarding the demolition of existing "lower cost" overnight accommodations is added to the development regulations section of the Town Center Plan (pages 26-35). This policy encourages

preservation of existing, lower cost overnight accommodations and, if existing accommodations are demolished, would require, as a condition of approval, an in-lieu fee (payable to the California Dept. of Parks and Recreation) that would be used to renovate the historic cottages at Crystal Cove State Park. The only property that would be affected by this policy would be the Dana Marina Inn Hotel at the corner of Pacific Coast Highway / Del Prado and Ruby Lantern.

CONCLUSION:

Generally the modifications suggested by the Coastal Commission are intended to give priority to visitor serving/retail commercial uses, preserve existing lower cost overnight accommodations, encourage use of drought resistant and non-invasive landscape plant materials and encourage water quality and conservation measures. Overall, the suggested modifications are relatively minor and importantly do not change the integrity or substance of the Town Center Plan as originally approved by the City Council.

After City Council adoption of the suggested modifications, the adopted modifications will be forwarded to the Coastal Commission for final certification. The Town Center Plan may not be implemented until the date of final certification by the Coastal Commission.

NOTIFICATION AND FOLLOW-UP:

Notification of the amendments were published in the newspaper in accordance with the noticing requirements. In addition, all affected agencies and interested parties were provided notice of the hearing date. The Council's action is final unless modified through legal action.

FISCAL IMPACT:

No negative fiscal impacts are anticipated.

ACTION DOCUMENTS:

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Exhibit A	12
B. Ordinance 08-XX (Zone Text Amendment ZTA 06-04 and Zone Change ZC 06-01)	16
Exhibit A	23
C. Resolution 08-06-03-XX (Submittal of LCPA06-05 to the Coastal Commission)	28

SUPPORTING DOCUMENTS:

D. California Coastal Commission Suggested Modifications (letter from CCC staff)	33
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ACTION DOCUMENT A**RESOLUTION NO. 08-06-03-xx**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GPA 06-02, WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT, URBAN DESIGN ELEMENT, CIRCULATION ELEMENT, AND CONSERVATION/OPEN SPACE ELEMENT, TEXT, TABLES AND DIAGRAMS, AND SUBMISSION OF GPA 06-02 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA 06-05 FOR FINAL APPROVAL BY THE CITY COUNCIL.

Applicant: City of Dana Point, Community Development Department
File No.: GPA 06-02/ZC06-01/ZTA06-04/LCPA 06-05

WHEREAS, on July 9, 1991, the City of Dana Point adopted its General Plan; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's local CEQA Guidelines, the City prepared a Mitigated Negative Declaration which has been reviewed and adopted by the City Council; and

WHEREAS, the City Council on November 8, 2006, approved General Plan Amendment GPA 06-02, Zone Text Amendment ZTA 06-04, Zone Change ZC 06-01, Local Coastal Program Amendment LCPA 06-05; and

WHEREAS, LCPA 06-05 was submitted to the Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act and on May 8, 2008, approved Local Coastal Program Amendment LCPA 06-05 with suggested modifications; and

WHEREAS, the Coastal Commission found that the LCP Amendment with the suggested modifications was consistent with the policies of Chapter 3 of the Coastal Act; and

WHEREAS, in accordance with Public Resources Code Section 21166 and CEQA Guidelines Sections 15162-15164, the City assessed whether any potential environmental impacts of the suggested modifications were previously analyzed in the Mitigated Negative Declaration and if any changes were necessary, and

WHEREAS, it was determined that no changes are needed to the previously approved Mitigated Negative Declaration; and

WHEREAS, said suggested modifications have been accepted, agreed to, and incorporated into LCPA 06-05, and

WHEREAS, the City may amend all or part of an adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, the City of Dana Point adopted a Local Coastal Program, which was certified by the California Coastal Commission and may be amended in whole or in part; and

WHEREAS, the General Plan Amendment GPA 06-02 is the first General Plan Amendment processed for 2008; and

WHEREAS, the proposed amendment would make changes to the Land Use Element, Urban Design Element, Circulation Element, and Conservation/Open Space Element; and

WHEREAS, the amendment is internally consistent with the other elements of the General Plan; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code and CEQA Guidelines Sections 15251(f) and 15265(a)(1); and

WHEREAS, a Mitigated Negative Declaration was prepared as the environmental documentation for the consideration of the General Plan Amendment; and

WHEREAS, the City Council did on June 3, 2008 conduct a duly noticed public hearing as prescribed by law to consider the General Plan Amendment GPA 06-02 and LCPA 06-05; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to GPA 06-02 and LCPA 06-05; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

Section 1. That the above recitations are true and correct;

Section 2. The City Council finds as follows:

A. The City acknowledges receipt of the Coastal Commission's certification of the LCP amendment with suggested modifications.

- B. The City accepts and agrees to the suggested modifications and agrees to take formal action to satisfy the suggested modifications by making conforming amendments as necessary to its ordinances, General Plan, LCP, and the Zoning Code.
- C. The City agrees to issue coastal development permits for the total area included in the certified Local Coastal Program.
- D. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- E. That the General Plan Amendment under GPA 06-02 is in the public interest;
- F. That the Local Coastal Program Amendment (LCPA 06-05) is consistent with, and will be implemented in full conformity with the Coastal Act;
- G. That the Mitigated Negative Declaration is complete and adequate for the consideration of the General Plan Amendment;
- H. That the City Council adopts the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. Proper notice in accordance with the LCP Amendment procedures has been followed.
 - 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act. The amendments to the General Plan are consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources. That the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act and that the implementation program amendment is in conformance with and adequate to implement the Land Use Plan.
 - 3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses. As a General Plan Amendment and Local Coastal Program Amendment, no specific development is proposed. Any proposed development will be reviewed for compliance with the City's Local Coastal Program.
 - 4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. The applicable

sections are being amended accordingly to be consistent with state law.

5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. Proper notice in accordance with the LCP Amendment procedures has been followed.
6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. The City's Zoning Code is being amended concurrently with the LCP amendment.
7. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
8. The City certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
9. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
10. The Resolution of the City Council specifies that Local Coastal Program Amendment LCPA 06-05 be submitted to the Coastal Commission for final certification.

Section 3. The City Council adopts the amendments to the City's General Plan as shown in Exhibit "A" of this Resolution, attached hereto and incorporated herein by this reference.

Section 4. The City Council amends the currently adopted 1996 Land Use Plan of the 1996 Local Coastal Program as shown in General Plan Amendment GPA 06-02, attached hereto as Exhibit "A" to this Resolution.

Section 5. The City Council approves that the Dana Point Town Center Plan replaces in its entirety the Dana Point Specific Plan (including the Orange County Zoning Code) for the Town Center Plan area.

Section 6. The City Council amends the 1986 Dana Point Local Coastal Program (including the Orange County Zoning Code) in its entirety as it applies to the property within the Town Center Plan and replaces these portions of the 1986 Dana Point Local Coastal Program.

Section 7. That GPA06-02, ZC06-01, ZTA06-04, the Town Center Plan and other remaining sections of the City's General Plan and Zoning Code shall constitute the LCP for the Town Center area.

Section 8. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 3rd day of June, 2008.

JOEL BISHOP, MAYOR

ATTEST:

Kathy Ward
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 08-06-03-_____ was duly adopted and passed at a regular meeting of the City Council on the 3rd day of June, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

KATHY WARD
CITY CLERK

EXHIBIT A
COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO
DANA POINT GENERAL PLAN AMENDMENT – GPA06-02

Note: The text to be deleted per the Suggested Modifications is shown in ~~Strike Out~~. The text to be added Per the Suggested Modifications is shown In **Bold Italic Underlined**.

SUGGESTED MODIFICATIONS TO LAND USE ELEMENT

Policy 6.9: Retail service commercial and visitor serving commercial uses are priority uses which shall be encouraged within the Town Center. (Town Center Plan Policy 1.9)

Policy 6.10: Demolition of Existing Lower Cost Overnight Accommodations
If demolition of the existing lower cost overnight accommodations in the Town Center planning area is proposed, a fee shall be required in lieu of providing replacement lower cost motel units. If all the demolished units are replaced by lower cost motel units, the in-lieu fee shall be waived. This in-lieu fee shall be required as a condition of approval of a coastal development permit for demolition, in order to provide funding to support the establishment of lower cost overnight visitor accommodations within the coastal area of Orange County, and within 12 miles of the City of Dana Point's coastal zone.

The Town Center planning area does include one existing 24 room Motel which does provide lower cost overnight accommodations. The Motel's location is at the northern section of the Town Center planning area and sits between two major three lane roadways, Del Prado and Pacific Coast Highway.

The in-lieu fee for the demolition of the existing motel shall be an amount sufficient to fund provision of lower cost overnight accommodations comparable in number to those that are lost. The required in-lieu fees shall be deposited into an interest-bearing account, to be established and managed by the California Department of Parks and Recreation (CDPR). The entire fee and accrued interest shall be used for renovation of existing structures not currently functioning as overnight accommodations to overnight beach cottages available to the public at the Historic District of Crystal Cove State Park (Cottages 14, 17 and 21). The renovated cottages shall provide at least the same number of beds as units that are demolished and will provide a lower cost beach front overnight experience. All development funded by this account will require review and approval of the Executive Director of the Coastal Commission. Any portion of the fee that remains after five years shall be donated to one or more of the State

Park units or non-profit entities providing lower cost visitor amenities or other organization acceptable to the Executive Director within 12 miles of the City of Dana Point's coastal zone. (Town Center Plan Policy 1.10)

SUGGESTED MODIFICATIONS TO URBAN DESIGN ELEMENT

Policy 3.7: Encourage the use of small spaces for landscaping and mini-parks with art features. **Landscaping shall be consistent with Policy 3.11.** (Town Center Plan Policy 2.7)

Policy 3.11: Establish a recommended plant list for trees, shrubs, herbaceous materials and ground cover within the Design Guidelines for Town Center. ~~Priority shall be given to drought tolerant plants.~~ **Non-invasive, primarily drought tolerant plants shall be used.** (Town Center Plan Policy 2.11)

Policy 3.33: **In addition to the adopted Zoning Code Landscape Design Standards that encourage the use of drought tolerant landscaping as well as protection, preservation and enhancement of native species, the use of non-invasive plant species shall be required.** (Town Center Policy 9.10)

SUGGESTED MODIFICATIONS TO CIRCULATION ELEMENT

Policy 11.1: Provide opportunities for shared parking facilities in the Town Center, such as through the establishment of an off-street parking district **through a subsequent LCP amendment.** (Town Center Policy 4.1)

Policy 11.3: Develop a parking concept that emphasizes shared parking facilities **through a subsequent LCP amendment.** (Town Center Policy 4.3)

SUGGESTED MODIFICATIONS TO CONSERVATION AND OPEN SPACE ELEMENT

The Town Center Water Quality Program

Goal: **Continue the City's commitment to protecting water quality by seeking strict standards and subsequent enforcement of those standards for all new public and private development and significant redevelopment.**

Policy 1.22: **In addition to CEQA as applied to specific project development, projects will be consistent with Sections 30230 and 30231 of the California Coastal Act for water quality.** (Town Center Policy 9.11)

Policy 1.23: **All development within the Town Center shall meet the requirements of the San Diego Regional Water Quality Control Board (SDRWQCB) National Pollutant Discharge Elimination System (NPDES) permit.** (Town Center Policy 9.12)

Policy 1.24: All development within the Town Center shall be consistent with water quality-related provisions in Chapter 15.10 of the City of Dana Point Municipal Code, the City's Standard Urban Stormwater Mitigation Plan (SUSMP) and the City's "Local Implementation Plan (LIP)." (Town Center Policy 9.13)

Policy 1.25: All development shall incorporate Best Management Practices (BMPs) designed to minimize or avoid the runoff of pollutants from structures, landscaping, parking and loading areas. (Town Center Policy 9.14)

Policy 1.26: In areas of new development and redevelopment, minimize the amount of impervious surfaces and directly connected impervious surfaces and where feasible maximize on-site infiltration of runoff, except where site conditions preclude infiltration (e.g., geologic hazards would be exacerbated, or pollutant concentrations are high). (Town Center Policy 9.15)

Policy 1.27: Businesses shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, phosphates, suspended solids, and other pollutants to the storm drain system. (Town Center Policy 9.16)

Policy 1.28: All development shall minimize erosion, sedimentation, and other polluted runoff from construction-related activities and land disturbing activities (e.g., clearing, grading, and cut-and-fill), especially in erosive areas, to the maximum extent feasible. Development shall incorporate soil stabilization BMPs on disturbed areas as soon as feasible. Development that requires a grading/erosion control plan shall include a plan and schedule for landscaping and re-vegetation of graded or disturbed areas. (Town Center Policy 9.17)

Policy 1.29: Efficient irrigation practices shall be utilized within Town center to minimize the potential for nuisance water runoff. (Town Center Policy 9.18)

Policy 1.30: A public awareness program shall be developed concerning water quality for future business owners, tenants, residents as well as property owners within the Town center. The program will emphasize the appropriate use of water with respect to landscaping, fertilizers and pesticides, irrigation, sewage control, overall business operations and public spaces. (Town Center Policy 9.19)

Policy 1.31: All development projects will be required have a detailed Water Quality Management Plan requiring effective Site Design, Source Control and Treatment Control Best management Practices to the maximum extent practicable. In addition to common practices for reducing runoff, best available technology for catch basin inserts, filtration systems, diversion and/or biofiltration will be required. (Town Center Policy 9.20)

Policy 1.32: When the combination of site design and source control BMPs is not sufficient to protect water quality as required by the LCP or Coastal Act, or when required by Regional Board per municipal permit provisions, structural treatment BMPs will be implemented along with site design and source control measures. Use multi-benefit, natural feature, stormwater treatment systems, such as

landscape-based bioretention systems, bioswales and green roofs, in place of proprietary systems where feasible. (Town Center Policy 9.21)

Policy 1.33: Post-construction structural BMPs (or suites of BMPs) shall be designed, sized and installed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs.
(Town Center Policy 9.22)

ACTION DOCUMENT B**ORDINANCE NO. 08-XX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA06-04 AND ZONE CHANGE ZC06-01 TO ESTABLISH THE TOWN CENTER DISTRICT AND INCORPORATE THE TOWN CENTER PLAN AS APPENDIX "E" OF THE ZONING ORDINANCE AS PART OF LOCAL COASTAL PLAN AMENDMENT LCPA06-05 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: City of Dana Point, Community Development Department
File No.: GPA 06-02/ZC06-01/ZTA06-04/LCPA 06-05

The City Council of the City of Dana Point does hereby ordain as follows:

WHEREAS, in January, 1994, the City of Dana Point adopted its Zoning Code and Zoning Map; and

WHEREAS, the City seeks to amend the Zoning Code and Zoning Map, affecting properties in the Town Center; and

WHEREAS, the proposal is for a Zone Text Amendment, Zone Change and Local Coastal Program Amendment to amend the Dana Point Zoning Code by adding Chapter 9.26, Town Center District, and to amend the Dana Point Zoning Map to designate the Town Center project area as the Town Center District; and

WHEREAS, the Zone Text Amendment and Zone Change will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan, as amended; and

WHEREAS, the Town Center District zoning designation will be harmonious with the zoning of the surrounding properties; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the City Council on November 8, 2006, approved General Plan Amendment GPA 06-02, Zone Change ZC 06-01, and Local Coastal Program Amendment LCPA 06-05 and, on December 13, 2006, approved Zone Text Amendment ZTA 06-04; and

WHEREAS, LCPA06-05 was submitted to the Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act and on May 8, 2008, approved Local Coastal Program Amendment LCPA06-05 with suggested modifications; and

WHEREAS, the Coastal Commission found that the LCP Amendment and implementation plan amendment with the suggested modifications was consistent with the policies of Chapter 3 of the Coastal Act, minimized or mitigated any potential significant effects, would not result in significant adverse impacts within the meaning of CEQA and that there are no feasible alternatives within the meaning of CEQA that would reduce the potential for significant environmental impacts; and

WHEREAS, said suggested modifications have been accepted and agreed to, and incorporated into GPA06-02, ZTA06-04, ZC06-01, and LCPA06-05, and

WHEREAS, the City of Dana Point adopted a Local Coastal Program, which was certified by the California Coastal Commission and may be amended in whole or in part; and

WHEREAS, the Zone Text Amendment and Zone Change will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan, as such General Plan would be amended; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code and CEQA Guidelines Sections 15251(f) and 15265(a)(1); and

WHEREAS, a Mitigated Negative Declaration was prepared as the environmental document for the consideration of the Zone Text Amendment and Zone Change;

WHEREAS, the City Council did on June 3, 2008 conduct a duly noticed public hearing as prescribed by law to consider the Town Center Plan, the Mitigated Negative Declaration and, specifically said Zone Text Amendment, Zone Change, and LCPA; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to ZTA 06-04, ZC 06-01, and LCPA 06-05; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. The City acknowledges receipt of the Coastal Commission's certification of the LCP amendment with suggested modifications.

- C. The City accepts and agrees to the suggested modifications and agrees to take formal action to satisfy the suggested modifications by making conforming amendments as necessary to its ordinances, General Plan, LCP, and Zoning Code.
- D. The City agrees to issue Coastal Development Permits for the total area included in the certified Local Coastal Program.
- E. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- F. That the Zone Text Amendment (ZTA 06-04) and Zone Change (ZC 06-01) are in the public interest;
- G. That the Local Coastal Program Amendment (LCPA 06-05) is consistent with, and will be implemented in full conformity with the Coastal Act;
- H. That the Mitigated Negative Declaration for the Town Center Plan is complete and adequate for the consideration of the Zone Text Amendment and Zone Change;
- I. That the City Council adopts the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. Proper notice in accordance with the LCP Amendment procedures has been followed.
 - 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act. The amendments to the General Plan are consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources. That the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act and that the implementation program amendment is in conformance with and adequate to implement the Land Use Plan.
 - 3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind, locations, and intensity of land and water uses. As a Zone Text Amendment and Zone Change, no specific development is proposed. Any proposed development will be reviewed for compliance with the City's Local Coastal Program.
 - 4. That the level and pattern of development proposed is reflected in the Zoning Code, and Zoning Map. The applicable sections are being amended accordingly to be consistent with state law.

5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. Proper notice in accordance with the LCP Amendment procedures has been followed.
 6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. The City's Zoning Code is being amended concurrently with the LCP amendment.
 7. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
 8. The City certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
 9. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
 10. The Ordinance of the City Council specifies that Local Coastal Program Amendment LCPA 06-05 be submitted to the Coastal Commission for final certification.
- J. The City Council adopts the suggested modifications to the amendment to the Dana Point Town Center Plan Zoning Code and Zoning Map as shown in Exhibit "A" of this Ordinance.
- K. The City Council amends the currently adopted Implementation Action portion of the 1996 Local Coastal Program as shown in Zone Text Amendment ZTA 06-04 and Zone Change ZC 06-01, as shown in Exhibit "A" to this Ordinance.
- L. The City Council amends the 1986 Dana Point Local Coastal Program (including the Orange County Zoning Code) in its entirety as it applies to the property within the Town Center Plan and replaces these portions of the 1986 Dana Point Local Coastal Program with the 1996 Local Coastal Program (as amended) along with Zone Text Amendment (ZTA 06-04) and Zone Change (ZC 06-01).

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, is for any reasons held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2008

JOEL BISHOP, MAYOR

ATTEST:

KATHY WARD
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, KATHY WARD, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 08-xx was duly introduced at a regular meeting of the City Council on the ____ day of _____, 2008, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2008, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHY WARD, CITY CLERK

ORDINANCE NO. 08-xx

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

AFFIDAVIT OF POSTING
AND PUBLISHING

KATHY WARD, being first duly sworn, deposes, and says:

That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 08-xx, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA06-04 AND ZONE CHANGE ZC06-01 TO ESTABLISH THE TOWN CENTER DISTRICT AND INCORPORATE THE TOWN CENTER PLAN AS APPENDIX "E" OF THE ZONING ORDINANCE AS PART OF LOCAL COASTAL PLAN AMENDMENT LCPA06-05 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

was published in the Dana Point News newspaper on the ____ day of _____, 2008, and in further compliance with City Resolution No. XX-XX-XX-XX on the ____ day of _____, 2008, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

- Dana Point City Hall
- Capistrano Beach Post Office
- Dana Point Post Office
- Dana Point Library

KATHY WARD, CITY CLERK
Dana Point, California

**EXHIBIT A
COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO
ZONE TEXT AMENDMENT ZTA06-04 AND ZONE CHANGE ZC06-01**

The following are changes to the "Land Use Matrix" of the Land Use Regulations section of the Town Center Plan:

Note: The text to be deleted per the Suggested Modifications is shown in ~~Strike Out~~. The text to be added Per the Suggested Modifications is shown In **Bold Italic Underlined**.

P = Permitted Use C = Conditional Use T = Temporary Use X = Prohibited Use	P* = Permitted Use subject to special use standards (DPZC sec. 9.07) C* = Conditional Use subject to special use standards (DPZC sec. 9.07) T* = Temporary Use subject to special use standards (DPZC sec. 9.07) A = Accessory Use <u>(1) = Permitted or Conditionally Permitted above the street level only.</u>	Town Center Mixed-Use District
---	--	--------------------------------

Administrative Office Uses: real estate, insurance, banks, travel agent.	P
<u>- Above the ground floor</u>	<u>P</u>
<u>- On the ground floor</u>	<u>C</u>
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>

Alcoholic Beverage Outlets: establishments which serve or sell alcohol	C
--	---

Bed and Breakfast Inn: large dwelling unit which provides lodging.	C
	<u>P</u>

Business Service Uses: office products and supply stores, parcel/postal services, computer sales and service, and courier/messenger services.	P
<u>- Above the ground floor</u>	<u>P</u>
<u>- On the ground floor</u>	<u>C</u>
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>

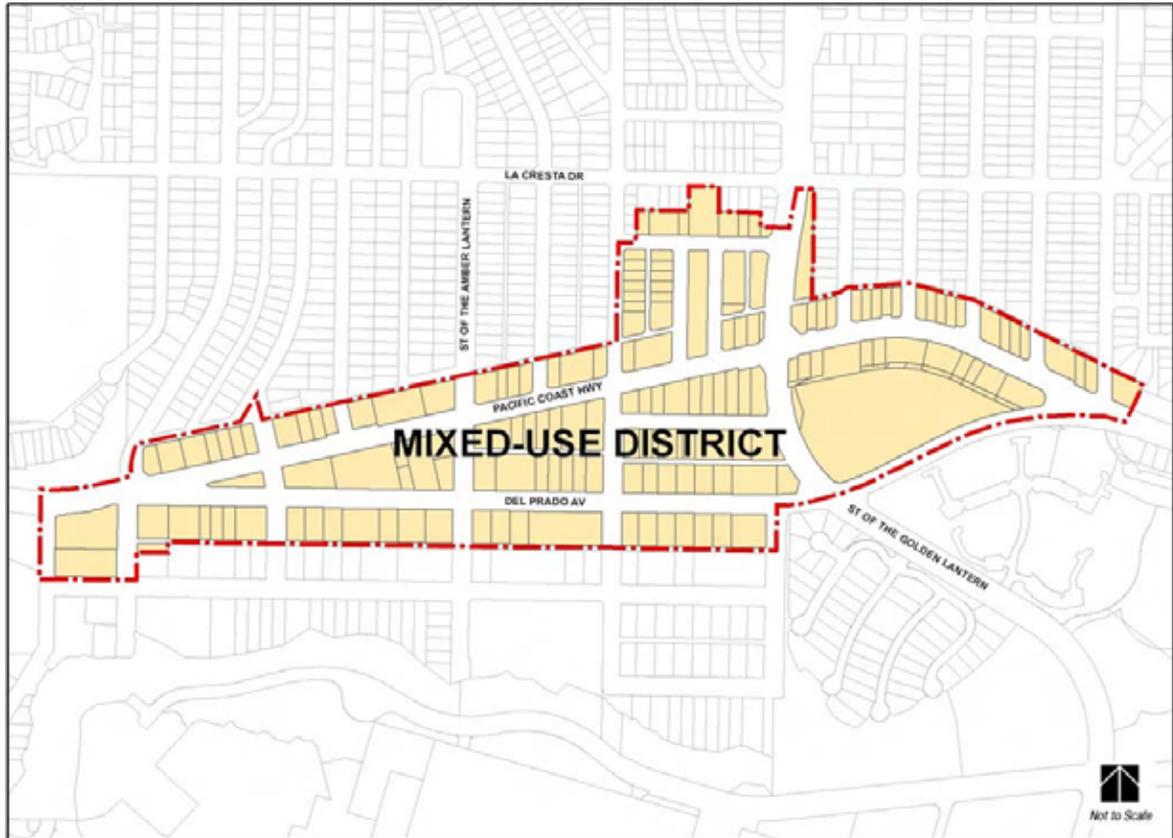
<u>Caretaker's Residence:</u> dwelling unit accessory to the principal use on a site and intended for occupancy by a caretaker, security guard, or worker.	C
<u>Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern .</u>	<u>X</u>
<u>Clinical Services:</u> medical and health clinics, chiropractic/physical therapy clinics, counseling services and emergency care centers.	C
<u>Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
<u>Commercial Recreation Uses:</u> bicycle rentals, billiard parlors, boat kayak rentals, dance studios, golf courses, health and athletic clubs and youth clubs.	C P
<u>Convalescent Facility:</u> State licensed facility which provides long-term nursing, dietary and other medical services.	C
<u>Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
<u>Convenience Store:</u>	C
<u>Drinking Establishments:</u> restaurants that serve alcoholic beverages, bars, pubs, taverns, nightclubs and cocktail lounges.	P*/C*
<u>Educational Uses:</u> art schools, martial arts schools, dance schools, day care centers, gymnastics schools, technical schools, vocational schools and university/college extension programs or satellite facilities.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
<u>Family Day Care Home, Small:</u> home which provides family day care to one to six children.	C <u>(1)</u>
<u>Health and Athletic clubs: youth clubs, dance studios.</u>	C

Hospital, Acute Psychiatric: medical, nursing, rehabilitative, pharmacy, and dietary services.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
Hotels located within the interior portion of the couplet: - <u>portion of</u> structure containing guest rooms, <u>meeting rooms</u> or suites offering transient lodging: - <u>accessory uses to hotel such as lobby, restaurant, retail store, meeting rooms</u>	CP(1) <u>P</u>
Hotels located in the outer couplet along the alleys which are adjacent to surrounding residential zones – structure containing guest rooms or suites offering transient lodging	X
Institutional Uses: libraries, public or private schools, hospitals, municipally owned or operated buildings, structures or lands used for public purposes.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
Marine Uses: boat sales and incidental rental, boat storage , surfboard sales and repair, scuba equipment sales and service, marine supply sales, sail sales and incidental-making and repair and jet-ski repair.	C <u>P</u>
Medical Office Uses: offices of doctors, dentists, chiropractors and veterinarians.	P
<u>- Above the ground floor</u>	<u>P</u>
<u>- On the ground floor</u>	<u>C</u>
<u>- - Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>
Mixed-Use Center: combination of certain types of retail, office, and residential.	P

Professional Office Use: accountants, architects, designers, engineers, interior decorators, landscape architects, photographers and planners.	<u>P</u>
<u>- Above the ground floor</u>	<u>P</u>
<u>- On the ground floor</u>	<u>C</u>
<u>- - Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>
Residential Care Facility for the Elderly: housing for persons 60 years of age or over where varying levels of care are provided.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>
Retail Sales Uses: antique sales, appliance sales and repair, art supplies, bicycle sales and service, bookstores, camera sales and service, clock sales, clothing sales, coin and stamp sales, computer and electronics stores, <u>convenience stores</u> , department stores, drugstores, fishing supply stores, florist shops, furniture sales, gift shops, grocery and food stores, hardware stores, hobby shops, interior design stores, jewelry stores, machine and tools sales, music stores, newsstands, optical products sales, pet shops and pet supply stores, photo finishing and photo supply stores, plant nurseries (garden center), shoe stores, sporting goods stores, stationery stores, surfboard sales and repair, television/stereo sales, toy stores and video sales/rental stores.	P
Senior Citizen Housing: licensed housing for persons 62 years of age or older, or unlicensed housing for persons 55 years of age or older, including such housing facilities as retirement villas, apartments, condominium.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>
Single Room Occupancy: cluster of guest units within a residential hotel for weekly or longer tenancy providing sleeping or living facilities for one person per unit.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>

**COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO
ZONE TEXT AMENDMENT ZTA06-04 AND ZONE CHANGE ZC06-01**

The following depicts the suggested modification to the Town Center Plan area boundary:



ACTION DOCUMENT C**RESOLUTION NO. 08-06-03-xx****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING LOCAL COASTAL PROGRAM AMENDMENT LCPA06-05 AND REQUESTING FINAL CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.**

The City Council of the City of Dana Point does hereby resolve as follows:

WHEREAS, the City Council on November 8, 2006, approved General Plan Amendment GPA 06-02, Zone Text Amendment ZTA 06-04, Zone Change ZC 06-01, and Local Coastal Program Amendment LCPA 06-05 for adoption of the Town Center Plan; and

WHEREAS, LCPA 06-05 was submitted to the Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act and on May 8, 2008, approved Local Coastal Program Amendment 06-05 with suggested modifications; and

WHEREAS, the Coastal Commission found that the LCP Amendment and Implementation Plan Amendment with suggested modifications was consistent with the policies of Chapter 3 of the Coastal Act, minimized or mitigated any potential significant effects, would not result in significant adverse impacts within the meaning of CEQA and that there are no feasible alternatives within the meaning of CEQA that would reduce the potential for significant environmental impacts; and

WHEREAS, said suggested modifications have been incorporated into the LCPA 06-05 and the Town Center Plan, and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on June 3, 2008, regarding the Dana Point Local Coastal Program Amendment LCPA06-05, and the City Council finds that the proposed amendment is consistent with the Dana Point General Plan, the Local Coastal Program and the California Coastal Act; and

WHEREAS, the City Council of the City of Dana Point certifies that it intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code and CEQA Guidelines Sections 15251(f) and 15265(a)(1); and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

Section 1. That the above recitations are true and correct;

Section 2. The City Council finds as follows:

- A. The City acknowledges receipt of the Coastal Commission's certification of the LCP Amendment with suggested modifications.
- B. The City accepts and agrees to the suggested modifications and agrees to take formal action to satisfy the suggested modifications by making conforming amendments as necessary to its ordinances, General Plan, LCP, Zoning Code, and Town Center Plan.
- C. The City agrees to issue coastal development permits for the total area included in the certified Local Coastal Program.
- D. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- E. That the adoption of the Town Center Plan as an amendment to the Local Coastal Program is in the public interest;
- F. That the Local Coastal Program Amendment (LCPA 06-05) is consistent with, and will be implemented in full conformity with the Coastal Act;
- G. That the Mitigated Negative Declaration for the Town Center Plan is complete and adequate;
- H. That the City Council adopts the following findings:
 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. Proper notice in accordance with the LCP Amendment procedures has been followed.
 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act. The amendments to the General Plan are consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources. That the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act and that the Implementation Program Amendment is in conformance with and adequate to implement the Land Use Plan.
 3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities

have been applied to determine the locations, and intensity of land and water uses. As a General Plan Amendment and Local Coastal Program Amendment, no specific development is proposed. Any proposed development will be reviewed for compliance with the City's Local Coastal Program.

4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. The applicable sections are being amended accordingly to be consistent with state law.
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. Proper notice in accordance with the LCP Amendment procedures has been followed.
6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. The City's Zoning Code is being amended concurrently with the LCP amendment.
7. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
8. The City certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
9. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
10. The Resolution of the City Council specifies that Local Coastal Program Amendment LCPA 06-05 be submitted to the Coastal Commission for final certification.

Section 3. That the Dana Point City Council approved Dana Point Local Coastal Program Amendment LCPA06-05 pursuant to Resolution 08-06-03-xx and Ordinance No. 08-xx. LCPA06-05 pertains to adoption of the Town Center Plan which includes the required land use and implementation measures as outlined in General Plan Amendment GPA06-02, Zone Text Amendment ZTA06-04, Zone Change ZC06-01 and LCPA06-05. A copy of Resolution 08-06-03-xx and Ordinance 08-xx approving LCPA06-05 with the specific content of the proposed amendment is attached hereto as Exhibit "A" and is incorporated herein by this reference as though fully set forth herein.

Section 4. That the California Coastal Commission is hereby requested to consider, approve and finally certify Dana Point Local Coastal Program Amendment LCPA06-05 which replaces the 1986 Dana Point Specific Plan Local Coastal Program for the entire Town Center area.

Section 5. That pursuant to Section 13551(b) of the Coastal Commission Regulations, Dana Point Local Coastal Program Amendment LCPA06-05 will automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Section 30512, 30513 and 30519.

Section 6. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 3rd day of June, 2008.

JOEL BISHOP, MAYOR

ATTEST:

KATHY WARD
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 08-06-03-_____ was duly adopted and passed at a regular meeting of the City Council on the 3rd day of June, 2008, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

KATHY WARD
CITY CLERK

SUPPORTING DOCUMENT D

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 OceanGate, Suite 1200
 Long Beach, CA 90802-4302
 (562) 590-5071



May 12, 2008
 COMMUNITY DEVELOPMENT DEPARTMENT

Kyle Butterwick, Community Development Department Director
 City of Dana Point
 33282 Golden Lantern
 Dana Point, CA 92629-1805

2008 MAY 13 P 2:50

Re: Dana Point Local Coastal Program (LCP) Major Amendment No. 4-06.

Dear Mr. Butterwick:

You are hereby notified that the California Coastal Commission, at its May 8, 2008 meeting in Marina Del Rey, approved City of Dana Point LCP Amendment No. 4-06 with modifications. Local Coastal Program (LCP) Amendment No. 4-06 was submitted pursuant to City Council Resolution No. 06-11-08-06 and also Resolution No. 06-11-08-5 and proposed the changes contained in City Council Ordinance No. 06-17. Local Coastal Program (LCP) Amendment No. 4-06 consists of a Land Use Plan (LUP) and Implementation Plan (IP) that would replace, in its entirety, the Dana Point Specific Plan Local Coastal Program for the Town Center Area.

The Commission approved the LCP amendment with suggested modifications. Therefore, LCP Amendment No. 4-06 will not be effective for implementation in the City's coastal zone until: 1) the Dana Point City Council adopts the Commission's suggested modifications, 2) the City Council forwards the adopted suggested modifications to the Commission by resolution, and, 3) the Executive Director certifies that the City has complied with the Commission's May 8, 2008 action. The Coastal Act requires that the City's adoption of the suggested modifications be completed within six months of the Commission's action.

Pursuant to the Commission's action on May 8, 2008, certification of City of Dana Point LCP Amendment No. 4-06 is subject to the attached suggested modifications (Attachment A).

Thank you for your cooperation and we look forward to working with you and your staff in the future. Please call Fernie Sy or myself at (562) 590-5071 if you have any questions regarding the modifications required for effective certification of City of Dana Point LCP Amendment No. 4-06.

Sincerely,

Teresa Henry
 District Manager

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ATTACHMENT A
Suggested Modifications
Page 1

Certification of City of Dana Point LCP Amendment Request No. 4-06 is subject to the following modifications.

The City's proposed additions are shown as underlined text.

The City's proposed deletions are shown as ~~strike-out text~~.

The Commission's suggested additions are shown in **bold, italic, underlined text**.

The Commission's suggested deletions are shown in **~~bold, italic, underlined, strike-out text~~**.

Note: The numbering used in the suggested modifications below may be re-numbered as necessary to conform to the format of the existing certified LCP document.

The policies found in the "Town Center Plan" are also repeated within the Land Use Element and Urban Design Elements of the City's General Plan, which are also components of the City of Dana Point's "1996" Local Coastal Program. In order to conform with the suggested modifications, the City will need to make changes to those policies as well.

Revisions to the policies, made through suggested modifications, in certain circumstances may make the background narrative obsolete. Descriptive narrative no longer consistent with the policies will need to be revised by the City to conform the narrative of any associated policy that has been revised through suggested modifications as part of the submission of the final document for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

LAND USE PLAN SUGGESTED MODIFICATIONS

A. Suggested Modifications to the Town Center Plan

1. Suggested Modification No. A

Land Use

GOAL: Achieve development in the Town Center area that enhances the area as a primary business district in the City.

Policy A: Retail service commercial and visitor service commercial uses are priority uses which shall be encouraged within the Town Center.

2. Suggested Modification No. B

Global Change: Modify all policies, text and graphics as follows.

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ATTACHMENT A
Suggested Modifications
Page 2

The geographic boundary of the Town Center area shall be modified to exclude the area bordered by Santa Clara Avenue, Green Lantern Street, Blue Lantern Street, and the Dana Point Bluffs.

3. Suggested Modification No. 1 (Land Use Plan)

Remove this suggested modification.

4. Suggested Modification No. C

Policy C: Demolition of Existing Lower Cost Overnight Accommodations

If demolition of the existing lower cost overnight accommodations in the Town Center planning area is proposed, a fee shall be required in-lieu of providing replacement lower cost motel units. If all the demolished units are replaced by lower cost motel units, the in-lieu fee shall be waived. This in-lieu fee shall be required as a condition of approval of a coastal development permit for demolition, in order to provide funding to support the establishment of lower cost overnight visitor accommodations within the coastal area of Orange County, and within 12 miles of the City of Dana Point's coastal zone.

The Town Center planning area does include one existing 24 room Motel which does provide lower cost overnight accommodations. The Motel's location is at the northern section of the Town Center planning area and sits between two major three lane roadways, Del Prado and Pacific Coast Highway.

The in-lieu fee for the demolition of the existing motel shall be an amount sufficient to fund provision of lower cost overnight accommodations comparable in number to those that are lost. The required in-lieu fees shall be deposited into an interest-bearing account, to be established and managed by the California Department of Parks and Recreation (CDPR). The entire fee and accrued interest shall be used for renovation of existing structures not currently functioning as overnight accommodations to overnight beach cottages available to the public at the Historic District of Crystal Cove State Park (Cottages 14, 17 and 21). The renovated cottages shall provide at least the same number of beds as units that are demolished and will provide a lower cost beach front overnight experience. All development funded by this account will require review and approval of the Executive Director of the Coastal Commission. Any portion of the fee that remains after five years shall be donated to one or more of the State Park units or non-profit entities providing lower cost

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ATTACHMENT A
Suggested Modifications
Page 3

visitor amenities or other organization acceptable to the Executive Director within 12 miles of the City of Dana Point's coastal zone.

5. Suggested Modification No. 2

Urban Design/Streetscape

GOAL: Improve the Town Center as one of the city's primary shopping districts with a small town "village" atmosphere.

Policy 2.7: Encourage the use of small spaces for landscaping and mini-parks with art features **Landscaping shall be consistent with Policy 2.11.**

6. Suggested Modification No. 3

Policy 2.11: Establish a recommended plant list for trees, shrubs, herbaceous materials and ground cover within the Design Guidelines for Town Center. Priority shall be given to drought-tolerant plants. **Non-invasive, primarily drought tolerant plants shall be used.**

7. Suggested Modification No. 4

Parking

GOAL: Create and implement a parking program that ensures adequate and convenient parking is made available with the creation of centrally located public parking facilities.

Policy 4.1: Provide opportunities for shared parking facilities in the Town Center, such as through the establishment of an off-street parking district **through a subsequent LCP amendment.**

8. Suggested Modification No. 5

Policy 4.3: Develop a parking concept that emphasizes shared parking facilities **through a subsequent LCP amendment.**

9. Suggested Modification No. 6

Policy 4.5: Create an in-lieu parking program which includes appropriate fees which consider the costs of land acquisition and construction costs associated with providing a parking space in the Town Center. **Approval of a Local Coastal Program Amendment from the California Coastal Commission shall be required for any zoning code amendments made for the purpose of implementing an in-lieu parking program for the Town Center.**

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ATTACHMENT A
Suggested Modifications
Page 4

10. Suggested Modification No. D

Landscape

GOAL: Require landscape improvements and incorporated amenities that improve the pedestrian environment and create a strong sense of place for the Town Center

Policy D: In addition to the adopted Zoning Code Landscape Design Standards that encourage the use of drought tolerant landscaping as well as protection, preservation and enhancement of native species, the use of non-invasive plant species shall be required.

11. Suggested Modification No. E

Water Quality

GOAL: Continue the City's commitment to protecting water quality by seeking strict standards and subsequent enforcement of those standards for all new public and private development and significant redevelopment.

12. Suggested Modification No. F

Policy F: In addition to CEQA as applied to specific project development, projects will be consistent with Sections 30230 and 30231 of the California Coastal Act for water quality.

13. Suggested Modification No. G

Policy G: All development within the Town Center shall meet the requirements of the San Diego Regional Water Quality Control Board (SDRWQCB) National Pollutant Discharge Elimination System (NPDES) permit.

14. Suggested Modification No. H

Remove this suggested modification.

15. Suggested Modification No. I (Land Use Plan)

Policy I: All development shall incorporate Best Management Practices (BMPs) designed to minimize or avoid the runoff of pollutants from structures, landscaping, parking and loading areas.

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16. Suggested Modification No. J

Policy J: In areas of new development and redevelopment, minimize the amount of impervious surfaces and directly connected impervious surfaces and where feasible maximize on-site infiltration of runoff, except where site conditions preclude infiltration (e.g., geologic hazards would be exacerbated, or pollutant concentrations are high).

17. Suggested Modification No. K

Policy K: Businesses shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, phosphates, suspended solids, and other pollutants to the storm drain system.

18. Suggested Modification No. L

Policy L: All development shall minimize erosion, sedimentation, and other polluted runoff from construction-related activities and land disturbing activities (e.g., clearing, grading, and cut-and-fill), especially in erosive areas, to the maximum extent feasible. Development shall incorporate soil stabilization BMPs on disturbed areas as soon as feasible. Development that requires a grading/erosion control plan shall include a plan and schedule for landscaping and re-vegetation of graded or disturbed areas.

19. Suggested Modification No. M

Policy M: Efficient irrigation practices shall be utilized within Town center to minimize the potential for nuisance water runoff.

20. Suggested Modification No. N

Policy N: A public awareness program shall be developed concerning water quality for future business owners, tenants, residents as well as property owners within the Town center. The program will emphasize the appropriate use of water with respect to landscaping, fertilizers and pesticides, irrigation, sewage control, overall business operations and public spaces.

21. Suggested Modification No. O

Policy O: All development projects will be required to meet City Municipal code section 15.10.050 requirements for have a detailed Water Quality Management Plan. This includes a three pronged approach including requiring effective Site Design, Source Control and Treatment Control

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Best management Practices to the maximum extent practicable. In addition to common practices for reducing runoff, best available technology for catch basin inserts, filtration systems, diversion and/or biofiltration will be required.

22. Suggested Modification No. P

Policy P: When the combination of site design and source control BMPs is not sufficient to protect water quality as required by the LCP or Coastal Act, or when required by Regional Board per municipal permit provisions, structural treatment BMPs will be implemented along with site design and source control measures. Use multi-benefit, natural-feature, stormwater treatment systems, such as landscape-based bioretention systems, bioswales and green roofs, in place of proprietary systems where feasible.

23. Suggested Modification No. Q

POLICY Q: Post-construction structural BMPs (or suites of BMPs) shall be designed, sized and installed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs.

IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS

A. Suggested Modifications to the Land Use Regulations section

1. Suggested Modification No. R

Make the following changes to the "Land Use Matrix" section in the Town Center Plan. Language as submitted by the City of Dana Point is shown in straight type. The text to be deleted per CCC Suggested Modifications is shown in ~~Strike-Out~~. The text to be added Per CCC Suggested Modifications is shown in **Bold Italic Underlined**.

P = Permitted Use	P* = Permitted Use subject to special use standards (DPZC sec. 9.07)	Town Center
C = Conditional Use	C* = Conditional Use subject to special use standards (DPZC sec. 9.07)	Mixed-Use
T = Temporary Use	T* = Temporary Use subject to special use standards (DPZC sec. 9.07)	District
X = Prohibited Use	A = Accessory Use	
	<u>(1) = Permitted or Conditionally Permitted</u>	

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	<u>above the street level only.</u>	
Administrative Office Uses: real estate, insurance, banks, travel agent.		P
<u>- Above the ground floor</u>		<u>P</u>
<u>- On the ground floor</u>		<u>C</u>
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>		<u>X</u>
Alcoholic Beverage Outlets: establishments which serve or sell alcohol		C
Bed and Breakfast Inn: large dwelling unit which provides lodging.		C <u>P</u>
Business Service Uses: office products and supply stores, parcel/postal services, computer sales and service, and courier/messenger services.		P
<u>- Above the ground floor</u>		<u>P</u>
<u>- On the ground floor</u>		<u>C</u>
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>		<u>X</u>
Caretaker's Residence: dwelling unit accessory to the principal use on a site and intended for occupancy by a caretaker, security guard, or worker.		C
<u>Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern .</u>		<u>X</u>
Clinical Services: medical and health clinics, chiropractic/physical therapy clinics, counseling services and emergency care centers.		C
<u>Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>		<u>X</u>
Commercial Recreation Uses: bicycle rentals, billiard parlors, boat kayak rentals, dance studios, golf courses, health and athletic clubs and		<u>CP</u>

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youth clubs.	
Convalescent Facility: State licensed facility which provides long-term nursing, dietary and other medical services.	C
<u>Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
Convenience Store:	C
Drinking Establishments: restaurants that serve alcoholic beverages, bars, pubs, taverns, nightclubs and cocktail lounges.	P*/C*
Educational Uses: art schools, martial arts schools, dance schools, day care centers, gymnastics schools, technical schools, vocational schools and university/college extension programs or satellite facilities.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
Family Day Care Home, Small: home which provides family day care to one to six children.	C(1)
<u>Health and Athletic clubs: youth clubs, dance studios.</u>	C
Hospital, Acute Psychiatric: medical, nursing, rehabilitative, pharmacy, and dietary services.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
Hotels located within the interior portion of the couplet: - <u>portion of</u> structure containing guest rooms, <u>meeting rooms</u> or suites offering transient lodging: - <u>accessory uses to hotel such as lobby, restaurant, retail store, meeting rooms</u>	CP(1) P
Hotels located in the outer couplet along the alleys which are adjacent to surrounding residential zones – structure containing guest rooms or suites offering transient lodging	X

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Institutional Uses: libraries, public or private schools, hospitals, municipally owned or operated buildings, structures or lands used for public purposes.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern.</u>	<u>X</u>
Marine Uses: boat sales and incidental rental, boat storage, surfboard sales and repair, scuba equipment sales and service, marine supply sales, sail sales and incidental making and repair and jet-ski repair.	<u>C, P</u>
Medical Office Uses: offices of doctors, dentists, chiropractors and veterinarians.	P
<u>- Above the ground floor</u>	<u>P</u>
<u>- On the ground floor</u>	<u>C</u>
<u>- - Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>
Mixed-Use Center: combination of certain types of retail, office, and residential.	P
Professional Office Use: accountants, architects, designers, engineers, interior decorators, landscape architects, photographers and planners.	P
<u>- Above the ground floor</u>	<u>P</u>
<u>- On the ground floor</u>	<u>C</u>
<u>- - Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>
Residential Care Facility for the Elderly: housing for persons 60 years of age or over where varying levels of care are provided.	C
<u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u>	<u>X</u>

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<p><u>Retail Sales Uses:</u> antique sales, appliance sales and repair, art supplies, bicycle sales and service, bookstores, camera sales and service, clock sales, clothing sales, coin and stamp sales, computer and electronics stores, <i>convenience stores</i>, department stores, drugstores, fishing supply stores, florist shops, furniture sales, gift shops, grocery and food stores, hardware stores, hobby shops, interior design stores, jewelry stores, machine and tools sales, music stores, newsstands, optical products sales, pet shops and pet supply stores, photo finishing and photo supply stores, plant nurseries (garden center), shoe stores, sporting goods stores, stationery stores, surfboard sales and repair, television/stereo sales, toy stores and video sales/rental stores.</p>	P
<p><u>Senior Citizen Housing:</u> licensed housing for persons 62 years of age or older, or unlicensed housing for persons 55 years of age or older, including such housing facilities as retirement villas, apartments, condominium.</p>	C
<p><u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u></p>	X
<p><u>Single Room Occupancy:</u> cluster of guest units within a residential hotel for weekly or longer tenancy providing sleeping or living facilities for one person per unit.</p>	C
<p><u>- Within the first 40 ft depth of ground floor area fronting along Pacific Coast Highway and Del Prado between Street of the Blue Lantern and Street of the Golden Lantern</u></p>	X

2. Suggested Modification No. S

Development Standards

Policy C: Demolition of Existing Lower Cost Overnight Accommodations

- A. If demolition of the existing lower cost overnight accommodations in the Town Center planning area is proposed, a fee shall be required in-lieu of providing replacement lower cost motel units. If all the demolished units are replaced by lower cost motel units, the in-lieu fee shall be waived. This in-lieu fee shall be required as a condition of approval of a coastal development permit for demolition, in order to provide funding to support the establishment of lower cost overnight visitor accommodations within the coastal**

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area of Orange County, and within 12 miles of the City of Dana Point's coastal zone.

The in-lieu fee for the demolition of the existing motel shall be an amount sufficient to fund provision of lower cost overnight accommodations comparable in number to those that are lost. The required in-lieu fees shall be deposited into an interest-bearing account, to be established and managed by the California Department of Parks and Recreation (CDPR). The entire fee and accrued interest shall be used for renovation of existing structures not currently functioning as overnight accommodations to overnight beach cottages available to the public at the Historic District of Crystal Cove State Park (Cottages 14, 17 and 21). The renovated cottages shall provide at least the same number of beds as units that are demolished and will provide a lower cost beach front overnight experience. All development funded by this account will require review and approval of the Executive Director of the Coastal Commission. Any portion of the fee that remains after five years shall be donated to one or more of the State Park units or non-profit entities providing lower cost visitor amenities or other organization acceptable to the Executive Director within 12 miles of the City of Dana Point's coastal zone.

- B. As a condition of approval of a coastal development permit for demolition of the existing lower cost overnight accommodation in the Town Center planning area, the property owner (applicant) shall pay the required in-lieu fee as specified above. Prior to the issuance of the coastal development permit, but only after the City of Dana Point has indicated in writing, that the City has entered into an agreement with the California Department of Parks and Recreation (CDPR) (the "Agreement"), the applicant shall provide to CDPR, through a financial instrument subject to the review and approval of the City of Dana Point, a fee in an amount adequate to carry out the specific project identified in subsection A, payable to the CDPR. This fee shall be used for the purpose described in subsection A in accordance with the terms and conditions of the Agreement, which, at a minimum, shall include the following provisions: 1) CDPR shall submit a detailed final plan for the use of the funds to the City of Dana Point for review and approval within 24 months of the date on which the funds are transferred to CDPR; 2) the final plan shall provide for the submittal of renovation and conversion plans within 36 months of approval of the final plan by the City of Dana Point; 3) CDPR must obtain all necessary regulatory permits and approvals, including but not limited to a

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coastal development permit, for the renovation and conversion effort prior to commencement of the project; and 4) a deadline not to exceed 5 years from the date of transfer of the funds to CDPR by which the funds shall be used by the CDPR to complete the project identified in the final plan, along with provisions to address any failure to complete the project.

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	<u>X</u>
CM	<u>X</u>
CA	<u>X</u>

DATE: JUNE 3, 2008

TO: CITY MANAGER/HONORABLE MAYOR AND CITY COUNCIL

**FROM: MIKE KILLEBREW, DIRECTOR OF ADMINISTRATIVE SERVICES
SEA SHELTON, MANAGEMENT ANALYST**

**SUBJECT: AUTHORIZATION TO ISSUE CITY OF DANA POINT COMMUNITY
FACILITIES DISTRICT NO. 2006-1 (CFD 2006-1), 2008 SPECIAL TAX
BONDS AND ESTABLISH SPECIAL TAX FOR FISCAL YEAR 2008/2009**

RECOMMENDED ACTIONS:

That the City Council adopt the following resolutions:

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT AUTHORIZING THE ISSUANCE OF ITS 2008 SPECIAL TAX BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED NINE MILLION DOLLARS (\$9,000,000) AND APPROVING CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH; and,
2. A RESOLUTION OF THE CITY OF DANA POINT COMMUNITY FACILITIES DISTRICT NO. 2006-1 ESTABLISHING ANNUAL SPECIAL TAX FOR FISCAL YEAR 2008/2009.

BACKGROUND:

On February 12, 2002, the City adopted Ordinance No. 02-02 approving the Headlands Development Agreement ("DA 01-01") between the City and Headlands Reserve LLC. DA 01-01 contains provisions which state that upon the request of Headlands Development LLC, both parties shall cooperate in establishing a financing district to fund construction of public facilities and public park and open space in conjunction with the Headlands development.

On April 26, 2006, the City approved and adopted documents necessary to initiate the Community Facilities District ("CFD") legal proceedings under the Mello-Roos Act, and scheduled a public hearing for June 14, 2006 to consider the official formation of the CFD. The necessary documents included:

1. The City of Dana Point Statement of Goals and Policies for the Use of the Mello-Roos Community Facilities Act of 1982;

2. Resolution No. 06-04-26-02 declaring the City's intention to establish Community Facilities District No. 2006-1 ("CFD 2006-1") and to authorize the levy of special taxes therein; and,
3. Resolution No. 06-04-26-03 declaring the City's intention to incur bonded indebtedness for proposed CFD No. 2006-1.

The City Council held a public hearing pursuant to the above referenced documents on June 14, 2006. Following the hearing, the City Council determined to form CFD No. 2006-1 and the necessity to incur bonded indebtedness by adopting Resolutions No. 06-06-14-11, No. 06-06-14-12 and No. 06-06-14-13, thus establishing CFD 2006-1, determining the necessity to incur bonded indebtedness and submission of a proposition to the qualified electors of the CFD in order to finance the acquisition, construction and installation of certain public improvements for the Headlands development project, and to pay for the maintenance, operation, replacement and repair of certain of those improvements.

The City Council called the special election and submitted the levy of the special taxes, the incurring of bonded indebtedness and the establishment of an appropriations limit to the qualified electors of the CFD (at the time there was a single landowner). The City Clerk publicly read the ballot as being in favor of levying the special tax, incurring bonded indebtedness and establishing an appropriations limit. The City Council then adopted Resolution 06-06-14-14 declaring the results of the special election and directing the recording of a notice of special tax lien.

The following table lists the maximum special taxes that may be levied on each parcel as prescribed by the rate and method of apportionment approved in the special election:

**CFD 2006-1
Maximum Annual Special Tax
July 1, 2008 to June 30, 2009**

Land Use Class	Facilities Tax(1)	Maintenance Tax(1)(2)
Residential Property	\$ 25,700 per parcel	\$ 2,254 per parcel
Non-Residential Property	\$ 15,000 per acre	\$ 805 per acre

(1) Special Taxes apply to non-Developer owned parcels deemed "Custom Lot Property" first; if additional revenue is necessary then special taxes will be levied on other parcels deemed "Final Map Property" in accordance with the Rate & Method of Apportionment.

(2) Amounts estimated. On 7/1/07 and on each successive July 1 in a cumulative manner, the initial maximum annual Maintenance Special Tax for residential property (\$2,100/parcel) and non-residential property (\$750/acre) is adjusted by the Consumer Price Index (CPI-U). The CPI-U for 7/1/07 was 3.3%, and is estimated here at 3.9% for the 7/1/08 adjustment. Also, the public improvements which are to be maintained with funds generated by the maintenance tax are not expected to be acquired by the respective public agencies until sometime mid- to late fiscal year 2008/2009; therefore, the maximum maintenance tax is not expected to be levied this first fiscal year.

In total, the development encompasses 121.3 gross acres located east of and generally bordered by the Pacific Ocean, north of Scenic Drive, and west of Pacific Coast Highway and Street of the Green Lantern. Property in CFD 2006-1 includes 45.7 acres for 118 custom residential lots ("Tax Area 1"), and 1.6 acres of commercial property along with 2.8 acres of hotel property ("Tax Area 2"). Additional property that is not subject to the

special tax, yet is still part of the overall development, includes approximately 34.7 acres of recreation open space, 34.0 acres of conservation open space and 2.5 acres of public right-of-way.

The most recent estimate provided by the developer of the cost of the public facilities eligible to be financed by the proceeds of CFD 2006-1 issued debt are as follows:

**CFD 2006-1
Estimated Cost of Public Facilities**

Entity / Component	Cost
City of Dana Point:	
Storm Drain System	\$ 5,262,000
Public Streets	5,693,000
Public Parks	12,849,000
Subtotal	23,804,000
County of Orange:	
Stormwater System	1,759,000
Storm Drain System	251,000
North Strand Beach	933,000
Subtotal	2,943,000
South Coast Water District:	
Sewer System	5,932,000
Water System	2,401,000
Subtotal	8,333,000
Public Utilities	1,030,000
Subtotal	1,030,000
Total Estimated Costs	\$ 36,110,000

Since the time the CFD was formed, substantial site development has occurred and 29 residential parcels have been sold, as well as the commercial parcel to a developer. Earlier this calendar year, Headlands Reserve LLC requested the City to commence CFD debt issuance; in addition, they requested that the debt issuance be done in series, with the size of the first series of bonds limited to the special tax revenue generated by the residential lots already sold.

At the February 21, 2008 Investment Review Committee (IRC) meeting, staff notified the IRC of Headlands Reserve LLC's request to commence with the CFD debt issuance. Consent was provided to proceed with drafting the legal and financing documents necessary for the debt issuance. Staff worked closely with the City Council selected financing team to draft the required documents to issue the first portion of CFD 2006-1 bonds, and presented drafts of the documents to the IRC at its publicly noticed meeting of May 19, 2008. Members of the financing team were present at the meeting and answered committee member questions on the documents. All documents were distributed to the IRC on May 9, 2008, ten days in advance of the meeting in order to afford sufficient review time. IRC members reviewed and requested that the finance and legal documents to authorize the issuance and sale of the Community Facilities District

No. 2006-1 of the City of Dana Point 2008 Special Tax Bonds ("CFD 2008 Bonds") be forwarded to the City Council for consideration.

In order to proceed with the issuance and sale of the first tranche of CFD 2006-1 bonds, the City Council must adopt the attached resolution authorizing their issuance and authorize execution of the legal and financing documents required for bond issuance. The related financing and legal documents include the Preliminary Official Statement, Bond Purchase Agreement, Continuing Disclosure Agreement, Fiscal Agent Agreement and, for reference, our Bond Counsel's Opinion.

DISCUSSION:

The following paragraphs provide a layman's summary of each of the legal and financing documents to assist with seeing the overall picture of this financing, and in no way serves as an adequate substitute for the full review necessary to make an informed decision as to moving forward with the CFD 2008 Bond offering:

FINANCING DOCUMENTS

Preliminary Official Statement (POS) [Supporting Document A]

The Preliminary Official Statement is intended to provide sufficient disclosure to potential investors as to the structure of the financing. Under federal securities laws, the City is obligated to disclose all information that a "reasonable investor" would consider materially important in deciding whether to purchase the CFD 2008 Bonds. This includes terms of bonds, security, risk factors, as well as financial, operating and background information. The final "Official Statement" will be dated when the bonds are sold and will contain the final terms of the bonds. The Preliminary Official Statement is complete except for interest rates and final bond maturities, since those are not established until the bonds actually sell.

Continuing Disclosure Agreement (CDA) [Supporting Document B]

The continuing disclosure agreement lists information the City agrees to provide each year, and more often if/when necessary, as long as the CFD 2008 Bonds are outstanding. The information to be reported is deemed important to keeping investors informed, and is required by the Securities & Exchange Commission (SEC).

Bond Purchase Agreement (BPA) [Supporting Document C]

Provides for the sale of the CFD 2008 Bonds to the underwriter, Stone & Youngberg, and specifies the underwriter's discount, interest rates, and terms for payment of the purchase price. It also contains representations by the City, has conditions precedent to the underwriter's obligation to purchase the bonds at closing, specifies documents to be delivered when the bonds are sold, and identifies the sources of funds to pay expenses.

LEGAL DOCUMENTS

Fiscal Agent Agreement (FAA) [Supporting Document D]

The Fiscal Agent Agreement is between the City and Wells Fargo, with Wells Fargo acting as the fiscal agent for CFD 2006-1. This agreement is the basic issuance document for the bond transaction, and lists the terms of the bonds, including payment dates, maturities, redemption provisions, registration, transfer, exchange, etc. The agreement creates the legal structure for the security for the bonds, including:

- Creates and grants the fiscal agency;
- Defines specifically what revenues (i.e. the Facilities Special Tax) and other collateral are pledged/committed to the payment of interest and repayment of the bonds;
- Establishes and describes the various bond funds and accounts in which the bond proceeds are to be deposited and held by the fiscal agent, and the procedure for disbursement and investment of moneys in those funds and accounts;
- Describes the flow of funds (establishes the priority for uses of the pledged Facilities Special Tax);
- Establishes the provisions for issuance of parity debt (i.e., for issuance of additional bonds in the future);
- Describes the provisions for defeasance of the bonds (to allow for refunding of the bonds); and,
- Specifies various fiscal agent-related provisions—providing for removal of the fiscal agent and appointment of a new fiscal agent, as well as compensation, indemnification, and rights and obligations of the fiscal agent.

Authorizing Resolution [Action Document A]

The Authorizing Resolution provides for the issuance and sale of the CFD 2008 Bonds, authorizes execution and delivery of necessary documents, and directs staff to take other actions necessary to complete the financing.

Special Tax Resolution [Action Document B]

The Special Tax Resolution directs the County Auditor to enter the CFD 2006-1 Facilities and the Maintenance special taxes on the next tax roll for each lot or parcel of land included in CFD 2006-1.

Bond Counsel Opinion [Supporting Document F]

Bond counsel, Rutan & Tucker, will be giving a legal opinion that must be delivered with the bonds that confirms that the bonds are valid and binding obligations of CFD 2006-1 and that interest on the bonds is exempt from federal and state income taxes.

CONCLUSION:

If authorized by the City Council, the first series of bonds related to CFD 2006-1 will be limited to the Facilities Special Tax revenue anticipated from the residential lots sold as of May 1, 2008. Please note that of the 29 residential lots sold, one lot has been cleared of

the Special Tax by prepayment and thus is no longer subject to the levy of the Facilities Special Tax.

The amount of revenue to support the debt service for the proposed CFD 2008 Bonds is based on the maximum Facilities Special Tax revenue to be generated from the remaining 28 non-developer owned residential properties. The bond sizing does not include either the one non-developer owned residential parcel for which the special tax was prepaid, nor the non-developer owned commercial parcel, since a building permit was not issued by the Facilities Special Tax cut-off date of May 1, 2008.

The CFD 2008 Bonds are the first of what may be several series of bonds for CFD 2006-1. The CFD is legally authorized to issue up to \$45 million of bonded indebtedness. However, the City Council subsequently reduced that amount, to reflect its intent of not incurring more than \$40 million of bonded indebtedness for CFD 2006-1, as is documented in the 1st Amendment to the Acquisition Agreement between the City and Headlands Reserve LLC, dated November 8, 2006.

The 1st Amendment to the Acquisition Agreement states that "The Developer agrees to lower the maximum Bond authorization from \$45 million to \$40 million, and to condition the sale of the Bond, among other things, to the sale of at least 18 lots (consisting of at least 10 different owners), and an aggregate appraised value of at least 5 times the amount of the CFD bond debt." It is important to note that this action, though legally binding between the City and the Developer, was not formalized by proceedings under the Mello-Roos Act by submission to the qualified electors in the CFD, and thus the reduction in authorization could be rescinded by a future City Council. Nevertheless, it has been and continues to be the intent of the standing City Council not to issue bonds in excess of \$40 million.

There are in excess of 10 different owners of the CFD parcels, and the estimated appraised value of the 28 residential lots for which the proposed CFD 2008 Bonds are being sized (\$179.3 million), compared to the proposed not-to-exceed amount of \$9 million, provides for a 19.9 to 1 value-to-debt ratio.

The Special Tax Consultant has determined that three of the CFD parcels were listed as delinquent after the April 10, 2008 normal 2nd installment property tax due date (the "Delinquency Date"). The parcels included (i) two lots for which the owner was in the process of securing a construction loan and due to an escrow processing error, the property tax payment was not paid by the Delinquency Date; and (ii) one lot for which the supplemental payment was timely made but the original tax bill was not sent to the correct address of the new owner and thus remained unpaid on the Delinquency Date. The Special Tax Consultant has confirmed that the full payment of all outstanding taxes has been made to the Orange County Treasurer-Tax Collector, and that all property tax payments are current as of June 1, 2008.

Presently, the par amount of the bonds to be sold is estimated at approximately \$8,000,000. However, the actual amount of the bonds will not be determined until the time of pricing later in June. The then current bond market conditions and investor interest in purchasing the CFD 2008 Bonds will determine the actual interest rates the CFD will pay on the bonds, and thus the actual principal amount of the CFD 2008

Bonds. The not-to-exceed amount of \$9,000,000 per the Authorizing Resolution (Action Document A) provides coverage for any market changes, but still regulates the overall amount of the bond issuance.

Subject to the City Council's approval of the CFD 2008 Bond's requisite legal and financing documents, and authorization of the sale of the bonds, it is currently contemplated that the Preliminary Official Statement for the bonds will be printed and mailed to potential investors on June 5, 2008. At present, it is anticipated that the CFD 2008 Bonds will be offered for sale by the underwriter on or about June 18, 2008, and that bond proceeds will be available at the closing, currently expected to occur on or about July 2, 2008.

NOTIFICATION/FOLLOWUP:

Notify City's Special Tax Consultant, MuniFinancial, to prepare special tax levy for enrollment with the County of Orange no later than July 30, 2008.

ACTION DOCUMENTS:

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|---|----|
| A. Resolution Authorizing Issuance of CFD 2006-1's 2008 Special Tax Bonds | 8 |
| B. Resolution to establish CFD 2006-1's 2008 Facilities and Maintenance Special Taxes | 12 |

SUPPORTING DOCUMENTS:

- | | |
|---|----|
| A. Preliminary Official Statement (POS) (Hard copies provided) | |
| B. Continuing Disclosure Agreement (CDA) (Hard copies provided) | |
| C. Bond Purchase Agreement (BPA) (Hard copies provided) | |
| D. Fiscal Agent Agreement (FAA) (Hard copies provided) | |
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ACTION DOCUMENT A**RESOLUTION NO. 08-06-03-XX****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT
ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES
DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT AUTHORIZING THE
ISSUANCE OF ITS 2008 SPECIAL TAX BONDS IN A PRINCIPAL AMOUNT
NOT TO EXCEED NINE MILLION DOLLARS (\$9,000,000) AND APPROVING
CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN
CONNECTION THEREWITH**

THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY
RESOLVE AS FOLLOWS:

WHEREAS, the City Council of the City of Dana Point (hereinafter sometimes referred to as the "legislative body of the District"), has heretofore undertaken proceedings and declared the necessity to issue bonds (the "2008 Special Tax Bonds") on behalf of Community Facilities District No. 2006-1 of the City of Dana Point (the "District") pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Act"); and

WHEREAS, pursuant to Resolution Nos. 06-06-14-12 and 06-06-14-13 adopted by the legislative body of the District on June 14, 2006, the bond proposition (the "Proposition") was submitted to the qualified electors within the District and was unanimously approved at an election held on June 14, 2006; and

WHEREAS, based upon Resolution Nos. 06-06-14-12 and 06-06-14-13 and the election, the District was authorized to issue bonds in one or more series, pursuant to the Act and the First Amendment to Acquisition Agreement, dated November 8, 2006, in an aggregate principal amount not to exceed Forty Million Dollars (\$40,000,000); and

WHEREAS, the legislative body of the District has determined in accordance with Government Code Section 53360.4 that a negotiated sale of the 2008 Special Tax Bonds to Stone & Youngberg LLC (the "Underwriter") in accordance with the terms of the Bond Purchase Contract approved as to form by this legislative body herein will result in a lower overall cost to the District than a public sale; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Dana Point, acting as the legislative body of Community Facilities District No. 2006-1 of the City of Dana Point, hereby resolves as follows:

SECTION 1. Each of the above recitals is true and correct and is adopted by the legislative body of the District.

SECTION 2. The City of Dana Point, by its Resolution No. 06-06-14-14 adopted on June 14, 2006, has declared that the Proposition presented to the qualified electors of the District on June 14, 2006 had received a favorable vote of more than two-thirds of the qualified electors voting at said election, and that said Proposition has carried, and accordingly, the legislative body of the District is presently authorized to issue from time to time, as determined by the legislative body, bonds for the benefit of the District for the purposes set forth in the Proposition and to take the necessary steps to levy the special tax authorized by the Proposition.

SECTION 3. The issuance of the 2008 Special Tax Bonds in a principal amount not to exceed \$9,000,000 is hereby authorized with the exact principal amount to be determined by the official signing of the Bond Purchase Contract in accordance with Section 6 below. The legislative body of the District hereby determines that it is prudent in the management of its fiscal affairs to issue the 2008 Special Tax Bonds. The 2008 Special Tax Bonds shall mature on the dates and pay interest at the rates set forth in the Bond Purchase Contract to be executed on behalf of the District in accordance with Section 6 hereof. All other provisions of the 2008 Special Tax Bonds shall be governed by the terms and conditions set forth in the Fiscal Agent Agreement dated, as of June 1, 2008 (the "Fiscal Agent Agreement"), by and between the District and Wells Fargo Bank, National Association, as Fiscal Agent (the "Fiscal Agent"), on file with the City Clerk and to be executed by the Mayor Pro Tem and City Clerk, with such additions thereto and changes therein as the officers executing the same deem necessary to cure any ambiguity or defect therein if such addition or change does not materially alter the substance or content thereof, to insert the offering price(s), interest rate(s), selling compensation, principal amount per maturity, redemption dates and prices and such other related terms and provisions as limited by Section 6 hereof, or to conform any provisions therein to the Bond Purchase Contract or the Official Statement delivered to the purchasers of any bonds to be issued by the District. Approval of such changes shall be conclusively evidenced by the execution and delivery of the Fiscal Agent Agreement by such officers. Capitalized terms used in this Resolution which are not defined herein have the meanings ascribed to them in the Fiscal Agent Agreement.

SECTION 4. The 2008 Special Tax Bonds shall be executed on behalf of the District by the manual signature of the Mayor Pro Tem acting ex officio as the chair of the legislative body of the District, and the seal of the District, if any, shall be impressed or imprinted thereon and attested with the manual signature of the Clerk of the legislative body of the District.

SECTION 5. The covenants set forth in the Fiscal Agent Agreement to be executed in accordance with Section 3 above are hereby approved, shall be deemed to be covenants of the City Council in its capacity as the legislative body of the District, and shall be complied with by the District and its officers. The Fiscal Agent Agreement shall constitute a contract between the District and the owners of the 2008 Special Tax Bonds.

SECTION 6. The form of the Bond Purchase Contract presented at this meeting is hereby approved and any one of the Mayor Pro Tem of the City, the City Manager or the Director of Administrative Services, are hereby authorized to execute the Bond Purchase Contract on behalf of the District, with such additions thereto and changes therein relating to dates and numbers as are necessary to conform the Bond Purchase Contract to the dates, amounts and interest rates applicable to the 2008 Special Tax Bonds as of the sale date. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the Bond Purchase Contract; provided, however, that the Bond Purchase Contract shall be signed only if the 2008 Special Tax Bonds are to be purchased at a price equal to the principal amount thereof less the Underwriter's discount and original issue discount or plus original issue premium, if any, set forth in the Bond Purchase Contract. The City Manager, his designee, or the Director of Administrative Services are authorized to determine the day on which the 2008 Special Tax Bonds are to be priced in order to attempt to produce the lowest borrowing cost for the District and may reject any terms if determined not to be in the best interest of the District.

SECTION 7. The form of the Preliminary Official Statement presented at this meeting is hereby approved, and the Underwriter is hereby authorized to distribute the Preliminary Official Statement to prospective purchasers of the 2008 Special Tax Bonds in the form hereby approved, together with such additions thereto and changes therein as are determined

necessary by the City Manager, or his designee, with the advice of bond counsel, to make such Preliminary Official Statement final as of its date for purposes of Rule 15c2-12 of the Securities and Exchange Commission. Either the Mayor Pro Tem or the City Manager of the City of Dana Point are each hereby authorized to execute a final Official Statement in the form of the Preliminary Official Statement, together with such changes as are determined necessary by the City Manager, or his designee, to make such Official Statement complete and accurate as of its date. The Underwriter is further authorized to distribute the final Official Statement for the 2008 Special Tax Bonds and any supplement thereto to the purchasers thereof upon its execution on behalf of the District as described above.

SECTION 8. In accordance with the requirements of Section 53345.8 of the Act, the legislative body of the District hereby determines that the value of the real property in the District subject to the special tax to pay debt service on the 2008 Special Tax Bonds is at least three times the principal amount of the 2008 Special Tax Bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act or a special assessment levied on property within the District. This determination is based on the full cash value of such property as shown on the ad valorem assessment roll or upon an appraisal of the property within the District by a state certified real estate appraiser, as defined in Business and Professions Code Section 11340(c).

SECTION 9. The Mayor Pro Tem, the City Clerk, the City Manager and the Director of Administrative Services and the other officers and staff of the City of Dana Point and the District responsible for the fiscal affairs of the District are each hereby authorized and directed to take any actions and execute and deliver any and all documents (including a Continuing Disclosure Certificate) as are necessary to accomplish the issuance, sale and delivery of the 2008 Special Tax Bonds in accordance with the provisions of this Resolution and the fulfillment of the purposes of the 2008 Special Tax Bonds as described in the Fiscal Agent Agreement, including providing certificates to the Underwriter as to the accuracy of any information relating to the City of Dana Point and the District which is included within the Official Statement of the District. In the event that the Mayor Pro Tem is unavailable to sign any document authorized for execution herein, any other member of the legislative body of the District or the City Manager, or his written designee, may sign such document. Any document authorized herein to be signed by the City Clerk may be signed by a duly appointed deputy clerk.

PASSED, APPROVED AND ADOPTED this 3rd day of June, 2008.

CITY COUNCIL OF THE CITY OF DANA POINT ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT 2006-1 OF THE CITY OF DANA POINT

By: _____
Lisa A. Bartlett,
Mayor Pro Tem of the City of Dana Point

ATTEST:

Kathy M. Ward
City Clerk

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss
 CITY OF DANA POINT)

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 08-06-03-XX was duly adopted and passed at a regular meeting of the City Council on the 3rd day of June, 2008, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY CLERK

KATHY M. WARD,

ACTION DOCUMENT B**RESOLUTION NO. 08-06-03-XX****RESOLUTION OF THE CITY OF DANA POINT COMMUNITY
FACILITIES DISTRICT NO. 2006-1 ESTABLISHING ANNUAL
SPECIAL TAX FOR FISCAL YEAR 2008/2009**

THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the City Council of the CITY OF DANA POINT (hereinafter referred to as the "Agency"), has initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors relating to the levy of a special tax in a community facilities district, all as authorized pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982", being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California. This Community Facilities District shall hereinafter be referred to as "the District."

WHEREAS, this City Council, by Ordinance as authorized by Section 53340 of the Government Code of the State of California, has authorized the levy of a special tax to pay for costs and expenses related to said Community Facilities Districts, and this City Council is desirous to establish the specific rate of the special tax to be collected for the next fiscal year.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Dana Point hereby resolves as follows:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the maximum special tax rates for each tax category to be used to generate special tax revenues, which will be collected to pay for the costs and expenses for the next fiscal year (2008/2009) for the referenced District, is hereby determined and established as set forth in the attached, referenced and incorporated Exhibit A.

SECTION 3. That the rate as set forth above does not exceed the amount as previously authorized by Ordinance of this Council, and is not in excess of that as previously approved by the qualified electors of the District.

SECTION 4. The special tax shall be collected in the same manner as ordinary ad valorem property taxes are collected, and shall be subject to the same penalties and same procedure and sale in cases of any delinquency for ad valorem taxes, and the Tax Collector is hereby authorized to deduct reasonable administrative costs incurred in collecting any said special tax.

SECTION 5. All monies above collected shall be paid into the District funds.

SECTION 6. The Auditor of the County is hereby directed to enter in the next County assessment roll on which taxes will become due, opposite each lot or parcel of land effected in a space marked "public improvements, special tax" or by any other suitable designation, the installment of the special tax, and for the maximum rate and amount of said tax, reference is made to the attached Exhibit A.

SECTION 7. The County Auditor shall then, at the close of the tax collection period, promptly render to this Agency a detailed report showing the amount and/or amounts of such special tax installments, interest, penalties and percentages so collected and from what property collected, and also provide a statement of any percentages retained for the expense of making any such collection.

SECTION 8. Special Taxes are to be levied on all non-exempt parcels within CFD No. 2006-1. Should it be discovered that any taxable parcels are not submitted to the County Auditor for inclusion into the 2008/2009 Tax Roll subsequent to the submittal deadline of August 10, 2008, the City Council directs the City of Dana Point staff or their agents to bill such parcels directly via U.S. mail.

PASSED, APPROVED AND ADOPTED this 3rd day of June, 2008.

CITY COUNCIL OF THE CITY OF DANA
POINT ACTING IN ITS CAPACITY AS THE
LEGISLATIVE BODY OF COMMUNITY
FACILITIES DISTRICT 2006-1 OF THE CITY
OF DANA POINT

By: _____
Lisa A. Bartlett,
Mayor Pro Tem of the City of Dana Point

ATTEST:

KATHY M. WARD, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 08-06-03-XX was duly adopted and passed at a regular meeting of the City Council on the 3rd day of June, 2008, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

KATHY M. WARD, CITY CLERK

**Community Facilities District No. 2006-1
Special Tax Rates
Fiscal Year 2008/2009**

FACILITIES	
Tax Zone	Maximum Special Tax Rate
1	\$ 25,700/lot
2	\$ 15,000/acre

MAINTENANCE	
Tax Zone	Maximum Special Tax Rate
1	\$ 2,254/lot
2	\$ 805/acre

SUPPORTING DOCUMENT A

ITEM NO. 15

**CITY OF DANA POINT
COMMUNITY FACILITIES DISTRICT NO. 2006-1
PRELIMINARY OFFICIAL STATEMENT (POS)**

**HARD COPIES AVAILABLE IN THE
CITY CLERKS OFFICE FOR REVIEW**

SUPPORTING DOCUMENT B

ITEM NO. 15

**CITY OF DANA POINT
COMMUNITY FACILITIES DISTRICT NO. 2006-1
CONTINUING DISCLOSURE AGREEMENT (CDA)**

**HARD COPIES AVAILABLE IN THE
CITY CLERKS OFFICE FOR REVIEW**

SUPPORTING DOCUMENT C

ITEM NO. 15

**CITY OF DANA POINT
COMMUNITY FACILITIES DISTRICT NO. 2006-1
BOND PURCHASE AGREEMENT (BPA)**

**HARD COPIES AVAILABLE IN THE
CITY CLERKS OFFICE FOR REVIEW**

SUPPORTING DOCUMENT D

ITEM NO. 15

**CITY OF DANA POINT
COMMUNITY FACILITIES DISTRICT NO. 2006-1
FISCAL AGENT AGREEMENT (FAA)**

**HARD COPIES AVAILABLE IN THE
CITY CLERKS OFFICE FOR REVIEW**

SUPPORTING DOCUMENT E

City Council
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Re: Community Facilities District No. 2006-1 of the City of Dana Point,
2008 Special Tax Bonds (Final Opinion)

Dear Council Members:

We have acted as bond counsel for the City of Dana Point (the "City") in connection with proceedings for the issuance and sale of \$_____ aggregate principal amount of 2008 Special Tax Bonds (the "Bonds") of Community Facilities District No. 2006-1 of the City (the "CFD"). The Bonds are designated 2008 Special Tax Bonds; are in the denomination of \$5,000, or any integral multiple thereof; are dated _____, 2008; bear interest payable semiannually at the rates and mature on September 1 in the years and in the amounts, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2009		
2010		
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		
2023		
20__		
20__		

Both the principal of and interest on the Bonds are payable in lawful money of the United States of America. Interest on the Bonds is payable to the registered owner on March 1 and September 1 of each year, commencing March 1, 2009, by check of the Fiscal Agent, Wells Fargo Bank, National Association, at the address shown on the registration books as of the fifteenth day of the month preceding such payment date. Principal and interest at maturity are

payable upon surrender at the principal corporate trust office of the Fiscal Agent in Los Angeles, California.

The Bonds are issued pursuant to the provisions of Title 5, Division 2, Part 1, Chapter 2.5 of the Government Code, authorized by an election held on June 14, 2006, a resolution adopted on June 3, 2008 (the "Resolution") of the City Council of the City, acting as the legislative body of the CFD, and a Fiscal Agent Agreement, dated as of June 1, 2008, by and between the CFD and the Fiscal Agent (collectively, the "Fiscal Agent Agreement").

We have examined the Resolution, the Fiscal Agent Agreement, and other legal proceedings required for the issuance of the Bonds. Based on such review, in our opinion such proceedings show lawful authority for the issuance of the Bonds by the CFD under the Constitution and laws of the State of California now in force, and the Bonds are valid and legally binding obligations of the CFD, enforceable in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally or by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases. The Bonds are payable from the proceeds of a special tax to be levied by the CFD and other amounts as provided in the Fiscal Agent Agreement.

We are of the opinion that interest on the Bonds is exempt from personal income taxes imposed by the State of California, and, assuming compliance by the CFD with the covenants in the Fiscal Agent Agreement designed to meet the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), we are further of the opinion that, under existing law, regulations, rulings and court decisions, interest on the Bonds is excluded from gross income for purposes of federal income taxation and is not an item of tax preference for purposes of the federal alternative minimum tax imposed by Section 55 of the Code on individuals and corporations.

The opinions expressed herein may be affected by actions taken (or not taken) or events occurring (or not occurring) after the date hereof. We have not undertaken to determine, or to inform any person, whether such actions or events are taken or do occur.

The opinions expressed herein are based upon our analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities.

Very truly yours,

RUTAN & TUCKER, LLP

SUPPORTING DOCUMENT F

MAP OF HEADLANDS DEVELOPMENT AREA

