

# CITY OF DANA POINT

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**CITY COUNCIL  
REGULAR  
MEETING**



**TUESDAY  
MAY 6, 2008  
5:00 P.M.**

## **AGENDA**

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

Next City Council Ordinance No. 08-05

### **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)(1) & (3)(A), (1 case)
- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b)(1), (2 cases: Makar General Plan Amendment; Evans Brown Act Allegations)

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

### **RECONVENE CITY COUNCIL MEETING**

### **PLEDGE OF ALLEGIANCE**

### **INVOCATION**

### **PRESENTATIONS AND PROCLAMATIONS**

Business of the Month – Royal Cleaners  
Certificates of Recognition for OCSD Medal of Valor Recipients  
Proclamation for OCFA Battalion Chief Steve Whitaker

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## 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, APRIL 15, 2008](#)**

RECOMMENDED ACTION: That the City Council approve the minutes.

**3. [PLANNING COMMISSION MEETING MINUTES, APRIL 8, 2008](#)**

RECOMMENDED ACTION: That the City Council receive and file.

**4. [PLANNING COMMISSION ACTIONS, MEETING OF APRIL 22, 2008](#)**

RECOMMENDED ACTION: That the City Council receive and file.

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

RECOMMENDED ACTION: That the City Council receive and file.

**6. [TRAFFIC IMPROVEMENT COMMISSION MINUTES, MARCH 19, 2008](#)**

RECOMMENDED ACTION: That the City Council receive and file.

**7. [CITY TREASURER'S REPORT, MARCH 2008](#)**

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

**8. CLAIMS AND DEMANDS**

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

**9. [EIGHTH AMENDMENT TO EMPLOYMENT AGREEMENT FOR CITY MANAGER DOUGLAS C. CHOTKEVYS](#)**

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RECOMMENDED ACTION: That the City Council approve the Eighth Amendment to the Employment Agreement for the City Manager and authorize the Mayor to execute the Agreement on behalf of the City.

10. **PROFESSIONAL SERVICES AGREEMENT FOR SUPPLEMENTAL STRUCTURAL PLAN REVIEW SERVICES**

RECOMMENDED ACTION: That the City Council authorize the City Manager to continue the Professional Services Agreement with Wynn Engineering, Incorporated.

11. **ADOPTION OF RESOLUTION APPROVING FINAL TRACT MAP NO. 15924, THE REQUIRED LANDSCAPE AND MAINTENANCE AGREEMENT, AND THE ACCOMPANYING SUBDIVISION IMPROVEMENT AGREEMENT**

RECOMMENDED ACTION: That the City Council adopt a Resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 15924, THE REQUIRED LANDSCAPE AND MAINTENANCE AGREEMENT, AND THE ACCOMPANYING SUBDIVISION IMPROVEMENT 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. **COUNTY PROPOSITION 1B TRANSPORTATION FUNDING**

RECOMMENDED ACTION: That the City Council authorize the Mayor to execute an agreement as required by OC Public Works to receive \$500,000 in Proposition 1B funding from the County of Orange Board of Supervisors for the PCH Widening Project at Del Obispo.

14. **INTRODUCTION 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**

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RECOMMENDED ACTION: That the City Council introduce and hold first reading of an Ordinance 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.

15. **AUTHORIZATION TO PROCEED WITH STRIPING ADJUSTMENTS ON TWO ARTERIAL STREETS, NAMELY PACIFIC COAST HIGHWAY AND DOHENY PARK ROAD, PURSUANT TO SECTION 21950 OF THE CALIFORNIA VEHICLE CODE**

RECOMMENDED ACTION: That the City Council 1) accept the deletion/relocation of crosswalk in the easterly leg of the intersection at Pacific Coast Highway (PCH) and Del Obispo/Dana Point Harbor Drive pursuant to California Vehicle Code Section 21950 and the previously City Council approved project plan entitled "Pacific Coast Highway Congestion Relief Project"; 2) accept the deletion/relocation of the crosswalk from the easterly leg of the intersection at Pacific Coast Highway (PCH) and Crystal Lantern Drive to the westerly leg pursuant to California Vehicle Code Section 21950 and the previously City Council approved project plan entitled "Pacific Coast Highway Congestion Relief Project"; and 3) authorize the deletion of the mid-block crosswalk in the southerly leg of the intersection at Doheny Park Road and Domingo Avenue, which occurred in 2007, pursuant to California Vehicle Code Section 21950.

16. **AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE NEXT PHASE OF CITY HALL RENOVATION**

RECOMMENDED ACTION: That the City Council authorize staff to advertise for bids for the next phase of City Hall renovation.

## **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.

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## **PUBLIC HEARINGS**

There are no Public Hearings.

## **UNFINISHED BUSINESS**

### **17. STORAGE OF VEHICLES ON PUBLIC STREETS**

RECOMMENDED ACTION: That the City Council receive and file this report on the Traffic Improvement Commission's ordinance modification recommendation concerning the storage of vehicles on public streets.

### **18. 2008 ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS**

RECOMMENDED ACTION: That the City Council hear any objections regarding weed abatement and thereafter adopt one of the two resolutions as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, OVERRULING OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT; OR

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT.

## **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 agendaized 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-agendaized items may be presented as informational only.

## **ADJOURNMENT**

The next Regular Meeting of the City Council will be May 20, 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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**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 2, 2008, at 5:00 p.m.

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KATHY M. WARD, CITY CLERK

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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](http://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.

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 15, 2008**

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**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:**

Joel Bishop, Mayor  
Lisa A. Bartlett, Mayor Pro Tem  
Lara Anderson, Council Member  
Diane L. Harkey, Council Member (arrived at 5:02 p.m.)  
Steven H. Weinberg, Council Member

STAFF PRESENT: Douglas Chotkevys, City Manager; Patrick Muñoz, City Attorney; Kathy Ward, City Clerk; Michael Killebrew, Administrative Services Director; Kyle Butterwick, Director of Community Development; Brad Fowler, Director of Public Works/City Engineer; Lt. Mark Levy, Chief of Police; Mike Rose, Emergency & Support Services Manager; Kevin Evans, Director of Community Services & Parks, John Tilton, City Architect; Bobbi Ogan, Deputy City Clerk; DyAnne Weamire, Administrative Secretary; and Jackie Littler, Executive Secretary.

**CLOSED SESSION**

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

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, Government Code § 54956.9 (a), (2 cases)
- Name of Case: Foley v. City of Dana Point, et al., Orange County Superior Court Case No. 07CC01984
- Name of Case: Thompson v. City of Dana Point, et al., Orange County Superior Court Case No. 07CC04217
- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION, Government Code § 54956.9 (b1), (1 case); Scenic Drive

Mayor Bishop recessed the meeting into a Closed Session at 5:01 p.m. pursuant to Government Code Section 54956 *et. seq.*

**RECONVENE CITY COUNCIL MEETING**

Mayor Bishop reconvened the meeting at 6:00 p.m. All Council Members were present.

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## **CLOSED SESSION ANNOUNCEMENT**

City Attorney Muñoz stated that there was no announcement.

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by John Chaffetz.

## **INVOCATION**

The Invocation was provided by Chaplain George "Bucky" Weeks of South Coast Medical Center.

## **PRESENTATIONS AND PROCLAMATIONS**

### VFW Voice of Democracy Winner

Mayor Bishop invited VFW Members Bob Moore, Pete Hammer, Wiley Hall, and Frank Tucker up to introduce the VFW Voice of Democracy Winner Andrea Frkovich. Andrea read her winning essay and Mayor Bishop presented her with a Certificate of Recognition for all of her accomplishments on behalf of the City.

### Assistance League of Capistrano Valley

Debbie Carver, President of the Assistance League of Capistrano Valley provided a PowerPoint presentation which detailed the many ways the Assistance League has been able to provide support in the community and for the families at Camp Pendleton. The Capistrano Valley Chapter was founded in 1977 to support the students and teachers of the Capistrano Unified School District.

## **CONSENT CALENDAR**

City Attorney removed Item No. 8 and Council Member Harkey removed Item No. 10 from the Consent Calendar.

The motion carried by the following vote:

AYES: Council Members Anderson, Harkey, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop  
NOES: None  
ABSENT: None

### **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.



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**2. REGULAR MEETING MINUTES, APRIL 1, 2008**

APPROVED THE MINUTES.

**3. PLANNING COMMISSION MEETING MINUTES, MARCH 25, 2008**

RECEIVED AND FILED.

**4. PLANNING COMMISSION ACTIONS, MEETING OF APRIL 8, 2008**

RECEIVED AND FILED.

**5. YOUTH BOARD MEETING MINUTES, MARCH 20, 2008**

RECEIVED AND FILED.

**6. MEETING CALENDAR / COMMUNITY SPECIAL EVENTS CALENDAR**

RECEIVED AND FILED.

**7. CLAIMS AND DEMANDS**

RECEIVED AND FILED THE CLAIMS AND DEMANDS.

**8. AMENDMENT TO EMPLOYMENT CONTRACT FOR CITY MANAGER**

Staff removed this item from the Consent Calendar.

City Attorney Muñoz reported that this item was not complete and would have to be brought back to Council at another meeting.

**9. ADOPTION OF A RESOLUTION APPROVING RENEWAL AMENDMENTS TO THE EXISTING AGREEMENTS BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR CITY INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM STORM DRAIN CHANNELS**

Adopted **Resolution 08-04-15-01** entitled:

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AMENDMENTS TO THE EXISTING AGREEMENTS BETWEEN THE CITY OF DANA POINT AND THE SOUTH COAST WATER DISTRICT FOR CITY INTERIM USE OF FACILITIES TO DIVERT DRY WEATHER FLOWS FROM STORM DRAINS.*

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**10. 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".**

Council Member Harkey removed this item from the Consent Calendar.

City Manager Chotkevys provided a staff report.

Council Member Harkey stated that she would like to continue the item to the next City Council meeting.

Mayor Bishop opened the public comments.

John Heffernan (AT&T) asked the City Council for time to allow AT&T to comment and review on the ordinance.

Mayor Bishop closed the public comments.

Mayor Bishop asked if this ordinance was similar to what other cities had adopted.

City Attorney Munoz replied that this ordinance was drafted using the policies and goals that are important to the City but that it was similar to the ordinance adopted by the cities of Newport Beach and Irvine.

Mayor Bishop asked what would be an appropriate amount of time to allow AT&T to review the ordinance.

City Attorney Munoz replied that it was up to the Council to decide. He stated that a request for two (2) weeks was not unreasonable, but since the ordinance is similar to what other cities have adopted, AT&T will find that they are already familiar with its terms and provisions.

Mayor Bishop asked who else would be affected by this ordinance besides AT&T and has any other provider requested additional time to review the document.

City Manager Chotkevys replied that would apply to any cable provider in town and that no other provider had requested additional time to review the document.

Bill Marticorena (Rutan & Tucker) stated that he had reviewed the actions taken by Newport Beach and Irvine. He added that Newport Beach had adopted their ordinance about two years ago and prior to the adoption; their Council had created a subcommittee to study the issue. He stated that Irvine had adopted their ordinance about one year ago. He added that the ordinance would apply to Title 6 cable operators.

Council Member Harkey stated that she wanted to ensure that the City was not denying any competition and she hoped that there would be communication between staff and AT&T. She

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added that she did not want it to be perceived that the Council was favoring one utility over another.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY COUNCIL MEMBER WEINBERG, TO INTRODUCE FOR FIRST READING OF 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: Council Members Anderson, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop  
NOES: Council Member Harkey  
ABSTAIN: None

## **PUBLIC COMMENTS**

Robert Traphagen, Dana Point, spoke regarding pending lawsuits that he and others had brought against the City.

Dr. James Seitz, Dana Point, spoke regarding the mobile home park closure.

Patrick Evans, Huntington Beach, spoke regarding potential litigation against the City.

Richard Gardner, Capistrano Beach, spoke regarding Pines Park and the opportunities for improvement that could be done at the park.

Bob Becker, Dana Point, reported that the 15<sup>th</sup> Annual Wag-A-thon will be held on April 26<sup>th</sup> on the island in Dana Point Harbor which begins at 8:30 a.m. and ends at 1:00 p.m. He provided a summary of the events that will take place and stated that there was a \$30 admission fee. For more information go to [www.petprojectfoundation.org](http://www.petprojectfoundation.org) or call 949-595-8899.

Karin Schnell, Dana Point, announced that the 2<sup>nd</sup> Annual Dana Point Arts Festival will be held on Sunday, May 4<sup>th</sup> from 11:00 a.m. - 6:30 p.m. at La Plaza Park. She stated that the event was free and that there would be food, artist booths, exhibits, and a variety of live bands.

## **PUBLIC HEARINGS**

There were no Public Hearings.

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## **UNFINISHED BUSINESS**

### **11. SURFING HERITAGE MUSEUM**

Council Member Harkey recused herself from this item due to a potential financial conflict of interest as a result of her interests in real property within 500' of Sea Terrace Park. She left the Chambers at 6:58 p.m.

City Manager Chotkevys provided a staff report and introduced Tom Pezman, Executive Director of the Surfing Heritage Foundation.

Tom Pezman stated that it was their vision to build and operate a passive use facility in Dana Point. He shared a video that depicted the work of the Foundation.

Dick Metz, founder of the Surfing Heritage Foundation, stated that he started the Foundation nine (9) years ago to try and preserve the history of surfing. He added that he has communicated with other cities but feels that Dana Point is the premiere place for the museum. He stated that Dana Point has been a City of firsts for the world of surfing and he felt that this museum would help Dana Point find its identity.

Jim Wilson, 30<sup>th</sup> Street Architects, stated that museums generate less car trips; requiring less parking. He added that in his research he has found that there are no traffic requirements for a museum and that a full study would need to be completed.

Mayor Bishop announced that Council Member Weinberg had to leave the meeting at 7:20 p.m.

Mayor Pro Tem Bartlett asked if the recommended action was only for this location or could it include other venues in Dana Point.

City Manager Chotkevys replied that this would be the most complimentary site, but if another venue better met the needs of the community then it would also be considered.

Council Member Anderson asked if the museum would be a revenue generator for the City.

City Manager Chotkevys replied that revenue could come in the form of a ground lease; the Foundation would be responsible for the construction and maintenance of the building but also providing uses for the City and community groups in the form of a use agreement. He stated that a venue such as this would be a draw for the guests of the St. Regis and the Ritz Carlton Hotels.

Mayor Bishop asked how the parking would be mitigated for the beach goers or workers of the St. Regis.

City Manager Chotkevys replied that staff would work with the Foundation to create a traffic management plan to ensure that the parking would be available for the visitors of Sea Terrace Park, the library, and the museum.

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Mayor Bishop asked if a site in the Town Center would be better.

City Manager Chotkevys replied that sites in the Town Center had been considered when discussing the expansion of the library but the constraints would be parking.

Mayor Bishop recessed the meeting at 7:36 p.m. and reconvened the meeting at 7:44 p.m.

Mayor Bishop opened the Public Comments.

Linda Brame, Dana Point, felt that the museum should be placed elsewhere in the City.

Ron Lackey, Dana Point, stated that he was excited about the possibility of the museum being built at Sea Terrace Park.

Richard Gardner, Capistrano Beach, stated that he supports the museum in our community.

Carlos Olvera, Dana Point, stated that he supports the idea of a museum but was concerned about the proposed location. He added that he would like other organizations to have access to the facility.

Roy Dohner, Dana Point, stated that he does not support the proposed location of the museum.

Art Brewer, Dana Point, stated that he supports the museum and he encouraged the City Council to support the project.

Colby Klink, Capistrano Beach, stated that he supports the museum and felt that it would be a tremendous opportunity for the City.

Eric Diamond, Dana Point, stated that he supports the museum at Sea Terrace Park.

Nichole Chambers, Dana Point Chamber of Commerce, stated that she supports the museum in Dana Point. She added that visitors to the City look for museums while on vacation. She stated that the museum would provide Dana Point with an economic boost.

Bruce Beal, Dana Point, stated that he supports the museum in Dana Point. He added that Dana Point was a City of many firsts in surfing history. He stated that the Chamber of Commerce Board of Directors had voted unanimously to support the museum.

Jay Longley, Dana Point, stated that he supports the museum in Dana Point.

Bob Mardian, Dana Point, stated that he supports the museum in Dana Point at the Sea Terrace Park location.

Mayor Bishop closed the Public Comments.

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Council Member Anderson stated that museums were a desired aspect in a park so this was not a new concept. She added that studies would need to be conducted, but felt this project was worth pursuing.

Mayor Pro Tem Bartlett stated that she appreciated all of the public input on the project. She added that she would like staff to pursue all possible locations to ensure the best venue for the museum. She encouraged everyone to participate in the public outreach and stated that she supports the museum in Dana Point.

Mayor Bishop reminded everyone that studies still needed to be completed on this project and stated that he supports the museum in Dana Point.

IT WAS MOVED BY COUNCIL MEMBER ANDERSON, SECONDED BY MAYOR PRO TEM BARTLETT TO AUTHORIZE STAFF TO DO THE FOLLOWING:

1. CONTINUE TO WORK WITH REPRESENTATIVES OF THE SURFING HERITAGE FOUNDATION ("FOUNDATION"); AND
2. CONDUCT A SHORT SERIES OF EXPANDED TOWN HALL MEETINGS WITH THE COMMUNITY TO FURTHER DISCUSS THE CONCEPT WITH THE COMMUNITY AT-LARGE TO GAUGE ACCEPTANCE AND TO WORK OUT ISSUES; AND
3. RETURN WITH POSSIBLE CONCEPTUAL DESIGN RENDERINGS OF A POTENTIAL SURFING HERITAGE MUSEUM ("MUSEUM"); AND
4. ADDRESS POTENTIAL MITIGATION ASSOCIATED WITH CONCERNS FROM THE COMMUNITY AT-LARGE; AND
5. RETURN WITH A SERIES OF POSSIBLE "DEAL POINTS" THAT MIGHT BE INCORPORATED INTO A COOPERATIVE AGREEMENT BETWEEN THE CITY OF DANA POINT AND THE FOUNDATION FOR FURTHERING THE CONCEPT OF A SURFING HERITAGE MUSEUM IN DANA POINT.

The motion carried by the following vote:

AYES: Council Members Anderson, Mayor Pro Tem Bartlett and Mayor Bishop  
NOES: None  
ABSENT: Council Members Harkey and Weinberg

## **NEW BUSINESS**

There were no New Business items.

## **PUBLIC COMMENTS (Continued)**

There were no additional Public Comments.

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## STAFF REPORTS

City Manager Chotkevys reported on the status of the proposed Parking Ordinance. He stated that the Ordinance should be returning for City Council consideration at the first meeting in May.

## COUNCIL REPORTS, INCLUDING CITY RELATED MEETINGS ATTENDED

Council Member Anderson reported the following:

- Reminded everyone that the animal shelter needs foster homes for kittens and that the kitten shower training class was scheduled for Sunday, April 20<sup>th</sup> from 4:00-6:00 p.m. For more information please call 949-492-1617.
- Earth Ocean Society annual clean up day this Saturday at La Plaza Park from 9:00 a.m. to noon.
- Assistance League – she encouraged everyone to check them out as they do so many good things for the community. For more information go to their website at [www.capistranovalley.assistanceleague.org](http://www.capistranovalley.assistanceleague.org)

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

- Several TCA Board Meetings
- April 4<sup>th</sup> – Southern Orange County Regional Chamber Ball in Irvine
- April 5<sup>th</sup> – Dana Point Woman's Club luncheon and fashion show. Elected officials modeled fashions from Fresh Product and Fullers.
- April 7<sup>th</sup> – Ribbon cutting ceremony at the new BBQ restaurant – Smokeys BBQ in the Monarch Bay Plaza.
- April 12<sup>th</sup> – Children's Hospital, Queen of Heart's Guild Annual Fundraiser event – Casino Night. All proceeds from the event will go towards purchasing 2 special warming beds for the Neonatal Intensive Care Unit at CHOC.

She announced the following upcoming events:

- April 16<sup>th</sup> – Ribbon cutting ceremony at Greenfield Communications on Violet Lantern at 12 noon.
- April 19<sup>th</sup> and 20<sup>th</sup> – Lantern Bay Park Relay For Life beginning at 10:00 a.m.
- April 24<sup>th</sup> – 4:00-6:00 p.m. Boys and Girls Club Teen Center groundbreaking ceremony.
- April 26<sup>th</sup> – Monarch Beach Sunrise Rotary – Annual Children's Charity fundraiser event at the Surf and Sand.

Mayor Bishop stated that he had submitted the meetings he had attended in writing to the City Clerk (attached as [Exhibit 1](#)). He read the following statement:

“As of September 1, 2008 it will be illegal to dispose of SHARPS in your regular trash can at home or in the landfill. For this reason, the City of Dana Point launched a new SHARPS Disposal by Mail program in order to provide residents a safe and legal way to dispose of lancets, needles, and other SHARPS

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used to self-inject prescription medications. Residents who want to participate in the program can pick up their first SHARPS Disposal by Mail postage paid container for free at the CVS Pharmacy located at 32900 Pacific Coast Highway or the Rite Aide located at 24829 Del Prado. Residents will receive their first container free and will pay a \$5 co-pay for each additional container. For questions about the program, please call (949) 248-3571 or visit a participating pharmacy in Dana Point. Thank you for keeping your needles out of the trash”.

Mayor Bishop reported the following:

- The Lord of the Strings concert on April 25<sup>th</sup> will feature Hawaiian style music.
- He had taken three days of sailing lessons at the Embarcadero with his son.
- Judged the art contest for the “Images of Dana Point” which will be displayed at the Dana Point Arts Festival.
- South Coast Medical Center fashion show and golf tournament are coming up. If you are interested, please contact the City Manager and he will provide you with the information.
- State of the City Chamber Luncheon will be held on April 24<sup>th</sup> at the Beach House.

## **ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Bishop declared the meeting adjourned at 8:24 p.m. and announced that the next Regular Meeting of the City Council will be May 6, 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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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 15, 2008**

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**EXHIBIT 1**

Meetings attended by Joel Bishop  
4/1/08-4/15/08

4/2-4/08	Washington DC. See attached
4/5/08	Women's Club Fashion Show participant
4/7/08	Ribbon Cutting for Smokey's BBQ
4/10/08	Ribbon Cutting for Pacifica Laser
4/10/08	League of Cities Meeting
4/11/08	Office Hours
4/12/08	'Images of Dana Point' juried art competition, judge

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 15, 2008**

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VAN SCOYOC ASSOCIATES, INC.  
101 CONSTITUTION AVENUE, N.W.  
SUITE 600 WEST  
WASHINGTON, D.C. 20001

City of Dana Point  
Mayor Joel Bishop  
Brad Fowler  
April 2-4, 2008

**Wednesday, April 2**

- 6:00pm**      **Arrive in Washington**
- 8:30pm**      **Dinner at District Chophouse**  
509 7th St NW  
(202) 347-3434  
Reservation for 2 under Brad Fowler

**Thursday, April 3**

- 8:30am**      **Breakfast meeting at Washington Marriott**  
1221 22nd Street NW  
Washington, DC 20037  
1-202-872-1500
- 10am**        **Meeting with Ada Benavides, Ken Turner, Ken Zwickl**  
Army Corps of Engineers  
441 G St NW  
202-761-0405
- 11:30am**    **Meeting with Congressman Campbell and Staff**  
David Bowser, Chief of Staff, and David Malech, LD  
1728 Longworth  
202-225-5611
- 1pm**         **Meeting with Roger Cockrell**  
Senate Energy and Water  
186 Dirksen Senate Office Building
- 1:30pm**    **Meeting with Ryan Hunt**  
Office of Senator Feinstein  
331 Hart Senate Office Building  
202-224-3841

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**CITY OF DANA POINT, CALIFORNIA  
CITY COUNCIL REGULAR MEETING MINUTES  
APRIL 15, 2008**

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**6:15pm**      **Dinner at Capital Grille**  
601 Pennsylvania Ave, NW  
(202) 737-6200  
Party of 4 under Thane Young

**Friday, April 4**

**9:15am**      **Meeting with Taunja Berquam**  
House Energy and Water  
2362 Rayburn HOB  
(202) 225-3421

**9:45am**      **Meeting with Jason Gagnon**  
Office of Congressman Calvert  
2201 Rayburn HOB  
202-225-1986

**10:30am**      **Meeting with Danielle Leone**  
Office of Senator Boxer  
112 Hart Senate Office Building  
202-224-3553

**2:20pm**      **Depart Washington**

**Contacts:**

**Thane Young**  
Office: 202-737-7391  
Cell: 202-285-2508

**Laura Morgan**  
Office: 202-737-6552  
Cell: 202-302-6708

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

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April 8, 2008  
7:04 – 7:27 p.m.

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

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**CALL TO ORDER** – Chairwoman Fitzgerald called the meeting to order.

**PLEDGE OF ALLEGIANCE** – Todd Litfin, Assistant City Attorney, led the Pledge of Allegiance.

**ROLL CALL**

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

**Staff Present:** Kyle Butterwick (Director of Community Development), Todd Litfin (Assistant City Attorney), Evan Langan (Associate Planner), and Denise Jacobo (Planning Secretary)

**ITEM 1: Reorganization of the Planning Commission.**

- a) Select nominations and vote for Chairman to serve until the first meeting of April, 2009.
- Chairwoman Fitzgerald nominated Norman Denton to serve as Chairman; no other nominations were received

**ACTION: Motion made (Fitzgerald) and seconded (Schoeffel) to elect Norman Denton to serve as Chairman of the Planning Commission. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: ABSENT: None ABSTAIN: None)**

- b) Select nominations and vote for Vice-Chairman to serve until the first meeting of April, 2009.
- Commissioner Schoeffel nominated Michelle Brough to serve as Vice-Chairwoman; no other nominations were received

**ACTION:** Motion made (Schoeffel) and seconded (Denton) to elect Michelle Brough as Vice-Chairwoman of the Planning Commission. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: ABSENT: None ABSTAIN: None)

c) Recognition of outgoing Chairwoman Liz Anderson Fitzgerald.

**Kyle Butterwick** (Director) presented an engraved gavel and flowers to Commissioner Liz Anderson Fitzgerald recognizing her outstanding leadership and service over the past year.

#### **A. APPROVAL OF MINUTES**

**ITEM 2:** Minutes of the regular Planning Commission Meeting of March 25, 2008.

**ACTION:** Motion made (Brough) and seconded (Fitzgerald) to approve the Minutes of the regular Planning Commission Meeting of March 25, 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 3:** Coastal Development Permit CDP07-25 and Minor Site Development Permit SDP07-63(M) to allow the demolition of an existing single-family residence and construction of a new, single-story, 4,964 square foot single-family residence and 541 square foot pool house; as well as retaining walls in excess of 30 inches in height at 32572 Balearic Road.

Applicant/ Wun Sze (Brion Jeannette Architects)  
Owner: Alan and Anne Simon  
Location: 32572 Balearic Road (APN 670-042-09)

Request: Request for Coastal Development Permit CDP07-25 and Minor Site Development Permit SDP07-63(M) to allow the demolition of an existing single-family residence; and construction of a new, single-story, 4,964 square foot, single-

family residence including a new, 541 square foot detached pool house; as well as retaining walls in excess of 30 inches and not to exceed three feet in height at 32572 Balearic Road. Per adopted City Zoning Maps, the subject property is zoned as Residential Single-Family 4 (RSF-4), located within the Monarch Bay Terrace Homeowners Association as well as the Coastal Overlay District.

Environmental: Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Community Development Department has analyzed the subject project. Staff finds the project is Categorically Exempt per Section 15303 (a) (Class 3 – New Construction or Conversion of Small Structures).

Recommendation: Adopt Planning Commission Resolution No. 08-04-08-xx, approving Coastal Development Permit CDP07-25 and SDP07-63(M) for the referenced scope of work.

**Evan Langan** (Associate Planner) reviewed the staff report.

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

**Vice-Chairwoman Brough** stated that she would support the project.

**ACTION:** **Motion made (Brough) and seconded (Fitzgerald) to adopt Resolution No. 08-04-08-09 approving Coastal Development Permit CDP07-63(M). 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**

**Kyle Butterwick (Director)** reported that he attended a meeting earlier in the day with the Coastal Commission staff. He indicated that the Commission staff confirmed a public hearing date for the Town Center for the second week in May at Marina Del Rey. He stated that the Coastal staff had suggested modifications to the draft plan, i.e., develop the Town Center with a visitor-serving emphasis; develop a range of uses to create a stronger presence and priority for visitor-serving uses. He added that some additional policies are anticipated to preserve and protect existing lower-cost overnight accommodations.

**Todd Litfin** (Assistant City Attorney) stated that he has scheduling conflicts with other City clients on the fourth Tuesday of every month; he introduced Jennifer Farrell, Assistant City Attorney, who will be sitting in his place.

**G. COMMISSIONER COMMENTS**

**Commissioner Schoeffel** thanked Commissioner Fitzgerald for handling a fine job during her service as Chairwoman. He welcomed Jennifer Farrell, Assistant City Attorney.

**Commissioner Fitzgerald** stated that she had appreciated Chairman Denton's help and support for his guidance.

**Chairman Denton** thanked Commissioner Fitzgerald for her leadership and role with the Planning Commission. He congratulated Vice-Chair Brough.

**Vice-Chair Brough** thanked Commissioner Fitzgerald and she felt that she was a great role model. She congratulated Chairman Denton, and welcomed Jennifer Farrell, Assistant City Attorney.

**Commissioner Conway** thanked Commissioner Fitzgerald for her leadership over the year. He congratulated Chairman Denton, and Vice-Chair Brough. He reported on the events at the Planning Institute Conference; and stated that it was an interesting and informative conference.

**Alternate Commissioner Dec** thanked Commissioner Fitzgerald. He congratulated Chairman Denton and Vice-Chair Brough. He reported that he attended the Planning Institute Conference; he added that the Affordable Housing information was of great interest since all Cities are facing it. He added that it was a great conference and he enjoyed it.

**H. ADJOURNMENT**

**Chairman Denton** adjourned the meeting to the *next regular* meeting of the Planning Commission to be held on Tuesday, April 22, 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 7.27 p.m.**

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Norman Denton, Chairman  
Planning Commission

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

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April 22, 2008  
7:00 – 7:53 p.m.

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

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

**PLEDGE OF ALLEGIANCE** – Commissioner Schoeffel led the Pledge of Allegiance.

**ROLL CALL**

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

**Commissioner Absent:** Commissioner Liz Anderson Fitzgerald

**Staff Present:** Kyle Butterwick (Director of Community Development), John Tilton (City Architect/Planning Manager), Jennifer Farrell (Assistant City Attorney), Evan Langan (Associate Planner), Matthew Schneider (Associate Planner), Saima Qureshy (Senior Planner), and Denise Jacobo (Planning Secretary)

**A. APPROVAL OF MINUTES**

**ITEM 1:** **Minutes of the regular Planning Commission Meeting of April 8, 2008.**

**ACTION:** **Motion made (Conway) and seconded (Brough) to approve the Minutes of the regular Planning Commission Meeting of April 8, 2008. Motion carried 5-0. (AYES: Brough, Conway, Dec, Denton, Schoeffel NOES: None ABSENT: None ABSTAIN: None)**

**B. PUBLIC COMMENTS**

John Chaffetz (Dana Point) commended the Anaheim Ducks organization for a great season.



**C. CONSENT CALENDAR**

There were no items on the Consent Calendar.

**D. PUBLIC HEARINGS**

**ITEM 2: Coastal Development Permit CDP07-23 to allow the demolition of an existing single-family residence; and the construction of a new, two-story, 5,177 square foot single-family residence at 327 Monarch Bay Drive.**

Applicant/ Ben Stevens (Andrade Architects)  
Owner: Leonard Shulman  
Location: 327 Monarch Bay Drive (APN 670-151-35)

Request: Request for Coastal Development Permit CDP07-23 to allow the demolition of an existing single-family residence; and the construction of a new, two-story, 5,177 square foot single-family residence at 327 Monarch Bay Drive. Per adopted City Zoning Maps, the subject property is zoned as Residential Single-Family 4 (RSF-4), located within the Monarch Bay Homeowners Association, the Coastal Overlay District as well as the appeal jurisdiction of the California Coastal Commission.

Environmental: Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Community Development Department has analyzed the subject project. Staff finds the project is Categorically Exempt per Section 15303 (a) (Class 3 – New Construction or Conversion of Small Structures).

Recommendation: Adopt Planning Commission Resolution 08-04-22-xx, approving Coastal Development Permit CDP07-23 for the referenced scope of work.

There were no requests to speak on this item.

**ACTION: Motion made (Conway) and seconded (Dec) to adopt Resolution No. 08-04-22-10 approving Coastal Development Permit CDP07-23. Motion carried 5-0. (AYES: Brough, Conway, Dec, Denton, Schoeffel NOES: None ABSENT: None ABSTAIN: None)**

**ITEM 3: Coastal Development Permit (CDP07-13), Minor Site Development Permit (SDP07-18M) and Minor Conditional Use Permit (CUP07-11M) to allow a new two-story, 4,773 square foot, single-family residence with an attached 426 square foot garage and 384 square foot granny**

**flat on a sloping lot in the Coastal Overlay Zone. The subject site is located in the Residential Single-Family (RSF 7) zoning district at 34152 Chula Vista.**

Applicant/ Jon Green  
Owner: John Sullivan  
Location: 34152 Chula Vista; APN: 682-245-15

Request: A Coastal Development Permit, Minor Site Development Permit and Minor Conditional Use Permit to construct a new two-story, 4,773 square foot, single-family residence with an attached 426 square foot garage and detached 384 square foot granny flat on a sloping lot in the Coastal Overlay Zone. Retaining walls up to a maximum of 8-feet in height are also being proposed along the side and rear property lines; a Minor Site Development Permit and Minor Conditional Use Permit are requested for these walls.

Environmental: The proposed project qualifies as a Class 3 and Class 5 (Section 15303 & 15305) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves the construction of a single-family residence not in conjunction with the building of two or more such units and associated retaining walls and that the request will not result in the creation of any new parcel.

Recommendation: That the Planning Commission approve the attached draft resolution approving Coastal Development Permit CDP07-13, Site Development Permit SDP07-18(M) and Minor Conditional Use Permit CUP07-11(M).

There was one (1) request to speak on this item.

**ACTION:** **Motion made (Schoeffel) and seconded (Dec) to adopt Resolution No. 08-04-22-11 approving Coastal Development Permit CDP07-13, Minor Site Development Permit SDP07-18M, and Minor Conditional Use Permit CUP07-11M. Motion carried 5-0. (AYES: Brough, Conway, Dec, Denton, Schoeffel NOES: None ABSENT: None ABSTAIN: None)**

**ITEM 4: Zoning Code Update Program – Zone Text Amendment ZTA08-0003.**

Applicant/  
Owner: City of Dana Point – Community Development Department  
Location: Citywide

Request: Request for Zone Text Amendment ZTA08-0003 to update Chapter 9.63 – “Nonconforming Uses and Structures” and Chapter 9.61 – “Administration of Zoning”.

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 (Brough) and seconded (Schoeffel) to adopt Resolution No. 08-04-22-12 recommending the City Council approve Zone Text Amendment (ZTA08-0003) revising the City of Dana Point Zoning Ordinance to update Chapter 9.63 – Nonconforming Uses and Structures, and Chapter 9.61 – Administration of Zoning and to include the addendum to the staff report Zone Text Amendment (ZTA08-0003). Motion carried 5-0. (AYES: Brough, Conway, Dec, Denton, Schoeffel NOES: None ABSENT: None ABSTAIN: None)

#### **E. NEW BUSINESS**

There were no New Business items.

#### **F. STAFF REPORTS**

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

#### **G. COMMISSIONER COMMENTS**

**Commissioner Conway** commended the staff for their work on revising the Zoning Ordinance making it reasonable and useful. He welcomed Jennifer Farrell (Assistant City Attorney) to her first meeting. He added that he will keep his fingers crossed for the May 8<sup>th</sup> Coastal Commission meeting.

**Vice-Chairwoman Brough** reiterated Commissioner Conway's comments and she welcomed Jennifer Farrell.

**Chairman Denton** commended the staff for their work on the evenings' project; he gave his best of luck for the May 8<sup>th</sup> Coastal Commission meeting, and he stated that it is a crucial date for Dana Point's future.

**Commissioner Schoeffel** expressed how nice to have the Chairman back in the Chair. He added that in the month of May, there are many events in town e.g., the Bicycle Race, the Blues Festival; he also added that the City starts to light up right before Memorial Day.

**H. ADJOURNMENT**

**Chairman Denton** adjourned the meeting to the *next regular* meeting of the Planning Commission held on Tuesday, May 13, 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 7:53 p.m.**



# City of Dana Point

## Community Calendar and Meeting Schedule

May 2008						
S	M	T	W	T	F	S
27	28	29	30	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
1	2	3	4	5	6	7
<<			-=-			>>

**May 1st, 2008 (Thu)**

**4:00 PM**

**Youth Board Meeting**

Dana Point City Hall - Council Chambers  
33282 Golden Lantern  
For info call (949) 248-3593

**May 3rd, 2008 (Sat)**

**9:00 AM - 1:00 PM**

**Farmer's Market**

La Plaza Center  
For info. call (909) 229-3329

**May 4th, 2008 (Sun)**

**Dana Point Arts Festival**

Dana Point Arts Festival  
La Plaza Park  
For Info. [www.dpcoastal.org](http://www.dpcoastal.org)

DANA POINT ARTS FESTIVAL -- Sunday May 4  
A Celebration of Visual and Performing Arts for The Entire Family

The Dana Point Arts Festival is an annual cultural event in Dana Point including visual and performing arts from around the world. The event takes place Sunday May 4, at La Plaza Park, 34111 La Plaza St., Dana Point with a variety of live music, dance performances, hands-on art activities for all ages, art competition and artist booths beginning at 11:00 a.m. and concludes with a special performance by "Savor", a Santana tribute band at 5:00 p.m.

Highlighted activities include the "Images of Dana Point," a special juried art competition and exhibit of paintings, photographs and sculptures. All awards sponsored by Hennessey's Tavern and The Fish Bucket.

**Schedule of Events**

11:00am-12:00pm South Orange County School of the Arts  
11:00am-4:00pm Artist Vendor Booths – displaying and selling artwork  
11:00am-4:00pm Hands-on Art Activities, Face Painting for Children, "Images of Dana Point" – Special Art Competition  
12:00pm-12:30pm Panjive - Steel Drums  
12:30pm-1:00pm Arpana Indian Dancers  
1:00pm-1:30pm Sligo Rags – Celtic Folk Music  
1:30pm-2:00pm Flamenco Dancer Suzanna Cole  
2:00pm-2:30pm Japanese Taiko Drummers  
2:30pm-4:00pm El Zacateca Mariachis  
5:00pm-6:30pm Savor – Santana Tribute Band

Dana Point Arts Festival is sponsored by the City of Dana Point, Dana Point Coastal Arts and is part of the county-wide Imagination Celebration presented by Arts Orange County and the Orange County Department of Education.

If you would like more information about the event visit [www.dpcoastalarts.org](http://www.dpcoastalarts.org), call Karin Schnell (949) 933-1678 or Alicia Erlinger at (949) 291-5083.

**May 6th, 2008 (Tue)****6:00 PM****City Council Meeting**

Dana Point City Hall - Council Chambers  
33282 Golden Lantern  
For info call (949) 248-3501

**May 8th, 2008 (Thu)****6:00 PM - 7:30 PM****DPLS Quarterly Meeting**

Dana Point Lighthouse Society  
May 8, 2008 (Thurs.) 6:00-7:30pm  
Contact: John Gile  
location: Dana Point Community House  
Dana Point, CA 92629  
phone: 949-218-2589  
Joel Geldin - Project Representative of California Ships to Reefs (CS2R)  
Topic: "Reefing is Now"

[www.danapointlighthouse.org](http://www.danapointlighthouse.org)

**May 10th, 2008 (Sat)****Great Strides Dana Point****May 10th, 2008 (Sat) -- May 11th, 2008 (Sun)****Dana Point Fine Arts Show**

Additional Information:  
[www.danapointfinearts.org](http://www.danapointfinearts.org)

**May 10th, 2008 (Sat)****7:00 AM - 2:30 PM****Cleanup Day**

The City of Dana Point will be teaming up with CR&R to host a Cleanup Day on Saturday, May 10, 2008 from 7:30 a.m. to 2:30 p.m. at Dana Hills High School and Palisades Elementary School. Bulky items such as large appliances, furniture, televisions, computers, printers, fax machines, copiers, green waste, and other large items will be accepted for FREE by the City's waste hauler CR&R. For the first time, CR&R will also collect florescent light tubes and household batteries at the event. The Goodwill Industries will also be available to accept donated items. Household Hazardous Waste such as paint, motor oil, and fertilizers will not be accepted. Over fifty percent of the items collected at these events are recycled, so do your part and bring those items that have been taking up too much space in your garage and yard. For more information, call (949) 248-3571

**May 10th, 2008 (Sat)****9:00 AM - 1:00 PM****Farmer's Market**

La Plaza Center  
For info. call (909) 229-3329

**May 13th, 2008 (Tue)****Ocean Water Quality Meeting**

City Hall Offices  
33282 Golden Lantern  
Dana Point, CA 92629  
3:00 – 5:00 p.m.

**May 13th, 2008 (Tue)****7:00 PM****Dana Point Planning Commission Meeting**

Planning Commission Meeting  
Dana Point City Hall  
For info call (949) 248-3564  
7:00

<b>May 15th, 2008 (Thu)</b>	<b>4:00 PM</b>
<b>Youth Board Meeting</b> Dana Point City Hall - Council Chambers 33282 Golden Lantern For info call (949) 248-3593	
<b>May 17th, 2008 (Sat) -- May 18th, 2008 (Sun)</b>	
<b>Doheny Blues Festival</b> Doheny Blues Festival <a href="http://www.omegaevents.com/dohenyblues">www.omegaevents.com/dohenyblues</a>	
<b>May 17th, 2008 (Sat)</b>	<b>9:00 AM - 1:00 PM</b>
<b>Farmer's Market</b> La Plaza Center For info. call (909) 229-3329	
<b>May 20th, 2008 (Tue)</b>	<b>6:00 PM</b>
<b>City Council Meeting</b> City Council Meeting Dana Point City Hall - Council Chambers 33282 Golden Lantern 949-248-3501	
<b>May 21st, 2008 (Wed)</b>	<b>3:00 PM</b>
<b>Traffic Improvement Commission Meeting</b> Location: Dana Point City Hall - Council Chambers 33282 Golden Lantern For info call (949) 248-3501	
<b>May 24th, 2008 (Sat) -- May 25th, 2008 (Sun)</b>	
<b>Dana Point Fine Arts Show</b> Additional Information: <a href="http://www.danapointfinearts.org">www.danapointfinearts.org</a>	
<b>May 24th, 2008 (Sat)</b>	<b>9:00 AM - 1:00 PM</b>
<b>Farmer's Market</b> La Plaza Center For info. call (909) 229-3329	
<b>May 26th, 2008 (Mon)</b>	
<b>Memorial Day</b> City offices closed	
<b>May 27th, 2008 (Tue)</b>	<b>7:00 PM</b>
<b>Dana Point Planning Commission Meeting</b> Planning Commission Meeting Dana Point City Hall For info call (949) 248-3564 7:00	
<b>May 31st, 2008 (Sat)</b>	<b>9:00 AM - 1:00 PM</b>
<b>Farmer's Market</b> La Plaza Center For info. call (909) 229-3329	

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

Wednesday, March 19, 2008  
3:00 p.m.

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

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**CALL TO ORDER:** The meeting was called to order at 3:04 p.m.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Gary Kamm.

**ROLL CALL:**

Commissioners Present: Chairman Rod Howorth, Linda Brame, Ahmad Hindiye, Gary Kamm, Wayne Vega.

Staff Present: Sgt. Lynn 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 February 20, 2008 Traffic Improvement Commission Meeting.

**ACTION:** Motion made by Kamm to approve the Action Minutes; Seconded by Vega. The Action Minutes were approved. (AYES: Howorth, Brame, HindiyeH; Vega; Kamm. NOES: None. ABSTAIN: None. Motion passed 5-0.

**ADDED CONSENT ITEM:** Camino Capistrano & Via Canon Intersection traffic modifications. Recommendation to add a stop sign on Camino Capistrano, left turn lane onto Via Canon.

**ACTION:** Motion made by Howorth to add stop sign on Camino Capistrano left turn lane to Via Canon and add striping modifications to the intersection; Seconded by Brame. (AYES: Howorth, Brame, HindiyeH. NOES: Vega, Kamm. ABSTAIN: None. Motion passed 3-2).

**C. PUBLIC HEARINGS**

There were no Public Hearings.

**D. PUBLIC MEETINGS**

There were no Public Meetings.

**E. OLD BUSINESS**

**ITEM 2:** Preferential Parking District Ordinance Modifications

**ACTION:** Director Fowler reported that comments were received by 3 Commissioners and the Staff Report reflects a mix of the suggested changes. Motion was made by Vega to accept the changes in the spirit of the Ordinance and to bring forward to City Council for approval; Seconded by Kamm. (AYES: Howorth, Brame, HindiyeH; Vega; Kamm. NOES: None. ABSTAIN: None. Motion passed 5-0.)

**ITEM 3: Parking Ordinance, Council Action**

**ACTION:** No Action Required – for information to Commission only. Director Fowler reported that Staff will meet with Sheriff’s Office, City Attorney’s office and 2 Council Members assigned to this project. He will report back their findings at a future Commission meeting. No further action will be required by Commission at this point.

**ITEM 4: Camino Capistrano, Report on Survey Results**

No Action Required – for information to Commission only. Sinacori reported that Staff did not receive the 67% approval by the surveyed residents to install the speed humps. Commission requested that Staff propose new alternatives for signage and for reducing speed for next meeting. No action is required by Commission at this point.

**F. NEW BUSINESS****ITEM 4: Future Agenda Items**  
- Street Sweeping Citywide

**ACTION:** No Action Required – Commissioners were requested to bring their Street Sweeping packet to the next meeting for a “study session”.

**G. STAFF REPORTS****ITEM 5: Next Meeting Date**

**ACTION:** The next meeting date has been scheduled for Wednesday, April 16<sup>th</sup> at 3 pm.

**H. COMMISSIONER COMMENTS**

Commissioner Vega would like Sgt. Koehmstedt to find out if there have been any complaints logged since the speed humps were installed on Via Velez.

Chairman Howorth also thanked Staff for their hard work on the ordinances.

**I. ADJOURNMENT**

Chairman Howorth announced the *next* regular meeting of the Traffic Improvement Commission is set for April 16th at 3:00 PM (3<sup>rd</sup> Wednesday of the Month at 3:00 PM), unless otherwise directed by the Commission, and will be subsequently posted.

**The meeting adjourned at 4:53 pm.**

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**Rodney Howorth, Chairman**  
**Traffic Improvement Commission**

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

**CITY OF DANA POINT**

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**DATE: MAY 6, 2008**

**TO: CITY MANAGER/ HONORABLE MAYOR AND CITY COUNCIL**

**FROM: MIKE KILLEGREW, DIRECTOR OF ADMINISTRATIVE SERVICES**

**SUBJECT: CITY TREASURER’S REPORT, MARCH 2008**

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**RECOMMENDED ACTION:**

The City Council receive and file the City Treasurer's Report for the month of March, 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, March 2008.....2](#)

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

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CITY OF DANA POINT CITY TREASURER'S REPORT For the Month Ended March 31, 2008									
<b>CASH ACTIVITY FOR THE MONTH:</b>									
Cash and Investments as of 02/29/08									\$51,481,156.18
Cash Receipts									2,205,373.70
Cash Disbursements									(2,369,914.85)
Cash and Investments as of 03/31/08									\$51,316,615.03
<b>CASH AND INVESTMENT PORTFOLIO AS OF MARCH 31, 2008:</b>									
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	\$313,216.03	\$313,216.03	\$313,216.03 (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	3.78%	04/01/2008	1	22,674,199.00	22,674,199.00	22,674,199.00		
Treasury Note, 5.625% (9128274F6)	U.S. Government	4.98%	05/15/2008	45	5,950,000.00	5,980,226.00	5,950,000.00		
Treasury Note, 4.625% (912828FT24)	U.S. Government	4.74%	09/30/2008	183	5,950,000.00	6,044,367.00	5,950,000.00		
Treasury Note, 4.875% (912828CF4)	U.S. Government	4.88%	01/31/2009	306	4,025,000.00	4,134,762.00	4,025,000.00		
Treasury Note, 4.875% (912828FE5)	U.S. Government	4.71%	05/15/2009	410	3,975,000.00	4,120,326.00	3,975,000.00		
Treasury Note, 4.000% (912828HD5)	U.S. Government	3.91%	09/30/2009	548	4,150,000.00	4,299,483.00	4,150,000.00		
Treasury Note, 2.125% (912828HP9)	U.S. Government	1.88%	01/31/2010	702	4,275,000.00	4,311,423.00	4,275,000.00		
					\$51,316,615.03	\$51,882,202.03	\$51,316,615.03		
<b>REPORT ON COMPLIANCE WITH STATEMENT OF SAFEKEEPING AND INVESTMENT OF PUBLIC FUNDS</b>									
The City is in compliance with the adopted Statement of Safekeeping and Investment of Public Funds.									
<b>REPORT OF ABILITY TO MEET REQUIRED EXPENDITURES FOR THE NEXT SIX MONTHS</b>									
Based upon currently budgeted revenues and expenditures, the City currently has sufficient liquid financial resources to meet anticipated expenditures during the period 04/01/08 through 10/01/08.									
<b>WEIGHTED AVERAGE MATURITY OF PORTFOLIO</b>									
As of March 31, 2008, the weighted average days to maturity of the City's investment portfolio is 187 days.									
<b>FOOTNOTES TO REPORT/DEFINITION OF TERMS:</b>									
(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).									

STATE OF CALIFORNIA

**OFFICE OF THE TREASURER**  
SACRAMENTO

BILL LOCKYER, Treasurer



Local Agency Investment Fund  
PO Box 942809  
Sacramento, CA 94209-0001  
(916) 653-3001  
www.treasurer.ca.gov/pmia-laif

March, 2008 Statement

CITY OF DANA POINT  
Attn: ACCOUNTING MANAGER  
33282 GOLDEN LANTERN  
DANA POINT CA 92629

Account Number : 98-30-237

Transactions

Effective Date	Transaction Date	Tran Type	Confirm Number	Authorized Caller	Amount
03-12-2008	03-12-2008	RW	1162459	ANDREW GLASS	- 500,000.00
03-14-2008	03-13-2008	RW	1162689	ANDREW GLASS	- 300,000.00

Account Summary

Total Deposit : 0.00 Beginning Balance : 23,474,199.00

Total Withdrawal : - 800,000.00 Ending Balance : 22,674,199.00

# CITY OF DANA POINT

## REGISTER OF DEMANDS

	EXPENSES	PREPAIDS	TOTAL
GENERAL FUND	\$1,349,690.93	\$141,372.38	\$1,491,063.31
TRUST/AGENCY FUND	25,479.59	1,165.00	26,644.59
CAPITAL IMPROVEMENTS FUND	28,907.96	109.78	29,017.74
SUPP. LAW ENFORCEMENT SER.	0.00	0.00	0.00
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	\$1,404,078.48	\$142,647.16	\$1,546,725.64

CHECKS: 65521through 65747

Received and filed by the City Council at its Regular Meeting on May 6, 2008.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Mayor

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

None

Agenda Item No. 8  
*May 6, 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. 8  
5/6/08 (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	
<b>cks Printed</b>					
Bank Account :A - Bank Of America					
	00065521	04/11/2008	1BAG	1 BAG AT A TIME	
	2020		00007616	01/24/2008 WQ REUSABLE SHOPPING BAGS	3,620.13
				Check Total	3,620.13
	00065522	04/11/2008	A-1 MAIL	A-1 MAIL	
	03312008			04/10/2008 FINGER PRINT	40.00
				Check Total	40.00
<b>January 10 - March 20, 2008</b>					
	00065523	04/11/2008	ABIGAILABB	ABIGAIL ABBOTT STAFFING SERVICES, INC.	
	830374		00007508	11/08/2007 CD STAFFING ASSISTANCE	576.00
	830817		00007508	11/08/2007 CD STAFFING ASSISTANCE	906.00
	831267		00007508	11/08/2007 CD STAFFING ASSISTANCE	960.00
	831694		00007508	11/08/2007 CD STAFFING ASSISTANCE	894.00
	832143		00007508	11/08/2007 CD STAFFING ASSISTANCE	960.00
	832586		00007508	11/08/2007 CD STAFFING ASSISTANCE	960.00
	832985		00007508	11/08/2007 CD STAFFING ASSISTANCE	960.00
	833412		00007508	11/08/2007 CD STAFFING ASSISTANCE	384.00
	833837		00007508	11/08/2007 CD STAFFING ASSISTANCE	384.00
	834254		00007508	11/08/2007 CD STAFFING ASSISTANCE	960.00
	834678		00007508	11/08/2007 CD STAFFING ASSISTANCE	576.00
				Check Total	8,520.00
	00065524	04/11/2008	ALBERTI	BEVERLEY ALBERTI	
	47470			04/10/2008 PW C&D REFUND	1,000.00
				Check Total	1,000.00
	00065525	04/11/2008	ALL CITY	ALL CITY MANAGEMENT	
	12769		00007483	07/12/2007 PS CROSSING GUARD SERVICES	2,768.00
				Check Total	2,768.00
<b>February 29, 2008</b>					
	00065526	04/11/2008	B&ZPRINT	B&Z PRINTING, INC.	
	109		00007366	07/12/2007 CS RECREATION & CITY GUIDES	10,931.66
				Check Total	10,931.66
	00065527	04/11/2008	BEACON	BEACON PRINTING	
	906			04/10/2008 CD BUSINESS CARDS	150.85
	909			04/10/2008 BL STAMPS	150.85
				Check Total	301.70
	00065528	04/11/2008	BNI	BNI BUILDING NEWS	
	04082008			04/10/2008 ES BOOKS	104.92
				Check Total	104.92
	00065529	04/11/2008	BONANZA	BONANZA MOBILE WASH	
	1874		00007333	07/11/2007 PA GRAFFITI REMOVAL SVCS	195.00
	1874-A		00007427	07/12/2007 SM GRAFFITI REMOVAL SERVICES	1,202.50
				Check Total	1,397.50

## 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	
<b>Checks Printed</b>					
	00065530	04/11/2008	CAPO	CAPISTRANO LOCK & SAFE	
	FC30		00007412	07/12/2007 SM MISCELLANEOUS SUPPLIES	28.58
				Check Total	28.58
	00065531	04/11/2008	CITYFSA	CITY OF DANA POINT FSA ACCOUNT	
	PP#8-2008			04/10/2008 FLEXIBLE SPENDING ACCT. PMT.	1,160.73
				Check Total	1,160.73
	00065532	04/11/2008	CONWAY	ED CONWAY	
	03312008			04/11/2008 CD TRAVEL REIMBURSEMENT	1,230.88
				Check Total	1,230.88
	00065533	04/11/2008	CORPEXP	CORPORATE EXPRESS	
	86252722		00007301	07/11/2007 CK OFFICE SUPPLIES	95.22
	86288021		00007549	10/11/2007 EM OFFICE SUPPLIES	-16.69
	86319330		00007385	07/12/2007 ND PHOTOCOPY PAPER	59.15
	86319332		00007385	07/12/2007 ND PHOTOCOPY PAPER	354.93
	86319333		00007385	07/12/2007 ND PHOTOCOPY PAPER	177.46
	86319334		00007399	10/18/2007 FA OFFICE SUPPLIES	36.38
	86319335		00007385	07/12/2007 ND PHOTOCOPY PAPER	135.24
	86350405		00007385	07/12/2007 ND PHOTOCOPY PAPER	60.88
	86350407		00007385	07/12/2007 ND PHOTOCOPY PAPER	213.28
	86425439		00007402	01/24/2008 ND KITCHEN SUPPLIES	9.76
				Check Total	1,125.64
	00065534	04/11/2008	COSTCO	COSTCO WHOLESALE	
	04032008			04/10/2008 EM CERT SUPPLIES	124.05
	04042008			04/10/2008 PS OPERATING SUPPLIES	47.82
				February 29 – March 27, 2008	
				Check Total	171.87
	00065535	04/11/2008	COUNTY	COUNTY OF ORANGE	
	SH20496		00007485	07/12/2007 PS LAW ENFORCEMENT SERVICES	717,666.55
				Check Total	717,666.55
	00065536	04/11/2008	CPOA	CALIFORNIA PEACE OFFICER'S ASSOC.	
	04092008			04/10/2008 PS TRAINING CLASS REGISTRATION	220.00
				Check Total	220.00
	00065537	04/11/2008	CPRS	CALIFORNIA PARK & RECREATION SOCIETY	
	03272008			04/10/2008 CS MEMBERSHIP RENEWAL	140.00
				Check Total	140.00
	00065538	04/11/2008	DANKA	DANKA OFFICE IMAGING CO.	
	705993038		00007384	07/12/2007 PS/ND COPIER MAINTENANCE	275.63
				Check Total	275.63
	00065539	04/11/2008	DDLTRAFFIC	DDL TRAFFIC, INC.	
	375		00007448	07/12/2007 TE PREEMPTION DEVICES	2,000.00
				Check Total	2,000.00

Agenda Item No. 8

5/6/08

(4)

## 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
<b>cks Printed</b>						
	00065540 04012008	04/11/2008	DECM	MICHAEL DEC 04/11/2008	CD TRAVEL REIMBURSEMENT	1,405.31
					Check Total	1,405.31
	00065541 09926	04/11/2008	DOHENYPL	DOHENY PLUMBING, INC. 04/10/2008	FAC PROFESSIONAL SERVICES	244.50
					Check Total	244.50
	00065542 PP#8-2008	04/11/2008	DPEA	DANA POINT EMPLOYEE ASSOCIATION 04/10/2008	UNION DUES	237.00
					Check Total	237.00
	00065543 410472	04/11/2008	DPHARDW 00007375	DANA POINT HARDWARE 07/12/2007	FAC MAINTENANCE SUPPLIES	107.69
					Check Total	107.69
	00065544 2077018799	04/11/2008	DUNN 00007376	DUNN-EDWARDS CORP 07/12/2007	FAC PAINT/MISC. SUPPLIES	61.06
					Check Total	61.06
	00065545 04072008 04102008 04112008	04/11/2008	FOWLER	BRAD FOWLER 04/11/2008 04/10/2008 04/10/2008	PW TRAVEL REIMBURSEMENT PW REIMBURSEMENT REIMBURSEMENT	209.00 306.51 120.00
					Check Total	635.51
	00065546 510464522-A	04/11/2008	FTB	FRANCHISE TAX BOARD 04/11/2008	MELLENBRUCH - CASE #510464522	85.42
					Check Total	85.42
	00065547 04072008	04/11/2008	GARCIA	EUGENIA GARCIA, AICP 04/10/2008	CD ANNUAL MEMBERSHIP DUES	125.00
					Check Total	125.00
	00065548 1543465	04/11/2008	GOLDENST 00007577	GOLDEN STATE OVERNIGHT 11/15/2007	BL PROFESSIONAL SERVICES	205.02
					Check Total	205.02
	00065549 12522	04/11/2008	HOGLE	HOGLE-IRELAND, INC. 04/10/2008	CE PROFESSIONAL SERVICES	62.50
					Check Total	62.50
	00065550 80008238	04/11/2008	HUNTINGTO	HUNTINGTON HONDA 04/10/2008	PS VEHICLE MAINTENANCE	681.56
					Check Total	681.56
	00065551 303196-PP8-200 8	04/11/2008	ICM	April 10, 2008 ICMA RETIREMENT TRUST-457 04/10/2008	EE/ER CONTRIBUTION	12,207.06

## 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	
				Check Total	12,207.00
	00065552	04/11/2008	JENKINSN	NATHALIE JENKINS	
	04022008			04/10/2008 CS RECREATION CLASS INSTRUCTOR	1,083.60
				Check Total	1,083.60
	00065553	04/11/2008	LABORLAW	LABORLAWCENTER,INC.	
	1155938			04/10/2008 AS STATE & FEDERAL POSTERS	137.03
				Check Total	137.03
	00065554	04/11/2008	LIFETREN	THE LIFETRENDS GROUP, INC.	
	356-08		3PY4553X	07/01/2007 ND AED/CPR TRAINING/CERT	124.45
				February 1 - 29, 2008	
				Check Total	124.45
	00065555	04/11/2008	LINSCOTT	LINSCOTT, LAW & GREENSPAN, INC.	
	2290900108		00007447	07/12/2007 TE PLAN CHECK SERVICES	9,547.23
				Check Total	9,547.23
	00065556	04/11/2008	MONOGRAM	MONOGRAM MAGIC	
	28960			04/10/2008 PS UNIFORM	60.33
				Check Total	60.33
	00065557	04/11/2008	NETTEKOVEN	COLLEEN NETTEKOVEN	
	04042008			04/10/2008 CS RECREATION CLASS INSTRUCTOR	168.66
				Check Total	168.66
	00065558	04/11/2008	NEXTEL2	NEXTEL	
	588867318 076		00007504	03/19/2008 CE PHONE SERVICE	205.26
				Check Total	205.26
	00065559	04/11/2008	OCAPA	ORANGE COUNTY AMERICAN PLANNING ASSOC.	
	04082008			04/10/2008 ICC/APA LUNCHEON	90.00
				Check Total	90.00
	00065560	04/11/2008	OFFICEMAX	OFFICE MAX INCORPORATED	
	030237		00007581	11/29/2007 BL TONER	417.76
	071130		00007581	11/29/2007 BL TONER	-42.64
	071173		00007581	11/29/2007 BL TONER	42.64
				Check Total	417.76
	00065561	04/11/2008	PACSIGN	PACIFIC SIGN CENTER	
	4124			04/10/2008 CS BANNERS	192.00
	4153			04/10/2008 CS BANNERS	387.90
				April 16, 2008	
				Check Total	579.90
	00065562	04/11/2008	PACTUG	PACIFIC TUGBOAT SERVICE	
	9404			04/10/2008 CS TUG BOAT SERVICES	5,775.00
				Check Total	5,775.00
	00065563	04/11/2008	PERSRMTNT	PERS	
	04-2008-3			04/10/2008 RETIREMENT BENEFIT	35,111.00

5/6/08

(6)

## 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
					Check Total	35,111.02
	00065564 11771	04/11/2008	PLATINUM	04/11/2008	PLATINUM ADVISORS, LLC CD CONSULTING SERVICES	2,500.00
					Check Total	2,500.00
	00065565 47525	04/11/2008	PREMIERR	04/10/2008	PREMIER ROOFING PW C&D REFUND	500.00
					Check Total	500.00
					February 1 – March 6, 2008	
	00065566 43551 43557	04/11/2008	PSOMAS 00007159 00006804	02/07/2008 12/14/2007	PSOMAS CIP CONSTRUCTION SERVICES PW CONCEPTUAL DESIGN SVC.	4,986.45 4,252.72
					Check Total	9,239.17
	00065567 21103 21118	04/11/2008	QUIK 00007305 00007305	07/11/2007 07/11/2007	QUIKSILVER CK COURIER SERVICE CK COURIER SERVICE	415.80 21.36
					Check Total	437.16
	00065568 04667-10	04/11/2008	RPGERS	04/10/2008	ANTONY ODELL ROGERS CS SENIOR ENTERTAINMENT	175.00
					Check Total	175.00
					February 1 – 29, 2008	
	00065569 525342 525343 525344 525345 525346 525347 525348 525349 525350 525351 525352 525353 525354 525355 525356 525357 525423	04/11/2008	RJT 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405 00007405	07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007 07/12/2007	RUTAN & TUCKER CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES CA/RM LEGAL EXPENSES	8,600.00 13,132.46 2,756.46 726.00 5,462.08 286.00 5,330.38 2,882.00 4,953.23 2,190.73 154.00 5,647.00 88.00 168.00 924.00 374.00 9,881.00
					Check Total	63,555.34
	00065570 21124	04/11/2008	SCRENTAL	04/10/2008	SC RENTALS CS CANOPIES ART FESTIVAL	688.60
					Check Total	688.60
	00065571 03032008A	04/11/2008	SDG&E 00007329	07/11/2007	SAN DIEGO GAS & ELECTRIC PA SECURITY LIGHTING	383.19

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## Check Register

ALL Data

Arranged by:  
Check Number

Direct	Dep. Invoice	Check Date Invoice	Vendor ID PO Number	Vendor Name PO Date Description	Amount
<b>Checks Printed</b>					
	00065571	04/11/2008	SDG&E	SAN DIEGO GAS & ELECTRIC	
	03182008		00007441	07/12/2007 TE TRAFFIC SIGNALS	78.84
	03182008A		00007441	07/12/2007 TE TRAFFIC SIGNALS	71.71
	03182008B		00007328	07/11/2007 PA MEDIANS	19.62
	03192008		00007328	07/11/2007 PA MEDIANS	100.47
	03212008		00007328	07/11/2007 PA MEDIANS	9.10
	03242008		00007441	07/12/2007 TE TRAFFIC SIGNALS	60.39
	03242008A		00007441	07/12/2007 TE TRAFFIC SIGNALS	14.59
	03242008B		00007328	07/11/2007 PA MEDIANS	27.55
	03242008C		00007328	07/11/2007 PA MEDIANS	113.11
	03242008D		00007328	07/11/2007 PA MEDIANS	24.12
	03262008A		00007441	07/12/2007 TE TRAFFIC SIGNALS	967.24
				Check Total	1,869.93
	00065572	04/11/2008	SECURE	SECURE LIVE SCAN	
	DP/0308			04/10/2008 ROLLING FEE	51.00
				Check Total	51.00
	00065573	04/11/2008	SMART	SMART & FINAL	
	151024		00007403	07/12/2007 ND KITCHEN SUPPLIES	8.49
				Check Total	8.49
	00065574	04/11/2008	SMARTALA	SMART ALARM	
	18752			04/11/2008 FAC MONITORING SERVICE	256
				Check Total	256.28
	00065575	04/11/2008	SOCSTFAM	SOUTH COAST FAMILY MEDI-CENTER, INC.	
	04012008			04/10/2008 DRUG SCREEN/PRELACEMENT	240.00
				January 4 – March 3, 2008	
				Check Total	240.00
	00065576	04/11/2008	SOCSTWD	SOUTH COAST WATER DISTRICT	
	03172008		00007325	07/11/2007 PA MEDIANS/R-O-W'S	42.00
	03172008A		00007326	07/11/2007 PA PARK WATER	560.04
	1403		00007480	07/12/2007 WQ MAINTENANCE SERVICES	5,962.00
				Check Total	6,564.04
	00065577	04/11/2008	SOCTV	SOCTV PRODUCTIONS	
	1102		00007395	07/12/2007 PIO CABLE TV PRODUCTION	660.00
				Check Total	660.00
	00065578	04/11/2008	SPARKLET	SPARKLETTES	
	0408 2437161		00007386	07/12/2007 ND WATER SERVICE	184.48
				Check Total	184.48
	00065579	04/11/2008	STATEDIST	STATE DISBURSEMENT 00P000089	
	04102008			04/10/2008 GARNISHMENT	656.68
				Check Total	656.68
	00065580	04/11/2008	TRAFCONT	TRAFFIC CONTROL SERVICES, INC.	

## Check Register

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Arranged by:  
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date Description	Amount
<b>Checks Printed</b>					
	00065580 841527	04/11/2008	TRAFCONT 00007453	TRAFFIC CONTROL SERVICES, INC. TE TRAFFIC SIGN FABRICATION	694.99
				Check Total	694.99
	00065581 5079	04/11/2008	TRANSPORT 00007445	TRANSPORTATION STUDIES, INC. TE TRAFFIC & SPEED SURVEYS	315.00
				Check Total	315.00
	00065582 PP8-2008	04/11/2008	UNITEDWAY 04/10/2008	O.C. UNITED WAY CONTRIBUTIONS	65.00
				Check Total	65.00
	00065583 04032008	04/11/2008	USPOST 00007365	U.S. POSTMASTER CS OFFICE POSTAGE	205.00
				Check Total	205.00
	00065584 13719	04/11/2008	VISIONINT 00007621	VISION INTERNET PROVIDERS, INC. PIO CITY WEBSITE REDESIGN	2,750.00
				Check Total	2,750.00
	00065585 04092008	04/11/2008	WHEATON 04/10/2008	KRISTIN WHEATON PW REIMBURSEMENT	119.25
				Check Total	119.25
	00065586 47586	04/11/2008	ZORNOSA 04/10/2008	OCTAVIO ZORNOSA PW C&D REFUND	250.00
				Check Total	250.00
				<b>Total of Checks Printed:</b>	<b>914,047.04</b>
				<b>Report Total:</b>	<b>914,047.04</b>

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent data collection practices and the use of advanced analytical techniques to derive meaningful insights from the data.

3. The third part of the document focuses on the role of technology in data management and analysis. It discusses how modern software solutions can streamline data collection, storage, and analysis, thereby improving efficiency and accuracy.

4. The fourth part of the document addresses the challenges associated with data management, such as data quality, security, and privacy. It provides strategies to mitigate these risks and ensure that the data remains reliable and secure.

5. The fifth part of the document concludes by summarizing the key findings and recommendations. It stresses the importance of ongoing monitoring and evaluation to ensure that the data management processes remain effective and up-to-date.



## Check Register

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Arranged by:  
Check Number

Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	Description	
<b>Checks Printed</b>					
Bank Account : A - Bank Of America					
	00065587	04/17/2008	ALL CITY	ALL CITY MANAGEMENT	
	12902		00007483	07/12/2007 PS CROSSING GUARD SERVICES	2,768.00
				Check Total	2,768.00
	00065588	04/17/2008	ARPANA	ARPANA DANCE COMPANY	
	220			04/17/2008 CS ARPANA PERFORMANCE	600.00
				Check Total	600.00
	00065589	04/17/2008	ARTSEEK	ARTSEEK WEB DESIGN	
	1706		00007300	07/11/2007 PIO WEBSITE MANAGEMENT	1,132.50
				Check Total	1,132.50
	00065590	04/17/2008	ASCE1	ASCE	
	04092008			04/17/2008 BL SEMINAR	1,295.00
				Check Total	1,295.00
	00065591	04/17/2008	AT&T MOBIL	AT&T MOBILITY	
	993756062X0411		00007524	08/30/2007 AS PHONE	40.05
	2008			Check Total	40.05
	00065592	04/17/2008	AWARDS	AWARDS N MORE	
	19727			04/16/2008 CD NAME PLATE	74.40
				March 13 - April 9, 2008	
				Check Total	74.40
	00065593	04/17/2008	BANKAMER	BANK OF AMERICA	
	04162008			04/16/2008 VARIOUS MTGS, CONFERENCES	6,382.18
				Check Total	6,382.18
	00065594	04/17/2008	BISHOPJO	JOEL BISHOP	
	04152008			04/16/2008 CC TRAVEL REIMBURSEMENT	133.14
				Check Total	133.14
	00065595	04/17/2008	BURNS	DAVID BURNS	
	04142008			04/17/2008 CS CELTIC PERFORMANCE	400.00
				Check Total	400.00
	00065596	04/17/2008	BUSH	BUSH & ASSOCIATES, INC.	
	02012008		00007620	01/24/2008 PW DESIGN SURVEYING SRVCS	4,028.00
				Check Total	4,028.00
	00065597	04/17/2008	CAPOFORD	CAPISTRANO FORD	
	FOCS407726			04/17/2008 BL VEHICLE MAINTENANCE	107.64
				Check Total	107.64
	00065598	04/17/2008	CCMF	CCMF	
	04142008			04/17/2008 CM MEMBERSHIP DUE	400.00
				Check Total	400.00

## Check Register

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Arranged by:  
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
<b>Checks Printed</b>						
	00065599 4966	04/17/2008	CJPIA		CALIFORNIA JPIA AS CPR / FIRST AID SAFETY	50.00
					Check Total	50.00
	00065600 230	04/17/2008	COLES		SUSAN ELAINE COLE CS PERFORM FLAMENCO DANCE	125.00
					Check Total	125.00
	00065601 04172008	04/17/2008	COMMONWEAL		COMMONWEALTH MORTGAGE FAC SECURITY DEPOSIT REFUND	2,100.00
					Check Total	2,100.00
	00065602 212865	04/17/2008	COMPUMASTE		COMPUMASTER BL TRAINING	399.00
					Check Total	399.00
	00065603 789862 789866 789895 791084	04/17/2008	CONSOL		CONSOLIDATED REPROGRAPHICS PW PHOTOCOPIES/BLEUPRINTS CIP COPYING & BLEUPRINTING CIP BLEUPRINTING/COPYING PW PHOTOCOPIES/BLEUPRINTS	26.22 13.87 11.14 147.13
					Check Total	198.36
	00065604 86407241 86425441 86490812 86512417 86512418 86512419 86512420 86512421 86512422 86512423 86512424 86512424A 86525618 86525619	04/17/2008	CORPEXP		CORPORATE EXPRESS EM OFFICE SUPPLIES CM OFFICE SUPPLIES ND OFFICE SUPPLIES ND KITCHEN SUPPLIES ND KITCHEN SUPPLIES ND KITCHEN SUPPLIES ND KITCHEN SUPPLIES ND KITCHEN SUPPLIES ND KITCHEN SUPPLIES PS OFFICE SUPPLIES ND KITCHEN SUPPLIES CC OPERATING SUPPLIES ND KITCHEN SUPPLIES ND KITCHEN SUPPLIES	14 54.08 73.35 304.95 12.56 137.69 79.44 28.92 28.30 64.25 47.95 25.44 142.79 476.23
					Check Total	1,621.68
					<b>March 1, 2008</b>	
	00065605 SC02867 SC02928 SH20498	04/17/2008	COUNTY		COUNTY OF ORANGE EM RADIO COMMUNICATION PS LAW ENFORCEMENT SERVICES CS LAW ENFORCEMENT SERVICES	177.00 3,137.00 8,685.73
					Check Total	11,999.73
	00065606 04142008	04/17/2008	DANAPTHI		DANA POINT HISTORICAL SOCIETY CC DVD FOR SCHOOL PROJECT	25.00

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Arranged by:  
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
					Check Total	25.00
	00065607 402130665	04/17/2008	DANKA 00007384	07/12/2007	DANKA OFFICE IMAGING CO. PS/ND COPIER MAINTENANCE	109.85
					Check Total	109.85
	00065608 0110-0028797	04/17/2008	DATALOK 00007304	07/11/2007	DATALOK STORAGE CENTER CK MICROFILM STORAGE	67.32
					Check Total	67.32
	00065609 XCK828PK2	04/17/2008	DELL 00007661	04/02/2008	DELL MARKETING, L.P. ES COMPUTER	1,379.44
					Check Total	1,379.44
	00065610 04092008	04/17/2008	DELTACAR 00007661	04/16/2008	DELTA CARE - PMI DENTAL PREMIUM	617.21
					Check Total	617.21
	00065611 CDP90052	04/17/2008	DOHENY 00007396	07/12/2007	DOHENY VILLAGE HAND CAR WASH CM/CD/PW/FAC/PS/VP WASHES	98.70
					Check Total	98.70
	00065612 100	04/17/2008	ESPINOSA 00007396	04/17/2008	FREDDIE ESPINOSA CS MARIACHI PERFORMANCE	620.00
					Check Total	620.00
	00065613 45777	04/17/2008	ESS 00007396	04/16/2008	ES ONE LLC PW C&D REFUND	120.00
					Check Total	120.00
	00065614 B388444 B388446 B389578	04/17/2008	GANAHL 00007087 00007087 00007087	07/01/2007 07/01/2007 07/01/2007	GANAHL LUMBER COMPANY FAC MAINTENANCE SUPPLIES FAC MAINTENANCE SUPPLIES FAC MAINTENANCE SUPPLIES	37.27 16.78 27.50
					Check Total	81.55
	00065615 04022008	04/17/2008	GFOA 00007087	04/17/2008	GOVERNMENT FINANCE OFFICERS ASSOC. AS SUBSCRIPTION RENEWAL	50.00
					Check Total	50.00
	00065616 3162	04/17/2008	GILBERTW 00007087	04/17/2008	WILLIAM GILBERT CS RECREATION CLASS REFUND	50.00
					Check Total	50.00
	00065617 1571785	04/17/2008	GOLDENST 00007577	02/07/2008	GOLDEN STATE OVERNIGHT BL PROFESSIONAL SERVICES	348.56
					Check Total	348.56
	00065618 02152008	04/17/2008	HIKARI 00007577	04/17/2008	HIKARI TAIKO DRUMMERS ASSOC. CS DRUM CONCERT	500.00

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Arranged by:  
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
					Check Total	500.00
	00065619	04/17/2008	ICC2		INTERNATIONAL CODE COUNCIL, INC.	
	0976288-JN			04/17/2008	BL BOOKS	243.25
					Check Total	243.25
	00065620	04/17/2008	INFORESOU		INFORMATION RESOURCES, INC.	
	A-1883-2008033			04/16/2008	AS BACKGROUND INVESTIGATION	431.00
	1					
					Check Total	431.00
	00065621	04/17/2008	INSIGHT		INSIGHT	
	110538284		00007392	07/12/2007	ND SOFTWARE UPGRADES	225.89
	110539021			04/17/2008	FAC SUPPLIES	1,403.90
	812711		00007392	07/12/2007	ND SOFTWARE UPGRADES	2,781.10
					Check Total	4,410.89
	00065622	04/17/2008	LAWSONJA		JAY LAWSON	
	101			04/17/2008	CS STEEL DRUM PERFORMANCE	450.00
					Check Total	450.00
	00065623	04/17/2008	LEET		THAY Q. LEE	
	44956			04/17/2008	PW C&D REFUND	1,600.00
					Check Total	1,600.00
	00065624	04/17/2008	LEHMANCO		<b>March 18, 2008</b>	
	40		00007539	09/27/2007	LEHMAN CONSTRUCTION, INC. SM LIGHTING/CREEKSIDE	99,979.00
					Check Total	99,979.00
	00065625	04/17/2008	LEVI		MICHAEL LEVI, PH.D.	
	101			04/17/2008	CE PROFESSIONAL SERVICES	200.00
					Check Total	200.00
	00065626	04/17/2008	MADDOCKS		LEE MADDOCKS	
	43537			04/17/2008	PW C&D REFUND	400.00
					Check Total	400.00
	00065627	04/17/2008	MAHNAZ		MAHNAZ GHAFFARI TRUST	
	44156			04/17/2008	PW C&D REFUND	1,500.00
					Check Total	1,500.00
	00065628	04/17/2008	MARKWOOD		MARK WOOD ENTERTAINMENT, INC.	
	04042008			04/16/2008	CS ARTS FESTIVAL	875.00
					Check Total	875.00
	00065629	04/17/2008	MCCOOL		MCCOOL FLOWERS	
	21233			04/17/2008	CM OFFICE SUPPLIES	80.28
					Check Total	80.28
	00065630	04/17/2008	MEDCO		MEDCO SUPPLY	
	40795389			04/16/2008	CS OPERATING SUPPLIES	9.00

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Arranged by:  
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
				April 15, 2008		Check Total 96.71
	00065631 04152008	04/17/2008	MIOCEAN		MIOCEAN FOUNDATION CC SPONSORSHIP	5,000.00
						Check Total 5,000.00
	00065632 47602	04/17/2008	NORLANDR		RANDY NORLAND PW C&D REFUND	500.00
						Check Total 500.00
	00065633 1072-08-040108	04/17/2008	OCCONSER 00007456	07/12/2007	ORANGE COUNTY CONSERVATION CORPS SW RECYCLING CONTAINERS	1,386.00
						Check Total 1,386.00
	00065634 AR122828	04/17/2008	OCTA 00007367	07/12/2007	ORANGE COUNTY TRANSPORTATION AUTHORITY CS SENIOR TRANSPORTATION SVC	339.82
						Check Total 339.82
	00065635 03312008	04/17/2008	PACBELWO 00007401	07/12/2007	AT&T/MCI ND PHONE/INTERNET SERVICE	3,235.72
						Check Total 3,235.72
	00065636 3475294200010 3475379300016	04/17/2008	PAPER		PAPER DIRECT CK SUPPLIES CS PAPER	118.89 139.58
						Check Total 258.47
	00065637 60121609 60121610 60123985 60126383 60126384 60128759 60128760 60131150	04/17/2008	PRUDENTI		PRUDENTIAL OVERALL SUPPLY FAC FLOOR MAT SERVICE FAC FLOOR MAT SERVICE FAC FLOOR MAT SERVICE FAC FLOOR MAT SERVICE FAC FLOOR MAT SERVICE FAC FLOOR MAT SERVICE FAC FLOOR MAT SERVICE FAC FLOOR MAT SERVICE	51.20 84.60 51.20 51.20 84.60 51.20 84.60 51.20
						Check Total 509.80
	00065638 43550 43556 43556-A	04/17/2008	PSOMAS		PSOMAS CIP SUPPORT SERVICES CIP DESIGN SERVICES CIP CONSTRUCTION ENG. SVC.	3,000.00 422.42 470.35
						Check Total 3,892.77
	00065639 8565819	04/17/2008	REGISTER		ORANGE COUNTY REGISTER CS ADVERTISING	939.09
						Check Total 939.09
	00065640 57726	04/17/2008	ROHAN 00007371	07/12/2007	ROHAN & SONS. INC. FAC HVAC MAINTENANCE SVCS	168.00

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Arranged by:  
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Direct	Check Number	Check Date	Vendor ID	Vendor Name	Amount
Dep.	Invoice	Invoice Date	PO Number	Description	
				Check Total	16.
	00065641	04/17/2008	SCMC	SCMC FOUNDATION	
	04142008			04/16/2008 ADVERTISING	200.00
				Check Total	200.00
	00065642	04/17/2008	SDG&E	SAN DIEGO GAS & ELECTRIC	
	04142008		00007379	07/12/2007 FAC CITY FACILITIES	316.22
				Check Total	316.22
	00065643	04/17/2008	SEAPOINTE	SEA POINTE CONSTRUCTION	
	46778			04/17/2008 PW C&D REFUND	395.00
				Check Total	395.00
	00065644	04/17/2008	SHELL	SHELL FLEET PLUS	
	65186280804		00007397	07/20/2007 CM/EM/CD/PW/PS/FAC FUEL	2,377.24
				Check Total	2,377.24
	00065645	04/17/2008	SMART	SMART & FINAL	
	155959			04/17/2008 WQ SUPPLIES	106.82
	159393			04/17/2008 FAC SUPPLIES	111.21
	3994180136569			04/16/2008 CS OPERATING SUPPLIES	61.70
				Check Total	279.73
	00065646	04/17/2008	SOCSA2	SOCSA	
	205			04/17/2008 CS SOSCA PERFORMANCE	500.00
				Check Total	500.00
	00065647	04/17/2008	SOCSTFIR	SOUTH COAST FIRE PROTECTION, INC.	
	69590			04/16/2008 FAC FIRE EXTINGUISHER SERVICE	275.63
				Check Total	275.63
	00065648	04/17/2008	SOCSTWD	SOUTH COAST WATER DISTRICT	
	04022008		00007380	07/12/2007 FAC CITY FACILITIES	34.00
	04022008A		00007380	07/12/2007 FAC CITY FACILITIES	481.81
				Check Total	515.81
	00065649	04/17/2008	STANDCOF	STANDARD COFFEE SERVICE	
	7511-75794		00007387	07/12/2007 ND COFFEE SERVICE	78.00
	7511-75796		00007387	07/12/2007 ND COFFEE SERVICE	39.00
	7511-75798		00007387	07/12/2007 ND COFFEE SERVICE	39.00
	7511-75800		00007387	07/12/2007 ND COFFEE SERVICE	39.00
	7511-75802		00007387	07/12/2007 ND COFFEE SERVICE	39.00
				Check Total	234.00
	00065650	04/17/2008	THYKRUPP	THYSSENKRUPP ELEVATOR, CORP	
	1117027188		00007370	07/12/2007 FAC ELEVATOR MAINTENANCE	641.11
				Check Total	641.11
	00065651	04/17/2008	UNGERMANE	EDWARD UNGERMAN	
	3032			04/16/2008 CS RECREATION CLASS REFUND	6.

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Arranged by:  
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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date Description	Amount
				Check Total	62.00
	00065652 I-771571	04/17/2008	UNITEDS	UNITED SITE SERVICES OF CA, INC. 04/16/2008 CS PORTABLE TOILET	481.08
				February 22, 2008 Check Total	481.08
	00065653 SW22112 SW22117	04/17/2008	UNITEDST 00007432 00007432	UNITED STORM WATER, INC.. 07/12/2007 SM CLEANING & DISPOSAL SVSC 07/12/2007 SM CLEANING & DISPOSAL SVSC	3,000.00 3,000.00
				Check Total	6,000.00
	00065654 04092008	04/17/2008	USTREASURY	U.S. TREASURY 04/17/2008 CS PROFESSIONAL SERVICES	2,700.00
				Check Total	2,700.00
	00065655 644287340 644287341 644287342	04/17/2008	VERIZONW	VERIZON WIRELESS 04/16/2008 EM PHONE SERVICES 04/16/2008 DATA USAGE FEE 04/16/2008 PHONE SERVICES	1.75 24.99 316.25
				Check Total	342.99
	00065656 69302 69326	04/17/2008	VL SYSTE 00007393 00007393	VL SYSTEMS, INC 07/12/2007 ND TECHNICAL SUPPORT 07/12/2007 ND TECHNICAL SUPPORT	400.00 2,362.50
				Check Total	2,762.50
	00065657 3164	04/17/2008	WALKERJ	JILL WALKER 04/17/2008 CS RECREATION CLASS REFUND	50.00
				Check Total	50.00
	00065658 04152008	04/17/2008	WEAMIRE	DYANNE WEAMIRE 04/16/2008 PETTY CASH	810.59
				Check Total	810.59
	00065659 2863	04/17/2008	WEGENER	MARK WEGENER 04/16/2008 RECREATION CLASS REFUND	115.00
				Check Total	115.00
	00065660 815637793	04/17/2008	WEST 00007357	WEST PUBLISHING PAYMENT CENTER 07/12/2007 CA MUNI CODE & LEGAL UPDATES	43.10
				January 31 – February 28, 2008 Check Total	43.10
	00065661 02012008	04/17/2008	WYNN 00007578	WYNN ENGINEERING, INC. 01/31/2008 BL PROFESSIONAL SERVICES	10,950.00
				Check Total	10,950.00
	00065662 28360	04/17/2008	ZEI 00007466	ZEISER KLING CONSULTANTS, INC. 07/12/2007 ES GEOTECHNICAL ENG. REVIEW	2,095.00
				Check Total	2,095.00

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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	
<b>Total of Checks Printed:</b>					<b>196,565.11</b>
<b>Report Total:</b>					<b>196,565.11</b>

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Arranged by:  
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
<b>cks Printed</b>						
Bank Account :A - Bank Of America						
	00065664 04212008	04/25/2008	AEPWORK	04/24/2008	AEP WORKSHOPS CD REGISTRATION FEE	180.00
					Check Total	180.00
	00065665 47281	04/25/2008	ALLISONS	04/24/2008	STEPHEN ALLISON BL DEPOSIT REFUND	72.00
					Check Total	72.00
	00065666 19795	04/25/2008	AWARDS	04/24/2008	AWARDS N MORE CD NAME PLATE	43.58
					Check Total	43.58
	00065667 8285402	04/25/2008	BANKOFA 00007298	07/11/2007	BANK OF AMERICA/ACCOUNT ANALYSIS FA BANKING SERVICES	367.54
					Check Total	367.54
	00065668 6019398-IN	04/25/2008	BENEFITADM	04/24/2008	BENEFIT ADMINISTRATION CORPORATION FSA ADMINISTRATION FEE	80.00
					Check Total	80.00
	00065669 DP050408	04/25/2008	BIGEVENT	04/24/2008	BIG EVENTS, INC. CS INFLATABLES	3,262.75
					Check Total	3,262.75
	00065670 1038944	04/25/2008	BLACKV 00007473	07/12/2007	BLACK & VEATCH CORPORATION WQ TECHNICAL SUPPORT	62.70
					Check Total	62.70
	00065671 42547	04/25/2008	BLUERIB	04/24/2008	BLUE RIBBON DESIGN BUILD PW C&D REFUND	900.00
					Check Total	900.00
	00065672 1898 1898A 1899 1899-A	04/25/2008	BONANZA 00007427 00007333 00007427 00007333	07/12/2007 07/11/2007 07/12/2007 07/11/2007	BONANZA MOBILE WASH SM GRAFFITI REMOVAL SERVICES PA GRAFFITI REMOVAL SVCS SM GRAFFITI REMOVAL SERVICES PA GRAFFITI REMOVAL SVCS	422.50 617.50 422.50 65.00
					Check Total	1,527.50
	00065673 DP141	04/25/2008	BRANTELE 00007334	02/21/2008	BRANT ELECTRIC PA ELECTRICAL REPAIR SERVICES	390.00
					Check Total	390.00
	00065674 71942	04/25/2008	BUSINESS 00007382	07/12/2007	BUSINESS TELECOMMUNICATION SYS., INC. ND TELEPHONE SYSTEM SERVICE	1,281.39
					Check Total	1,281.39
	00065675 42101	04/25/2008	CAPO 00007412	07/12/2007	CAPISTRANO LOCK & SAFE SM MISCELLANEOUS SUPPLIES	27.58

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Arranged by:  
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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date Description	Amount
				Check Total	27,000.00
	00065676 7020-496351	04/25/2008	CED 00007321	CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC. 01/17/2008 PA ELECTRICAL SUPPLIES	17.92
				Check Total	17.92
	00065677 PP#9-2008	04/25/2008	CITYFSA	CITY OF DANA POINT FSA ACCOUNT 04/24/2008 FLEXIBLE SPENDING ACCOUNT	1,353.03
				Check Total	1,353.03
	00065678 52901	04/25/2008	CLEANST 00007430	March 2008 CLEAN STREET, INC. 07/12/2007 SM STREET SWEEPING SERVICES	17,584.00
				Check Total	17,584.00
	00065679 DP041508	04/25/2008	COFFEE 00007553	COFFEE IMPORTERS 10/18/2007 CM COFFEE SERVICE IN CD	165.94
				Check Total	165.94
	00065680 793298 794201 799492	04/25/2008	CONSOL 00007664	CONSOLIDATED REPROGRAPHICS 04/10/2008 PA COPIES OF BLUEPRINTS	25.53
				04/24/2008 ES COPY BOOKS	308.69
				02/21/2008 CIP COPYING & BLUEPRINTING	84.77
				Check Total	418.99
	00065681 45905	04/25/2008	CONVERSE	MR. & MRS. CONVERSE 04/24/2008 PW C&D REFUND	1,470.00
				Check Total	1,470.00
	00065682 04232008	04/25/2008	COSTCO	COSTCO WHOLESALE 04/24/2008 ND OPERATING SUPPLIES	259.66
				Check Total	259.66
	00065683 239007 239007-A	04/25/2008	COUNTY 00007436	February 2008 COUNTY OF ORANGE 07/12/2007 SM STORM DRAIN MAINTENANCE	6,948.19
				07/12/2007 SM STREET MAINTENANCE	53,307.15
				Check Total	60,255.34
	00065684 04232008	04/25/2008	COUNTYPR	January 1 - March 31, 2008 COUNTY OF ORANGE-RDMD/CENT FILES/CASHIER 04/24/2008 CARITS PROGRAM	10,506.00
				Check Total	10,506.00
	00065685 0190117	04/25/2008	CR&R 00007455	CR&R, INC. 07/12/2007 SW TAGGING PROGRAM	1,093.00
				Check Total	1,093.00
	00065686 04242008	04/25/2008	CROWE	JOHN CROWE II 04/24/2008 PAYROLL 04/18/08 - 04/25/08	1,766.22
				Check Total	1,766.22
	00065687 5266	04/25/2008	CROWN	CROWN CONCRETE CUTTING & CORING 04/24/2008 SM EMERGENCY CURB SERVICES	20.00

## Check Register

ALL Data

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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
				Check Total	200.00
	00065688 04182008	04/25/2008	CTE	CTE 04/24/2008 TE REGISTRATION FEE	300.00
				Check Total	300.00
	00065689 04232008	04/25/2008	DOC	DEPARTMENT OF CONSERVATION 04/24/2008 SMIP FEES - 1ST QTR.	1,503.59
				Check Total	1,503.59
	00065690 PP9-2008	04/25/2008	DPEA	DANA POINT EMPLOYEE ASSOCIATION 04/24/2008 UNION DUES	248.25
				Check Total	248.25
	00065691 1316392	04/25/2008	FAST	FASTFRAME 04/24/2008 CC FRAMING OF PROCLAMATION	110.98
				Check Total	110.98
	00065692 18154	04/25/2008	FIELDMAN	FIELDMAN, ROLAPP & ASSOCIATES 04/24/2008 ES PROFESSIONAL SERVICES	4,926.40
				Check Total	4,926.40
	00065693 B387346 B387360 B388566 B388622 B388867 B390870 B391010 B391033	04/25/2008	GANAHL	GANAHL LUMBER COMPANY 07/12/2007 SM MISCELLANEOUS SUPPLIES 07/12/2007 SM MISCELLANEOUS SUPPLIES 01/17/2008 PA SUPPLIES/EQUIPMENT 01/17/2008 PA SUPPLIES/EQUIPMENT 07/12/2007 SM MISCELLANEOUS SUPPLIES 07/12/2007 SM MISCELLANEOUS SUPPLIES 07/01/2007 FAC MAINTENANCE SUPPLIES 07/01/2007 FAC MAINTENANCE SUPPLIES	165.70 43.08 14.58 38.53 78.97 16.68 7.84 37.14
				Check Total	402.52
	00065694 36933	04/25/2008	GMUGEO	GMU GEOTECHNICAL, INC. 01/24/2008 PW SEA TERRACE PARK	815.00
				Check Total	815.00
	00065695 35179	04/25/2008	HARDY	March 31, 2008 HARDY & HARPER, INC. 01/10/2008 SM ASPHALT REPAIR SERVICES	10,354.50
				Check Total	10,354.50
	00065696 11675 11804	04/25/2008	HOGLE	HOGLE-IRELAND, INC. 04/24/2008 CD CONSULTANT SERVICES 04/24/2008 CD CONSULTANT SERVICES	840.00 120.00
				Check Total	960.00
	00065697 02282008 02282008a	04/25/2008	HOME	HOME DEPOT 04/16/2008 PA SUPPLIES/EQUIPMENT 10/25/2007 FAC MAINTENANCE SUPPLIES	806.41 461.67
				Check Total	1,268.08

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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
<b>Checks Printed</b>						
	00065698 05415669	04/25/2008	HYDROSCA 00007316	07/11/2007	HYDRO-SCAPE PRODUCTS, INC. PA IRRIGATION SUPPLIES	96.17
					April 24, 2008	
					Check Total	96.17
	00065699 303196-PP9-200 8	04/25/2008	ICM	04/24/2008	ICMA RETIREMENT TRUST-457 EE/ER CONTRIBUTION	12,722.18
					Check Total	12,722.18
	00065700 2546	04/25/2008	IDEAL	04/24/2008	IDEAL CONVERSIONS EM VEHICLE MAINTENANCE	260.00
					Check Total	260.00
	00065701 3473	04/25/2008	INFRASTRUC 00007646	03/05/2008	INFRASTRUCTURE ENGINEERING CORP. CIP CONS. ADMIN. SUPPORT	3,850.00
					Check Total	3,850.00
	00065702 04152008	04/25/2008	JERVIS 00007565	11/01/2007	JERVIS BROS. MOBILE CAR WASH SM DETAIL SERVICE	118.00
					Check Total	118.00
	00065703 20293508 20411044 20521900 20595537 20607316 20619561 20660855 20660856 20696865 20709997 20775105 20789517 20789518	04/25/2008	JOHNDEE 00007315	03/13/2008	JOHN DEERE LANDSCAPES PA LANDSCAPE SUPPLIES	612.74
						358.04
						672.00
						639.32
						204.36
						105.23
						228.38
						481.86
						629.86
						10.29
						194.63
						359.36
						-21.83
					Check Total	4,476.90
	00065704 05242008	04/25/2008	LELAND	04/24/2008	ISAAC LELAND PAYROLL 04/04/08-04/18/2008	191.50
					April 14, 2008	
					Check Total	191.50
	00065705 04142008	04/25/2008	LINSCOTT 00007446	04/10/2008	LINSCOTT, LAW & GREENSPAN, INC. TE TRAFFIC ENGINEERING SVCS	11,242.91
					Check Total	11,242.91
	00065706 52339	04/25/2008	MARLA'S 00007654	03/19/2008	MARLA'S MANIA WQ PURCHASE OF FIRST AID KITS	647.59
					Check Total	647.59

## Check Register

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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date Description	Amount
	<b>Checks Printed</b>				
	00065707 1198	04/25/2008	MASTERPROT	MASTER PROTECTION SECURITY, INC. 04/24/2008 CS SECURITY SERVICES	152.00
				Check Total	152.00
	00065708 03272008	04/25/2008	MOULTON	MOULTON NIGUEL WATER 07/11/2007 PA DANA WOODS	123.43
				Check Total	123.43
	00065709 171432	04/25/2008	MUSCOSPO	MUSCO SPORTS LIGHTING, LLC 03/13/2008 PA BASEBALL FIELD LIGHTING	3,151.90
				Check Total	3,151.90
	00065710 04172008	04/25/2008	NATIONALIT	NATIONAL ITC 04/24/2008 BL EXAM FEE	75.00
				Check Total	75.00
	00065711 13944315-076	04/25/2008	NEXTEL1	NEXTEL COMMUNICATIONS 04/24/2008 PW PHONE SERVICE	94.36
				Check Total	94.36
	00065712 424073680-001	04/25/2008	OFFDEPOT	OFFICE DEPOT 01/10/2008 CS OFFICE SUPPLIES	33.06
				Check Total	33.06
	00065713 998353	04/25/2008	OFFICEMAX	OFFICE MAX INCORPORATED 01/10/2008 PA OFFICE SUPPLIES	313.75
				Check Total	313.75
	00065714 42650	04/25/2008	PARKERJ	JOAN PARKER 04/24/2008 PW DEPOSIT REFUND	6,000.00
				Check Total	6,000.00
				April 4 - 18, 2008	
	00065715 04-2008-4	04/25/2008	PERSRMTNT	PERS 04/24/2008 RETIREMENT BENEFIT	36,064.38
				Check Total	36,064.38
	00065716 332619436803 332619436803-A	04/25/2008	PHILLIPSCO	PHILLIPS 66 CONOCO 76 07/26/2007 EM/PA CITY VEHICLE FUEL 04/24/2008 EM FUELS	295.10 156.56
				Check Total	451.66
				February 6, 2008	
	00065717 33456 33456-A	04/25/2008	PLAYGRND	PLAYGROUND SERVICE COMPANY 07/11/2007 PA SAFETY INSPECTIONS 07/11/2007 PA EQUIPMENT REPAIRS	16,380.00 950.00
				Check Total	17,330.00
				February 29, 2008	
	00065718 04162008 1003682	04/25/2008	POWELLPB	PBS&J 07/12/2007 ES INSPECTION SERVICES 09/12/2007 CIP INSPECTION & CONST. SVC.	17,093.60 1,105.00

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### Check Register

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Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
					Check Total	18,196.
	00065719	04/25/2008	PROFSVRT		PROF. SPORTS FIELD MAINTENANCE, INC.	
	080328		00007342	07/11/2007	PA FIELD TREATMENT SERVICES	2,396.00
	080402		00007346	07/12/2007	PA DEL OBISPO PARK	10,247.60
					Check Total	12,643.60
					March 1 - 31, 2008	
	00065720	04/25/2008	QUANTUMO		QUANTUM OZONE, INC.	
	0009		00007476	07/12/2007	WQ MAINTENANCE SERVICES	6,300.00
					Check Total	6,300.00
					March 2008	
	00065721	04/25/2008	REPUBLIC		REPUBLIC ITS	
	3081027		00007452	07/12/2007	TE EXTRAORDINARY SERVICES	489.13
	308235		00007452	07/12/2007	TE EXTRAORDINARY SERVICES	5,186.83
	308236		00007451	07/12/2007	TE MAINTENANCE SERVICES	2,753.58
	6533		00007452	07/12/2007	TE EXTRAORDINARY SERVICES	678.18
					Check Total	9,107.72
	00065722	04/25/2008	RONDWINN		RON DWINNELL TRUCKING & MATERIALS	
	58238		00007352	09/27/2007	PA BUILDING SUPPLIES	79.34
					Check Total	79.34
	00065723	04/25/2008	ROSEMIKE		MIKE ROSE	
	04242008			04/24/2008	EM REIMBURSEMENT	100.00
					Check Total	100
	00065724	04/25/2008	RUANOR		RONALD RUANO	
	102			04/24/2008	CS SENIOR ENTERTAINMENT	350.00
					Check Total	350.00
					March 31, 2008	
	00065725	04/25/2008	SABER		SABER CONCRETE & FOUNDATION LEVELING	
	SCG42490.3		00007590	12/06/2007	SM SIDEWALK GRINDING SVC.	7,350.00
					Check Total	7,350.00
					March 31, 2008	
	00065726	04/25/2008	SANDERSP		SANDERS PAVING, INC.	
	3576		00007585	03/04/2008	SM INSTALL SPEED HUMP	6,120.00
					Check Total	6,120.00
	00065727	04/25/2008	SBC		AT&T LONG DISTANCE	
	04042008		00007400	07/12/2007	ND LONG DISTANCE SERVICE	97.98
					Check Total	97.98
					February 2008	
	00065728	04/25/2008	SDG&E		SAN DIEGO GAS & ELECTRIC	
	01232008A		00007328	07/11/2007	PA MEDIANS	18.26
	04022008		00007441	07/12/2007	TE TRAFFIC SIGNALS	800.99
	04022008D		00007328	07/11/2007	PA MEDIANS	35.18
	04022008E		00007329	07/11/2007	PA SECURITY LIGHTING	306.56
	04072008		00007440	07/12/2007	TE CITYWIDE STREET LIGHTS	19,952.87
	04142008A		00007441	07/12/2007	TE TRAFFIC SIGNALS	41.56
	04142008B		00007441	07/12/2007	TE TRAFFIC SIGNALS	229.00
	04152008		00007379	07/12/2007	FAC CITY FACILITIES	5.28

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Arranged by:  
Check Number

Direct Dep.	Check Number Invoice	Check Date Invoice Date	Vendor ID PO Number	Vendor Name PO Date	Description	Amount
<b>Checks Printed</b>						
	00065728	04/25/2008	SDG&E		SAN DIEGO GAS & ELECTRIC	
	04152008A3		00007379	07/12/2007	FAC CITY FACILITIES	320.94
	04162008		00007441	07/12/2007	TE TRAFFIC SIGNALS	63.57
	04162008A		00007441	07/12/2007	TE TRAFFIC SIGNALS	70.11
					Check Total	27,122.44
	00065729	04/25/2008	SIERRAAN		SIERRA ANALYTICAL LABS, INC.	
	8D08040		00007478	07/12/2007	WQ ANALYTICAL TESTING SRVCS	680.00
					Check Total	680.00
	00065730	04/25/2008	SKYLINE		SKYLINE PEST CONTROL	
	57567		00007343	07/11/2007	PA HARRY OTSUBO PARK	78.00
					Check Total	78.00
	00065731	04/25/2008	SOCALGAS		THE GAS COMPANY	
	04152008		00007381	07/12/2007	FAC COMMUNITY CENTER	223.39
					Check Total	223.39
	00065732	04/25/2008	SOCOUNTY		2007 - 2008 SOUTH COUNTY SENIOR SERVICES	
	4922			04/24/2008	CS SENIOR SVC. NUTRITION	20,000.00
	4923			04/24/2008	CS SENIOR SVC. CASE MGMT.	15,000.00
					Check Total	35,000.00
	00065733	04/25/2008	SOCSTFIR		SOUTH COAST FIRE PROTECTION, INC.	
	61251			04/24/2008	FAC PROFESSIONAL SERVICES	79.74
	DL20888		00007344	03/13/2008	PA BACKFLOW TESTING SERVICES	314.30
	DL20890		00007344	03/13/2008	PA BACKFLOW TESTING SERVICES	260.43
	DL30827		00007344	03/13/2008	PA BACKFLOW TESTING SERVICES	693.58
					Check Total	1,348.05
	00065734	04/25/2008	SOCSTWD		January - March 2008 SOUTH COAST WATER DISTRICT	
	04022008D		00007326	07/11/2007	PA PARK WATER	215.25
	04022008E		00007326	07/11/2007	PA PARK WATER	33.78
	04022008F		00007326	07/11/2007	PA PARK WATER	35.84
	04022008G		00007326	07/11/2007	PA PARK WATER	352.60
	04022008H		00007326	07/11/2007	PA PARK WATER	920.45
	04022008I		00007326	07/11/2007	PA PARK WATER	196.80
	04022008J		00007325	07/11/2007	PA MEDIANS/R-O-W'S	55.35
	04022008K		00007325	07/11/2007	PA MEDIANS/R-O-W'S	108.65
	04022008L		00007325	07/11/2007	PA MEDIANS/R-O-W'S	28.70
	04022008M		00007325	07/11/2007	PA MEDIANS/R-O-W'S	69.70
	04022008N		00007325	07/11/2007	PA MEDIANS/R-O-W'S	268.55
	04022008O		00007325	07/11/2007	PA MEDIANS/R-O-W'S	45.10
	04152008		00007380	07/12/2007	FAC CITY FACILITIES	42.00
	1419		00007380	07/12/2007	FAC CITY FACILITIES	691.00
	1427		00007480	11/15/2007	WQ MAINTENANCE SERVICES	3,621.54
					Check Total	6,685.31
	00065735	04/25/2008	STATEDIST		STATE DISBURSEMENT 00P000089	

City of Dana Point

Agenda Item No. 8  
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04/25/2008 10:42:01 AM

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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
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	00065735 PP9-2008	04/25/2008	STATEDIST		STATE DISBURSEMENT 00P000089 04/24/2008 GARNISHMENT	656.68
					Check Total	656.68
	00065736 1-187826 843276 844830 848098	04/25/2008	TRAFCONT		TRAFFIC CONTROL SERVICES, INC. 00007453 07/12/2007 TE TRAFFIC SIGN FABRICATION 00007453 07/12/2007 TE TRAFFIC SIGN FABRICATION 00007453 07/12/2007 TE TRAFFIC SIGN FABRICATION 00007453 07/12/2007 TE TRAFFIC SIGN FABRICATION	299.07 67.34 111.52 133.07
					Check Total	611.00
	00065737 5110	04/25/2008	TRANSPORT		TRANSPORTATION STUDIES, INC. 00007445 07/12/2007 TE TRAFFIC & SPEED SURVEYS	145.00
					Check Total	145.00
	00065738 320080206	04/25/2008	UNDER		UNDERGROUND SERVICE ALERT OF SO CAL. 00007424 07/12/2007 SM DIG ALERT NOTIFICATIONS	157.50
					Check Total	157.50
	00065739 456261	04/25/2008	UNION		UNION BANK OF CALIFORNIA 00007297 07/11/2007 FA INVESTMENT CUSTODIAL SVCS	291.67
					March 10 - 19, 2008	Check Total
	00065740 SW22240 SW22242 SW22243 SW22244 SW22245 SW22300	04/25/2008	UNITEDST		UNITED STORM WATER, INC.. 00007433 07/12/2007 SM REPLACEMENT FILTERS 00007432 07/12/2007 SM CLEANING & DISPOSAL SVSC 00007432 07/12/2007 SM CLEANING & DISPOSAL SVSC 00007432 07/12/2007 SM CLEANING & DISPOSAL SVSC 00007432 07/12/2007 SM CLEANING & DISPOSAL SVSC 00007432 07/12/2007 SM CLEANING & DISPOSAL SVSC	19,320 3,000.00 3,000.00 3,000.00 3,000.00 1,291.30
					Check Total	32,611.30
	00065741 PP9-2008	04/25/2008	UNITEDWAY		O.C. UNITED WAY 04/24/2008 CONTRIBUTION	65.00
					Check Total	65.00
	00065742 27188	04/25/2008	VANSCOYOC		VAN SCOYOC ASSOCIATES, INC. 00007481 07/12/2007 WQ CONSULTANT SERVICES	4,015.46
					Check Total	4,015.46
	00065743 0644287343 0644287344 0644287347 0644287349	04/25/2008	VERIZONW		VERIZON WIRELESS 04/24/2008 PA PHONE SERVICES 04/24/2008 PA PHONE SERVICES 04/24/2008 PA PHONE SERVICES 04/24/2008 WQ PHONE SERVICES	291.48 67.77 103.53 99.42
					March 16 - 31, 2008	Check Total
	00065744 51961	04/25/2008	WESTCSTA		WEST COAST ARBORISTS, INC. 00007613 01/17/2008 PA CITY WIDE TREE TRIMMING	24,720



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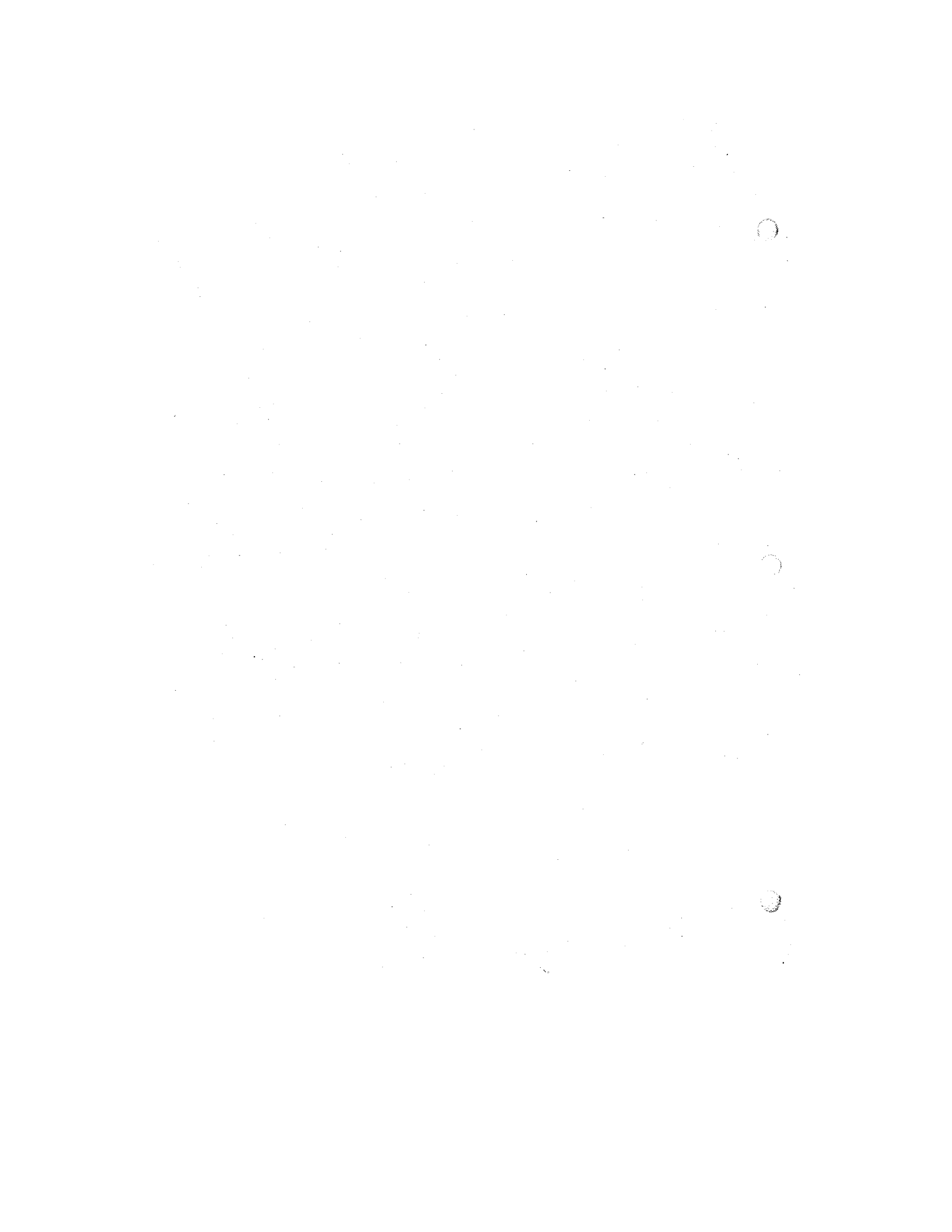
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Dep.	Invoice	Invoice Date	PO Number	Description	
<b>Checks Printed</b>					
	00065744	04/25/2008	WESTCSTA	WEST COAST ARBORISTS, INC.	
	51963		00007613	01/17/2008 PA CITY WIDE TREE TRIMMING	1,769.64
	51964		00007556	10/25/2007 PA CITY WIDE TREE TRIMMING	194.50
				Check Total	26,692.17
	00065745	04/25/2008	WHITECAPC	WHITE CAP CONSTRUCTION SUPPLY	
	7012725-01		00007314	07/11/2007 PA CONSTRUCTION SUPPLIES	717.83
	7314		00007314	07/11/2007 PA CONSTRUCTION SUPPLIES	162.88
				Check Total	880.71
	00065746	04/25/2008	XEROX	XEROX CORPORATION	
	31844480		00007464	07/12/2007 ES MAINTENANCE AGREEMENT	130.12
	31844481		00007464	07/12/2007 ES MAINTENANCE AGREEMENT	50.00
	31844482		00007464	07/12/2007 ES MAINTENANCE AGREEMENT	21.00
				Check Total	201.12
	00065747	04/25/2008	ZEI	ZEISER KLING CONSULTANTS, INC.	
	28447		00007466	07/12/2007 ES GEOTECHNICAL ENG. REVIEW	6,170.00
				Check Total	6,170.00
				<b>Total of Checks Printed:</b>	<b>426,113.49</b>

**Manual Checks**

Bank Account :A - Bank Of America					
	00065663	04/22/2008	NBNEISH	N.B. NEISH, INC.	
	04222008	04/22/2008		04/24/2008 CD RETAINER FEE	10,000.00
				Check Total	10,000.00
				<b>Total of Manual Checks:</b>	<b>10,000.00</b>
				<b>Report Total:</b>	<b>436,113.49</b>

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CITY OF DANA POINT  
AGENDA REPORT

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

**DATE: MAY 6, 2008**

**TO: THE HONORABLE MAYOR AND DANA POINT CITY COUNCIL**

**FROM: A. PATRICK MUNOZ, CITY ATTORNEY**

**SUBJECT: EIGHTH AMENDMENT TO EMPLOYMENT AGREEMENT FOR CITY MANAGER DOUGLAS C. CHOTKEVYS**

**RECOMMENDED ACTION:**

That the City Council approve the Eighth Amendment to the Employment Agreement for the City Manager and authorize the Mayor to execute the Agreement on behalf of the City.

**DISCUSSION:**

The City Council Subcommittee consisting of the Mayor and the Mayor Pro Tem recently provided Mr. Chotkevys with his annual performance review in conjunction with the terms and conditions of his employment with the City of Dana Point. That Subcommittee was asked to make a recommendation to the City Council for changes to the compensation portion of his contract bearing in mind the Council's favorable evaluation of Mr. Chotkevys' service, performance as well as comparable City Manager salaries in Orange County. The Mayor has directed me to prepare a proposed contract amendment and accompanying staff report to reflect that recommendation.

In recognition of Mr. Chotkevys' job performance, service to the Community and comparable salary data, the Subcommittee recommends that Mr. Chotkevys' Employment Agreement be modified such that his base salary be adjusted every year in January, so as to be effective on January 1<sup>st</sup>, to reflect the change in the Consumer Price Index (CPI) for the Los Angeles, Riverside and Orange County areas for the preceding twelve months. Such calculation will be done by the Director of Administrative Services and processed as part of the normal City payroll process.

In addition, the Subcommittee is recommending that Mr. Chotkevys' Employment Agreement be adjusted to incorporate an annual performance bonus provision to provide a pay-for-performance incentive plan to the City Manager. Language has been included to reflect this program. As part of the City Manager's annual performance evaluation process, the Mayor and the Mayor Pro Tem will create a listing of performance objectives and goals that would reflect the consensus of the City Council during the annual evaluation process.

After reviewing the progress for completing these performance goals with the goals that were outlined by the City Council, the Mayor and Mayor Pro Tem can recommend a performance bonus in an appropriate amount of not more than ten percent (10%) of base salary reflecting the City Manager's ability to accomplish the goals outlined in the performance evaluation process. That performance bonus will be subject to City Council approval. Finally, the Mayor and the Mayor Pro Tem feel it appropriate for the City Manager to remain current in executive management practices and procedures, and hence the City Manager has been asked as part of his evaluation to join a Chief Executive Officer (CEO) roundtable organization. The portion of the City Manager's compensation designated to cover the cost of participation in professional organizations has been adjusted in the revised agreement to cover this expense.

The current average salary of comparable City Managers in Orange County was determined to be \$ 203,939 and the current median salary was determined to be \$206,532. A revised contract amendment is provided as Action Document A.

**FISCAL IMPACT:**

There is sufficient budget in the City's General Fund to fund for the proposed action should the Council choose to follow the recommended action of the Subcommittee. Any budgetary adjustments will be made by staff subsequent to City Council action.

**ACTION DOCUMENTS:** **PAGE NO.**

- |    |   |   |
|----|---|---|
| A. | <a href="#"><u>Public Employment Contract</u></a> | 3 |
|----|---|---|

**ACTION DOCUMENT A****EIGHTH AMENDMENT TO THE EMPLOYMENT CONTRACT BETWEEN THE  
CITY OF DANA POINT AND DOUGLAS C. CHOTKEVYS**

THIS AMENDED EMPLOYMENT CONTRACT, (the "Agreement") is made so as to be effective as of the 1st day of January, 2008 by and between the CITY OF DANA POINT, a municipal corporation, ("CITY"), and DOUGLAS C. CHOTKEVYS, ("CHOTKEVYS"), collectively the "Parties."

**WITNESSETH**

WHEREAS, CITY is a municipal corporation, the operation of which involves securing the services of a qualified professional City Manager; and,

WHEREAS, CHOTKEVYS currently is CITY's City Manager, and has provided services which have consistently met or exceeded the expectations of the City Council ; and,

WHEREAS, it is the desire of the City Council of CITY to restate various provisions of the CITY's existing agreement with CHOTKEVYS and amend other provisions so as to reflect their desire to continue to retain him as City Manager in light of his positive performance, and to provide certain benefits, establish certain conditions of employment, set certain work conditions, and provide an equitable means of terminating CHOTKEVYS' employment.

NOW, THEREFORE, CITY AND CHOTKEVYS, in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. POSITION AND DUTIES. The City Council of CITY hereby agrees to appoint CHOTKEVYS as City Manager of the City of Dana Point to perform, on a full-time basis, the duties and functions specified in CITY's Municipal Code, ordinances, resolutions, policies and City Manager Job Description, and as required by the Government Code of the State of California, and to perform other legally permissible duties and perform such functions as the City Council shall from time to time assign. The City Council shall have the authority to determine the specific duties and functions that CHOTKEVYS shall perform in accordance with the CITY's Council-Manager ordinance, and shall from time to time evaluate CHOTKEVYS performance, including the means and manner that he uses to perform his duties. CHOTKEVYS agrees to devote all of his business time, skill, attention, and best efforts to the discharge of the duties and functions assigned to him by the City Council during his employment.

This Agreement expressly permits CHOTKEVYS' participation in activities such as occasional teaching and serving on charitable boards for which he may receive compensation so long as the activities occur during CHOTKEVYS off-duty hours, provided

that he notifies the City Council in advance of such outside activities, and provided that the activities do not present a conflict of interest as to the City of Dana Point.

2. TERM. TERMINATION AND AT WILL STATUS. This Agreement shall commence on January 1, 2008, and shall remain in effect until terminated by CITY or CHOTKEVYS in accordance with the provisions of this Agreement. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of CHOTKEVYS at any time, subject only to the provisions set forth in this Section.

CHOTKEVYS holds his employment at the pleasure of the City Council and is an at will employee. CHOTKEVYS is exempt from CITY's competitive service. The City Council of CITY may terminate CHOTKEVYS' employment at any time, for any reason that is not in violation of the public policy of the State of California, and may give CHOTKEVYS notice of termination at any time. CHOTKEVYS agrees that no representative of CITY has made or can make any promises, statements, or representations which state or imply that CHOTKEVYS is hired or retained under any terms other than those stated herein.

CHOTKEVYS may voluntarily terminate his employment at any time, for any reason, except he shall give the City Council of CITY thirty (30) days written notice prior to the effective date of the voluntary termination of his employment.

CHOTKEVYS shall not be terminated for a period of six months following any change in the make-up of the composition of the City Council, unless the termination is for misconduct as defined in Section 4 of this Agreement.

If the City Council of CITY terminates CHOTKEVYS' employment or CHOTKEVYS terminates his employment, CHOTKEVYS shall only be entitled to receive: (i) the compensation he is currently due for the work he has already performed as set forth in Section 3 hereof, (ii) a severance payment if he is eligible as described in Section 4 hereof, and (iii) the cash equivalent of any unused Comprehensive Annual Leave as described in Section 3 hereof.

In the event that the City Council at any time reduces CHOTKEVYS' compensation (including either base salary or benefits or both) in an amount 10% greater than is reduced for all CITY department heads, than CHOTKEVYS may, within ten (10) business days, at his option, notify the City Council that he has been deemed to be terminated by the CITY and shall be eligible for benefits in accordance with Section 4 hereof.

3. COMPENSATION. CITY agrees to provide the following compensation to CHOTKEVYS:

a. Base Salary: CITY shall pay CHOTKEVYS a base salary of One Hundred Ninety Six Thousand Four Hundred Forty-Six Dollars (\$196,446.00) effective as of January 1, 2008 with applicable payroll taxes withheld. Said compensation shall be paid biweekly.

b. Cafeteria Plan: City shall pay One Thousand One Hundred Fifty Dollars (\$1,150.00) per month to CHOTKEVYS for health, disability, and life insurance as offered in the City's Cafeteria Plan. CHOTKEVYS will be entitled to the same annual increase to the Cafeteria Plan as provided to the other non-represented employees of the CITY.

c. Public Employees Retirement System: The CITY shall enroll CHOTKEVYS in the Public Employees' Retirement System (PERS) 2% at fifty five plan (2 @ 55) and pay on behalf of CHOTKEVYS both the "employer's share" and the "employee's share" of the PERS costs. CHOTKEVYS shall automatically be entitled to at a minimum the same PERS benefits, whether new or amended, as any CITY department head should the Council ever adjust such employee's benefits to exceed those noted above.

Calculations for retirement contributions as reported to CALPERS shall include all monthly compensation that is normally reportable to the IRS and the employer paid member PERS contribution. These amounts shall be reported to CALPERS to the extent allowable by CALPERS. In the event the CITY voluntarily joins or is required by law to join the Federal Social Security System, CHOTKEVYS shall be treated in the same matter as all of CITY'S employees.

d. Deferred Compensation: CITY shall make payments on behalf of CHOTKEVYS to the International City Management Association Retirement Corporation (ICMARC), the CITY'S deferred compensation provider, as deferred compensation. Payments shall be in an amount equal to seven percent (7%) of CHOTKEVYS' annual base salary, paid on a biweekly basis to an account in CHOTKEVYS' name.

e. Comprehensive Annual Leave Time: CITY shall provide CHOTKEVYS with annual leave in the amount of thirty (30) days per year as Comprehensive Annual Leave (CAL). CAL credits shall be accrued at the rate of 9.23 hours per biweekly pay period. Unused CAL credits may be converted to cash pursuant to the provisions of CITY'S Personnel Policy related to "Comprehensive Annual Leave."

f. Reimbursement of Expenses: CITY shall reimburse CHOTKEVYS for reasonable and ordinary business expenses incurred by CHOTKEVYS in the performance of this Agreement, provided such expenses have been authorized by the City Council in the City's budget.

g. Annual Physical: It is in the CITY's best interest that CHOTKEVYS maintain good health and physical ability to fulfill his duties as City Manager. Toward this end, CITY shall pay the full cost of one complete annual physical examination for CHOTKEVYS, conducted by the physician of his choice. The cost to the CITY shall be offset by any payment made by CHOTKEVYS' health insurance carrier toward the cost of the examination.

h. Vehicle: CHOTKEVYS' duties, as City Manager and Director of Emergency Services for the City of Dana Point, will require that he shall have the exclusive and unrestricted use of an automobile at all times. As a result of these duties, the CITY will provide CHOTKEVYS with an automobile. Because CHOTKEVYS is essentially on 24-hour call and the CITY is within the San Onofre Nuclear Power Plant Emergency Planning Zone, the automobile will be available for both business and personal use (and thus available for use by CHOTKEVYS' properly licensed and insured spouse under CHOTKEVYS' supervision). CITY agrees to maintain and pay for liability, property damage and comprehensive insurance and to pay for the purchase, operation, maintenance, repair or replacement of a CITY provided automobile. CHOTKEVYS agrees to keep the automobile in excellent shape and will make sure that all service is performed per the factory maintenance schedule. As a result of CHOTKEVYS' aforementioned role as Director of Emergency Services and the potential need to relocate a core group of the CITY's emergency management team to an alternate Emergency Operations Center (EOC) or to the site of an emergency situation/response, the CITY provided vehicle will be a four (4) wheel drive vehicle that is supplied and equipped with the appropriate emergency related equipment and be able to accommodate at least eight adult passengers plus cargo.

i. Professional Organizations: CITY shall pay up to Twelve Thousand Dollars (\$12,000.00) annually for the cost of membership in relevant professional organizations and/or the cost of relevant training, career development or educational programs. CHOTKEVYS shall annually provide to the City Council an accounting of the expenditures as set forth in this Section.

j. Equipment: CITY will provide all equipment necessary for completion of CHOTKEVYS' duties including, but not limited to, a cellular telephone, a computer, and such other communication devices deemed necessary for the conduct of CITY's business.

k. Increases Consistent with Department Heads: CHOTKEVYS shall automatically be entitled to receive, at a minimum, the same benefits, and level of benefits, whether new or amended, as any CITY department head. However, the City Council maintains the right, through specific contract provisions, to give higher or additional benefits to CHOTKEVYS as it may deem appropriate.

l. CPI Increases: Commencing in 2009, CITY shall adjust CHOTKEVYS' base compensation every year in January, so as to be effective on January 1<sup>st</sup>, to reflect the change in the Consumer Price Index (CPI) for the Los Angeles, Riverside and Orange County areas for the preceding Calendar year. Such calculation and compensation adjustment will be performed and implemented by CITY'S Director of Administrative Services.

m. Annual Bonus: Every year as part of CHOTKEVYS' annual evaluation in March, the Mayor and the Mayor Pro Tem will create a listing of performance objectives and goals that reflect the consensus of the City Council during the annual evaluation process. After reviewing the progress for completing these performance goals with the goals that were outlined by the City Council, the Mayor and Mayor Pro Tem shall recommend such



performance bonus as they deem appropriate, if any, of not more than ten percent (10%) of the CHOTKEVYS' base salary reflecting the City Manager's ability to accomplish the goals outlined in the performance evaluation process. The recommended bonus shall thereafter be presented to the City Council for its consideration and approval.

4. SEVERANCE. CHOTKEVYS and the CITY agree that, except as otherwise provided herein, CITY may terminate the employment of CHOTKEVYS at any time for any reason. In the event the CITY terminates CHOTKEVYS employment, CHOTKEVYS shall be compensated as follows:

a. Payments Following Termination.

CITY shall pay CHOTKEVYS:

1. Six (6) months of compensation as set forth in Section 3, to be paid as a single lump sum; and
2. The cost of six (6) months of "COBRA" medical benefits; to be paid as a single lump sum.

b. Payment After Six (6) Months of Unemployment Following Termination.

CITY is currently a member of the California Joint Powers Insurance Authority (CJPIA) and makes available to CHOTKEVYS an additional six (6) months of compensation and COBRA benefits under the terms of the CJPIA's Special Liability Protection Program. The terms of the CJPIA Special Liability Protection Program may vary from time to time. The terms of CJPIA's Program in effect at the time of termination of CHOTKEVYS' employment will govern. If, at the time of termination of CHOTKEVYS' employment, CITY is no longer a member of the CJPIA, this Section shall not apply.

Notwithstanding the foregoing, if the City Council of CITY terminates CHOTKEVYS' employment due to CHOTKEVYS' misconduct as defined in this Section, CITY shall not make any severance payment to CHOTKEVYS. Misconduct means CHOTKEVYS' violation of any criminal law committed at any time, (except minor traffic offenses) gross negligence or malfeasance.

If CHOTKEVYS terminates his employment, the CITY shall not make any severance payment to CHOTKEVYS.

5. PERFORMANCE EVALUATION. The City Council shall review and evaluate the performance of CHOTKEVYS every six (6) months in March and September of each year. It shall be CHOTKEVYS' responsibility to timely agendaize this evaluation, subject to the Mayor's approval. The Mayor shall provide CHOTKEVYS with a summary of the findings of the City Council and provide CHOTKEVYS with adequate opportunity to discuss

the evaluation with the City Council. CHOTKEVYS shall be required to submit a list of annual goals and objectives to the City Council prior to each agendized evaluation session. At each evaluation session, CHOTKEVYS shall also submit a summary of the progress in attaining said goals and objectives. Notwithstanding the foregoing schedule, CITY reserves the right for the Mayor or City Council to agendize an evaluation of CHOTKEVYS at any time.

6. INDEMNIFICATION. CITY shall defend, hold harmless, and indemnify CHOTKEVYS against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of this Agreement, or any alleged act or omission occurring in the course and scope of performance of CHOTKEVYS' duties in accordance with the provisions of the California Government Code Section 825.

7. BONDING. CITY shall bear the full cost of any fidelity or other bonds required of CHOTKEVYS under any law or ordinance.

8. ENTIRE AGREEMENT. This Agreement is the complete and final expression of the Parties' agreement related to the matters covered herein. This Agreement contains the entire agreement and understanding between the Parties and contains all of the terms and conditions of the Parties' agreement. This Agreement supersedes all prior or contemporaneous oral or written negotiations, discussions, representations, or agreements between the Parties, if any. No amendment, alteration, extension, or modification of this Agreement shall be binding unless in writing and duly executed by both CITY and CHOTKEVYS.

9. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of California.

10. NO WAIVER. No Party's failure to enforce any provision(s) of this Agreement will be construed in any way as a waiver of such provision(s), nor prevent that Party from enforcing each and every other provision of this Agreement.

11. PARTIAL INVALIDITY. The invalidity or unenforceability of any provision(s) of this Agreement will not affect the validity or enforceability of the other provision(s) hereof.

12. HEADINGS. Section headings used in this Agreement are for convenience only and shall not be considered part of the terms of this Agreement.

DATED: \_\_\_\_\_ 2008.

\_\_\_\_\_  
JOEL BISHOP, MAYOR

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DOUGLAS C. CHOTKEVYS

ATTEST:

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KATHY WARD, CITY CLERK

APPROVED AS TO FORM:

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A. PATRICK MUNOZ, CITY ATTORNEY

**CITY OF DANA POINT**  
**AGENDA REPORT**

Reviewed By:	
DH	X
CM	X
CA	

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**DATE: MAY 6, 2008**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM: KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT  
MARK I SUTTON, BUILDING OFFICIAL**

**SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR SUPPLEMENTAL  
STRUCTURAL PLAN REVIEW SERVICES**

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**RECOMMENDED ACTION:**

That the City Council authorize the City Manager to continue the Professional Services Agreement with Wynn Engineering, Incorporated.

**DISCUSSION:**

As part of the 2007–2008 adopted budget, staffing considerations were approved to bring the Building and Safety services in-house. As part of this conversion and during the recruitment periods for the positions, staff needed to rely on contractual agreements to continue the Building and Safety services. One of these contractual agreements was with Wynn Engineering for structural plan review services. The firm was chosen due to the relationship they had with the City through the Charles Abbott contract which provided the Building and Safety services for the City from 2001 through 2006. Upon investigating the qualifications of Wynn Engineering, it was noted that they had provided good service to the City, along with a high standard for structural building code compliance and was willing to continue this relationship during the conversion period and on an as needed basis thereafter.

Staff entered into a professional services agreement with Wynn Engineering in September of 2007 for an amount not to exceed \$35,000. Due to the recruitment time and the increase in development in the City, the cost to provide this service is exceeding the cost of the original agreement thus requiring City Council approval. Staff anticipates that with the appointment of the new Senior Structural Engineer, the need for supplemental services from Wynn Engineering will be minimized.

**FISCAL IMPACT:**

It is estimated that the cost for supplemental structural plan review services will not exceed \$60,000, including the original \$35,000. The necessary funds to cover this expense inclusive of salary savings, is provided for in the adopted FY07/08 budget.

**ALTERNATIVE ACTIONS:**

As determined by Council.

**ACTION DOCUMENTS:**

**PAGE NO.**

A.	<a href="#"><u>Professional Services Agreement between Wynn Engineering, Inc. and the City of Dana Point</u></a> .....	3
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**SUPPORTING DOCUMENTS:**

None.

**ACTION DOCUMENT A**Wynn  
Eng.**CITY OF DANA POINT  
AGREEMENT FOR CONSULTANT SERVICES**

**THIS AGREEMENT** is made and effective as of September 1, 2007, between the City of Dana Point, a municipal corporation ("City") and Wynn Engineering, Incorporated \_\_\_\_\_, a[n] S Corporation ~~individual, sole proprietorship, partnership, limited liability partnership, corporation, . . .]~~ ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**1. TERM**

This Agreement shall commence on September 1, 2007 and shall remain and continue in effect until tasks described herein are completed, but in no event later than September 1, 2008, unless sooner terminated pursuant to the provisions of this Agreement. Notwithstanding the above, Section 9 of this Agreement shall survive the term of this Agreement.

**2. SERVICES**

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

**3. PERFORMANCE**

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement. Consultant represents it holds the necessary skills and abilities to perform the work as set forth in this Agreement, and City relies upon the skills and abilities of Consultant. Consultant shall perform the work and services under this Agreement in accordance with such heightened standard of work and in accordance with the accepted standards of the professional disciplines involved in the tasks described herein.

**4. CITY MANAGEMENT**

City's Building Official \_\_\_\_\_ shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to Consultant. City's City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change Consultant's compensation, subject to Section 5 hereof.

5. **PAYMENT**

(a) Except as otherwise stated herein, the City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Final payment shall be coordinated and conditioned with completion of the tasks set forth in Exhibit A. This amount shall not exceed Thirty Four Thousand dollars (\$34,000.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement ("Total Agreement Amount").

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall such sum exceed ten-thousand dollars (\$10,000.00). Any additional work in excess of this amount shall be approved by the City Council. ***[Note: If additional payment pushes total contract amount above \$35,000 and Agreement was not previously approved by City Council, City Council must approve increased amount. (See DPMC, § 3.12.280.)]***

(c) Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Invoices shall include the contract amount, invoice amount to date, and balance remaining. Payment shall be made within thirty (30) days of receipt of each invoice as to all undisputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

(d) Prior to signing the Agreement, Consultant shall provide to City a completed and signed Form W-9, Request for Taxpayer Identification Number and Certification. All of City's monetary obligations set forth in this Agreement are

conditioned upon City's receipt of an executed W-9 form from Consultant.

(e) ~~Notwithstanding Consultant's delivery of invoices to City and/or other remedies available to the City, City [shall/may] retain ten percent (10%) of the payment on each month's invoice, on a cumulative basis, until Consultant has completed all of the tasks set forth in Exhibit A.~~

(f) Notwithstanding Consultant's delivery of invoices to City and/or other remedies available to the City, if Consultant has not delivered to the City the required certified insurance policies and endorsements within the time required by Section 10(f) (3) of this Agreement, City has the sole discretion to withhold any and all payments to Consultant until Consultant delivers to the City the certified insurance policies and endorsements required by Section 10 of this Agreement.

6. **SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 5.

(c) Except as otherwise provided herein and prior to the termination date of this Agreement, this Agreement may be terminated by written consent of both the City and the Consultant.

7. **DEFAULT OF CONSULTANT**

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.



(b) If the City Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. **OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts there from as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

***[Note: The Following Paragraph Is Applicable Only To Agreements for the design of public improvements.]***

(c) With respect to the design of public improvements, the Consultant shall not be liable for any injuries or property damage resulting from the reuse of the design at a location other than that specified in Exhibit A without the written consent of the Consultant.

9. **INDEMNIFICATION**

(a) Indemnification

***[Note: The Following Paragraphs Are Applicable Only To Agreements Where Contractor Is A "Licensed Design Professional."]***

To the fullest extent permitted by law, Consultant shall protect, indemnify, defend and hold harmless City and any and all of its officials, employees, volunteers, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees or subconsultants, or any entity or individual that Consultant shall bear the legal liability thereof.

For purposes of this Agreement, a "Licensed Design Professional" shall be limited to licensed architects, licensed landscape architects, registered professional engineers, and licensed professional land surveyors, all as defined by current law, and as may be amended from time to time by California Civil Code § 2782.8.

***[Note: The Following Paragraph Is Applicable Only To Agreements Where Contractor Is Not A "Licensed Design Professional."]***

To the fullest extent permitted by law, Consultant shall protect, indemnify, defend and hold harmless City and any and all of its officials, employees, volunteers and agents from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the actions or failure to act of Consultant, its officers, agents, employees or subconsultants, or any entity or individual that Consultant shall bear the legal liability thereof.

(b) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as

required herein, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

***[Note: The Following Paragraph Is To Be Used Only When The Professional Services Contract Is Related To Construction.]***

(c) Indemnity Provisions for Contracts Related to Construction. Without affecting the rights of City under any provision of this Agreement, Consultant shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of Consultant will be for that entire portion or percentage of the liability not attributable to the active negligence of City.

10. **INSURANCE REQUIREMENTS**

Prior to the beginning of and throughout the duration of the Work, Consultant shall maintain insurance in conformance with the requirements set forth below. Consultant shall use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees. All Sections of this Agreement and any provision in City's Request for Proposal and Consultant's submitted proposal are subordinate to and superseded by the requirements contained in this Section to the extent that any provision or portion thereof conflicts with or impairs these requirements or any obligation to or right under or pursuant to these insurance requirements. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties to be interpreted as such.

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (1) Commercial General Liability Insurance – Written on the Insurance Services Office “Commercial General Liability” policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another.
- (2) ~~Business Auto Coverage – Written on the ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each person.~~
- (3) Workers' Compensation/Employer's Liability Insurance - Written on a policy form providing workers' compensation statutory benefits as required by the State of California. Employer's Liability limits shall be no less than one millions dollars (\$1,000,000) per accident or disease. Employer's Liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects City, its officers, officials, employees, or agents.

***[Note: Delete the above workers' compensation and employer's liability insurance requirements for certain sole proprietorships, partnerships, or corporations without employees and use the following paragraph instead.]***

Consultant certified that the company does not have employees and does have Workers' Compensation/ employer's Liability Insurance. As soon as the Consultant has employees, he/she will have the insurance below:

Workers' Compensation/Employer's Liability Insurance - Written on a policy form providing workers' compensation statutory benefits as required by the State of California. Employer's Liability limits shall be no less than one millions dollars (\$1,000,000) per accident or disease. Employer's Liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects City, its officers, officials, employees, or agents.

- (4) Professional Liability or Errors and Omissions Insurance as

appropriate to the Consultant's profession - Written on policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than:

***[Note: The insurance amounts listed herein are general limits and higher limits may be required depending on the nature and risks of the project. Refer to the Risk Analysis Matrix on the public shared drive in the Administrative Services Templates & Forms folder (it is a PDF file) and/or consult with Risk Management staff to determine the appropriate amount of insurance to require on a particular project.]***

- (1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) ~~Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.~~
- (3) Errors and Omissions Liability: The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement. Insurance shall continue to be effective to cover all claims made within three (3) years of the completion of the work in the Agreement.

***[Note: If the required limits for general liability, auto and employer's liability are \$1 million or less, the following paragraph may be omitted.]***

- (4) Excess or Umbrella Liability Insurance (Over Primary): If used to meet limit requirements, it shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered

by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$ \_\_\_\_\_ (**Note: refer to Risk Analysis Matrix**) per occurrence.

(c) Deductibles and Self-Insured Retention. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or the Consultant to procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses or other solutions. Any deductibles in excess of ten percent (10%) or self-insured retention must be approved by the City Manager.

(d) Other Insurance Provisions. The general liability, business auto liability, and any necessary umbrella liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) General liability and umbrella policies shall cover the City, its officers, officials, employees, agents, and volunteers are to be covered as insureds or additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents, or volunteers. Endorsements including the additional insured shall be identified on standard ISO endorsement number CG 20 10, attached to an ISO-CGL policy with an edition prior to 1992, or other form as expressly approved by City, and which does not limit the scope of coverage for the additional insured to vicarious liability or to the additional

insured's supervision of a given project. In no event shall the Consultant use an additional insured endorsement with an edition date of 1992 or later, absent express written authorization by City. Consultant also agrees to require all contractors and subcontractors to do likewise.

- (2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respect to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents, or volunteers.
- (4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability, and there shall be no cross liability exclusions that preclude coverage for suits between Consultant and City or between City and any other insured. Consultant expressly waives any claim against City for any covered act or event, and Consultant's insurance policy shall not prevent such waiver. The limits of insurance required herein shall in no way limit the liability of the party providing the insurance. In addition, if the coverage or limits available to Consultant exceed that required by this Agreement, and the loss incurred by the additional insured exceeds the amount required by this Agreement, it is the parties' intent that all such additional coverage and limits available will apply irrespective of the specific coverage or limits required herein.
- (5) No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
- (6) All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

- (7) The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
- (8) For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
- (9) Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
- (10) None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
- (11) No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
- (12) All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
- (13) The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.
- (14) Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.



- (15) Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

(e) Acceptability of Insurers. Insurance is to be placed with insurers authorized and admitted to do business in California and with a current A.M. Best's rating of A or better and a financial size of VII or greater, unless otherwise acceptable to the City.

(f) Verification of Coverage and Notice of Cancellation.

- (1) Consultant shall immediately furnish to City certificates of insurance or endorsements, satisfactory to City, evidencing the insurance coverage above required prior to the commencement of performance of services hereunder. These certificates or endorsements shall provide that such insurance is the minimum, is in no way limited by any provision herein, and allows for the application of all coverage available to the additional insureds. Further, the certificates or endorsements shall require thirty (30) days written notice to additional insured City prior to any termination, suspension, cancellation, or non-renewal, or the reduction of available coverage, or any change in the terms of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
- (2) Consultant agrees that if Consultant commences work under this Agreement without first providing City copies of the required insurance certificates or endorsements, that Consultant does so at its own and sole risk. In the event Consultant's insurance is not acceptable to City or copies of insurance certificates or endorsements are not provided, City shall have no obligations to compensate Consultant for such work unless Consultant possesses a notice to proceed from City for this work.
- (3) Within sixty (60) days of the commencement of this Agreement, Consultant shall furnish certified copies of the actual policies and endorsements. Failure to submit such policies shall constitute a

material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. If proof of any insurance required under this Agreement is not delivered as required or if such insurance is canceled at any time and no replacement coverage is provided, City shall have the right but not the duty to obtain any insurance it deems necessary to protect its interests under this Agreement, express or implied, in any way relating to City. Any premium for such coverage shall be charged to and promptly paid by Consultant or, at City's option, may be deducted from sums due to Consultant.

- (4) In the event of the premature termination of this Agreement for any reason, Consultant agrees to maintain the required insurance coverage until City provides written authorization to terminate the coverage following a review and determination that all liability posed under this Agreement as to the party providing the insurance has been eliminated.
- (5) Except as outlined in Section 10(b) (3) above, Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
- (6) Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.

(g) Notice of Claim or Loss. Consultant agrees to provide immediate notice to City of any claim or loss likely to involve City or its employees or agents which exceeds \$2,500 or is likely to exceed that amount arising out of the work performed under this Agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

(h) Sub-Consultant Insurance Requirements. Consultant agrees to require that all parties, including but not limited to sub-Consultants and additional

Consultants or professional services with whom Consultant enters into contracts or whom Consultant hires pursuant to or in any way related to the performance of this Agreement, provide the insurance coverage required here, at a minimum.

Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section. Consultant acknowledges and agrees that upon request, all agreements with sub-Consultants and others engaged in the project contemplated by this Agreement will be submitted to City for review. Consultant agrees and acknowledges that such contracts may require modification as to the insurance requirements necessary to properly protect City.

11. **INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. **LEGAL RESPONSIBILITIES**

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. **UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City of Dana Point in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial

inducement. No officer or employee of the City of Dana Point will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

14. **NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with this Agreement.

15. **RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or sub-Consultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or sub-Consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed hereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

***[Note: The following paragraph is only to be used when the City will be taking in a fee or deposit from an applicant and use that fund to retain the Consultant to prepare an EIR, Specific Plan, or some other specific document or where the City is funding a similar development-type study.]***

(c) Consultant covenants that neither he/she nor any officer or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent, or sub-Consultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its sub-Consultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement.

16. **NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Dana Point  
33282 Golden Lantern  
Dana Point, California 92629  
Attention: City Clerk

To Consultant: Wynn Engineering, Incorporated \_\_\_\_\_  
27315 Valley Center Road\_  
Valley Center, CA 92082\_\_

17. **ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only \_Wynn Engineering, Incorporated\_\_\_\_ shall perform the services described in this Agreement.

\_Wynn Engineering, Incorporated\_\_\_\_\_ may use assistants, under its direct supervision, to perform some of the services under this Agreement. Consultant shall provide City fourteen (14) days' notice prior to the

departure of N/A \_\_\_\_\_ from Consultant's employ. Should he/she leave Consultant's employ, the City shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

18. **LICENSES**

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

19. **GOVERNING LAW**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the City of Dana Point.

20. **ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. **SEVERABILITY**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

22. **NO PRESUMPTION REGARDING DRAFTER OF THIS AGREEMENT**

The parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties and their attorneys, and this Agreement reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or

enforcing this Agreement.

23. **ATTORNEY'S FEES**

If any action at law or suit in equity, including an action for declaratory relief, is brought by either party with respect to this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, in addition to any other relief to which it may be entitled, and such amount may be added to, and made a part of, such judgment. ***[Note: It is not always beneficial to have an attorney's fee provision in the Agreement, particularly when the Consultant's prospective attorney's fees in a dispute may be higher than the City's. Consult with Risk Management or the City Attorney's Office to determine whether an attorney's fees provision is beneficial for this project.]***

24. **WORK SCHEDULED/TIME OF COMPLETION**

***[Note: This section is optional and should be included only when the project is particularly time-sensitive.]***

~~City and Consultant agree that time is of the essence in this Agreement. ***[Note: The following language may be added if the project includes the erection, construction, alteration, repair, or improvement of any structure, building, road, railway, or other improvement, and the procurement of any other goods or services that are manufactured specifically, designed specifically, or produced specifically, pursuant to the Agreement with the City.]*** City and Consultant further agree that Consultant's failure to perform on or at the times set forth in this Agreement will damage and injure City, but the extent of such damage and injury is difficult or speculative to ascertain. Consequently, City and Consultant agree that any failure to perform by Consultant at or within the times set forth herein shall result in liquidated damages of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per day for each and every day such performance is late. City and Consultant agree that such sum is reasonable and fair. Furthermore, City and Consultant agree that this Agreement is subject to Government Code Section 53069.85 and that each party hereto is familiar with and understands the obligations of said Section of the Government Code.~~

25. **CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL**

***[Note: This section and Exhibits C and D are only included if the City did a Request for Proposal and Consultant submitted a proposal to the City.]***

Consultant is bound by the contents of City's Request for Proposal, Exhibit "C" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit "D" hereto. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take

precedence over those contained in the Consultant's proposals.

26. **AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF DANA POINT**

By: [Signature]  
[City Manager or Mayor]

Attest:  
[Signature]  
Kathy Ward, City Clerk

Approved As to Form:  
[Signature]  
Patrick Munoz, City Attorney

**CONSULTANT**

By: [Signature]  
(Signature)

Gary Wynn, P.E.  
(Typed Name)

Its: President  
(Title)

By: [Signature]  
(Signature)

John W. "Jack" Starlin, S.E.  
(Typed Name)

Its: Vice President  
(Title)



**EXHIBIT A**

**TASKS TO BE PERFORMED**

See Exhibit "A"

**EXHIBIT B**

**PAYMENT SCHEDULE**

Payments will be done on a monthly billing cycle

**EXHIBIT C**

**CITY'S REQUEST FOR PROPOSAL**

**EXHIBIT D**

**CONSULTANT'S PROPOSAL**

See Exhibit "A"

**"EXHIBIT A"**

Mr. Mark Sutton, C.E., M.B.A., C.B.O.  
City of Dana Point  
33282 Golden Lantern #212  
Dana Point, CA. 92629

August 23, 2007

Dear Mark,

At your request, Wynn Engineering, Inc. (WEI) is pleased to present you with this proposal to provide structural plan review services to your Building and Safety Department at the City of Dana Point. As we understand it, the City has chosen to begin transferring Building Department services in-house. As you know, our firm has successfully provided you with these same services since 2002 and would be happy to continue to assist you in providing structural plan check services.

As we discussed, we are familiar with your local conditions and ordinances and could continue a seamless transition for the City, as soon as you are ready to proceed. WEI carries professional liability insurance and also provides continuing education/quality assurance training in-house on the Building Codes and plan review procedures. We are also active in professional organizations to keep current with the new codes soon to be adopted by the State of California.

We propose a fee of \$95.00 per hour for structural plan review services. A California Licensed Structural Engineer will oversee all work. Clerical work will be provided at \$35.00 per hour. We suggest upgrading the plan check review sheets pursuant to your direction.

We recommend that turn-around time on plan checks be five days for small projects such as Single-Family Dwellings, Additions and Tenant Improvements. We propose a ten day turn-around on large projects such as Commercial projects and Tracts. The first day is considered the day it is received at Wynn Engineering Inc. (WEI). We will return it overnight on the 4<sup>th</sup> or 9<sup>th</sup> day so you receive it by the 5<sup>th</sup> or 10<sup>th</sup> day.

We are prepared to offer expedited services as requested. The fee for expedited services is \$142.50 per hour (time and a half) for structural plan review services. We suggest that turn-around time on expedited plan checks be three days for small projects and five days for large projects. The first day is considered the day it is received at WEI. We will return it overnight on the 2<sup>nd</sup> or 4<sup>th</sup> day so you receive it on the 3<sup>rd</sup> or 5<sup>th</sup> day. Expedited services will be subject to availability based on staffing levels at the time of the request.

Our preferred carrier for overnight shipping is Golden State Overnight (GSO). GSO charges per shipment based on weight. If we ship more than one plan per bag, we will divide the costs equally between the projects in that bag. We cannot guarantee GSO prices but these will be a

27315 Valley Center Road • Valley Center, CA 92082 • (760) 749-8722 • Fax (760) 749-9412  
Email: [wynneng@wynnengineering.com](mailto:wynneng@wynnengineering.com) • Los Angeles (310) 306-9728 • Fax (310) 306-2129

**"EXHIBIT A"**

Page 2  
Continued

straight reimbursable expense with no mark-up. If you choose, all shipments could be sent using your own account. Many different factors will influence the price for shipping charges but on average, this cost is approximately \$350 per month.

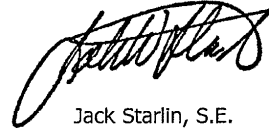
We would be happy to work within your suggested parameters of a minimum amount per plan check. The minimum that we would suggest is two hours each. It is our understanding that any time over and above the two hours will be billed at the proposed \$95.00 per hour rate. In addition to this minimum and any additional billed hourly, a half hour will be added to each plan check for the administrative work necessary (i.e. check-in and check-out, logging into our system, opening and organizing plans received, preparation and coordination of shipping, etc.). The half hour administrative fee will be billed at \$35.00 per hour.

Attached are resumes for Gary Wynn, P.E. and Jack Starlin, S.E. Please contact us with any further questions, concerns or comments. We appreciate the opportunity to be of service to you.

Sincerely



Gary Wynn, P.E.  
President



Jack Starlin, S.E.  
Vice President

**RESUMÉ****August 2007****GARY R. WYNN, P.E.****EDUCATION**

San Diego State University, 1983 Bachelor of Science in Civil Engineering  
**Continuing Education** in California State Planning Law, Land Surveying, Engineering Management, Construction Law, Public Health, Uniform Building Codes.

**LICENSES**

Civil Engineer, State of California, CO43202  
Civil Engineer, State of Nevada, 14119  
Civil Engineer, State of New Mexico, 12562

**EXPERIENCE**

- 1993-Present                   **Wynn Engineering, Inc.**, Valley Center, CA  
President, Civil Engineering, Structural Design, Land Use and Surveying, Subdivision and Improvement plan design, Grading plans and Geotechnical studies. Structural plan review for various California cities.
- 1989-1997                   **David C. Breiholz and Company, Inc.**, Lomita, CA  
Project Manager, supervising structural and nonstructural design of commercial, industrial, and residential buildings, Seismic Hazard reduction projects, foundation repair and new foundation systems, repair of structures due to landsliding, Land use approvals, grading plans and Geotechnical studies.
- 1983-1989                   **Charles Abbott Associates, Inc.** Torrance, CA  
Project Manager and Consulting City Engineer for several southbay area cities. City Building Official, Public Works and Planning Director, Building and Grading Inspector, Resident Engineer for public works projects. Contract Manager and Plan Checker for the cities of Palos Verdes Estates, Rancho Palos Verdes and Signal Hill.
- 1977-1983                   **Wynn-Hartley Engineering, Inc.**, Valley Center, CA  
Assistant Engineer, Subdivision maps, Percolation tests, Public agency liaison. Environmental studies, Surveying.

Resumé - Gary Wynn  
Page 2

**ORGANIZATIONS**

North County Civil Engineers and Land Surveyors Association  
President 1999-2000 and 2000-2001

International Conference of Building Officials, Basin Chapter  
Lateral Force Design Subcommittee 1994-1995

American Society of Civil Engineers

Structural Engineers Association of Southern California  
Timber Subcommittee 1993-1996

Consulting Structural Engineers Society  
Professional Practices Committee Chairman 1996-97

**SPECIAL INTERESTS**

Music, Geology and Beach Sports.

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**RESUMÉ****August 2007****JOHN W. STARLIN, S.E.****EDUCATION**

California State University at Long Beach, 1978 Bachelor of Science in Engineering/Civil Engineering Option.  
Coastal Engineering Seminar & Workshop, Los Angeles County.

**LICENSES**

Professional Engineer, State of California – C.E. # 29723  
Structural Engineer, State of California - S.E. # 2475  
Professional Engineer, State of Texas - P.E. # 98791  
Professional Engineer, State of Arizona - # 45361  
Certified Coastal Engineer – Los Angeles County

**EXPERIENCE**

2004-Present	<b>Wynn Engineering, Inc.</b> , Valley Center, CA Managing Structural Engineer. Structural design for various Residential and commercial projects. Structural plan review for various California cities.
2003-2003	<b>Corman Structures, Inc.</b> , Temecula, CA Director of Engineering
1999-2003	<b>Ecocrete, Inc.</b> , Chula Vista, CA Director of Engineering
1997-1999	<b>John W. Starlin &amp; Associates</b> , Escondido, CA Principal
1996-1997	<b>GNR Engineering, Inc.</b> , Solana Beach, CA Principal
1991-1996	<b>State of California, Dept. of General Services</b> , Division of State Architect, Structural Safety Section, San Diego, CA Senior Structural Engineer
1990 – 1991	<b>Hillman Biddison &amp; Loevenguth</b> , Los Angeles, CA 90017 Project Manager

Resumé – John W. Starlin  
Page 2

- 1985 – 1990      **John W. Starlin & Associates, Malibu, CA**  
Principal
- 1981 – 1985      **Myers – Nelson & Associates, Los Angeles, CA**  
Project Engineer
- 1979 – 1981      **David C. Weiss Structural Engineer & Associates, Woodland Hills, CA**  
Associate Engineer
- 1977 – 1979      **Vincent Kevin Kelly & Associates, Santa Monica, CA**  
Associate Engineer

**ORGANIZATIONS**

Structural Engineers Association of San Diego (SEAOSD)

International Conference of Building Officials (ICBO)

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CITY OF DANA POINT  
AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	X

**DATE:** MAY 6, 2008

**TO:** CITY MANAGER/CITY COUNCIL

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

**SUBJECT:** ADOPTION OF RESOLUTION APPROVING FINAL TRACT MAP NO. 15924, THE REQUIRED LANDSCAPE AND MAINTENANCE AGREEMENT, AND THE ACCOMPANYING SUBDIVISION IMPROVEMENT AGREEMENT

**RECOMMENDED ACTION:**

That the City Council (1) adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 15924, THE REQUIRED LANDSCAPE AND MAINTENANCE AGREEMENT, AND THE ACCOMPANYING SUBDIVISION IMPROVEMENT AGREEMENT.

**ISSUES:**

The issue before the City Council is the staff recommended approval of Final Tract Map No. 15924, which has been prepared by the subdivider and verified to be in substantial conformance with the conditionally approved Tentative Tract Map 15924. Staff is also recommending approval of the required landscape and maintenance agreement, and the accompanying subdivision improvement agreement. The proposed resolution is attached as Action Document A.

**BACKGROUND:**

The 2.1 acre project site is located at the southwest corner of Del Obispo Street and Camino Del Avion bounded on the north and east by the City of San Juan Capistrano. The site is currently being graded under approved Permit No. ENG06-0126. The site is surrounded by single family residential development to the north, south, east, and west. Additionally, Del Obispo Elementary School is located across the Del Obispo Street and Camino Del Avion intersection. The subject site is designated on the City's Zoning Map as



Residential Single Family 4 DU/AC (RSF 4) and is designated Residential 3.5-7 DU/AC in the City's General Plan Land Use Element.

The Planning Commission originally approved Tentative Tract Map (TTM) 15924 and Minor Site Development Permit SDP00-06(M) on April 4, 2001 permitting the subdivision of the subject site into six (6) numbered lots and a lettered lot for the private street to access the new lots. The Minor Site Development Permit allowed the construction of a six (6)-foot high retaining wall on the slope facing Del Obispo Street with the acknowledgement that additional retaining walls would be needed to create the pads for the residences. Included as Supporting Document B is the Planning Commission Staff Report. A location map is attached as Supporting Document C. A request for a one (1) year extension for the project was received by the Community Development Department on March 31, 2003 which was approved in the allowable time. The Acting Community Development Director granted the extension validating the approval through April 4, 2004.

On January 21, 2004, the Planning Commission approved an amendment to Tentative Tract Map TTM 15924 (I) and Minor Site Development Permit Numbers SDP03-04 and SDP00-06(M)(I). The amendments included modifications to the original tract map regarding the lot sizes and the split-level pads, modification to the design of the homes, landscaping improvements, and other items previously approved. A request for a one (1) year extension for the project was approved by the Community Development Department that extended the expiration date of the Tentative Map to February 5, 2007. A second request for extension for the project was approved by the Community Development Department that further extended the expiration date of the Tentative Map to August 5, 2007. The Final Map has been under review and processing for some time, and as such, Subdivision Map Section 66452.6 allows a map to remain valid. The Section reads as follows:

Subdivision Map Act Section 66452.6 (d) states that *"Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section."*

The City Attorney has confirmed that the entitlements are still valid in this case, and the Final Map should be processed and approved.

### **DISCUSSION:**

The Subdivision Map Act (Map Act), Section 66410 – 66499.58 of the California Government Code, provides for the subdivision of property and vests the regulation and control of the design and improvement of subdivisions in the legislative body of the local agency (the City). Included as Supporting Document D are pertinent sections from the Subdivision Map Act (Sections 66410-66499.58), and a detailed assessment of compliance with each section, by the applicant.

Additionally, the Subdivision Map Act requires that, if the Final Map conforms to the Tentative Map and all requirements of the Subdivision Map Act, a Final Map must be approved by the legislative body. The local agency shall only disapprove the Final Map if it does not conform.

All pertinent conditions of approval have been satisfied as described in Supporting Document E. The City’s assessment of the status of compliance with all pertinent sections of the Dana Point Municipal Code is included in Supporting Document F. Also, the County Surveyor has certified the Final Map to be technically correct per the letter included as Supporting Document G.

The Conditions of Approval for TTM 15924 required the applicant to prepare, execute and submit a landscape and maintenance agreement. The applicant has submitted the document (Attachment A to Action Document A-Resolution), and staff recommends approval. Furthermore, Section 66462 of the Subdivision Map Act requires a developer to enter into a subdivision improvement agreement to obligate the construction of required public and private improvements, if the improvements are not completed. The applicant has prepared, executed, and submitted the required agreement (Attachment B to Action Document A-Resolution), and staff recommends approval per the resolution. The applicant has also submitted a current Title Report, Supporting Document H, that demonstrate no development liens exist on the property.

Based on these facts and staff’s review of the Final Map, the Final Map has been prepared by the subdivider and verified to be in substantial conformance with the conditionally approved Tentative Tract Map 15924. Further, the Final Map was submitted to the City in advance of the expiration of the Tentative Tract Map in compliance with State law. It is, therefore, recommended that the City Council adopt the attached resolution (Action Document A) approving the Final Map and the accompanying agreements. A copy of the Final Map is included herein as Supporting Document I.

**STRATEGIC PLAN IMPLEMENTATION:**

The project is in compliance with the Strategic Planning Initiative to maintain, modernize and beautify the City’s infrastructure.

**FISCAL IMPACT:**

None

**ALTERNATIVE ACTIONS:**

None.

**ACTION DOCUMENTS:**

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**SUPPORTING DOCUMENTS:**

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**Action Document A - Resolution****RESOLUTION NO. 08-05-06-XX****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 15924**

WHEREAS, on January 21, 2004, the City of Dana Point Planning Commission approved Tentative Tract map No. 15924, Site Development Permit No. SDP03-04 and SDP00-06(M)(I).

WHEREAS, the applicant has complied with all other Conditions of Approval required prior to Final Map approval for Tentative Tract Map No. 15924; and

WHEREAS, the Director of Public Works and Engineering Services and the City Engineer have reviewed the Final Tract Map No. 15924 and find it to be in substantial conformance with the Tentative Tract map and to be technically correct.

WHEREAS, the applicant has filed a complete application of a Final Map within the allowable time periods to the Director of Public Works and Engineering Services; and

WHEREAS, the applicant has executed and submitted for City Council approval a Landscape and Maintenance Agreement per the Conditions of Approval which is included herein as Attachment A.

WHEREAS, the applicant has executed and submitted a subdivision improvement agreement for City Council approval per Section 66462 of the Subdivision Map Act which is included herein as Attachment B.

THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. That the City Council does hereby approve the Final Tract Map No. 15924 pursuant to Section 66458 of the Subdivision Map Act.

Section 2. That the City Council does hereby direct staff to issue permits only when all Conditions of Approval are addressed as listed in Planning Commission Resolution No. 04-01-21-03.

Section 3. That the City Council does hereby approve the Landscape and Maintenance Agreement, included as Attachment A of this resolution, per the conditions of approval for Tract No. 15924.

Section 4. That the City Council does hereby approve the subdivision improvement agreement, included in Attachment B to this resolution, per Section 66462 of the Subdivision Map Act.

Section 5. That the City Clerk shall certify the adoption of this Resolution and so note on the Final Map.

PASSED, APPROVED, AND ADOPTED this 6<sup>th</sup> day of May, 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 is a true and correct copy of Resolution No. 08-05-06-XX adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 6th day of May, 2008 by the following vote:

AYES:

NOES:

ABSENT:

(SEAL)

\_\_\_\_\_  
KATHY WARD, CITY CLERK

**ATTACHMENT A OF RESOLUTION – Landscape and Maintenance Agreement****RECORDING REQUESTED BY:****WHEN RECORDED MAIL TO:**

JACKSON, DeMARCO &  
 PECKENPAUGH (BWC)  
 2030 Main Street, 12<sup>th</sup> Floor  
 Irvine, CA 92614

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*(Space Above For Recorder's Use)*

**LANDSCAPING, IRRIGATION AND MAINTENANCE AGREEMENT**

THIS LANDSCAPING, IRRIGATION AND MAINTENANCE AGREEMENT (“*Agreement*”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2008, by and between the CITY OF DANA POINT, a municipal corporation, organized and existing under the constitution and laws of the State of California (“*City*”) and DEL AVION GARDENS COMMUNITY ASSOCIATION, a California nonprofit mutual benefit corporation (“*Association*”). The City and Association are sometimes referred to herein individually as a “*Party*” or collectively as the “*Parties*.”

**RECITALS**

A. NDA Development, L.L.C., a California limited liability company (“*Developer*”) owns that certain real property located in the City of Dana Point, County of Orange, State of California (“*Property*”), more particularly described as follows:

All of Tract No. 15924, as per map filed in Book \_\_\_\_\_, Pages \_\_\_\_\_ through \_\_\_\_\_, inclusive, of Miscellaneous Maps, in the Official Records of the County of Orange, California (hereinafter the “*Property*”).

B. Developer is developing the Property as a common interest development, more particularly described in Section 1351(k) of the California Civil Code as a “planned development” (hereinafter referred to as the “*Project*”), consisting of single-family detached homes, landscaped areas and other improvements. The Project is known as “Del Avion Gardens.”

C. As part of the development of the Project, Developer will record the Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Del Avion Gardens (the "**Declaration**"), concurrently with this agreement.

D. The Association has been incorporated under the laws of the State of California for the purpose of administering and enforcing the covenants, conditions and restrictions set forth in the Declaration.

E. The City is the owner of portions of the public rights-of-way adjacent to the Project which are currently improved with, among other things, public streets known as "Camino Del Avion," and "Del Obispo Street," related parkways, and public sidewalks (collectively, the "**Public Right-of-Way**"). In connection with the development of the Project, Developer will be installing landscaping in accordance with the City's approved landscape plan and making various other improvements to the Public Right-of-Way, as required by the conditions of approval of the tentative tract map for the Project ("**Conditions of Approval**").

F. The Parties desire to enter into this Agreement to satisfy the requirements set forth in the Conditions of Approval for the maintenance and repair of the landscaping and irrigation system to be installed by Developer in the Public Right-of-Way pursuant to a landscape plan approved by the City (collectively, the "**Improvements**"), the location of which is described and depicted on **Exhibit A** attached hereto and incorporated herein (the "**Maintenance Area**").

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, and conditions set forth hereinbelow, the City and the Association hereby agree as follows:

1. **Grant of License.** The City hereby grants to the Association a license in, on, over, under, across, and through the Maintenance Area for purposes of inspecting, maintaining, repairing, and replacing the Improvements originally installed by Developer in the Maintenance Area. These license rights shall include incidental rights thereto, which shall consist of reasonable rights of ingress and egress, as necessary, across the Maintenance Area to inspect, maintain, repair, and replace the Improvements originally installed by Developer in the Maintenance Area in accordance with the Declaration. All such maintenance shall be conducted so as to minimize interference with the use of the public of the City's Public Right-of-Way. The City shall have the unilateral right to terminate the license, and, if the City does so, this Agreement shall be of no further force or effect.

2. **Irrigation and Maintenance of Landscaping.** The Association hereby agrees that it shall, at its sole cost and expense, maintain in a neat, clean, safe, attractive, orderly, and operating condition at all times the Improvements originally installed by Developer in the Maintenance Area pursuant to the City's approved landscape plan. Such maintenance shall include, without limitation, regularly inspecting, mowing, fertilizing, watering, removing weeds from, and replacing (as necessary) the grass and other groundcover in the Maintenance Area; regularly inspecting, fertilizing, watering, pruning, trimming, removing dead leaves and branches from, and replacing (as necessary) the trees in the Maintenance Area; regularly inspecting and raking, sweeping, cleaning up, and/or otherwise removing any fallen leaves, branches, cut grass,

trash, and other debris from the Maintenance Area; regularly inspecting, maintaining, repairing, and replacing (as necessary) the irrigation system originally installed by Developer in the Maintenance Area; and otherwise maintaining the landscaping in the Maintenance Area in a condition comparable to the condition originally approved by the City. The cost of such maintenance may be allocated to members of Association as deemed appropriate by the Association. Subject to Sections 5 and 6 below, neither the City nor any of its employees or agents shall interfere with, modify, remove, supplement, maintain, irrigate, or replace the landscaping in the Maintenance Area. Notwithstanding the foregoing, in the event any maintenance or repairs to the Maintenance Area are required due to the negligent acts or omissions, or intentional misconduct of employees of the City, or individuals other than the members of the Association, the cost of such maintenance and repair shall be the responsibility and obligation of the City and not the responsibility and obligation of the Association. Any repairs or replacement of the landscaping within the Maintenance Area must be done in accordance with the City approved landscaping plan.

3. **Term.** This Agreement shall commence as of the date first written above and shall remain in full force and effect indefinitely unless and until: (a) the City terminates the license granted to the Association in Section 1 hereof; (2) the Association acquires fee simple title to the Maintenance Area; or (3) the Agreement is terminated by mutual written agreement of the Parties.

4. **Notice(s) of Deficiency.** If, in the opinion of the City, the Association at any time fails to maintain the Maintenance Area in accordance with the terms hereof, the City shall give written notice to the Association, specifying the exact nature of such deficiency. Such written notice of deficiency from the City shall be addressed to the Association and require that the Association take appropriate corrective action within thirty (30) days of receipt of such written notice. The Association shall have the right to file an appeal before the Director of Public Works for a hearing concerning the reasonableness of the City's requirements as set forth in the written notice of deficiency, provided such appeal is filed within fifteen (15) days after the Association's receipt of the City's notice of deficiency. The decision of the Director of Public Works on such appeal shall be binding upon all Parties, but may be appealed by the Association through an appropriate action in any court having jurisdiction.

5. **Emergency Maintenance.** Notwithstanding Sections 2 or 4 above, if there exists a hazardous condition creating a possibility of serious injury to persons or property, the Association shall, upon receipt of the City's notice of deficiency, be required to take prompt corrective action. If the City determines, in its sole and absolute discretion, that the hazardous condition creates an immediate possibility of serious injury to persons or property, the City may forego the giving of notice, and immediately take the corrective action necessary to correct the hazardous condition. The reasonable costs incurred by the City in taking such corrective action shall be assessed against the Association, as described in Section 6 below.

6. **Enforcement.** If the Association, within the time period set forth in the notice of deficiency (subject to extensions of such time as may be required to appeal the notice of deficiency to the City Council, except if a hazardous condition exists, in which no such extension will be granted), does not undertake and complete the corrective work required in the notice of deficiency, the City may (but is not obligated to) undertake and complete such corrective



measures as are set forth in the notice and assess the reasonable costs thereof against the Association. The City may elect to enforce payment of such assessment through the procedures set forth in the Declaration for the establishment of liens or through an action at law. In any such action, the prevailing Party will be entitled to receive its reasonable attorney's fees and costs, in addition to such other relief as may be granted.

7. **Liens.** The Association shall not permit to be enforced against the Maintenance Area any mechanics', materialmen's, contractors' or other liens arising from, or any claims for damages growing out of, any use herein authorized or acts of the Association undertaken pursuant to this Agreement (except from the negligent actions or intentional misconduct of the City or any of its employees or agents), and the Association shall pay or cause to be paid all of said liens and claims before any action is brought to enforce the same against the City or the Maintenance Area.

8. **Interpretation.** This Agreement shall be constructed according to its fair meaning and as if prepared by both Parties hereto. Any rule of law (including, but not limited to, Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is hereby waived. This Agreement shall be governed in accordance with the laws of the State of California.

9. **No Waiver.** Waiver by either Party hereto of a breach of any of the covenants to be performed by the other Party as provided for herein shall not be construed as a waiver of any succeeding breach of the same or other covenants herein.

10. **Indemnification by Association.** Except for negligent acts or intentional misconduct of the City, the Association hereby agrees to indemnify, defend and hold the City and employees harmless from and against any and all claims, liabilities, losses, damages, costs and expenses, including reasonable attorneys' and expert fees, arising from or in any way connected with this Agreement.

11. **Entire Agreement; Amendment.** This Agreement contains the entire understanding between the Parties with respect to the matters provided for herein, and may only be amended by subsequent written agreement executed by the City and Association.

12. **Severability.** If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13. **Non-liability of City Officials.** No officer, official, employee, agent or representative of the City shall be personally liable to the Association or any successor in interest to Association, in the event of any default or breach by the City, or for any amount which may become due to Association or any of their respective successors, or for breach of any obligation of the terms of this Agreement.

14. **Further Assurances.** Each Party agrees to cooperate with the other Party, at no additional cost to such Party, and to execute such additional instruments and documents as may be reasonably necessary or proper in order to carry out the provision of this Agreement.

15. **Attorney’s Fees.** In any action or proceeding between the Parties arising out of or related to the terms of this Agreement, or in any way connected herewith, the prevailing party in such action shall be entitled, in addition to damages, injunctive or other relief, to its reasonable costs and expenses, including, but not limited to taxable costs and reasonable attorneys’ and expert fees. The “prevailing party” shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.

16. **Notices.** Any notice, or document required or permitted by this Agreement to be given to either Party shall be in writing and shall be deemed to have been received when personally delivered or within three (3) days after deposit in the United States mail, first class, registered or certified, postage prepaid, address as follows:

If to the City: City of Dana Point  
Director of Public Works  
33282 Golden Lantern  
Dana Point, California 92629  
Attention: \_\_\_\_\_

If to the Association: Del Avion Gardens Community Association  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: President

17. **Time of the Essence.** Time is of the essence of each and every provision of this Agreement of which time of performance is a factor.

18. **Incorporation of all Exhibits.** Each and every Exhibit referred to in and attached to this Agreement is incorporated herein by this reference as if set forth herein in full.

19. **Titles and Captions.** Titles and captions are for convenience only and shall not constitute a portion of this Agreement.

20. **Covenants Running with the Land.** The terms and conditions of this Agreement shall constitute covenants running with the real property composing the Project and binding on the Association, the Association’s successors and assigns in and to the real property composing the Project, and burdening the real property composing the Project for the benefit of the Maintenance Area, in accordance with the provisions of California Civil Code Section 1468.

21. **Insurance.** The Association shall procure and maintain, at all times during the terms of this Agreement the following policies of insurance:

(a) A policy of comprehensive general liability insurance written on a per occurrence basis in an amount not less than One Million Dollars (\$1,000,000) combined single limits; and

(b) A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California.

All of the aforescribed policies of insurance shall be "occurrence" and not "claims made" insurance and shall be primary insurance and shall name the City and its agent, officials and employees as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against City and its insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days' prior written notice to City. In the event any of said policies of insurance are cancelled, the Association shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section.

Prior to entering the Maintenance Area, a certificate of insurance and an endorsement evidencing the insurance coverage noted above shall be provided to and approved by the City. The insurance carrier shall be authorized and admitted to do business in California with a current A.M. Best's rating of A- or better and a financial size of VII or greater.

22. **No Joint Venture or Partnership.** The City and the Association hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained in this Agreement or any document executed in connection with this Agreement shall be construed as making the City and the Association joint venturers or partners.

23. **Successors and Assigns.** This Agreement shall bind and inure to the benefit of the successors and assigns of the parties hereto.

24. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California.

25. **Assignment.** The Association shall not assign this Agreement or any interest herein to any Party without the prior written consent of the City, which City may withhold in its sole and absolute discretion.

26. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute a single agreement.

27. **Authorized Signatures.** Each person executing this Agreement on behalf of the Association and the City represents and warrants to the other Party that each person executing this Agreement is authorized to do so and such execution shall legally bind each respective Party to the terms of this Agreement.

*[SIGNATURES ON NEXT PAGE]*

***[SIGNATURE PAGE TO  
LANDSCAPING, IRRIGATION AND MAINTENANCE AGREEMENT]***

CITY OF DANA POINT,  
a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Sharie Apodaca, Interim City Clerk

**Approved As to Form:**

\_\_\_\_\_  
Patrick Munoz, City Attorney

**Association:**

DEL AVION GARDENS COMMUNITY ASSOCIATION,  
a California nonprofit mutual benefit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2008, before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_, personally  
known to me (or proved to me on the basis of satisfactory evidence) to be the person whose  
name is subscribed to the within instrument and acknowledged to me that he/she executed the  
same in his/her authorized capacity, and that by his/her signature on the instrument the person, or  
the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2008, before me, \_\_\_\_\_,  
personally appeared **KATHY WARD**, personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person whose name is subscribed to the within instrument and  
acknowledged to me that she executed the same in her authorized capacity, and that by her  
signature on the instrument the person, or the entity upon behalf of which the person acted,  
executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2008, before me, \_\_\_\_\_,  
personally appeared **PATRICK MUNOZ**, personally known to me (or proved to me on the  
basis of satisfactory evidence) to be the person whose name is subscribed to the within  
instrument and acknowledged to me that he executed the same in his authorized capacity, and  
that by his signature on the instrument the person, or the entity upon behalf of which the person  
acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

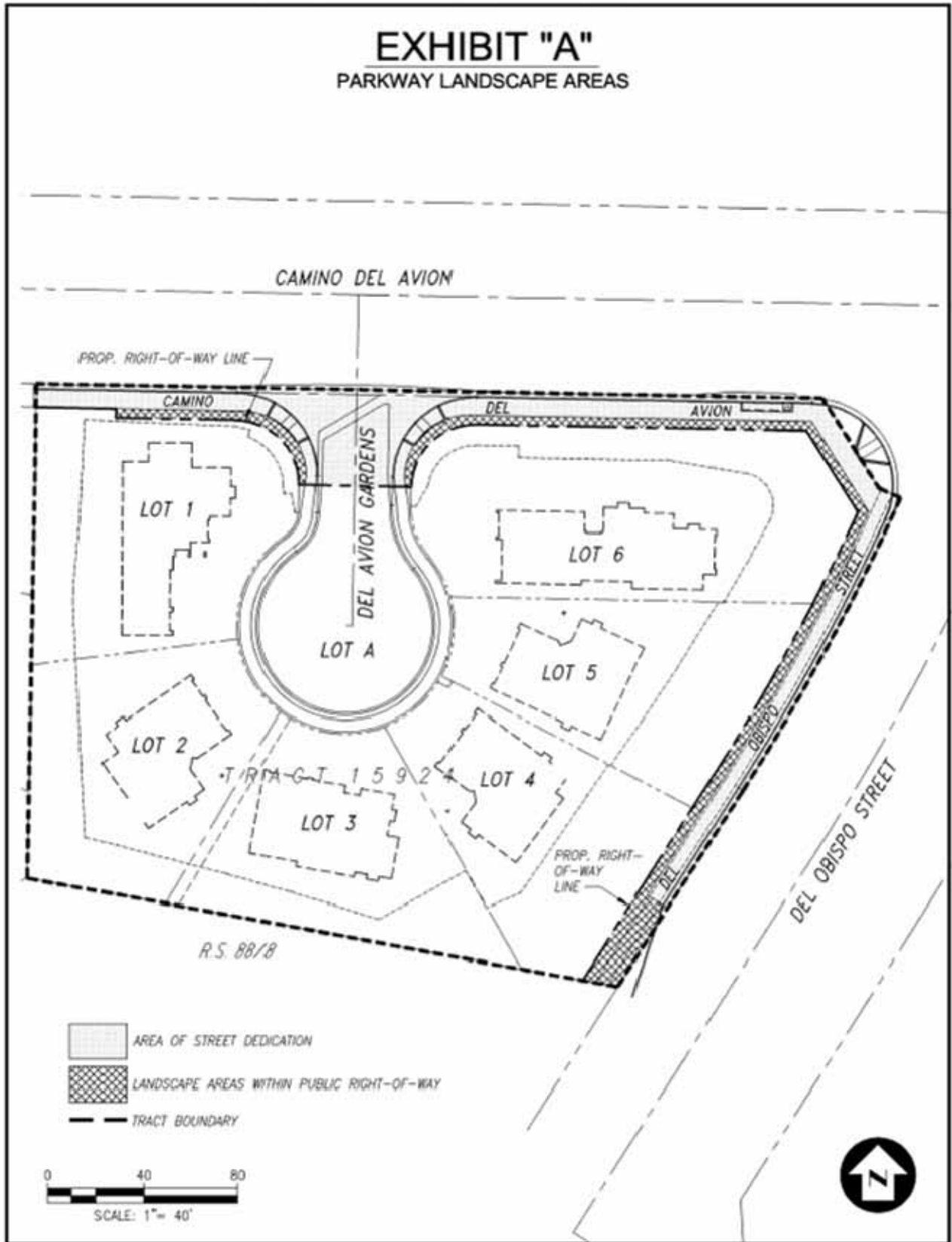
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2005, before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_ and \_\_\_\_\_  
\_\_\_\_\_, personally known to me (or proved  
to me on the basis of satisfactory evidence) to be the person whose names are subscribed to the  
within instrument and acknowledged to me that they executed the same in their authorized  
capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of  
which the persons acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)





**ATTACHMENT B OF RESOLUTION – Subdivision Improvements Agreement****SUBDIVISION IMPROVEMENT AGREEMENT**

THIS Subdivision Improvement Agreement (the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the City of Dana Point, a municipal corporation ("City") and NDA Development, LLC, (Subdivider").

**RECITALS**

A. On January 21, 2004, the City Council approved a tentative map for Tract No. 15924 (the "Property"). The final map is currently before the City Council and it is anticipated that it will be approved concurrently with this agreement. This agreement becomes effective upon the City's approval of the final map of the Property.

B. Subdivider is the owner of the Property.

C. Subdivider has delivered to City and City has approved plans and specifications and related documents for certain "Works of Improvement" (as hereinafter defined) which are required to be constructed and installed in order to accommodate the development of the Property.

D. Subdivider's agreement to construct and install the Works of Improvement pursuant to this Agreement and its offer of dedication of the public improvements and facilities, as shown on the final map for the Property, are a material consideration to City in approving the final map for the Property and permitting development of the Property to proceed.

**COVENANTS**

Based upon the foregoing Recitals and in consideration of City's approving the final map for the Property and permitting development of the Property to proceed, Subdivider agrees to timely perform all of its obligations as set forth herein.

**1. Construction Obligations**

1.1 Works of Improvement. Subdivider agrees to construct or install or cause to be constructed or installed the improvements (herein sometimes collectively referred to as the "Works of Improvement") identified in Exhibit "A" to this Agreement, in accordance with the plans and specifications and related documents listed, as the same may be supplemented and revised from time to time as set forth herein.

1.2 Other Obligations Referenced in Conditions of Tentative Map Approval. In addition to the foregoing, Subdivider shall satisfy all of the conditions of approval on the tentative map for the Property. The conditions of approval which have been satisfied prior to the date of this Agreement are identified in Exhibit "B" hereto.

1.3 Intent of Plans and Specifications. The intent of the plans and specifications referenced in paragraph 1.1 above is to prescribe a complete work of improvement which Subdivider shall perform or cause to be performed in a manner acceptable to the City Engineer (or his/her designee) and in full compliance with all codes and the terms of this Agreement. Subdivider shall complete a functional or operable improvement or facility, even though the plans and specifications may not specifically call out all items of work required for the contractor to complete its tasks, incidental appurtenances, materials, and the like. If any omissions are made of information necessary to carry out the full intent and meaning of the plans and specifications, Subdivider or its contractor shall immediately notify its design engineer who will seek approval of the City Engineer for furnishing of detailed instructions. In the event of any doubt or question arising regarding the true meaning of any of the plans, specifications, or related documents, reference shall be made to the City Engineer whose decision thereon shall be final.

Subdivider recognizes that the plans consist of general drawings. All authorized alterations affecting the requirements and information given on the plans shall be in writing and approved by the City Engineer. The plans shall be supplemented by such working or shop drawings as are necessary to adequately control the work. Without the City Engineer's prior written approval, no change shall be made by Subdivider or Subdivider's contractor to any plan, specification, or working or shop drawing after it has been stamped as approved.

1.4 Performance of Work. Subdivider shall furnish or cause to be furnished all materials, labor, tools, equipment, utilities, transportation, and incidentals required to perform Subdivider's obligations under this Agreement.

1.5 Changes in the Work. The City Engineer, without invalidating this Agreement and without notification to any of the sureties referenced in paragraph 4, may order extra work or may make changes by altering or deleting any portion of the Works of Improvement as specified herein or as deemed necessary or desirable by the City Engineer as determined necessary to accomplish the purposes of this Agreement and to protect the public health, safety, or welfare. It is mutually understood that it is inherent in the nature of the work contemplated by this Agreement that some changes in the plans and specifications and related documents may be necessary during the course of construction to adjust them to field conditions and to assure the protection of the public health, safety, and welfare. The City Engineer shall notify Subdivider or Subdivider's contractor in writing (by Correction Notice) at the time a determination has been made to require changes in the work. No field changes performed or proposed by Subdivider or its contractor shall be binding on City unless approved in writing by the City Engineer.

1.6 Defective Work. Subdivider shall cause its contractor to repair, reconstruct, replace, or otherwise make acceptable any work found by the City Engineer to be defective.

1.7 No Warranty by City. The plans and specifications and related documents for the Works of Improvement have been prepared by or on behalf of Subdivider or its consultants or contractors, and City makes no representation or warranty, express or implied, to Subdivider or to any other person regarding the adequacy of the plans or specifications or related documents.

1.8 Authority of the City Engineer. In addition to the authority granted to the City Engineer elsewhere in this Agreement, the City Engineer shall have the authority to decide all

questions which may arise as to the quality and acceptability of materials furnished and work performed, and all questions as to the satisfactory and acceptable fulfillment of the terms of this Agreement by Subdivider and Subdivider's contractor.

1.9 Documents Available at the Site. Subdivider shall cause its contractor to keep a copy of all approved plans and specifications and related documents at the job site and shall give access thereto to the City's inspectors and engineers at all times.

1.10 Inspection. Subdivider shall have an authorized representative on the job site at all times during which work is being done who has full authority to act for Subdivider, or his design engineer, and Subdivider's contractor(s) regarding the Works of Improvement. Subdivider shall cause its contractor to furnish the City with every reasonable facility for ascertaining whether or not the Works of Improvement as performed are in accordance with the requirements and intent of this Agreement, including the plans and specifications and related documents. If the City inspector requests it, the contractor at any time before acceptance of the Works of Improvement shall remove or uncover such portions of the finished work as may be directed which have not previously been inspected. After examination, the contractor shall restore said portions of the work to the standards required hereunder. Inspection or supervision by the City shall not be considered as direct control of the individual workmen on the job site. City's inspector shall have the authority to stop any and all work not in accordance with the requirements contained or referenced in this Agreement.

The inspection of the work by City shall not relieve Subdivider or the contractor of any obligations to fulfill this Agreement as herein provided, and unsuitable materials or work may be rejected notwithstanding that such materials or work may have been previously overlooked or accepted.

1.11 Compliance With Law. In addition to the express provisions of this Agreement and the plans and specifications and related documents, as the same may be supplemented and amended from time to time, Subdivider shall cause construction of the Works of Improvement to be completed in accordance with all other applicable federal, state, and local laws, ordinances, rules and regulations, including without limitation the applicable requirements of the most recently-adopted editions of the Uniform Building, Mechanical, Plumbing, Electrical, Fire, and other Codes, including all local amendments thereto, the City's Grading Ordinance, and the most recent edition of the "Standard Specifications for Public Works Construction." Subdivider shall not be responsible for complying with any changes to such laws, ordinances, rules, and regulations adopted after the commencement of construction of the improvement to which such change relates.

1.12 Suspension of Work. In case of suspension of work for any cause whatever, Subdivider and its contractor shall be responsible for all materials and shall store them properly if necessary and shall provide suitable drainage and erect temporary structures where necessary.

1.13 Erosion and Dust Control and Environmental Mitigation. All grading, landscaping, and construction activities shall be performed in a manner to control erosion and prevent flooding problems. The City Engineer shall have the authority to require erosion plans to prescribe reasonable controls on the method, manner, and time of grading, landscaping, and construction activities to prevent nuisances to surrounding properties. Plans shall include without limitation temporary drainage and erosion control requirements, dust control procedures, restrictions on truck and other construction traffic routes, noise abatement procedures, storage of materials and

equipment, removal of garbage, trash, and refuse, securing the job site to prevent injury, and similar matters.

1.14 Final Acceptance of Works of Improvement. After Subdivider's contractor has completed all of the Works of Improvement, the Subdivider shall then request a final inspection of the work. If items are found by the inspector to be incomplete or not in compliance with this Agreement or any or the requirements contained or referenced herein, City will inform the contractor of such items. After the contractor has completed these items, the procedure shall then be the same as specified above for the contractor's initial request for final inspection. If items are found by City's inspector to be incomplete or not in compliance after two (2) "final" inspections, City may require the contractor, as a condition to performing further field inspections, to submit in writing a detailed written statement of the work performed subsequent to the date of the previous inspection which was found to be incomplete or not in compliance at that time.

No inspection or acceptance pertaining to specific parts of the Works of Improvement shall be construed as final acceptance of any part until the overall final acceptance by City is made. Final acceptance shall not constitute a waiver by City of defective work subsequently discovered.

The date on which the Works of Improvement will be considered as complete shall be that date on which the City Council accepts the improvements and authorizes the City Clerk to file a Notice of Completion with respect thereto.

1.15 Certificates of Occupancy. Certificates of occupancy shall not be issued until the subdivider has completed all Works of Improvement to the satisfaction of the City Engineer. Temporary certificates of occupancy can be issued upon approval by the City Engineer and the Director of Community Development in the even the works of Improvement are not completed in time.

## 2. Time For Performance

2.1 Outside Completion Date. Subject to paragraphs 2.2 and 2.3 below, Subdivider shall complete or cause to be completed all of the Works of Improvement no later than \_\_\_\_\_ after the date of this Agreement first written above.

2.2 Phasing Requirements. Notwithstanding paragraph 2.1, City reserves the right to control and regulate the phasing of completion of specific Works of Improvement as required to comply with applicable City ordinances, regulations, and rules relating to the timely provision of public services and facilities. In addition to whatever other remedies City may have for Subdivider's failure to satisfy such phasing requirements, as the same now exist or may be amended from time to time, Subdivider acknowledges City's right to withhold the issuance of further building permits on the Property until such phasing requirements are satisfied. Prior to issuance of building permits, Subdivider shall provide satisfactory evidence that all applicable requirements that are a condition to issuance of building permits have been satisfied. Such requirements may include the payment of fees, construction of improvements, or both.

2.3 Force Majeure. Notwithstanding the provisions of paragraph 2.1 herein, Subdivider's time for completion of the Works of Improvement shall be extended for the period of any enforced delay caused due to circumstances beyond the control and without the fault of

Subdivider, including to the extent applicable adverse weather conditions, flood, earthquakes, strikes, lockouts, acts or failures to act of a public agency (including City), required changes to the Scope of Work required by City, and similar causes; provided, however, that the period of any enforced delay hereunder shall not include any period longer than thirty (30) days prior to City's receipt of a written notice from Subdivider or its Contractor detailing the grounds for Subdivider's claim to a right to extent its time for performance hereunder.

2.4 Continuous Work. After commencement of construction of the Works of Improvement (or separable portion thereof), Subdivider shall cause such work to be diligently pursued to completion, and shall not abandon the work for a consecutive period of more than thirty (30) days, events of force majeure accepted.

2.5 Reversion to Acreage. In addition to whatever other rights City may have due to Subdivider's failure to timely perform its obligations hereunder, Subdivider recognizes that City reserves the right to revert the Property to acreage subject to the limitations and requirements set forth in California Government Code Sections 66499.11-66499.20-3/4. In this regard, Subdivider agrees that if none of the Works of Improvement referenced herein have been made within two (2) years from the date of this Agreement or within the time allowed herein, whichever is the later, and if City thereafter initiates proceedings to revert the Property to acreage, any improvements made by or on behalf of Subdivider after the date City initiates such action shall not be considered in determining City's authority to revert the Property to acreage.

2.6 Time of the Essence. Time is of the essence of Subdivider's performance of all of its obligations under this Agreement.

### 3. Labor

3.1 Labor Standards. Subdivider shall be responsible for causing all contractors and subcontractors performing any of the Works of Improvement to comply with all applicable federal and state labor standards, including to the extent applicable the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor.

3.2 Nondiscrimination. Subdivider agrees that no contractor or subcontractor performing any of the Works of Improvement shall discriminate against any employee or prospective employee with respect to such work in hiring, promotion, seniority, or any other terms and conditions of employment on the grounds of race, creed, color, national origin, ancestry, religion, sex, or marital status.

3.3 Licensed Contractors. Subdivider shall cause all of the Works of Improvement to be constructed by contractors and subcontractors with valid California Contractors' licenses for the type of work being performed.

3.4 Workers' Compensation. Subdivider shall cause every contractor and subcontractor performing any of the Works of Improvement to carry Workers' Compensation Insurance as required by the Labor Code of the State of California and shall cause each such contractor and subcontractor to submit to City a Certificate of Insurance verifying such coverage prior to such contractor or subcontractor entering onto the job site.

#### 4. Security

4.1 Security to Guarantee Performance and Payment. At the time Subdivider executes this Agreement, Subdivider shall furnish to City bonds, letters of credit, or other security acceptable to City in its sole and absolute discretion (hereinafter "Security Instruments") as follows:

- (I) A Security Instrument securing Subdivider's faithful performance of all of the Works of Improvement, in the amount of one hundred percent (100%) of the estimated construction costs listed in paragraph 1.1 above.
- (ii) A Security Instrument guaranteeing the payment to contractors, subcontractors, and other persons furnishing labor, materials, and/or equipment with respect to the Works of Improvement in an amount equal to one hundred percent (100%) of the estimated construction cost referenced in paragraph 1.1 above.

This Agreement shall not be effective for any purpose until such Security Instruments are supplied to and approved by City in accordance herewith.

4.2 Security Instrument For Warranty Period. In addition to the Security Instruments referenced in paragraph 4.1 above, prior to the City Council's acceptance of the Works of Improvement and recordation of a Notice of Completion, Subdivider shall deliver a Security Instrument warranting the work accepted for a period of one (1) year following said acceptance, with the amount of such Security Instrument to be equal to twenty-five percent (25%) of the estimated construction cost set forth in paragraph 1.1 above or a suitable amount determined by the City Engineer.

4.3 Release of Security Instruments. City shall release the faithful performance Security Instrument upon Subdivider's written request upon acceptance of the Works of Improvement and Subdivider's delivery of the substitute Security Instrument warranting the work. City shall release the payment Security Instrument upon Subdivider's written request after the Works of Improvement have been accepted and after passage of the time within which lien claims are required to be made pursuant to Article 3 (commencing with Section 3114) of Chapter 2 of Title 15 of Part IV of Division 3 of the California Civil Code. If lien claims have been timely filed, City shall hold the payment Security Instrument until such claims have been resolved, Subdivider has provided a statutory bond, or otherwise as required by applicable law. City shall release the warranty Security Instrument upon Subdivider's written request upon the expiration of the warranty period, provided no claims are outstanding at that time regarding defective work.

4.4 Form of Security Instruments. All Security Instruments shall meet the following minimum requirements and otherwise shall be in a form acceptable to the City Attorney:

- (i) Bonds are to be submitted and approved as follows:
  - (1) Ensure that the proposed surety is authorized to transact surety insurance in the State of California,
  - (2) Verify that the bond amount will not exceed the difference between the proposed sureties' assets and liabilities,
  - (3) Ensure that the bonds reference specific improvements that are based upon a

City-approved cost estimate and are duly executed.

- (ii) Payments under the Security Instrument shall be required to be made (and, with respect to bonds, litigation shall be required to be instituted and maintained) in the County of Orange, State of California;
- (iii) Each Security Instrument shall have a minimum term of one (1) year after the deadline for Subdivider's completing the Works of Improvement, in accordance with paragraph 2.1 herein;
- (iv) The Security Instrument shall reference Subdivider's obligations under this Agreement, shall be irrevocable, and shall include as an additional obligation secured the responsibility to compensate City for all of City's attorney's fees and litigation expenses reasonably incurred in enforcing its rights under the Security Instrument.

## 5. Cost of Construction and Provision of Inspection Services

5.1 Subdivider Responsible for All Costs of Construction. Subdivider shall be responsible for payment of all costs incurred for construction and installation of the Works of Improvement. In the event Subdivider is entitled to reimbursement from City for any of the Works of Improvement, such reimbursement shall be subject to a separate Reimbursement Agreement to be entered into between Subdivider and City prior to construction of the works.

5.2 Payment To City For Cost of Related Inspection And Engineering Services. Subdivider shall compensate City for all of City's costs reasonably incurred in having its authorized representative make the usual and customary inspections of the Works of Improvement. In addition, Subdivider shall compensate City for all design, plan check, and engineering costs reasonably incurred by City in evaluating any proposed or agreed-upon changes in the work. The procedures for deposit and payment of such fees shall be as established by the City Council or, in the absence of such procedures, upon invoice by the Public Works or Community Development Department. In no event shall Subdivider be entitled to additional inspections or a final inspection and acceptance of any of the Works of Improvement until all City fees and charges have been fully paid, including without limitation charges for applicable penalties and additional required inspections. As described in 1.14, two (2) final inspections shall be deemed sufficient to complete the inspection procedure, however, if after the initial inspection and follow up inspection to review the punchlist, subsequent inspections are required, Subdivider agrees to pay the cost of the additional inspection. Also, if an inspection is necessary after two years from the date of this agreement, Subdivider agrees to pay the cost of that inspection. If, after the two year period of this Agreement, additional engineering services are required other than, or in addition to inspection, Subdivider agrees to pay the cost of those engineering services.

## 6. Acceptance of Offers of Dedication

The City Council shall pass an appropriate resolution or resolutions accepting all offers of dedication shown on the final map for the Property, with acceptance to become effective upon completion and acceptance of the Works of Improvement by City. Such resolution(s) shall

authorize the City Clerk to execute the Certificate made a part of the final map regarding said acceptance of the offer of dedication.

7. Warranty of Work

Subdivider shall guarantee all Works of Improvement against defective materials and workmanship for a period of one (1) year from the date of final acceptance. If any of the Works of Improvement should fail or prove defective within said one (1) year period due to any reason other than improper maintenance, or if any settlement of fill or backfill occurs, or should any portion of the Works of Improvement fail to fulfill any requirements of the plans or specifications, Subdivider, within fifteen (15) days after written notice of such defects, or within such shorter time as may reasonably be determined by the City in the event of emergency, shall commence to repair or replace the same together with any other work which may be damaged or displaced in so doing. Should Subdivider fail to remedy defective material and/or workmanship or make replacements or repairs within the period of time set forth above, City may make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by Subdivider.

The warranty provided herein shall not be in lieu of, but shall be in addition to, any warranties or other obligations otherwise imposed by law.

8. Default

8.1 Remedies Not Exclusive. In any case where this Agreement provides a specific remedy to City for a default by Subdivider hereunder, such remedy shall be in addition to, and not exclusive of, City's right to pursue any other administrative, legal, or equitable remedy to which it may be entitled.

8.2 City Right to Perform Work. In addition to whatever other rights or remedies it may have for Subdivider's default hereunder, in the event Subdivider shall fail to timely perform any work required to be performed under this Agreement and such failure shall continue for a period of thirty (30) days after receipt of written notice of default from City, or thereafter Subdivider shall fail to diligently pursue the cure of any such default to completion, City shall have the right to enter onto the Property and perform any of the uncompleted work by force account or contract or both and thereupon recover from Subdivider and the surety company, or both, the full cost and expense thereby incurred by City.

8.3 Attorney's Fees and Costs. In the event of any litigation arising out of Subdivider's performance of its obligations under this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief which may be granted, shall be entitled to recover its reasonable attorney's fees and costs. Such attorney's fees and costs shall include fees and costs on any appeal, and in addition a party entitled to attorney's fees and costs shall be entitled to all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs with respect to the litigation. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.



9. Indemnity

Subdivider shall indemnify, defend, and hold harmless City and City's officers, employees, and agents from and against any and all claims, liabilities, losses, damages, causes of action, and obligations arising out of Subdivider's failure to perform the construction and installation of the Works of Improvement in accordance with the requirements contained or referenced in this Agreement. Said indemnity obligation shall apply to personal injury, death, property damage, economic loss, and any other monetary damage or penalty to which City may be subjected.

10. General Provisions

10.1 Successors and Assigns. This Agreement shall be binding upon all successors and assigns to Subdivider's right, title, and interest in and to the Property and any portion thereof.

10.2 No Third Party Beneficiaries. This Agreement is intended to benefit only the parties hereto and their respective successors and assigns. Neither City nor Subdivider intend to create any third party beneficiary rights in this Agreement in any contractor, subcontractor, member of the general public, or other person or entity.

10.3 Entire Agreement; Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof, except as may be expressly provided herein. All waivers of the provisions of this Agreement must be in writing and signed by an authorized representative of the party to be charged, and all amendments hereto must be in writing and signed by the appropriate representatives of both parties.

CITY OF DANA POINT

By: \_\_\_\_\_  
JOEL BISHOP, MAYOR

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
KATHY WARD, CITY CLERK

“SUBDIVIDER”

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

It's \_\_\_\_\_

By: \_\_\_\_\_

It's \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

**CITY OF DANA POINT  
PUBLIC/PRIVATE IMPROVEMENT AGREEMENT**

DATE OF AGREEMENT: \_\_\_\_\_

NAME OF DEVELOPER: NDA DEVELOPMENT, LLC.

NAME OF SUBDIVISION: DEL AVION GARDENS

TRACT NO.: 15924

TENTATIVE MAP RESOLUTION

APPROVAL NO.: 04-01-21-03

IMPROVEMENT PLAN NO.: TRACT NO. 15924

ESTIMATED TOTAL COST OF IMPROVEMENTS: **\$835,531.95**

NAME OF SURETY AND BOND NO. FOR LABOR AND MATERIALS BOND:

\_\_\_\_\_

NAME OF SURETY AND BOND NO. FOR FAITHFUL PERFORMANCE BOND:

\_\_\_\_\_

NAME OF SURETY AND BOND NO. FOR WARRANTY BOND:

\_\_\_\_\_

COST ESTIMATE FOR BONDING PURPOSES  
TENTATIVE TRACT 15924 (DEL AVION GARDENS)  
CITY OF DANA POINT

Off-Site Improvements

SUMMARY

<i>Works of Improvement</i>	<i>Cost/Bond Amount</i>
Public Street Improvements within the City of Dana Point	\$49,764.00
Landscaping	\$49,194.32
<b>Sub-total</b>	<b>\$98,958.32</b>
10% contingency	\$9,895.83
<b>GRAND TOTAL</b>	<b>\$108,854.15</b>

On-Site Improvements

SUMMARY

<i>Works of Improvement</i>	<i>Cost/Bond Amount</i>
Private Street Improvements within the City of Dana Point	\$22,790.00
Grading	\$306,738.00
Storm Drain/Drainage Improvements	\$55,722.00
Erosion Control	\$10,082.50
Verdura 40 Retaining Wall	\$123,200.00
Retaining Walls (other)	\$227,700.00
Sewer Improvements	\$14,240.00
Water Improvements	\$22,785.00
<b>Sub-Total</b>	<b>\$783,257.50</b>
10% Contingency	\$78,325.75
<b>GRAND TOTAL</b>	<b>\$861,583.25</b>

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 Email toalengineer@earthlink.net

RAYMOND R. TOAL, RCE 16889  
 OLAV S. MEUM, LS 4384  
 MICHAEL A. ROTH, LS 6211

PERMITTAL **4** Preliminary Construction Cost Estimate  
 SEP 09 2004 Rough Grading Plan for  
 Tract 15924  
 Dana Point, California  
 PLAN CHK No. **02-425** Job No. 11050

**City of Dana Point Permit no. 02-425**

Item	Description	Estimated Quantity	Unit	Unit Price	Amount
<u>Earthwork</u>					
	Excavation	16100	cy	\$5.50	\$88,550.00
	Embankment	1400	cy	\$5.50	\$7,700.00
	Overexcavation & recompaction	9600	cy	\$9.00	\$86,400.00
	Export	13415	cy	\$9.25	\$124,088.75
	Subtotal				\$306,738.75
<u>Site Improvements</u>					
1	Construct 12" v-ditch	440	lf	\$10.00	\$4,400.00
2	Construct Verdura 40 retaining wall (see below, permit no 04-0270)				
3	Construct retaining wall (see below, permit no 04-0271)				
	Subtotal				\$4,400.00
<u>Drainage</u>					
21	Install subdrain	1130	lf	\$30.00	\$33,900.00
22	Install 4" pipe drain system	540	lf	\$12.00	\$6,480.00
23	Install 6" pipe drain system	80	lf	\$12.00	\$960.00
24	Construct drain assembly	9	ea	\$250.00	\$2,250.00
25	Construct outlet through curb	13	ea	\$500.00	\$6,500.00
26	Install cleanout	2	ea	\$16.00	\$32.00
27	Construct pipe slope anchor	4	ea	\$300.00	\$1,200.00
	Subtotal				\$51,322.00

Erosion Control

1	Silt fence	650	lf	\$1.60	\$1,040.00
2	Gravel bags	900	ea	\$1.10	\$990.00
3	Stabilized construction entrance	1250	sf	\$1.25	\$1,562.50
4	Temporary desilting basin	1	ea	\$2,500.00	\$2,500.00
5	Hydroseeding	19950	sf	\$0.20	\$3,990.00
	Subtotal				\$10,082.50
Estimated Construction Cost					\$372,540.00
10% Contingency					\$37,250.00
<b>Total Estimated Construction Cost</b>					<b>\$409,790.00</b>

**City of Dana Point Permit no. 04-0270**

Item	Description	Estimated Quantity	Unit	Unit Price	Amount
-	Construct Verdura 40 retaining wall	7000	sf	\$16.00	\$112,000.00
Estimated Construction Cost					\$112,000.00
10% Contingency					\$11,200.00
<b>Total Estimated Construction Cost</b>					<b>\$123,200.00</b>

**City of Dana Point Permit no. 04-0271**

Item	Description	Estimated Quantity	Unit	Unit Price	Amount
-	Construct retaining wall	6,900	sf	\$30.00	\$207,000.00
Estimated Construction Cost					\$207,000.00
10% Contingency					\$20,700.00
<b>Total Estimated Construction Cost</b>					<b>\$227,700.00</b>

**Public Improvements to be constructed within City of San Juan Capistrano**

Item	Description	Estimated Quantity	Unit	Unit Price	Amount
1	Construct 5" AC / 12" AB	8230	sf	\$2.25	\$18,517.50
12	Install 18" RCP 2000D	60	lf	\$70.00	\$4,200.00
13	Construct concrete collar	1	ea	\$500.00	\$500.00
14	Relocate electric box	2	ea	(see SDG&E plans)	
15	Construct Type I curb ramp	1	ea	\$1,000.00	\$1,000.00
16	Remove exist inlet & plug line	1	ea	\$300.00	\$300.00
17	Remove local depression	1	ea	\$400.00	\$400.00
18	Remove a.c. pavement & sidewalk	7420	sf	\$1.50	\$11,130.00
19	Relocate traffic signal pole	1	ea	(see traffic plans)	
13	Relocate traffic signal box	2	ea	(see traffic plans)	
21	Install street light	1	ea	(see traffic plans)	
22	AC resurface for storm drain	1200	sf	\$2.25	\$2,700.00
23	Relocate power pole & guy wire	1	ea	(see SDG&E plans)	
24	Adjust utility to finish grade	1	ea	\$1,000.00	\$1,000.00
27	Relocate fire hydrant	1	ea	(see sewer & water plans)	
28	Construct 8" a.c. curb	35	ea	\$6.00	\$210.00
29	Remove interfering portions of 18" RC	45	lf	\$15.00	\$675.00
Subtotal Estimated Construction Cost (City of San Juan Capistrano)					<b>\$40,633.00</b>
Contingency (10%)					\$4,063.00
Grand Total (Street Improvements)					<b>\$44,696.00</b>



*Raymond R. Toal*  
7/13/04

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 OLAV S. MEUM, LS 4384  
 MICHAEL A. ROTH, LS 6211

SUBMITTAL **2**

JUL 13 2004

PLAN CHK No.

**04-0187**

**Preliminary Construction Cost Estimate**  
 for Public and Private Street Improvements  
 for  
**Tract 15924, City of Dana Point, California**  
 Job No. 11050

**Public Improvements to be constructed within City of Dana Point**

Item	Description	Estimated Quantity	Unit	Unit Price	Amount
2	Construct min. 3" AC / 3" AB	640	sf	\$2.40	\$1,540.00
3	Construct 8" curb & gutter	500	lf	\$13.00	\$6,500.00
6	Construct barrier curb, 6" to 8"	110	lf	\$15.00	\$1,650.00
7	Construct 4" p.c.c. sidewalk	4100	sf	\$4.00	\$16,400.00
8	Construct Type II curb ramp	2	ea	\$1,000.00	\$2,000.00
9	Construct special cross gutter	1340	sf	\$7.50	\$10,050.00
10	Construct local depression	1	ea	\$1,300.00	\$1,300.00
11	Construct Type II inlet	1	ea	\$3,500.00	\$3,500.00
25	Construct 4" pvc sidewalk underdrain	11	ea	\$150.00	\$1,650.00
26	Remove exist. retaining wall	65	sf	\$10.00	\$650.00
Subtotal Estimated Construction Cost					<b>\$45,240.00</b>
Contingency (10%)					\$4,524.00
Total					<b>\$49,764.00</b>

**Private Improvements to be constructed within City of Dana Point**

Item	Description	Estimated Quantity	Unit	Unit Price	Amount
2	Construct min. 3" AC / 3" AB	5170	sf	\$2.40	\$12,410.00
4	Construct 6" rolled curb	230	lf	\$19.00	\$4,370.00
5	Construct curb transition	30	lf	\$19.00	\$570.00
7	Construct 4" p.c.c. sidewalk	1360	sf	\$4.00	\$5,440.00
Subtotal Estimated Construction Cost					<b>\$22,790.00</b>
Contingency (10%)					\$2,279.00
Total					<b>\$25,069.00</b>



**Supporting Document B – Planning Commission Staff Report**

CITY OF DANA POINT  
PLANNING COMMISSION  
AGENDA REPORT

ITEM #3

ORIGINAL

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**DATE:** JANUARY 21, 2004

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT

**SUBJECT:** TENTATIVE TRACT MAP TTM 15924 (I) AND MINOR SITE DEVELOPMENT PERMIT SDP00-06(M)(I) TO ALLOW AMENDMENTS TO A PREVIOUSLY APPROVED TRACT MAP AND SITE RETAINING WALLS AND SITE DEVELOPMENT PERMIT SDP03-04 TO ALLOW THE CONSTRUCTION OF A TWO (2) STORY SINGLE-FAMILY RESIDENCE ON EACH OF THE SIX (6) LOTS WITH RELATED IMPROVEMENTS TO THE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF DEL OBISPO AND CAMINO DEL AVION

(FF# 0600-10/TTM 15924 (I), SDP03-04, & SDP00-06(M)(I)/32741 Del Obispo) [KN]

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**RECOMMENDATION:** That the Planning Commission adopt the attached Resolution approving Tentative Tract Map TTM 15924 (I), Minor Site Development Permit SDP00-06(M)(I), and Site Development Permit SDP03-04.

**APPLICANT:** Paul Douglas

**OWNER:** N.D.A Development

**REQUEST:** A request to amend a previously approved tract map and site retaining walls. Minor adjustments to lot lines and sizes are proposed, but the number of lots (6) remains the same. Site retaining walls are being reconfigured to step the rear walls back adjacent to the Del Obispo Street and Camino Del Avion rights-of-way at a maximum of six (6) feet. Site Development Permit SDP03-04 is requested to allow the construction of a two (2) story single-family residence on each of the six (6) lots. All residences are two (2) stories and range in area from 3,433 to 4,049 square feet.

**LOCATION:** 32741 Del Obispo, APN: 673-191-02

**NOTICE:** Notices were mailed to property owners within 500 feet of the site.

**ENVIRONMENTAL:** A Negative Declaration was previously adopted by the Planning Commission during the original approval of the tentative tract map on April 4, 2001, in accordance with Section 15070 of the California Environmental Quality Act (CEQA). Since there have not been significant changes to the plans that would change any of the impacts of the project the previously approved Negative Declaration is valid and no amendments to the document are required.

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**ISSUES:**

1. Is the proposal consistent with the City's adopted General Plan and the Dana Point Specific Plan?
2. Is the proposal compatible with and an enhancement to the surrounding neighborhood and City?
3. Does the project satisfy all the findings required pursuant to the City's Zoning Code for approving a Tentative Tract Map and Minor Site Development Permit amendment and a Site Development Permit?

**BACKGROUND:** The 2.1 acre project site is located at the southwest corner of Del Obispo Street and Camino Del Avion bounded on the north and east by the City of San Juan Capistrano. The site still contains a single-family residence, which will be demolished as the property is developed. The site is surrounded by single-family development to the north, south, east, and west. Additionally, Del Obispo Elementary School is located caddie corner to the site across the Del Obispo Street and Camino Del Avion intersection. The subject site is designated on the City's Zoning Map as Residential Single Family 4 DU/AC (RSF 4) and is designated Residential 3.5-7 DU/AC in the City's General Plan Land Use Element.

The Planning Commission approved Tentative Tract Map TTM 15924 and Minor Site Development Permit SDP00-06(M) on April 4, 2001 permitting the subdivision of the subject site into six (6) numbered lots and a lettered lot for the private street to access the new lots. The Minor Site Development Permit allowed the construction of a six (6)-foot high retaining wall on the slope facing Del Obispo Street with the acknowledgement that additional retaining walls would be needed to create the pads for the residences once designs for them had been established. A request for a one (1) year extension for the project was received by the Community Development Department on March 31, 2003. The Acting Community Development Department Director granted the extension validating the approval through April 4, 2004.

**DISCUSSION:** The owners are proposing modifications to the original tract map regarding the lot sizes and the split-level pads previously approved. The owner has also proposed another design for the retaining walls facing the public streets. In addition, the applicant is now submitting for approval of the designs of the homes for each of the six (6) lots created by the subdivision. The proposal includes landscaping improvements for each of the homes and the proposed slopes created and supported by the redesigned retaining walls.

**TENTATIVE TRACT MAP AMENDMENT**

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Tentative Tract Map 15924 allowed the subdivision of one lot into six (6) numbered and a lettered lot for vehicular access. The original approval permitted split level pads, but now the owners are seeking approval to develop the residences on single pads on the three (3) lots facing Del Obispo Street and to slightly increase the pads on the remaining lots. The table below chronicles the proposed changes to the pads:

PAD HEIGHT COMPARISON		
	Original Pads upper/lower	Proposed Pad
Lot 1	139.0'	141.0'
Lot 2	142.0'	143.0'
Lot 3	143.0'	142.0'
Lot 4	141.0'/138.0'	140.0'
Lot 5	141.0'/138.0'	139.5'
Lot 6	139.0'/137.0'	138.5'

The setback plan originally approved for the subdivision articulated maximum building height elevations for each of the six (6) lots. It is important to note that the building height elevations for each of the proposed residences are below those indicated on the original setback plan approved by the Planning Commission.

In addition to the change in pads, the original lot sizes have been changed. The new lots all meet the minimum lot size, width, and depth requirements as required by the RSF 4 Zoning designation. The table below summarizes the changes between the original proposal and the amended tentative tract map.

LOT SIZE COMPARISONS						
	Original Lot Size	Proposed Lot Size	Original Lot Width	Proposed Lot Width	Original Lot Depth (avg.)	Proposed Lot Depth (avg.)
Lot 1	8,535 sf	10,244 sf	108'	78'	73'	86'
Lot 2	8,497 sf	8,708 sf	38'	37'	92'	91'
Lot 3	8,496 sf	8,706 sf	47'	47'	104'	106'
Lot 4	10,083 sf	8,816 sf	30'	33'	122'	121'
Lot 5	10,090 sf	9,023 sf	34'	35'	152'	141'
Lot 6	15,346 sf	13,659 sf	102'	55'	173'	155'

Another change to the previous approvals is the design and maintenance responsibility of the proposed public sidewalk and other improvements adjacent to the public right-of-way. Since the existing tract boundary is adjacent to the curb of the streets, Camino Del Avion and Del Obispo, and both are under the jurisdiction of the City of San Juan

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Capistrano, the public sidewalk will be located entirely on the applicants' property and not City property. Previously, the Public Works and Engineering (PW&E) Department required that the former applicant be responsible for the maintenance of the newly proposed sidewalks on those streets and the approval was conditioned that way. The property has since been sold and the new owners are requesting that they be allowed to construct the sidewalks and that the City assume the maintenance for the sidewalks. The Public Works Department is agreeable to this request because it will allow the City to maintain the same design on contiguous parcels as they are developed and/or new sidewalks are constructed.

Additionally, the applicant has redesigned the retaining walls at the request of the City in order to provide a landscape parkway and retaining walls that step back from the public street. The four (4) foot landscape areas adjacent to the sidewalk will be dedicated to the City and a Landscaping, Irrigation and Maintenance Agreement between the homeowner's association and the City of Dana Point for landscaping and irrigation located in the public right-of-way will be required.

As was previously conditioned, a landscape easement is also included in the current proposal. The slopes that surround the tract adjacent to Camino Del Avion and Del Obispo will be included in the easement area as well as slopes along the eastern and southern tract boundaries. Responsibility for maintenance of these areas will lie solely with the homeowners' association.

Conditions of approval are included from the City of San Juan Capistrano regarding improvements in the street rights-of-way. The same conditions were included in the previous approval and have been included in the draft resolution approving the amendments to Tentative Tract 15924. As was required in the previous approval, vehicular movements into and out of the tract will be limited to right turns only. Vehicles wanting to head west on Camino Del Avion out of the tract, or wanting to turn left into the tract from the west bound side of Camino Del Avion will have to make u-turns at the intersection of Camino Del Avion and Del Obispo, and Evans Pointe respectively. Signs will be required to inform drivers of the turning limitations into and out of the tract.

**MINOR SITE DEVELOPMENT PERMIT**

Because the lot has steep slopes retaining walls were needed to create the pads and stabilize the site for development. The previous approval for the walls allowed for walls as high as ten (10) feet on Lots 4, 5, and 6, with even higher walls along the tract boundaries on Lots 1, 2, and 3.

Along Camino Del Avion and Del Obispo two (2) verdura type retaining walls are proposed at a height of six (6) feet each. The first retaining wall will be placed four (4) feet back from the edge of the proposed sidewalk to allow for the planting of trees and

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other vegetation to assist in screening the wall. The second retaining wall will be placed above the first with a two (2) foot landscaped strip between the retaining walls providing landscaping for additional screening of the wall. To ensure that the walls are visually screened Staff has included conditions of approval requiring that the verduera walls be stained an earthen color immediately after construction, immediate planting of the landscaping strips, and the submission of a growth schedule from the developer to ensure that the landscape screening is progressing in a prudent manner.

The current proposal also includes a retaining wall along the western and southern tract boundaries at the rear of Lots 1, 2, and 3. This retaining wall ranges in height from four (4) feet to 14 feet. Because this wall is located at the rear of the aforementioned lots, only small portions of the wall will be visible to publicly accessible areas. The higher portions of the retaining wall will be shielded by the proposed residences and not be visible. Staff has, however, conditioned the project requiring sections of the wall visible from public view be provided with landscaped screening. Due to the fact that a majority of this retaining wall will be screened by the residences and that the visible portions will be outfitted with landscaped screening Staff is recommending approval of this retaining wall.

As was mentioned in the previous approval, a retaining wall is now proposed at the top of the slope for Lots 4, 5, and 6. The proposed retaining wall will be attached to caissons, and will be a maximum of six (6) feet in height. This wall will be finished with plaster matching the proposed residences and will also be outfitted with three (3) foot high tempered glass atop the wall. This wall is decorative as compared to the other retaining walls; outfitted with decorative expansion joints and borders providing relief to the wall. Staff has conditioned that the wall be decorative commensurate with Partial Elevation - C on Sheet A-1 of the architectural drawings.

**SITE DEVELOPMENT PERMIT**

As is required for development of homes within a tract, a Site Development Permit is required for the proposed residences. The proposed residences are two (2) - stories and meet all of the development standards of the RSF 4 Zoning District. As opposed to the previous proposal which provided less than required structural setbacks due to an improper application of the Zoning Code, the current proposal meets all of the required setbacks of the RSF 4 District. Each of the residences are proposed to be constructed to the maximum height limit of 26 feet for roofs with a pitch of 3/12 or greater but less than 6/12. The proposed residences all feature roofs with 4/12 pitches.

The architecture utilizes California Contemporary elements incorporating arched window openings and tile roofing. The finish exterior materials for each of the residences includes clay tile roofing, crown molding type fascias, typical wood fascias, cement plaster with integral color (earthen tones), wrought iron railings, and white vinyl frames. The residences will incorporate high quality materials and landscaping of the


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front yards is shown on the preliminary landscape plan, that also address the plantings to be included on the slopes and around the project retaining walls.

**CONCLUSION:**

Based on the above analysis, Staff has determined that the required findings can be made and recommends that the Planning Commission approve Tentative Tract Map TTM 15924(I), Minor Site Development Permit SDP00-06(M)(I), and Site Development Permit SDP03-04 to allow changes to the original tract map and to the retaining walls and to permit the construction of a single-family residence on each of the six (6) lots.

  
Kurth B. Nelson III  
Consultant – Project Manager

  
Kyle Butterwick  
Director of Community Development

**ACTION DOCUMENTS:**

1. Draft Planning Commission Resolution

**SUPPORTING DOCUMENTS:**

2. Location Map

**EXHIBITS**

- A. Submitted Plans

**Supporting Document C – Location Map**



**Supporting Document D – Subdivision Map Act Sections, Pertinent Sections**FINAL TRACT MAP 15924  
**SUBDIVISION MAP ACT/STATUS OF COMPLIANCE**

Date Prepared: March 30, 2005

Address: 32741 Del Obispo Street

**CITY OF DANA POINT  
Subdivision Map Act****Tract map/Final Map Procedures for Condominium Conversions  
(And other Final Map/Tract map Requirements)****Chapter 1, Article 1: General Provisions:**1. 66416.5: City Engineer defined, survey maps; contracting out

- (b) A City Engineer is authorized to process maps if registered before January 1, 1982.
- (c) Nothing contained in this section shall prevent a City Engineer from delegating the land surveyor function to a person authorized to practice land surveying.

***The City Engineer lawfully delegates the land surveyor function to the County of Orange Land Surveyor.***

**Chapter 2, Article 1: General Provisions:**2. 66426: Names types of projects requiring tentative and final maps; cites exclusions

A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, a community apartment project containing five or more parcels, or the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any one of the following occurs:

- (a) The land before the division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required by the legislative body.
- (b) Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway.
- (c) The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the



approval of the governing body as to street alignments and widths.

- (d) Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.
- (e) Until January 1, 2003, the land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2.
- (f) A tract map shall be required for those subdivisions described in subdivisions (a), (b), (c), (d), and (e).

***The proposed tract will be subdivided into six (6) new lots and does not fall under any of the circumstances described in Subsection (a), (b), (c), (d), or (e). Therefore, a final map is required.***

3. 66426.5: Conveyance of land to a public entity is not considered a division of land

Any conveyance of land to a governmental agency, public entity, public utility or subsidiary of a public utility for conveyance to that public utility for right-of-way shall not be considered a division of land for purposes of computing the number of parcels. For purposes of this section, any conveyance of land to a governmental agency shall include a fee interest, a leasehold interest, an easement, or a license.

***The dedications included in this tract map have not been considered a division of land as described above. Therefore, the City and the applicant are in compliance with this section.***

4. 66429: Only final and tract maps to record

Of the maps required by this division, only final and tract maps may be filed for record in the office of the county recorder.

***The map in question is a Final Tract Map, and therefore, shall be recorded in the office of the County Recorder as described above.***

5. 66430: Written consent of record owners to file map required

No final map or tract map required by this chapter or local ordinance which creates a subdivision shall be filed with the local agency without the written consent of all parties having any record title interest in the real property proposed to be subdivided, except as otherwise provided in this division.

***All record owners have signed the title sheet of the Final Tract Map. Therefore, the City is in compliance with this section.***

6. 66431: County surveyor may perform city engineer duties  
 Upon mutual agreement of their respective legislative bodies, the county surveyor may perform any or all of the duties assigned to the city engineer, including required certifications or statements. Whenever these duties have been divided between the county surveyor and city engineer, each officer shall state the duties performed by him or her.

***The City Engineer and County Surveyor statements on the title sheet of the final map clearly depict the duties performed by each person. Therefore, the City is in compliance with this section.***

### Chapter 2, Article 2 – Final Maps:

7. Section 66434: Establishes persons qualified to prepare Final Map and established standards for preparation

The Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall be based upon a survey, and shall conform to all of the following provisions:

A – G; (See Section for specifics)

***The Final Map was prepared by Olav S. Meum, Land Surveyor License Number 4384, expiring September 30, 2009. Therefore, the City has verified compliance with this section.***

8. Section 66434.1: Requires acknowledgement of owner's development lien on Final Map

In the event that an owner's development lien has been created pursuant to the provisions ... or portion thereof subject to the Final Map, a notice shall be placed on the face of the Final Map...

***The applicant has submitted a current title report and a subdivision guarantee demonstrating that a developer's lien does not exist. Therefore, this section does not apply.***

9. 66434.2: Local ordinance may require additional information to be filed or recorded simultaneously with Final Map or Tract map

..., a city or county may, by ordinance, require additional information to be filed or recorded simultaneously with a Final Map or Tract map.

10. ***The Dana Point Municipal Code does not require any additional information to be filed or recorded simultaneously with the Tract Map. However, in this case, two agreements are being processed with the Final***

**Tract Map. 66435: Certificates, statements and acknowledgements required on Final Map**

Prior to filing, those certificates, statements and acknowledgements set forth in this article appear on the Final Map and may be combined where appropriate.

***All required information has been included on the Final Tract Map.***

11. **66440: Legislative body approval stamp required**

The Final Map shall contain a certificate or statement for execution by the clerk of each approving legislative body...

***A statement of execution for the clerk of San Juan Capistrano and Dana Point have been included on the title sheet of the final map. Multiple dedications to each agency are occurring with the recordation of the Final Tract Map. Therefore, the City is in compliance with this section.***

12. **66441: Engineer or Surveyor statement required**

A statement by the engineer or surveyor responsible for the survey and Final Map is required. His or her statement shall give the date of the survey, state that the survey and Final Map were made by him or her or under his or her direction, and that the survey is true and complete as shown.

***The Final Tract Map contains a statement as described in this section. Therefore, the City has verified compliance with this section.***

13. **66442: County surveyor or city engineer statements on Final Maps**

- (a) .... If a subdivision lies within a city, a certificate or statement by the city engineer or city surveyor is required. The appropriate official shall sign , date, and, below or immediately adjacent to the signature, indicate his or her registration or license number with expiration date and state that:
1. He or she has examined the map.
  2. The subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof.
  3. All provisions of this chapter and of any local ordinances applicable at the time of approval of the tentative map have been complied with.
  4. He or she is satisfied that the map is technically correct.
- b. City or County engineers registered as civil engineers after January 1, 1982 shall only be qualified to certify statements of paragraphs 1, 2, and 3 of subdivision a. The statement specified in paragraph 4 shall only be certified by a person authorized to practice land surveying pursuant to the Professional Land Surveyor's Act...

***The City Engineer meets the requirements to sign for items 1-3. However, the County Surveyor's Statement satisfies item 4. Therefore, the City has verified compliance with this section.***

14. 66442.5: Statement required on Final Map (Duplicated in 66449 for Tract map)

The following statements shall appear on a Final Map:

- a. Engineer's (surveyor's) statement
- b. Recorder's certificate or statement

***These statements are included on the Final Map. Therefore, the City has verified compliance with this section.***

**Chapter 2, Article 3 – Tract maps:**

15. 66445: Establishes persons qualified to prepare Tract maps and establishes standards for preparation

The Tract map shall be prepared by, or under the direction of, a registered engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property, and shall conform to the following provisions:

(a – j)

(See Section for details)

***The Final Tract Map has been prepared by a registered civil engineer and complies with the requirements of this section.***

16. 66450: County surveyor (or City Engineer's) statement

- (a) .... If a subdivision lies within a city, a certificate or statement by the city engineer or city surveyor is required. The appropriate official shall sign , date, and, below or immediately adjacent to the signature, indicate his or her registration or license number with expiration date and state that:
  5. He or she has examined the map.
  6. The subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof.
  7. All provisions of this chapter and of any local ordinances applicable at the time of approval of the tentative map have been complied with.
  8. He or she is satisfied that the map is technically correct.

- (b) City or County engineers registered as civil engineers after January 1, 1982 shall only be qualified to certify statements of paragraphs 1, 2, and 3 of subdivision a. The statement specified in paragraph 4 shall only be certified by a person authorized to practice land surveying pursuant to the Professional Land Surveyor's Act...

***The City Engineer has signed the City Engineer's Certificate on the title page of the map. Said certificate addresses the items above in 66450(a)(5-7). The County of Orange has reviewed the map for technical accuracy per Section 66450(a)(8), and a copy of the approval letter from the County Surveyor was included in this staff report. Therefore, the City has verified compliance with this section.***

### Chapter 3, Article 2 – Tentative Maps:

17. 66452.1: Action required by agency within 50 days

- b. If the advisory agency is authorized by local ordinance to approve, conditionally approve, or disapprove a tentative map, it shall take that action within 50 days after filing thereof...

***The City acted within the specified time limits. Therefore, the City is in compliance with this section.***

18. 66452.3: Staff reports to be served on subdivider and tenants prior to hearing

Any report or recommendation on a tentative map by the staff of a local agency ... shall be in writing and a copy thereof served on the subdivider...

***City staff served the subdivider with a copy of the staff report recommending approval of the tentative map. Therefore, the City is in compliance with this section.***

19. 66452.4: No action by local agency to be deemed as approval

If no action is taken upon a tentative map by an advisory agency which is authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map or by the legislative body within the time limits specified in this Chapter ..., shall be deemed approved...

***The City acted on the tentative map within the specified time limits. Therefore, the City has verified compliance with this section.***

20. 66452.6: Term of tentative map approvals; effect of moratoriums and lawsuits upon approval time limits; extensions of time

- a.1. An approved or conditionally approved tentative map shall expire 24

months after its approval or conditional approval, or after an additional period of time as may be described by local ordinance, not to exceed an additional 12 months. However, if the subdivider is required to expend \$178,000 or more to construct, improve, or finance the construction of improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property and which are reasonably related to the development of that property, each filing of a Final Map authorized by Section 66456.1 shall extend the expiration of the approved or conditional approved tentative map by 36 months ...

d. ...Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map...

***The Conditionally Approved Tentative Map expiration was ultimately approved to August 5, 2007. Filing of the map was performed prior to the conditionally approved tentative map expiration date. The map was in process at the time of expiration. Therefore, recording may lawfully occur after the date of expiration.***

### **Chapter 3, Article 3 – Review of Tentative Map by other agencies**

#### **21. 66455.7: Review by school districts; time limits for transmittal of tentative maps and recommendations**

Within five days of a tentative map application being determined to be complete pursuant to Section 65943, the local agency shall send a notice of the determination to the governing board of an elementary school, high school, or unified school district within the boundaries of which the subdivision is proposed to be located.

***The City sent out notifications as described above. Therefore, the City has verified compliance with this section.***

### **Chapter 3, Article 4 – Final Maps**

#### **22. 66456.2: Improvement plans, time limits to act, extensions**

a. An improvement plan being processed in conjunction with either an approved tentative, parcel or Final Map shall be prepared by a registered civil engineer and acted on within 60 working days of its submittal, except that at least 15 working days shall be provided for processing any resubmitted improvement plan. The 60 day working day period shall not include any days during which the improvement plan has been returned to the applicant for correction, ...

***The grading and retaining wall plans, street improvement plans, and traffic control plans have been reviewed and approved by the Public Works and***

***Engineering Department and the review occurred within the specified time limits. Additionally, the landscaping and irrigation plans have been reviewed and approved by the Public Works and Engineering Department and the Community Development Department. Therefore, City staff has verified compliance with this section.***

23. 66457: Effective date of Final Map or Tract map filing

a. A Final Map or Tract map conforming to the approved or conditionally tentative map, if any, may be filed with the legislative body for approval after all required certificates or statements on the map have been signed and, where necessary, acknowledged.

***All appropriate signatures have been obtained. Therefore, the City has verified compliance with this section.***

24. 66458: Time limit on map approvals by legislative body; delegation to city or county engineer

- (a) The legislative body shall, at the meeting at which it receives the map or, at its next regular meeting after the meeting at which it receives the map, approve the map if it conforms to all the requirements of this chapter and any local subdivision ordinance applicable at the time of approval or conditional approval of the tentative map and any rulings made thereunder. If the map does not conform, the legislative body shall disapprove the map.
- (b) If the legislative body does not approve or disapprove the map within the prescribed time, or any authorized extension thereof, and the map conforms to all requirements and rulings, it shall be deemed approved, and the clerk of the legislative body shall certify or state its approval thereon.

***Per the Planning Department, the Final Tract Map conforms to the Tentative Tract Map. City staff has assured compliance with this section by placing the item on the agenda as instructed.***

25. 66462: Improvement agreements between subdivider and local agency; delegation to designated official

- (a) If, at the time of approval of the Final Map by the legislative body, any public improvements required by the local agency pursuant to this division or local ordinance have not been completed and accepted in accordance with standards established by the local agency by ordinance applicable at the time of the approval or conditional approval of the tentative map, the legislative body, as a condition precedent to the approval of the final map, shall require the subdivider to enter into one of the following agreements specified by the local agency:

- (1) An agreement with the local agency up on mutually agreeable terms to thereafter complete the improvements at the subdivider's expense.
- (2) An agreement with the local agency to thereafter do either of the following:
  - (A) and (B)...
  - (See section for details)
- (b) See section for details
- (c) The local agency entering into any agreement pursuant to this section shall require that performance of the agreement be guaranteed by the security specified in Chapter 5 (commencing with Section 66499).
- (d) See section for details

***The applicant proposes to enter into a Subdivision Improvement Agreement with the City pending approval by City Council of the Final Tract Map. The appropriate bonds have been collected. Therefore, the City has verified compliance with this section.***

26. 66462.5 Approval of final map cannot be refused because of offsite improvement requirements on land not belonging to subdivision or local agency

A city, county, or city and county shall not postpone or refuse approval of a final map because the subdivider has failed to meet a tentative map condition which requires the subdivider to construct or install offsite improvements on land in which neither the subdivider nor the local agency has sufficient title or interest, including an easement or license, at the time the tentative or final map is filed with the local agency, to permit the improvements to be made...

***The City has not conditioned the project as described. Therefore, compliance with this section has been verified.***

### Chapter 3, Article 6 – Filing Maps with County Recorder

27. 66464: City clerk to transmit to county recorder

(a) Unless otherwise provided by the county, if the final map or parcel map is not subject to Section 66493, after the approval by the city of a final map of a subdivision or a parcel map, the city clerk shall transmit the map to the county recorder.

***The City Clerk shall transmit the approved map to the County Recorder in accordance with this section.***



28. 66465: Subdivider to provide recorder with evidence of record title interests at the time of recording

(a) The subdivider shall present to the county recorder evidence that, at the time of the filing of the Final Map or Parcel map in the office of the county recorder, the parties consenting to such filing are all of the parties having a record title interest in the real property being subdivided ...

***The City Clerk shall ensure that a current title report is transmitted concurrently with the approved Tract Map to the County Recorder.***

29. 66468: Filing by recorder determines the validity of the map

The filing for record of a final or parcel map by the county recorder shall automatically and finally determine the validity of such map and when recorded shall impart constructive notice thereof.

***The City Clerk shall ensure that a current title report is transmitted concurrently with the approved Final Tract Map to the County Recorder.***

#### Chapter 4, Requirements, Article 1 – General

30. 66473: Disapproval of Final Map for failure to meet requirements or conditions

A local agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by this division or local ordinance enacted pursuant thereto; provided that a Final Map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative map; ...

***All pertinent Conditions of Approval have been met. Therefore, City staff has verified compliance with this condition, and recommends approval.***

31. 66473.5: Subdivision must be consistent with general plan or specific plan

(See Section for specifics)

***Approval of the tentative map illustrates consistency with the general plan or specific plan, per the Planning Department. Therefore, City staff has verified compliance with this section.***

32. 66474: Grounds for denial of tentative or Tract map

A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

(See Section for a-g)

***Planning Commission Resolution No. 04-01-21-03 dated January 21, 2004, demonstrates that the proposed Final Tract Map did not include any of the items listed in sections a-g. Therefore, the City has verified compliance with this section.***

33. 66474.1: Final or parcel map must be approved if in substantial compliance with approved tentative map

A legislative body shall not deny approval of a Final Map or Tract map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final or Tract map is in substantial compliance with the previously approved tentative map.

***The Final Tract Map has been found to be in substantial compliance with the Tentative Tract Map. Therefore, per this section, City staff recommends that the City Council approve the Final Tract Map.***

#### Chapter 4, Requirements, Article 5 – Fees

34. 66483: Local ordinance may impose fees for storm drainage and sanitary sewer offsite improvements

***Will serve letters from the South Coast Water District have been submitted and are on file. The Municipal Code provides for a fee as described in this section. Therefore, the City has verified compliance with this section.***

35. 66484: Local ordinance may impose fee for construction of bridges and major thoroughfares

***No bridges or major thoroughfares are proposed as part of this project. Therefore, this section does not apply to the subject tract map.***

#### Chapter 4, Requirements, Article 7 – Soils Report

36. 66490/66491: Preliminary Soils Report required for every subdivision/Local ordinance may provide for waiver of soils report or may require additional reports if soil problems are encountered; agency engineer may require additional information

***A soils report was submitted with both the Tentative Tract Map and Final Tract Map. Therefore, the City has verified compliance with this section.***

#### Chapter 4, Requirements, Article 8 – Taxes and Assessments

37. 66492: Subdivider shall file a statement indicating that there are no liens against subdivision for unpaid taxes or special assessments

Prior to the filing of the Final Map or Parcel Map with the legislative body, the subdivider shall, in accordance with procedures established by the county, file with county recorder of the county in which any part of the subdivision is located, a certificate or statement from the official computing redemptions in any public agency in which any part of the subdivision is located, showing that, according to the records of that office, there are no liens against the subdivision or any part thereof for unpaid, state, county, municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

***The County Treasurer shall sign the Final Tract map certifying this prior to recordation at the County of Orange. Therefore, the City has verified compliance with this section.***

#### Chapter 4.5 – Development Rights

38. 66498.4: Right of property owner to seek approvals

Notwithstanding any provision of this chapter, a property owner or his or her designee may see approvals or permits for development ...

***The developer has already obtained approval for the grading and retaining wall plans, the street improvement plans, the signing and striping plans, and the traffic control plans. However, the developer has not yet pulled any of the permits.***

#### Chapter 5 – Improvement Security

39. 66499: Local agency may specify types of security

a. Whenever this division or a local ordinance authorizes or requires the furnishing of security..., the security shall be one of the following, subject to the approval of the local agency:

(1-5; See Section for details)

***The applicant has prepared a Subdivision Improvement Agreement with the City and has bonded for the grading, retaining walls, and public improvements. Said agreement is included herein and recommended for approval as part of the resolution. Therefore, the City has verified compliance with this section.***

**Supporting Document E– Final Tract Map No. 15924 Conditions of Approval**

TENTATIVE TRACT MAP 15924

**Conditions of Approval/Status of Compliance**

Date Prepared: January 24, 2005

Address: 32741 Del Obispo Street

**A. General:**

1. Approval of this application is to allow amendments to a previously approved tract map and site retaining walls and to allow the construction of a two (2) story single-family residence on each of the six (6) lots with related improvements located at 32741 Del Obispo. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the City Council, and in compliance with the applicable provisions of the Dana Point General Plan, the Dana Point Specific Plan Local Coastal Program and the Dana Point Zoning Code.

***The developer has complied with this condition.***

2. Approval of this application is valid for a period of twenty-four (24) months from the date of determination. If the development approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.

***The TTM approval was ultimately extended to August 5, 2007. The developer submitted the Final Map for an approval in a timely manner prior to the expiration date. State law allows the processing and recordation of the Final Map to lawfully occur after the after expiration of the Tentative Map per Subdivision Map Action Section 66452.6 (d).***

3. The application is approved as a precise plan for the location and design of the uses, structures, features, and materials, shown on the approved plans. Any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plot plan, he may approve the

amendment without requiring a new public hearing.

***The developer has complied with this condition.***

4. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.

***The developer has complied with this condition.***

5. The applicant, and applicant's successors, heirs, and assigns, shall protect, defend, indemnify, and hold harmless the City, its officers, employees, and agents from any claim, action, or proceeding against the City, its officers, employees, or agents to attack, set aside, void, or annul the approval granted by this Resolution, which action is brought within the appropriate statute of limitations period.

The applicant, and the applicant's successors, heirs, and assigns, shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the applicant or the applicant's agents employees, or contractors.

***The developer has submitted a letter of indemnification which shall remain in the project file. Therefore the developer has complied with this condition.***

6. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.

***The developer has complied with this condition.***

7. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.

***All fees due at this time have been paid. Therefore, the developer has complied with this condition.***

8. The construction site shall be posted with signage indicating that construction shall not commence before 7:00 a.m. and shall cease by 8:00 p.m., Monday through Saturday; no construction activity shall be permitted on Sundays and federal holidays.

***This condition shall be verified in the field by the Building Inspector. Grading operations however, are governed by Section 8.01.250 of the Dana Point Municipal Code. The hours of operation for grading are 7am to 5pm Monday through Friday. The Public Works Inspector has and shall continue to verify this condition is met in the field.***

9. The hours of operation of equipment that produces significant noise or levels noticeably above general construction noise shall be limited to occur between 10:00 a.m. and 4:00 p.m.

***This condition shall be verified in the field by the Public Works and Building inspector during future construction operations. This condition is not applicable at this time.***

10. The applicant shall obtain all applicable permits for the proposed improvements.

***The applicant is in compliance with this condition, and City staff will assure necessary permits are processed during the construction of the development.***

11. Areas within the subject site where grading and construction activities occur that generate dust shall be watered at least twice daily.

***This condition has and shall continue to be verified in the field by the Public Works and Building inspector during construction operations.***

12. All excavating and grading operations shall be suspended when wind speeds (as instantaneous gusts) exceed 25 mph.

***The Public Works Inspector has and shall continue to verify this condition is met in the field.***

13. All trucks hauling dirt, sand, soil, or other loose materials shall be covered or should maintain at least two feet of freeboard (i.e., minimum vertical distance between the top of the load and the top of the trailer) in accordance with the requirements of CVC Section 23114.

***The Public Works Inspector has and shall continue to verify this condition is met in the field. Additionally, the developer was required to secure a transportation/haul route permit prior to commencing grading operations. Therefore, at this time the developer has complied with this condition.***

14. The applicant shall comply with South Coast Air Quality Management District Rules 402 and 403, to ensure that fugitive dust levels do not exceed significance thresholds and that there is no nuisance impact offsite, the contractor shall do the following:
- a. Moisten soil not more than 15 minutes prior to excavating or moving soil and conduct whatever watering is necessary to prevent visible dust emissions from extending beyond the project site boundaries.
  - b. Apply chemical stabilizers to disturbed surface areas (completed grading areas) within five days of completing grading or apply dust suppressants or vegetation sufficient to maintain a stabilized surface.
  - c. Water open storage piles hourly or cover with temporary coverings.
  - d. Water exposed surfaces at least twice a day under calm conditions and as often as needed on windy days when winds are less than 25 miles per hour or during very dry weather in order to maintain a surface crust and prevent the release of visible emissions from the construction site.
  - e. Wash mud-covered tires and under-carriages of trucks leaving construction sites.
  - f. Provide for street sweeping, as needed, on adjacent roadways to remove dirt dropped by construction vehicles or mud that would otherwise be carried off by trucks departing project sites.
  - g. Cover loads securely with a tight fitting tarp on any truck leaving the construction site to dispose of excavated soil or debris.
  - h. Cease grading during periods when winds exceed 25 miles per hour.

***The Public Works Inspector has and shall continue to verify this condition is met in the field.***

15. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. The applicant shall provide erosion control measures and shall construct temporary desiltation/detention basins of a type, size and location as approved by the Director of Public Works. The basins and erosion control measures shall be shown and specified on the grading plan and shall be constructed to the satisfaction of the Director of Public Works prior to the start of any other grading operations. Prior to the removal of any basins or erosion control devices so constructed, the area served shall be protected by additional drainage facilities, slope erosion control measures and other methods as may be required by the Director of Public Works. The applicant shall maintain the temporary basins and erosion control devices until the Director of Public Works approves of the removal of said facilities.

***Desiltation/detention basins and erosion control measures are shown on the grading plans as specified above. These measures have been implemented during the construction phase of the project. Therefore, the developer has complied with this condition.***

16. Original signatures on all geotechnical reports/responses are required by the City. Staff should confirm that original signatures are obtained for City files prior to issuance of permits.

***All geotechnical responses have included original signatures. Therefore the developer has complied with this condition.***

17. Separate review, approval, and permits are required for:
- Demolition of structures
  - Retaining wall
  - Fire Sprinklers
  - Swimming Pools/Spas
  - Separate Structures
  - Site wall over three (3) feet.

***The Public Works and Engineering Department and the Planning Department have approved the site retaining wall designs. Building Plans have not yet been submitted by the developer. Therefore, the Building Department will verify compliance with the applicable sections of this condition at the appropriate time.***

**B. Prior to approval of the final map, or issuance of a grading permit the applicant shall meet the following conditions:**

18. The applicant shall submit a 1" = 100' reproducible scale map of the subdivision to the Engineering Department. Said map shall show all lots and streets within, and adjacent to the project.

***The developer has complied with this condition***

19. The surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18.

***The developer has submitted a letter from the Orange County Surveyor's office which states the map is in compliance with the sections mentioned above.***

20. The surveyor/engineer preparing the map shall submit to the County



Surveyor and to the Director of Public Works, a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18.

***The developer has submitted digital files of the Final Tract Map to the City and therefore has complied with this condition.***

21. All existing and proposed easements shall be shown and labeled on the final map. The map shall also include a note to identify any easements proposed to be vacated with the map.

***The developer has shown all existing and proposed easements and dedications on the Final Tract Map. Therefore, the developer has complied with this condition.***

22. The applicant shall submit a construction area traffic control plan for review and approval by the City of Dana Point's Director of Public Works and San Juan Capistrano's City Engineer for affected public right-of-way. The plan shall be designed by a registered civil engineer and shall address traffic control for any street closure, detour or other disruption to traffic circulation. The plan shall provide for adequate traffic controls and/or detours to allow existing roads to remain open to traffic at all times, unless otherwise approved by the Directors of Public Works.

***The Dana Point Public Works and Engineering Department has approved the traffic control plans. Also, the City of San Juan Capistrano Public Works Department has approved the construction area traffic control plan. Therefore the developer has complied with this condition.***

23. The following improvements shall be constructed in accordance with plans and specifications meeting the approval of the Director of Public Works. At the discretion of the Director of Public Works, security may be provided to the City in lieu of constructing the facilities:
  - a. All required streets and street improvement appurtenances, street names, street signs, street lights, roadway striping, red curbing and stenciling on roadways within the map and outside the map boundaries, if required.
  - b. All required drainage improvements.
  - c. The water distribution system and appurtenances which shall also conform to the applicable laws and adopted regulations enforced by the County Fire Chief.
  - d. Sewer distribution system and appurtenances.
  - e. Monumentation.
  - f. Undergrounding of any existing overhead utilities located on site.

***The developer has submitted and received approval for construction plans for all of the aforementioned improvements by both the City of Dana Point and the City of San Juan Capistrano.. Therefore the developer has complied with this condition.***

24. A note shall be placed on the final map, or a notice recorded with the map that states:

"The private streets constructed within this map shall be owned, operated, and maintained by the applicant, successors or assigns. The City of Dana Point shall have no responsibility therefore unless pursuant to appropriate sections of the Streets and Highways Code of the State of California, the said private streets have been accepted into the City Road System by appropriate Resolution of the City Council of the City of Dana Point."

***This note is included on the Final Tract Map. Therefore, the developer has complied with this condition***

25. The final map shall reflect the dedication of a 14' right of way to the City of Dana Point, located adjacent to the existing right-of-way along Camino Del Avion and Del Obispo, as shown on the approved tentative map.

***The Final Tract Map depicts this right-of-way. Therefore, the developer has complied with this condition.***

26. All street names shall be submitted for review and approval by the Director of Community Development and the Orange County Fire Department.

***The developer has complied with this condition.***

27. Private street structural sections shall be subject to review and approval by the Director of Public Works.

***The Public Works and Engineering Department has reviewed and approved all private street structural sections. Therefore, the developer has complied with this condition***

28. The applicant shall obtain approval of street improvement plans for all proposed street improvements to be installed at the property frontage along Camino Del Avion and Del Obispo. The improvements shall be designed and securities posted in accordance with City standards and shall be subject to review and approval by the Director of Public Works. Street improvement plans shall be prepared on standard size sheets by a registered civil engineer. Standard plan check and

inspection fees shall be paid by the applicant. Street improvement plans shall include signatures from the Community Development Department, South Coast Water district and the City of San Juan Capistrano. Improvement Permits shall not be issued prior to the recordation of the final map. The improvements shall be constructed and accepted for maintenance by the City Council, upon recommendation of the Director of Public Works, prior to the issuance of a Certificate of Occupancy for any unit within the project.

Public works improvements are required as follows:

- a) Street Trees: The installation of approximately 9 Eucalyptus Ficifolia, 36" box, spaced at 25' stations along Del Obispo, subject to review and approval by the City of Dana Point Parks Manager. The installation of street trees along Camino Del Avion may be required at the discretion of the City of Dana Point Parks Manager.
- b) Curb, Gutter, Sidewalks and Parkway: The construction of curb, gutter, 8' wide sidewalks, and 4' parkway along Camino Del Avion and Del Obispo as shown on the approved tentative map.
- c) Roadway widening and bike lane improvements: The construction of a bike lane along Del Obispo and the widening of existing roadway facilities along Del Obispo and Camino Del Avion, as shown on the approved tentative map.

***The street improvements plans have been approved by the Public Works and Engineering Department and modifications to the landscaping plan have been made per the request of the City Parks Manager. The Planning Department has also given approval for these plans. Therefore the developer has complied with this condition***

29. All private streets shall have a minimum pavement width of 32 feet and a minimum easement of 48 feet as shown on the approved tentative map, and shall be approved by the Director of Public Works.

***The street improvement plans have been approved by the Public Works and Engineering Department. Therefore, the developer has complied with this condition.***

30. The applicant shall submit "will serve" letters from the applicable water and sewer districts.

***Will serve letters from South Coast Water District and San Juan Capistrano are on file with the Public Works and Engineering Department. Therefore, the developer has complied with this condition.***

31. Utility easements shall be provided to the specifications of the appropriate utility companies and subject to review and approval by the Director of Public Works.

***All necessary easements have been shown on the Final Tract Map. Therefore, the developer has complied with this condition.***

32. At least 90 days prior to the approval of a final map, the applicant shall submit a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) and Articles of Incorporation of the Owners' Association for review and approval by the Director's of Public works and Community Development and the City Attorney. The CC&Rs shall be recorded with the final map and shall include:
  - a. A statement that prohibits amendment of the document without review and approval by the City Attorney and the Director's of Public Works and Community Development.
  - b. Provisions which prohibit any obstructions within any fire protection access easement and shall also require approval of the Fire Chief for any modifications such as speed bumps, control gates, or changes in parking plans within said easement.
  - c. Reflect common access easements, and maintenance accessways, parking areas, landscaping and grounds by the parties common to the CC&Rs.
  - d. An acceptable means for maintaining the private improvements and easements within the subdivision and all the streets, sidewalks, streetlights, storm drain facilities located therein, and ensuring for adequate liability of such easements and improvements and to distribute the cost of such maintenance and liability in an equitable manner among the owners of the units within the subdivision.
  - e. All concrete terrace drains shall be maintained by the Owners' Association (if on commonly owned property) or the individual property owner (if on an individually owned lot). An appropriately worded statement clearly identifying these responsibilities shall be placed in the CC&Rs.
  - f. Practical materials will be provided to the first residents on general good housekeeping practices that contribute to protection of storm water quality. Initially these materials will be available through the co-permittee's education program.
  - g. Provide environmental awareness education materials, made available by the City of Dana Point, to all members periodically. These materials will describe the use of chemicals (including household type) that should be limited to the property, with no discharge of specified wastes via hosing or other direct discharge to gutters, catch basins, and storm drains.
  - h. Require implementation of trash management and litter control

procedures in all common areas, aimed at reducing pollution of drainage water. The Homeowners' Association may contract with landscape maintenance firms to provide this service during regularly scheduled maintenance, which shall consist of litter patrol, emptying of trash receptacles in common areas, and noting trash disposal violations by homeowners and reporting the violations to the Association for investigation.

- i. Require privately owned catch basins to be inspected and, if determined necessary by the Director of Public Works, cleaned prior to the storm season, no later than October 15th of each year.
- j. Shall require privately owned streets and parking lots to be swept prior to the storm season, no later than October 15th of each year.
- k. Tentative Tract Map TTM 15924 is subject to approval by the City Council. The Final Map must be in substantial compliance with the tentative map, as determined by the Director of Community Development and the Director of Public Works. If the final is approved, the map shall be recorded with the Office of the County Recorder, in accordance with Section 7.24.035 of the City Subdivision Code.
- l. An easement shall be shown on the final map showing the location and size of the common landscaped areas along Del Obispo and Del Avion. A note shall be included stating that these landscaped areas shall be properly landscaped in accordance with the landscape plan approved by the City of Dana Point and shall be properly maintained in a healthy manner, and shall remain as common landscaped area and open space in perpetuity.

***The CC&Rs have been reviewed by the City Attorney's Office, the Public Works and Engineering Department, and the Planning Department. Approvals from all three departments have been received and are on file with the Public Works and Engineering Department. Therefore, the developer has complied with this condition***

33. The applicant shall submit a construction area traffic control plan for review and approval by the Director of Public Works and the City of San Juan Capistrano. The plan shall be designed by a registered civil engineer and shall address traffic control for any street closure, detour or other disruption to traffic circulation. The plan shall provide for adequate traffic controls and/or detours to allow existing City roads that require improvements to remain open to traffic at all times, unless otherwise approved by the Director of Public Works.

***The developer has submitted said plan and it has been approved by the City of Dana Point's Traffic Engineer. Also, the City of San Juan Capistrano has approved said plans. Therefore, the developer has complied with this condition.***

34. Prior to the design of any of the above plans, the applicant shall contact the Transportation Engineering Division and the City of San Juan Capistrano for the appropriate design requirements, and comply with their standards.

**The developer has complied with this condition.**

35. An encroachment permit application and fee shall be filed with the City, and a permit issued, prior to the commencement of any improvements within the public right-of-way.

**This condition is not applicable at this time. However, the developer shall comply with said condition prior to commencement of any work in the public right-of-way.**

36. All lots fronting on an arterial or local collector and siding onto a local street shall take vehicular access from the local street.

**The developer has complied with this condition.**

37. Prior to the issuance of any grading or building permits for projects that will result in soil disturbance of one or more acres of land, the applicant shall demonstrate that coverage has been obtained under California's General Permit for Stormwater Discharges Associated with Construction Activity by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) Number, or other proof of filing, submitted to the Director of Public Works. Projects subject to this requirement shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). A copy of the current SWPPP shall be kept at the project site and be available for City review on request.

***A copy of the notice of intent has been placed in the project file. Therefore the applicant is in compliance with this condition.***

38. Grading activities, including any removal and hauling operations, shall be limited to the hours between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding any Federal holidays. The applicant shall submit a "Haul and Route" plan for review and approval by the Director's of Public Works and Community Development.

***The Public Works Inspector has and shall continue to verify this condition is met in the field. Also, the applicant shall be required to obtain a transportation/haul route permit prior to commencing grading operations. At this time, this condition is not applicable.***

39. The applicant shall submit erosion control plans for all slopes adjacent

to major arterial and local collector roadways for review and approval by the Director of Public Works.

***Erosion control plans were submitted as part of the grading plans. They have been reviewed and approved by the Public Works & Engineering Department and the Planning Department. Therefore, the developer has complied with this condition.***

40. The applicant shall submit a complete hydrology and hydraulic study, prepared by a qualified engineer, for review and approval by the Director of Public Works and the City of San Juan Capistrano.

***The Public Works and Engineering Department has approved the hydrology and hydraulics study. Therefore, the developer has complied with this condition.***

41. The applicant shall submit a grading/retaining wall/drainage plan, in compliance with City standards, for review and approval by the Director of Public Works. All grading work must be in compliance with the approved plan and completed to the satisfaction of the Director of Public Works. All slopes within this project shall be graded no steeper than 2:1, unless otherwise approved by the Director of Public Works. No grading permits shall be issued prior to recordation of the final map.

The verdura retaining walls adjacent to Camino Del Avion and Del Obispo Street shall be stained an earthen color immediately and be planted upon completion of construction.

***The grading and retaining wall plans have been approved by the Public Works and Engineering Department and the Planning Department. Therefore, the developer has complied with this condition.***

42. The grading/ retaining wall/drainage plan shall include the following notes:
- a. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.
  - b. All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
  - c. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

***These notes have been included on the title sheet of the grading plans. Therefore the developer has complied with this condition.***

43. The applicant shall submit a geotechnical report for review and

approval by the Director of Public Works. This report will primarily involve assessment of potential soil related constraints and hazards such as slope instability, settlement, liquefaction, or related secondary seismic impacts, where determined to be appropriate by the Director of Public Works. The report shall also include an evaluation of potentially expansive soils and recommend construction procedures and/or design criteria to minimize the effect of these soils on the proposed development. All reports shall recommend appropriate mitigation measures and be completed in the manner specified by the Orange County Grading Manual and Orange County Subdivision Ordinance.

***The developer has complied with this condition.***

44. The applicant shall submit a final landscape and irrigation plan for review and approval by the Public Works Department and Community Development Department. The plan shall be prepared by a State licensed landscape architect and shall include all proposed and existing plant materials (location, type, size, quantity), an irrigation plan, a grading plan, an approved site plan and a copy of the entitlement conditions of approval. The plan shall be in substantial conformance with the applicable provisions of the Zoning Code, the landscape plan reviewed and approved by the Planning Commission and recognize the principles of drought tolerant landscaping.

The applicant shall execute and record a Landscaping, Irrigation and Maintenance Agreement with the City of Dana Point for landscaping and irrigation located in the public right-of-way, including parkways along street frontage.

A growth schedule shall be submitted by the developer immediately upon installation of the landscaping in the four (4) foot landscaping strip and for the species used to screen the verdure retaining wall, and on the slope easement areas. Failure to meet the growth schedule will require additional plantings or new species that will achieve the required screening and assist in slope stability

***The final landscape plan has been reviewed and approved by the Park's Manager and the Planning Department. A Landscaping, Irrigation and Maintenance Agreement with the City of Dana Point has been provided for approval. Said agreement is to be recorded at the County of Orange concurrently with the Final Tract Map. Also, per the requirements of this condition, the developer shall submit a growth schedule. Therefore, the developer has complied with this condition.***

45. The applicant shall pay all grading and related improvements plan check and permit issuance fees.



***The developer has paid all applicable plan check and permit issuance fees and has complied with this condition.***

**C. At submittal for plan check to the Building Division:**

46. Building plan check submittal shall include 2 sets of the following construction documents:
- Building Plans (3 sets)
  - Energy calculations
  - Structural Calculations
  - Soils/geology report
  - Drainage Plan

***The Building Department shall verify this condition prior to acceptance of any building submittals.***

47. The cover sheet of the building construction documents shall contain a blue-line print of the City's conditions of approval and it shall be attached to each set of plans submitted for City approval or shall be printed on the title sheet verbatim.

***The Building Department and case Planner shall verify this condition prior to issuance of any building permits.***

48. Buildings shall comply with local and State building code regulations, including 2001 CBC Series.

***The Building and Planning Departments shall verify this condition prior to issuance of any building permits.***

49. Proof of all approvals from applicable outside departments and agencies is required, including the Orange County Fire Authority (OCFA).

***The Building and Planning Departments shall verify this condition prior to issuance of any building permits.***

50. Fire Sprinkler system is required. (All new residential; all commercial over 6000 s.f.)

***The Building and Planning Departments shall verify this condition prior to issuance of any building permits.***

51. Building address shall be located facing street fronting property. Addresses shall be 6" high with 1" stroke and of noncombustible, contrasting materials.

***The Building and Planning Departments shall verify this condition prior to issuance of any building permits.***

52. A minimum roofing classification of type "A" is required.

***The Building and Planning Departments shall verify this condition prior to issuance of any building permits.***

53. Undergrounding of all on-site utilities is required.

***The Building and Planning Departments shall verify this condition prior to issuance of any building permits.***

54. Foundation system to provide for expansive soils and soils containing sulfates unless a soils report can justify otherwise. Use Type V cement, w.c. ration of 0.45, F'c of 4,500 psi.

***The Building and Planning Departments shall verify this condition prior to issuance of any building permits.***

**D. Prior to issuance of a building permit or release on certain related inspections, the applicant shall meet the following conditions:**

55. The applicant shall submit, to the Community Development Department, a reproducible 24" x 36" mylar copy of the recorded final map as approved by the City Council and recorded with the Office of the County Recorder. The final map shall reflect all the conditions of approval and state on the cover sheet the Project File No. Tract No. 15924 Resolution No. 04-01-21-03.

***The applicant has submitted a mylar copy of said map as described above. Once the City Council approves and executes the Final Tract Map, it will be sent to the office of the County Recorder for recordation. The City will receive a copy of said map for its files, once recorded.***

56. All street lights shall be of a quality that meets City standard, installed in compliance with City standards and dedicated to the City at the discretion of the Director of Public Works.

***The street lights are shown on the street improvement plans which have been reviewed and approved by the Public Works and Engineering Department. However, maintenance of the street lights within the tract shall remain that of the Homeowner's Association. The developer has complied with this condition.***

57. All grading and improvements on the subject property shall be made in accordance with the Grading Ordinance and to the satisfaction of the

Director of Public Works. Grading shall be in substantial compliance with the tentative tract map and the proposed grading that is approved by the Planning Commission. Surety to guarantee the completion of the project grading and drainage improvements, including erosion control, shall be posted to the satisfaction of the Director of Public Works and the City Attorney.

***The grading and improvement plans have been reviewed and approved by the Public Works and Engineering Department and the Planning Department. Surety has been secured for all improvements. Therefore, the developer has complied with this condition.***

58. A rough grade certification is required from the Director of Public Works by separate submittal.

***The Public Works Inspector and the Building Clerk shall verify this condition is met. However, at this time, the condition is not applicable.***

59. Prior to the release of the footing inspection, the applicant shall submit certification, by survey or other appropriate method, that the structure will be constructed in compliance with the dimensions shown and in compliance with the setbacks of the applicable zoning district.

***The Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

60. Prior to issuance of building permits, the applicant shall submit evidence to the satisfaction of the Community development Director that all residential dwellings shall be designed to be sound attenuated against present and project noise, which shall be the sum of all the noise impacting the project, so as not to exceed an exterior standard of 65dB CNEL in outdoor living areas and an interior standard of 45dB CNEL in a habitable room. Evidence, prepared by a City-certified acoustical engineer, that these standards will be satisfied in a manner consistent with the applicable zoning regulations shall be submitted. An acoustical analysis report describing the acoustical design features of the structure required to satisfy the exterior and interior noise standards shall be submitted to the Director of Community Development for review and approval along with satisfactory evidence which indicates that the sound attenuation measures specified in the approved reports have been incorporated into the design of the project.

***The Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

61. Prior to issuance of the building permit, the applicant, property owner, or successor of interest shall prepare a waste management plan, which shows how construction materials will be recycled. The site plan shall show the location of receptacles(s) to accumulate refuse generated on-site for recycling purposes as a result of demolition or construction.

Said waste management plan shall be submitted to the Public Works and Engineering Department for review and approval.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

62. The applicant shall provide all required information and obtain necessary approvals to satisfy the requirements of 9.05.240 of the Dana Point Municipal Code regarding the "Art in Public Places" program, if applicable.

***The Planning Department shall verify that this condition is met. At this time however, the condition is not applicable.***

63. Prior to the release of the roof sheathing inspection, the applicant shall submit certification, by a survey or other appropriate method, that the height of the structure is in compliance with the dimensions shown, and the height limitations approved by Site Development Permit SDP03-04. A written report certifying the above shall be prepared by the applicant and submitted to the Building Department.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

64. The applicant shall submit payment for any and all applicable school, water, sewer, Transportation Corridor, and Coastal Area Road Improvement and Traffic Signal fees.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

65. All plan check and building permit fees shall be paid to the City of Dana Point.

***All fees have been paid to date. Therefore, the developer is in compliance with this condition.***

66. Mailboxes shall be plotted and shown in detail on the site plans and shall be designed, installed, and located by the applicant to the satisfaction of the Director of Community Development and Director of Public Works.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

67. The applicant shall obtain all necessary permits and approvals from the applicable sewer district and pay the applicable sewer fees.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

**E. Prior to the issuance of a certificate of occupancy or during operation of the project the applicant shall meet the following:**

68. All street signage and striping shall be installed and applied per the approved signage and striping plan.

***The Public Works Inspector shall verify this condition. However, at this time, the condition is not applicable.***

69. The applicant shall provide "stop" controls at the intersection of local streets with arterials streets as directed by the Director of Public Works and the City of San Juan Capistrano. During grading and construction operations a temporary "Stop" sign shall be installed at the private street and Camino Del Avion intersection in a location approved by the Director of Public Works and the City of San Juan Capistrano.

***The Public Works Inspector shall verify this condition. Additionally, the City Traffic Engineer has approved the signing and striping plan. At this time however, the condition is not applicable.***

70. Prior to completion of the cul-de-sac, a "No Left Turn" sign shall be posted and maintained by the Association at the egress of the cul-de-sac in a manner, location, and design approved by the Director of Public Works. During grading and construction operations a temporary "No Left Turn" sign shall be installed at the private street and Camino Del Avion intersection in a location approved by the Director of Public Works and the City of San Juan Capistrano.

***The Public Works Inspector shall verify this condition. However, at this time, the condition is not applicable.***

71. Adequate sight distance shall be provided at all intersections, driveways and sidewalk areas in a manner meeting the approval of the Director of Public Works. This includes any necessary revisions to approved plans such as removing slopes, fencing, signage or landscaping.

***The City Traffic Engineer has approved the signing and striping plan and all related traffic control plans. Therefore, the applicant has complied with this condition.***

72. All public street right-of-way and roadway widths shall be constructed in compliance with the street cross sections shown on the approved tentative tract map and as approved by the Director of Public Works and the City of San Juan Capistrano.

***The Public Works and Engineering Department has approved the Street Improvement Plans which address the requirements of this condition. Therefore, the applicant has complied with this condition.***

73. Sidewalks shall be constructed as follows:

- a. With a minimum width of 5 feet on both sides of the cul-de-sac, per the approved tentative map.
- b. With a minimum width of 8' along property frontage on Del Obispo and Camino Del Avion, as shown on the approved tentative map.

***The Public Works and Engineering Department has approved the Street Improvement Plans which address the requirements of this condition. Therefore, the applicant has complied with this condition.***

74. The applicant is responsible for the pre-wiring of all dwelling units with commercial grade coaxial cable.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

75. The CATV operator is responsible to the applicant for the labor, material, engineering, and installation of the CATV conduit.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

76. The applicant shall provide the CATV operator access and cooperation for the purpose of laying cable and connecting the CATV

system for the purpose of complying with the service requirements of the City franchise agreement.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

77. The applicant shall provide separate sewer, water, gas, and electric services with meters to each of the units.

***Prior to issuance of a building permit, the Building Department shall verify this condition is met. However, at this time, the condition is not applicable.***

78. Street trees, 36-inch box size or larger, shall be installed with the species, location and planting details in accordance with the approved landscape plans.

***The Public Works Inspector shall verify this condition. However, at this time, the condition is not applicable.***

79. Prior to the issuance of certificates of use and occupancy, the applicant/owner shall install an on- or off-site public art component of contribute to the public art in-lieu fund, subject to the provisions of with Section 9.05.240 of the Dana Point Municipal Code.

***The Planning Department shall verify this condition prior to issuing a certificate of occupancy. This condition does not apply at this time.***

80. The applicant shall have the following items on permanent and prominent display in the sales office:
- a. A copy of the approved and recorded project tract map.
  - b. A copy of the approved project site plans and elevations.
  - c. A copy of the approved project landscape plans.
  - d. A copy of the City's current General Plan map.
  - e. A copy of the City's current Zoning Code map.
  - f. A map showing private and public trails in the project vicinity.
  - g. A map showing the boundaries of those areas to be maintained by the Homeowners' Association.
  - h. A copy of the approved and recorded CC&Rs.
  - i. A statement advising prospective homeowners to contact the Community Development Department prior to any additional on-site construction (e.g. pools, patios, fences, retaining walls, storage or utility structures, air conditioning or solar installations).

***The Public Works Inspector shall verify this condition. However, at this time, the condition is not applicable.***

81. All landscaping and irrigation shall be installed per the approved final landscape and irrigation plan. A State licensed landscape architect shall certify that all plant and irrigation materials have been installed in accordance with the specifications of the final plan and shall submit said certification in writing to the Director of Community Development. The Community Development Department shall inspect the site to ensure that the landscaping has been installed in accordance with the approved plans.

***The Public Works Inspector and the Planning Department shall verify this condition. However, at this time, the condition is not applicable.***

82. The applicant or successors in interest shall be responsible for payment of applicable development impact fees including General Government, Fire Protection and Transportation.

***This condition does not apply at this time. However, the Planning Department shall verify this condition is met prior to issuance of any building permits.***

83. An encroachment permit shall be issued and finalized for any improvements in the public right-of-way.

***The applicant shall secure an encroachment permit pursuant to this condition prior to commencing any work in the public right-of-way. At this time however, the condition does not apply.***



**Supporting Document F – Municipal Code Requirements**

## CITY OF DANA POINT

## MUNICIPAL CODE REQUIREMENTS FOR FILING (Final Tract Map)

Note: The following provides the Municipal Code Sections that apply to requirements for submittal of a Tentative Tract Map. The intent of this document is to assist in developing the list of required documents for submittal of any Tentative Tract Map. Not all sections included in this chapter of the code are referenced.

Section 7.02.110 reads:

"Tentative tract map" means a preliminary map that is used whenever a parcel or a number of contiguous parcels of land is proposed to be subdivided for the purpose of creating five or more lots, five (5) or more condominium units, the conversion of five (5) or more existing dwelling units to a stock cooperative or a community apartment project containing five (5) or more apartment units, except as otherwise specified by Section 7.03.020 or Section 7.03.050.

***Tentative Tract Map TTM 15924 proposes six (6) new lots and therefore is permitted pursuant to this section of the code.***

7.02.035 Definitions (C).

"City Council" means the City Council of the City of Dana Point.

"City Engineer" means the Director of Public Works and Engineering Services.

"City standards" means the Dana Point standard specifications as adopted by the City Council.

"Code" means the Municipal Code of the City of Dana Point.

"Community apartment project" means a project in which an undivided interest in the land is coupled with the right of exclusive occupancy of any apartment located thereon.

"Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an apartment, office or store. A condominium may include in addition a separate interest in other portions of such real property.

"Condominium project" means an entire parcel of real property divided or to be divided into condominiums, including all structures thereon.

"County" means the County of Orange.

"County Recorder" means the County Recorder of the County of Orange.

"County Surveyor" means the County Surveyor of the County of Orange.  
(Added by Ord. 95-03, 2/14/95)

#### 7.03.005 Types of Maps.

Four (4) different types of maps and procedures are available for the purpose of creating subdivisions and lots. Certain subdivisions may be created without following a map procedure. (Added by Ord. 95-03, 2/14/95)

#### 7.03.010 Tentative Tract Maps.

A tentative tract map, as defined in Section 7.02.110, is permitted pursuant to the provisions of this Code. (Added by Ord. 95-03, 2/14/95)

#### 7.03.030 Final Tract Maps.

A subdivision may be created by the recordation of a final tract map that is in substantial conformance with all or a portion of an approved or conditionally approved tentative tract map. Each final tract map shall include all or an approved portion of the approved or conditionally approved tentative tract map. It shall be filed in compliance with the provisions of this Subdivision Code, the Subdivision Map Act, and the Subdivision Manual. (Added by Ord. 95-03, 2/14/95)

***Final Tract Map 15924 is in conformance with the approved Tentative Map and has been filed in compliance with the provisions of this Subdivision Code and the Subdivision Map Act. Therefore, the City has verified compliance with this section.***

#### 7.03.040 Final Tract maps.

(a) A subdivision may be created by the recordation of a Final Tract map that is in substantial conformance with an approved or conditionally approved tentative Tract map or with a portion of an approved or conditionally approved tentative Tract map which complies with the provisions of Section 7.03.020(c). A Final Tract map may also be recorded on portions of a tentative tract map when such portions comply with the specifications of Section 7.03.020(b), (c) or (d). It shall be filed in compliance with the provisions of this Subdivision Code, the Subdivision Map Act (in particular, Government Code Sections 66426 and 66463.1) and the Subdivision Manual.

(b) A Tract map shall be based upon a field survey except that a Tract map may be compiled from record data when the Director determines that the

subdivision does not require a field survey provided the map complies with the provisions of the Subdivision Map Act. (Added by Ord. 95-03, 2/14/95).

***The Final Tract Map is in substantial conformance with the Tentative Map. Also, the Final Map was based upon a field survey. Therefore, the City has verified compliance with this section.***

#### 7.04.025 Certification of Ownership.

Each tentative map shall be signed by the property owner or owners of record, and shall be accompanied by evidence of ownership of the real property proposed for subdivision. When any portion of a tentative map includes property that is owned by a public agency, the certification of ownership need not include the signatures for such ownerships, provided such portions are clearly identified on the map. (Added by Ord. 95-03, 2/14/95)

***Sufficient evidence of ownership was submitted to the City in the form of a title report. City staff has verified compliance with this section.***

#### 7.04.030 Title Report.

Tentative maps shall be accompanied by a preliminary title report which discloses all possessory interests and interests of record in the land being subdivided when determined to be necessary by the Director. (Added by Ord. 95-03, 2/14/95)

***A current preliminary title report was submitted with the Tentative Tract Map. Therefore, the City has verified compliance with this section.***

#### 7.04.035 Environmental Documents.

Tentative maps shall be accompanied by appropriate environmental documents in accordance with the California Environmental Quality Act. (Added by Ord. 95-03, 2/14/95)

Requirement: When the Tentative Tract Map is submitted, all environmental documents shall be provided in accordance with CEQA. This would include the revised documents in the form of an amendment to the Environmental Impact Report.

***In accordance with CEQA requirements, a mitigated negative declaration was approved by the Planning Commission per Resolution No. 01-04-04-14 on April 14, 2001. Therefore, the City has verified compliance with this section.***

#### 7.04.040 Soils Report.

(a) Unless the requirement is waived by the City Engineer pursuant to subsection (b) or deferred pursuant to Subsection (c) of this Section, tentative maps shall be accompanied by a preliminary soils report based upon adequate test borings and prepared by a registered civil engineer. If the

preliminary soils report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, a soils report on each proposed lot in the subdivision containing any such soils problem shall accompany the tentative map. If the preliminary soils report indicates the presence of rocks or liquids containing deleterious chemicals which, if not corrected, could cause construction materials such as concrete, steel and ductile or case iron to corrode or deteriorate, a soils investigation of each potentially affected lot in the subdivision may be required by the City Engineer. Such reports shall include recommended corrective action which is likely to prevent structural damage.

(b) The City Engineer may waive the preliminary soils report required by Subsection (a) of this Section for tentative tract maps, where the City Engineer determines that it is unnecessary because the City already has sufficient information as to the qualities of the soils in the proposed subdivision and for tentative Tract maps.

(c) The City Engineer may defer the requirement for a preliminary soils report until the submission of a final tract or Tract map.

(d) The City may approve or conditionally approve the tentative map or portion thereof where these soils problems exist if it determines that the recommended action is likely to prevent structural damage to each structure to be constructed and, as a condition to the issuance of any building permit, may require that the approved recommended action be incorporated in the construction of each structure.

(e) The preliminary soils report shall be submitted to the City Engineer for review. The City Engineer may review the preliminary soils report and may require additional information or reject the report if it is found to be incomplete, inaccurate or unsatisfactory. (Added by Ord. 95-03, 2/14/95)

***A preliminary soils report was submitted with the Tentative and Final Tract Maps. Although the report describes highly expansive soils, remediation measures are outlined in the "Conclusions and Recommendations" section. Additionally, the final grading plans have been reviewed and approved by the Public Works and Engineering Department. These plans also provide sufficient information as to the qualities of the soils in the proposed subdivision as described in Subsection (b). Therefore, per Subsection (b), the requirement for additional soils reports has been waived and the City has verified compliance with this section.***

7.04.045 Additional Information.

(a) Tentative maps shall be accompanied by such additional information as may be specified by the Director. The Director shall have the authority to include among such requirements geologic, seismic and hydrology reports; aerial photographs and transparent overlays; grading, site development and landscaping plans, including building setback lines; evidence from the

proposed sewer agency and water supplier with respect to their capability of serving the proposed subdivision; of protection and fuel modification reports and any other information reasonably relevant to proposed subdivisions.

(b) The Director may require differing amounts of supplementary information, depending upon the type of map involved, the scope of the proposed subdivision and the anticipated environmental impacts of the subdivision.

(c) The Director may require the submission of additional information after the filing of tentative maps as necessary.

(d) The preliminary soils report shall also address future groundwater or seepage conditions that may occur as the result of developing each proposed lot in the subdivision. The analysis shall specifically address the individual and cumulative impact of irrigation and rainwater absorption from past, present and anticipated future development. If the preliminary soils report determines that percolating groundwater may cause future damage or subsidence on public or private property, a soils investigation report of each potentially affected lot, public or private, shall accompany the tentative map. Such reports shall include recommended corrective action which is likely to prevent damage to public or private property including the installation of a subdrainage system throughout the proposed development. If the preliminary soils report determines that percolating groundwater will not cause future damage to public or private property no additional reports will be required. (Added by Ord. 95-03, 2/14/95)

***The Director of Community Development did not require any additional information to be submitted with the Tentative Tract map. Therefore, the City has verified compliance with this section.***

#### 7.05.015 Filing.

Tentative maps shall be filed with the Director who shall accept such maps only when the Director determines that the requirements for filing a tentative map established by this Subdivision Code and the Subdivision Map Act have been satisfied. The tentative map shall be deemed filed on the date it is accepted as complete by the Director. Each tract or Tract map shall be identified by a number prominently displayed on the face of the map issued by the City. (Added by Ord. 95-03, 2/14/95)

***The Director of Community Development accepted the Tentative Tract map and placed the item on a Planning Commission agenda for consideration. The Tentative Tract map was approved via Resolution No. 04-01-21-03.***

#### 7.05.020 Copies to Concerned Agencies.

(a) Where a local agency has filed a territorial map with the Director pursuant to the Subdivision Map Act, the Director shall forward a copy of any filed tentative map which is located wholly or partially within the territory outlined on

the territorial map to said local agency within three (3) days of the date the tentative map is filed.

(b) When the State Department of Transportation has filed with the City Council a map of territory within one (1) mile on either or both sides of any state highway routing pursuant to the Government Code, the Director shall forward a copy of any filed tentative map which is located wholly or partially within the territory outlined on the territorial map to the district office of the Department of Transportation within three (3) days of the date the tentative map is filed.

(c) Within three (3) days of the date a tentative map is filed, the Director shall give notice of the filing to the governing boards of the school district or districts within which the proposed subdivision is located pursuant to the Government Code. (Added by Ord. 95-03, 2/14/95)

***Subsection (a) is not applicable since Tract Map 15924 is not a territorial map. Subsection (b) is not applicable since the map was not filed by the State Department of Transportation. Subsection (c) however, does apply and public notifications, including Capistrano Unified School District, were sent out as described in the Dana Point Municipal Code and the Subdivision Map Act.***

7.05.025 Time for Action.

The Subdivision Committee shall act upon a tentative map within the time specified in the Subdivision Map Act unless:

(a) An extension of time for action is mutually consented to by the subdivider and the Subdivision Committee, in which case the map shall be acted upon within the time agreed upon; or

(b) The subdivider withdraws the map. (Added by Ord. 95-03, 2/14/95)

***The Subdivision Committee, namely the Planning Commission, acted upon the Tentative Map within the time specified by the Subdivision Map Act. Therefore, the City is in compliance with this section.***

7.05.035 Review of Tentative Maps.

Each tentative map shall be reviewed by the Subdivision Committee, which shall approve, conditionally approve or disapprove the tentative map. (Added by Ord. 95-03, 2/14/95)

***The Subdivision Committee, namely the Planning Commission, approved Tentative Tract Map 15924 on April 14, 2001. A time extension was granted in 2003 and an amendment to TTM15924 was approved in January 2004.***

7.05.045 Meetings and Hearings.

The Subdivision Committee shall act on tentative maps at regularly scheduled meetings or duly noticed special meetings when the matter has been duly placed upon the Committee's agenda. Public hearings shall be required for the consideration of tentative maps. At a public hearing, the Subdivision Committee shall allow all interested persons an opportunity to address the Subdivision Committee on any matter pertaining to a proposed subdivision. (Added by Ord. 95-03, 2/14/95)

***The Planning Commission acted on Tentative Tract Map 15924 per the above section (see Resolution No. 04-01-21-03). Therefore, the City has verified compliance with this section.***

7.05.050 Notice.

Notice shall be given to all persons shown in the latest equalized assessment roll as owning property within five hundred (500) feet of the property proposed to be subdivided by all three (3) of the following methods:

- (1) Direct mailing of a notice to the owners;
- (2) Posting of a notice in accordance with the standard policy;
- (3) Publication of a notice in a newspaper of general circulation in the City of Dana Point. (Added by Ord. 95-03, 2/14/95)

***The Planning Department noticed property owners within a 500' radius of the proposed project via direct mailing of a notice to homeowners. Also, the City Clerk posted a notice in accordance with the standard policy and published a notice in a newspaper as described above. Therefore, the City has verified compliance with this section.***

7.05.060 Findings Required.

A tentative Tract map or tentative tract map shall be approved or conditionally approved only if the Subdivision Committee makes the following findings:

- (a) That the proposed map is consistent with the City's General Plan;
- (b) That the design and improvement of the proposed subdivision is consistent with the City's General Plan;
- (c) That the site is physically suitable for the proposed type of development;
- (d) That the requirements of the California Environmental Quality Act have been satisfied;
- (e) That the site is physically suitable for the proposed density of development;
- (f) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat;

(g) That the design of the subdivision and the proposed improvements are not likely to cause serious public health problems;

(h) That the design of the subdivision and the proposed improvements will not conflict with easements of record or established by court judgment or acquired by the public at large for access through or use of property within the proposed subdivision; or, if such easements exist, that alternate easements for access or for use will be provided and these will be substantially equivalent to ones previously acquired by the public;

(i) That the design and improvement of the proposed subdivision are suitable for the uses proposed and the subdivision can be developed in compliance with the applicable zoning regulations pursuant to Section 7.05.055;

(j) That the subdivision is not located in a fee area or, if located in a fee area, the subdivider has met the requirements for payment of the applicable fees or the subdivision would not allow development of a project which would contribute to the need for the facility for which a fee is required;

(k) That the subdivision is located in an area which has access to adequate utilities and public services to support the development proposed within the subdivision or that the subdivision includes the provisions and improvements necessary to ensure availability of such utilities and services. (Added by Ord. 95-03, 2/14/95)

***Tentative Tract map 2003-260 met all the requirements of this section. Planning Commission Resolution No. 04-01-21-03 concurs that all of these requirements have been met. Therefore, the City has verified compliance with this section.***

7.05.065 Additional Findings Required.

(a) The Subdivision Committee shall determine whether the discharge of waste from the proposed subdivision into an existing community sewer system, where such a system exists, would result in or add to a violation of existing requirements prescribed by the Regional Water Quality Control Board. In the event it is determined that the proposed waste discharge would result in or add to such a violation, the Subdivision Committee shall disapprove the tentative map unless there are extenuating or overriding considerations, in which case these shall be stated.

(b) In the event a subdivision fronting upon the coastline or shoreline or upon a public waterway, river, or stream or upon a lake or reservoir owned in part or entirely by a public agency does not provide public access to such public resources through the subdivision itself in accordance with requirements of Sections 7.08.125 and 7.08.130, the Subdivision Committee shall find that reasonable public access to the resource in question is otherwise available within a reasonable distance from the subdivision. If this finding cannot be made, the map shall be disapproved.



(c) If the Subdivision Committee approves or conditionally approves a tentative map which deviates from any standard of design as allowed by Section 7.08.145, the Committee shall make a finding or findings that each such deviation has been individually considered and found to be justified based upon specific special circumstances which apply. (Added by Ord. 95-03, 2/14/95)

**(a) All waste from the proposed subdivision shall be directed to the existing sanitary sewer system. No waste is anticipated that would result in a violation of existing requirements prescribed by the State Water Resources Control Board.**

**(b) This subdivision does not front upon any of the entities described in this section. Therefore, this section does not apply.**

**(c) The Tentative Tract Map has been approved in conjunction with Site Development Permit No. SDP00-06(M)(I) and SDP03-04.**

**Therefore, the City has verified compliance with this section.**

7.05.070 Modification of Maps and Conditions of Approval.

Upon the request of the subdivider, approved tentative maps may be modified and conditions of approval may be modified or deleted by the Subdivision Committee. In all cases, the Director shall attempt to notify any third parties who had previously indicated an interest in the proposed subdivision, of the Subdivision Committee's scheduled consideration of the modification. Modifications shall be covered by the Subdivision Committee in the same manner and in accordance with the notice requirements, where applicable, as set forth in Section 7.05.050. (Added by Ord. 95-03, 2/14/95)

**The applicant was approved for modifications to the previously approved Tentative Map per Resolution 04-01-21-03 on January 21, 2004. All provisions of this section have been met, including notifications. Therefore, the City has verified compliance with this condition.**

7.05.075 Period of Validity--Extensions.

(a) In accordance with Government Code Section 66452.6, an approved or conditionally approved tentative map shall expire twenty-four (24) months after its approval or conditional approval, unless prior to the expiration date the subdivider requests an extension of time to extend said map or if the subdivider is required to expend one hundred twenty-five thousand dollars (\$125,000.00) or more to finance public improvements outside the boundaries of the tentative map, excluding improvements of public rights-of way which abut the boundaries of the property to be subdivided and which are reasonably related to the development of the property as set forth in Government Code Section 66452.6. The one hundred twenty-five thousand dollar (\$125,000.00) figure shall be adjusted annually pursuant to the provisions of Government Code Section 66452.6(a).

(b) In accordance with Government Code Section 66452.11, if an approved tentative map had not expired on September 13, 1993, the life of the tentative map shall be extended for twenty-four (24) months.

(c) The Subdivision Committee may grant an extension of time for any map for a period of up to one (1) year. The Subdivision Committee may grant more than one (1) extension but in no case may the total of the extensions granted exceed a total of three (3) years beyond the original date of expiration.

(d) An extension may be granted only where it will not result in conditions or circumstances contrary to the public health, safety or the general welfare.

(e) Denial of a request for extension may be appealed by the subdivider to the City Council pursuant to Section 2.04.100 et seq. of this Code. (Added by Ord. 95-03, 2/14/95)

***The Tentative Tract Map approval expired on August 5, 2007. However, a timely filing of the Final Map occurred prior to the expiration date. Government Code Section 66452.6 (d) allows for processing and lawful recordation of the Final Map after the date of expiration of the Tentative Map.***

***Therefore the request for approval of the Final Tract Map and subsequent recordation of the Final Tract Map is valid.***

7.05.080 Appeal of Tentative Map to City Council.

Except as provided in Section 7.05.075, any interested person may appeal to the City Council from any action of the Subdivision Committee with respect to a tentative map by filing an appeal in accordance with Section 2.04.100 et seq. of this Code. (Added by Ord. 95-03, 2/14/95)

To date, no appeals have been filed against the Tentative Tract Map. Therefore, the City has verified compliance with this section.

7.20.010 Certificate from Tax Collector-Treasurer.

Prior to the filing of a final tract map with the City Council, the subdivider shall file with the Orange County Surveyor a certificate from the Orange County Tax Collector-Treasurer stating that, according to the records of such office, there are no liens against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments collected as taxes, except taxes or special assessments collected as taxes not yet payable. The subdivider shall file with the Orange County Surveyor a certificate by the Orange County Tax Collector-Treasurer giving his/her estimate of the amount of taxes and special assessments collected as taxes and special assessments collected as taxes which are a lien but not yet payable. (Added by Ord. 95-03, 2/14/95)

***The County Treasurer-Tax Collector shall sign the Final Tract Map prior to recordation of the said map. This condition will be met upon transmittal of the map for recordation.***

7.24.015 Final Tract Map Required.

When a subdivision is proposed to be created through the tentative tract map process, a final tract map shall be filed for recording with the County Recorder and the County Surveyor pursuant to Government Code Section 66466. No proposed subdivision shall be complete until such tract map has been filed for recording. (Added by Ord. 95-03, 2/14/95)

***After receiving approval from the City Council, the City Clerk shall transmit the Final Tract Map to the office of the County Recorder and the County Surveyor as described in this section.***

7.24.020 Signatures Required.

All parties having any record title interest in the real property being subdivided shall consent to the preparation and recordation of the tract map by signing the required certificate. Such signatures shall be properly acknowledged. The certificate need not be signed by public entities and public utilities which own rights- of-way, easements or other interests which cannot ripen into a fee; provided, that:

- (a) Division and development of the property in the manner set forth on the map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement;
- (b) The map contains a statement that the Subdivision Committee has determined that the division and development of the property in the manner set forth on the map will not unreasonably interfere with the free and complete exercise of public entity or public utility right-of-way or easement; and
- (c) The public entity or utility has been given an opportunity to object to such a determination in accordance with the provisions of the Subdivision Map Act.  
(Added by Ord. 95-03, 2/14/95)

***The Planning Commission approved TTM 15924 on January 21, 2004. Therefore, compliance with this section has been verified.***

7.24.025 Method of Approval.

Final tract maps, together with any required improvement agreements and security, shall be submitted to the City Engineer for review and preliminary determination as to:

- (a) Compliance with any conditions imposed on the approval of the tentative map;

and

(b) Substantial conformance with the approved tentative map and any improved alterations thereof.

In the event the City Engineer determines that the subdivision is not in compliance or substantial conformance, the Director shall within ten (10) days of the date the final map was submitted, advise the subdivider in writing of his/her preliminary determination. The subdivider may appeal the Director's determination to the Subdivision Committee or directly to the City Council in the event the map was originally approved on appeal to the City Council. Any such appeal shall be filed and heard in accordance with Section 2.04.10 et seq. of this Code. Upon hearing any such appeal, the Subdivision Committee or City Council shall make an advisory ruling to the City Engineer. The final determination as to whether the final tract map is in compliance and substantial conformance shall be made by the City Engineer.

Within twenty (20) days (or more if requested by the subdivider) after the City Engineer determines that all conditions precedent to the approval of the tract map have been satisfied and any required improvement agreements and security are in order, the Director shall execute the certificate required by the Subdivision Map Act. (Added by Ord. 95-03, 2/14/95)

***The applicant has complied with all conditions of approval and the Final Tract Map is in substantial conformance with the Tentative Tract Map. Also, after receiving approval from the City Council, the City Clerk shall transmit the Final Tract Map to the office of the County Recorder and the County Surveyor within the time limits described in this section.***

#### 7.24.030 Filing with the City Council.

After the City Engineer executes the certificate, the Director shall transmit the tract map to the City Clerk. The City Clerk shall present the map and any required agreements, securities and approvals to the City Council for their approval and execution of the certificate by the City Clerk. (Added by Ord. 95-03, 2/14/95)

***After receiving approval from the City Council, the City Clerk obtain any necessary signatures and then transmit the Final Tract Map to the office of the County Recorder for recordation.***

#### 7.24.035 Filing with the County Recorder and County Surveyor.

The City Engineer shall transmit the approved final tract map to the County Surveyor for its certificate, then to the County Recorder for recordation, unless the City Engineer or subdivider requests an alternate time schedule for recordation. It shall be the obligation of the subdivider to cause a copy of the approved final tract map to be filed with the County Surveyor in accordance with Government Code Section 66466. (Added by Ord. 95-03, 2/14/95)

***The City Engineer will provide the map to the City Clerk for recordation at the County of Orange.***

## WAIVER FROM MAP PROCESS

### 7.26.015 Types of Subdivisions Eligible.

Only the following types of subdivisions are eligible to receive a waiver from the requirement for recording a Tract map:

- (a) Subdivisions containing four (4) or less parcels each of which is a minimum of five (5) acres in area and is proposed for further subdivision;
- (b) Subdivisions wherein each parcel will have a gross area of twenty (20) acres or more and a right of vehicular access for a continuous width of not less than forty (40) feet to a maintained public street or highway having a right-of-way width of not less than forty (40) feet;
- (c) Subdivisions wherein each parcel will have a gross area of not less than forty (40) acres.
- (d) Subdivisions in accordance with Government Code Section 66428.1 if at least two-thirds of the owners of mobile homes who are tenants in the mobile home park sign a petition indicating their intent to purchase the mobile home park for purposes of converting it to tenant-owned, condominium ownership interest, and a field survey is performed, the requirement for a Tract map as a tentative and Final Map specified by Section 66426 of the Government Code, shall be waived unless any of the following exist:
  - (1) There are significant design or improvement requirements necessitated by health or safety concerns;
  - (2) Subsequent to recordation of the existing parcel or Final Map, there is an exterior boundary discrepancy that requires recordation of a new parcel or tentative and Final Map;
  - (3) The existing lot or lots were not created by a recorded parcel or Final Map;
  - (4) The conversion would result in the creation of additional parcels.

If pursuant to Government Code Section 66428, the City imposes requirements on the applicant to mitigate health or safety conditions, no improvement bonds or other security device, except an unsecured improvement agreement, may be required. (Added by Ord. 95-03, 2/14/95)

***Final Tract Map 15924 does not meet any of the criteria in this section and is therefore, not eligible for a waiver. To that end, the City has verified compliance with this section.***

**Supporting Document G – Letter from the County of Orange**



**COUNTY OF ORANGE**

**RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT**

*Bryan Speegle, Director*  
300 N. Flower Street  
Santa Ana, CA  
P.O. Box 4048  
Santa Ana, CA 92702-4048  
Telephone: (714) 834-2300  
Fax: (714) 834-5188

August 25 2006

Olav S. Meum, P.L.S.  
Toal Engineering, Inc.  
139 Navarro Ave.  
San Clemente, CA 92672

**RECEIVED**

**AUG 29 2006**

TOAL ENGINEERING, INC.

City of Dana Point

Sixth Check

Dear Sir:

In our examination of the final map of Tract No. **15924**, as provided by the Subdivision Map Act and the Subdivision Code, the following discrepancies were found:

**Refer to Sheet 1:**

1. Revise the year to **2006**, or as applicable in the certificates and or statements.
2. Revise the County Surveyor's Statement as indicated.
3. Per the title report submitted, updated on 7-21-06, an addition owner is indicated. Verify and revise as necessary.

**Refer to Sheet 2:**

4. Enlarge the GPS point monument symbols.
5. Label Lot A as a PRIVATE STREET
6. Make all the corrections as indicated on the attached check print.
7. Clean out all overlapping line work and text.

**Refer to Sheet 3:**

8. Clean out all overlapping line work and text.
9. Label Lot A as a PRIVATE STREET.
10. Make all the corrections as indicated on the attached check print.
11. Submit a traverse closure for the exception corner cut out per Book 12724 Page 195-199 O.R.

SUBMITTAL 3

APR 17 2007

PLAN CHK No.

pc06-0161

AN 13028

Olav S. Meum  
Tract No. 15924  
Page 2 of 2

**General Notes:**

12. All maps (tract, parcel and record of survey) shall be drafted on tracing cloth or polyester base film, the size of which shall be 18 X 26 inches with a 1 inch blank margin on all sides (SMA Section 66445 (a)).
13. All signatures and seals on tract maps, parcel maps, records of survey shall be in black opaque ink and all signatures and seals shall be clear and reproducible (Orange County Recorder Requirement).
14. Submit an up to date title report when the originals are submitted for final check.
15. A subdivision guarantee furnished by a title company will be required at the time of recordation. Contact the appropriate title company regarding this requirement.
16. Obtain both the City Engineer's signature with R.C.E. number and seal prior to submitting original for recordation.
17. In accordance with Orange County Ordinance No. 3809 submit a digital graphics file containing the boundary, street centerline, right-of-way, easement, and Lot/Parcel line data at the same time the original map is submitted.
18. Unless the map boundary is revised it will not be necessary to submit additional prints for checking. Submit originals for final check when all corrections have been complied with and signatures and certificates (including County Treasurer-Tax Collector's Certificate) completed.


All corrections not completed prior to submittal of the originals for review will only delay the approval of the map for recordation.

Questions concerning this review or letter should be directed to Dave Unger at (714) 796-0362.

Very truly yours,

Raymond L. Mathe  
County Surveyor

This report was prepared  
under my direction

By   
Wanda Bale, P.L.S.  
Senior Land Surveyor



cc: City Engineer, City of Dana Point

**Supporting Document H – Title Report**

Order Number: OSA-2815854 (09)

Page Number: 1

**Updated 04-25-08****First American Title Insurance Company**

**9130 Anaheim Pl., Suite 230  
Rancho Cucamonga, CA 91730**

Teresa Pham  
CA Development  
24771 Jessica Place  
Laguna Niguel, CA 92677-6037

Order Number: OSA-2815854 (09)

Title Officer: Ronald Gomez  
Phone: (909)477-5673  
Fax No.:  
E-Mail: rogomez@firstam.com  
Buyer:  
Property: TT 15924  
Dana Point, CA

**PRELIMINARY REPORT**

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Exhibit A attached. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.



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Page Number: 2

Dated as of April 18, 2008 at 7:30 A.M.

The form of Policy of title insurance contemplated by this report is:

This report is for dedication purposes only  
Dedication report for proposed Tract No. 15924

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

CA Development, LLC, a Nevada Limited Liability Company

The estate or interest in the land hereinafter described or referred to covered by this Report is:

A fee.

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

1. General and special taxes and assessments for the fiscal year 2007-2008, a lien not yet due or payable.
2. General and special taxes and assessments for the fiscal year 2007-2008.
 

First Installment:	\$13,712.33, Paid
Penalty:	\$1,371.23
Second Installment:	\$13,712.33, Paid
Penalty:	\$1,394.23
Tax Rate Area:	28-005
A. P. No.:	673-191-02

3. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.

Although the above supplemental taxes may be a lien, the installments thereof are not yet due or payable.

4. An easement for wires, crossarms and incidental purposes, recorded January 3, 1918 in Book 317 of Deeds, Page 69.
 

In Favor of:	San Diego Consolidated Gas and Electric Company
Affects:	A portion of the land

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5. Covenants, conditions, restrictions and easements in the document recorded as Book 2486, Page 411 of Official Records, which provide that a violation thereof shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, sexual orientation, marital status, ancestry, disability, handicap, familial status, national origin, source of income (as defined in California Government Code 12955(p)), to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
  
6. An easement for slope and incidental purposes, recorded as Book 10843, Page 154 of Official Records.  
 In Favor of: County of Orange  
 Affects: A portion of the land
  
7. An easement for slope and incidental purposes, recorded as Book 12724, Page 195 of Official Records.  
 In Favor of: County of Orange  
 Affects: A portion of the land
  
8. A deed of trust to secure an original indebtedness of \$6,777,000.00 recorded January 2, 2007 as Instrument No. 2007000001484 of Official Records.  
 Dated: December 15, 2006  
 Trustor: CA Development, LLC, a Nevada Limited Liability Company  
 Trustee: Alliance Bank, a California Corporation  
 Beneficiary: Alliance Bank  
  
 The above deed of trust states that it is a construction deed of trust.
  
9. A document entitled Assignment of Leases and Rents recorded January 02, 2007 as Instrument No. 2007000001485 of Official Records, as additional security for the payment of the indebtedness secured by the deed of trust recorded January 02, 2007 as Instrument No. 2007000001484 of Official Records.
  
10. An easement for Public Utility Purposes and incidental purposes, recorded February 4, 2008 as Instrument no. 2008000050871 of Official Records.  
 In Favor of: San Diego Gas & Electric Company  
 Affects: A portion of said land.
  
11. This report is preparatory to the issuance of a subdivision guarantee and it is intended solely for the use of those parties directly involved in the preparation and checking of said map.
  
12. Prior to the filing of this map and the issuance of a subdivision guarantee, all title charges must be paid in full, we will advise you of the amount due prior to closing.

Order Number: OSA-2815854 (09)

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### INFORMATIONAL NOTES

Note 1: The only parties whose signatures are necessary to offer for dedication any streets or alleys shown on the map of proposed Tract No. 15924, are as follows:

CA Development, LLC, a Nevada Limited Liability Company, Owner.

Alliance Bank, beneficiary under deed of trust recorded January 2, 2007 as Instrument No. 2007000001484 of Official Records.

The following signatures have been omitted under the provisions of Section 66436(a)(3) of the subdivision map act.

San Diego Gas and Electric Company, holder of an easement recorded in Book 317, page 69 of Deeds and as instrument no. 2008000050871, both of Official Records.

The County of Orange, holder of easements recorded in Book 10843, page 154 and Book 12724, page 195, both of Official Records;

May be covered by endorsement pursuant to Article 66436 of the Government Code.

The subdivision map act requires that during the period of January 1 to November 1 when real property taxes are an assessed lien not yet due and payable that a tax bond be filed with the clerk of the Board of Supervisors to secure payment of said taxes, in this regard the amount of the tax bond in favor of the County of Orange will be determined at a later date.

All taxes for the fiscal year 2007-2008 must be paid in full prior to processing said tract through government agencies. Please provide a cashier's check made payable to the County of Orange Tax Collector, along with complete tax bills, and forward this to this office for processing.

Note 2: The Assessors Parcel Number for the above mentioned legal description is/are 673-191-02, Code Area: 28-005

The map attached, if any, may or may not be a survey of the land depicted hereon. First American expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

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**WIRE INSTRUCTIONS**

**First American Title Company, Demand/Draft Sub-Escrow Deposits  
Orange County, California**

**First American Trust, FSB**

5 First American Way  
Santa Ana, CA 92707

**ABA 122241255**

**Credit to First American Title Company**

**Account No. 2000015030**

**Reference Title Order Number 2815854 and Title Officer Ronald Gomez**

**Please wire the day before recording. Also, notify the Title Officer of your intent to wire.**

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### LEGAL DESCRIPTION

Real property in the City of Dana Point, County of Orange, State of California, described as follows:

PROPOSED TRACT NO. 15924, BEING A SUBDIVISION OF:

THAT PORTION OF PARCEL "J", IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 2, PAGE 33 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID PARCEL "J", WITH THE WESTERLY LINE OF MCKINLEY AVENUE, 80.00 FEET IN WIDTH, NOW KNOWN AS DEL OBISPO ROAD, AS DESCRIBED IN A DEED TO THE COUNTY OF ORANGE RECORDED OCTOBER 15, 1930 IN BOOK 420, PAGE 430 OF OFFICIAL RECORDS; THENCE NORTH 89° 40' 30" WEST 400.00 FEET ALONG SAID NORTH LINE; THENCE SOUTH 0° 19' 30" WEST 250.00 FEET; THENCE SOUTH 80° 26' 40" EAST 253.86 FEET TO THE SAID WESTERLY LINE OF DEL OBISPO ROAD; THENCE NORTHEASTERLY ALONG SAID WESTERLY LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF SAID PARCEL "J" DESCRIBED IN THE DEED FROM NORMA MONTGOMERY, RECORDED JANUARY 15, 1976 IN BOOK 11621, PAGE 520 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM, THAT PORTION OF SAID PARCEL "J" DESCRIBED IN THE FINAL ORDER OF CONDEMNATION RECORDED JUNE 20, 1978 IN BOOK 12724, PAGE 195 OF OFFICIAL RECORDS.

NOTE: THE ABOVE LEGAL DESCRIPTION IS FOR THE SOLE PURPOSE OF THIS REPORT AND MAY NOT BE CONSIDERED FOR USE IN ANY POLICY OF TITLE INSURANCE TO BE ISSUED BY THIS COMPANY, AND IS SUBJECT TO CHANGE AT ANY TIME.

APN: 673-191-02

Order Number: OSA-2815854 (09)

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***NOTICE***

Section 12413.1 of the California Insurance Code, effective January 1, 1990, requires that any title insurance company, underwritten title company, or controlled escrow company handling funds in an escrow or sub-escrow capacity, wait a specified number of days after depositing funds, before recording any documents in connection with the transaction or disbursing funds. This statute allows for funds deposited by wire transfer to be disbursed the same day as deposit. In the case of cashier's checks or certified checks, funds may be disbursed the next day after deposit. In order to avoid unnecessary delays of three to seven days, or more, please use wire transfer, cashier's checks, or certified checks whenever possible.

If you have any questions about the effect of this new law, please contact your local First American Office for more details.

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**EXHIBIT A  
LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS (BY POLICY TYPE)**

**1. CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990  
SCHEDULE B**

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by their policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**2. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970  
SCHEDULE OF EXCLUSIONS FROM COVERAGE**

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions of area of the land, or the effect of any violation of any such law, ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or

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created subsequent to Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

**3. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970  
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 2 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

Part One

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

**4. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970  
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE  
SCHEDULE OF EXCLUSIONS FROM COVERAGE**

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions or area of the land, or the effect of any violation of any such law ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant, (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder, (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy).
4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

**5. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970  
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association Lenders Policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy, the exclusions set forth in paragraph 4 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

Part One

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.



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**6. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992  
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE  
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy; (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at date of policy); or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**7. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992  
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 6 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**8. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992**

*First American Title*

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**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**9. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992  
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 8 above are used and the following exceptions to coverage appear in the policy.

**SCHEDULE B**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

Part One:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**10. AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL  
TITLE INSURANCE POLICY - 1987  
EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 

* land use	* land division
* improvements on the land	* environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.  
This exclusion does not limit the zoning coverage described in items 12 and 13 of Covered Title Risks.

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2. The right to take the land by condemning it, unless:
  - \* a notice of exercising the right appears in the public records on the Policy Date
  - \* the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking.
3. Title Risks:
  - \* that are created, allowed, or agreed to by you
  - \* that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
  - \* that result in no loss to you
  - \* that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
  - \* to any land outside the area specifically described and referred to in Item 3 of Schedule A, or
  - \* in streets, alleys, or waterways that touch your land
 This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

#### 11. EAGLE PROTECTION OWNER'S POLICY

CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998  
 ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998

**Covered Risks 14 (Sub division Law Violation), 15 (Building Permit), 16 (Zoning) and 18 (Encroachment of boundary walls or fences) are subject to Deductible Amounts and Maximum Dollar Limits of Liability**

#### EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
 

a. building	b. zoning
c. land use	d. improvements on the land
e. land division	f. environmental protection

 This exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.  
 This exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
  - a. a notice of exercising the right appears in the Public Records at the Policy Date; or
  - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.
 This exclusion does not limit the coverage described in Covered Risk 11 or 18.

#### 12. SECOND GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)

#### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or area of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion

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does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.

- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
  3. Defects, liens, encumbrances, adverse claims or other matters:
    - (a) created, suffered, assumed or agreed to by the Insured Claimant;
    - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
    - (c) resulting in no loss or damage to the Insured Claimant;
    - (d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
    - (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
  4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
  5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
  6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8 (e) and 26.
  7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
  8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting title, the existence of which are Known to the Insured at:
    - (a) The time of the advance; or
    - (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification.
 This exclusion does not limit the coverage provided in Covered Risk 8.
  9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

#### SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. The following existing statutes, reference to which are made part of the ALTA 8.1 Environmental Protection Lien Endorsement incorporated into this Policy following item 28 of Covered Risks: NONE.

#### 13. SECOND GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01) WITH REGIONAL EXCEPTIONS

When the American Land Title Association loan policy with EAGLE Protection Added is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 12 above are used and the following exceptions to coverage appear in the policy.

#### SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

Part One:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

Part Two:

*First American Title*

1. The following existing statutes, reference to which are made part of the ALTA 8.1 Environmental Protection Lien Endorsement incorporated into this Policy following item 28 of Covered Risks: None.

## PRIVACY POLICY

### **We Are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

### **Applicability**

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at [www.firstam.com](http://www.firstam.com).

### **Types of Information**

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

### **Use of Information**

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

### **Former Customers**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

### **Confidentiality and Security**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Supporting Document I – Final Map

SHEET 1 OF 3 SHEETS

# TRACT NO. 15924

IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA.

BEING A PORTION OF PARCEL J, IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 2, PAGE 33 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

DATE OF SURVEY: JULY 27, 2002

ALL OF TENTATIVE TRACT NO 15924  
2.10 ACRES  
6 NUMBERED LOTS  
2 LETTERED LOTS

ACCEPTED AND FILED AT THE REQUEST OF:

DATE \_\_\_\_\_  
TIME \_\_\_\_\_ FEE \$ \_\_\_\_\_  
INSTRUMENT # \_\_\_\_\_  
BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

TOM DALY  
COUNTY CLERK-RECORDER

BY \_\_\_\_\_  
DEPUTY

**OWNERSHIP CERTIFICATE** **JULY, 2006**  
**TOAL ENGINEERING INC.**  
OLAV S. MEUM, LS 4384

WE, THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND COVERED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDECTION OF SAID MAP, AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE. WE HEREBY DEDICATE TO THE PUBLIC FOR STREET PURPOSES: LOT B

WE ALSO HEREBY DEDICATE TO THE CITY OF DANA POINT:  
AN EMERGENCY ACCESS EASEMENT OVER LOT A.

WE ALSO HEREBY DEDICATE TO THE CITY OF SAN JUAN CAPISTRANO, ITS HEIRS, SUCCESSORS OR ASSIGNS:

1. PERPETUAL NON-EXCLUSIVE EASEMENTS FOR INGRESS, EGRESS AND NON-DOMESTIC/DOMESTIC WATER SYSTEM AND APPURTENANCES ABOVE AND BELOW GROUND OVER LOT A AND AS SHOWN ON SAID MAP.
2. THE WATER RIGHTS INCLUDED WITHIN OR APPURTENANT TO THE LAND LYING WITHIN THE DISTINCTIVE BORDERLINE OF THIS TRACT.

WE ALSO HEREBY DEDICATE TO THE SOUTH COAST WATER DISTRICT:

1. THE SANITARY SEWER SYSTEM AND APPURTENANCES AS SHOWN ON THE IMPROVEMENT PLANS FOR THIS TRACT MAP
2. A PERPETUAL NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, AND MAINTENANCE, REPAIR, AND REPLACEMENT OF SEWER LINES TOGETHER WITH APPURTENANCES, CONNECTIONS AND STRUCTURES, IN, OVER, UNDER UPON, ALONG, THROUGH AND ACROSS LOT A AS SHOWN ON THIS MAP.

CA DEVELOPMENT, L.L.C.  
BY: [Signature] BY: \_\_\_\_\_

ALLIANCE BANK, A CALIFORNIA CORPORATION, TRUSTEE UNDER A DEED OF TRUST RECORDED MARCH 31, 2006 AS INSTRUMENT NO. 2006000217971 O.R. AND MODIFIED BY AN INSTRUMENT RECORDED JANUARY 2, 2007 AS INSTRUMENT NO. 200700001484.  
BY: [Signature] BY: [Signature]  
VICE PRESIDENT ASSISTANT-SECRETARY  
Vice President

**NOTARY ACKNOWLEDGEMENT**

STATE OF CALIFORNIA } S.S.  
COUNTY OF ORANGE }

ON THIS July 27 2007 BEFORE ME, Catherine L. Meade, A NOTARY PUBLIC, PERSONALLY APPEARED Theresa L. Meade  
PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S) OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND:

SIGNATURE: [Signature] MY PRINCIPAL PLACE OF BUSINESS IS  
NOTARY PUBLIC IN AND FOR SAID STATE IN Talband COUNTY.

Catherine L. Meade  
PRINT NAME

STATE OF CALIFORNIA } S.S.  
COUNTY OF ORANGE }

ON THIS August 9 2007 BEFORE ME, Patricia Johnson Meade, A NOTARY PUBLIC, PERSONALLY APPEARED Patricia Johnson Meade  
PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S) OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND:

SIGNATURE: [Signature] MY PRINCIPAL PLACE OF BUSINESS IS  
NOTARY PUBLIC IN AND FOR SAID STATE IN Fullerton COUNTY.

PATRICIA JOHNSON MEADE  
PRINT NAME

MY COMMISSION EXPIRES 8/10/2011

**CITY CLERK'S CERTIFICATE (SAN JUAN CAPISTRANO)**

STATE OF CALIFORNIA } S.S.  
COUNTY OF ORANGE }

I HEREBY CERTIFY THAT THIS MAP WAS PRESENTED FOR APPROVAL TO THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO AT A REGULAR MEETING THEREOF HELD ON THE 20th DAY OF December, 2007, AND THAT THEREUPON SAID COUNCIL DID, BY AN ORDER DULY PASSED AND ENTERED, APPROVE SAID MAP, AND DID ACCEPT ON BEHALF OF THE PUBLIC EASEMENTS AS DEDICATED OVER LOT A AND SHOWN ON SAID MAP.

AND DID ALSO ACCEPT ON BEHALF OF THE CITY OF SAN JUAN CAPISTRANO:

1. WATER RIGHTS AS DEDICATED.

AND DID APPROVE SUBJECT MAP PURSUANT TO THE PROVISIONS OF SECTION 66438 (a) (3) OF THE SUBDIVISION MAP ACT.

DATED THIS 20th DAY OF December, 2007.

[Signature]  
CITY CLERK OF THE CITY OF SAN JUAN CAPISTRANO

**SIGNATURE OMISSIONS**

PURSUANT TO SECTION 66438 (a)(3)(A) OF THE SUBDIVISION MAP ACT, THE FOLLOWING SIGNATURES HAVE BEEN OMITTED:

1. SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, HOLDER OF AN EASEMENT RECORDED IN BOOK 317, PAGE 89 OF DEEDS.
2. THE CITY OF DANA POINT, HOLDER OF EASEMENTS RECORDED IN BOOK 10843, PAGE 154 AND BOOK 12724, PAGE 195, BOTH OF OFFICIAL RECORDS.

**SURVEYOR'S STATEMENT**

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES AT THE REQUEST OF CA DEVELOPMENT IN JULY, 2006. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED; AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

[Signature]  
OLAV S. MEUM LS 4384  
LICENSED LAND SURVEYOR, STATE OF CALIFORNIA  
MY REGISTRATION EXPIRES SEPT. 30, 2009

**SOUTH COAST WATER DISTRICT CERTIFICATE**

THE SOUTH COAST WATER DISTRICT ~~DOES HEREBY ACCEPT THE SANITARY SEWER AND APPURTENANCES SHOWN ON THE IMPROVEMENT PLANS FOR THIS TRACT MAP, AND DID ALSO ACCEPT THE INGRESS, EGRESS, SEWER LINE AND INCIDENTAL PURPOSES EASEMENT AS DEDICATED.~~

DATED THIS 22nd DAY OF October, 2007.

[Signature]  
ROBERT CLARK

**CITY ENGINEER'S STATEMENT**

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND IT TO BE SUBSTANTIALLY IN CONFORMANCE WITH THE TENTATIVE MAP, IF REQUIRED, AS FILED WITH, AMENDED AND APPROVED BY THE CITY PLANNING COMMISSION; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND CITY SUBDIVISION REGULATIONS HAVE BEEN COMPLIED WITH.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

MATTHEW V. SINACORI, CITY ENGINEER  
PCE NO. 59239  
EXPIRATION DATE: 06/30/09

**COUNTY SURVEYOR'S STATEMENT**

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND THAT ALL MAPPING PROVISIONS OF THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH AND I AM SATISFIED SAID MAP IS TECHNICALLY CORRECT.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.  
(DAY) (MONTH)

RAYMOND L. MATHE, COUNTY SURVEYOR  
LS 6185; EXPIRATION DATE: 3-31-08

**CITY CLERK'S CERTIFICATE (DANA POINT)**

STATE OF CALIFORNIA } S.S.  
COUNTY OF ORANGE }

I HEREBY CERTIFY THAT THIS MAP WAS PRESENTED FOR APPROVAL TO THE CITY COUNCIL OF THE CITY OF DANA POINT AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007, AND THAT THEREUPON SAID COUNCIL DID, BY AN ORDER DULY PASSED AND ENTERED, APPROVE SAID MAP, AND DID ACCEPT ON BEHALF OF THE PUBLIC, SUBJECT TO IMPROVEMENTS; LOT B AS SHOWN ON SAID MAP.

AND DID ALSO ACCEPT ON BEHALF OF THE CITY OF DANA POINT THE EMERGENCY ACCESS EASEMENT AS DEDICATED HEREON.

AND DID ALSO OUTCLAIM SLOPE EASEMENTS RECORDED IN BOOK 12724, PAGE 195 THROUGH 199, AND IN BOOK 10843, PAGE 154, BOTH O.R.

AND DID APPROVE SUBJECT MAP PURSUANT TO THE PROVISIONS OF SECTION 66436 (a) (3) OF THE SUBDIVISION MAP ACT.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

KATHY WARD, CITY CLERK OF THE CITY OF DANA POINT

**COUNTY TREASURER – TAX COLLECTOR'S CERTIFICATE**

STATE OF CALIFORNIA } S.S.  
COUNTY OF ORANGE }

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF MY OFFICE THERE ARE NO LIENS AGAINST THE LAND COVERED BY THIS MAP OR ANY PART THEREOF FOR UNPAID STATE, COUNTY, MUNICIPAL OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES NOT YET PAYABLE.

AND DO CERTIFY TO THE RECORDER OF ORANGE COUNTY THAT THE PROVISIONS OF THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH REGARDING DEPOSITS TO SECURE PAYMENT OF TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES ON THE LAND COVERED BY THIS MAP.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

CHRIS W. STREET BY: \_\_\_\_\_  
COUNTY TREASURER – TAX COLLECTOR DEPUTY TREASURER – TAX COLLECTOR

SHEET 2 OF 3 SHEETS

# TRACT NO. 15924

ALL OF TENTATIVE TRACT NO 15924  
2.10 ACRES  
6 NEARLY LOTS  
2 LETTERED LOTS  
DATE OF SURVEY: JULY 27, 2002

IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA.

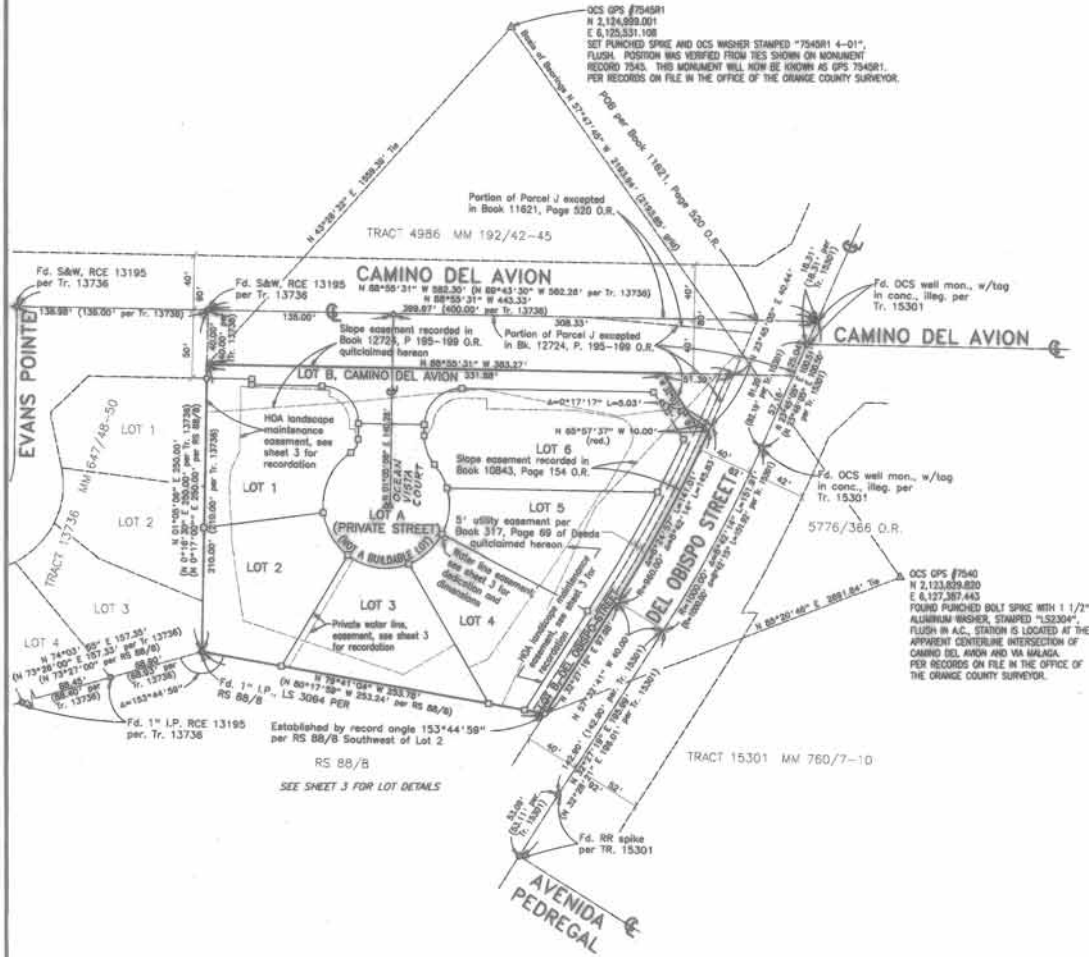
BEING A PORTION OF PARCEL J, IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 2, PAGE 33 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

TOAL ENGINEERING INC.

OLAV S. MEUM, LS 4384



## BOUNDARY AND GPS CONTROL



### MISCELLANEOUS NOTES

LOT A IS NOT A BUILDABLE LOT.

NOTE: ALL DATA SHOWN IS MEASURED, UNLESS OTHERWISE SHOWN.

### BASIS OF BEARINGS

THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING BETWEEN O.C.S. HORIZONTAL CONTROL STATION GPS NO. 7545R1 AND STATION GPS NO. 7540, BEING N 57°47'45\"/>

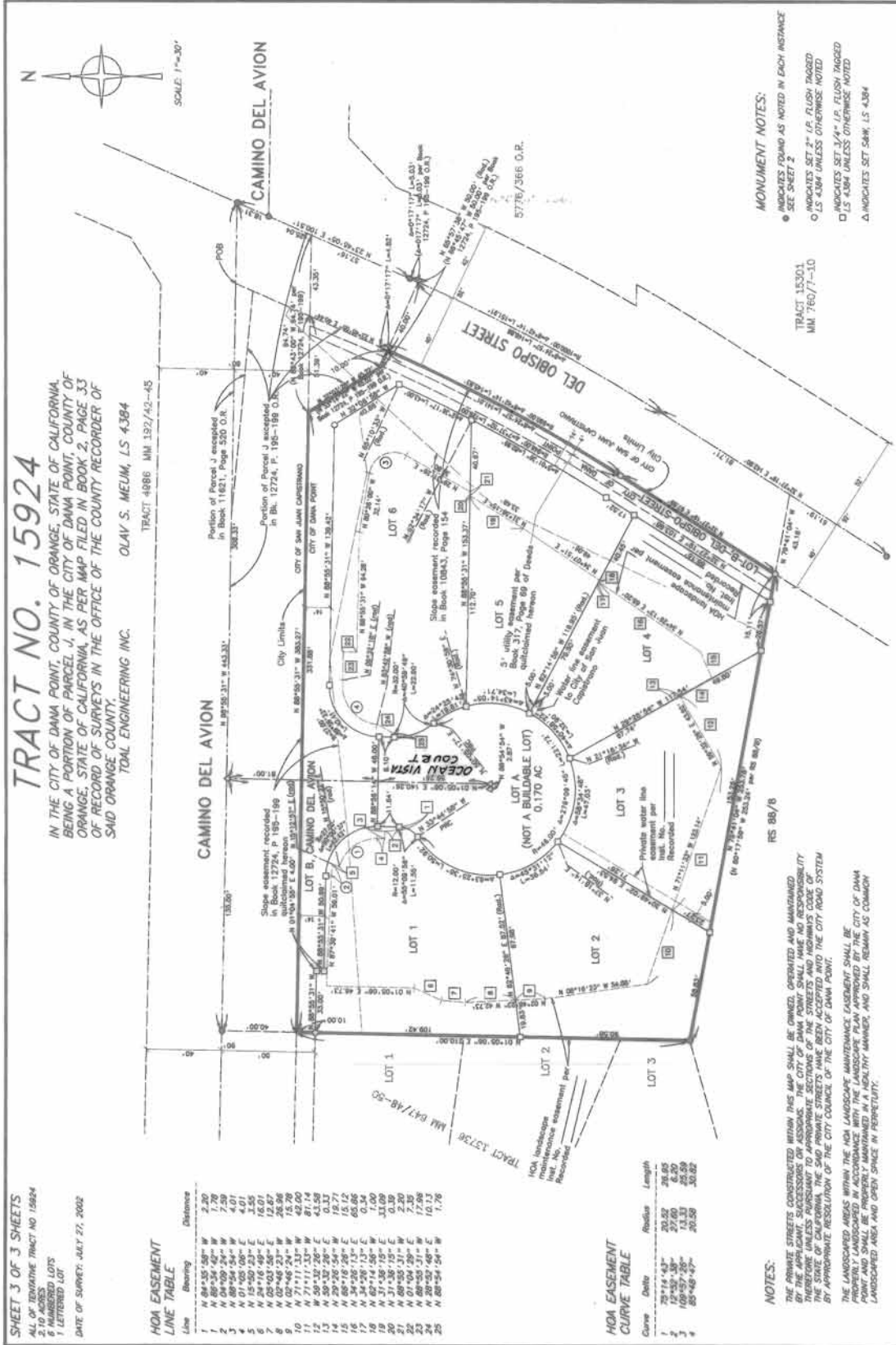
### DATUM STATEMENT

COORDINATES SHOWN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM (CCS 83), ZONE VI, 1983 NAD, (1991.35 EPOCH) OCS GPS ADJUSTMENT). ALL DISTANCES SHOWN ARE GROUND UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCE, MULTIPLY GROUND DISTANCE BY 0.99995921.

### MONUMENT NOTES:

- INDICATES FOUND AS NOTED IN EACH INSTANCE
- INDICATES SET 3\"/>





**CITY OF DANA POINT**  
**MEMORANDUM**

Reviewed By:	
DH	X
CM	X
CA	X

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**DATE: MAY 6, 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"**

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**RECOMMENDED ACTION**

That the City Council 1) 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.

**NOTIFICATION/FOLLOW-UP:**

AT&T  
Cox

**FISCAL IMPACT:**

No Fiscal Impact

**ACTION DOCUMENT:**

**PAGE#:**

A. <a href="#">Ordinance</a> .....	3
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**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, as determined by the Director, to an existing Above Ground Facility; (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.

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. 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 Manager by filing with the City Clerk a statement addressed to the City Manager 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 Manager, 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 Manager may sustain, overrule or modify the action of the Director, and decision of the City Manager shall be final.

The right to appeal to the City Manager 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 Manager.

#### **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 15<sup>th</sup> day of April, 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 15th day of April 2008.

\_\_\_\_\_  
Kathy M. Ward, City Clerk

**CITY OF DANA POINT**  
**AGENDA REPORT**

Reviewed By:	
DH	X
CM	X
CA	X

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**DATE: MAY 6, 2008**

**TO: CITY MANAGER/CITY COUNCIL**

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

**SUBJECT: COUNTY PROPOSITION 1B TRANSPORTATION FUNDING**

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**RECOMMENDED ACTION:**

That the City Council authorize the Mayor to execute an Agreement as required by OC Public Works in order to receive \$500,000 in State Proposition 1B funding from the County of Orange Board of Supervisors for the PCH Widening Project at Del Obispo.

**BACKGROUND:**

On February 19, 2008, City Council approved Resolution 08-02-19-01 to accept \$594,251 in Prop 1B funding directly from the State of California Department of Finance for the purpose of constructing the Pacific Coast Highway Congestion Relief Project. Proposition 1B provided \$19.925 billion in bond funds for a variety of transportation priorities, including \$2 billion for cities and counties to fund the maintenance and improvement of local transportation facilities. This direct allocation from the State to the City of \$594,251 was done pro-rata based on population.

At the same time, the County of Orange expects to receive \$24,683,910.29 in Prop 1B funding for FY08. The County believes that it is of general interest to extend aid to the cities within the County for the general improvement and maintenance of city streets and is extending a portion of the County's Prop 1B allocations to participating cities, subject to adequate funding and the District Supervisor's recommendation.

**DISCUSSION:**

Dana Point City staff worked with Fifth District Supervisor Patricia Bates' Office requesting to add the Pacific Coast Highway Congestion Relief Project to the list of projects that would be considered to receive funding in Orange County. Supervisor Bates supported our request. On March 26, 2008, the Orange County Board of Supervisors announced a list of City transportation projects that would receive a portion of the County's Prop 1B allocation. Dana Point is to receive \$500,000 in County Prop 1B funding for the PCH Widening project. The County expects the funds to be available for expenditure shortly after June 30, 2008.

The City awarded a construction contract in the amount of \$5,762,241 to Excel Paving, Inc. on February 19, 2008 for the PCH Congestion Relief Project. Construction on the project started in early April 2008 and will be completed by December 31, 2008. This particular project appealed to the County Board of Supervisors because the funds will be used immediately to address the traffic congestion problems at the intersection of Pacific Coast Highway and Del Obispo Street. The PCH Congestion Relief project is truly a regional project that provides a benefit to residents, businesses, and visitors who frequently drive along Highway 1 in Dana Point. The details of the forthcoming project are described in the following paragraph. It is required that the Council approve Action Document A, County Agreement and that the Mayor be authorized to sign the Agreement.

### **PCH Congestion Relief Project, San Juan Creek to Crystal Lantern**

Several years ago, the City identified the need to provide additional roadway capacity on Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern to handle the large volume of traffic. The traffic intersection at PCH and Del Obispo/Dana Point Harbor Drive is the most congested intersection in Dana Point. The key action that is required to solve the problem is to add additional travel lanes, reduce pedestrian traffic, and provide a safe area for public transportation activities. The project addresses these issues by adding an additional lane in each direction on PCH, building a pedestrian bridge with access elevators, and adding bus turnouts on the east side of the intersection within the City's right-of-way. In addition, a key access way into Doheny State Beach and the reconstruction of a historical wall adjacent to the Park is planned to be constructed in conjunction with this project. The congestion relief and beautification aspects of this project will work to improve vehicle travel and beautify the gateway to our City, the harbor, and the Ocean Institute.

### **NOTIFICATION/FOLLOW-UP:**

OC Public Works

### **STRATEGIC PLAN IMPLEMENTATION:**

In compliance with the Strategic Plan Initiative to maintain, modernize and beautify the City's infrastructure and neighborhoods.

### **FISCAL IMPACT:**

It is proposed that the City Council approve amending the funding that was approved for this project on February 19, 2008, in order to take into account the Proposition 1B funds now being made available by the County. The February 19, 2008 approved funding is shown below, along with the now proposed funding, with the difference being the proposed funding amendment (no General Fund dollars).

<b>Funding Source</b>	<b>Project #</b>	<b>2/19/08 Approved</b>	<b>5/6/08 Proposed</b>	<b>Proposed Amendment</b>
CARITS Carryover	1111	\$ 3,566,960	\$ 3,566,960	\$ --
FDIF Impact Funds	1111	862,436	862,436	--
IIP Funding	1111	1,416,581	1,416,581	--
PCH Relinquishment for PCH repairs	1203	523,963	192,912	(331,051)
CIP Reserve - PCH remediation	n/a	168,949	--	(168,949)
State Prop 1B	#1111	594,251	594,251	--
State Prop 1B from Cty	n/a	--	500,000	500,000
<b>Total Funding</b>		<b>\$ 7,133,140</b>	<b>\$ 7,133,140</b>	<b>\$ --</b>

**ALTERNATIVE ACTIONS:**

1. City Council-directed alternative action.

**ACTION DOCUMENTS:**

**PAGE**

- A. [Proposition 1B City Agreement](#).....4

**ACTION DOCUMENT A : Agreement**

Agreement No. D08-033

**PROPOSITION 1B  
CITY AGREEMENT**

This CITY AGREEMENT, Agreement No. D08-033 ("Agreement") is made and entered into this day of \_\_\_\_\_, 2008, by and between the County of Orange, California, a political subdivision of the State of California ("County"), and the City of Dana Point, a municipal corporation in the State of California ("City"). The County and City shall sometimes be referred to separately as a "Party" and collectively as the "Parties."

**RECITALS**

A. Pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, codified at Government Code sections 8879.20 et. seq., the County anticipates receipt of approximately \$61.6 million in Local Streets and Roads State bond funds over the next ten years to be used for the purposes of reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety ("Proposition 1B"). The County's first allocation will be for Fiscal Year 2007-08 in the amount of \$24,683,910.29. Prior to receiving this allocation, the County is required to adopt into the County budget projects expected to be funded with Proposition 1B funds, and submit a list of these projects to the State Department of Finance for review. The County shall have three fiscal years to expend its Proposition 1B allocation following the fiscal year in which the allocation was made by the Controller, and any funds not expended within that period shall be returned to the Controller for reallocation.

B. The California State Legislature has determined that the improvement and maintenance of all city streets is of general County interest.

C. The County believes that it is of general County interest to extend aid to the cities within the County for the general improvement and maintenance of City streets and therefore desires to extend a portion of the County's Proposition 1B allocations to participating cities.

D. The City owns and operates streets in need of traffic congestion and traffic safety improvements, such as routine roadway maintenance and storm drain improvements, and acknowledges that it has limited funds by which to address these needs. Therefore, the City is in support of receiving a portion of the County's Proposition 1B allocation.

E. Pursuant to Streets & Highways Code section 1686, the Board of Supervisors has passed Resolution No. 08-016 on March 4, 2008, finding that the purposes of this Agreement are of general County interest and that County aid shall be extended therefore. This resolution provides for the basis and conditions upon which allocations will be made from the County Road Fund (Proposition 1B) for the improvement and maintenance of City streets.

F. On March 4, 2008, the Board of Supervisors approved a list of County and City Proposition 1B projects to be submitted to the Department of Finance for review and disbursement of Proposition 1B funds.

**Agreement No. D08-033**

G. This Agreement sets forth the terms and conditions by which the County will extend a portion of its Proposition 1B allocation to the City, and the City will follow all State Proposition 1B laws, State regulations, and any and all guidelines or other documents issued by the Department of Finance, the Controller, or any other State agency that is intended to interpret Proposition 1B ("Proposition 1B Requirements").

**SECTION I****IT IS MUTUALLY UNDERSTOOD BY THE PARTIES THAT:**

A. County shall submit a Proposition 1B project list to the Department of Finance for review and disbursement of the County's first Proposition 1B allocation. The City project(s) approved by the Board of Supervisors for Proposition 1B funding is attached hereto as Exhibit A. This Agreement allows the disbursement of a portion of the County's Proposition 1B funds to the City without the requirement of City submitting an invoice requesting Proposition 1B funds.

B. Upon receipt of this allocation from the State, County will timely issue a portion of its allocation to City, in the amount shown on Exhibit A, or as limited by the State should the State pre-determine that any City project or portion of the project is ineligible.

C. City shall abide by all Proposition 1B Requirements, as these requirements may change from time to time. This includes, but is not limited to, meeting the project delivery and expenditure deadlines, and using the County's Proposition 1B allocation to reduce City's traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety.

D. County will conduct a City expenditure assessment at the end of the twelve (12) and twenty-four (24) month periods in order to verify if City is expending its Proposition 1B allocation as provided for by Proposition 1B Requirements. City shall report the status of its Proposition 1B project(s) to County on or before June 10, 2009 and June 10, 2010 for FY 2007-08 allocation. The status report shall include the date of project award, amount of award, percent completion of project, estimated completion date, the amount of funds that have been expended, and the remaining County Proposition 1B allocation to be expended. In the event County wishes to conduct a City expenditure assessment at any time prior to the end of a fiscal year, City shall provide a status report to County within two (2) weeks of a written request in accordance with Section 1.D.

E. County will prepare any necessary amendments to the Proposition 1B project list in June 2009 and June 2010 based on the status reports of all Proposition 1B participating cities. If one or more city status reports show an inability to expend the entire Proposition 1B allocation within the required statutory timeframe, or if the County or State deems any expenditure to be ineligible, County in its sole discretion will determine whether to reallocate the unexpended city funds to the City by preparing a revised Proposition 1B project list for the DOF and an amendment to this Agreement. In no event will County submit a revised project list to the DOF more than once per fiscal year.

F. City shall expend its Proposition 1B allocation no later than June 30, 2011 per Proposition 1B Requirements. Fiscal year 07-08 Proposition 1B funds may only be expended after



**Agreement No. D08-033**

County receives its 1B allocation from the State. Any portion of the city's allocation not expended by this deadline shall be returned to the County in a timely manner, but no later than August 31, 2011.

G. In the event of an audit, City shall provide County, and the State if necessary, all project and finance documentation as required within the timeframe specified by the State. City shall attend all audits involving its Proposition 1B projects as required by State. If the State finds that any City expenditure is ineligible or is out of compliance with Proposition 1B Requirements, that expenditure shall be reimbursed to the County no later than 60 days from the State's determination.

**SECTION II****MISCELLANEOUS PROVISIONS:**

A. Availability of Funds County's distribution of funds to the City depends entirely on the County receiving its Proposition 1B allocation from the State. County shall not disburse the City's allocation until such time that the County receives its Proposition 1B allocation from the State.

B. Indemnification City shall indemnify, defend with counsel approved in writing by County, save and hold County and each of its elected officials, officers, directors, agents and employees harmless from any and all claims, injuries, liabilities, actions, damages, losses or expenses of every type and description to which they may be subjected arising out of any act or omission of, its employees, representatives, agents and independent contractors in connection with the implementation of the actions described in this Agreement. City shall return its Proposition 1B allocation to the County (or State as appropriate, with written consent from the County) within the timeframe contemplated under this Agreement should 1) City fail to expend all of its Proposition 1B allocation within the specified timeframe; 2) the State or County deems any City expenditure to be ineligible; or 3) the County's Proposition 1B aid to cities be found to be incompatible with Proposition 1B Requirements.

C. Assignment This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties. No assignment of City's interest in this Agreement shall be made without the written consent of the County. Furthermore, City agrees that Proposition 1B allocations shall not be expended on, given to, shared with, or otherwise provided to any other city, local agency or other entity not contemplated under this Agreement.

D. Entirety & Amendments This Agreement contains the entire agreement between the Parties with respect to the matters provided for herein. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

**Agreement No. D08-033**

E. Severability If any part of this Agreement is held, determined, or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

F. Calendar Days Any reference to the word "day" or "days" herein means calendar day or calendar days, respectively, unless otherwise expressly provided.

G. Notices Notices or other communications which may be required or provided under the terms of this Agreement shall be given as follows:

**City:** Director of Public Works/City Engineer  
Public Works Department  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629-1805  
Phone 949-248-3554  
Facsimile 949-248-7372

and

**County:** Director of Public Works  
County of Orange  
PO Box 4048  
Santa Ana, CA 92702-4048  
Phone 714-834-2308  
Facsimile 714-834-2496

All notices shall be in writing and deemed effective when delivered in person or deposited in the United States mail, first class, postage prepaid and addressed as above. Notwithstanding the above, the Parties may also provide notices by facsimile transmittal, and any such notice so given shall be deemed to have been given upon receipt during normal business hours or, in the event of receipt after business, on the following business day. Any notices, correspondence, reports and/or statements authorized or required by this Agreement, addressed in any other fashion shall be deemed not given.

H. Termination County may terminate this Agreement for any reason provided that the City has not awarded any project on which its allocation will be expended. After the City has awarded a project on which its allocation will be expended, County may terminate this Agreement if the City is in breach of this Agreement. Any such termination shall be accomplished by delivery to City a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding is terminated, and the date upon which the termination is effective.

No termination shall become effective if, within thirty (30) days after receipt of a Notice of Termination, City either cures the default involved or, if not reasonably susceptible to cure within said thirty (30) day period, City proceeds thereafter to complete the cure in a manner and time line

**Agreement No. D08-033**

acceptable to County. During this period before the effective termination date, City and County shall meet to attempt to resolve any dispute.

I. Breach The failure of the City to comply with any of the terms and conditions of this Agreement or the Proposition 1B Requirements shall be a material breach of this Agreement.

J. Binding Obligation The Parties to this Agreement represent and warrant that this Agreement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity enforceable in accordance with its terms.

K. Governing Law and Venue This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure, Section 394.

L. Attorney's Fees In any action or proceeding to enforce or interpret any provision of this Agreement, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.

M. Waiver of Jury Trial Each Party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Agreement and/or any other claim of injury or damage.

Agreement No. D08-033

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its Mayor and attested by its Clerk, and County has caused this Agreement to be executed by the Chairman of the Board of Supervisors and attested by its Clerk on the dates written opposite their signatures, all thereunto duly authorized by the City Council and the Board of Supervisors, respectively.

City of Dana Point,  
a municipal corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
City Attorney

County of Orange,  
a political subdivision of the State of California

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chairman, Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD

APPROVED AS TO FORM:  
COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By: \_\_\_\_\_  
Darlene J. Bloom  
Clerk of the Board of Supervisors of  
Orange County, California

By: \_\_\_\_\_  
Deputy

County of Orange funded Proposition 1B Project in City of Dana Point  
Fiscal Year 2007-08

Exhibit A  
Agreement D08-033

Board District	Project & Limits	Phase	Lead Agency	Prop. 1B allocation
5	PCH Congestion Relief, Pacific Coast Highway between San Juan Creek and Crystal Lantern St., inclusive of Del Obispo/Dana Point Harbor Dr. intersection	Construction	City of Dana Point	\$500,000

**CITY OF DANA POINT**  
**AGENDA REPORT**

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

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**DATE: MAY 6, 2008**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM BRAD FOWLER, DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES  
TRAFFIC IMPROVEMENT COMMISSION**

**SUBJECT: INTRODUCTION 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**

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**RECOMMENDED ACTION:**

That the City Council introduce and hold first reading of an ordinance (Action Document A) 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

**BACKGROUND:**

Chapter 12.14 of the Dana Point Municipal Code provides guidance on the establishment of Preferential Parking Districts citywide.

In September of 1999, the City Council established the first and only Preferential Parking District ("District") in the City of Dana Point around Dana Hills High School ("DHHS") per Chapter 12.14 of the Dana Point Municipal Code. The intent of the DHHS District was to prevent student parking on residential streets around DHHS as it was impacting residents negatively.

The District has been expanded several times to include additional streets as students were migrating onto additional streets. In addition, the City has worked

diligently to add parking on Golden Lantern and Stonehill Drive to offset the loss of student parking where the District was originally established and expanded.

The current ordinance is proposed to be updated to address issues that have developed over time, and to provide clarification for staff and our residents.

**DISCUSSION:**

Over time, City staff, in response to public complaints, have identified that the original Ordinance should be adjusted to allow for proper enforcement and to clarify a few discrepancies. As such, Public Works, Police Services, and the City Attorney's Office worked together to develop appropriate revisions to allow the spirit of the original Ordinance to be implemented and enforced. The proposed ordinance is included as Action Document A. The suggested revisions are outlined in Supporting Document B.

The Traffic Commission ("Commission") initially reviewed the recommended modifications at its February 20<sup>th</sup> meeting listening to unanimous public comments in support of the revisions. Feedback has been incorporated into this subsequent revision and has been reviewed a second time by the Commission at its March 20<sup>th</sup> meeting. Essentially, the ordinance clarifies the Dana Hills High School District intent, closes several loop-holes, and allows easier enforcement where students are inappropriately obtaining preferential parking stickers/placards from friends and residents as well as parking/leaving trash in front of residences near the school. During review of the ordinance, the City Attorney also took the opportunity to clarify definitions of certain terms, the process to initiate a new preferential parking district, permit revocation/appeal procedures, and other sections that need adjustment.

Staff recommends that the City Council adopt the ordinance included as Action Document A.

**NOTIFICATION/FOLLOW-UP:**

Traffic Improvement Commission

**STRATEGIC PLAN IMPLEMENTATION**

In compliance with the Strategic Plan Initiative to maintain, modernize and beautify the City's infrastructure and neighborhoods.

**FISCAL IMPACT:**

None.

**ALTERNATIVE ACTIONS:**

1. Other direction to staff as determined by the City Council.

**ACTION DOCUMENTS:**

**PAGE #**

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**SUPPORTING DOCUMENTS:**

- B. [Existing Ordinance with Suggested Changes](#) .....11



**ACTION DOCUMENT A – Ordinance****ORDINANCE NO. 08-XX****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**

WHEREAS, Chapter 12.14 of the Dana point Municipal Code relates to Preferential Parking Districts citywide;

WHEREAS, the existing ordinance is in need of revisions to address issues that have developed over time, and to allow staff to properly administer the Preferential Parking District program;

THE CITY COUNCIL FOR THE CITY OF DANA POINT DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: The above recitals are incorporated herein by reference.

Section 2: Chapter 12.14.002 (f) of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.002 (f) Guest**

(f) “Guest” means any person visiting a resident located in a preferential parking district for any traditional guest purpose. The term “guest” also includes those persons providing professional services to a dwelling unit or building located within a district.

Section 3: Chapter 12.14.002 (k) of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.002 (k) Resident**

(k) “Resident” means a homeowner, tenant or other person who lives in a dwelling unit.

Section 4: Chapter 12.14.004 of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.004 Initiation of a Preferential Parking District**

The process for a preferential parking district may be initiated at the direction of the City Council or Traffic Improvement Commission. Notwithstanding the right of the City Council or Traffic Improvement Commission to initiate a preferential parking district, no Resolution establishing such district shall take any force or effect until signs or markings giving adequate notice thereof have been placed in and about the district.

Section 5: Chapter 12.14.005 of the Dana Point Municipal Code is hereby replaced as follows:

**12.15.005 Intent of Preferential Parking District Surrounding Dana Hills High School**

The intent of the Preferential Parking District (District) is to protect residents and their guests from the adverse impacts of non-resident parking on public streets in Preferential Parking Districts. The permits issued to residents living in District boundaries are for their sole use, including guests who are visiting their dwelling units. Permits shall not be distributed to non-residents or guests not actually entering the District to visit a resident in the District. Persons who attend or visit Dana Hills High School, unless they are actual District residents parking next to their homes, are not entitled to park in the District, even if a guest pass or resident pass is provided by a District homeowner or resident. It is also the intent of this District that residents and guests park reasonably close to the residence for which the pass is issued, defined as within 500 feet of the residence.

Section 6: Chapter 12.14.006 of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.006 Designation of Preferential Parking District.**

Once the process for the formation of a Preferential Parking District has been initiated, the following shall take place prior to the establishment of a district:

(a) The Director shall prepare a study on the need for preferential parking in the proposed district. The study may include a survey of resident opinions and observations regarding the need for preferential parking. The study shall include:

- (1) An evaluation of the appropriate district boundaries;
- (2) An evaluation of the current on-street parking uses within the proposed district;

(3) An assessment of the parking restrictions required to address the needs of the proposed district;

(4) An assessment of the potential impacts of the district upon parking uses and parking availability within and without the proposed district boundaries;

(5) An evaluation of the proximity of the proposed district to the Dana Hills High School campus and the negative parking impacts attributable to student parking for all Preferential Parking Districts around Dana Hills High School;

(b) The Director shall present the study and recommendations to the Traffic Improvement Commission or City Council for consideration at a noticed public hearing.

(c) The Director, in making a recommendation to the Traffic Improvement Commission or City Council to establish a district, must consider whether:

(1) The proposed preferential parking program will help address the parking needs of the proposed district; and

(2) The proposed preferential parking program will not result in significant adverse impacts to adjacent, non-district neighborhoods and no unreasonable displacement of non-resident vehicles into surrounding residential areas; and

(3) There are no other practical or feasible alternatives for adequately addressing the district's shortage of reasonably available and convenient residential parking spaces. .

(d) The Traffic Improvement Commission or City Council shall consider the recommendation of the Director in making its determination regarding the formation of a district. If the Traffic Improvement Commission or City Council determines that the criteria set forth in Section 12.14.006(c) have been met in accordance with the rules and procedures required by this Chapter, the Traffic Improvement Commission or City Council may establish a preferential parking district by a resolution designating the appropriate boundaries, parking restrictions and number of parking permits and guest permits which will be issued per dwelling unit in the district. Motor vehicles displaying a valid parking permit may be parked exempt from the parking restrictions established pursuant to this Chapter in the district for which the permit is issued. An approved Preferred Parking District shall not have any force or effect until after signs or markings giving adequate notice thereof have been placed in and about the district.

Section 7: Chapter 12.14.008 of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.008 Issuance of Permits**

(a) Any resident wishing to obtain a parking permit(s) for a district must complete an application as directed by the Department and submit the application along with the appropriate fees, if any, imposed pursuant to Section 12.14.020.

(b) A resident applicant for a preferred parking district permit(s) must prove to the satisfaction of the Director that he or she resides in a particular dwelling unit within that district. An applicant must also prove that the motor vehicle(s) for which the permit is issued is currently registered in the State of California.

(c) Each permit shall be designed to state or reflect the particular district, the license number of the vehicle for which the permit is issued and the date on which the permit shall expire.

(d) Replacement permits may be obtained after proof to the satisfaction of the Director that the original permit was lost, damaged, or stolen, and the appropriate fees, if any, have been paid.

(e) Permits shall only be used by residents and guests of the dwelling unit, and shall only entitle the user to park within 500 feet of the dwelling unit to which the pass is issued. If the vehicle with a permit is parked beyond that distance, the vehicle shall be subject to citation by law enforcement.

Section 8: Chapter 12.14.010 of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.010 Guest Permits**

Residents shall request the issuance of a guest parking permit(s) for preferential parking for their guests. The administration of guest permits with respect to the number of permits, conditions for issuance of permits and expiration period for such permits may be established by resolution of the Traffic Improvement Commission or City Council at the time that the district is approved by the Traffic Improvement Commission or City Council.

Section 9: The first paragraph of Chapter 12.14.014 of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.014 Permit Revocation Procedure.**

The City Engineer is authorized to suspend and revoke a permit under this part. If the City Engineer determines that there are adequate grounds to revoke a permit, he/she may give a permit holder a notice of revocation which states: (i) the grounds for the revocation; (ii) that the permit has been suspended; and (iii) the

procedure for review and appeal of that notice of revocation. Such notice may be delivered by leaving a copy on the windshield of the permitted vehicle or by delivering notice to the dwelling unit associated with the permit holder.

Section 10: Chapter 12.14.022 of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.022 Posting of Permit Parking Area**

Upon the designation of a preferential parking district, but prior to such district taking legal force and effect, the Department shall cause appropriate signs to be erected in the district, indicating prominently any parking limitations, period of the day for its application and the fact that motor vehicles with valid permits shall be exempt from the requirements.

Section 11: Chapter 12.14.026 (a)(3) of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.026 Permit Parking Exemption**

(3) A vehicle which displays either a distinguishing license plate or placard issued pursuant to Vehicle Code Sections 5007, 22511.5., 22511.55 or 22511.59 relating to disabled or handicapped persons;

Section 12: Chapter 12.14.026 (a)(5)(c) of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.026 Permit Parking Exemption**

(c) The Preferential Parking District Program shall be in full force and effect, including all provisions of this Chapter, on the days and times set forth in the approval of the specific District. For the Dana Hills High School District, this will be regular school days during the hours of 7:00 a.m. and 4:00 p.m. (excluding summer school). This section takes precedence over any other regulations related to the enforcement period established by approvals previous to the date of this Ordinance.

Section 13: Chapter 12.14.030 is hereby added to the Dana Point Municipal Code as follows:

**12.14.030 State Vehicle Code Provisions.**

The provisions of this Chapter are expressly enacted under the Constitution of the State, Article XI, Section 11 together with provisions of the Vehicle Code of the State, as amended. The provisions set forth in the Vehicle Code shall govern whenever this Chapter fails to set forth any specific provision, or is in conflict thereof.

Section 14: Chapter 12.14.200 (c) of the Dana Point Municipal Code is hereby replaced as follows:

**12.14.200 Decisions and Right of Appeal.**

(c) Decisions of the Traffic Improvement Commission with regard to the initial establishment of the district may be appealed. Appeals of the Traffic Improvement Commission shall be filed with the City Clerk. Appeals must be filed no later than fifteen (15) calendar days after the rendering of the decision being appealed. Appeals filed to the City Clerk shall be in writing, must specifically cite the basis of the appeal, including how the person is negatively impacted by the Commission’s determination and must be accompanied by any fee the Council so chooses to impose by resolution. A decision rendered by the Traffic Improvement Commission appealed to the City Council shall not become final until upheld by the City Council.

Section 15: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason 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 declared 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.

Section 16: The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor Joel Bishop

ATTEST:

\_\_\_\_\_  
Kathy 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. 08-\_\_ was duly introduced at a regular meeting of the City Council on the \_\_ day of \_\_\_\_\_, 2008, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Kathy M. Ward  
City Clerk

**SUPPORTING DOCUMENT B – Existing Ordinance with Suggested Changes****12.14.002 Definitions.**

For purposes of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

- (a) “Department” means the City’s Department of Public Works.
- (b) “Director” means the City’s Director of Public Works and Engineering or his or her designee.
- (c) “City Engineer” means the City’s City Engineer in the Public Works Department.
- (d) “District” means a preferential parking district.
- (e) “Dwelling unit” means a self-contained group of interconnected rooms designed or intended as separate living quarters, with sleeping and sanitary facilities and one cooking facility, provided within a permanent structure or portion thereof. Examples of a dwelling unit include a house, apartment, condominium or mobile home, but do not include a hotel, motel or timeshare. If any dwelling unit or units has been modified to add one or more dwelling units to a structure without obtaining proper permits from the City or County of Orange, then such added dwelling unit(s) shall not be considered a dwelling unit for purposes of this Chapter.
- (f) “Guest” means any person visiting a resident located in a preferential parking district for any traditional guest purpose. ~~The term “guest” also includes those persons providing professional services to a dwelling unit or building located within a district, but shall not include an employee either within or adjacent to the preferential parking district who is parking in connection with such employment.~~
- (g) “Parking restriction” means the limited amount of time and/or time of day vehicles may park on the street in a preferential parking district.
- (h) “Permit,” for the purposes of this Chapter, means a valid preferential parking authorization for a resident or a guest issued in accordance with Section 12.14.008.
- (i) “Preferential parking” means the exemption of vehicles displaying a valid permit from certain daytime and nighttime parking restrictions.
- (j) “Preferential Parking District” means a street or group of streets designated by City Council resolution which establishes specified parking restrictions exempting those vehicles displaying a valid permit pursuant to this Chapter.



(k) "Resident" means a homeowner, tenant or other person who lives in a dwelling unit.

**12.14.004 Initiation of a Preferential Parking District.**

The process for a preferential parking district may be initiated at the direction of the City Council or Traffic Improvement Commission. Notwithstanding the right of the City Council or Traffic Improvement Commission to initiate a preferential parking district, no Resolution establishing such district shall take any force or effect until signs or markings giving adequate notice thereof have been placed in and about the district.

**12.15.005 Intent of Preferential Parking District Surrounding Dana Hills High School**

The intent of the Preferential Parking District (District) is to protect residents and their guests from the adverse impacts of non-resident parking on public streets in Preferential Parking Districts. The permits issued to residents living in District boundaries are for their sole use, including guests who are visiting their dwelling units. Permits shall not be distributed to non-residents or guests not actually entering the District to visit a resident in the District. Persons who attend or visit Dana Hills High School, unless they are actual District residents parking next to their homes, are not entitled to park in the District, even if a guest pass or resident pass is provided by a District homeowner or resident. It is also the intent of this District that residents and guests park reasonably close to the residence for which the pass is issued, defined as within 500 feet of the residence.

**12.14.006 Designation of Preferential Parking District.**

Once the process for the formation of a Preferential Parking District has been initiated, the following shall take place prior to the establishment of a district:

(a) The Director shall prepare a study on the need for preferential parking in the proposed district. The study may include a survey of resident opinions and observations regarding the need for preferential parking. The study shall include:

- (1) An evaluation of the appropriate district boundaries;
- (2) An evaluation of the current on-street parking uses within the proposed district;
- (3) An assessment of the parking restrictions required to address the needs of the proposed district; ~~and~~
- (4) An assessment of the potential impacts of the district upon parking uses and parking availability within and without the proposed district boundaries;:-

~~————~~(5) An evaluation of the proximity of the proposed district to the Dana Hills High School campus and the negative parking impacts attributable to student parking for all Preferential Parking Districts around Dana Hills High School;

(b) The Director shall present the study and recommendations to the Traffic Improvement Commission or City Council for consideration at a noticed public hearing.

(c) The Director, in making a recommendation to the Traffic Improvement Commission or City Council to establish a district, must consider whether: ~~there is sufficient evidence to conclude that:~~

~~————~~(1) The proposed preferential parking program will help address the parking needs of the proposed district; and

~~————~~(2) The proposed preferential parking program will not result in significant adverse impacts to adjacent, non-district ~~neighborhoods and no unreasonable displacement of non-resident vehicles into surrounding residential areas; and not a part of the proposed district or an existing district, and help address the parking needs of the proposed district;~~

~~————~~(3) There are no other practical or feasible alternatives for adequately addressing the district's shortage of reasonably available and convenient residential parking spaces. ~~parking problems.~~

(d) The Traffic Improvement Commission or City Council shall consider the recommendation of the Director in making its determination regarding the formation of a district. If the Traffic Improvement Commission or City Council determines that the criteria ~~set forth in Section 12.14.006(c) have been met in accordance with~~ the rules and procedures required by this Chapter ~~have been met~~, the Traffic Improvement Commission or City Council may establish a preferential parking district by a resolution designating the appropriate boundaries, parking restrictions and number of parking permits and guest permits which will be issued per dwelling unit in the district. Motor vehicles displaying a valid parking permit may be parked exempt from the parking restrictions established pursuant to this Chapter in the district for which the permit is issued. An approved Preferred Parking District shall not have any force or effect until after signs or markings giving adequate notice thereof have been placed in and about the district.

#### 12.14.008 Issuance of Permits.

(a) Any ~~person-resident~~ wishing to obtain a parking permit(s) for a district must complete an application as directed by the Department and submit the application along with the appropriate fees, if any, imposed pursuant to Section 12.14.020.

(b) ~~An~~A resident applicant for a preferred parking district permit(s) must prove to the satisfaction of the Director that he or she resides in a particular dwelling unit

within that district. An applicant must also prove that the motor vehicle(s) for which the permit is ~~proposed~~ ~~issued~~ ~~to be issued~~ is currently registered in the State of California.

(c) Each permit shall be designed to state or reflect the particular district, the license number of the vehicle for which the permit is issued and the date on which the permit shall expire.

(d) Replacement permits may be obtained after proof to the satisfaction of the Director that the original permit was lost, damaged, or stolen, and the appropriate fees, if any, have been paid.

(e) Permits shall only be used by residents and guests of the dwelling unit, and shall only entitle the user to park within 500 feet of the dwelling unit to which the pass is issued. If the vehicle with a permit is parked beyond that distance, the vehicle shall be subject to citation by law enforcement.

**12.14.010 Guest Permits.**

Residents ~~may~~ ~~shall~~ request the issuance of a guest parking permit(s) for preferential parking ~~by for their a guests of a resident~~. The administration of guest permits with respect to the number of permits, conditions for issuance of permits and expiration period for such permits may be established by resolution of the Traffic Improvement Commission or City Council at the time that the district is approved by the Traffic Improvement Commission or City Council.

**12.14.012 Grounds for Refusal or Revocation.**

Any of the following are grounds for refusal to issue or to revoke a permit:

(a) The applicant or permit holder cannot provide required evidence that the dwelling unit within the district is the residence of the applicant or permit holder;

(b) Failure of the applicant to provide complete and correct information on the application as required by the Department;

(c) Assignment, transfer, or use of the permit after issuance for any consideration, monetary or otherwise;

(d) The copying, production, or creation of a facsimile or counterfeit permit, or the use or display of a facsimile or counterfeit permit.

**12.14.014 Permit Revocation Procedure.**

The City Engineer is authorized to suspend and revoke a permit under this part. If the City Engineer determines that there are adequate grounds to revoke a permit, he/she may give a permit holder a notice of revocation which states: (i) the grounds for the revocation; (ii) that the permit has been suspended; and (iii) the procedure for review and

appeal of that notice of revocation. Such notice may be delivered by leaving a copy on the windshield of the permitted vehicle or by delivering notice to the dwelling unit associated with the permit holder.

A permit is automatically suspended as soon as a notice of revocation is delivered to the permit holder. The suspension shall become a permanent revocation if either: (i) no timely appeal is filed, or (ii) the City Engineer does not rescind the notice of revocation. During any period of suspension, a permit shall not be valid nor shall it exempt a vehicle from compliance with this part.

An applicant or permit holder may appeal a decision to deny or revoke a permit to the Director. Any such appeal shall be in writing and shall be filed with the Director within fourteen (14) calendar days after delivery of a notice of denial or revocation. If such an appeal is filed, the applicant or permit holder shall be given an opportunity for a review and meeting concerning the Director's decision. The Director is authorized to affirm, reverse or modify any such decision. Notice of the determination on reconsideration shall be in writing. Any applicant or permit holder may appeal the determination of the City Manager directly to the City Council in accordance with Section 2.04.100 et seq., of this Code.

**12.14.016 Display of Permit.**

The permit issued under this Chapter shall be visibly displayed on the inside left rear window of the vehicle for which the permit is issued. Guest permits shall be visibly displayed on the left front side of the vehicle's dashboard or the rear view mirror.

**12.14.018 Term of Preferential Parking Permits.**

Preferential parking permits shall be valid for a period of up to five (5) years from the date of issuance or until such time as the applicant ceases to reside in the district, whichever occurs first.

**12.14.020 Permit Fee.**

Applications for issuance of initial permits, renewal permits, transfer permits in the case of a holder of a permit moves to another district, or a replacement permit in the case of a lost or mutilated permit, shall be accompanied by such fee, if any, as may be established from time to time by resolution of the Traffic Improvement Commission or City Council.

**12.14.022 Posting of Permit Parking Area.**

Upon the designation of a preferential parking district, but prior to such district taking legal force and effect, the Department shall cause appropriate signs to be erected in the district, indicating prominently ~~the any~~ parking limitations, period of the day for its application and the fact that motor vehicles with valid permits shall be exempt from the requirements.

**12.14.024 Special Function Permits.**

Residents within a preferential parking district or an organization may apply for a one-day special function parking permit (for parties and similar events) in person at the Department. Said application must be filed a minimum of five (5) business days prior to the special function. The City Engineer or his designee is authorized to process the application and issue any reasonable number of temporary special function parking permits.

**12.14.026 Permit Parking Exemption.**

(a) The following vehicles are exempt from the parking restrictions established pursuant to this Chapter:

(1) A motor vehicle identified as owned by or operated under contract to a utility when used in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work in the designated preferential parking district;

(2) A motor vehicle when identified as owned by or under contract to a governmental agency, when used in the course of official governmental business;

(3) A vehicle which displays either a distinguishing license plate or placard issued pursuant to Vehicle Code Sections 5007, 22511.5, ~~or 22511.9~~, 22511.55 or 22511.59 relating to disabled or handicapped persons;

(4) Authorized emergency vehicles pursuant to California Vehicle Code Section 21055;

(5) Any commercial vehicle making pickups or deliveries of goods, wares or merchandise from or to any building or structure in the district or for the purpose of delivery to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure for which a currently valid building permit has previously been obtained.

(b) A preferential parking permit does not guarantee or reserve to the holder of the permit an on-street parking space within the designated preferential parking district.

(c) The Preferential Parking District Program shall be in full force and effect, including all provisions of this Chapter, on the days and times set forth in the approval of the specific District. For the Dana Hills High School District, this will be regular school days during the hours of 7:00 a.m. and 4:00 p.m. (excluding summer school). This section takes precedence over any other regulations related to the enforcement period established by approvals previous to the date of this Ordinance.

**12.14.028 Penalty Provisions.**

(a) Unless otherwise exempted from the provisions of this Chapter, no person shall stop, stand, park, or leave standing a motor vehicle in violation of any parking restriction established pursuant to this Chapter.

(b) No person shall falsely represent himself or herself as eligible for a parking permit or furnish false information in an application for a parking permit to the department.

(c) No permit issued pursuant to this Chapter shall thereafter be transferred or used for any consideration, monetary or otherwise.

(d) No person shall copy, produce or create a facsimile or counterfeit parking permit; nor shall any person use or display a facsimile or counterfeit preferential parking permit.

(e) The permit(s) of any person who, after a hearing, has been found by the Director or City Engineer to have violated any of the provisions of this Chapter shall be revoked by the Director or City Engineer and no new permit shall be issued to that person or any person residing within that dwelling unit for a period of one year. Such person upon written notification of such revocation shall surrender the permit(s) to the Department within fourteen (14) days. Use of a revoked parking permit is prohibited.

(f) Any regularly employed or salaried peace officer or non-sworn community service officer of the City or police agency providing police services to the City shall have the authority to issue citations for any violation of this Chapter.

(g) Any violation of this Section is illegal and may be punished as a misdemeanor.

**12.14.030 State Vehicle Code Provisions.**

The provisions of this Chapter are expressly enacted under the Constitution of the State, Article XI, Section 11 together with provisions of the Vehicle Code of the State, as amended. The provisions set forth in the Vehicle Code shall govern whenever this Chapter fails to set forth any specific provision, or is in conflict thereof.

**12.14.200 Decisions and Right of Appeal.**

(a) Appeals of the imposition of conditions or terms by the City Engineer may be submitted in writing to the City Engineer. A notice of appeal shall be filed within ten (10) days after the applicant is notified of the City Engineer's decision to impose conditions or terms.

(b) At the time set for hearing of the appeal of a City Engineer's condition or term, the Director of Public Works ("Director") may summon witnesses and hear evidence relating to the application. At the conclusion thereof, the Director may grant or deny the application, or make such modifications with reference thereto as may be deemed appropriate. The findings and order of the Director shall be final and conclusive.

(c) Decisions of the Traffic Improvement Commission **with regard to the initial establishment of the district** may be appealed. Appeals of the Traffic Improvement Commission shall be filed with the City Clerk. Appeals must be filed no later than fifteen (15) calendar days after the rendering of the decision being appealed. Appeals filed to the City Clerk shall be in writing, must specifically cite the basis of the appeal, including how the person is negatively impacted by the Commission's determination and must be accompanied by any fee the Council so chooses to impose by resolution. A decision rendered by the Traffic Improvement Commission appealed to the City Council shall not become final until upheld by the City Council.

**CITY OF DANA POINT**  
**AGENDA REPORT**

Reviewed By:	
DH	X
CM	X
CA	X

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**DATE: MAY 6, 2008**

**TO: CITY MANAGER/CITY COUNCIL**

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

**SUBJECT: AUTHORIZATION TO PROCEED WITH STRIPING ADJUSTMENTS ON TWO ARTERIAL STREETS, NAMELY PACIFIC COAST HIGHWAY AND DOHENY PARK ROAD, PURSUANT TO SECTION 21950 OF THE CALIFORNIA VEHICLE CODE**

---

**RECOMMENDED ACTION:**

That the City Council (1) accept the deletion/relocation of the crosswalk in the easterly leg of the intersection at Pacific Coast Highway (PCH) and Del Obispo/Dana Point Harbor Drive pursuant to California Vehicle Code Section 21950 and the previously City Council approved project plan entitled "Pacific Coast Highway Congestion Relief Project"; (2) accept the deletion/relocation of the crosswalk from the easterly leg of the intersection at Pacific Coast Highway (PCH) and Crystal Lantern Drive to the westerly leg pursuant to California Vehicle Code Section 21950 and the previously City Council approved project plan entitled "Pacific Coast Highway Congestion Relief Project"; and (3) authorize the deletion of the mid-block crosswalk in the southerly leg of the intersection at Doheny Park Road and Domingo Avenue, which occurred in 2007, pursuant to California Vehicle Code Section 21950.

**ISSUES:**

The City is required to give notice to the public when a crosswalk is contemplated for removal or relocation to ensure the public is notified and has an opportunity to provide comment. The issue before the Council is whether or not to accept the removal and eventual relocation of a crosswalk at PCH and Del Obispo/Dana Point Harbor Drive with a pedestrian overcrossing, the relocation of a crosswalk at PCH and Crystal Lantern to the opposite side of the intersection, and the removal of a crosswalk at Doheny Park Road and Domingo Avenue. These are all recommended by our licensed traffic engineering consultants.



**BACKGROUND:**

As the City Council is aware, the traffic congestion on Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern is consistently heavy during most days. The City Council authorized the construction of the Pacific Coast Highway Congestion Relief Project on February 19, 2008, a project that is intended to alleviate the known traffic congestion.

To reduce intersection delay and improve safety, the project design eventually replaces the crosswalk in the easterly leg of the intersection at PCH and Del Obispo/Dana Point Harbor Drive with a pedestrian overcrossing, as well as moves the crosswalk at PCH and Crystal Lantern from the east leg to the west leg. Supporting Document 'A' is provided to show the planned changes.

Also, when the City recently repaved Doheny Park Road at Domingo Avenue, a mid-block crosswalk was removed due to safety concerns, and pertinent signage was added alerting the public of the change. The City has received no complaints regarding the removal of the crosswalk since it was done.

**DISCUSSION:**

In accordance with requirements put forth in California Vehicle Code Section 21950.5, City staff has posted notice beginning March 31, 2008 at the following three intersections alerting the public of crosswalk removals or relocations:

1. Pacific Coast Highway and Del Obispo/Dana Point Harbor Drive
2. Pacific Coast Highway and Crystal Lantern
3. Doheny Park Road and Domingo Avenue

A copy of the three notices are included as Supporting Document 'B'.

City staff recommends that the City Council approve the Recommended Action.

**NOTIFICATION/FOLLOW-UP:**

JPIA

**STRATEGIC PLAN IMPLEMENTATION:**

In compliance with the Strategic Plan Initiative to maintain, modernize and beautify the City's infrastructure and neighborhoods.

**FISCAL IMPACT:**

None

**ALTERNATIVE ACTIONS:**

- 1. Other Council-directed action.

**ACTION DOCUMENTS:**

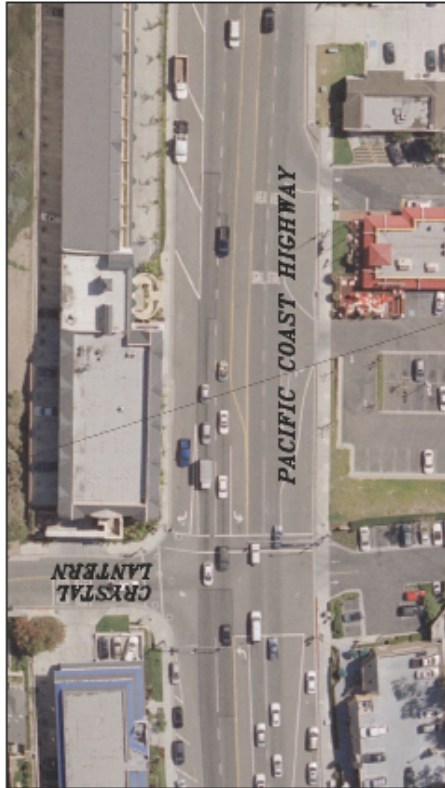
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**SUPPORTING DOCUMENTS:**

None

**Supporting Document A – Planned Striping Changes**



**CITY OF  
DANA POINT  
PUBLIC WORKS/  
ENGINEERING  
DEPARTMENT**



**PACIFIC COAST HIGHWAY TRAFFIC CONGESTION RELIEF PROJECT**  
(CRYSTAL LANTERN AND PACIFIC COAST HIGHWAY INTERSECTION)

**AERIAL PHOTOGRAPHS**  
CITY OF DANA POINT

PAGE  
1 OF 1

**Supporting Document B – Public Meeting Notices**

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**PUBLIC NOTICE  
CITY OF DANA POINT  
NOTICE OF PUBLIC MEETING**

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**NOTICE IS HEREBY GIVEN** that the City of Dana Point will be holding a public meeting to discuss the removal of the crosswalk across Pacific Coast Highway (PCH) on the east leg of the intersection of Del Obispo and PCH, pursuant to California Vehicle Code Section 21950.5. A Project Description for the project in question is provided below.

**PROJECT DESCRIPTION**

The City Council authorized the construction of the Pacific Coast Highway Congestion Relief Project on February 19, 2008, a project that is intended to alleviate the known traffic congestion.

The key actions of the project are to add additional travel lanes, lessen the impact pedestrians cause when crossing PCH by constructing a pedestrian bridge with access elevators, and inserting new bus turnouts on the east side of the intersection. In addition to adding travel lanes, repairing pavement, and constructing a pedestrian bridge, the project provides several key public benefits that were orchestrated in conjunction with State Parks and other agencies. First, the pedestrian bridge will not only reduce pedestrian traffic within the intersection, but it will also provide a key access point to Doheny State Beach from PCH. Second, the project replaces the old chain link fence along Doheny State Beach and PCH with a historical wall/fence along the entire property line. This portion of the project will greatly improve the aesthetics of the City's most busy thoroughfare. Third, new landscaping and other beautification elements will enhance the appearance of the PCH corridor between the San Juan Creek Bridge and Crystal Lantern.

To reduce intersection delay and improve safety, the project also removes the crosswalk in the easterly leg of the intersection at PCH and Del Obispo/Dana Point Harbor Drive.

The public is encouraged to attend and express their concerns either in writing or orally.

**Project Location:** Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern.

**Hearing Date:** May 6, 2008

**Hearing Time:** 6:00 p.m. (or as soon thereafter as possible)

**Hearing Location:** 33282 Golden Lantern, Suite 210, Dana Point, California 92629

**For further information or if you have questions or comments, please contact the City Engineer by phone, e-mail or in writing at the following:**

**Mr. Matthew Sinacori, P.E.**  
City Engineer  
Public Works Department  
33282 Golden Lantern, Suite 212,  
Dana Point, CA 92629  
Telephone: (949) 248-3574,  
E-mail: [msinacori@danapoint.org](mailto:msinacori@danapoint.org)

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**PUBLIC NOTICE  
CITY OF DANA POINT  
NOTICE OF PUBLIC MEETING**

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**NOTICE IS HEREBY GIVEN** that the City of Dana Point will be holding a public meeting to discuss the relocation of the crosswalk across Pacific Coast Highway (PCH) from the east leg of the intersection of PCH and Crystal Lantern to the west leg, pursuant to California Vehicle Code Section 21950.5. A Project Description for the project in question is provided below.

**PROJECT DESCRIPTION**

The City Council authorized the construction of the Pacific Coast Highway Congestion Relief Project on February 19, 2008, a project that is intended to alleviate the known traffic congestion.

The key actions of the project are to reduce traffic congestion by adding travel lanes on PCH, lessen the impact pedestrians cause on traffic congestion when crossing PCH by constructing a pedestrian bridge with access elevators, and inserting new bus turnouts on the east side of the intersection. In addition to adding travel lanes, repairing pavement, and constructing a pedestrian bridge, the project provides several key public benefits that were orchestrated in conjunction with State Parks and other agencies. First, the pedestrian bridge will not only reduce pedestrian traffic within the intersection, but it will also provide a key access point to Doheny State Beach from PCH. Second, the project replaces the old chain link fence along Doheny State Beach and PCH with a historical wall/fence along the entire property line. This portion of the project will greatly improve the aesthetics of the City's most busy thoroughfare. Third, new landscaping and other beautification elements will enhance the appearance of the PCH corridor between the San Juan Creek Bridge and Crystal Lantern.

The project also moves the crosswalk at PCH and Crystal Lantern from the east leg to the west leg. This will reduce vehicle backups on Crystal Lantern making left turns onto PCH.

The public is encouraged to attend and express their concerns either in writing or orally.

**Project Location:** Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern.  
**Hearing Date:** May 6, 2008  
**Hearing Time:** 6:00 p.m. (or as soon thereafter as possible)  
**Hearing Location:** 33282 Golden Lantern, Suite 210, Dana Point, California 92629

**For further information or if you have questions or comments, please contact the City Engineer by phone, e-mail or in writing at the following:**

Mr. Matthew Sinacori, P.E.  
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E-mail: [msinacori@danapoint.org](mailto:msinacori@danapoint.org)

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**PUBLIC NOTICE  
CITY OF DANA POINT  
NOTICE OF PUBLIC MEETING**

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**NOTICE IS HEREBY GIVEN** that the City of Dana Point will be holding a public meeting to discuss the removal of the mid-block crosswalk that originally existed across Doheny Park Road at Domingo Avenue, pursuant to California Vehicle Code Section 21950.5. A Project Description for the project in question is provided below.

**PROJECT DESCRIPTION**

The City completed a major rehabilitation project in 2007 on Doheny Park Road. Street improvements were completed including a complete pavement resurfacing. After the pavement was redone, the City restriped the roadway, and removed a mid-block crosswalk at Domingo Avenue due to safety concerns.

This meeting is being held to give the public an opportunity to discuss any concerns now that the crosswalk has been removed.

The public is encouraged to attend and express their concerns either in writing or orally.

**Project Location:** Doheny Park Road at Domingo Avenue  
**Hearing Date:** May 6, 2008  
**Hearing Time:** 6:00 p.m. (or as soon thereafter as possible)  
**Hearing Location:** 33282 Golden Lantern, Suite 210, Dana Point, California 92629

**For further information or if you have questions or comments, please contact the City Engineer by phone, e-mail or in writing at the following:**

City of Dana Point  
Public Works Department  
Mr. Matthew Sinacori, P.E.  
City Engineer  
33282 Golden Lantern, Suite 212,  
Dana Point, CA 92629  
Telephone: (949) 248-3574,  
E-mail: [msinacori@danapoint.org](mailto:msinacori@danapoint.org)

**CITY OF DANA POINT**  
**AGENDA REPORT**

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

**DATE: MAY 6, 2008**

**TO: CITY MANAGER AND CITY COUNCIL**

**FROM: MIKE ROSE, EMERGENCY AND SUPPORT SERVICES MANAGER**

**SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE NEXT PHASE OF CITY HALL RENOVATION**

**RECOMMENDED ACTION:**

That the City Council authorize staff to advertise for bids for the next phase of City Hall renovation.

**BACKGROUND:**

Over the past few years, City Hall has been undergoing a phased renovation project, the goal of which is to more effectively use the space available. The first phase of this renovation included the development of the Records Center and the Emergency Operations Center. The second phase included the new Police Services office and the partial renovation of the Administration office, and last year we concluded the improvements to the City Council Chamber. The next phase of this building-wide rehab is the renovation of the currently vacant space across from Administration and adjacent to the City Council Chambers. This area will become the new customer service area and work space for the Community Development Department, including the Planning Division, Building Division, Economic Development and Code Enforcement. The most critical portion of this renovation project will be the new Development Services Counter.

**DISCUSSION:**

One of the guiding principles of this renovation project has been to improve the Public Space at City Hall and to seek design improvements that will best support improved customer service. The final design is the result of months of meetings between Facilities staff, the architect, Planning staff, the Building Division, and Engineering. These meetings saw frequent re-design of the same space with new ideas constantly being developed to improve the manner in which we serve the public.

Our goal of improved customer service may be best exemplified by the new design for the customer service counter (Development Services Counter). This new area incorporates an increase in square footage; increased counter space (linear footage); a logical flow in the counter service area to increase the efficiency in the permit process; a self-service kiosk; a separate cashier area; and improved seating for waiting customers.

Staff is now prepared to begin this phase of the renovation and recommends approval to publish this project for public bid. Once this project is nearing completion (anticipated completion October 2008), we will return to Council to seek authorization for the renovation of the Public Works wing and the final renovation for the Administrative Services office.

**FISCAL IMPACT:**

\$450,000 was budgeted in the current fiscal year Facilities Improvement Fund to cover the cost of this renovation.

**SUPPORTING DOCUMENTS:**

None.



**CITY OF DANA POINT  
AGENDA REPORT**

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

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**DATE: MAY 6, 2008**

**TO: THE HONORABLE MAYOR AND CITY COUNCIL**

**FROM: DOUG CHOTKEVYS, CITY MANAGER  
PATRICK MUNOZ, CITY ATTORNEY**

**SUBJECT: STORAGE OF VEHICLES ON PUBLIC STREETS**

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**RECOMMENDED ACTION:**

That the City Council receive and file this report on the Traffic Improvement Commission's ordinance modification recommendation concerning the storage of vehicles on public streets.

**BACKGROUND:**

At its meeting on February 5, 2008, the City Council received public testimony and reviewed a proposed Ordinance recommended by the City's Traffic Improvement Commission. The Traffic Improvement Commission considered this issue at three public meetings on July 18, September 18, and October 17, 2007 and unanimously proposed the municipal code adjustments contained herein.

At the February 5, 2008 City Council meeting, the City Attorney and Chief of Police Services indicated that they had concerns relative to the City's ability to successfully enforce provisions of the proposed Ordinance. As a result of the Council's review and the public testimony received at the February 5<sup>th</sup> City Council meeting, the City Council directed the City Attorney and the City Manager to work with Mayor Pro Tem Lisa Bartlett and Council Member Steven Weinberg to review the language contained in the proposed Ordinance to better reflect the comments and direction of the City Council as provided at that meeting and to return with a proposed modified Ordinance at the March 4<sup>th</sup> City Council meeting.

As a result of that direction, Mayor Pro Tem Bartlett and Council Member Weinberg met with staff and directed staff to examine a few points that were developed at that meeting with the City Attorney and the Chief of Police Services as well as other staff as appropriate for discussion and consideration by the group before a recommendation was returned for City Council consideration. As reported at the March 4, 2008 City Council meeting, the Council appointed group was

working to return at a future Council meeting with a revised approach for City Council consideration to deal with the storage of vehicles on public streets.

During the past several months, Police Services has been working closely with Public Works and the Code Enforcement Division of Community Development to see if a heightened and directed enforcement effort of existing Vehicle Code and Municipal Code sections could achieve the same effect as adopting a “one-size” fits all type of Ordinance to deal with issues identified as part of the Traffic Improvement Commissions study and eventual deliberation of the issue. Given street width, vehicle length, varying individual residential neighborhood issues and commercial development patterns and elements of the City’s Zoning Code, it was determined that a “one-size” fits all type of Ordinance to deal with issues identified as part of the Traffic Improvement Commissions study would be very difficult to enforce and be sustained in Court. As a result of the aforementioned, Police Services worked closely with the other Departments to identify “focused” areas where trial heightened and directed enforcement could be implemented to achieve desired results.

To date, staff has achieved success with the heightened and directed enforcement approach. As such, staff is recommending that the City Council suspend its efforts for an additional six to twelve months so staff can further administer a heightened and directed enforcement pattern in problem areas that are brought to our attention to see if we can gain greater compliance with existing codes as well as mitigate those situations where problem parking situations and potential public nuisances exist in the Community.

### **DISCUSSION:**

As a result of heightened and directed enforcement actions taken by Police Services, Public Works and the Code Enforcement Division of Community Development, using existing code sections, the working group believes that no ordinance modifications are necessary at this time. It is recommended that this process continue and staff report back in six to twelve months on how well our customers are satisfied with this approach. The original Traffic Improvement Commission Ordinance Modification Recommendations are included as Supporting Document A for reference.

### **FISCAL IMPACT:**

There is no fiscal impact associated with this action at this time.

### **SUPPORTING DOCUMENTS:**

### **PAGE #**

A. [Traffic Improvement Commission Ordinance Modification Recommendation](#)

3

**SUPPORTING DOCUMENT A: Adjusted Code Sections 6.14.002(n), 12.08.020 and 12.08.050 (with changes indicated)**

6.14.002 Public Nuisances Designated.

(n)(1) Construction equipment, buses, limousines, tow trucks, dump trucks, flatbed trucks grading equipment, tractors, tractor trailers, truck trailers, or any other commercial vehicle over twenty-five (25) feet long or eight (8) feet in height or ~~ninety (90)~~ eighty (80) inches wide, supplies, materials, or machinery of any type or description, parked or stored upon any street or property within a residential zone;

(2) Commercial vehicle, for the purposes of this section, shall be defined as any motorized or non-motorized vehicle used or maintained to transport property or goods for profit, or persons for hire or compensation. Any commercial vehicle (except oversized vehicles noted above), when used as the primary source of transportation by the person owning, leasing, occupying or having charge of any such vehicle, shall be excluded from the provision of this Subsection;

(3) Vehicle servicing related vehicles, for the purpose of this section, shall be defined as vehicles parked on a public street that are awaiting sale, repair or service from a vehicle service, alteration or repair business, are in the process of repair or service by such a business, or have already had repair and service performed by such a business and are awaiting to be picked up by their owner. The definition of vehicle servicing related vehicles shall also include vehicles of owners and employees of vehicle repair, alteration or repair businesses that are parked on public streets in connection with the vehicle owner's employment at or operation of the business. Vehicle service, alteration or repair businesses shall maintain sufficient parking on their private property site for vehicle servicing related vehicle parking. Vehicle service, alteration or repair businesses shall not routinely use public streets for vehicle servicing related vehicle parking except immediately adjacent to their property. Existing businesses shall have 90 days to comply with this provision following notification, and may request an extension of up to one year for difficult situations.

**12.08.020 Storage of Vehicles on Streets Prohibited.**

It is the intent of this Section to prohibit the storage or parking for extended periods of time of vehicles upon any public street or upon publicly owned, maintained, or operated property. Further, it is intended to prohibit repeatedly moving the vehicle short distances to avoid citation. No person who owns or has possession, custody, or control of any vehicle, shall park such vehicle upon any public street or upon publicly owned, maintained, or operated property for a period of seventy-two (72) or more consecutive hours. For purposes of this Section, the vehicle shall be considered to have remained parked unless, during any seventy-two (72) hour period, said vehicle has been moved, i.e. operated and parked at least one mile from the position it previously occupied. Generally it is expected that first time offenders will be cited while multiple offenses or failure to acknowledge a citation shall be cause to tow the vehicle.

### **12.08.050 Commercial, Recreational and Wide Vehicle and Trailer Parking Restricted.**

It is the general intent of this section to preclude large commercial, recreational, business related, wide vehicles and trailers from being stored or parked for extended periods of time on residential streets.

(a) During hours of 8:00 pm to 6:00 am, no person shall park any vehicle, except a private passenger automobile registered as such, of a width in excess of eighty (80) inches (excluding mirrors and other extensions) other than to make deliveries or repairs of an emergency nature on either the vehicle itself or to the adjacent properties, on any of the following described street locations:

(1) Any street or the cul-de-sac thereof, which has a curb width of forty (40) feet or less.

(2) Any street on which a traffic lane line has been painted where the distance between the painted lane line and the nearest part of the vehicle or trailer is eleven (11) feet or less.

However, this subsection does not preclude a resident from parking a single business related vehicle in front of their home that is regularly used by the resident on weekdays and that is not oversized per code section 6.14.002.

(b) No person shall park or leave standing any trailer or recreational vehicle, including but not limited to any camp trailer, trailer coach, house car or boat trailer which includes commonly called campers, RV's and toy boxes, regardless of width, on any street or alley in the City except by City permit. No more than three temporary 72 hour permits shall be issued to a specific vehicle by City per calendar year. Citations may be dismissed upon proof of correction. The permit shall be placed in front driver's side windshield, easily visible from the street. Parking shall be allowed only adjacent to owner's property where vehicle is registered or temporarily visiting, unless permission is granted by neighbor to use neighboring property frontage. Exceptions are:

(1) A vehicle as described above, registered to the resident of the adjacent property, for the purpose of loading, unloading, or servicing, for a period not to exceed seventy-two (72) hours; or

(2) A City permitted vehicle for the purpose of temporarily visiting adjacent property, for a period not to exceed seventy-two (72) hours; or

(3) An unattached trailer, for any purpose, for a period not to exceed two (2) hours.

(c) No person shall park or leave standing any commercial vehicle or any vehicle used or maintained for the transportation for hire, compensation or profit or designed or maintained for the transportation of property, including, but not limited to buses, motor trucks, trailers, semi-trailers, truck tractors, or trailer coaches between 8:00 pm and 6:00 a.m. on any street in the City except for the purpose of loading, unloading, or servicing adjacent property. Loading and unloading, as used in this section, shall mean active loading or unloading including the performance of those activities required to prepare the vehicle for either travel or storage. This section excludes a single owner operated commercial vehicle parked immediately adjacent to owner's business or residential property and registered there as such which is not oversized as specified in code section

6.14.002. Existing businesses with multiple vehicles will have 90 days with a possible extension of up to one year to comply with this provision upon notification.

(d) The following definitions shall govern this Section:

“Camp trailer” shall have the meaning set forth in California Vehicle Code Section 242.

“Trailer coach” shall have the meaning set forth in California Vehicle Code Section 635.

“House car” shall have the meaning set forth in California Vehicle Code Section 362.

(Amended by Ord. 97-10, 9/9/97)

“Trailer” shall have the meaning set forth in California Vehicle Code Section 630.

“Truck Tractor” shall have the meaning as set forth in California Vehicle Code Section 655.

“Motor Truck” shall have the meaning as set forth in California Vehicle Code Section 410.

“Bus” shall have the meaning as set forth in California Vehicle Code Section 233.

**CITY OF DANA POINT  
AGENDA REPORT**

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

---

**DATE: MAY 6, 2008**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM: KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT**

**SUBJECT: 2008 ABATEMENT PROGRAM, AUTHORIZATION TO ABATE WEEDS**

---

**RECOMMENDED ACTION:** That the City Council hear any objections regarding weed abatement and thereafter adopt one of the two attached Resolutions as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, OVERRULING OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS AND PROCEEDING WITH WEED ABATEMENT.

**DISCUSSION:** At the March 18, 2008 meeting, the City Council adopted the first of three resolutions related to the citywide weed abatement program. That Resolution declared that weeds were a nuisance and directed the Code Enforcement personnel to send abatement notices to properties shown on the adopted Resolution. Said properties covered by the Resolution are listed in Supporting Document C to this Staff Report. The Resolution also declared that a hearing would be held in order to hear objections to the abatement notice.

Each of the property owners on the list attached hereto as Supporting Document C received a letter regarding weed abatement on their parcel; along with a hearing notice for tonight's meeting. The department has received twenty (20) calls regarding the program.

The Resolution under consideration this evening is the second phase of the weed abatement program, and accomplishes three specific objectives. The first objective directs the Community Development Director to commence with the abatement process. Any property, which has not abated weeds on-site, will have those weeds abated by the City or its designated contractor. The Resolution grants the City the authority to enter on private property in order to abate weeds.

The second objective allows affected property owners to raise objections to the weed abatement program. The City Council may entertain these objections or overrule them

and proceed with abatement. The third objective requires the City to account for costs related to the weed abatement program, and present the cost report to the City Council at its regular meeting on July 15, 2008.

The costs will be assessed against each designated property that did not abate weeds, and will appear as an assessment on the property tax bill.

Two Resolutions have been attached for City Council consideration, with the adoption of one Resolution depending on the circumstances of the hearing. The options include:

- 1) A Resolution wherein objections have been presented and overruled; and
- 2) A Resolution where no objections have been presented for the City Council.

**NOTIFICATION AND FOLLOW-UP:** The City Clerk’s office posted notices of the meeting tonight. Also, notice of tonight’s meeting was included in the letter sent to property owners on April 15, 2008. One Code Enforcement Officer will follow up with second notices to property owners that have not removed weeds from their property, including clearing weeds from property with a City contractor if necessary.

**FISCAL IMPACT:** The City Council has allocated a total of seven thousand, five hundred dollars (\$7,500.00) for weed abatement purposes. Although the City will pay up-front costs to the contractor, these costs will be reimbursed by the special assessment for those owners who do not abate the weeds on their properties.

**ALTERNATIVE ACTIONS:** None.

<b><u>ACTION DOCUMENTS:</u></b>	<b><u>Page No.</u></b>
A. <a href="#">Resolution to abate weeds, with objections</a> .....	3
B. <a href="#">Resolution to abate weeds, with no objections</a> .....	6

<b><u>SUPPORTING DOCUMENTS:</u></b>	<b><u>Page No.</u></b>
C. <a href="#">Weed Abatement List (Property Owners)</a> .....	9



**ACTION DOCUMENT A****RESOLUTION NO. 08-05-06-\_\_****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
DANA POINT, CALIFORNIA, OVERRULING OBJECTIONS  
AND PROCEEDING WITH WEED ABATEMENT**

WHEREAS, the City Council adopted Resolution No. 08-03-18-01 on March 18, 2008, which by its terms the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon streets, highways, sidewalks, parkways, and private property in the City and all rubbish, refuse, and dirt upon streets, highways, sidewalks, parkways, and private property located on certain properties within the City; and,

WHEREAS, a hearing was held on May 6, 2008, to hear objections and protest to the proposed removal of weeds, rubbish, refuse and dirt.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Dana Point does hereby resolve, adopt, determine, and order as follows:

SECTION 1. On March 18, 2008, the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon the streets, highways, sidewalks, parkways, and private property and all rubbish, refuse, and dirt existing upon streets, highways, sidewalks, parkways, and private property on those properties identified in Resolution No. 08-03-18-01 adopted on March 18, 2008. The list of properties covered by Resolution No. 08-03-18-01 is attached hereto as Exhibit A and a description of such properties upon which or in front of which the nuisances exist is further identified by lot and block number according to the official or city assessment map in Exhibit B attached hereto. Both aforementioned Exhibits are incorporated herein by this reference.

SECTION 2. The Council fixed Tuesday, May 6, 2008, at the hour of 6:00 p.m., in the Dana Point Council Chambers, as the time and place for hearing all objections and protests to the proposal of removal of weeds, rubbish, refuse and dirt, and the Director of Community Development was designated as the person to perform the duties imposed by Government Code Sections 35960-35988, and did, prepare notices to destroy weeds and remove rubbish, refuse, and dirt; the City Clerk was directed under Government Code Section 35967.1 to and did cause copies of notice to be mailed to all persons owning property described in Resolution No. 08-03-18-01 and listed in Exhibit A hereto in the time, form and manner prescribed by law.

SECTION 3. The City Council held a hearing on May 6, 2008 to hear objections and protests either written or oral to the proposed removal of weeds, rubbish, refuse

and dirt, and the hearing was closed on May 6th, 2008 with all objections and protests overruled.

SECTION 4. The Director of Community Development/Designee is ordered to abate the nuisance declared by Resolution No. 08-03-18-01 by having the weeds, rubbish, refuse, and dirt removed and for this purpose, the Director of Community Development/Designee may enter upon private property to abate the nuisance. Before the Director of Community Development/Designee arrives, any property owner may remove the weeds, rubbish, refuse and dirt at his own expense.

SECTION 5. The Director of Community Development/Designee or the contractor awarded the work, as the case may be, shall keep an account of the cost of abatement in front of or on each separate lot or parcel of land or both, where the work is done and shall submit to the City Council an itemized written report on Tuesday, July 15, 2008 at the hour of 6:00 p.m., in the Dana Point Council Chambers, 33282 Street of Golden Lantern, Dana Point, California, which date, time and place of hearing of such report is hereby fixed for the hearing of any objections of any of the property owners liable to be assessed for work of abatement.

SECTION 6. The Director of Community Development/Designee shall post a true and correct copy of said report on or near the chamber door of this Council for at least three (3) days, prior to its submission to the Council, with a notice of the time and place where the report will be submitted to the Council for confirmation.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of May 2008.

---

JOEL BISHOP, MAYOR

ATTEST:

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KATHY M. WARD, CITY CLERK

RESOLUTION NO. 08-05-06-\_\_

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

I, KATHY M. WARD, City Clerk, of the City Dana Point, California DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 08-05-06-\_\_ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof, held on the 6th day of May, 2008 by the following vote

AYES:

NOES:

ABSENT:

(SEAL)

\_\_\_\_\_  
KATHY M. WARD, CITY CLERK

**ACTION DOCUMENT B****RESOLUTION NO. 08-05-06-\_\_****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
DANA POINT, CALIFORNIA, HEARING NO OBJECTIONS  
AND PROCEEDING WITH WEED ABATEMENT**

WHEREAS, the City Council adopted Resolution 08-03-18-01 on March 18, 2008, which by its terms the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon streets, highways, sidewalks, parkways, and private property in the City and all rubbish, refuse, and dirt upon streets, highways, sidewalks, parkways, and private located on certain properties within the City; and,

WHEREAS, a hearing was held on May 6, 2008, to hear objections and protests to the proposed removal of weeds, rubbish, refuse and dirt, and with no objection made or presented either in writing or orally; and

WHEREAS, no other objections were made or filed; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Dana Point does hereby resolve, adopt, determine, and order as follows:

SECTION 1. On March 18, 2008, the Council elected to proceed under Government Code Sections 39561-39588 and declared as a public nuisance all weeds growing upon the streets, highways, sidewalks, parkways, and private property and all rubbish, refuse, and dirt existing upon streets, highways, sidewalks, parkways, and private property on those properties identified in Resolution No. 08-03-18-01 adopted on March 18, 2008. The list of properties covered by Resolution No. 08-03-18-01 is attached hereto as Exhibit A and a description of such properties upon which or in front of which the nuisances exist is further identified by lot and block number according to the official or city assessment map in Exhibit B attached hereto. Both aforementioned Exhibits are incorporated herein by this reference.

SECTION 2. The Council fixed Tuesday, May 6, 2008, at the hour of 6:00 p.m., in the Dana Point Council Chambers, as the time and place for hearing all objections and protests to the proposal of removal of weeds, rubbish, refuse and dirt, and the Director of Community Development was designated as the person to perform the duties imposed by Government Code Sections 35960-35988, and did prepare notices to destroy weeds and remove rubbish, refuse and dirt; the City Clerk was directed under Government Code Section 35967.1 to and did cause copies of the notice to be mailed to all persons owning property described in Resolution No. 08-03-18-01 and listed in Exhibit A hereto in the time, form and manner prescribed by law.

SECTION 3. The City Council held a hearing on May 6, 2008, to hear objections and protests either written or oral to the proposed removal of weeds, rubbish, refuse and dirt and no objections or protest were presented and the hearing was closed on May 6th, 2008.

SECTION 4. The Director of Community Development/Designee is ordered to abate the nuisance declared by Resolution No. 08-03-18-01 by having the weeds, rubbish, refuse, and dirt removed and for this purpose, the Director of Community Development/Designee may enter upon private property to abate the nuisance. Before the Director of Community Development/Designee arrives, any property owner may remove the weeds, rubbish, refuse and dirt at his own expense.

SECTION 5. The Director of Community Development/Designee or the contractor awarded the work, as the case may be, shall keep an account of the cost of abatement in front of or on each separate lot or parcel of land or both, where the work is done and shall submit to the City Council an itemized written report on Tuesday, July 15, 2008 at the hour of 6:00 p.m. in the Dana Point Council Chambers, 33282 Street of the Golden Lantern, Dana Point, California, which date, time and place of hearing of such report is hereby fixed for the hearing of any objections of any of the property owners liable to be assessed for the work of abatement.

SECTION 6. The Director of Community Development/Designee shall post a true and correct copy of said report on or near the chamber door of this Council for at least three (3) days, prior to its submission to the Council, with a notice of the time and place where the report will be submitted to the Council for confirmation.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of May 2008.

---

JOEL BISHOP, MAYOR

ATTEST:

---

KATHY M. WARD, CITY CLERK

RESOLUTION NO. 08-05-06-\_\_

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

I, KATHY M. WARD, City Clerk, of the City of Dana Point, California DO  
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 08-  
05-06-\_\_ adopted by the City Council of the City of Dana Point, California, at a regular  
meeting thereof, held on the 6th day of May, 2008 by the following vote

AYES:

NOES:

ABSENT:

(SEAL)

\_\_\_\_\_  
KATHY M. WARD, CITY CLERK

## SUPPORTING DOCUMENT C

**WEED  
ABATEMENT  
LIST (04-28-2008)**

DOHENY PARK ROAD DEV PARTN'S.  
C/O MICHALEC, JOHN  
145 EL LEVANTE  
SAN CLEMENTE, CA 92672  
APN 121-255-01

PACIFIC COAST  
DANA VILLAS ASSOC., LLC  
P. O. BOX 2849  
MISSION VIEJO, CA 92690  
APN 121-340-57

PIKE, JACK  
33542 ASTORIA  
DANA POINT, CA 92629  
APN 121-392-07

HAYES, TIMOTHY J.  
25311 TUNA DRIVE  
DANA POINT, CA 92629  
APN 121-392-39

LEWOTSKY, MARK  
25301 TUNA DRIVE  
DANA POINT, CA 92629  
APN 121-392-40

O'BRIEN, LEO E.  
25291 TUNA DRIVE  
DANA POINT, CA 92629  
APN 121-392-41

MATTHES, DOUGLAS  
25281 TUNA DRIVE  
DANA POINT, CA 92629  
APN 121-392-42

LAWTON, GEORGE  
25261 TUNA DRIVE  
DANA POINT, CA 92629  
APN 121-392-44

HADLEY, SCOTT  
31902 AVENIDA EVITA  
SAN JUAN CAPISTRANO CA 92675  
APN 121-392-45

BRUN, ROBERTO  
33541 BIG SUR STREET  
DANA POINT, CA 92629  
APN 121-392-46

TERRY, CLIFFORD AND CHERYL  
713 MIRAMAR  
FULLERTON, CA 92831  
APN 123-081-02

KADAKIA RAJESH & DARSHANA  
910 S EL CAMINO REAL, #A  
SAN CLEMENTE, CA 92672  
APN 123-081-33

KEYDOME LTD  
ATTENTION: WAYNE REEDER  
1300 N BRISTOL, #100  
NEWPORT BEACH, CA 92660  
APN 123-081-38

SMITH, FLORENCE G. P.  
P. O. BOX 2096  
CAPISTRANO BEACH, CA 92624  
APN 123-141-28

DO HOANG VAN  
26355 VIA CANON  
CAPISTRANO BEACH CA 92624  
APN 123-141-30

KILLINS, EDWARD DEE  
26361 VIA CANON  
CAPISTRANO BEACH, CA 92624  
APN 123-141-31

MC NULTY, TERRENCE  
26331 VIA CALIFORNIA  
CAPISTRANO BEACH, CA 92624  
APN 123-142-17

LEAL, JORGE  
P. O. BOX 2823  
CAPO BEACH, CA 92624  
APN 123-142-25

HYDE, ELAINE R. TRUST  
P. O. BOX 804  
PAGOSA SPRINGS, CO 81147  
APN 123-173-13

MILLER, GERALD W.  
C/O CURTIS MILLER  
8300 N HAYDEN RD # 207  
SCOTTSDALE, AZ 85258  
APN 123-201-12

SILVER, DAVID TRUST  
20 RIVO ALTO CANAL  
LONG BEACH, CA 90803  
APN 123-222-01

BOOTHE, RANSOME BENTON  
26872 CALLE MARIA  
CAPISTRANO BEACH, CA 92624  
APN 123-224-08

BERNARD, STEPHEN E.  
27085 MILLPOND ROAD EAST  
CAPO BEACH, CA 92624  
APN 123-225-15

TUCKER, DONALD A.  
2062 KERWOOD AVENUE  
LOS ANGELES, CA 90025  
APN 123-232-06, 15

OSTEEN PROPERTIES LP  
LILA L. OSTEEN  
2820 BAYVIEW DRIVE  
CORONA DEL MAR, CA 92625  
APN 123-233-16

MARY DRYDEN  
1535 ARROYO VIEW DR.  
PASADENA, CA 91103  
APN 123-251-01

WALTERS, KATHLEEN M.  
424 FRESNO AVENUE  
MORRO BAY, CA 93442  
APN 123-252-02

SCHIFFERT, ROSE R. TRUST  
31301 PEDRO STREET  
LAGUNA BEACH, CA 92651  
APN 123-263-02

MC ANDREW, WILLIAM &  
MICHELLE  
34471 CALLE PORTOLA  
CAPISTRANO BEACH, CA 92624  
APN 123-271-68

CLANTON, ROBERT A.  
27041 CALLE JUANITA  
CAPISTRANO BEACH, CA 92624  
APN 123-282-15

MAYNEZ, CHRISTOPHER  
1927 S KILSON DRIVE  
SANTA ANA, CA 92707  
APN 123-282-18

MARK C HOBSON  
121 CALLE DEL PACIFICO  
SAN CLEMENTE CA 92672-4369  
APN 123-291-04

CLANTON, ROBERT A.  
27041 CALLE JUANITA  
CAPISTRANO BEACH, CA 92624  
APN 123-292-05

FREDERICK, PAUL  
34298 CAMINO EL MOLINO  
CAPISTRANO BEACH, CA 92624  
APN 123-303-29

KELSEY, THOMAS MICHAEL  
162 SAINT JOSEPH AVENUE  
LONG BEACH, CA 90803  
APN 123-303-57

GERARD, HENRY  
26946 CALLE REAL  
CAPISTRANO BEACH, CA 92624  
APN 123-333-01

WESTBERG, MARK AND NANCY  
26222 GLENDON LN  
LAGUNA HILLS CA 92653- 8216  
APN 123-340-18

REYNOLDS, JERRY E.  
27025 CAMINO DE ESTRELLA  
CAPO BEACH, CA 92624  
APN 123-340-44

FODOR, ANN E. TRUST  
33855 EL ENCANTO AVE  
DANA POINT, CA 92629  
APN 123-353-08

BLUE LANTERN LLC  
34092 VIOLET LANTERN #200  
DANA POINT, CA 92629  
APN 123-355-15

FRIEDMAN, BEN  
3291 SAWTELLE BLVD #106  
LOS ANGELES, CA 90066  
APN 123-361-25

WICKSTROM, BARBARA  
4957 EUREKA AVENUE  
YORBA LINDA, CA 92886  
APN 123-362-01

REYNOLDS, JACK R.  
1112 N HIDALGO AVENUE  
ALHAMBRA, CA 91801  
APN 123-362-08

REAUME FAMILY TRUST  
3070 SAN PASQUAL ST,  
PASADENA CA 91107- 5334  
APN 123-362-24

MONARCH POINT HOA  
c/o LAGUNA SHORES MGMT.  
26131 MARGUERITE PKY STE D  
MISSION VIEJO, CA 92692  
APN 658-261-11

HOLDER, CYNTHIA MODENE  
125 W AVENIDA PALIZADA  
SAN CLEMENTE, CA 92672  
APN 668-283-01

BUSINESS Properties Partnership #18  
17631 FITCH  
IRVINE, CA 92714  
APN 668-401-02

HEADLANDS RESERVE LLC  
24849 DEL PRADO  
DANA POINT, CA 92629  
APN 668-475-24



MACK, JUDITH J. TR  
32522 CRETE ROAD  
DANA POINT, CA 92629  
APN 670-021-01

JEFFREY HOLTZEN  
32502 CRETE ROAD  
MONARCH BEACH, CA 92629  
APN 670-021-02

FIEBERG, PAUL HENRY III  
32462 CRETE ROAD  
MONARCH BEACH, CA 92629  
APN 670-021-03

SHIPKEY, CAROLYN  
32452 ASCENSION ROAD  
MONARCH BEACH, CA 92629  
APN 670-021-04

SAVAGE, THOMAS & D. FAMILY  
TRUST  
32751 SEVEN SEAS DR  
DANA POINT CA 92629  
APN 670-021-05

JONES, NORM  
26041 CAPE DR #225  
LAGUNA NIGUEL, CA 92677  
APN 670-021-06

JAFFRAY, INGEBORG H.  
32402 ASCENSION RD  
MONARCH BEACH, CA 92629  
APN 670-021-07

ARTHUR L. SMITH, JR.  
32382 ASCENSION RD  
MONARCH BEACH, CA 92629  
APN 670-021-08

HENDERSON, SHARON L.  
32362 ASCENSION RD  
DANA POINT, CA 92629  
APN 670-021-09

ROSENSTEIN, ANITA MAY  
335 N MAPLE DR  
BEVERLY HILLS, CA 90210  
APN 670-021-10

HALVAX, BRUCE K.  
32342 ASCENSION RD  
DANA POINT, CA 92629  
APN 670-021-11

BROWN, EDWARD  
32332 ASCENSION ROAD  
DANA POINT, CA 92629  
APN 670-021-12

KIM, J. SOOK  
32685 CASPIAN SEA DR  
MONARCH BEACH, CA 92629  
APN 670-034-01

THATCHER, ROBERT L.  
32562 CRETE ROAD  
MONARCH BEACH, CA 92629  
APN 670-035-03

AMIRHEKMAT, ESFANDIAR  
32542 CRETE ROAD  
MONARCH BEACH, CA 92629  
APN 670-035-04

BENSON, JAMES & PATRICIA  
30802 COAST HIGHWAY, #H7  
LAGUNA BEACH, CA 92651  
APN 670-043-08

RALLS, ROBERT P.  
32242 SEA ISLAND DR  
MONARCH BEACH, CA 92629  
APN 670-052-03

GORDON FAMILY TRUST  
C/O PETER GORDON  
8052 MELROSE AVE. 2<sup>ND</sup> FLOOR  
LOS ANGELES, CA 90046  
APN 670-081-02

BENSIMON, DANIEL  
32303 CARIBBEAN  
MONARCH BEACH, CA 92629  
APN 670-092-01

GREER DUDLEY  
32311 CARIBBEAN DR  
MONARCH BEACH, CA 92629  
APN 670-092-02

KROLL ERNEST L.  
32331 CARIBBEAN DR  
DANA POINT, CA 92629  
APN 670-092-03

SAITO, AKIKO  
32351 CARIBBEAN DR  
MONARCH BEACH, CA 92629  
APN 670-092-04

DUNWOODY VILLAGE ASSOC.  
6892 S. YOSIMITE STREET  
CENTENNIAL, CO 80112  
APN 670-092-05

BRAUN, KENNETH P.  
32391 CARIBBEAN DR  
DANA POINT, CA 92629  
APN 670-092-06

HUMPHRIES, DARLA C. TRUST  
C/O CCH CORP.  
30001 CROWN VALLEY PKWY #P  
LAGUNA NIGUEL, CA 92677  
APN 670-092-07

SAFARI MEHRDAD  
1 CHARLOTTE  
IRVINE CA 92603- 3448  
APN 670-101-21

FARR, MAY S.  
P. O. BOX 213  
UPLAND, CA 91785  
APN 672-071-29

DANA VILLAS TRUST  
P. O. BOX 2849  
MISSION VIEJO, CA 92690  
APN 672-234-07, 08

NNN REALTY FUND  
1 UPPER NEWPORT PLAZA  
NEWPORT BEACH, CA 92660  
APN 672-482-16

ANDERSON, KATHY  
MIRZABOZORG  
4601 ORRINGTON RD  
CORONA DEL MAR CA 92625-  
3122

MARLUNA HOA  
1 POLARIS WAY, #100  
ALISO VIEJO, CA 92656  
APN 673-021-89

WBK PROPERTIES LLC  
P. O. BOX 7615  
CAPISTRANO BEACH, CA 92624  
APN 673-081-11

YOUNG, DAVID A. WARK TRUST  
1215 HIGHLAND DRIVE  
NEWPORT BEACH, CA 92660  
APN 673-081-12

PRAISLER, JOCELYNNE G.  
2844 CHILLON WAY  
LAGUNA BEACH, CA 92651  
APN 673-081-13

FUKAMIZU, HAROLD H. TRUST  
25312 BOWSPRIT DR  
DANA POINT, CA 92629  
APN 673-181-09

GUZZETTA, JEFF  
3541 CALLE LA QUINTA  
SAN CLEMENTE, CA 92673  
APN 673-181-10

MEADE, JOHN H.  
25342 BOWSPRIT DRIVE  
DANA POINT, CA 92629  
APN 673-181-11

VU XUAN  
CA DEVELOPMENT LLC  
24771 JESSICA PLACE  
LAGUNA NIGUEL, CA 92677  
APN 673-191-02

IWATA, NORIO TRUST  
P. O. BOX 353  
SAN JUAN CAPO, CA 92693  
APN 673-191-03

LLOYD, KENNETH G. TR  
25511 NEPTUNE DRIVE  
DANA POINT, CA 92629  
APN 673-191-09

LARKIN HOWARD M  
25492 WESTBORNE DR  
DANA POINT, CA 92629  
APN 673-192-01

CIRAULO, ANDREW  
25482 WESTBORNE DRIVE  
DANA POINT, CA 92629  
APN 673-192-02

ERVIN E. HALL  
25141 VIA ELEVADO  
DANA POINT, CA 92629  
APN 673-192-03

PAEGLE, TALIVALDIS  
25462 WESBORNE DRIVE  
DANA POINT, CA 92629  
APN 673-192-04

ITO, DOUGLAS M  
25682 EASTWIND DRIVE  
DANA POINT, CA 92629  
APN 673-192-05

MYERS, DAVID N TR  
25442 WESTBORNE DRIVE  
DANA POINT, CA 92629  
APN 673-192-07

BECKER FAMILY TRUST  
P. O. BOX 1201  
CORONA DEL MAR CA 92625  
APN 673-231-03

CHELTAM 33412 LLC  
C/O VAHDANI-SANAVI BEHRUZ  
42 CORONADO POINTE  
LAGUNA NIGUEL, CA 92677  
APN 673-231-04

BERGQUIST, CRAIG R & SHERYL  
31431 VIA SANTA MARIA  
SAN JUAN CAPISTRANO CA 92675  
APN 673-231-05

MCKEOWN DANIEL L & MARLA  
E  
24342 CARACAS ST  
DANA POINT CA 92629- 1319  
APN 673-231-06

FOSTER MARK E. & TIFFANIE  
47 STOWE  
IRVINE, CA 92620  
APN 673-231-07

SYRENGELAS, ANDREAS K.  
8792 SEA SPRAY  
HUNTINGTON BEACH, CA 92646  
APN 673-231-08

S & M REAL ESTATE LLC  
20 MORGAN 100  
IRVINE CA 92618  
APN 673-231-09

GATES FAMILY TRUST  
21372 TARRACO  
MISSION VIEJO, CA 92692  
APN 673-231-10

ANGUS PHILIP  
33182 PALO ALTO  
DANA POINT, CA 92629  
APN 673-251-06

KATO & ASSOCIATES  
18182 BUSHARD STREET  
FOUNTAIN VALLEY, CA 92708  
APN 673-251-22

LEE, THAY Q.  
33012 PALO ALTO STREET  
DANA POINT, CA 92629  
APN 673-261-20

ASHIK, GOULTEKIN A. TRUST  
33032 PALO ALTO STREET  
DANA POINT, CA 92629  
APN 673-261-21

HILLMAN, GAIL L.  
33042 PALO ALTO STREET  
DANA POINT, CA 92629  
APN 673-261-22

STIMMEL, ANDREW J.  
33052 PALO ALTO  
DANA POINT, CA 92629  
APN 673-261-23

LANEY, DAVID R.  
33062 PALO ALTO STREET  
DANA POINT, CA 92629  
APN 673-261-24

FRYE, TRACY K.  
33072 PALO ALTO STREET  
DANA POINT, CA 92629  
APN 673-261-25

HARDY, LINDA  
33082 PALO ALTO STREET  
DANA POINT, CA 92629  
APN 673-261-26

MC KINNON, MARGARET I. TRUST  
1979 STONESGATE ST  
WESTLAKE VILLAGE, CA 91361  
APN 673-261-27

BISTLINE, THOMAS N. JR TR  
33002 PALO ALTO STREET  
DANA POINT, CA 92629  
APN 673-261-32

JACOBY, JAMES H.  
24551 JEREMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-281-01

SIMON, THEODORE  
24541 JEREMIAH DR  
DANA POINT, CA 92629  
APN 673-281-02

WEINAND, GEORGE E. TRUST  
24531 JEREMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-281-03

GRIFFITH, PETER  
24521 JEREMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-281-04

HANHART, LISA ANN  
24511 JEREMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-281-05

SWEENEY JAMES & CHRISTIE  
R.  
24501 JEREMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-281-06

ROEMISCH, HENRY ANDREW  
24581 JEREMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-291-01

MARTINO, ALBERT J. TRUST  
24571 JERMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-291-02

BOGGIO, CHARLES R.  
24561 JEREMIAH DRIVE  
DANA POINT, CA 92629  
APN 673-291-03

MITRAK, CARL  
32781 NATHAN CIRCLE  
DANA POINT, CA 92629  
APN 673-291-10

DAVEY, JOHN T.  
32771 NATHAN CIRCLE  
DANA POINT, CA 92629  
APN 673-291-11

ST ANNE SCHOOL  
32451 BEAR BRAND ROAD  
LAGUNA NIGUEL, CA 92677  
APN 673-331-37

SAN MARIN ASSOCIATION  
C/O OPTIMUM PROPERTY MGMT.  
1773 IRVINE BLVD E STE 212  
TUSTIN CA 92780  
APN 673-371-03

ST ANNE SCHOOL  
32451 BEAR BRAND ROAD  
LAGUNA NIGUEL, CA 92677  
APN 673-371-06

MARINITA TOWNHOMES HOA  
COMMON INTERESTS  
C/O TERESA DIXON, PROPERTY  
MGR  
3551 CAMINO MIRA COSTA, STE.  
N

TERRAZA DEL MAR HOA  
SOUTH COAST PRO MGMT.  
2973 HARBOR BLVD STE 415  
COSTA MESA, CA 92626  
APN 673-463-03

DANA WOODS COMMUNITY ASSN  
 C/O O'CONNELL LANDSCAPING  
 23091 ARROYO VISTA  
 RANCHO SANTA MARGARITA, CA  
 92688  
 APN 673-492-28

MOBLEY, RONALD  
 5451 BUSINESS DR  
 HUNTINGTON BEACH CA 92649  
 APN 682-083-14

CHOKANY, MARTIN  
 33922 AMBER LANTERN  
 DANA POINT, CA 92629  
 APN 682-091-34

FERRIER, JEANETTE L.  
 11313 ORANGE DRIVE  
 WHITTIER, CA 90606-1148  
 APN 682-103-35

TRAN, ANNIE THIEN-HUONG  
 TRUST  
 P. O. BOX 3660  
 DANA POINT, CA 92629  
 APN 682-123-38

KONSTRUCTA, INC.  
 C/O CASAPUEBLO REALTY  
 1926 SOUTH MAIN STREET  
 SANTA ANA, CA 92707  
 APN 682-136-25

TOCHIHARA, JANE TR  
 4586 EVEREST CIRCLE  
 CYPRESS, CA 90630  
 APN 682-141-07

PACIFIC COAST  
 DANA VILLAS ASSOC LLC  
 P. O. BOX 2849  
 MISSION VIEJO, CA 92690  
 APN 682-165-01

G & H HOLDINGS  
 P. O. BOX 579  
 DANA POINT, CA 92629  
 APN 682-192-07

DANA WOODS COMMUNITY  
 ASSN  
 C/O O'CONNELL LANDSCAPING  
 23091 ARROYO VISTA  
 RANCHO SANTA MARGARITA,  
 CA 92688

EMS, RODNEY M.  
 865 7TH AVENUE  
 DURANGO, CO 81301  
 APN 682-084-12

WILSON, AMY H. TRUST  
 58 RIVERVIEW TERRACE  
 HILLSBOROUGH, NJ 08844  
 APN 682-093-02

SIMS, MARION  
 6109 ACACIA STREET  
 LOS ANGELES, CA 90056  
 APN 682-112-40

MUKAI, YURI TRUST B  
 635 IRVINE AVENUE  
 NEWPORT BEACH, CA 92663  
 APN 682-123-39

TAN CALVIN  
 24892 VIA SONOMA  
 LAGUNA NIGUEL, CA 92677  
 APN 682-137-08

SANTOYO, GUADALUPE  
 874 GOVERNOR STREET  
 COSTA MESA, CA 92627  
 APN 682-141-26

COMERICA BANK & TRUST NA  
 C/O KARYN SALMAN  
 611 ANTON BLVD., #360  
 COSTA MESA CA 92626  
 APN 682-191-14

ADVENT DANA POINT LLC  
 3111 2ND AVE 4  
 CORONA DEL MAR CA 92625  
 APN 682-192-20

W MULLER, J GIPSON RJ MORRIS  
 32332 CAMINO CAPO STE 104  
 SAN JUAN CAPO, CA 92624  
 APN 682-051-12

PADEFORD, DANIEL R.  
 18104 S SUMMER AVENUE  
 ARTESIA, CA 90701  
 APN 682-085-03

TAKMASSEBI, FARHAD  
 659 KINGMAN AVENUE  
 SANTA MONICA CA 90402  
 APN 682-103-20

ETEMADI, ABBAS A.  
 648 N. TUSTIN STREET, #H  
 ORANGE, CA 92867  
 APN 682-113-16

BRAGG, HAROLD  
 5540 E 6TH STREET  
 LONG BEACH, CA 90814  
 APN 682-124-18

CITY NATIONAL BANK TR  
 TAMBLIN C SMITH TR REAL  
 ESTATE  
 P. O. BOX 515205  
 LOS ANGELES, CA 90051  
 APN 682-141-04

O'CONNELL, JOHN T  
 1446 IRONBARK ST.  
 SAN LUIS OBISPO CA 93401  
 APN 682-162-03

HANSON, LEWIS F.  
 P. O. BOX 31  
 DANA POINT, CA 92629  
 APN 682-192-03

VEGH THOMAS & MARIA  
 205 AVENIDA FABRICANTE  
 SAN CLEMENTE CA 92672  
 APN 682-203-05

FINN-HANSON, JOAN ADRIAN  
P. O. BOX #31  
DANA POINT, CA 92629  
APN 682-232-10

RANCHO BELLA VIDA LLC  
19742 MACARTHUR, STE. 111  
IRVINE, CA 92612  
APN 682-232-11

BETTES, MANUEL  
19331 WORCHESTER LANE  
HUNTINGTON BEACH, CA 92646  
APN 682-242-02

BAKER, GEORGE JR  
434 OLD NEWPORT BLVD  
NEWPORT BEACH, CA 92663  
APN 682-244-08, 09

CLOUGHERTY, MERDELLE TR  
106 PACIFIC DRIVE  
SAN CLEMENTE, CA 92672  
APN 682-244-17

EMADI, HADI  
22 CANTILENA  
SAN CLEMENTE, CA 92673  
APN 682-263-14, 19

BOUDREAUX, MICHAEL L.  
5 PLACID HAVOR  
DANA POINT, CA 92629  
APN 682-263-22

WARE, JOHN C.  
33801 MALAGA DRIVE  
DANA POINT, CA 92629  
APN 682-281-19

LOMONACO, STEVEN  
31365 MONTEREY STREET  
LAGUNA BEACH, CA 92651  
APN 682-292-09

CALLA PROPERTIES INC  
11 EUCALYPTUS  
NEWPORT BEACH CA 92657  
APN 682-292-10

CALLA PROPERTIES INC  
2600 MICHELSON DR #0017  
IRVINE CA 92612- 6535  
APN 682-292-11

WARING, CLIVE  
5722 PLACER AVENUE  
WESTMINSTER, CA 92683  
APN 682-292-15

WILSON, CHARLES C.  
1236 E. LEXINGTON DRIVE  
GLENDALE, CA 91206  
APN 682-293-12

KARSIKKO-GASSEL, MARKETTA  
TRUST  
34555 SCENIC DRIVE  
DANA POINT, CA 92629  
APN 682-293-13

STANDAL, DEUDATA TRUST  
4442 BEL AIRE DRIVE  
LA CANADA, CA 91011  
APN 682-295-18

BRAGG, HAROLD  
5540 E 6TH STREET  
LONG BEACH, CA 90814  
APN 682-321-04, 05

MAKITA, VICTOR K. TRUST  
3 MAVERICK LANE  
ROLLING HILLS, CA 90274  
APN 682-323-17

BUGNA, JENNY C. TRUST  
P. O. BOX 2458  
MISSION VIEJO, CA 92690  
APN 691-181-15, 55

LEVINSON, GAIL Y. MANN  
27322 VIA BELLA  
CAPO BEACH, CA 92624  
APN 691-181-54

SHUCK, EDWARD TRUST  
35301 CAMINO CAPISTRANO  
CAPO BEACH, CA 92624  
APN 691-182-07

TOUFIGH, ANOSHIRVAN  
9671 VILLAWOODS DR  
VILLA PARK, CA 92861  
APN 691-192-02

LEE, SENG TEE TRUST  
C/O MANDALAY FOOD PRODUCTS  
ATTN: NANCY ADAMS  
1633 BAYSHORE HIGHWAY #338  
BURLINGAME, CA 94010  
APN 691-192-12, 13

WEST INTERIOR PROP. LLC  
12231 WOODLAWN AVE  
SANTA ANA CA 92705- 3010  
APN 691-193-06

ADOLFO LEZAMA  
569 N. OLIVE  
ORANGE, CA 92867  
APN 691-381-51

SEROPIAN ABLA OHANNESS  
4892 SWINTON AVENUE  
ENCINO, CA 91436  
APN 691-391-43

KRAFT, JOHN  
3109 CEDAR STREET  
RIVERSIDE, CA 92501  
APN 691-392-39

MICHAEL RASOOLY  
P. O. BOX 3027  
BERKELEY, CA 94703  
APN 691-401-19

SHAHBAZIAN FARA MARZ  
P. O. BOX 6556  
IRVINE CA 92616- 6556  
APN 691-401-22

WEBER, TOM  
24072 IRONHEAD LANE  
LAGUNA NIGUEL, CA 92677  
APN 691-401-24

TRIMBLE, PATRICIA V TRUST  
21391 CANEA  
MISSION VIEJO, CA 92692  
APN 691-401-25

BEEVOR, GEOFFREY  
741 OCEAN FRONT  
LAGUNA BEACH, CA 92651  
APN 691-401-26

223615 VIA CALIFORNIA LLC  
C/O SEDGHI ALIREZA  
2001 SANTIAGO DRIVE  
NEWPORT BEACH, CA 92660  
APN 691-401-27

LINDBERG FORREST  
25792 OBERO DR.  
MISSION VIEJO, CA 92691  
APN 691-401-28

KEN MILLER  
GOLDEN PHOENIX PROPERTIES  
P. O. BOX 4227  
DANA POINT, CA 92624  
APN 691-401-37

KAMRAN KHOUBEHI, M.D.  
47201 1-10 SERVICE RD STE 403  
METAIRIE, LA 70001  
APN 691-411-20,21, 22

CONCENTRIUM CORP  
C/O MS. JULIA MELLERSKI  
3334 E. PACIFIC COAST HWY  
#192  
CORONA DEL MAR, CA 92625  
APN 691-411-25 THRU 28

CRISWELL, GLORIA  
36101 GLEN OAKS ROAD  
TEMECULA, CA 92592  
APN 691-411-29

CAMINO BEACH INVEST. LLC  
1125 N. MAGNOLIA, #212  
ANAHEIM, CA 92801  
APN 691-411-35 THRU 40

CAPO BEACH CALIFORNIA LLC  
P. O. BOX 80624  
SAN MARINO, CA 91118  
APN 691-411-41, 42, 43

HELLYER, PHILIP D.  
2167 E RANCH RD  
TEMPE, AZ 85284  
APN 939-470-82 THRU 85

MC KEOWN, DANIEL L.  
24342 CARACAS ST  
DANA POINT, CA 92629  
APN 939-470-86 THRU 89

TSAI, CHING CHIH TRUST  
14 CAPE FRIO  
NEWPORT COAST, CA 92657  
APN 939-470-90 THRU 93

ALLEN, PRISCILLA TRUST  
C/O SE AIR PROPERTIES  
34148 PACIFIC COAST HIGHWAY  
DANA POINT, CA 92629  
APN 939-471-76 THRU 79