

October 19, 2011

Via Hand Delivery

John Del Arroz and Karl Schwing
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802

RE: City of Newport Beach – Sunset Ridge Park [CDP Application No. 5-10-168]

Dear Mr. Del Arroz and Mr. Schwing:

On behalf of the City of Newport Beach, we submit this correspondence and referenced documents to the Coastal Commission in response to issues raised in your staff report dated September 22, 2011, which recommended denial of the above-referenced application.

1. Adequate Buffers and Required Restoration

Section B.3 of the staff report addresses the proposed project's setback from CCC-designated Environmentally Sensitive Habitat Area (ESHA). No development is proposed within CCC-designated ESHA; however, the staff report notes that "the proposed project includes permanent and temporary impacts in close vicinity to ESHA." CCC ecologist Dr. Jonna Engel has stated that a 100 ft. buffer between the eastern boundary of "ESHA East" and the proposed parking lot and children's playground is required. However, she did find that a 50 ft. minimum buffer is sufficient between the park entrance road and the areas she has designated as "ESHA West" and "ESHA East" provided that the buffer areas are restored with habitat appropriate for use by gnatcatcher (CAGN), and the areas permanently preserved as ESHA.

Coastal staff notes that the proposed access road itself complies with the 50 ft. buffer; however, temporary grading during the construction of the access road is required within some of the buffer areas. The Coastal Commission has allowed temporary grading during construction in buffer areas on numerous projects and Dr. Engel does affirm that given that the buffer area along the Park's proposed road is either bare dirt or highly impacted ruderal vegetation (Engel memorandum, Sept. 22, 2011, Pg. 22), grading in the buffer is acceptable provided that it does not occur within 20 ft. of the ESHA and provided that after grading is finished the buffer is restored to high quality coastal sage scrub.

Although the City is amenable to some of the mitigation measures outlined by Dr. Engel such as daily biological monitoring on site during construction and physically shielding habitat during construction, as will be discussed in Section 7 of this correspondence, the City legally does not have the authority to agree to restore the existing referenced dirt or "highly impacted ruderal vegetation" to "high quality coastal sage scrub." Additionally, the City does not agree with Dr.



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Engel's suggested restoration mitigation measure as 1) it is contrary to the whole concept of a buffer (i.e. Dr. Engel's proposal would create a new resource between the impacting source and the area of concern); and 2), it is not the most effective means of ensuring gnatcatchers thrive as compared (for example) to requiring the provision of additional supportive vegetation on the other sides of the existing vegetation to provide the same support while not drawing the birds down to the roadway; and 3) none of the City's consulting gnatcatcher experts believe this Park road will have any impact on the day-to-day activities or nesting of the resident bird population, particularly given the fact that field studies have established that on-going gnatcatcher activities and nesting have and continue to occur on the property within a few yards of the 50,000 vehicles/per day traveling adjacent West Coast Highway.

The Coastal Commission has often allowed temporary grading and specific activities within designated ESHA buffers and has not "as a policy" required restoration of vegetation to a higher quality standard than that which existed pre-disturbance. Following are examples of precedents whereupon the Coastal Commission required restoration to pre-project conditions and not to a higher quality of resource standard.

CDP 3-04-059 (OCSD Water Main Replacement):

In February of 2005, the CCC approved CDP 3-04-059 which proposed to replace an existing 4" water main with an 8" water main on Strand Way in Oceano, San Luis Obispo County. The project included temporary access roads which were proposed on coastal dune lands considered to be ESHA. A small wetland was delineated within 34 ft. of the alleyway to be used for a temporary detour route, with another temporary detour route within 84 ft. of the greater Oceano Lagoon (designated as an ESHA per the SLO certified LCP).

CCC staff concluded that the proposed temporary detours would impact roughly 25,265 sq. ft. (0.58 acre) of ESHA, "a relatively insignificant amount compared to the overall spatial extent of the dune resource in this area" (pg. 9 of Staff report for CDP 3-04-059). It was further noted by staff that while the project site has the capacity to support sensitive species, "past and current uses have diminished opportunities for native dune plants and animals to become established in this area." As with the present Sunset Ridge Park project, on site biological monitoring and screening during construction were required.

Most importantly, CCC staff conditioned approval of this project as follows:
Special Condition No. 3: IMMEDIATELY FOLLOWING COMPLETION OF EACH PHASE OF THE PROJECT, the applicant shall restore and revegetate areas disturbed by the temporary detours at minimum to a **preproject condition**. Restoration shall achieve, at a minimum, **pre-construction** a) dune contours and elevations; and b) vegetative cover. The applicant shall use native non-invasive vegetation to restabilize the dune area and minimize additional sand migration. (emphasis added)

In short, as with the present Sunset Ridge Park project, staff took into account the current highly degraded conditions of the impacted resources, and concluded that special conditions such as monitoring and screening were appropriate. Similarly, restoration after the completion of construction was required. However,

the standard in this Oceano project was for the revegetation/restoration to achieve “pre-construction” conditions/vegetative cover. Staff is presently requiring the City to restore to a higher quality than that which presently exists which is contrary to CCC practice.

CC-006-11 (North County Transit District)

In 2011, CCC approved the proposed replacement and installation of rock rip rap to protect a southern railroad bridge abutment. It was determined by staff that the project resulted in temporary impacts to wetland and intertidal habitat and CCC Staff accordingly required mitigation by restoration to “**pre-project conditions.**” (emphasis added)

CDP 1-09-033 (Eureka Broadcasting Inc.)

In early 2010, the CCC approved the replacement of two radio broadcasting antennae and appurtenant facilities which involved both permanent and temporary impacts to seasonal wetlands. Specifically a total of 108 sq. ft. of grazed seasonal wetlands would be temporarily disturbed through the proposed excavation for installation of equipment. Areas of temporary wetland impact were required by Staff to be fully restored to “**pre-project conditions.**” (emphasis added)

As affirmed by Dr. Engel and the City’s consulting biologists at BonTerra, the subject buffer area along the Park’s proposed road is either bare dirt or highly impacted ruderal vegetation. Requiring the City to restore these areas to high quality coastal sage scrub is unnecessary, excessive and inconsistent with Coastal Commission practices. Nevertheless, as you are aware, the City is proposing a habitat enhancement plan which proposes high quality CSS in appropriate locations on the project site.

2. Mobility of Wildlife

In section B.5 of the staff report, Coastal Staff notes concerns with the required security fence serving as an impediment to wildlife mobility; specifically, Staff notes the importance of maintaining coyotes in the ecosystem on site. The City’s consulting biologists have assessed this issue and concluded that the security fence will not significantly impede mobility as coyotes will find their way around this barrier by jumping over or digging under it, or coming onto the Park from the north, east or south.

Nevertheless, the City is proposing a couple of alternative solutions which will address Staff’s concerns about the free passage of coyotes and other ground animals onto the subject site. Specifically, the City is proposing to provide crawl spaces underneath the fence (as suggest by U.S. Fish and Wildlife Services staff as sufficient to enable wildlife mobility) and/or to install a 24” diameter culvert which will facilitate wildlife passage from the rock ditch located on the east side of the proposed Park access road to the westerly side. The proposed 12” arched openings underneath the security fence in several locations would be as shown in the attached security fence details plan. Please also find enclosed correspondence dated October 18, 2011 from consulting biologist Ann Johnston of BonTerra affirming that this proposal will facilitate the desired unimpeded

wildlife access through the project site and specifically provide effective access by coyotes to the project's proposed coastal sage scrub restoration site area from areas outside of the proposed boundary fencing.

Accordingly, the City's proposal will allow continued compliance with State requirements for such security fences, while advancing Coastal Act Section 30240 requirements.

3. Historical Mowing

Pursuant to Dr. Engel's biological memorandum included as part of your staff report, "If the periodic mowing is legal, this area would not be ESHA; however, if the mowing is not legal, the area would be ESHA." (Engel Memorandum dated September 22, 2011, page 8.) As Staff accurately notes in its report, the referenced weed abatement activity pre-dated both the Coastal Act as well as the City's acquisition of the subject property. In further support of this activity, please find enclosed two statements from Fire Department senior staff affirming these facts. In addition, please find enclosed examples of complaints from vicinity residents with respect to the desired and required fuel modification/weed abatement on the subject property.

As noted in Fire Inspector Russell Cheek's statement dated September 13, 2010, Caltrans undertook weed abatement/disking activity on the subject property annually during its ownership. According to Inspector Cheek, and based on his professional observations and communications with his predecessor, this annual activity occurred since at least the early 1970s and continued up through his retirement in 2001.

Pursuant to retired Fire Marshal and Chief Steve Bunting who assumed all weed abatement duties for the Fire Department in 1993, prior to 2001 Caltrans performed its annual weed abatement activity by disking the property. Subsequent to 2001, Caltrans performed this weed abatement by mowing the property. According to Chief Bunting's correspondence dated January 4, 2010,, subsequent to the City's acquisition of the property in 2006, this annual weed abatement activity was continued with hand-held weed whackers.

The attached historical aerials dated 1965, 1968, 1973, and 1974 confirm that this weed abatement and site maintenance activity predated Proposition 20 and the Coastal Act. In addition to any weed abatement activities, the photos also show the massive grading activities which were conducted by the State on this site which removed all vegetation in the mid 1960's and 70's during the State's ownership of the subject property.

The City would also note that the question regarding the historic mowing on the Sunset Ridge Park was previously raised by Coastal Commission Enforcement Officer Andrew Willis in 2010. All of the above-referenced facts were provided to him by City staff and we understood that he appeared satisfied with the response that the weed abatement/mowing activity predated the Coastal Act. Neither Mr. Willis nor any other CCC staff members raised the issue during the numerous communications and meetings between City and CCC staff during the

proceedings related to the Notice of Violation (V-5-09-008) matter on the subject property in 2010 and early 2011. CCC Staff also could have raised the issue during the numerous interactions regarding the subject park application over the past year. More specifically, the notice of incomplete application dated September 1, 2010 did not list the mowing issue as a concern by Coastal staff. Despite the elapsing of over twelve months since that incompleteness notice was received and six months since the City's application was deemed complete on April 1, 2011, it was only raised as an issue by CCC Staff at our last meeting with Staff on August 12, 2011 regarding our Park project application just prior to publishing of the CDP staff report. At that meeting, it was noted again by Deputy Public Works Director Dave Webb that the mowing was historically done by the State of California (Caltrans) prior to the City owning the property and the maintenance activity dated back to at least the late 1960's.

Staff's suggestion that a "Vesting Rights" determination is required is inaccurate since the site has no historic use and has been simply maintained as required under the California Fire Code and as directed by the Fire Department. Since the activity pre-dates the Coastal Act and is conducted as required and under direction of the Fire Department, we believe we are compliant under the Coastal Act and a Vesting Rights determination is neither warranted nor necessary.

4. Alternatives

A. Access Directly from West Coast Highway onto City Property

Caltrans Scenic Easement

Page 32 of your staff report notes that the Banning Ranch Conservancy "argues that the City could likely successfully petition Caltrans to modify the subject scenic easement/deed restriction in a way that wouldn't change the value of the property." This conjecture appears to be unsubstantiated by facts of any kind.

Per the Director's Deed No. DD 040766-01-01 (attached) recorded on December 5, 2006 as Instrument No. 2006000813583 in the Official Records of Orange County, California conveying the 15.05 acres of State property to the City, the State specifically prohibited any rights of access to and from Pacific Coast Highway along the parcel frontage.

"There shall be no abutter's rights of access appurtenant to the above-described real property in and to the adjacent state highway over and across those portions of the northeasterly line of "new" Pacific Coast Highway ..." (Emphasis added)

Per the same Director's Deed (DD 040766-01-01), the State also expressly reserved an easement for "scenic view and open space purposes" on that portion of the property which abuts the entire PCH; this easement specifically precludes any structures, pavement or parking.

“Grantees use of said easement area shall be limited to those “permitted” uses under grantee’s zoning designation Open Space – Active as defined under title 20 of grantee’s zoning code as it existed on October 12, 2006. Additionally the grantee is prohibited from placing permanent structures or pavement within the easement area, and no parking or motorized vehicles shall be permitted within the easement area”.

The State owns and retains jurisdiction over this portion of PCH and would need to review and approve any access to PCH. Even assuming that the aforementioned deed restriction could be purchased from the State, the State would likely deny any such request as it is the State’s common preference for park access to be as far from the Superior signal as possible.

Infeasibility Due to Traffic, Circulation, and Design Constraints

On September 16, 2011, Coastal Staff received a report commissioned by the Banning Ranch Conservancy (BRC) prepared by Tom Brohard which states that an alternative Park access road off of West Coast Highway directly on to the City property would meet the required safety standards. Staff notes on Page 32 of their staff report that the BRC’s analysis indicates that the traffic safety constraints are less severe than initially indicated. We strongly disagree with any such claims and conclusions. Please find enclosed an alternative access plan for a driveway directly onto the City property which illustrates the inadequate and deficient lines of sight for deceleration and stopping for safe entrance into the City Park property. Please also find correspondence from the City of Newport Beach’s Traffic Engineer Antony Brine in response to BRC’s assertions that safe access is feasible directly onto the City property from WCH.

As noted in Mr. Brine’s statement, in the past two years alone, there have been a total of 24 vehicular accidents for westbound WCH traffic in BRC’s proposed access road area. This is of course without the addition of a Park access road in this already complicated segment of WCH. As Mr. Brine cautions:

“Deceleration into [BRC’s] proposed driveway location would occur within an area that includes a lane drop, bicycle lane, and bus stop all simultaneously existing in the same short segment [i.e. 265 ft.] of westbound Coast Highway. Deceleration for westbound Coast Highway would need to begin prior to the Superior Avenue intersection. Because of the angle of the roadway, the advance visibility of the driveway for westbound traffic prior to the Superior Ave intersection is limited.”

Furthermore, as a matter of public welfare, safety and convenience, left turns in and off of West Coast Highway are highly desired. Constructing an access point along the City’s park property frontage of WCH will forever preclude left turn options into the property due to traffic and circulation conflicts with the existing eastbound left turn pockets on WCH, turning onto northbound Superior Avenue.

Construction of an access point along the park property frontage on WCH will result in a right turn-in and right- turn out access only. This design is anticipated to result in all park vehicular traffic having to conduct at least one u-turn movement on West Coast Highway when traveling to or from the park. Pursuant to State law, U-turns are not allowed at the intersection of West Coast Highway and Superior in the eastbound direction; therefore all park vehicular traffic will have to travel between ¼ and ½ miles further to next signalized intersection to complete a lawful U-turn as illustrated in the attached exhibit. Not only is this an inconvenience for Park users, this can create hazardous stacking conditions on Superior Avenue and West Coast Highway since the left turn lanes at these lawful U-turn points were not designed to accommodate more than several waiting vehicles.

B. *Passive Park or Reduced Active Alternative*

Page 34 of your staff report outlines three project alternatives, two of which are discussed in different sections of this correspondence. The third alternative suggests that either a passive park or an active park with a “smaller amount of active uses” (i.e. reduced number of active sports fields) would reduce the impacts on adjacent ESHA.

Passive Park

With respect to the passive park option, please refer to correspondence from Assistant City Attorney Leonie Mulvihill dated October 14, 2011 (attached for your reference). As indicated in Ms. Mulvihill’s correspondence, a passive park would be in direct contravention of the State Legislature’s intent as per SB 124 (2001).

Reduced Active

The staff report suggests that a park project with fewer sports fields would reduce required parking amounts and may be able to utilize existing parking resources and not require construction of an access road. Although the present proposal includes one youth baseball field and two youth soccer fields, the baseball field overlaps with the two youth soccer fields. Furthermore, the prime seasons for baseball games and soccer games occur at different times of the year. Accordingly, at no time will baseball and soccer games or practices be held at the same time since the soccer fields overlap the baseball field. As such, if staff is asking the applicant to consider reducing the number of sports fields, what it is suggesting is that the applicant eliminate one of the two soccer fields. The staff report concludes that only having one soccer field (instead of two) will result in either a smaller or no parking lot on-site and potentially no Park access road. We disagree with this conclusion.

As illustrated in our access alternatives analysis, an off-site parking facility and accessing bridge across Superior Avenue is cost-prohibitive, visually impactful, involves unnecessary landform alteration, and would be a tremendous inconvenience and safety issue for park visitors who would have to walk almost a quarter of a mile with children and athletic equipment. The anticipated result will be parents dropping their children off either along Superior Avenue or West

Coast Highway, or in the existing parking lot across Superior Ave., possibly resulting in unsafe conditions for both these park visitors and drivers traveling along Superior Avenue and West Coast Highway. Even if off-site parking was feasible, a road for emergency and maintenance vehicles to directly access the Park site would be required. As a result, the reduction in the number of sports fields will not obviate the need for an on-site access road or parking lot.

With respect to the parking lot, this project component is setback 50 ft. from the closest CCC-delineated ESHA. As such, according to consulting biologists at BonTerra, the parking lot as presently designed has no adverse resource impacts, and therefore reducing its size does not appear to be a necessary project objective to advance any Coastal Act policies.

5. Growth Inducing Development – Coastal Act Section 30254

Section C.3 of the staff report outlines BRC's articulated concerns that the proposed park access road would result in further future development of the larger Newport Banning Ranch property. Although it continues to be the position of the City that its proposed park access road is not a precursor for future Newport Banning Ranch property, in light of the proposed location of NBR's substantially larger access road, some have concluded the contrary.

However, review of the Park plans for the modest two lane park access road, in contrast to the significant four lane arterial road, illustrates that this concern is misplaced. Compare the cross sections provided in the attached which illustrates that in no way will the present application facilitate the development of the Newport Banning Ranch project. The Newport Banning Ranch proposed arterial is double the size of the park road, and in fact the park road is smaller than the typical minimum size public street within the City.

Accordingly, the park road is not a "precursor" to the Newport Banning Ranch arterial, and is designed in a minimalist fashion to meet only the basic access requirements for the Park. For the staff report to assert that the park road exceeds that required for the park is baseless and inconsistent with the engineered plans submitted by the City. Therefore, the designed park road is "designed and limited to accommodate needs" of only the Park, and is consistent with Section 30254 of the Coastal Act.

The fact that the proposed Park road is located with aforethought in the approximate location that Newport Banning Ranch is proposing its arterial road does not somehow transform the park road into a future major arterial. It is a historical fact that many of our State's freeways follow the path of old stagecoach roads (e.g. the 101 Freeway follows the El Camino Real route). This does not mean that the historic stagecoach routes were eight lane superhighways capable of supporting modern vehicles at speeds of 75 mph.

Sound and environmentally protective land use planning policies call for minimizing landform alteration, biological resource impacts, and visual impacts through encouraging consolidation of access roads where feasible.

Section 3 of Coastal's Landform Alteration Policy Guidance (LCP Review Relating to Land for Alteration), provides that LCP's "*should remove barriers to concentrated development. If there are any areas where higher density development or cluster development might be appropriate and useful, the LCP should encourage this development with options for reducing front and side yard setbacks and for **providing shared access**, common open space and recreation areas. The LCP should lay out all the procedures for processing a cluster development, insuring that all impediments are removed.*" (emphasis added)

To that end, specific CCC-certified LCP's have included provisions for promoting shared access. For example, in the Malibu LCP, for Site BMPs (Appendix A), hillside development (LIP 6.5(C)) and land division projects (LIP 15.2) specifically, there are provisions which advocate shared access roads and driveways. Similar, the County of San Mateo's LCP (8.18) calls for roads and driveways to "be shared where feasible, to reduce the amount of grading, cutting and filling required to provide access."

6. Marine Resources

A. **Vernal Pools**

Section F.1 of the staff report discusses how the Banning Ranch Conservancy has alleged that four vernal pools (BRC features numbers 34, 35, 36, and 39) exist on the proposed park site at the fill area to the north of the proposed access road. As noted in our September 12, 2011 correspondence, Banning Ranch Conservancy's vernal pools claims are unsubstantiated by professional biological assessments. Nevertheless, the applicant commissioned its consulting biologists - who also enlisted the services of a recognized vernal pool expert - to once again assess the four alleged vernal pools in the Park project's proposed spoils site. The enclosed report includes analysis and findings prepared through established and recognized professional protocol from established experts in the assessment of vernal pools. It is their collective conclusion that there are no vernal pools located within the Sunset Ridge Park project proposal, and specifically the subject spoils site.

On September 19, 2011, on behalf of Newport Banning Ranch and in response to US Fish & Wildlife Service's request, Glenn Lukos Associates prepared and submitted a report regarding the results of a dry-season survey for listed fairy shrimp within BRC feature 39 located on the NBR property. This report (attached) was provided to US Fish & Wildlife Services and a copy was provided to Dr. Jonna Engel on September 19th. A copy was emailed to you as well on September 19th. As you can see from this report, "Anostracan (fairy shrimp) cysts were not detected within the feature and it is concluded that listed fairy shrimp, specifically the San Diego fairy shrimp does not occur within this feature. Notably, cysts of widespread and common seed shrimp were also not detected within the feature."

In summary, BRC 39 has been determined by several vernal pool experts to not be a vernal pool as it is lacking not only vernal pool indicator species, but also lacking a predominance of wetland indicator plants along with a complete absence of hydric soils, showing that it rarely ponds and then for only a short duration. The dry-season survey results confirm this fact.

In light of these professional assessments of several biologists and vernal pool experts, we believe that this constitutes the requisite substantial evidence that no vernal pools exist in the project's proposed fill site area contrary to BRC's unsubstantiated claims. Coastal staff in a recent follow-up meeting now further requested that a wet season study be undertaken to further check and confirm that vernal pools or wetlands conditions do not exist in this area. The City will agree to undertake this study, and work with Coastal Staff to modify our proposed grading disposal area accordingly if BRC's allegation can be substantiated, and if the subject park project application is approved.

B. Wetlands

"ESHA West wetland"

CCC Staff state in their report that a "wetland" is located within the "ESHA West" area. The "wetland" Staff are referring to is an area containing scattered mule fat (*Baccharis salicifolia*) plants with an understory of almost exclusively non-native, invasive species such as hottentot fig (*Carpobrotus edulis*) and pampas grass. Myoporum (*Myoporum laetum*), another large invasive non-native species, is prevalent in this area. CCC Staff state that the proposed buffers (30 feet from grading and 55 feet from the road edge) would not meet the Commission's typical buffer. Rather than applying an arbitrary 100-foot wide buffer to an area, BonTerra urges CCC Staff to follow its traditional approach of considering the existing conditions of the site and adjusting the buffer size accordingly. The "wetland" in question is currently located within 60 feet of 6-lane traffic along West Coast Highway. Dirt slopes, drainage ditches, and vegetation maintained by Caltrans are also immediately adjacent to this area (within 25 feet of the "wetland"). As concluded by BonTerra in their October 18, 2011 correspondence, to require a buffer greater than that which currently exists is unreasonable as it does not provide any added value to the resource which CCC Staff is attempting to protect.

"Superior Avenue wetland"

The City's consulting project biologists at BonTerra have submitted previous assessments of the purported wetland along Superior Avenue. As previously determined and reiterated in BonTerra's enclosed correspondence dated October 18, 2011 (attached).

"It is important to note that the area containing the artificial seep is a manufactured slope with erosion-control structures (i.e., bench drains and V-ditches) and would not likely be sustainable over time if up-slope watering regimes area modified. This seep is not part of a natural drainage, is not fed by an aquifer, is in a highly developed urban area, is

isolated from any natural drainage or riparian resource, and is of very low function and value.”

Nevertheless, CCC staff has concluded this feature qualifies as a wetland and noted that the edge of proposed project grading is within 40 ft. this designated wetland and that this buffer “may not be adequate to protect” it. BonTerra has made the following assessment in its October 18, 2011 correspondence:

“The ‘wetland’ in question is currently located between a sidewalk and drainage culvert on the bottom edge of the “wetland” and below a concrete “V” ditch upslope. There currently is no buffer to the site, nor is one necessary. Pedestrian, bike, and 4 lanes of vehicular traffic are within 8 feet of these areas. The mule fat growing in this area is located approximately 35 feet below the existing grade of the soccer field, which is not changing significantly with the proposed project.. Any buffer greater than the 40 feet provided by the proposed project is beyond that which currently exists and does not provide any added value to the resource the CCC Staff is attempting to protect.”

In sum, it is the opinion of the project biologist that the 40 ft. setback of the project grading limits from this purported wetland is more than adequate and greater than that which currently exists between said wetland feature and existing urban development and use.

In addition, please find the attached letter from the project’s Geotechnical Engineer, Leighton Consulting, dated October 18, 2011. Leighton concludes that there will be no impacts to this Superior Avenue wetland area from the proposed development.

Coastal Staff has now asked if the City would be willing to remove the evasive pampas grass from the subject wetland area for consideration of support for reduced buffers. In response, the City has further reviewed the invasive species in this “wetland” area that we are proposing to not disturb as part of our park project. If acceptable to the Commission, and as part of our park project approval, the City would be agreeable to removing the invasive pampas grass, but not to restoring or further enhancing or monitoring the alleged wetland area. .

7. Imposition of Expansion of ESHA and Imposition of Open Space Deed Restrictions

The staff report notes on Page 2 that “Commission staff was prepared to recommend approval, with agreement by the City and/or the underlying landowner to the restrictions that would prevent use of the road for anything other than a low-intensity park road, restore habitat within the ESHA buffers, and secure the buffers and surrounding habitat as open space.” As noted in our correspondence to Commission staff dated September 12, 2011, the City has no legal ability to consent to such special conditions as it does not own the property which these conditions would burden. We understand that on October 4, 2011, the underlying landowner Newport Banning Ranch (NBR) submitted correspondence to your office which reiterated that pursuant to the terms of the

access easement agreement between the City and NBR, NBR retains final approval on the proposed access road. In this October 4th correspondence, NBR notes that the imposition of the above-referenced special conditions which burden NBR's property should only be considered as a part of NBR's future Coastal Development Permit Application.

Notwithstanding the questionable legality of the suggested conditions, which is further discussed below, after discussions with NBR representatives, NBR may be amenable to an Open Space Deed Restriction for the existing disturbed CSS in the ESHA East Area and additional CSS planting on the east side of the road consistent with the project actually proposed by the City. Please see attached revised Planting Diagram that now offers 1.9 acres of new CSS. In addition, NBR may allow restoration and enhancement of the .80 acres of disturbed coastal sage bluff scrub habitat. That in addition to the .24 acres of encelia scrub along West Coast Highway, would bring this enhanced gnatcatcher use area to approximately 3 acres of high quality habitat.

8. Overt Action on a Development Proposal Not Yet Pending at the CCC Coastal Act Section 30254

Page 2 of the Staff report notes that "Commission staff was prepared to recommend approval, with agreement by the City and/or the underlying landowner to the restrictions that would prevent use of the access road for anything other than a low-intensity park road, restore habitat within the ESHA buffers, and secure the buffers and surrounding habitat as open space." (Emphasis added.)

As noted in its correspondence to Commission staff dated September 12, 2011, the City does not own the property, which staff proposes to burden by the above-referenced special conditions. Staff's recommended special conditions are clearly based on a desire to preclude any future modification to the park road. However, the project before the Commission is the project proposed by the City, which contemplates a narrow park road anticipated to accommodate 173 trips per day. Thus, Staff's concern is based on a future application and an unknown scope of development.

The recommended conditions serve only to restrict a future development and are unrelated to the current project. Pursuant to the City Attorney, To analyze the City's project in terms of a future project that has not even applied for a CDP application is an impermissible use of the Commission's power. The Commission's own biologist, Dr. Engel, concludes that the City's proposed project does not have a significant impact. (Dr. Engel Memorandum, September 22, 2011, page 21.) The Commission staff has itself acknowledged that the City is not proposing a larger road. (Staff Report, p. 6) Notwithstanding this factual background, Commission staff has attempted to forecast into the future and conclude that only a road with the above-referenced special conditions complies with the Coastal Act. In terms of the process due the City in consideration of its application, this conclusion is made in terms of a predicted road modification or speculative widening project which is not even pending before the Commission. Such an aggressive preemptive strike on future development reflects an

expansion of the Commission's permitting authority. Asking the City and the owner of the adjacent private property to agree to land use restrictions solely to control future projects is *unrelated* to the legitimate land use regulatory ends required to be considered by the Commission in terms of its decision on the City's Park application. Staff's suggestion that these conditions are necessary to "promote the continued use of surrounding habitat areas by gnatcatchers" are unsubstantiated (Staff Report, p. 2.). However, even more important, is that Dr. Engel's analysis, relied on entirely by Commission staff to support its findings for denial with complete disregard to the analysis supplied by the City's biological analysis, clearly suggests otherwise.

It is the position of the City Attorney's office that Staff's approach of using the City's current Park application to regulate future uses of the Coastal zone will not satisfy the heightened standard of scrutiny set forth in *Nollan v. California Coastal Commission* (1987) 483 U.S. 825, 97 L.Ed.2d 677 and *Dolan v. City of Tigard* (1994) 512 U.S. 374, 129 L.Ed.2d 304. As a result of the Nollan and Dolan decisions, there is a two-prong test for assessing the constitutionality of government's imposition of exactions as a condition of approval. The Nollan part of the test requires an "essential nexus" between a legitimate government interest and the exaction. (*Nollan*, 483 U.S. 825, 837.) The Dolan part of the analysis is a "rough proportionality" standard with respect to the degree of connection between the impacts of the proposed development and the exaction. (*Dolan*, 512 U.S. 374, 386.) Thus, as concluded by the *Dolan* court, the Commission must make an individualized determination that the suggested open space deed restriction and expanded ESHA planting are related to the impacts of the City's project. Staff's attempt to satisfy this threshold by relying on the impacts that may be created by some future project not before the Commission will not satisfy this requirement. Not only is there no constitutionally-sufficient link between the special conditions and the impacts of the City's project, it is clear that the conditions were not even intended to address impacts of the City's project. As such, there is no proportionality to the impacts they are meant to address in terms of any measurement, square footage or otherwise. Rather, the suggested conditions are intended solely to affect NBR's future project. Therefore, the suggested conditions are neither appropriate nor acceptable as they contradict the holdings of *Nolan* and *Dolan*.

9. Foreclosing of the Circulation Plan for the County and Surrounding Cities

CCC staff has suggested by its contemplated conditions and discussions on the proposed park road that the City should disregard or not adhere to its state law requirements on having and abiding to its adopted circulation element in its General Plan by requesting alternative access locations. Specifically, CCC Staff has indicated that the proposed road is a precursor to the future Bluff Road Arterial as shown in the City's circulation element since 1958, and stated that this pending Park project should be evaluated in conjunction with the proposed Banning Ranch Development which just released its Draft EIR. It is important and imperative to remember that although the proposed 28' park access road is in the approximate location of a possible future arterial (which follows smart planning practices for well thought-out and modeled circulation elements to ensure proper planning and safe access for any future permitted growth), the

project if approved is only for a two lane, narrow Park access road that dead ends into a parking lot. No further widening, extensions, etc. can be developed unless said proposed work first is reviewed and separately permitted by the City, Coastal Commission and other relevant regulatory agencies. It is neither appropriate nor necessary for this Park project to consider, or require the removal of the identified Bluff Road arterial from the County's Master Plan of Arterial Highways (MPAH) and the City General Plan (attached) as a part of this project.

As the City discussed at its last meeting with CCC Staff, removal of the Bluff Road arterial would be a major modification to the MPAH and would require at a minimum a Cooperative Study (traffic study and modeling that identifies impacts and mitigation measures to other arterials to handle the diverted traffic) and multi-agency involvement and approvals. Because removal of this arterial would impact traffic in the County of Orange and the adjacent Cities of Huntington Beach, Costa Mesa, and Fountain Valley, all these agencies would need to participate in the study effort and ultimately sign off on the proposed impacts and mitigation measures, as well as the proposed deletion of the road. This effort alone would take one to two years. Additionally, should the City agree to removal of, or conditions that could block this proposed arterial prior to going through a formal MPAH amendment process (attached), this would violate our Measure M (Countywide transportation funding) ordinance requirement with the Orange County Transportation Authority and the City would risk losing its share of Measure M funding which at a minimum would be a loss approximately \$1.5 million annually. Any conditions that seek to bar or forgo proper due process discussion and evaluation for the need, or the lack thereof for this proposed arterial as shown on the MPAH do not belong in this Park project review and approval process as this Park road does not permit or allow construction of the proposed arterial. In fact, should the proposed arterial ever be approved and permitted, most or all of this park road will need to be reconstructed as it does not have the proper structural pavement section nor horizontal and vertical alignment.

We thank you for your thoughtful consideration of this responsive correspondence and accompanying attachments. Please do not hesitate to contact us should you have any questions.

Sincerely,
SCHMITZ & ASSOCIATES, INC.



Donna Tripp
Regional Manager

CC: Sherilyn Sarb, Deputy Director, CCC
Dave Webb, Deputy Public Works Director, City of Newport Beach
Michael J. Sinacori, P.E., City of Newport Beach
Leonie Mulvihill, Assistant City Attorney, City of Newport Beach

Attachments:

1. Planting Diagram with Wildlife Culvert proposal and Security Fence Details
2. September 13, 2010 correspondence from Fire Inspector Russell Cheek
3. January 4, 2010 correspondence from Fire Marshal and Chief Steve Bunting and examples of vicinity residents' complaints
4. Historical aerials dated February 11, 1965, August 28, 1968, January 6, 1973 and November 24, 1974
5. Caltrans Director's Deed # DD 040766-01-01
6. Conceptual site plan for access directly off of West Coast Highway onto the City Park property
7. October 12, 2011 correspondence from City of Newport Beach Traffic Engineer Antony Brine
8. Plan depicting legal U-turn points in proximity to project site
9. October 14, 2011 correspondence from Assistant City Attorney regarding SB124 (2001)
10. Grading Plan cross-sections for proposed access road
11. September 19, 2011 Glenn Lukos Associates dry-season survey for listed fairy shrimp within BRC feature 39.
12. October 18, 2011 correspondence from BonTerra
13. October 18, 2011 letter from Leighton Consulting
14. 1957 Master Plan of Streets and Highway
15. 1974 General Plan Circulation Element
16. 1988 General Plan Circulation Element
17. 2006 Master Plan of Streets and Highway
18. MPAH Amendment Process



- LEGEND**
- Existing Disturbed CSS - Native
Acreage: .80 ac.
 - Expanded CSS - Native
Acreage: 1.90 ac.
 - Entry Area - Non Irrigated, Non Native
Acreage: 2.40 ac.
 - Water Infiltration Area
Acreage: .50 ac.
 - Residential Buffer
Acreage: 2.55 ac.
 - Active Area - Ornamental Evergreen Grasses
Acreage: 1.50 ac.
 - Turf Area
Acreage: 4.40 ac.
 - Butterfly Garden
Acreage: .10 ac.
 - Streetscape Slope
Acreage: 1.60 ac.
 - Streetscape
Acreage: .45 ac.
 - Existing - Not to Be Disturbed*
Acreage: .50 ac.
 - Existing - Disturbed, Non Native*
Acreage: .40 ac.
 - Hardscape
Acreage: 2.90 ac.
- *Areas are outside of Grading Limits and are Not to Be Disturbed as part of the Sunset Ridge Park Project.
- NOV Areas
 - Caltrans Scenic Easement
 - Previous Park Entry Road Alignment
Last Used: December 2010
 - Previous Park Entry Road Alignment
Last Used: December 2010
 - Wildlife Crossings: 2 Total
 - Chain Link Fencing
- TOTAL PARK ACREAGE**
20.00 ac.

September 13, 2010

Russell Cheek
1406 Clay St.
Newport Beach, CA 92663

Mr. Mike Sinacori, P.E.
City of Newport Beach
Public Works Department
3300 Newport Blvd.
Newport Beach, CA 92658

Dear Mr. Sinacori:

This letter is in response to your inquiry regarding the annual clearance of dead and dying vegetation at the property located on the North West corner of Coast Highway and Superior Ave.

I began working for the Newport Beach Fire Department in 1979. I was promoted to Fire Inspector in 1983. One of my responsibilities as inspector was the management of the City's annual weed abatement program.

I received my training for this program from my predecessor in the position, Inspector Al Haskell who was responsible for the weed abatement program since the early 70's . During my training, Inspector Haskell and I discussed among many other things, the state owned property at the North West corner of Coast Highway and Superior Ave. Inspector Haskell told me the property was owned by the state and that the California Department of Transportation was very good about "disking" the property at the beginning of fire season each year and never had to be asked. This was indeed my experience with the Department of Transportation during my employment with the City until I retired in December of 2001.

Despite the Department of Transportation's diligence in clearing this lot each year, there was a vegetation fire on the property sometime in the early 80's. The fire spread from the vegetation in the field to the adjacent condominiums and caused significant damage to a wooden deck and sidewall of the structure.

I hope this letter is of assistance to you. Please call me if you have any further questions.

Sincerely,


Russ Cheek

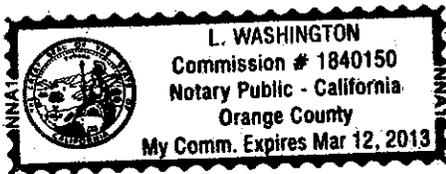
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of ORANGE }

On OCTOBER 10, 2010 before me, LILLIAN WASHINGTON, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared RUSSELL CHECK
Name(s) of Signer(s)



who 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/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: LETTER SIGNED BY RUSSELL CHECK

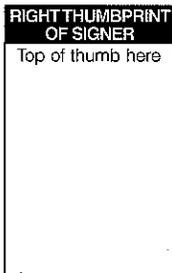
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

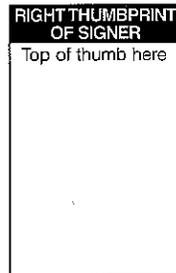
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Sinacori, Mike

From: Bunting, Steve
Sent: Monday, January 04, 2010 4:19 PM
To: Sinacori, Mike
Subject: Weed Abatement at Sunset Ridge Park

Mike,

In 1993, I took over all weed abatement duties for the Fire Department. At that time, the lot at the north/west corner of W. Coast Hwy and Superior Ave was owned by CalTrans. The property was on a list of weed abatement sites which required annual clearing. It was my impression that the site had been on the list for many years prior to my taking over. It was explained to me by my predecessor, Fire Inspector Russ Cheek, that I never needed to worry about the site because "Caltrans always took care of it". Our physical record of abatement at the site dates back to 1997.

Until 2000, CalTrans performed annual weed abatement at the site by disking the property with a tractor and attached disk tool. Subsequent to 2001, CalTrans performed weed abatement by mowing. After the City took possession, the work was performed by hand using "weed whackers".

The requirement to clear the lot of all weeds, grass, vines and other vegetation came from Fire Code Section 1103.2.4, "*Combustible Vegetation*". This regulation is separate and distinct from the Hazard Reduction and Fuel Modification regulations enforced throughout our Special Fire Protection Areas in that they only apply to weed abatement and not wildland fuels.

Steve Bunting

Division Chief / Fire Marshal
Newport Beach Fire Department
Safety, Service, and Professionalism
1-949-644-3106

NEWPORT BEACH FIRE AND MARINE DEPARTMENT
COMPLAINT REPORT

Company Assignment:
(if applicable)

Legal Description: _____

Location: Coast Hwy / Superior

Owner/Tenant: CAL TRANS property.

Complaint: Caller feels the lot is a
fire hazard - high weeds present.

Believes the lot was cleared earlier this
year, but needs it again. Call her and
advise if this is not so.

Complainant Name: Vivian Cellni

Complainant Address: 8 Tribute Ct.

Complainant Phone #: (949) 645-6003

Remain Anonymous

Received by: Name: Nadine

Date: 8-10-99

Time: 12:00



Conditions Found: Re-growth present -

Disposition: SPOKE \bar{E} Robert Mendez (Cal Trans) HE will VISIT
the site on Monday (8-16-99) \bar{E} MAKE APPROPRIATE CONTACTS

9-2-99 site cleared

Inspection date: 8-12-99

Inspected by: 173

NEWPORT BEACH FIRE AND MARINE DEPARTMENT
COMPLAINT REPORT

Company Assignment:
(if applicable)

Legal Description: 201 Intrepid

Location: _____

Owner/Tenant: Caltrans West

Complaint: overgrown, dead brush & weeds.
Concerned for the H/O's in the
Area who all have wood roofs.

Complainant Name: Georgia

Complainant Address: (H/O's Assoc.)

Complainant Phone #: 650-6720

Remain Anonymous

Received by: Name: Nadine

Date: 5-7-97

Time: 1:10 pm

↓ LFC message
5-14-97

✓ TALKED TO
GEORGIA

◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆ ◆
Conditions Found: WEEDS

Disposition: FORWARDED TO ALAN KATO AT CALTRANS
724-2607

Inspection date: 5-14-97

Inspected by: 173



NEWPORT BEACH FIRE DEPARTMENT

Newport Crest
2501 Inverplid St.

P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915
(714) 644-3103

Timothy Riley
Fire Chief

September 12, 1996

Robert Mendoza
Department of Transportation
2501 Pullman Street
Santa Ana, CA 92705

Dear Mr. Mendoza,

Thank you for investigating the lots located adjacent to West Coast Highway and Superior. The parcel numbers are AP 424-041-07 and AP 424-041-03. As we discussed in our phone conversation these lots are overgrown with light grassy fuels which present a fire hazard to the homes located within Newport Crest. This fuel needs to be cut to a height of approximately three inches. The Newport Beach Fire and Marine Department appreciates the spirit of cooperation in mitigating this problem. If you need additional information please call me at (714) 644-3108.

Mike Macey
Deputy Fire Marshal

LOTS cleared
OCT. 1996
Macey

3300 Newport Boulevard, Newport Beach

W X
Y Z



4421

4520

4521

4522

4621

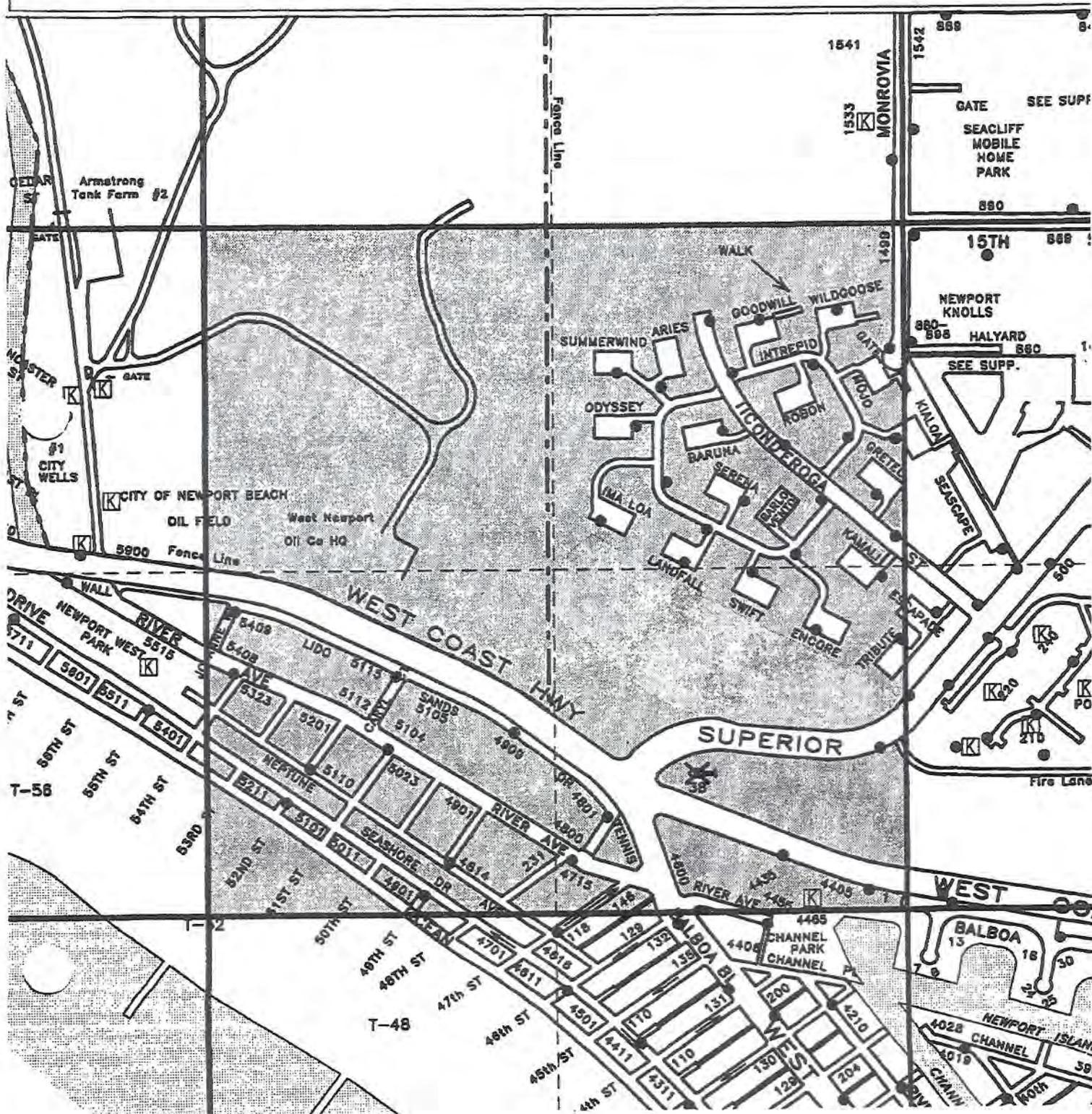
4521

NEWPORT
Life

Newport Information System
Fire Department

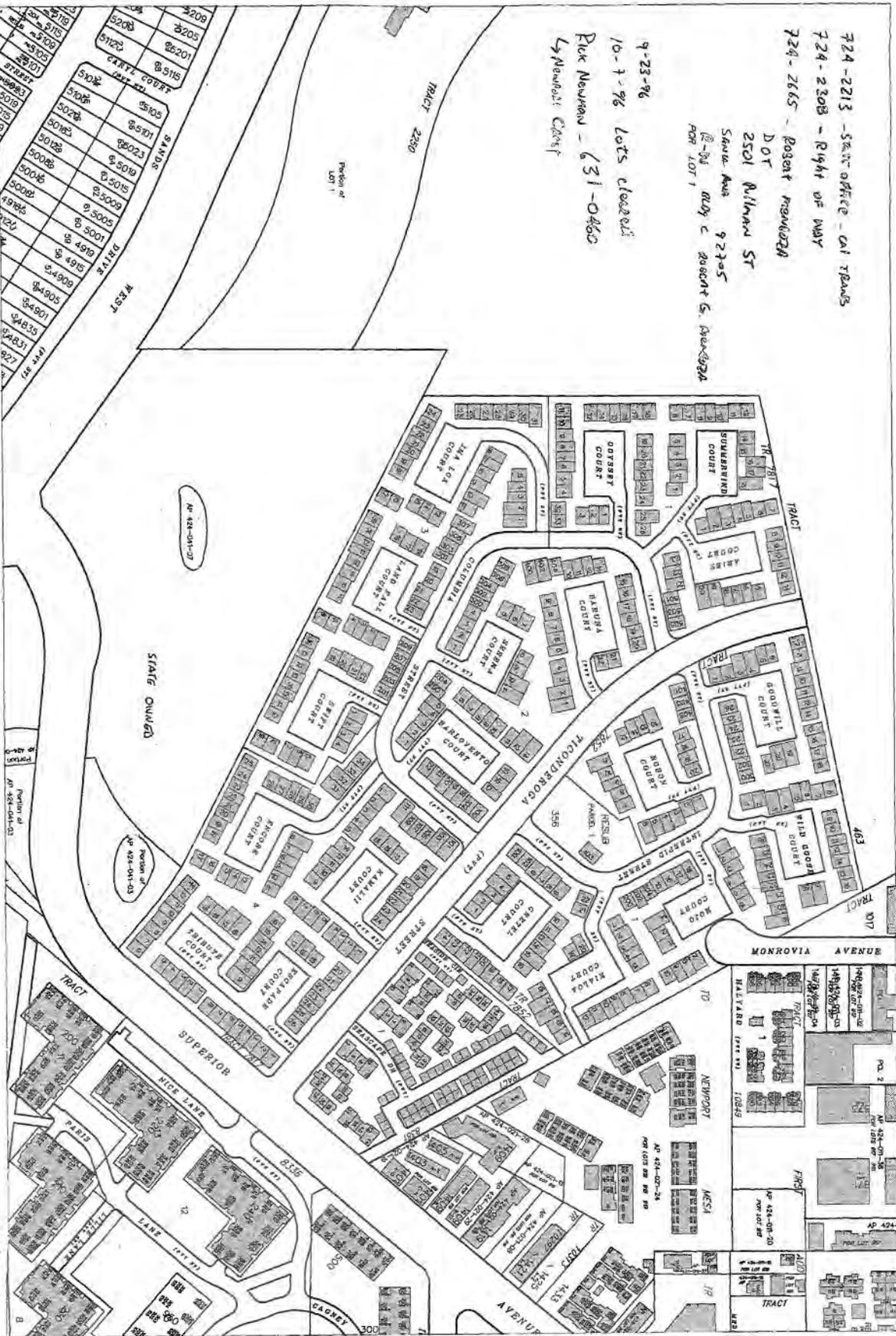
1"=500'

6/93



UT PM - UT - PM TX - AT - Y -

11 C/C'S



724-2213 - State office - Cal Trans
 724-2308 - Right of Way
 724-2665 - Robert Mowbray
 DOT
 2501 Alhambra ST
 Santa Ana 92705
 2-1st Rdy - Robert G. Mowbray
 FOR LOT 1

9-23-96
 10-1-96 Lots cleared!
 Rick Newman - 631-0460
 ↳ Newport Coast









Exhibit 13, Page 29 of 74

PURCHASE AND SALE AGREEMENT – REAL PROPERTY DD040766-01-01

In this Agreement dated September 26, 2006 by and between CITY OF NEWPORT BEACH hereinafter known as "BUYER" and STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, hereinafter known as "SELLER", the parties agree as follows:

For the sum of Five Million Dollars (\$5,000,000) and no cents, Buyer hereby agrees to purchase and Seller hereby agrees to sell the vacant and unimproved real property located in the City of Newport Beach, Orange County, California, and legally described in Director's Deed # 040766-01-01 (hereinafter referred to as the "property").

Subject to the following conditions:

I

Buyer agrees to pay for the said real property to State the principal sum of Five Million Dollars (\$5,000,000). A series of three payments shall be made to the State of California, Department of Transportation, and delivered to the State of California, Department of Transportation, Southern Right of Way Region, Excess Land Sales, 21073 Pathfinder Road, Suite 100, Diamond Bar, CA 91765. Interest will begin on January 1, 2007. Principal and interest to be due and payable in annual installments as follows:

1. Principal payment of \$2.0 million by December 31, 2006;
2. Principal payment of \$1.5 million plus interest of \$142,500 by December 31, 2007; and
3. Principal payment of \$1.5 million plus interest of \$71,250 by December 31, 2008.

(a) Each annual installment shall be credited first on interest then due and the remainder on principal so credited.

(b) Buyer may make additional payments on the principal at any time before final installment, and interest shall thereupon cease upon said principal so credited.

(c) If Buyer should default in the payment of any annual installment, or any part thereof, when due as herein provided, and such default should continue for thirty (30) days after notice thereof in writing to Buyer, the whole of said purchase price shall at the option of the State become forthwith due and payable.

(d) If the Buyer shall default on any of the payments, title, at the option of the State, will revert back to the State.

(e) It is understood and agreed that the term of this agreement shall end on December 31, 2008 and the buyer shall make payment in full including principal and interest by that date.

(f) The Deed shall record after receiving CTC approval and the 1st payment of \$2.0 million, no later than December 31, 2006.

II

All sales made subject to the approval of the California Transportation Commission. In the event that the California Transportation Commission fails to approve this sale, all monies heretofore paid by the Buyer will be refunded without interest. The CTC meeting is October 12th, 2006.

III

The Seller is willing to process this sale at no charge to the Buyer, except for the items set forth in paragraph IV below. Buyer, at his option, may open an escrow at its own expense. The Seller will pay no escrow fees.

PURCHASE AND SALE AGREEMENT – REAL PROPERTY DD040766-01-01

IV

The Buyer agrees to pay any and all recording fees, documentary transfer tax and monumentation fees chargeable by the County Recorder. At a later date, the Seller will request the fees forwarded, and buyer shall submit to the seller upon demand.

V

The Buyer expressly understands that the right, title and interest in the property to be conveyed shall not exceed that vested in the State of California and that the Seller will furnish no policy of title insurance. If a policy of title insurance is desired, the Seller will obtain one, upon request, at the Buyer's expense.

VI

The property is being sold "as is" and is being conveyed subject to any special assessments, restrictions, reservations or easements of record and subject to any reservations or restrictions contained in the Director's Deed. Buyer has read and understands other information the Seller has relative to these matters.

VII

In the event suit is brought by either party to enforce the terms and provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees. The Buyer agrees that the title of the property being conveyed shall not pass until the Director's Deed has been recorded. The Buyer shall not take possession of the property until the director's Deed is recorded

VIII

Buyer shall defend, indemnify, and hold seller and seller's elected and appointed officers agents and employees free and harmless from and against any and all liabilities, damages, claims, costs and expenses (including without limitation, attorney's fees, legal expenses and consultant's fees, and investigation and remediation costs) arising in whole or in part from the existence of hazardous substance, or hazardous substance conditions. This indemnity is intended to address that liability for which seller may be responsible arising solely out of its mere ownership of said real property. This provision shall survive transfer of title of the said real property and any rescission of the said transfer.

"Hazardous Substance" shall mean any substance whose nature and / or quantity of existence, use, manufacture, disposal of effect, render it subject to federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare, including the comprehensive Environmental Response Compensation and Liability Act or Resource Conservation and Recovery Acts as now in effect.

"Hazardous Substance Condition" shall mean the existence on or under, said property of a hazardous substance that requires remediation and / or removal and / or to be otherwise mitigated pursuant to applicable law.

PURCHASE AND SALE AGREEMENT – REAL PROPERTY DD040766-01-01

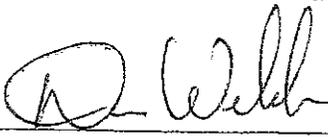
IX

This New Purchase Agreement supercedes and replaces any and all previous agreements of any kind.

The terms and conditions of the above agreement are hereby accepted, subject to the approval of the California Transportation Commission.

Please indicate exactly how the title should be vested:

City of Newport Beach, California

Buyer: 
MAYOR (Signature)

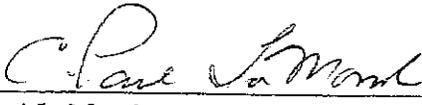
Date: 11/16/06

DON WEBB
(Print Name)

Buyer: _____
(Signature)

Date: _____

(Print Name)

By: 
C. Paul LaMond, Acting Chief
Excess Land, Southern Right of Way Region

Date: 11/30/06

Bounded westerly by the westerly line of said Grant Deed, said westerly line also being described as a portion of the northerly prolongation of the westerly line of Annexation No. 55 to the City of Newport Beach dated September 19, 1963;

Bounded southwesterly by the northeasterly line of "new" Pacific Coast Highway as described in a Director's Deed (State Parcel No. DD 040767-03-01) from the State of California to the City of Newport Beach, a municipal corporation, recorded May 6, 1993 as Instrument No. 93-0304178 of said Official Records;

and bounded southerly and southeasterly by the center line of "new" Superior Avenue as described in a Director's Easement Deed (State Parcel No. DE 040766-1) from the State of California to the City of Newport Beach, a municipal corporation and charter city, recorded May 6, 1993 as Instrument No. 93-0304175 of said Official Records.

EXCEPTING THEREFROM those rights and interests previously excepted from that parcel of land described in the deed from A.E.S. Chaffey, et al., to the State of California (State Parcel No. 40766), recorded January 7, 1966 in Book 7801, Page 108 of said Official Records.

ALSO EXCEPTING THEREFROM those rights and interests previously excepted from those parcels of land described in the deed from BEECO, LTD., to the State of California (State Parcel No. 40767), recorded February 14, 1966 in Book 7839, Page 739 of said Official Records.

SUBJECT TO an easement for storm drain purposes, 35.00 feet wide; and an easement for sanitary sewer purposes, 30.00 feet wide, both as described in a Director's Deed (State Parcel No. DE 040767-01-02) from the State of California to the Newport Crest Homeowners Association, a California Nonprofit Mutual Benefit Corporation, recorded September 11, 1990 as Instrument No. 90-479322 of said Official Records.

There shall be no abutter's rights of access appurtenant to the above-described real property in and to the adjacent state highway over and across those portions of the northeasterly line of "new" Pacific Coast Highway hereinabove described in said deed recorded as Instrument No. 93-0304178 of Official Records, said portions of the northeasterly line being further described as having a bearing and a distance of "North 54°21'52" West, 215.42 feet" and "North 53°13'07" West, 167.37 feet".

PARCEL 040766-3

RESERVING UNTO THE GRANTOR AN EASEMENT FOR SCENIC VIEW AND OPEN SPACE PURPOSES OVER THE AFOREMENTIONED PROPERTY, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF LOT 3 OF TRACT NO. 7817, PER MAP FILED IN BOOK 308, PAGES 33 AND 34 OF MISCELLANEOUS MAPS, IN SAID OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WITH A LINE PARALLEL WITH AND DISTANT 100.00 FEET WESTERLY OF THE WESTERLY LINE OF SAID LOT 3; THENCE ALONG SAID PARALLEL LINE, S00°19'10"W 505.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE N71°14'04"E 254.46 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 263.60 FEET SOUTHWESTERLY OF SAID SOUTHWESTERLY LINE OF SAID LOT 3; THENCE ALONG SAID PARALLEL LINE S62°13'53"E 838.20 FEET TO A POINT ON THE NORTHERLY LINE OF "NEW" SUPERIOR AVE AS DESCRIBED IN A DOCUMENT RECORDED MAY 6, 1993 AS INSTRUMENT NO. 93-0304175 OF SAID OFFICIAL RECORDS.

EXCEPTING THEREFROM THAT PORTION OF SUPERIOR AVENUE AS DESCRIBED IN SAID DOCUMENT RECORDED MAY 6, 1993 AS INSTRUMENT NO. 93-0304175 OF SAID OFFICIAL RECORDS.

GRANTEES USE OF SAID EASEMENT AREA SHALL BE LIMITED TO THOSE "PERMITTED" USES UNDER GRANTEE'S ZONING DESIGNATION OPEN SPACE - ACTIVE AS DEFINED UNDER TITLE 20 OF GRANTEE'S ZONING CODE AS IT EXISTED ON OCTOBER 12, 2006. ADDITIONALLY THE GRANTEE IS PROHIBITED FROM PLACING PERMANENT STRUCTURES OR PAVEMENT WITHIN THE EASEMENT AREA, AND NO PARKING OF MOTORIZED VEHICLES SHALL BE PERMITTED WITHIN THE EASEMENT AREA.

GRANTEE SHALL BE RESPONSIBLE FOR ALL MAINTENANCE WITHIN THE EASEMENT AREA.

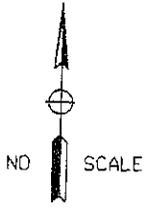
Attached hereto and made a part hereof is a map entitled "Exhibit 'A'". This map is for informational purposes only and is subordinate in all respects to the above legal description.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: Scott E. Estep
SCOTT E. ESTEP, PLS 7066
EXPIRATION: 12-31-2006

Date: 9-24-2006





SITE

SUPERIOR AVENUE

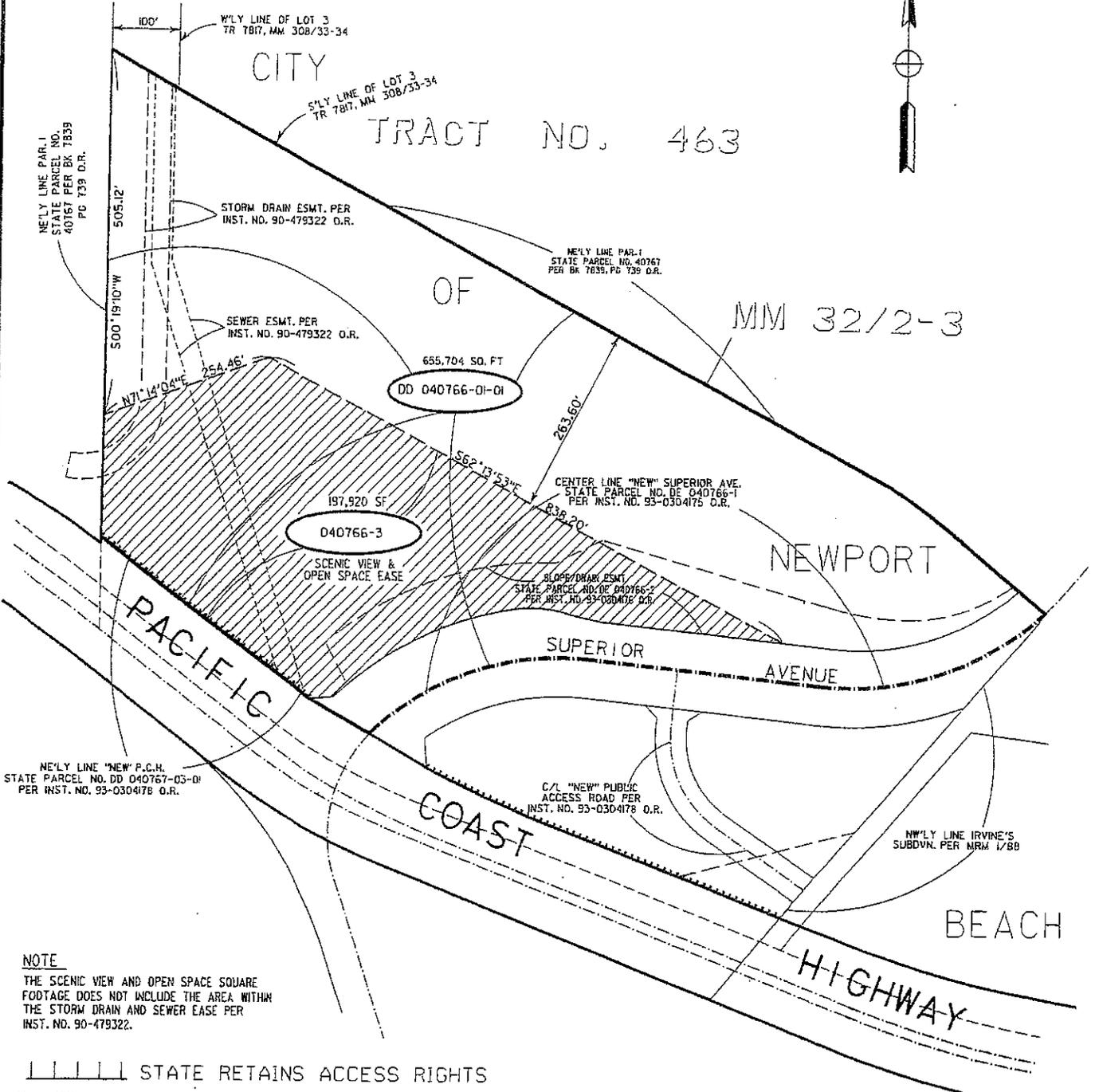
ROUTE 55
NEWPORT FREEWAY

PACIFIC COAST HIGHWAY
STATE ROUTE 1

SITE

DIST	COUNTY	RTE	P.M.
12	ORA	1	19.7

EXHIBIT "A"



STATE OF CALIFORNIA--DEPARTMENT OF TRANSPORTATION--DISTRICT 12

PLAT ACCOMPANYING

DIRECTOR'S DEED DD 040766-01-01

SCALE: N.T.S.
DRWN:SEE CHKD:GBG

REF. MAP: E120010-15

SHEET 4 OF 5

DATE: 11/18/04
Exhibit 13, Page 37 of 74

Subject to special assessments if any, restrictions, reservations, and easements of record.

This conveyance is executed pursuant to the authority vested in the Director of Transportation by law and, in particular, by the Streets and Highways Code.

WITNESS my hand and the seal of the Department of Transportation of the State of California, this 30th day of OCTOBER 2006.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Will Kempton
Director of Transportation

By

George L. Pink Jr.
Attorney in Fact

APPROVED AS TO FORM AND PROCEDURE

Janine van Benschoten
ATTORNEY
DEPARTMENT OF TRANSPORTATION

STATE OF CALIFORNIA }
County of Sacramento } SS

PERSONAL ACKNOWLEDGMENT

On this the 30th day of OCTOBER 2006, before me SAMANTHA PENNALA, NOTARY PUBLIC

Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared GEORGE L. PINK JR.

Name of Signer

personally known to me

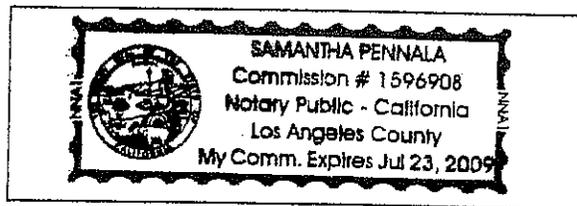
proved to me on the basis of satisfactory evidence

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.

Samantha Pennala

(Notary Public's signature in and for said County and State)



(for notary seal or stamp)

THIS IS TO CERTIFY that the California Transportation Commission has authorized the Director of Transportation to execute the foregoing deed at its meeting regularly called and held on the 12th day of October 2006, in the City of Santa Rosa.

Dated this 16th day of October 2006.

John F. Barna, Jr.
JOHN F. BARNA, JR., Executive Director
CALIFORNIA TRANSPORTATION COMMISSION

RESOLUTION 2006-89

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF NEWPORT BEACH
AUTHORIZING THE PURCHASE OF SUNSET RIDGE PARK
AND AGREEING TO TERMS AND CONDITIONS ASSOCIATED WITH A
PURCHASE AND SALE AGREEMENT FOR THE PARK PROPERTY

WHEREAS, the City of Newport Beach and its residents have long envisioned the 15 acres of land at the corner of Superior Avenue and West Coast Highway as a park, including both active and passive components; and

WHEREAS, extensive dealings with the owner of the property, California Department of Transportation ("Caltrans"), have occurred in the nearly thirty years since this property was declared surplus in 1976; and

WHEREAS, the City of Newport Beach was successful in sponsoring Senate Bill 124 (Johnson, 2001) which authorized the transfer of Sunset Ridge Park to the California Department of Parks and Recreation from Caltrans for a purchase price of \$1.3 million as long as the City entered into an Operating Agreement with State Parks to operate the land as a state park facility; and

WHEREAS, further discussions with Governor Schwarzenegger's administration, the State Department of General Services, members of the Legislature, and others, have led the City and Caltrans to propose a direct sale of the property to the City at a price of \$5,000,000; and

WHEREAS, the direct sale would be completed through a Purchase and Sale Agreement, a scenic easement, and deed restrictions that would provide that:

- The \$5 million be paid in three installments and at 4.75% interest;
- The property must be used as a park consistent with the current Open Space-Active (OS-A) zoning; and
- The City agrees to a 197,920 square foot Scenic Easement that would allow only uses of the property that are consistent with the OS-A zoning in place as of the date of this Resolution with the exception of permanent structures and pavement in the Scenic Easement Area.

WHEREAS, this Purchase and Sale Agreement requires the approval of the California Transportation Commission (CTC); now, therefore, be it:

RESOLVED by the City Council of the City of Newport Beach that it hereby:

1. Finds and declares that the Caltrans West Parcel (15.05 acres) shall be used by the City to develop Sunset Ridge Park and shall use the Parcel solely for park purposes, consistent with OS-A zoning; and

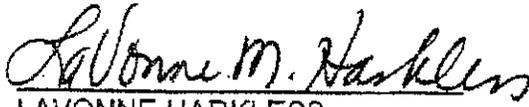
2. Authorizes the purchase of the Caltrans West Parcel from Caltrans at a price of \$5 million paid in three installments at 4.75% interest; and
3. Authorizes the placement of a Scenic Easement (or similarly-named easement) over 197,920 square feet of the parcel, within which all Open Space-Active (OS-A) uses that exist as of the date of this Resolution are permitted except for permanent structures and pavement (the latter two uses are not permitted); and
4. Authorizes the Mayor of the City of Newport Beach to execute a Purchase and Sale Agreement to this effect; and
5. Authorizes the City Manager to execute any related documents that might accompany the Purchase and Sale Agreement in order to accomplish the sale of the property.

ADOPTED this 26th Day of September, 2006.



DON WEBB
Mayor of Newport Beach

ATTEST:



LAVONNE HARKLESS
City Clerk



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2006-89 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 26th day of September 2006, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Curry, Selich, Rosansky, Ridgeway, Daigle, Nichols, Mayor Webb
Noes: None
Absent: None
Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27th day of September 2006.

LaVonne M. Harkless
City Clerk
Newport Beach, California



(Seal)



CITY OF NEWPORT BEACH

OFFICE OF THE MAYOR

Mayor

Don Webb

Mayor Pro Tem

Steven Rosansky

Council Members

Keith D. Curry

Leslie J. Daigle

Richard A. Nichols

Tod W. Ridgeway

Edward D. Selich

November 16, 2006

California Department of Transportation
21073 Pathfinder Road, Suite 100
Diamond Bar, CA 91765
Attn: Vincent Lundblad

LETTER OF ACCEPTANCE – DD #040766-01-01

Dear Mr. Lundblad:

The City of Newport Beach hereby accepts the property described in Director's Deed #040766-01-01 and agrees to the terms of the Purchase and Sale Agreement (attached to this letter).

I have also enclosed a check for \$2,000,000.00. This is the initial payment as prescribed by the Purchase and Sale Agreement.

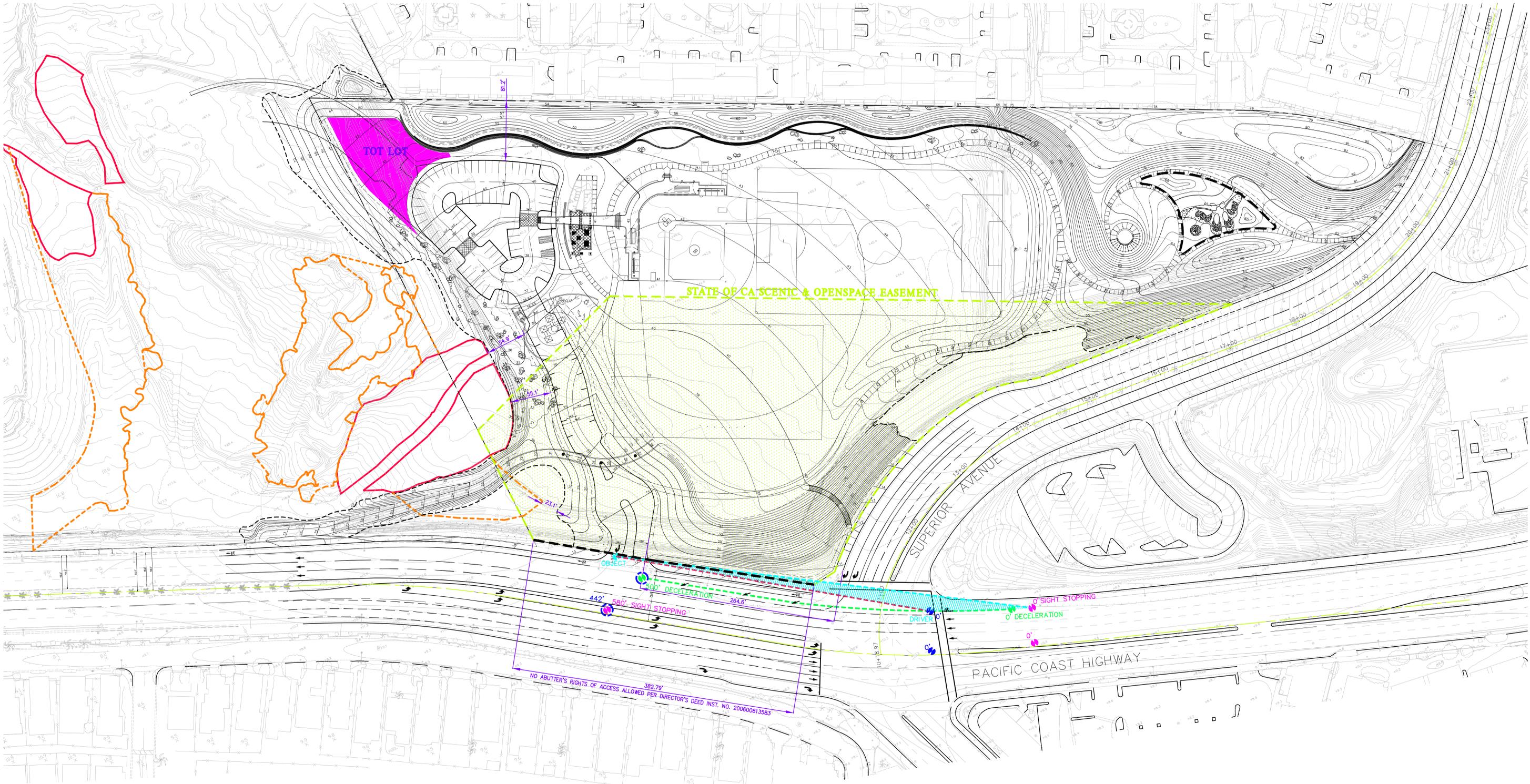
The City appreciates Caltrans' assistance and support of this important purchase. If you have any questions about these documents, please do not hesitate to contact us at 949-644-3000.

Sincerely,

DON WEBB
Mayor of Newport Beach

Attachments

cc: Members of the Newport Beach City Council
City Manager Homer Bludau
Assistant City Manager Dave Kiff
Caltrans Director Will Kempton
Ms. Bimia Rhinehart, Caltrans



LEGEND

	DESCRIPTION
	PROPOSED TOT LOT LOCATION
	NO ABUTTER'S RIGHTS OF ACCESS ALLOWED PER DIRECTOR'S DEED INST. NO. 200600813583
	STATE OF CA - SCENIC AND OPEN SPACE EASEMENT NO PAVEMENT, PERMANENT STRUCTURES OR PARKING IS ALLOWED IN EASEMENT
78	PARKING SPACES (33 LESS THAN PROPOSED DESIGN)

TRAFFIC SAFETY LEGEND

	DESCRIPTION	DISTANCE REQUIRED *	DISTANCE PROVIDED	SAFETY COMPLIANCE
	DECELERATION DISTANCE REQUIRED TO SAFELY STOP A VEHICLE FROM THE 60 MPH SPEEDS ON PCH TO MAKE THE RIGHT TURN INTO PARK (MEASURED IN THE CENTER OF THE TRAVEL LANE)	500' *	500'	N/A
	STOPPING SIGHT DISTANCE REQUIRED TO SAFELY STOP A VEHICLE ON A PRIMARY ROAD WHERE THE DRIVER OF THE VEHICLE CAN SEE AN OBSTRUCTING OBJECT IN THE SIGHT LINE (MEASURED ALONG THE STREET CENTERLINE)	580' **	442'	NO
	SIGHT LINE BASED ON REQUIRED STOPPING DISTANCES. THE RESTRICTED VIEW AREA IS DETERMINED BY THE LINE OF SIGHT DISTANCES DESCRIBED ABOVE, AND LANDFORM, WALLS OR ANY OBSTRUCTIONS THAT RESTRICT THE VIEWS FROM THAT POINT.			
	ACTUAL SIGHT LINE BASED ON RESTRICTED VIEW AREA IN ORDER FOR THE DRIVER'S SIGHTLINE TO NOT HAVE ANY OBSTRUCTIONS THAT RESTRICT THE VIEWS OF AN OBJECT BY THE DRIVER.	580' **	442'	NO

* PER AASHTO GEOMETRIC DESIGN OF HIGHWAYS AND STREETS 2004.
 ** PER CALTRANS HIGHWAY DESIGN MANUAL 2007
 NOTE: DECELERATION AND STOPPING SIGHT DISTANCES BEGN PRIOR TO ENTERING THE SUPERIOR INTERSECTION.

DRAFT CONCEPTUAL ALTERNATIVE VEHICULAR ACCESS PLANS PREPARED AT THE REQUEST OF THE CCC STAFF: FOR DISCUSSION PURPOSES ONLY.



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT

Stephen G. Badum, Director

October 12, 2011

Karl Schwing and John Del Arroz
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802

Subject: Sunset Ridge Park – Access Review of Alternate Driveway Access Location on Coast Highway

Dear Mr. Schwing and Mr. Del Arroz;

I have had an opportunity to review an alternative driveway location for Sunset Ridge Park, which would be located on the north side of Coast Highway approximately 350 feet west of Superior Avenue. The focus of this letter is a discussion of concerns regarding the safety of this particular access location. I will list my concerns here in no particular order of importance:

1. The significance of providing for safe ingress and egress for each and every vehicle entering and exiting the park is paramount. The trip generation rates, game schedules, peak arrival volumes, signal timing, etc. are not the main safety factors with regards to this proposed access location.
2. Westbound through traffic on Coast Highway is the most important movement with regards to safe ingress and egress. The high speed of traffic, the high PM peak hour traffic volumes, the lane configurations, and the existing geometry on Coast Highway (both adjacent to the park site and in advance of Superior Avenue) are the key design features. Traffic turning from Superior Avenue and Balboa Boulevard does not present the same concerns as westbound Coast Highway traffic.
3. One of the primary issues when reviewing this alternate access location is the ability of each individual driver to safely exit the park by providing adequate sight distance. While traveling westbound on Coast Highway, there is an angle point at the intersection with Superior Avenue. This angle in the roadway impacts the advance sight distance for the driveway. A field review shows that the line of sight for exiting vehicles would be obstructed by an existing bus shelter and traffic signal pole. The existing line of sight measurement does not meet the required 580 feet per the Caltrans Highway Design Manual. In addition, the slope and natural landscaping behind the bus shelter obstructs any advance sight distance.
4. Another primary issue when reviewing this driveway location is the ability of drivers to safely decelerate to enter the park driveway. Deceleration into the proposed driveway

location would occur within an area that includes a lane drop, bicycle lane, and bus stop all simultaneously existing in the same short segment of westbound Coast Highway. Deceleration for westbound Coast Highway would need to begin prior to the Superior Avenue intersection. Because of the angle in the roadway, the advance visibility of the driveway for westbound traffic prior to the Superior Avenue intersection is limited.

5. A park user unfamiliar with the entry location could be driving in the third through lane on Coast Highway across the Superior Avenue intersection. To access the park driveway, the driver would need to change lanes across the lane drop causing a potential for unsafe weaving of traffic in this short segment of the roadway.
6. If a park user wishes to enter the site, each time a bus is stopped adjacent to the existing shelter, the driver wishing to access the park cannot safely pass the bus and decelerate to enter the driveway.
7. In the last two years, there have been a total of 24 accidents for westbound traffic in the area of the proposed driveway access location.

As a Registered Traffic Engineer in the State of California, it is my professional opinion that a driveway access at the proposed location is not safe for ingress or egress into the Sunset Ridge Park.

We look forward to our continued relationship while working on this project. If you have any questions, please contact me at (949) 644-3329.

Sincerely,



Antony Brine, P.E., T.E.
City Traffic Engineer



- U-TURNS ALLOWED
- PROPOSED SRP ACCESS
- BRC SUGGESTED ACCESS



CITY OF NEWPORT BEACH

OFFICE OF THE CITY ATTORNEY

Aaron C. Harp, City Attorney

October 14, 2011

Via E-Mail to jdelarroz@coastal.ca.gov

Mr. John Del Arroz
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802

RE: SUNSET RIDGE PARK / SENATE BILL 124 (2001)
Matter No. A10-00630

Dear Mr. Del Arroz:

To follow up our discussion yesterday, enclosed please find a copy of Senate Bill 124, which is referenced in your staff report dated September 23, 2011, for the City's Sunset Ridge Park project. During our discussion yesterday, it was suggested that a passive park would be supported by the Commission staff. However, we believe that a passive park would be in direct contravention of the Legislature's intent in enacting SB 124.

For your background, enclosed are copies of the Assembly Committee Report on Appropriations and the Senate Committee on Governmental Organization pertaining to SB 124. As I am certain your legal counsel will agree it is well established that, when interpreting a statute, courts must ascertain legislative intent so as to effectuate purpose of a particular statute. Of prime consideration in statutory interpretation are the legislature's objectives. The enclosed reports reflect an intent to facilitate a transfer of the property to the City to effectuate the construction of baseball and soccer fields, restroom facilities, parking on the site, and walking/bike trails. These reports, prepared contemporaneously with passage and before signing, will be considered by a court to be instructive on matters of legislative intent.

Mr. John Del Arroz
October 14, 2011
Page: 2

As a result, it is our opinion that the suggestion that a passive park is preferred over the active park proposed by the City is inconsistent with California law, and in particular Senate Bill 124.

Sincerely,

CITY ATTORNEY'S OFFICE



Leonie Mulvihill
Assistant City Attorney

LM:slm

Enclosure

cc: Don Schmitz, Schmitz and Associates
Dave Webb, Deputy Director of Public Works

[A10-00630]

BILL ANALYSIS

SB 124
Page 1

Date of Hearing: August 22, 2001

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Carole Migden, Chairwoman

SB 124 (Johnson) - As Amended: June 4, 2001

Policy Committee: Business and
Professions Vote: 12-0Urgency: No State Mandated Local Program:
No Reimbursable:SUMMARY

This bill requires the Department of Transportation (Caltrans) to transfer a 15-acre state-owned parcel to the Department of Parks and Recreation (DPR) upon payment by the City of Newport Beach of almost \$1.4 million and agreement by the city to assume responsibility for construction, operation, and maintenance of any improvements on the property.

FISCAL EFFECT

Potential net revenue loss of \$2.8 to the Public Transportation Account (PTA), which represents the difference between the \$4.2 million appraised value and the \$1.4 million specified in the bill.

COMMENTS

1) Background and Purpose . According to the author, this bill is intended to invoke a constitutional provision aimed at encouraging the preservation of park and agricultural land in the coastal zone. Article XIX, Section 9 of the State Constitution authorizes the transfer of surplus state property located in the coastal zone that was purchased with fuel tax or vehicle registration fee funds. The transfer must be made to the Department of Parks and Recreation for state park purposes, to the Department of Fish and Game for the protection of fish and wildlife habitat, to the Wildlife Conservation Board, or the Coastal Conservancy to preservation of agricultural lands. The department receiving the property must pay a cost at least equal to the state's original acquisition cost.

SB 124
Page 2

The 15-acre parcel was purchased by Caltrans in January 1966 as potential right-of-way for the Coast Freeway, which was never built. Caltrans indicates that it identified the property as surplus land in 1975 and has been negotiating with the City of Newport Beach for 10 years regarding sale of the property, which is zoned in the city's general plan for residential or open space use. A March 2000 appraisal valued the property at approximately \$4.185 million, assuming the development of a 40-unit single family residential tract on the parcel. The City of Newport Beach intends to build baseball and soccer fields, restroom facilities and parking on the site and include walking/bike trails linked to the proposed 1,000+ acre Orange Coast River Park adjacent to the nearby Santa Ana River.

The city recently determined that due to budget constraints (the city's annual general fund expenditures for all capital projects are about \$4 million) it could not pay market value for the property and still commit the \$5-6 million of additional funds necessary for construction of a park on the property. Proponents believe that the California Constitution clearly authorizes this parcel to be acquired and preserved as parkland at its original price. The sponsor of this bill, the City of Newport Beach, emphasizes that this parcel is a regional asset that should be preserved for the public trust to provide convenient access from the Pacific Coast Highway to park users throughout Orange County.

2) Opposition . Caltrans and the California Transportation Commission do not support the use of Article XIX, Section 9 by local public agencies to obtain state properties at less than market value, because the loss of revenue to the PTA for reinvestment in transportation projects.

Analysis Prepared by : Chuck Nicol / APPR. / (916)319-2081

BILL ANALYSIS

Bill No: SB

124

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
 Senator Don Perata, Chair
 2001-2002 Regular Session
 Staff Analysis

SB 124 Author: Johnson
 As Amended: March 14, 2001
 Hearing Date: April 3, 2001
 Consultant: Art Torzakis

SUBJECT

State Property Transfer: City of Newport Beach

DESCRIPTION

SB 124 requires Caltrans to transfer a specified parcel of land located in the City of Newport Beach to the Department of Parks and Recreation so that the property may be preserved for the public benefit. Specifically, this measure:

1. Requires Caltrans to transfer to the Department of Parks and Recreation, upon payment by the City of Newport Beach of consideration at least equal to the acquisition cost paid by the state, approximately 15.05 acres of coastal zone property located in the city, adjacent to Superior Avenue and Pacific Coast Highway, for state park purposes.
2. Stipulates that the property transfer shall be contingent upon an agreement between the Department of Parks and Recreation and the city that requires the city to assume liability and responsibility for operation, construction, and maintenance of the park and its improvements.
3. Contains a "special statute" disclaimer provision, as specified. In addition, the measure contains "boiler plate" language absolving state government responsibility for certain costs incurred by a local agency.

SB 124 (Johnson) continued
 Page 2

RELATED LEGISLATION

SB 543 (Vasconcellos) 2001-2002 Session. Would authorize the director of the Department of General Services (DGS) to sell, lease, or exchange a specified parcel of real property in the City of Santa Clara upon terms and conditions and subject to reservation and exceptions that the director determines are in the best interests of the state. (Pending in this committee)

SB 809 (Ortiz) 2001-2002 Session. Would authorize the director of DGS to purchase, exchange, or acquire real property and construct facilities within the County of Sacramento or the City of West Sacramento for use by specified state agencies. (Pending in this committee)

SB 901 (Costa) 2001-2002 Session. Would authorize the director of DGS to enter into a joint powers agreement with the Fresno Redevelopment Agency in connection with the development of new state-owned office space in the City of Fresno. (Pending in this committee)

SB 951 (Committee on Governmental Organization) 2001-02 Session. The annual DGS surplus property bill. (Pending in this committee)

EXISTING LAW

The California Constitution (Article XIX, Section 9) authorizes the Legislature, with respect to surplus state property located in the coastal zone and acquired by the expenditure of tax revenues, to transfer such property, for a consideration at least equal to the acquisition cost paid by the state to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the

Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

BACKGROUND

Purpose of Bill: According to the author's office, SB 124 is intended to invoke a constitutional provision aimed at

SB 124 (Johnson) continued
Page 3

encouraging the preservation of park and agricultural land in the coastal zone. Pursuant to Article XIX, Section 9 of the California Constitution, SB 124 would provide for a parcel of surplus land owned by Caltrans to be transferred to the State Department of Parks and Recreation at a price equal to the property's purchase price (approximately \$1.18 million in 1966) for use as a park. The City of Newport Beach would assume all costs associated with the transfer, development, and operation of the park. In addition, the city would indemnify the state and assume any liability associated with the park.

Subject Property: The property consists of approximately 15.05 acres of vacant land, within the coastal zone, in the City of Newport Beach. The parcel, known as "Sunset Ridge Park" or "Caltrans Moot" was purchased by Caltrans in January 1966, for about \$1.18 million, as a possible right-of-way for the never built Coast Freeway using gas tax revenue. The property is in the Newport Beach General Plan and is zoned residential or open space. A March 2000 appraisal valued the property at approximately \$4.185 million -- assuming the development of a 40-unit "high quality single family residential tract development" on the parcel.

The City of Newport Beach intends to build ballfields, restroom facilities and parking on the site and include walking/bike trails linked to the proposed 1,000+ acre Orange Coast River Park adjacent to the nearby Santa Ana River. The city estimates that construction costs for the 15-acre parcel will amount to \$5-6 million.

Recent History: The City of Newport Beach and Caltrans had been negotiating the city's purchase of the property, however, the city recently determined that because of budget constraints (the city's general fund annual expenditures for all capital projects is about \$4 million) it could not pay market value (about \$4-6 million) for the 15-acre parcel and still commit \$5-6 million additional funds for construction of a park on the property.

Arguments in Support: Proponents believe that the California Constitution clearly authorizes this parcel to be acquired and preserved as parkland at its original price. Proponents emphasize that this parcel is a regional asset that should be preserved for the public trust to provide park users throughout Orange County convenient

SB 124 (Johnson) continued
Page 4

access from the Pacific Coast Highway.

Arguments in Opposition: The California Transportation Commission points out that it has a long standing policy to protect the State Highway Account against transfers of revenue to non-transportation uses. The Commission claims that it seeks to sell excess Caltrans property at current market value and to reinvest the revenue for transportation purposes. The Commission contends that to transfer the 15-acre parcel to the Department of Parks and Recreation would cost the State Highway Account over \$3 million and could serve as a costly precedent in future sales of excess Caltrans properties. Thus, the Commission believes that the parties involved in the negotiations should continue good faith efforts to agree on a "current fair market value" for the property.

Suggested Amendment: The author may wish to consider amending this measure either in this committee or the Senate Appropriations committee to clarify that the City of Newport Beach will reimburse the state General Fund for costs associated with the transfer of the property.

SUPPORT: As of March 29, 2001:

City of Newport Beach
Orange County Coastal Coalition
California Park and Recreation Society

Orange County Supervisor Thomas W. Wilson
Endangered Habitats League
Newport Beach Chapter, Surfrider Foundation
West Newport Beach Association

SUPPORT: (continued)

Central Newport Beach Community Association
Friends of Harbors, Beaches and Parks
Biomarica
Newport Crest Home Owners Association
Homeowners of Park Lido Association, Newport Beach (23
individuals)
Newport Harbor Area Chamber of Commerce
Bottoncourt & Associates
Lido Sands Community Association
The Newport Conservancy
Orange County Coastkeeper

□

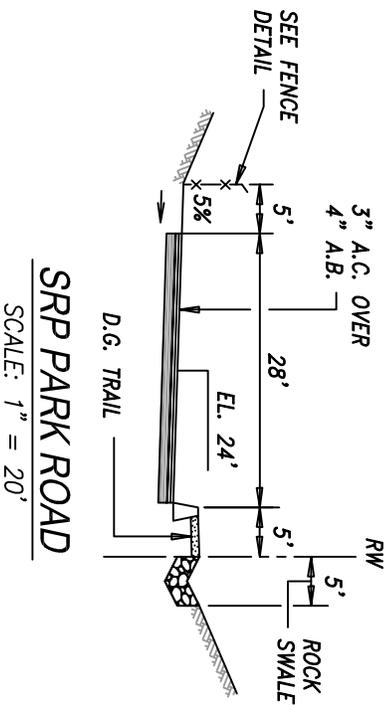
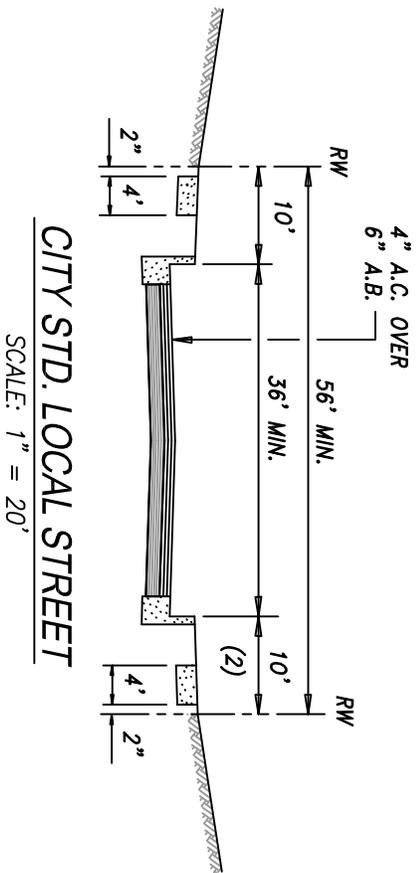
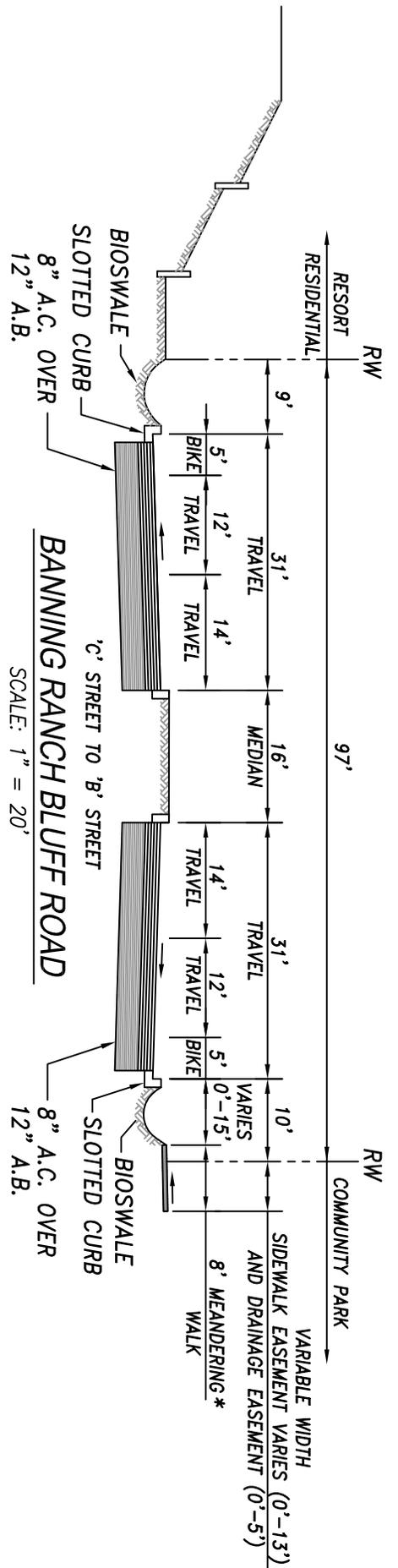
SB 124 (Johnson) continued
Page 5

Numerous private citizens

OPPOSE: As of March 29, 2001:

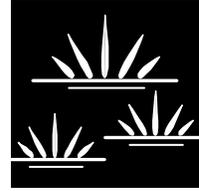
California Transportation Commission

FISCAL COMMITTEE: Senate Appropriations Committee



GLENN LUKOS ASSOCIATES

Regulatory Services



September 19, 2011

Erin McCarthy
U.S. Fish & Wildlife Service
6010 Hidden Valley Road
Carlsbad, California 92009

SUBJECT: Results of Dry-Season Survey for Listed Fairy Shrimp for a Single Feature at the 412.5-acre Newport Banning Ranch Property, City of Newport Beach and Unincorporated Orange County, Orange County, California

Dear Ms. McCarthy:

Please accept this letter and attachments as the final report regarding the results of a dry-season survey for listed fairy shrimp within a single feature (BRC 39) at the above referenced property. The survey of the subject feature was conducted in coordination with Chris Medak of USFWS, who suggested that a dry-season survey for this feature be conducted.

The Newport Banning Ranch property is approximately 412 acres and is located within both the City Newport Beach as well as an unincorporated portion of Orange County. The property is located north of Pacific Coast Highway (PCH), east of the Santa Ana River, south of 19th Street, and west of existing residential and commercial areas. The Project is situated within Unsectioned areas of Township 6 South, and Range 10 West of the USGS Newport Beach 7.5' Topographic quadrangle maps [Exhibit 1 – Vicinity Map]. The Study Area occurs at Universal Transverse Mercator (UTM) coordinates 412214 mE and 3722187 mN.

As noted in our September 14, 2011 notification, David Moskovitz (TE-084606-1) is the point of contact for GLA and Frank Wegscheider (TE-038716-2) conducted the dry-season sampling in accordance with the U.S. Fish and Wildlife Service Vernal Pool Branchiopods Survey Guidelines (USFWS 1996). The survey was limited to one disturbed feature located near the southeast corner of the site consisting of a low area in a drainage swale that currently supports a predominance of upland grasses and forbs but which ponded water in late December 2010 following extreme rainfall events. A photograph of BRC 39 is included as Exhibit 2.

29 Orchard
Telephone: (949) 837-0404

■ Lake Forest

■ California 92630-8300
Facsimile: (949) 837-5834

METHODS

Soil Collection

Soil sample collection was conducted by Frank Wegscheider and followed the USFWS Interim Survey Guidelines to Permittees for Recovery Permits Under Section 10(a)(1)(A) of the Endangered Species Act for the Listed Vernal Pool Branchiopods (April 1996). The subject feature was sampled at 10 equidistant points starting at the edge of the feature continuing lengthwise and widthwise, including at least two samples from the lowest portions. Soil samples of approximately 100-milliliter (ml) aliquots were removed at each sub-sample site (for a total of 1 liter/ponded area) and transferred to labeled plastic bags for future analysis. The feature had been previously mapped by Tony Bomkamp of GLA using sub-meter global positioning system (GPS) technology and photographed.

Soil Analysis

USFWS-approved branchiopod biologist Frank Wegscheider conducted soil analyses. Soil samples were placed into a one-gallon plastic container and allowed to pre-soak in water. The resulting slurry was slowly poured into a graded set of stacked U.S. standard eight-inch soil sieves (710, 300, and 150 micron), while concurrently being gently washed with flowing water. Water was directed through the samples for a time period sufficient to wash all of the resting eggs (cysts) into the 150-micron sieve. Soil remaining in the 150-micron and 300-micron sieves was used for analysis. The Project site lies outside of the currently documented range of the federally endangered vernal pool tadpole shrimp (*Lepidurus packardi*), which is endemic to California's Central Valley; therefore, it was unnecessary to examine the 300-micron sample. Nonetheless, the 300-micron sample was examined for the presence of cladoceran ephippia. To facilitate the analyses, the 150-micron samples were transferred to a saturated sodium chloride (NaCl) solution whereupon the organic components were twice decanted. The remaining organic contents were then examined under a Bausch & Lomb dissecting microscope at 10-30X for the presence of anostracan cysts.

RESULTS OF THE 2011 DRY-SEASON STUDY

Anostracan (fairy shrimp) cysts were not detected within the feature and it is concluded that listed fairy shrimp, specifically the San Diego fairy shrimp does not occur within this feature. Notably, cysts of widespread and common seed shrimp (Ostracoda) were also not detected within the feature. A number of hexapod (insect) parts were found in the soil samples taken from this feature but were not identified to species.

Table 1: Feature BCR 39					
Subsample number	Cyst quantity	Genus/species	Ostracod cysts	Hexapod exoskeleton	Cladocera ehippia
1	0	N/A	0	+	0
2	0	N/A	0	+	0
3	0	N/A	0	+	0
4	0	N/A	0	+	0
5	0	N/A	0	+	0
6	0	N/A	0	+	0
7	0	N/A	0	+	+
8	0	N/A	0	+	+
9	0	N/A	0	+	+
10	0	N/A	0	+	0

DISCUSSION

In our notification, we noted that based on separate site assessments conducted by BonTerra Consulting permitted Biologists Allison Rudalevige (TE177979-0) and Jeff Crain (TE-047998-1)¹ as well as by Tony Bomkamp of GLA (TE-825679-1 - permit currently inactive), BRC-39 is not a vernal pool, lacking not only vernal pool indicator species but also lacking a predominance of wetland indicator plants along with a complete absence of indicators for hydric soils, showing that it rarely ponds and then for only short duration. The dry-season survey results confirm this, and the lack of not only Anostracan cysts but also cysts of Ostracoda demonstrates that the feature as noted ponds at best rarely, and when it does (i.e., following extreme rainfall in late December 2010), the ponding lasts for only brief periods. In our notification, GLA proposed a modified protocol consisting of one dry-season sampling as a “complete” survey in the event that fairy shrimp cysts are absent, including the listed San Diego fairy shrimp and common versatile fairy shrimp (both of which are absent). Given the complete absence of Anostracan cysts, GLA believes that the dry-season survey has definitively demonstrated that listed species do not occur within feature BRC-39 due to the lack of suitable habitat and that a “Complete” survey has been accomplished for this feature. No additional wet- or dry-surveys are necessary.

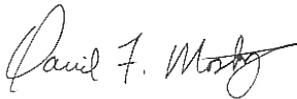
¹ The results of the BonTerra’s review of the site relative to potential areas of seasonal ponding are included in a report dated September 9, 2011 referencing: *Supplemental Biological Resource Information for the Sunset Ridge Park Project*. This report was submitted to Chris Medak of your office.

Erin McCarthy
U.S. Fish and Wildlife Service
September 19, 2011
Page 4

If you have any questions regarding this request, please call me at (949) 837-0404, ext. 42, or Tony Bomkamp at ext. 41.

I certify that the information in this survey report and attached exhibits fully and accurately represents my work.

GLENN LUKOS ASSOCIATES, INC.



TE-084606-1

9/19/2011

David F. Moskowitz
Biologist

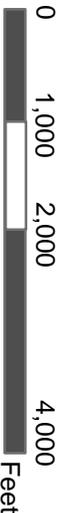
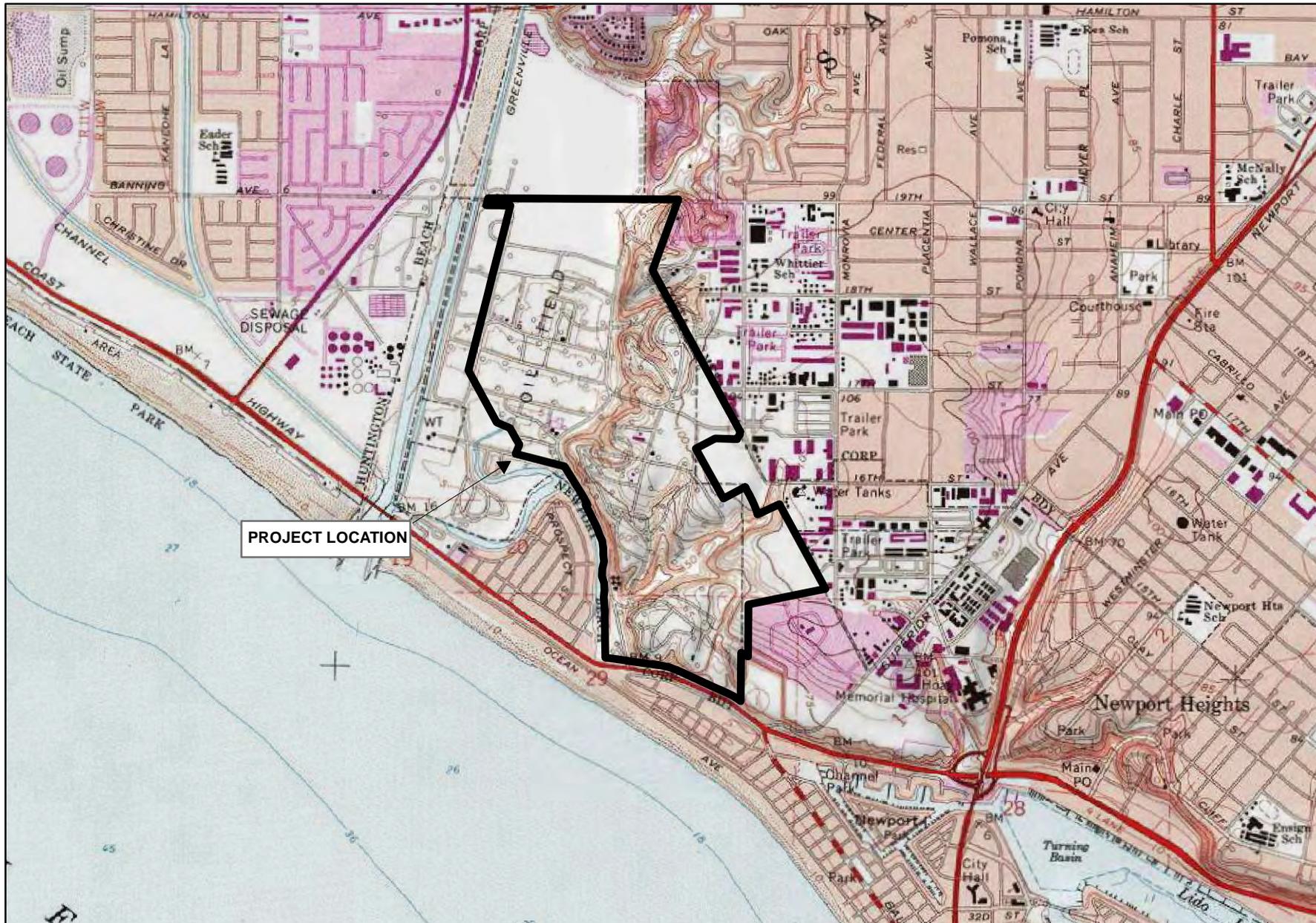
Permit #

Date

s:0472-8a.2011_dry survey_90 day.doc

CC: Christine Medak (U.S. Fish and Wildlife Service)
Jonna Engel (California Coastal Commission)

Adapted from USGS Newport Beach, CA quadrangle



NEWPORT BANNING RANCH
Vicinity Map

GLENN LUKOS ASSOCIATES

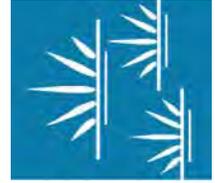


Exhibit 1



Feature BRC-39 exhibiting predominance of upland vegetation. No fairy shrimp cysts were detected.

NEWPORT BANNING RANCH
Fairy Shrimp Surveys: Site Photograph



GLENN LUKOS ASSOCIATES

EXHIBIT 2

October 18, 2011

Mr. Michael Sinacori, P.E.
Public Works Department
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663

VIA EMAIL
MSinacori@city.newport-beach.ca.us

Subject: Supplemental Biological Resource Information for the Sunset Ridge Park Project
[CDP Application No. 5-10-168]

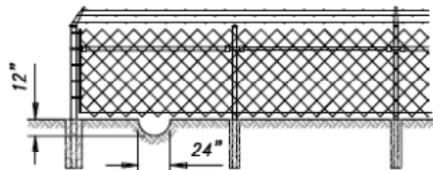
Dear Mr. Sinacori:

This Letter Report presents supplemental information regarding response to information provided in the Coastal Commission Staff report dated September 22, 2011. Issues addressed include wildlife movement and a seep along Superior Avenue.

Wildlife Movement

In section B.5 of the staff report, Coastal Staff notes concerns with the required security fence serving as an impediment to wildlife mobility; specifically, Staff notes the importance of maintaining coyotes in the ecosystem on site. Due to the constraints imposed by State Law on security fences on sites with active oil operations, leaving crawl spaces within the fence is not permissible.

However, the City is proposing an alternative solution which will address Staff's concerns about the free passage of coyotes on the subject site. Specifically, the City is proposing the use of a 24" diameter culvert which will facilitate wildlife passage from the rock ditch located on the east side of the proposed Park access road to the westerly side. In addition, the City is proposing 12" arched openings underneath the security fence (as illustrated below) in multiple locations as recommended by the U.S. Fish and Wildlife Service (USFWS).



***SRP FENCE DETAIL ALTERNATIVE WITH
WILDLIFE UNDERPASS***
SCALE: 1" = 10'



Based on guidelines from the Federal Highway Administration U.S. Department of Transportation¹ these culverts and arched openings will provide adequate movement opportunities for target species such as the coyote.

Seep Along Superior Avenue

A seep supporting non-native and native vegetation occurs along Superior Avenue. A hydrology study conducted by Leighton Consulting demonstrated that the seep is not being fed by an aquifer but is rather the result of seepage from the residential development north of the proposed Park site and site-specific surface infiltrations from precipitation (Leighton 2009). As a result, the artificial seep is expected to fluctuate due to rainfall and/or overwatering by uphill residents.

In addition, this artificial seep contains very small areas of hydric soils and some hydrophytic vegetation in an area dominated by non-native/invasive plant species (such as pampas grass [*Cortaderia selloana*]). Also, the micro vegetation mapping completed by BonTerra Consulting at the request of Dr. Engel showed the limited extent and isolation of hydrophytic vegetation resources along Superior Avenue. It is important to note that the area containing the artificial seep is a manufactured slope with erosion-control structures (i.e., bench drains and V-ditches) and would not likely be sustainable over time if up-slope watering regimes are modified. This seep is not part of a natural drainage, is not fed by an aquifer, is in a highly developed urban area, is isolated from any natural drainage or riparian resource, and is of very low function and value.

Regardless of these facts, the area has been identified by Coastal Staff as a wetland. The Coastal Staff state that the wetland is located 40 feet from the edge of grading and that this buffer may not be adequate to protect the wetlands. The consideration of a buffer needs to consider the existing conditions of the site and not an arbitrary 100-foot environmental buffer that is unilaterally applied to a resource without regard to the dynamics of the site, resource in questions, or the off-site influence already existing. The "wetland" in question is currently located between a sidewalk and drainage culvert on the bottom edge of the "wetland" and below a concrete "V" ditch upslope. There currently is no buffer to the site, nor is one necessary. Pedestrian, bike, and 6 lanes of vehicular traffic are within 8 feet of these areas. The mule fat growing in this area is located approximately 35 feet below the existing top of slope. Any buffer greater than the 40 feet provided by the proposed project is beyond that which currently exists and does not provide any added value to the resource the CCC Staff is attempting to protect.

Mule Fat in Western Area of Project

The Coastal Staff state that a "wetland" is located with the Environmentally Sensitive Habitat Area West (ESHA) area. The "wetland" staff are referring to is an area containing scattered mule fat (*Baccharis salicifolia*) plants with an understory of almost exclusively non-native, invasive species such as hottentot fig (*Carpobrotus edulis*) and pampas grass. *Myoporum* (*Myoporum laetum*), another large invasive non-native species, is prevalent in this area. Coastal Staff state that the proposed buffers (30 feet from grading and 55 feet from the road edge) would not meet the Commission's typical buffer. Rather than applying an arbitrary 100-foot wide buffer to an area, Coastal Staff needs to consider the existing conditions of the site and adjust the buffer size accordingly. The "wetland" in question is currently located within 60 feet of 6-lane traffic along West Coast Highway. Dirt slopes, drainage ditches, and vegetation maintained by

¹ Clevenger, T. & M.P. Huijser. 2009. Handbook for Design and Evaluation of Wildlife Crossing Structures in North America. Department of Transportation, Federal Highway Administration, Washington D.C., USA.

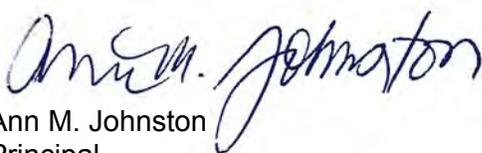
Mr. Michael Sinacori, P.E.
October 18, 2011
Page 3

Caltrans are also immediately adjacent to this area (within 25 feet of the wetland). To require a buffer greater than that which currently exists is unreasonable as it does not provide any added value to the resource the CCC Staff is attempting to protect.

BonTerra Consulting appreciates the opportunity to assist with this project. Please contact me at (714) 444-9199 if you have questions or comments.

Sincerely,

BONTERRA CONSULTING

A handwritten signature in black ink that reads "Ann M. Johnston". The signature is written in a cursive, flowing style.

Ann M. Johnston
Principal

cc: Dave Webb, Deputy Public Works Director, City of Newport Beach
Leonie Mulvihill, Assistant City Attorney, City of Newport Beach

R:\Projects\Newport\J016\Resposne to CCC Staff Report-101811.docx

MASTER STREET & HIGHWAY PLAN

ADOPTED 1-13-58

LEGEND

-  PROPOSED FREEWAY
-  MAJOR STREETS (FOUR LANES UNLESS OTHERWISE NOTED)
-  SECONDARY STREETS (TWO LANES)
-  OTHER STREETS
-  TRUCK ROUTES
-  PROPOSED STREETS
-  TRAFFIC DIRECTION, LANES

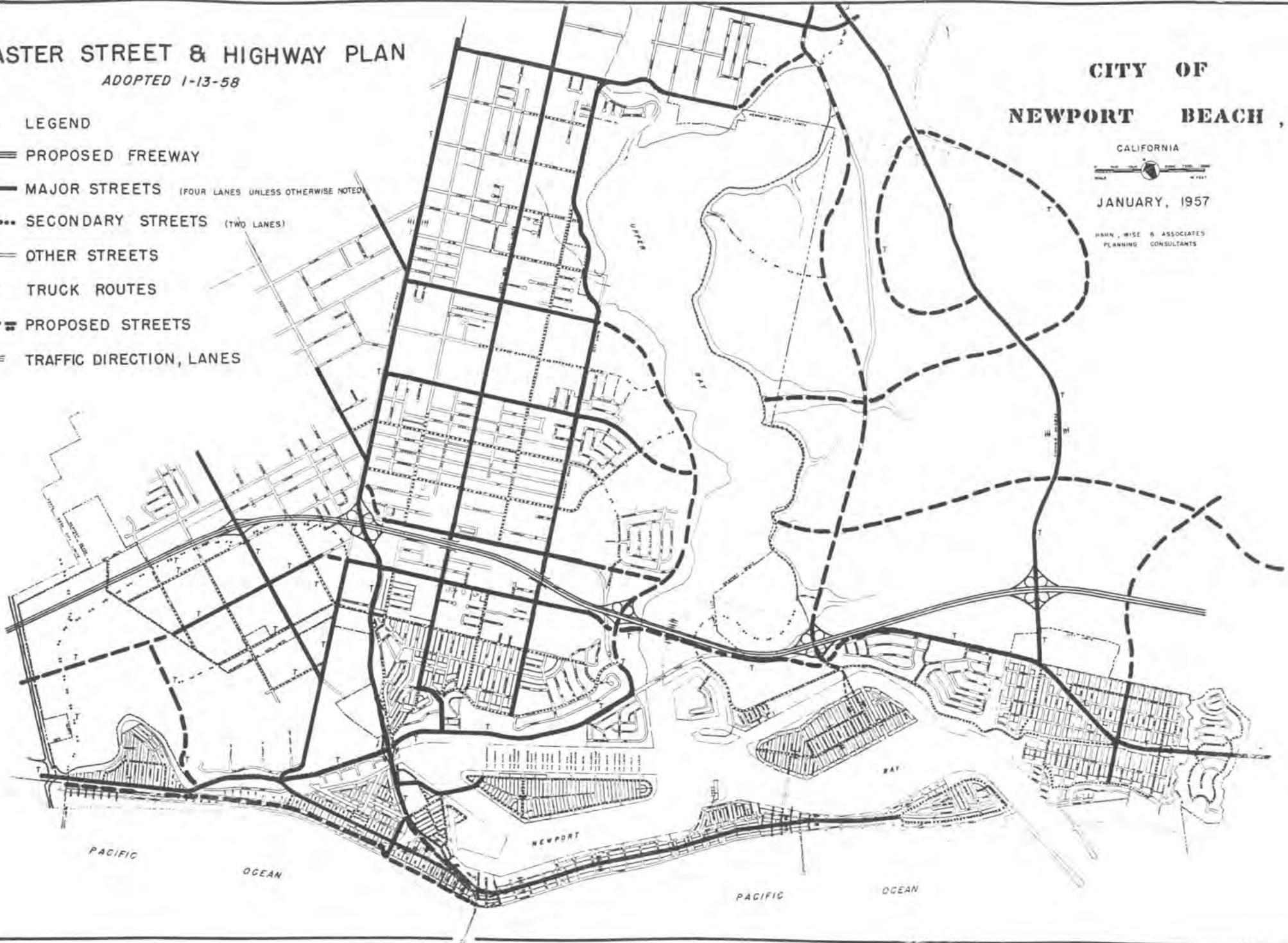
CITY OF NEWPORT BEACH,

CALIFORNIA



JANUARY, 1957

BAHN, WISE & ASSOCIATES
PLANNING CONSULTANTS



CIRCULATION ELEMENT
OF THE NEWPORT BEACH GENERAL PLAN

Adopted and recommended for approval
by the Planning Commission on January 10, 1974.

Adopted by the City Council on March 11, 1974.

PURPOSE AND SCOPE

It is intended that this Element satisfy the State requirement that local General Plans contain a "circulation element".

Section 65302 of the Government Code states in part, that local General Plans shall include:

"A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals and facilities, all correlated with the land use element of the plan."

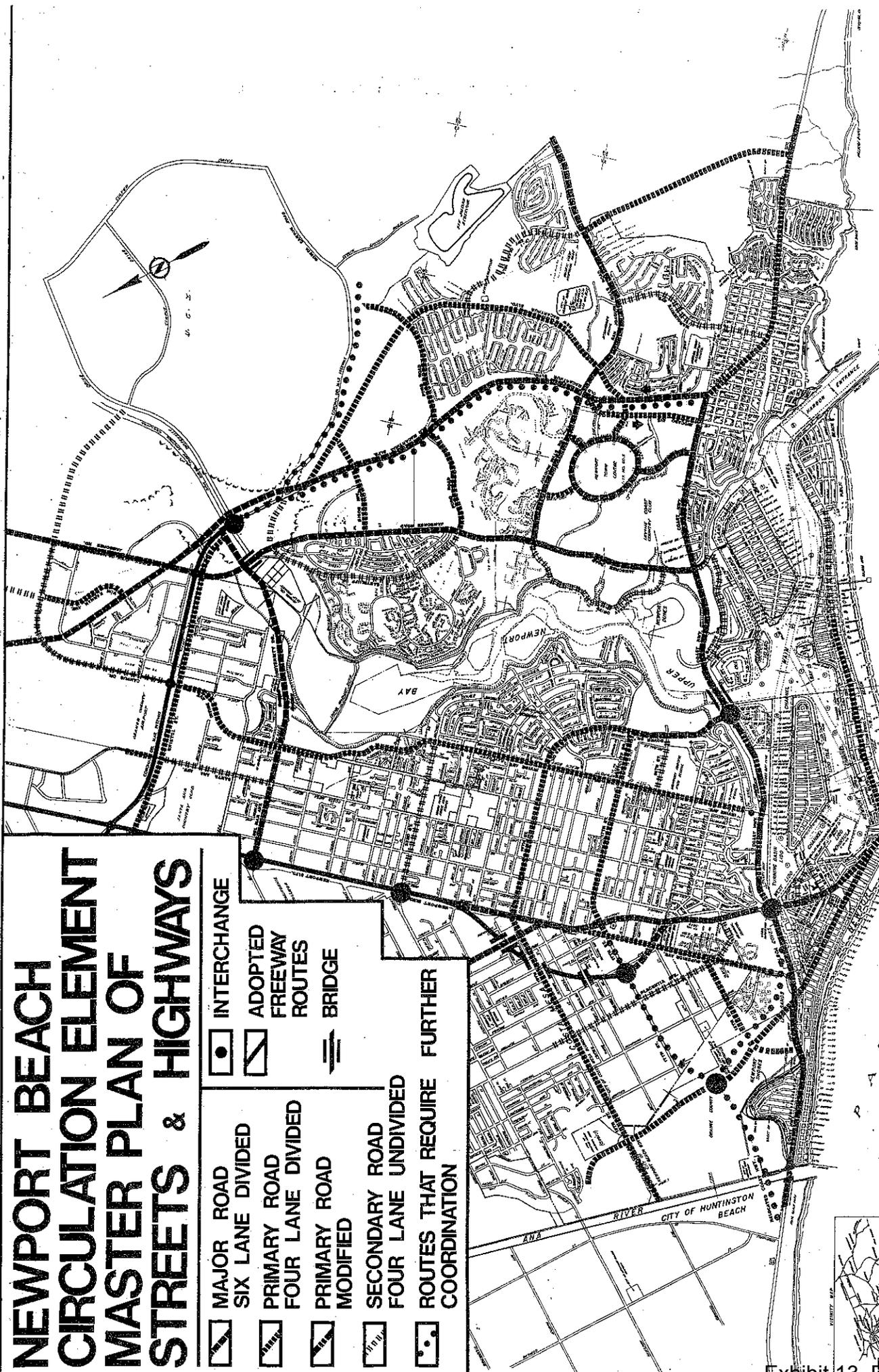
In addition the State of California Council on Intergovernmental Relations has adopted the following guidelines for the scope and nature of the Circulation Element:

- "A. Identification and analysis of circulation needs and issues.
- B. A statement of goals, objectives and policies based on the total circulation needs of the community, including priorities among modes and routes and distinguishing among short, middle and long-term periods of implementation.
- C. A diagram, map or other graphic representation showing the proposed circulation system.
- D. A description of the proposed circulation system and the interrelationships among system parts.
- E. Standards and criteria for the location, design, operation and levels of service of circulation facilities.
- F. A guide to the implementation of the circulation system."

Proposals for the Provision of Bikeways within the City of Newport Beach are contained in the Recreation and Open Space Element of the General Plan.

NEWPORT BEACH CIRCULATION ELEMENT MASTER PLAN OF STREETS & HIGHWAYS

- | | | | |
|--|--|--|------------------------------|
| | MAJOR ROAD
SIX LANE DIVIDED | | INTERCHANGE |
| | PRIMARY ROAD
FOUR LANE DIVIDED | | ADOPTED
FREEWAY
ROUTES |
| | PRIMARY ROAD
MODIFIED | | BRIDGE |
| | SECONDARY ROAD
FOUR LANE UNDIVIDED | | |
| | ROUTES THAT REQUIRE
FURTHER
COORDINATION | | |



scale in feet

ADOPTED BY CITY COUNCIL
MARCH 11, 1974

PACIFIC OCEAN



Circulation Element
of the
City of Newport Beach

*Adopted by the
Newport Beach City Council*

*October 24, 1988
Resolution No. 88-101*

Reprinted January, 1996

PURPOSE AND SCOPE

It is intended that this Element satisfy the State requirement that local General Plans contain a Circulation Element.

Section 65302(b) of the Government Code states in part that local General Plans shall include:

"...a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan."

The term "correlation" has been construed by the courts to require the Circulation Element, including its major thoroughfares, to be closely, systematically and reciprocally related to the Land Use Element of the General Plan. The correlation requirement is designed to insure the Circulation Element will set forth standards and proposals for addressing the demands on roads and transportation facilities resulting from traffic generated by the growth authorized, and anticipated in the Land Use Element.

The issues that are addressed in this Circulation Element are major roadways and transportation routes; roadway and intersection improvements; estimated costs and funding allocations; and bikeways.

OBJECTIVES, POLICIES AND IMPLEMENTATION

OBJECTIVE

The basic objective is the construction of public transportation facilities which, in conjunction with programs to reduce peak hour traffic, will accommodate vehicular traffic generated by land use within the City of Newport Beach at acceptable levels of service; to reduce, to the extent possible, the impact of summer visitor and tourist travel along Balboa Peninsula, on Balboa Island, and West Newport, and provide a safe, convenient and enjoyable system of bikeways that meet the needs of all cyclists.

POLICIES

The policies and implementation measures described below are intended to accomplish the basic objective of this Element. These policies and measures are not to be considered exclusive efforts the City will undertake to solve transportation problems as they arise, but do constitute the basis for both further analysis and new solutions.

Policy Number 1

Construction of facilities' improvements resulting in a roadway system that is sized and located to accommodate all vehicular traffic generated by existing development and anticipated growth, as well as some regional traffic, at service levels as close to Level of Service D as possible.

DISCUSSION

The General Plan Traffic Study has identified numerous facilities' improvements necessary to accommodate traffic generated by the additional growth authorized in the Land Use Element, as well as some regional traffic. These improvements will, in the vast majority of cases, result in intersections functioning at "Level of Service D" or better. Those intersections which are forecast to exceed LOS-D in the year 2010 do so, in large measure, because of regional traffic (See Table IV).

The intersections which are predicted to function above LOS-D, with few exceptions, are all located in proximity to John Wayne Airport (JWA). The relatively high levels of traffic in this area are a direct result of increased operations at JWA and development outside of Newport Beach. The Master Plan of Streets and Highways described in this Element represents a conscious decision to accept levels of service in the airport area that have

16. *Irvine Avenue between University Drive and Bristol Street.* In order to accommodate forecast demand, this section of Irvine Avenue shall be widened to six lanes. There is 100 feet of existing right-of-way in this section.
17. *Campus Drive between Bristol Street and MacArthur Boulevard.* To conform to the County Master Plan, this section needs to be upgraded to 6 lanes and is part of the Airport Mitigation Plan.
18. *Birch Street/Mesa Drive from Irvine Avenue to Jamboree Road.* A Secondary arterial (4 lane, undivided) is designated from Mesa Drive at Irvine Avenue to Birch Street at Jamboree Road. The precise alignment of the road shall be selected after completion and consideration of a precise alignment study and EIR which will consider the realignment of the intersection of Mesa Drive and Birch Street, Mesa Drive and Acacia Street, and other possible alignments to provide a through traffic connection between Mesa Drive at Acacia Street and Birch Street at Orchard Avenue. These studies will be completed prior to annexation. The connection and alignment ultimately selected shall accommodate sufficient traffic to insure that ICU's for all intersections affected by the connection are equal to or lower than those predicted in this element.
19. *Dover Drive between Cliff Drive and Westcliff Drive.* This section of roadway shall be widened to six lanes.
20. *15th Street between Coast Highway and Bluff Road.* This is a section of roadway that will be constructed in conjunction with the development of the Mobil-Armstrong property in the West Newport area. This roadway will be constructed with four lanes.
21. *15th Street between Bluff Road and Monrovia Avenue.* This is a section of roadway that will be constructed in conjunction with the development of the Mobil-Armstrong property in the West Newport area. This roadway will be constructed with four lanes.
22. *15th Street between Monrovia Avenue and Superior Avenue.* This existing roadway shall be widened to four lanes.
23. *Bluff Road between Coast Highway and 17th Street.* This is a section of roadway that will be constructed in conjunction with the development of the Mobil-Armstrong property in the West Newport area. This roadway will be constructed with four lanes.

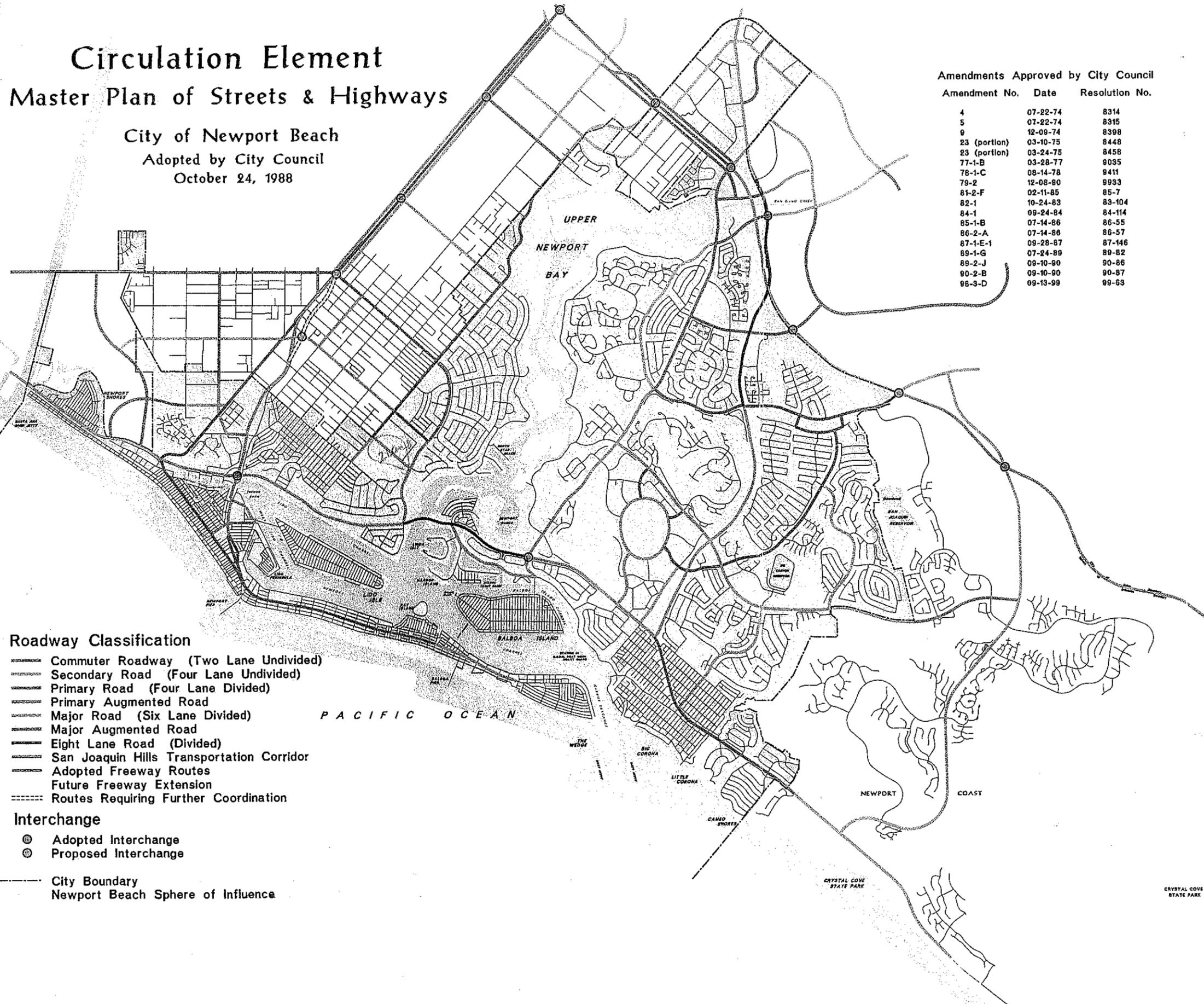
Circulation Element

Master Plan of Streets & Highways

City of Newport Beach
 Adopted by City Council
 October 24, 1988

Amendments Approved by City Council

Amendment No.	Date	Resolution No.
4	07-22-74	8314
5	07-22-74	8315
9	12-09-74	8398
23 (portion)	03-10-75	8448
23 (portion)	03-24-75	8458
77-1-B	03-28-77	9035
78-1-C	08-14-78	9411
79-2	12-08-80	9933
81-2-F	02-11-85	85-7
82-1	10-24-83	83-104
84-1	09-24-84	84-114
85-1-B	07-14-86	86-55
86-2-A	07-14-86	86-57
87-1-E-1	09-28-87	87-146
89-1-G	07-24-89	89-82
89-2-J	09-10-90	90-86
90-2-B	09-10-90	90-87
98-3-D	09-13-99	99-63



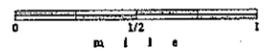
Roadway Classification

- Commuter Roadway (Two Lane Undivided)
- Secondary Road (Four Lane Undivided)
- Primary Road (Four Lane Divided)
- Primary Augmented Road
- Major Road (Six Lane Divided)
- Major Augmented Road
- Eight Lane Road (Divided)
- San Joaquin Hills Transportation Corridor
- Adopted Freeway Routes
- Future Freeway Extension
- Routes Requiring Further Coordination

Interchange

- Adopted Interchange
- Proposed Interchange

- City Boundary
- Newport Beach Sphere of Influence

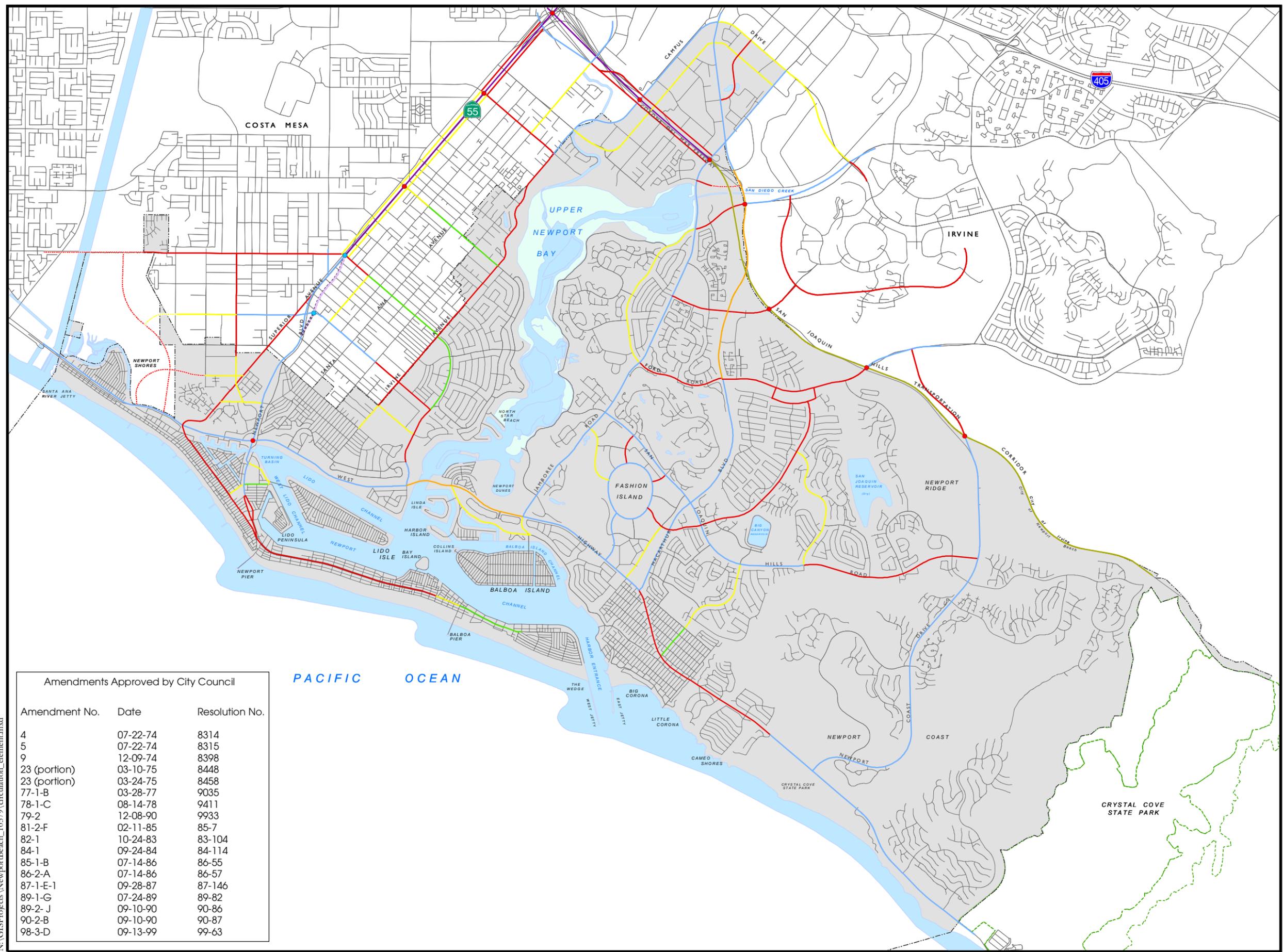


NEWPORT
 Newport Information System
 Administrative Services Department
 September 2000

MK_BCE.DJ

CITY of NEWPORT BEACH
 GENERAL PLAN
 Figure CE1
 MASTER PLAN OF
 STREETS AND HIGHWAYS

- Legend**
- ADOPTED INTERCHANGE
 - PROPOSED INTERCHANGE
 - ==== ROUTES REQUIRING FURTHER COORDINATION
0.75 Miles
 - COMMUTER ROADWAY (TWO LANE UNDIVIDED)
3.24 Miles
 - SECONDARY ROAD (FOUR LANE UNDIVIDED)
16.88 Miles
 - SECONDARY (NOT BUILT)
0.28 Miles
 - PRIMARY ROAD (FOUR LANE DIVIDED)
29.62 Miles
 - PRIMARY ROAD (NOT BUILT)
3.05 Miles
 - MAJOR ROAD (SIX LANE DIVIDED)
30.64 Miles
 - EIGHT LANE ROAD (DIVIDED)
2.81 Miles
 - SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR
5.32 Miles
 - ADOPTED FREEWAY ROUTES
4.48 Miles
 - FUTURE FREEWAY EXTENSION
0.75 Miles



Amendments Approved by City Council

Amendment No.	Date	Resolution No.
4	07-22-74	8314
5	07-22-74	8315
9	12-09-74	8398
23 (portion)	03-10-75	8448
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79-2	12-08-90	9933
81-2-F	02-11-85	85-7
82-1	10-24-83	83-104
84-1	09-24-84	84-114
85-1-B	07-14-86	86-55
86-2-A	07-14-86	86-57
87-1-E-1	09-28-87	87-146
89-1-G	07-24-89	89-82
89-2-J	09-10-90	90-86
90-2-B	09-10-90	90-87
98-3-D	09-13-99	99-63

0 0.5 1
Miles

Source: City of Newport Beach and Urban Crossroads
 PROJECT NUMBER: 10579-01
 Date: 9/21/06



OCTA MPAH Amendment (Downgrade or Deletion) Requests

- Local agency submits request in writing to OCTA, Joe Alcock and copied to Kurt Brotcke (Director of Strategic Planning). Letter should include description of amendment requested, and provide documentation to support the basis for the request.
- OCTA reviews request and meets with local agency.
- Cooperative study required if requested amendment has potential transportation issues or impacts.

- Any proposed changes to the MPAH shall not result in any significant*, unmitigated, adverse impacts to the MPAH system (in terms of capacity and level of service), and this shall be demonstrated prior to approval of the proposed changes.

*A significant impact for an MPAH traffic impact analysis is defined as an unmitigated increase in the level of service or intersection ICU value of 0.01 over LOS D under MPAH policy adopted by the OCTA Board of Directors in April 1998.

- If no issues/impacts, may not require cooperative study (administrative amendment).
- An administrative amendment still requires OCTA Board Approval.
- If OCTA Board adopts recommendation, City amends their General Plan Circulation Element. Board adoption is contingent on City approval of GP amendment.
- The City needs to send OCTA confirmation of their GP amendment for OCTA to update the MPAH Map.

Cooperative Study Process

- Requesting agency serves as project lead for study and is responsible for funding and preparing any cooperative study that may be required.
- Inform potentially affected agencies of amendment request
- Meet with potentially affected agencies and OCTA (Kick-off meeting)
- Develop Scope of Work – to be reviewed and approved by OCTA
- Conduct Traffic Analysis
- Review draft Analysis with OCTA and affected agencies
- Revise analysis with comments
- Gain consensus on recommendation
- OCTA develops MOU (in cooperation with requesting agencies) between OCTA and requesting agencies for implementation of any mitigation measures
- OCTA takes cooperative study team's recommendation and MOU to the Board
- If OCTA Board adopts recommendation, City amends their General Plan Circulation Element. Board adoption is contingent on City approval of GP amendment.
- City sends OCTA confirmation of GP amendment and OCTA updates MPAH Map
- Cities need to remain consistent with MPAH to meet Measure M requirements and funding eligibility

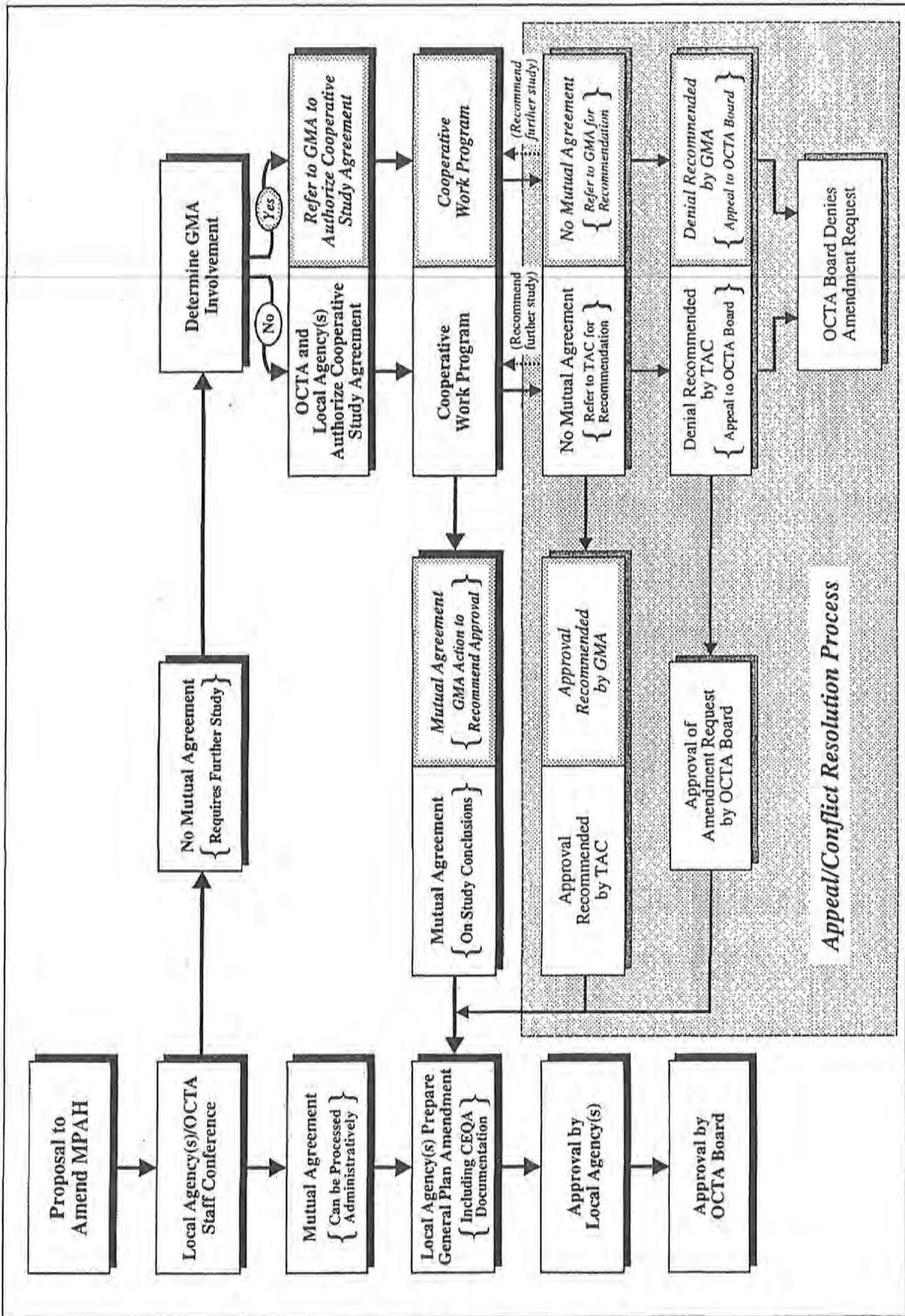


Figure 1

Note: Where a split box is shown, the right side applies when a GMA is involved in the process.

