CITY COUNCIL REGULAR MEETING

FEBRUARY 28, 2012
7:00 PM

AGENDA

Melody Carruth, Mayor
Joel Lautenschleger, Mayor Pro Tempore | **Barbara Kogerman, Council Member**
Randal Bressette, Council Member | **L. Allan Songstad, Jr., Council Member**

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, California 92653

Any person wishing to address the City Council/Planning Agency on any matter, whether or not it appears on this Agenda, is asked to complete a pink “Request to Speak” form available on the table at the back of the Chamber. The completed form is to be submitted to the City Clerk prior to an individual being heard by the City Council/Planning Agency. Completion of the form is voluntary. All persons may attend the meeting regardless of whether this form is completed.

Members of the public wishing to address the City Council can do so during the Public Comments portion of the Agenda with a time limitation of three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

CALL TO ORDER

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

PLEDGE OF ALLEGIANCE: COUNCIL MEMBER SONGSTAD

ROLL CALL OF CITY COUNCIL MEMBERS

1. PRESENTATIONS AND PROCLAMATIONS

1.1 MOTHERS AGAINST DRUNK DRIVING (MADD) 2011 "DEUCE AWARD"

RECOMMENDATION: THAT MAYOR CARRUTH INVITE RENEE OAKS WITH ORANGE COUNTY MOTHERS AGAINST DRUNK DRIVING, TO PRESENT THE DEUCE AWARD TO DEPUTY SCOTT WATSON.

2. PUBLIC COMMENTS

This is the time to address the City Council on any matter not listed on this Agenda that is within the subject matter jurisdiction of the City Council. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

2.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON JEENA BONUTTO.

3. MINUTES

3.1 REGULAR MEETING, FEBRUARY 14, 2012

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE MINUTES OF THE FEBRUARY 14, 2012, REGULAR MEETING.

4. CONSENT CALENDAR

All matters listed under “CONSENT CALENDAR” are considered to be routine and will be enacted by one motion approving the recommendation listed on the Agenda. There will be no separate discussion unless Members of the City Council or Staff request specific items be removed from the Consent Calendar.

4.1 MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS, SAID TITLES, WHICH APPEAR ON THE PUBLIC AGENDA, SHALL BE DETERMINED TO HAVE BEEN READ BY TITLE AND FURTHER READING WAIVED

RECOMMENDATION: THAT THE CITY COUNCIL WAIVE READING OF ORDINANCES AND RESOLUTIONS.

4.2 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED FEBRUARY 28, 2012

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF $1,139,688.19.

4.3 RESOLUTION AUTHORIZING COMMUNITY ASSISTANCE FUNDING FOR THE 2012 LAGUNA HILLS HIGH SCHOOL PTSA "EVERY FIFTEEN MINUTES" PROGRAM

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AUTHORIZING COMMUNITY ASSISTANCE FUNDING FOR THE 2012 LAGUNA HILLS HIGH SCHOOL PTSA "EVERY FIFTEEN MINUTES" PROGRAM.

4.4 PROGRESS PAYMENT NO. 4 FOR AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE CONTRACT CHANGE ORDER NO. 1 AND PROGRESS PAYMENT NO. 4, IN THE NET AMOUNT OF $112,111.38, TO HILLCREST CONTRACTING, INC., FOR THE AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164.

4.5 PROGRESS PAYMENT NO. 11 FOR LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 11, IN THE NET AMOUNT OF $225,028.65, TO SEMA CONSTRUCTION, INC., FOR THE LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159.

4.6 CLAIM AGAINST THE CITY, AFNI INSURANCE SERVICES

RECOMMENDATION: THAT THE CITY COUNCIL REJECT THE CLAIM AND DIRECT THE CITY CLERK TO SEND A CLAIM REJECTION LETTER

ITEMS REMOVED FROM THE CONSENT CALENDAR

5. PLANNING AGENCY

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

5.2 PUBLIC COMMENTS

This is the time to address the Planning Agency on any matter not listed on this Agenda that is within the subject matter jurisdiction of the Planning Agency. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

5.3 MINUTES

5.3.1 REGULAR MEETING, FEBRUARY 14, 2012

RECOMMENDATION: THAT THE PLANNING AGENCY APPROVE THE MINUTES OF THE FEBRUARY 14, 2012, REGULAR MEETING.

5.4 PLANNING AGENCY PUBLIC HEARINGS

PLANNING AGENCY ADJOURNMENT

6. CITY COUNCIL PUBLIC HEARINGS

7. ADMINISTRATIVE REPORTS

7.1 City Manager

7.2 Assistant City Manager

7.2.1 INTRODUCTION OF ORDINANCE IMPLEMENTING THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006, REPLACING THE CABLE TELEVISION FRANCHISE REGULATIONS

RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 4-16 OF TITLE 4 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO STATE VIDEO FRANCHISE HOLDERS.

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS AND MAYOR

9. CITY COUNCIL MEMBER COMMENTS

10. CLOSED SESSION

The City Council shall convene in Closed Session, in the City Hall Conference Room, to consider the following matters:

10.1 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to subdivision (a) of Government Code Section 54956.9
Name of Case: City of Laguna Hills v. Moreland Development Company, et al.; Case No. 30-2011 00517430

10.2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: A portion of the open space parcel located at the corner of Moulton Parkway and La Paz Road in the City of Laguna Hills, identified more particularly as Parcel 1 of Parcel Map No. 2009-134 consisting of a subdivided portion (3.365 acres) of Lot "A" of Tract No. 11237; a portion of Assessor's Parcel No. 625-221-03.

Agency Negotiators: Bruce E. Channing, City Manager, and Donald J. White, Assistant City Manager

Negotiating Parties: City of Laguna Hills and Vintage Capital Real Estate Investment Partners, LLC, and its agents Fred C. Sands and Ken Hocker

Under Negotiation: Price and terms of payment for sale.

Reconvene in regular session in the City Council Chamber

Report on whether any reportable action was taken on matters considered during Closed Session

ADJOURNMENT

The next Regular Meeting of the City Council will be March 13, 2012, at 7:00 PM, in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, PEGGY J. JOHNS, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and La Paz Center by February 24, 2012, at 5:00PM.

Peggy J. Johns

PEGGY J. JOHNS, CITY CLERK

February 24, 2012
DATE

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of the City

Clerk at (949) 707-2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours.

CITY OF LAGUNA HILLS

AGENDA REPORT
POLICE SERVICES

ISSUE: **MOTHERS AGAINST DRUNK DRIVING (MADD) 2011 "DEUCE AWARD"**

SUMMARY:

The Orange County Chapter of Mothers Against Drunk Drivers (MADD) is recognizing Deputy Scott Watson for his efforts in the identification and apprehension of impaired drivers in Laguna Hills. The MADD “Deuce Award” is being presented to Deputy Watson for amassing 39 DUI arrests in 2011.

BACKGROUND:

Deputy Scott Watson has been assigned to the City of Laguna Hills for five years. He has developed an expertise in the identification and apprehension of drunk and impaired drivers. Since his assignment to the City, Deputy Watson has consistently led Laguna Hills patrol deputies in DUI arrests.

Every year, the local chapter of Mothers Against Drunk Drivers (MADD) recognizes police officers for their efforts in reducing or eliminating drunk driving on our roadways. This behavior has been proven over and over again to have tragic effects on families and communities throughout the nation. By recognizing the efforts of our deputies, MADD continues to remind everyone that drunk driving is not a victimless crime.

Deputy Scott Watson should be commended for his efforts in making the streets of Laguna Hills safer for those citizens who travel though this community.

RECOMMENDATION: THAT MAYOR CARRUTH INVITE RENEE OAKS WITH ORANGE COUNTY MOTHERS AGAINST DRUNK DRIVING, TO PRESENT THE DEUCE AWARD TO DEPUTY SCOTT WATSON.

CITY OF LAGUNA HILLS, CALIFORNIA
CITY COUNCIL/PLANNING AGENCY REGULAR MEETING
MINUTES
FEBRUARY 14, 2012

CALL TO ORDER

Mayor Carruth called the Regular Meeting of the City Council of the City of Laguna Hills, California, to order at 7:00 PM in the Laguna Hills City Council Chamber, 24035 El Toro Road, Laguna Hills.

PLEDGE OF ALLEGIANCE: Council Member Bressette

ROLL CALL OF CITY COUNCIL MEMBERS

Present: Mayor Carruth, Mayor Pro Tempore Lautenschleger, Council Member Bressette, Council Member Kogerman, and Council Member Songstad

1. PRESENTATIONS AND PROCLAMATIONS

1.1 PRESENTATION AND REQUEST FOR FINANCIAL SUPPORT FOR LAGUNA HILLS HIGH SCHOOL PTSA "EVERY FIFTEEN MINUTES" PROGRAM

DIRECTED STAFF TO PREPARE A RESOLUTION TO AUTHORIZE PUBLIC ASSISTANCE FUNDING IN THE AMOUNT OF $2,500, AND BRING BACK TO THE CITY COUNCIL AT A FUTURE MEETING BY M/MAYOR PRO TEMPORE LAUTENSCHLEGER, S/COUNCIL MEMBER KOGERMAN.
APPROVED BY A VOTE OF 5-0.

2. PUBLIC COMMENTS

DARK HORSE COMMITTEE

Mike Bland, Laguna Hills, gave an update on the Dark Horse 3/5 Marine Battalion Committee.

OLEANDER BUSHES AND AIR QUALITY

William Frey, Laguna Niguel, indicated he had concerns with the oleander bushes on the corner of Paseo de Valencia and La Paz Road which were accessible to the Valencia Elementary school children. Mr. Frey was also concerned about the air quality around Valencia Elementary School and the Laguna Hills Community Center and Sports Complex. Mr. Frey distributed literature to the City Council on the dangers of oleander bushes and photos depicting his concerns.

2.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON

THE CITY COUNCIL RECEIVED AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON JEENA BONUTTO.

3. MINUTES

3.1 REGULAR MEETING, JANUARY 24, 2012

MOTION TO APPROVE THE MINUTES OF THE JANUARY 24, 2012, REGULAR MEETING, BY M/COUNCIL MEMBER SONGSTAD, S/COUNCIL MEMBER BRESSETTE.
APPROVED BY A VOTE OF 5-0.

4. CONSENT CALENDAR

MOTION TO APPROVE THE CONSENT CALENDAR, BY M/COUNCIL MEMBER BRESSETTE, S/COUNCIL MEMBER SONGSTAD, WITH COUNCIL MEMBER KOGERMAN REMOVING ITEMS NO. 4.2 AND 4.7.
APPROVED BY A VOTE OF 5-0.

4.1 MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS, SAID TITLES, WHICH APPEAR ON THE PUBLIC AGENDA, SHALL BE DETERMINED TO HAVE BEEN READ BY TITLE AND FURTHER READING WAIVED

THE CITY COUNCIL WAIVED READING OF ORDINANCES AND RESOLUTIONS.

4.3 SECOND QUARTER FINANCIAL AND TREASURER'S REPORT (FY2011/12)

THE CITY COUNCIL RECEIVED AND FILED THE SECOND QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY2011/12.

4.4 ESTABLISHMENT OF NO PARKING ANYTIME ZONES ON PLAZA POINTE DRIVE

THE CITY COUNCIL ADOPTED RESOLUTION NO. 2012-02-14-1, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ESTABLISHING NO PARKING ANYTIME ZONES ON PLAZA POINTE DRIVE AT MULTIPLE LOCATIONS AS DESCRIBED.

4.5 ESTABLISHMENT OF NO PARKING ANYTIME ZONE ON SANTA VITTORIA DRIVE AND CAMINITO CRUZ

THE CITY COUNCIL ADOPTED RESOLUTION NO. 2012-02-14-2, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ESTABLISHING A NO PARKING ANYTIME ZONE ON THE WEST SIDE OF SANTA VITTORIA DRIVE FROM 40 FEET SOUTH OF CAMINITO CRUZ TO 40 FEET NORTH OF CAMINITO CRUZ.

4.6 EMPLOYER-EMPLOYEE RELATIONS RESOLUTION

THE CITY COUNCIL ADOPTED RESOLUTION NO. 2012-02-14-3, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, IMPLEMENTING CHAPTER 10, DIVISION 4, TITLE 1 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA RELATIVE TO EMPLOYER-EMPLOYEE RELATIONS.

ITEMS REMOVED FROM THE CONSENT CALENDAR

4.2 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDING FEBRUARY 14, 2012

Council Member Kogerman removed this item from the Consent Calendar to direct the City Council’s attention to the pre-paid check issued to Nellie Gail Ranch Owners’ Association regarding coyote control, and asked the City Manager to provide an update on the issue.

MOTION TO APPROVE THE EXPENDITURE TO NELLIE GAIL RANCH OWNERS' ASSOCIATION FOR COYOTE CONTROL ON THE WARRANT REGISTER IN THE AMOUNT OF $1,250, BY M/COUNCIL MEMBER KOGERMAN, S/MAYOR PRO TEMPORE LAUTENSCHLEGER.
APPROVED BY A VOTE OF 5-0.

MOTION TO APPROVE THE REMAINDER OF THE WARRANT REGISTER IN THE AMOUNT OF $295,333.43, BY M/COUNCIL MEMBER BRESSETTE, S/COUNCIL MEMBER SONGSTAD.
APPROVED BY A VOTE OF 5-0.

4.7 COMMUNITY BULLETIN BOARD AT COMMUNITY CENTER

Council Member Kogerman removed this item from the Consent Calendar to commend the Community Services staff and the Parks and Recreation Commission, for coming up with this solution in order for the public to post notices.

**MOTION TO RECEIVE AND FILE THE REPORT, BY M/COUNCIL MEMBER KOGERMAN, S/COUNCIL MEMBER BRESSETTE.
APPROVED BY A VOTE OF 5-0.**

5. PLANNING AGENCY

Mayor Carruth recessed the City Council meeting and acting in the capacity of chair, called the regular meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:38 PM.

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Present: Chair Carruth, Vice Chair Lautenschleger, Agency Member Bressette, Agency Member Kogerman, and Agency Member Songstad.

5.2 PUBLIC COMMENTS

There were no Public Comments.

5.3 MINUTES

5.3.1 REGULAR MEETING, JANUARY 24, 2012

**MOTION TO APPROVE THE MINUTES OF THE JANUARY 24, 2012, REGULAR MEETING AS REFERENCED IN CITY COUNCIL MINUTES BEGINNING ON PAGE 3, BY M/AGENCY MEMBER BRESSETTE, S/AGENCY MEMBER KOGERMAN.
APPROVED BY A VOTE OF 5-0.**

5.4 PLANNING AGENCY PUBLIC HEARINGS

There were no Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Carruth reconvened the City Council meeting at 7:39 PM. All Council Members were present.

6. CITY COUNCIL PUBLIC HEARINGS

There were no Public Hearings.

7. ADMINISTRATIVE REPORTS

7.1 City Manager

The City Manager made no reports.

7.2 Public Services Director

7.2.1 MANDEVILLE DRIVE PERMIT PARKING ZONE

Jacquleine Sprecher, Laguna Hills, indicated she did not support the Mandeville Drive Permit Parking Zone.

MOTION TO RECEIVE AND FILE THE REPORT, BY M/COUNCIL MEMBER SONGSTAD, S/MAYOR PRO TEMPORE LAUTENSCHLEGER.
APPROVED BY A VOTE OF 5-0.

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS AND MAYOR

8.1 COUNCIL MEMBER SONGSTAD

8.1.1 CALIFORNIA FORWARD BALLOT MEASURE "THE GOVERNMENT PERFORMANCE AND ACCOUNTABILITY ACT"

THE CITY COUNCIL RECEIVED AN ORAL REPORT FROM COUNCIL MEMBER SONGSTAD ON THIS ISSUE.

9. CITY COUNCIL MEMBER COMMENTS

There were no City Council Member Comments.

10. CLOSED SESSION

Mayor Carruth recessed the meeting into Closed Session at 8:22 PM.

10.1 CONFERENCE WITH LABOR NEGOTIATOR (CONTINUED)

Pursuant to Government Code Section 54957.6
Agency Negotiator: Daniel C. Cassidy, Special Labor Counsel
Unrepresented Employee: City Manager
Under Negotiation: Terms and conditions of employment

10.2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to subdivision (a) of Government Code Section 54956.9
Name of Case: City of Laguna Hills v. Moreland Development Company, et al.; Case No. 30-2011 00517430.

10.3 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: A portion of the open space parcel located at the corner of Moulton Parkway and La Paz Road in the City of Laguna Hills, identified more particularly as Parcel 1 of Parcel Map No. 2009-134 consisting of a subdivided portion (3.365 acres) of Lot "A" of Tract No. 11237; a portion of

Assessor's Parcel No. 625-221-03.

Agency Negotiators: Bruce E. Channing, City Manager, and Donald J. White, Assistant City Manager.
Negotiating Parties: City of Laguna Hills and Vintage Capital Real Estate Investment Partners, LLC, and its agents Fred C. Sands and Ken Hocker.
Under Negotiation: Price and terms of payment for sale.

Mayor Carruth reconvened the meeting at 10:30 PM. All Council Members were present.

There was no reportable action taken in Closed Session.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Carruth declared the meeting adjourned at 10:30 PM.

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PEGGY J. JOHNS, CITY CLERK

ATTEST:

____
MELODY CARRUTH, MAYOR

APPROVED AT MEETING OF ______________________________

CITY OF LAGUNA HILLS

AGENDA REPORT
ADMINISTRATIVE SERVICES DEPARTMENT

ISSUE: APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED FEBRUARY 28, 2012.

SUMMARY:

In accordance with Government Code Section 37202, the Finance Manager prepares the attached warrant register, which reflects the disbursements of the City of Laguna Hills for the period reported thereon. The Assistant City Manager certifies that funds are available for the payment thereof. These warrants are hereby submitted to the City Council for approval of payment.

Prepared by:

JANICE MATEO REYES
Finance Manager

Certified:

DONALD J. WHITE
Assistant City Manager

2-22-12
DATE

FISCAL IMPACT:

The warrant register total is $ 1,139,688.19

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF $ 1,139,688.19.

ATTACHMENTS:

1. **Warrant Register**

WarrantCoverModified-DW JMRFinance MGR-prepared

CITY OF LAGUNA HILLS
WARRANT REGISTER
February 28, 2012

VENDOR	DESCRIPTION	CHECK NO.		AMOUNT
PREPAID WARRANTS:				
BANK OF AMERICA	*Departmental Operating Expenditures, Jan '12*	8802781	$	5,315.34
CYBERSOURCE CORPORATION	*eCommerce Payment Gateway Service, Online Permits, Community Development, Jan '12*	8802808		29.00
GARRIGAN, EILEEN	*Refund, Permit Fee, CR# 43327*	8802812		158.00
HERNANDEZ, LISA	*Mileage Reimbursement, Administrative Services, Jan '12*	8802782		14.43
HSBC BUSINESS SOLUTIONS	*Program Supplies, Community Services, Dec '11 - Jan '12*	8802783		65.33
IRVINE RANCH WATER DISTRICT	*Water Usage, Parks, Jan '12*	8802817		114.83
MONACH, KIMBERLYN	*Professional Fees, Public Art Program, Dec '11 - Jan '12*	8802784		1,800.00
MOULTON NIGUEL WATER DISTRICT	*Water Usage, Parks, Jan '12*	8802785		11,923.71
OROS CONSULTING SERVICES, LLC	*Professional Fees, Computer Consulting Services, Jan '12*	8802786		4,891.25
RALPHS GROCERY COMPANY	*Program Supplies, Community Services, Jan '12*	8802833		59.26
REFUND, COMMUNITY SVCS PROGRAM	*L. Folks, V# 2002290.002*	8802788		125.00
REFUND, FACILITY RENTAL DEPOSIT	*J. Rosenthal, V# 2002295.002*	8802790		132.50
REFUND, FACILITY RENTAL DEPOSIT	*Laguna Hills NJB, V# 2002293.002*	8802791		250.00
REFUND, FACILITY RENTAL DEPOSIT	*M. Perez, V# 2002292.002*	8802792		500.00
REFUND, FACILITY RENTAL DEPOSIT	*H. Rodriguez, V# 2002289.002*	8802793		500.00
REYES, JANICE MATEO	*Petty Cash Replenishment, Departmental Operating Expenditures, Feb '12*	8802834		764.15
REYNOLDS, DAVID	*Mileage & Travel Reimbursement, Community Services, Feb '12*	8802835		456.04
REYNOLDS, DAVID	*Petty Cash Replenishment, Community Services, Feb '12*	8802836		223.77
SAN DIEGO GAS & ELECTRIC	*Electric Usage, Street Lights, Jan '12*	8802794		12,138.90
SAN DIEGO GAS & ELECTRIC	*Electric Usage, Street Lights and Traffic Control, Jan '12*	8802838		203.77
SMART & FINAL	*Program Supplies, Community Services and Office Supplies, City Hall, Jan '12*	8802841		153.61
SONGSTAD, ALLAN	*Reimbursement, Travel and Meeting Expense, LOCC, Jan '12*	8802795		20.00
SOUTHERN CALIFORNIA EDISON	*Electric Usage, Street Lights and Traffic Control, Jan '12*	8802796		963.72
SOUTHERN CALIFORNIA EDISON	*Electric Usage, Street Lights and Traffic Control, Jan '12*	8802843		9,089.62

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
SPRINT	*Communication Expense, Community Services, Jan '12*	8802845	150.33
VERIZON WIRELESS	*Communication Expense, Jan '12*	8802851	956.30
WELLS FARGO FINANCIAL LEASING	*Lease - Copier, Community Center, Mar '12*	8802797	571.60
WYLAND FOUNDATION	*Program Expense, Volunteer Connection Day, Partial Payment*	8802854	600.00
	Total Prepaid Warrants:		**$ 52,170.46**
REGULAR WARRANTS:			
ALICEA, MIA	*Contract Instructor Fee, Dancing Winter Session, Community Services*	8802798	$ 25.20
AQUA CHILL OF MISSION VIEJO, INC.	*Water Filtration Service, Community Center, Feb '12*	8802799	81.89
ASCAP	*Music Annual License Fee 2012, Community Services*	8802800	320.00
BUREAU VERITAS NORTH AMERICA	*Professional Fees, El Toro Rd @ Carlota Street Improvements CIP # 164*	8802801	3,707.00
C2 REPROGRAPHICS	*Printing Expense, City Clerk and La Paz Widening @ I-5 CIP # 159*	8802802	1,005.63
CALIFORNIA OFFICE SYSTEMS	*Usage - Copier, City Hall, Jan '12*	8802803	215.86
CARL WARREN & COMPANY	*Processing Fee, Small Claims, Dec '11 - Jan '12*	8802804	96.92
CERVANTES, EDWARD	*Contract Instructor Fee, Cooking Class Winter Session, Community Services*	8802805	136.50
CHARLES ABBOTT ASSOCIATES, INC.	*Professional Fees, Plan Checking and Building & Safety Services, Jan '12*	8802806	6,866.00
COMPLETE OFFICE OF CALIFORNIA	*Office Supplies, Community Center, Jan '12*	8802807	1,003.43
DATA TICKET, INC.	*Parking Citation Processing Fee and Equipment Lease, Dec '11*	8802809	734.17
DMV	*Vehicle Registration Renewal, Mar '12*	8802810	136.00
ECONOMICS, INC.	*Professional Fees, Recycling Program, Jan '12*	8802811	2,397.92
HARRINGTON GEOTECH ENGINEERING	*Professional Fees, El Toro Rd @ Carlota Street Improvements CIP # 164*	8802813	164.00
HILLCREST CONTRACTING	*Progress Payment #4, El Toro Rd @ Carlota Street Improvements CIP # 164*	8802814	112,111.38
HINDERLITER, DE LLAMAS & ASSOC	*Professional Fees, Sales Tax Audit 1st Qtr '12 and Recovery Fee Qtr 3rd '11*	8802815	2,015.10
IRON MOUNTAIN OFFSITE	*Off Site Data Storage, Jan '12*	8802816	208.26
JAMEY CLARK, INC.	*Janitorial Services, Graffiti Removal and Safety Inspections, Parks, Jan '12*	8802818	4,537.26

CITY OF LAGUNA HILLS
WARRANT REGISTER
February 28, 2012

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
JOE DONALDSON DESIGNS	*Program Expense, 1/2 Marathon and 5K Event, Community Services, Jan '12*	8802819	250.00
K F STUDIOS	*Event Promotional Services, 1/2 Marathon and 5K Event, Community Services, Jan '12*	8802820	270.00
LUCY, STEVEN	*Program Expense, Community Services, Jan '12*	8802821	650.00
MAIN STREET TOURS	*Program Expense, Community Services, Jan '12*	8802822	3,832.00
MIGLIACCIO, JENNIFER	*Contract Instructor Fee, Early Childhood Winter Session, Community Services*	8802823	3,640.00
MOBILE MINI, INC.	*Storage Rental Fee, Community Services, Feb '12*	8802824	82.97
NIEVES LANDSCAPE, INC.	*Monthly Maintenance and Other Assorted Landscape Services, Feb '12*	8802825	75,250.97
OFFICE SOLUTIONS	*Office and Operating Supplies, Feb '12*	8802827	612.17
ORANGE COUNTY FIRE AUTHORITY	*Remittance, Fire Fees Collected, Jan '12*	8802828	5,789.00
ORANGE COUNTY REGISTER	*Subscription, Community Center, 02/10/12 - 04/06/12*	8802829	79.30
ORANGE COUNTY REGISTER	*Subscription, City Hall, 02/23/12 - 05/24/12*	8802830	103.65
ORANGE COUNTY TREASURER	*Parking Fee Surcharge, Dec '11*	8802831	1,147.14
ORANGE COUNTY TREASURER	*Traffic Signal Maintenance, Jul - Oct '11*	8802849	60,853.94
ORANGE COUNTY TREASURER	*Law Enforcement Services, Feb '12*	8802856	545,032.08
QUIKSILVER COURIER	*Delivery Service, Jan '12*	8802832	29.64
RPW SERVICES, INC.	*Rodent Control, Parks, Jan '12*	8802837	1,560.00
SEMA CONSTRUCTION, INC.	*Progress Payment #11, La Paz Widening @ I-5 CIP # 159*	8802839	225,028.66
SHARPS COMPLIANCE, INC.	*Hazardous Waste Containers, Recycling Program, Feb '12*	8802840	685.11
SOUTH COAST WATERS	*Facility Maintenance, Water Feature, Community Center, Feb '12*	8802842	475.00
SPECTRUM SPECIALTIES & AWARDS	*Operating Supplies, Feb '12*	8802844	78.16
STATE DEPARTMENT OF JUSTICE	*Pre-employment Fingerprinting, Jan '12*	8802846	32.00
SUNSET PROPERTY SERVICES	*Street Sweeping, Jan '12*	8802847	11,229.41
TIME MANAGEMENT	*Program Supplies Deposit, 1/2 Marathon and 5K Event, Community Services, Feb '12*	8802848	500.00
TRANSACT TECHNOLOGIES, INC	*Office Supplies, Jan '12*	8802850	159.07
WEST COAST ARBORISTS, INC.	*Tree Planting, Urban Reforestation, CIP # 320*	8802852	11,400.00

CITY OF LAGUNA HILLS
WARRANT REGISTER
February 28, 2012

VENDOR	DESCRIPTION	CHECK NO.	AMOUNT
WILLDAN	*Professional Fees, Engineering, Dec '11 - Jan '12*	8802853	2,360.00
XEROX CORPORATION	*Usage - Copier, City Hall, Jan '12*	8802855	624.94
	Total Regular Warrants:		**$ 1,087,517.73**
	*****WARRANT REGISTER TOTAL*****		**$ 1,139,688.19**

CITY OF LAGUNA HILLS

AGENDA REPORT
CITY CLERK'S DEPARTMENT

ISSUE: **RESOLUTION AUTHORIZING COMMUNITY ASSISTANCE FUNDING FOR THE 2012 LAGUNA HILLS HIGH SCHOOL PTSA "EVERY FIFTEEN MINUTES" PROGRAM**

SUMMARY:

At the February 14, 2012, City Council Meeting, Laguna Hills High School PTSA representatives gave a short presentation on the "Every Fifteen Minutes" Program that is conducted every two years. The City Council at that meeting directed staff to bring back a Resolution authorizing Community Assistance Funding in the amount of $2,500 for this event.

BACKGROUND:

Every two years the Laguna Hills High School PTSA presents a two-day program held on campus which focuses on junior and senior high school students to challenge them to think about the dangers associated with drinking and driving. Although this statewide effort is funded in part by a State of California grant, the Laguna Hills High School PTSA is again seeking community partners to assist with other program-related expenses not covered by the grant.

The City Council directed staff to bring back a Resolution at the February 28, 2012, City Council meeting, authorizing Community Assistance Funding in the amount of $2,500 for the Laguna Hills High School PTSA "Every Fifteen Minutes" Program for 2012. It is in order to adopt the Resolution.

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AUTHORIZING COMMUNITY ASSISTANCE FUNDING FOR THE 2012 LAGUNA HILLS HIGH SCHOOL PTSA 'EVERY FIFTEEN MINUTES' PROGRAM."

ATTACHMENTS:

- Resolution

RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AUTHORIZING COMMUNITY ASSISTANCE FUNDING FOR THE 2012 LAGUNA HILLS HIGH SCHOOL PTSA “EVERY FIFTEEN MINUTES” PROGRAM

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, at the discretion of the City Council, the City may provide community assistance funding to community groups and nonprofit organizations that provide community service, support, and/or programming efforts intended to enhance the quality of life of the City’s residents, provided the City Council determines that the expenditure of such funds will be used for a public purpose within the jurisdiction; and

WHEREAS, the Laguna Hills High School PTSA has requested that the City Council provide community assistance funding in the amount of $2,500 towards the “Every Fifteen Minutes” Program; and

WHEREAS, the “Every Fifteen Minutes” Program serves a public purpose within the City of Laguna Hills by seeking to increase public safety by reducing alcohol-related incidents among youth; and

WHEREAS, the “Every Fifteen Minutes” Program is funded, in part, by a grant from the State of California; and

WHEREAS, the Laguna Hills High School PTSA is seeking community partners to assist with program related expenses not covered by the State of California grant;

WHEREAS, at the February 14, 2012, City Council meeting, the Laguna Hills High School PTSA made a presentation and funding request for the “Every Fifteen Minutes” Program; and the City Council made a motion to direct staff to bring back an authorizing Resolution for community assistance funding in the amount of $2,500.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby authorizes and directs that the City provide community assistance funding in the amount of $2,500 toward the 2012 Laguna Hills High School PTSA “Every Fifteen Minutes” Program.

PASSED, APPROVED, AND ADOPTED this 28th day of February 2012.

____
MELODY CARRUTH, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2012- ___ adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 28th day of February 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

____
PEGGY J. JOHNS, CITY CLERK

CITY OF LAGUNA HILLS

AGENDA REPORT
PUBLIC SERVICES DEPARTMENT

ISSUE: **PROGRESS PAYMENT NO. 4 FOR AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164**

SUMMARY:

Work on the Avenida de la Carlota Widening Project, CIP No. 164, began on October 17, 2011, and is being performed by Hillcrest Contracting, Inc. Work performed in January included concrete removal and replacement, access ramps, driveway replacement, curb and gutter replacement, and traffic signal modifications. The contractor has submitted the fourth progress payment request for approval. In addition, Contract Change Order No. 1 is proposed for approval to address extra work on the project associated with the Caltrans permit and additional pavement repairs.

BACKGROUND:

A routine monthly action for capital improvement projects is the submission, review, and approval of the contractor's invoice. Procedurally, field staff verifies the contractor's quantities and matches them with the submitted invoice. The unit prices and total costs of the project are confirmed by the office staff and a progress payment is then processed. A ten-percent (10%) retention is withheld from each payment to assure final performance of the work. The contractor for the project, Hillcrest Contracting, Inc., has submitted the fourth progress payment for the subject project as follows:

ITEM #	DESCRIPTION	QUANTITY	UNIT	$	AMOUNT
7	R&R Curb & Gutter	120	LF	$ 36.50	$ 4,380.00
8	R&R Access Ramp	1	EA	$ 880.00	$ 880.00
9	Access Ramp	1	EA	$ 670.00	$ 670.00
12	4" Driveway	1,343.5	SF	$ 3.20	$ 4,299.20

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE CONTRACT CHANGE ORDER NO. 1 AND PROGRESS PAYMENT NO. 4, IN THE NET AMOUNT OF $112,111.38, TO HILLCREST CONTRACTING, INC., FOR THE AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164.

022812/DEPT/PUBLIC SERVICES/CINDY/AGENDA/CITY COUNCIL/PROGRESS PAYMENT 4 CIP NO. 164

13	8" Curb & Gutter	87	LF	$ 26.00	$ 2,262.00
14	8" Curb	37	LF	$ 21.00	$ 777.00
24	Traffic Signal Mod	.50	LS	$222,600.00	$111,300.00

Total To Date	$497,493.18	
Less Prior Billing	$372,924.98	
Total This Period	$124,568.20	$124,568.20
Less 10% Retention		$(12,456.82)
		$112,111.38

CONTRACT CHANGE ORDER NO. 1

As reported to the City Council on January 24, 2012, staff and the Contractor have been evaluating the scope and determining the cost of extra work on this project that was primarily generated due to conditions on the Encroachment Permit issued by Caltrans. The extra work was originally priced by the Contractor at $67,137.60 but staff was able to refine and re-cost the work to a reduced value of $56,146.82. In addition, the Contractor was requested to price the cost of pavement repairs on Avenida de la Carlota at Lake Forest Drive which also requires a one-night closure of the southbound I-5 off ramp. The cost of the work is approximately $55,000 with some traffic control costs being variable depending upon the total time of the work effort. The details of the extra work are as described on the attached Contract Change Order No. 1. City Council approval of the Change Order is recommended.

FISCAL IMPACT:

The progress payment and proposed change order are within the Capital Improvement Program Budget for the Avenida de la Carlota Widening Project, CIP No. 164.

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE CONTRACT CHANGE ORDER NO. 1 AND PROGRESS PAYMENT NO. 4, IN THE NET AMOUNT OF $112,111.38, TO HILLCREST CONTRACTING, INC., FOR THE AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164.

ATTACHMENTS:

- Contract Change Order No. 1

CITY OF LAGUNA HILLS
CONTRACT CHANGE ORDER

CONTRACT CHANGE ORDER NO. 1 SHEET 1 OF 2 SHEETS

PROJECT: Avenida de la Carlota Widening Project, CIP No. 164

CONTRACTOR: Hillcrest Contracting, Inc.

In accordance with contract provisions, the following changes in the contract and/or contract work are hereby authorized and as compensation therefore, the following addition to or deductions from the contract price are hereby approved.

Note: This change order is not effective until approved by the City Engineer.

Description of work to be done, estimate of quantities, and prices to be paid. Segregate between additional work at contract price, agreed price and force account. Unless otherwise stated, rates for rental of equipment is actually used and no allowance will be made for idle time.

Change requested by City Engineer

	Quantity	U/M	Unit Price	Total
Avenida de la Carlota				
1. Parkway Drain W=5'	1	EA	$ 2,950.00	$ 2,950.00
2. Block Slough Wall, 2" Masonry Cap with Skate Deter	54	LF	$ 105.00	$ 5,670.00
3. Grade PKWY to New Proposed Elevations	3,810	SF	$ 0.70	$ 2,667.00
4. Additional Striping & Signage	1	LS	$24,418.03	$24,418.03
5. Traffic Signal Modifications	1	LS	$17,783.19	$17,783.19
6. Add for Decorative Finish on Ramp @ El Toro	633	SF	$ 4.20	$ 2,658.60
		SUBTOTAL =		**$56,146.82**

	Quantity	U/M	Unit Price	Total
Lake Forest Intersection				
1. Traffic Control (Closure & Detour)	2	DY	$ 3,670.00	$ 7,340.00
2. PCMS on S/B I-5 & S/B I-405 Mainline	2	EA	$ 1,370.00	$ 2,740.00
3. R&R 4" AC Lake Forest Intersection	7,800	SF	$ 4.30	$ 33,540.00
4. Replace Striping Lake Forest Intersection	1	LS	$ 924.00	$ 924.00
5. R&R 4" AC Lake Forest #2 & #3 Lanes	1,140	SF	$ 4.30	$ 4,902.00
6. Replace Striping Lake Forest #2 & #3 Lanes	1	LS	$ 687.50	$ 687.50
7. Variable Traffic Control Allowance	1	LS	$ 4,866.50	$ 4,866.50
		SUBTOTAL =		**$ 55,000.00**
		TOTAL =		**$111,146.82**

Increase $111,146.82 Decrease $______

By reason of this order the time of completion will be adjusted as follows:
Add 6 Working Days

The compensation (time and cost) set forth in this Change Order comprises the total compensation due the Contractor, all Subcontractors and all suppliers, for the work or change defined in this Change Order, including all impact on any unchanged work. By signing this Change Order, the Contractor acknowledges and agrees, on behalf of himself, all Subcontractors, and all suppliers, that the stipulated compensation includes payment for all work contained in this Change Order, plus all payment for the interruption of schedules.

Extended overhead costs, delay, and all impact, ripple effect or cumulative impact on all other, work under this Contract. The signing of this Change Order shall indicate that the Change Order constitutes full mutual accord and satisfaction for the change, and that the time and/or cost under the Change Order constitutes the total equitable adjustment owed the Contractor, all Subcontractors, and all suppliers, as a result of the change. The Contractor, on behalf of himself, all Subcontractors, and all suppliers, agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of or as a result of this Change Order or the impact of this Change Order on the remainder of the work under this Contract.

SUMMARY OF CONTRACT TIME

Original Contract Date: (Notice to Proceed)	10/17/11
Original Contract Time:	70 work days
Original Completion Date:	2/24/12
Time Extension this C.O.:	6 work days
Time Extension Other:	N/A
Revised Contract Time:	76 work days
Revised Final Completion Due Date:	3/5/12
Time Subject to Liquidated Damages:	N/A
Actual Final Completion Date:	

Original Contract Price	$716,925.00
Prev. Authorized Changes	$ - 0 -
This Change (Add)	$111,146.82
Amended Contract Price	$828,071.82

If the Contractor does not sign acceptance of this order, his attention to the requirements of the specifications as to proceeding with the order work and filing a written protest within the time therein specified.

Approved by: Accepted by:

Director of Public Services Date Contractor Date

CITY OF LAGUNA HILLS

AGENDA REPORT
PUBLIC SERVICES DEPARTMENT

ISSUE: **PROGRESS PAYMENT NO. 11 FOR LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159**

SUMMARY:

Work on the La Paz Road Widening at I-5 Improvement Project, CIP No. 159, began on April 7, 2011, and is being performed by SEMA Construction, Inc. Work performed in January included engineering, progress scheduling, site management, street sweeping, rain event planning, storm water sampling, signage, traffic control, concrete removal and replacement, steel reinforcement, piping, asphalt concrete, signal and lighting, fiber communications, mobilization, and electrical. The contractor has submitted the eleventh progress payment request for approval.

BACKGROUND:

A routine monthly action for capital improvement projects is the submission, review, and approval of the contractor's invoice. Procedurally, field staff verifies the contractor's quantities and matches them with the submitted invoice. The unit prices and total costs of the project are confirmed by the office staff and a progress payment is then processed. A ten (10) percent retention is withheld from each payment to assure final performance of the work. The contractor for the project, SEMA Construction, Inc., has submitted the eleventh progress payment for the subject project as follows:

ITEM #	DESCRIPTION	QUANTITY	UNIT	$	AMOUNT
1	RE Office	.08	LS	$ 50,000.00	$ 4,000.00
2	Progress Schedule	.08	LS	$ 3,000.00	$ 240.00
3	Time Related Overhead	20	WD	$ 2,000.00	$ 40,000.00
4	Construction Site Mgmt	.08	LS	$ 10,000.00	$ 800.00
11	Street Sweeping	.08	LS	$ 25,000.00	$ 2,000.00
14	Rain Event Action Plan	1	EA	$ 100.00	$ 100.00
16	Storm Water Sampling	1	EA	$ 400.00	$ 400.00

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 11, IN THE NET AMOUNT OF $225,028.65, TO SEMA CONSTRUCTION, INC., FOR THE LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159.

18	Construction Signage	.08	LS	$ 40,400.00	$ 3,232.00
19	Traffic Control System	.08	LS	$ 55,700.00	$ 4,456.00
26	Portable Message Signs	.08	LS	$ 1,600.00	$ 128.00
42	Remove Concrete (Curb, etc.)	7	CY	$ 66.00	$ 462.00
67	Class 2 Aggregate	25.9	CY	$ 35.00	$ 906.50
73	Tieback Anchor	11	EA	$ 1,471.20	$ 16,183.20
74	Structural Concrete	130	CY	$ 400.00	$ 52,000.00
78	Minor Conc (Minor Structure)	6	CY	$ 800.00	$ 4,800.00
80	Rock Cobble	2,560.5	SF	$ 9.00	$ 23,044.50
83	Bar Reinforcing Steel (RW)	16,000	LB	$ 0.92	$ 14,720.00
97	24" Reinf Conc Pipe	295.78	LF	$ 52.00	$ 15,380.56
111	Minor Conc (Misc. Cons)	12.39	CY	$ 517.02	$ 6,405.88
112	Misc. Iron & Steel	1,500	LB	$ 2.30	$ 3,450.00
131	Signal and Lighting	.09	LS	$126,497.46	$ 11,384.77
136	Lighting & Sign Illumination	.15	LS	$ 90,400.00	$ 13,560.00
137	Fiber Communications	.10	LS	$ 61,900.00	$ 6,190.00
139	Mobilization	.05	LS	$402,578.80	$ 20,128.94
CCO No. 4	(B) Electrical Irrig Control	.22	LS	$ 27,543.12	$ 6,059.49

Total To Date	$2,173,477.09	
Less Prior Billing	$1,923,445.25	
Total This Period	$ 250,031.84	$250,031.84
Less 10% Retention		$(25,003.19)
		$225,028.65

FISCAL IMPACT:

The progress payment is within the Capital Improvement Program Budget for the La Paz Road Widening at I-5 Improvement Project, CIP No. 159.

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 11, IN THE NET AMOUNT OF $225,028.65, TO SEMA CONSTRUCTION, INC., FOR THE LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159.

CITY OF LAGUNA HILLS

AGENDA REPORT
CITY CLERK

ISSUE: CLAIM AGAINST THE CITY, AFNI INSURANCE SERVICES

SUMMARY:

On March 28, 2011, the City received a claim in the estimated amount of $52,899.54, filed by AFNI Insurance Services on behalf of their insured, Charles Peterson. This claim was filed as a result of damage to the insured's residence located at 25171 Madeira Drive, Laguna Hills, which occurred on December 19, 2010, due to a fallen tree at McKenzie Park.

On February 14, 2012, the City Clerk received notification from its Claim Administrator to reject the claim. The City Manager has the authority to reject claims in amounts less than $50,000. Because of the amount involved with this claim, the City Council must reject the claim.

RECOMMENDATION: THAT THE CITY COUNCIL REJECT THE CLAIM AND DIRECT THE CITY CLERK TO SEND A CLAIM REJECTION LETTER.

ATTACHMENTS:

- Claim

afni Afni Insurance Services
P.O. Box 3068 | Bloomington, IL 61702-3068 | Phone 888-767-2361 | Fax 309-820-2626

Don
c.c. cover page to Ken

C1108

March 24, 2011

LAGUNA HILLS CITY MANAGER
BRUCE CHANNING
24035 EL TORO RD
LAGUNA HILLS, CA 926533103

RE: Our File #: 779127
Insured: CHARLES PETERSON, 25171 MADEIRA, LAGUNA HILLS
AAA Claim #: 010267259
Your Claim #: NO DATA
Your Insured: BRUCE E CHANNING
Date of Loss: 12/19/2010
Amount Claimed: $52,899.54

Dear BRUCE CHANNING:

We are contacting you today on behalf of AAA regarding a loss. The facts of the accident indicate your insured is liable for payments that AAA made to its policyholder as a result of this loss when a park tree fell on our insured's property. Supporting documentation is enclosed for your review.

All payments should be made payable to Afni, include the Afni file number and must be directed to the address listed above.

Should you have any questions, please feel free to contact me at 888-767-2361.

Sincerely,

Janis Schafer

JANIS SCHAFER EXT 3517
Subrogation Specialist

RECEIVED

MAR 28 2011

CITY OF LAGUNA HILLS

Reinsurance Status — Does not apply

Flag Details

Flagged — Is flagged

Date Flagged — 01/21/2011

Reason for Flag — Overdue high priority activity: 30 day Management Review

Officials

Official Reports

Financials (Total Incurred: $52,399.54): Checks

Check Number	Pay To	Net Amount	Issue Date	Scheduled Send Date	Status	Bulk Invoice
7209255	ALLIED ENVIRONMENTAL SERVICES	$4,300.00	01/03/2011	12/31/2010	Cleared	<none>
7213541	TITAN ENVIRONMENTAL SOLUTIONS INC	$300.00	01/12/2011	01/11/2011	Cleared	<none>
1196222	HANSEN/HOKAMA STRUCTURAL ENGINEERS	$2,450.00	01/26/2011	01/25/2011	Cleared	<none>
1241447	VETERAN ED'S INC	$1,175.62	02/23/2011	02/22/2011	Cleared	<none>
1241449	VETERAN ED'S INC & CHARLES PETERSON & CHASE MANHATTAN MORT. CORP. ISAOTA ATIMA	$44,093.92	02/23/2011	02/22/2011	Issued	<none>
1253875	CHARLES PETERSON	$80.00	03/03/2011	03/01/2011	Cleared	<none>

Check Details

Check

Pay To The Order Of	ALLIED ENVIRONMENTAL SERVICES
Mailing Address	4570 VAN NUYS BLVD STE 308, SHERMAN OAKS, CA 91403-2913
Net Amount	$4,300.00
Memo	Claim Number: 010267259 Claim Cost Dwelling/Building

Payment Details

Gross Amount	$4,300.00
Tax Reporting	Not reportable
Reportable Amount	N/A
Deductions	

Details

Check Number	7209255
Bank Account	Bank of America 14593-07042
Invoice Number	
Bulk Invoice	<none>
Claimant	CHARLES PETERSON
Date of Service	
Comments	
Joint Payees	

Payee	Type	Payee Tax ID
ALLIED ENVIRONMENTAL SERVICES	Vendor	880411128

Instructions

Recipient	ALLIED ENVIRONMENTAL SERVICES
Payment Method	Check

Check Batching	A/P default
Check Delivery	Send

Tracking

Status	Cleared
Issue Date	01/03/2011
Cashed Date	01/07/2011
When To Pay	12/31/2010
Created By	Tom Jackson
Created On	12/31/2010

Recurrence

Description	N/A
Total Recurrence Amount	-

Approval History

Payments

Scheduled Send Date	Amount	Exposure	Coverage	Cost Type	Cost Category	Status	Pmt Type
12/31/2010	$4,300.00	1	DWEL - Dwelling	Claim Cost	Other Claim Cost	Submitted	Partial

Documents Linked to Checks

2/28/2012 ITEM NO. 4.6

Check Details

Check

Pay To The Order Of	TITAN ENVIRONMENTAL SOLUTIONS INC
Mailing Address	1519 E CHAPMAN AVE STE A, FULLERTON, CA 92831-4013
Net Amount	$300.00
Memo	Claim Number: 010267259 Claim Cost Dwelling/Building

Payment Details

Gross Amount	$300.00
Tax Reporting	Not reportable
Reportable Amount	N/A
Deductions	

Details

Check Number	7213541
Bank Account	Bank of America 14593-07042
Invoice Number	
Bulk Invoice	<none>
Claimant	CHARLES PETERSON
Date of Service	
Comments	
Joint Payees	

Payee	Type	Payee Tax ID
TITAN ENVIRONMENTAL SOLUTIONS INC	Vendor	205398287

Instructions

Recipient	TITAN ENVIRONMENTAL SOLUTIONS INC
Payment Method	Check

Check Batching	A/P default
Check Delivery	Send

Tracking

Status	Cleared
Issue Date	01/12/2011
Cashed Date	01/20/2011
When To Pay	01/11/2011
Created By	Tom Jackson
Created On	01/11/2011

Recurrence

Description	N/A
Total Recurrence Amount	-

Approval History

Payments

Scheduled Send Date	Amount	Exposure	Coverage	Cost Type	Cost Category	Status	Pmt Type
01/11/2011	$300.00	1	DWEL - Dwelling	Claim Cost	Other Claim Cost	Submitted	Partial

Documents Linked to Checks

2/28/2012 ITEM NO. 4.6

Check Details

Check

Pay To The Order Of	HANSEN/HOKAMA STRUCTURAL ENGINEERS
Mailing Address	180 E MAIN ST STE 201, TUSTIN, CA 92780-4417
Net Amount	$2,450.00
Memo	Engineer Fees

Payment Details

Gross Amount	$2,450.00
Tax Reporting	Not reportable
Reportable Amount	N/A
Deductions	

Details

Check Number	1196222
Bank Account	Bank of America 87651-18152
Invoice Number	
Bulk Invoice	<none>
Claimant	CHARLES PETERSON
Date of Service	
Comments	
Joint Payees	

Payee	Type	Payee Tax ID
HANSEN/HOKAMA STRUCTURAL ENGIN-EERS	Vendor	200413736

Instructions

Recipient	HANSEN/HOKAMA STRUCTURAL ENGINEERS

2/28/2012 ITEM NO. 4.6

Payment Method	Check
Check Batching	A/P default
Check Delivery	Send

Tracking

Status	Cleared
Issue Date	01/26/2011
Cashed Date	02/07/2011
When To Pay	01/25/2011
Created By	Tom Jackson
Created On	01/25/2011

Recurrence

Description	N/A
Total Recurrence Amount	-

Approval History

Date	User	Action	Issue	Rationale
01/25/2011 02:24 PM	Patti Nelson	Approved	The total amount of payments to date for the claim exceeds $1,250.00.	

Payments

Scheduled Send Date	Amount	Exposure	Coverage	Cost Type	Cost Category	Status	Pmt Type
01/25/2011	$2,450.00	1	DWEL - Dwelling	Claim Expense	Other Expense	Submitted	Partial

Documents Linked to Checks

2/28/2012 ITEM NO. 4.6

Check Details

Check

Pay To The Order Of	VETERAN ED'S INC
Mailing Address	10372 STANFORD AVE STE U, GARDEN GROVE, CA 92840-6355
Net Amount	$1,175.62
Memo	Emergency Services

Payment Details

Gross Amount	$1,175.62
Tax Reporting	Not reportable
Reportable Amount	N/A
Deductions	

Details

Check Number	1241447
Bank Account	Bank of America 87651-18152
Invoice Number	
Bulk Invoice	<none>
Claimant	CHARLES PETERSON
Date of Service	
Comments	
Joint Payees	

Payee	Type	Payee Tax ID
VETERAN ED'S INC	Vendor	330974466

Instructions

Recipient	VETERAN ED'S INC
Payment Method	Check
Check Batching	A/P default
Check Delivery	Send

Tracking

Status	Cleared
Issue Date	02/23/2011
Cashed Date	03/03/2011
When To Pay	02/22/2011
Created By	Tom Jackson
Created On	02/22/2011

Recurrence

Description	N/A
Total Recurrence Amount	-

Approval History

Payments

Scheduled Send Date	Amount	Exposure	Coverage	Cost Type	Cost Category	Status	Pmt Type
02/22/2011	$1,175.62	1	DWEL - Dwelling	Claim Cost	Other Claim Cost	Submitted	Partial

Documents Linked to Checks

Check Details

Check

Pay To The Order Of	VETERAN ED'S INC & CHARLES PETERSON & CHASE MANHATTAN MORT. CORP. ISAOTA ATIMA
Mailing Address	10372 STANFORD AVE STE U, GARDEN GROVE, CA 92840-6355
Net Amount	$44,093.92
Memo	Dwelling/Building

Payment Details

Gross Amount	$44,093.92
Tax Reporting	Not reportable
Reportable Amount	N/A
Deductions	

Details

Check Number	1241449
Bank Account	Bank of America 87651-18152
Invoice Number	
Bulk Invoice	<none>
Claimant	CHARLES PETERSON
Date of Service	
Comments	
Joint Payees	

Payee	Type	Payee Tax ID
CHASE MANHATTAN MORT. CORP. ISAOTA ATIMA	Other	
VETERAN ED'S INC	Vendor	330974466
CHARLES PETERSON	Insured	

2/28/2012 ITEM NO. 4.6

Instructions

Recipient	VETERAN ED'S INC
Payment Method	Check
Check Batching	A/P default
Check Delivery	Send

Tracking

Status	Issued
Issue Date	02/23/2011
When To Pay	02/22/2011
Created By	Tom Jackson
Created On	02/22/2011

Recurrence

Description	N/A
Total Recurrence Amount	-

Approval History

Date	User	Action	Issue	Rationale
02/22/2011 11:30 AM	Lori Duvall	Approved	The total amount of payments to date for the claim exceeds $40,000.00.	
02/22/2011 10:56 AM	Patti Nelson	Approved	The total amount of payments to date for the claim exceeds $7,500.00.	

Payments

Scheduled Send Date	Amount	Exposure	Coverage	Cost Type	Cost Category	Status	Pmt Type
02/22/2011	$44,093.92	1	DWEL - Dwelling	Claim Cost	Other Claim Cost	Submitted	Partial

2/28/2012 ITEM NO. 4.6

Documents Linked to Checks

Check Details

Check

Pay To The Order Of	CHARLES PETERSON
Mailing Address	25171 MADEIRA, LAGUNA HILLS, CA 92653-5116
Net Amount	$80.00
Memo	Personal Property

Payment Details

Gross Amount	$80.00
Tax Reporting	Not reportable
Reportable Amount	N/A
Deductions	

Details

Check Number	1253875
Bank Account	Bank of America 87651-18152
Invoice Number	
Bulk Invoice	<none>
Claimant	CHARLES PETERSON
Date of Service	
Comments	
Joint Payees	

Payee	Type	Payee Tax ID
CHARLES PETERSON	Insured	

Instructions

Recipient	CHARLES PETERSON
Payment Method	Check
Check Batching	A/P default
Check Delivery	Send

Tracking

Status	Cleared
Issue Date	03/03/2011
Cashed Date	03/15/2011
When To Pay	03/01/2011
Created By	Tom Jackson
Created On	03/01/2011

Recurrence

Description	N/A
Total Recurrence Amount	-

Approval History

Date	User	Action	Issue	Rationale
03/02/2011 08:09 AM	Lori Duvall	Approved	The total amount of payments to date for the claim exceeds $40,000.00.	
03/01/2011 06:52 PM	Patti Nelson	Approved	The total amount of payments to date for the claim exceeds $7,500.00.	

Payments

Scheduled Send Date	Amount	Exposure	Coverage	Cost Type	Cost Category	Status	Pmt Type
03/01/2011	$80.00	2	CONT - Personal Property	Claim Cost	Other Claim Cost	Submitted	Partial

Documents Linked to Checks

Latest Notes

Tommy Calhoun

03/11/2011 02:45 PM

Initial Review

Reviewed case and referring to AFNI; copying file materials and documents from Xactanalysis and emailing to Cory Jones for review and handling.

Margie Carter

03/02/2011 02:26 PM

Completed inst of 3/2/11. Printed/mail letter and plw to the insured.

Margie Carter

ITEM DESCRIPTION QTY AGE ORIG COST REPL COST DEP% DEP AMT A.C.V.
LIMIT DEP CODE

1 10267259 2 $20.00 $20.00 $- $40.00

2 Christmas display 1 $40.00 $40.00 0% $- $40.00

3 $- $- 0% $- $-

TOTALS $-

LESS DEDUCTIBLE $-

TOTAL DUE INSURED $80.00

RECOVERABLE DEPRECIATION $-

2/28/2012 ITEM NO. 4.6

Hansen/Hokama Structural Engineers
180 E. Main St., Suite 201
Tustin, CA 92780
Phone (714) 573-0073
Fax (714) 573-0688

BILL TO:

AAA INSURANCE
P. O. BOX 25001, MAIL STOP A263
SANTA ANA, CA 92799-5001
ATTN: TOM JACKSON

TEL. NO. (562) 335-4861 FAX NO.

Invoice

DATE	INVOICE #
1/24/2011	2445

TAX I.D. #20-0413736

DATE	DESCRIPTION	AMOUNT
1/24/2011	RE: REPAIR OF TREE COLLAPSE DAMAGES AT THE PETERSON RESIDENCE, 25171 MADEIRA, LAGUNA HILLS, CA	
	CLAIM NO. 010267259	
	SITE VISIT ON 01/14/11 TO OBSERVE THE EXTENT OF THE TREE COLLAPSE DAMAGES AND TO OBTAIN LIMITED FIELD MEASUREMENTS FOR PREPARATION OF STRUCTURAL REPAIR PLANS AND CALCULATIONS.	
	STRUCTURAL REPAIR PLANS AND CALCULATIONS	
	STRUCTURAL ENG. 8 HRS. @ $180/HR. =	1,440.00
	STRUCTURAL DRAFT. 11 HRS. @ $90/HR. =	990.00
	PRINTING AND MAILING =	20.00
	INVOICE TO DATE = $2450.00	

Client agrees to pay in full, within 30 days following the receipt of invoice. No extensions of payment will be granted. A late charge of one and one-half percent (1-1/2%) per month, which is eighteen percent (18%) per year, will be assessed on the unpaid balance. In case legal proceedings are instituted to collect any portion of the monies payable under this agreement, Client agrees to pay all costs of suit and Engineer's reasonable attorney's fees.

Total	$2,450.00
JOB NO.	11-04A

Veteran Ed's

10372 Stanford Ave., Unit U
Garden Grove, CA 92840
(714) 590-2800 Office
(714) 539-4315 Fax

Insured:	PETERSON, CHARLES	Business:	(949) 364-2600
Property:	25171 MADEIRA LAGUNA HILLS, CA 92653-5116	Home:	(562) 949-4673
		Cellular:	(949) 370-3115
Home:	25171 MADEIRA LAGUNA HILLS, CA 92653-5116		

Claim Rep.: Tom Jackson

Estimator: Darrin Tomasick

Reference:
Company: Automobile Club
Business: P.O. Box 25001
Santa Ana, CA 92799

Contractor: Business: (714) 590-2800
Company: Veteran Ed's
Business: 10372 Stanford Ave., Unit U
Garden Grove, CA 92840

Claim Number: 010267259 **Policy Number:** CHO007565151 **Type of Loss:** Water

Date Contacted:	12/20/2010		
Date of Loss:	12/19/2010	Date Received:	12/20/2010
Date Inspected:	1/6/2011	Date Entered:	12/20/2010 12:39 PM
Date Est. Completed:	2/11/2011 5:27 PM		

Price List: ACSCOC10D_76
Restoration/Service/Remodel
Estimate: PETERSON__CHARLES

2/28/2012 ITEM NO. 4.6

Veteran Ed's

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INITIAL FINDINGS/SERVICES

On 12-20-10, at 11:51am Veteran Ed's received an emergency water loss assignment through XactAnalysis. The initial report from the Auto Club, stated that a park tree had fallen onto the insured's roof and water is leaking into the living room and a portion of the garage. The XactAnalysis assignment requested we inspect the damage, perform EMS and write an estimate and/or report.

-Emergency Services:

On 11-20-10, Veteran Ed's made initial phone contact with insured at 12:22 pm and our EMS Crews arrived at the property at 2:00 pm. We met with Mr Peterson who advised us that a tree had fallen from the park next to his property damaging the roof. The insured had staged buckets in a few areas to catch the water that was dripping into the residence. Elevated moisture was detected in the ceiling in the living room and in the fire wall in the garage. A portion of the drywall ceiling was removed during the impact of the tree. Assured Professionals was dispatched to perform a roof cover up to mitigate the damage. We performed an inspection only at the request of the insured. The CR was notified of conditions. they authorized us to move forward with EMS.

-Lead Testing: Veteran Ed's coordinated Titan to perform lead testing = Negative/Positive

-Asbestos Testing: Veteran Ed's coordinated Titan to perform asbestos testing = Positive. Procedure 5 protocols applied to the asbestos abatement.

-Leak Detection: NA

-Plumbing Repair: NA-

Estimator Inspection:

On 12-23-10 Loss was inspected by Darrin Tomasick. The resulting damage from the tree trauma caused structural damage to the truss roof system. Tom Jackson was notified that a structural engineer would be required to determine repair method for the roof system. The tree impact affected a large portion of the asphalt roofing and sheathing and damaged three trusses that will require replacement. The chimney stack was impacted and will require extensive repairs. The rain gutter along the affected elevation was damaged and will require replacement. The wood dog ear fencing along the affected elevation was damaged in several areas and will be repaired and painted to create a uniform appearance. The electrical wiring and gas lines that run through the engineered trusses will require relocating prior to installing the new trusses. Three large glass mirrors were damaged during the impact and were removed during the abatement and will require replacement. The vent stack to the water heater was damaged and removed during the abatement and will also require replacement.

RESULTING DAMAGES/REPAIRS

The resulting damage from the fallen tree affected the living room, garage, roof system and wood fencing. Living Room: The insulation and drywall at the ceiling and walls will be replaced and the walls and ceiling will be painted. The beveled mirrors will be replaced and the baseboard removed from the mirror will be replaced and painted. Garage: The vent stack for the water heater will be replaced. Roof System: The electrical wiring and gas lines will be relocated to allow for the new engineered roof trusses. Three engineered roof trusses and damaged framing members will be replaced and the sheathing, asphalt roof, chimney stack and a portion of rain gutter will be replaced. Wood Fencing: The damaged dog ear planks will be replaced, gouges will be filled and the fence will be painted.

Fee Summary

Emergency Services	$ 1,175.62 - Payable to Veteran Ed's
Plumbing	$ 3,354.75 - Payable to Veteran Ed's
Repairs	$ 41,239.17- Payable to Veteran Ed's
Estimate Total	$ 45,779.54

Veteran Ed's

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PETERSON__CHARLES

Plumbing

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
PLUMBING					
1. Plumbing (Bid Item)	1.00 EA	3,354.75	3,354.75	(0.00)	3,354.75
This sub bid from Jacot Plumbing includes relocating gas lines from new trusses. (Contractor specialty has been added to this line item)					
Plumbing Totals:			**3,354.75**	**0.00**	**3,354.75**
Totals: Plumbing			**3,354.75**	**0.00**	**3,354.75**

General

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
DWELLING					
6. Cleaning Technician - per hour	8.00 HR	32.50	260.00	(0.00)	260.00
Progressive and final cleaning at conclusion of project.					
7. Temporary toilet (per month)	1.00 MO	161.50	161.50	(0.00)	161.50
8. Dumpster load - Approx. 40 yards, 7-8 tons of debris	1.00 EA	720.00	720.00	(0.00)	720.00
EMERGENCY SERVICE					
2. Emergency service call - during business hours	1.00 EA	150.62	150.62	(0.00)	150.62
3. Thermal Imaging Camera	1.00 EA	175.00	175.00	(0.00)	175.00
4. Roofing Inspection Charge	1.00 EA	285.00	285.00	(0.00)	285.00
5. Roofing (Bid Item) - Cover up/ Tarp	1.00 EA	575.00	575.00	(0.00)	575.00
Assured Professionals performed a roof cover up on 12-21-10. (Contractor specialty has been added to this line item)					
Dwelling Totals:			**1,141.50**	**0.00**	**1,141.50**
Emergency Service Totals:			**1,185.62**	**0.00**	**1,185.62**
Totals: General			**2,327.12**	**0.00**	**2,327.12**

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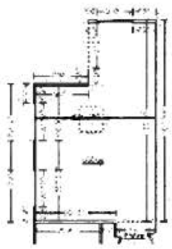
Main Level



Living — **Height: Peaked**

772.50	SF Walls	530.77	SF Ceiling
1303.26	SF Walls & Ceiling	512.95	SF Floor
56.99	SY Flooring	82.83	LF Floor Perimeter
96.23	LF Ceil. Perimeter		

Missing Wall:	**1 -**	**5' 10" X 4' 9"**	**Opens into Exterior**	**Goes to neither Floor/Ceiling**
Missing Wall:	**1 -**	**5' 10" X 4' 9"**	**Opens into Exterior**	**Goes to neither Floor/Ceiling**
Missing Wall:	**1 -**	**6' 4" X 8'**	**Opens into ENTRY**	**Goes to Floor/Ceiling**
Missing Wall:	**1 -**	**5' 9" X 6' 8"**	**Opens into Exterior**	**Goes to Floor**
Missing Wall:	**1 -**	**7' 3" X 7' 6"**	**Opens into Exterior**	**Goes to Floor**

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
DWELLING					
9. 1/2" drywall - hung, taped, ready for texture	176.00 SF	1.56	274.56	(0.00)	274.56
10. Mask per square foot for drywall or plaster work	1250.45 SF	0.19	237.59	(0.00)	237.59
Hardwood flooring and walls will be covered prior to texture.					
11. Texture drywall - smooth / skim coat	600.77 SF	1.15	690.89	(0.00)	690.89
Ceiling and new tape at perimeter of affected walls will be skim coated prior to texture.					
12. Texture drywall - machine	670.77 SF	0.38	254.89	(0.00)	254.89
Ceiling and top portion of affected walls will receive new texture.					
13. Seal/prime more than the ceiling - one coat	670.77 SF	0.37	248.18	(0.00)	248.18
New texture will be sealed prior to paint.					
14. Paint more than the ceiling - two coats	769.13 SF	0.66	507.63	(0.00)	507.63
Affected elevations will receive two coats.					
15. Paint the surface area - one coat	425.13 SF	0.39	165.80	(0.00)	165.80
Remaining walls will receive one coat.					
16. Mirror - 1/4" plate glass	104.00 SF	11.95	1,242.80	(0.00)	1,242.80
Replace beveled mirror removed during abatement.					
17. Additional cost to bevel a mirror up to 1"	42.00 LF	4.64	194.88	(0.00)	194.88
18. Outlet hole - cut into mirror	2.00 EA	37.50	75.00	(0.00)	75.00

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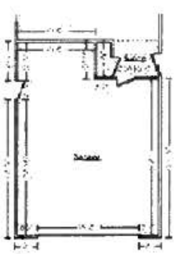
CONTINUED - Living

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
19. Finish carpentry - Minimum charge	1.00 EA	245.00	245.00	(0.00)	245.00
This minimum charge reflects replacement of baseboards removed during abatement.					
20. Paint baseboard - two coats	13.00 LF	0.96	12.48	(0.00)	12.48
New baseboard will receive two coat.					
21. Paint baseboard - one coat	69.58 LF	0.65	45.23	(0.00)	45.23
Remaining baseboards will receive one coat.					
22. Window blind - horizontal or vertical - Detach & reset	2.00 EA	40.69	81.38	(0.00)	81.38
23. Recessed light fixture - Detach & reset trim only	1.00 EA	3.56	3.56	(0.00)	3.56
24. Contents - move out then reset - Extra large room	1.00 EA	179.77	179.77	(0.00)	179.77
All living room contents and large three piece entertainment center will be removed prior to drywall and paint.					
Dwelling Totals:			**4,459.64**	**0.00**	**4,459.64**
Totals: Living			**4,459.64**	**0.00**	**4,459.64**



Garage **Height: 8'**

630.92	SF Walls	464.63	SF Ceiling
1095.54	SF Walls & Ceiling	464.63	SF Floor
51.63	SY Flooring	77.08	LF Floor Perimeter
91.33	LF Ceil. Perimeter		

Missing Wall: **1 - 14' 3" X 7'** **Opens into Exterior** **Goes to Floor**

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
DWELLING					
25. Heat, vent, & air conditioning repair - Minimum charge	1.00 EA	255.00	255.00	(0.00)	255.00

CONTINUED - Garage

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
This minimum charge reflects replacement of damaged water heater vent removed during abatement.					
Dwelling Totals:			**255.00**	**0.00**	**255.00**
Totals: Garage			**255.00**	**0.00**	**255.00**

Entry **Height: 7' 6"**

122.50 SF Walls	31.14 SF Ceiling
153.64 SF Walls & Ceiling	31.14 SF Floor
3.46 SY Flooring	16.33 LF Floor Perimeter
16.33 LF Ceil. Perimeter	

Missing Wall: 1 - 6' 4" X 7' 6" Opens into LIVING Goes to Floor/Ceiling

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
DWELLING					
26. Paint the surface area - one coat	122.50 SF	0.39	47.78	(0.00)	47.78
27. Paint baseboard - one coat	6.50 LF	0.65	4.23	(0.00)	4.23
Dwelling Totals:			**52.01**	**0.00**	**52.01**
Totals: Entry			**52.01**	**0.00**	**52.01**

Roof

Veteran Ed's

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Garden Grove, CA 92840
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(714) 539-4315 Fax

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
DWELLING					
28. Electrical (Bid Item)	1.00 EA	1,755.00	1,755.00	(0.00)	1,755.00
This sub bid from Garrett Electric includes rerouting wiring and installing new junction boxes to relocate wiring from new trusses. Includes disconnecting remaining ceiling fans and installing all three after painting interior. (Contractor specialty has been added to this line item)					
29. Roofing (Bid Item)	1.00 EA	28,046.25	28,046.25	(0.00)	28,046.25
This sub bid from Assured Professionals includes removal and replacement of damages hip jack rafters and ridge board at valley, removal of existing space sheathing at damaged section, removal of wood shake roof and composition asphalt shingle throughout, installing new truss' per city requirements and replacing with required OSB sheathing and composition asphalt roof. (Contractor specialty has been added to this line item)					
30. Fireplaces (Bid Item)	1.00 EA	2,497.50	2,497.50	(0.00)	2,497.50
This sub bid from Oliver Twist includes replacement of damaged chimney stack. (Contractor specialty has been added to this line item)					
31. Gutter / downspout - aluminum - 6"	38.00 LF	6.85	260.30	(0.00)	260.30
Replace damaged gutter and downspout above electrical panel.					
32. Batt insulation - 10" - R30	176.00 SF	1.24	218.24	(0.00)	218.24
Dwelling Totals:			**32,777.29**	**0.00**	**32,777.29**
Totals: Roof			**32,777.29**	**0.00**	**32,777.29**

Exterior

DESCRIPTION	QNTY	UNIT COST	RCV	DEPREC.	ACV
DWELLING					
33. Fencing repair - Minimum charge	1.00 EA	230.00	230.00	(0.00)	230.00
This minimum charge reflects replacement of damaged dog ear fence slats.					
34. Mask and prep for paint - plastic, paper, tape (per LF)	144.00 LF	0.92	132.48	(0.00)	132.48
35. Seal & paint - wood fence/gate	864.00 SF	0.77	665.28	(0.00)	665.28
Both sides of damaged wood fence at left elevation will be painted to match adjoining vinyl fencing.					
36. Cleaning Technician - per hour	4.00 HR	32.50	130.00	(0.00)	130.00
Power wash siding and flat work at conclusion of project.					
Dwelling Totals:			**1,157.76**	**0.00**	**1,157.76**
Totals: Exterior			**1,157.76**	**0.00**	**1,157.76**
Area Dwelling Total:			**38,701.70**	**0.00**	**38,701.70**

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10372 Stanford Ave., Unit U
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Totals: Main Level	**38,701.70**	**0.00**	**38,701.70**
Area Dwelling Total:	**39,843.20**	**0.00**	**39,843.20**
Area Emergency Service Total:	**1,185.62**	**0.00**	**1,185.62**
Area Plumbing Total:	**3,354.75**	**0.00**	**3,354.75**
Line Item Totals: PETERSON__CHARLES	**44,383.57**	**0.00**	**44,383.57**

Grand Total Areas:

1,525.91	SF Walls	1,026.53	SF Ceiling	2,552.44	SF Walls and Ceiling
1,008.71	SF Floor	112.08	SY Flooring	176.25	LF Floor Perimeter
0.00	SF Long Wall	0.00	SF Short Wall	203.90	LF Ceil. Perimeter
1,008.71	Floor Area	1,086.39	Total Area	1,525.91	Interior Wall Area
1,440.99	Exterior Wall Area	171.17	Exterior Perimeter of Walls		
0.00	Surface Area	0.00	Number of Squares	0.00	Total Perimeter Length
0.00	Total Ridge Length	0.00	Total Hip Length		

Coverage	Item Total	%	ACV Total	%
Dwelling	39,843.20	89.77%	41,239.17	90.08%
Other Structures	0.00	0.00%	0.00	0.00%
Personal Property	0.00	0.00%	0.00	0.00%
Personal Property Off Premises	0.00	0.00%	0.00	0.00%
Loss of Use	0.00	0.00%	0.00	0.00%
Emergency Service	1,185.62	2.67%	1,185.62	2.59%
Plumbing	3,354.75	7.56%	3,354.75	7.33%
Total	44,383.57	100.00%	45,779.54	100.00%

Veteran Ed's

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Summary for Dwelling

Line Item Total				39,843.20
Overhead	@	10.0% x	6,223.18	622.32
Profit	@	10.0% x	6,223.18	622.32
Material Sales Tax	@	8.750% x	1,729.54	151.33
Replacement Cost Value				**$41,239.17**
Net Claim				**$41,239.17**

Darrin Tomasick

10372 Stanford Ave., Unit U
Garden Grove, CA 92840
(714) 590-2800 Office
(714) 539-4315 Fax

Summary for Emergency Service

Line Item Total	1,185.62
Replacement Cost Value	**$1,185.62**
Net Claim	**$1,185.62**

Darrin Tomasick

Veteran Ed's

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Garden Grove, CA 92840
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Summary for Plumbing

Line Item Total	3,354.75
Replacement Cost Value	**$3,354.75**
Net Claim	**$3,354.75**

Darrin Tomasick

Veteran Ed's

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Recap by Room

Estimate: PETERSON__CHARLES			
Plumbing		**3,354.75**	**7.56%**
Coverage: Plumbing	100.00% =	3,354.75	
General		**2,327.12**	**5.24%**
Coverage: Dwelling	49.05% =	1,141.50	
Coverage: Emergency Service	50.95% =	1,185.62	
Area: Main Level			
Living		**4,459.64**	**10.05%**
Coverage: Dwelling	100.00% =	4,459.64	
Garage		**255.00**	**0.57%**
Coverage: Dwelling	100.00% =	255.00	
Entry		**52.01**	**0.12%**
Coverage: Dwelling	100.00% =	52.01	
Roof		**32,777.29**	**73.85%**
Coverage: Dwelling	100.00% =	32,777.29	
Exterior		**1,157.76**	**2.61%**
Coverage: Dwelling	100.00% =	1,157.76	
Area Subtotal: Main Level		**38,701.70**	**87.20%**
Coverage: Dwelling	100.00% =	38,701.70	
Subtotal of Areas		**44,383.57**	**100.00%**
Coverage: Dwelling	89.77% =	39,843.20	
Coverage: Emergency Service	2.67% =	1,185.62	
Coverage: Plumbing	7.56% =	3,354.75	
Total		**44,383.57**	**100.00%**

2/28/2012 ITEM NO. 4.6

Veteran Ed's

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Recap by Category

O&P Items			Total	%
CLEANING			**130.00**	**0.28%**
Coverage: Dwelling	@	100.00% =	130.00	
DRYWALL			**1,457.93**	**3.18%**
Coverage: Dwelling	@	100.00% =	1,457.93	
FENCING			**230.00**	**0.50%**
Coverage: Dwelling	@	100.00% =	230.00	
FINISH CARPENTRY / TRIMWORK			**245.00**	**0.54%**
Coverage: Dwelling	@	100.00% =	245.00	
HEAT, VENT & AIR CONDITIONING			**255.00**	**0.56%**
Coverage: Dwelling	@	100.00% =	255.00	
INSULATION			**218.24**	**0.48%**
Coverage: Dwelling	@	100.00% =	218.24	
LIGHT FIXTURES			**3.56**	**0.01%**
Coverage: Dwelling	@	100.00% =	3.56	
MIRRORS & SHOWER DOORS			**1,512.68**	**3.30%**
Coverage: Dwelling	@	100.00% =	1,512.68	
PAINTING			**1,829.09**	**4.00%**
Coverage: Dwelling	@	100.00% =	1,829.09	
SOFFIT, FASCIA, & GUTTER			**260.30**	**0.57%**
Coverage: Dwelling	@	100.00% =	260.30	
WINDOW TREATMENT			**81.38**	**0.18%**
Coverage: Dwelling	@	100.00% =	81.38	
O&P Items Subtotal			**6,223.18**	**13.59%**

Non-O&P Items			Total	%
CLEANING			**260.00**	**0.57%**
Coverage: Dwelling	@	100.00% =	260.00	
CONTENT MANIPULATION			**179.77**	**0.39%**
Coverage: Dwelling	@	100.00% =	179.77	
GENERAL DEMOLITION			**720.00**	**1.57%**
Coverage: Dwelling	@	100.00% =	720.00	
ELECTRICAL			**1,755.00**	**3.83%**
Coverage: Dwelling	@	100.00% =	1,755.00	
FIREPLACES			**2,497.50**	**5.46%**
Coverage: Dwelling	@	100.00% =	2,497.50	
PLUMBING			**3,354.75**	**7.33%**
Coverage: Plumbing	@	100.00% =	3,354.75	
ROOFING			**28,906.25**	**63.14%**
Coverage: Dwelling	@	97.02% =	28,046.25	
Coverage: Emergency Service	@	2.98% =	860.00	

10372 Stanford Ave., Unit U
Garden Grove, CA 92840
(714) 590-2800 Office
(714) 539-4315 Fax

Non-O&P Items			Total	%
TEMPORARY REPAIRS			**161.50**	**0.35%**
Coverage: Dwelling	@	100.00% =	161.50	
WATER EXTRACTION & REMEDIATION			**325.62**	**0.71%**
Coverage: Emergency Service	@	100.00% =	325.62	
Non-O&P Items Subtotal			**38,160.39**	**83.36%**
O&P Items Subtotal			**6,223.18**	**13.59%**
Overhead	@	**10.0%**	**622.32**	**1.36%**
Coverage: Dwelling	@	100.00% =	622.32	
Profit	@	**10.0%**	**622.32**	**1.36%**
Coverage: Dwelling	@	100.00% =	622.32	
Material Sales Tax	@	**8.750%**	**151.33**	**0.33%**
Coverage: Dwelling	@	100.00% =	151.33	
Total			**45,779.54**	**100.00%**

Titan Environmental Solutions,
940 E. Orangethorpe Ave., STE B
Anaheim, CA 92801

Phone #	Fax #
(714) 871-8711	(714) 871-8712

Invoice

Date	Invoice #
1/11/2011	6140

Bill To
Automobile Club of Southern California Attn: John Almaraz 3333 Fairview Road M/S A-263 Costa Mesa, CA 92626

Project No.	Claim or P.O. No.	Terms
1694 AC	010267259	Net 30

Description	Qty	Rate	Amount
Post Abatement Asbestos Air Clearance Monitoring and Report (s) performed on 1/5/11 at the subject property - Peterson Residence located at 25171 Madeira, Laguna Hills, CA 92653	1	300.00	300.00
Tax Id No. 20-5398287			

It's been a pleasure working with you!

Total	$300.00
Payments/Credits	$0.00
Balance Due	$300.00

All invoices that are 30 days past due are subject to a 1.5% late fee for each 30 days past due.

Photo Sheet

Interinsurance Exchange of the Automobile Club

Insured: PETE...SON, CHARLES
Claim #: 010267259
Policy #: CHO007565151

laude 009
Date Taken: 12/21/2010
Taken By: JACKSONT
risk

laude 010
Date Taken: 12/21/2010
Taken By: JACKSONT
tree trumk at pard

2/28/2012 ITEM NO. 4.6

Photo Sheet

Interinsurance Exchange of the Automobile Club

Insured: PETE. .ON, CHARLES

Claim #: 010267259

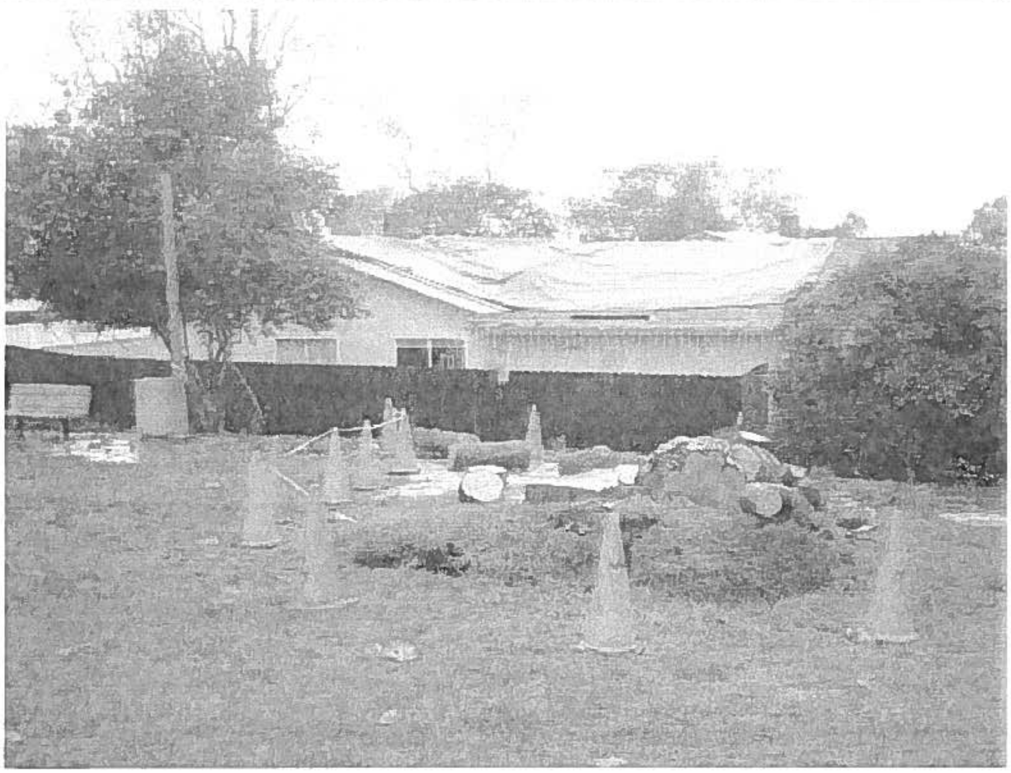
Policy #: CHO007565151

laude 011

Date Taken: 12/21/2010

Taken By: JACKSONT

tree at park



laude 012

Date Taken: 12/21/2010

Taken By: JACKSONT

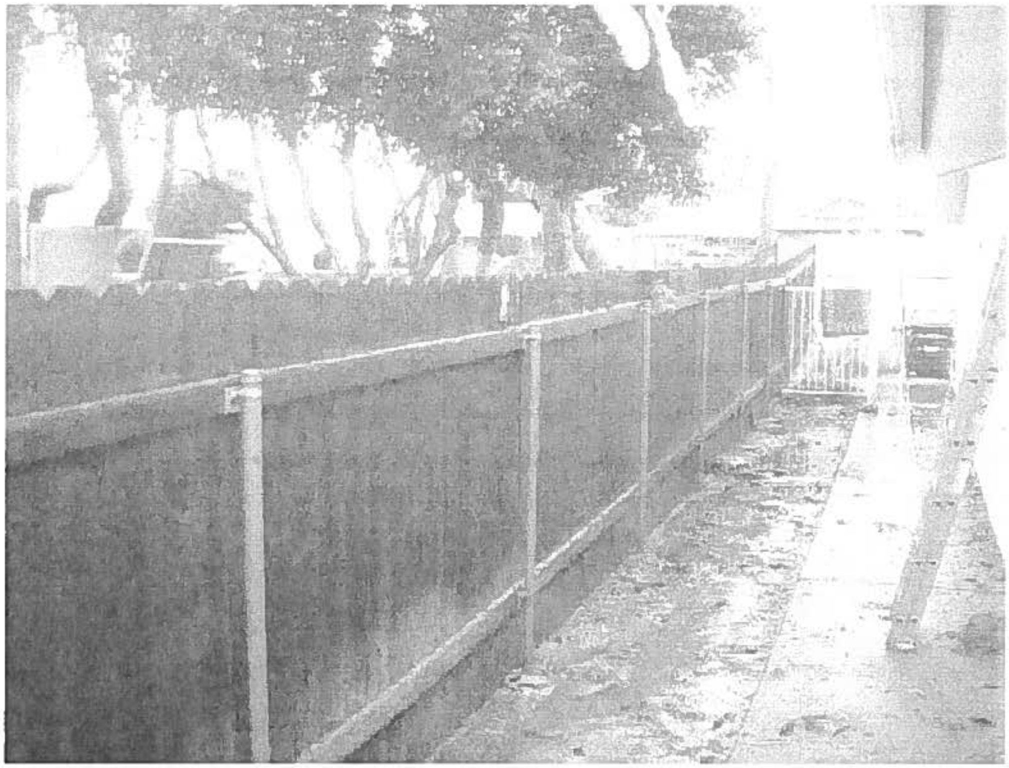
overview of insureds residence

2/28/2012 ITEM NO. 4.6

Photo Sheet

InterInsurance Exchange of the Automobile Club

Insured: PETE. .JON, CHARLES
Claim #: 010267259
Policy #: CHO007565151

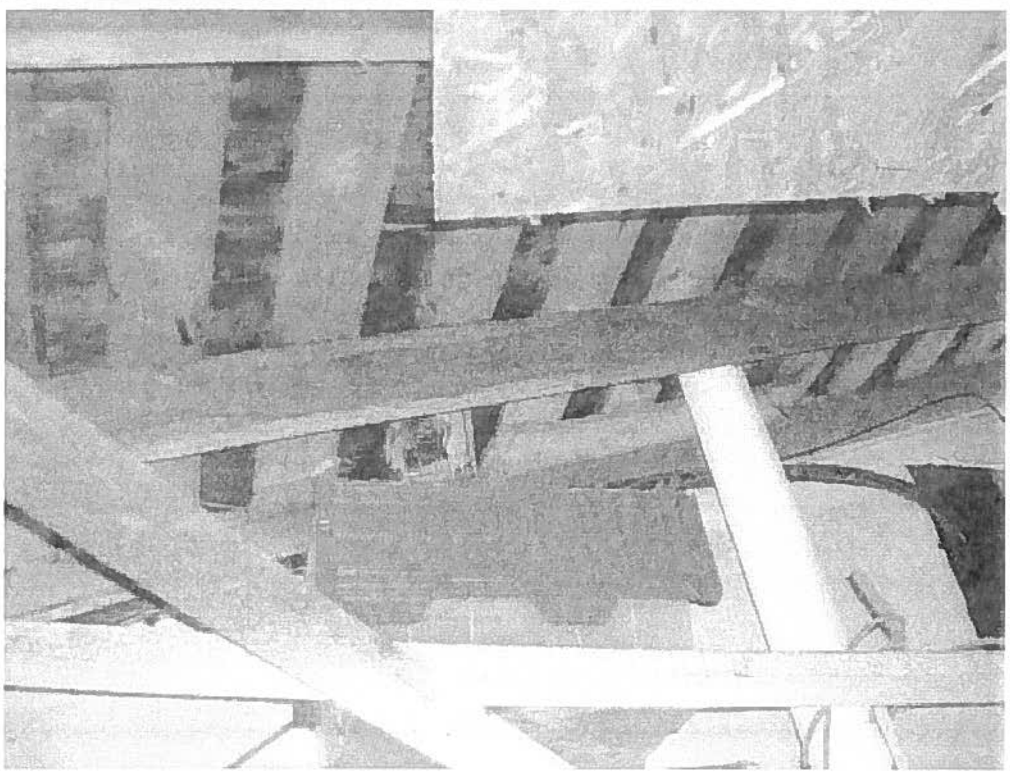


laude 013

Date Taken: 12/21/2010

Taken By: JACKSONT

damaged fence



laude 014

Date Taken: 12/21/2010

Taken By: JACKSONT

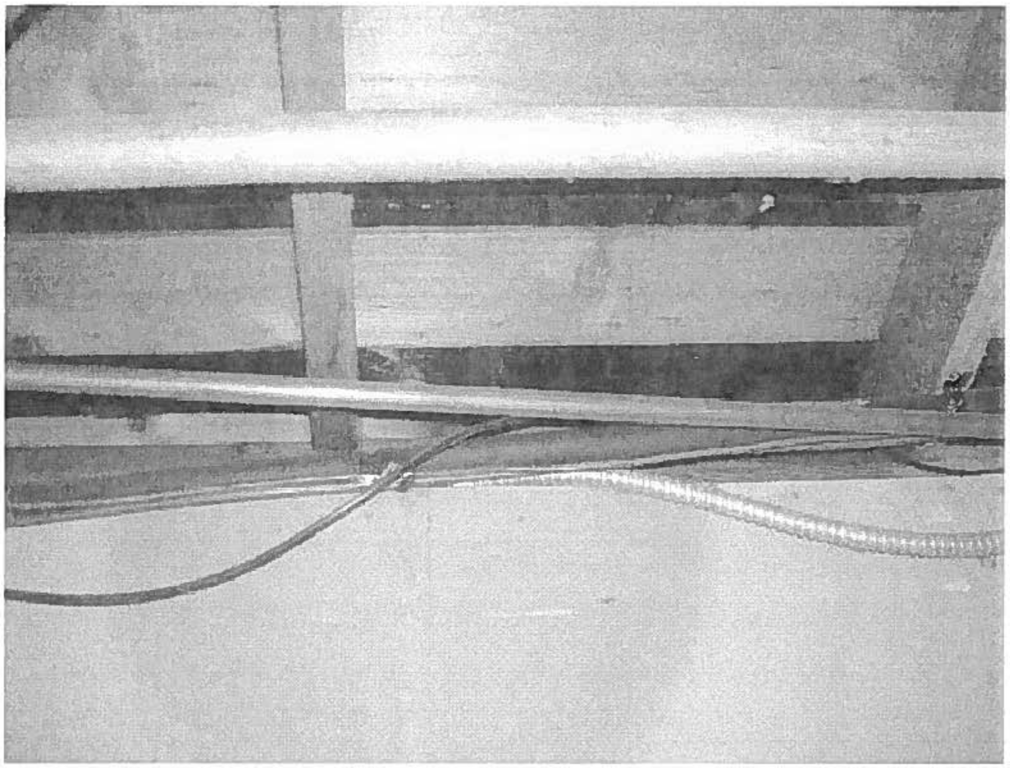
damage to garage roof

2/28/2012 ITEM NO. 4.6

Photo Sheet

Interinsurance Exchange of the Automobile Club

Insured: PETE...ON, CHARLES
Claim #: 010267259
Policy #: CHO007565151



laude 015
Date Taken: 12/21/2010
Taken By: JACKSONT
garage roof

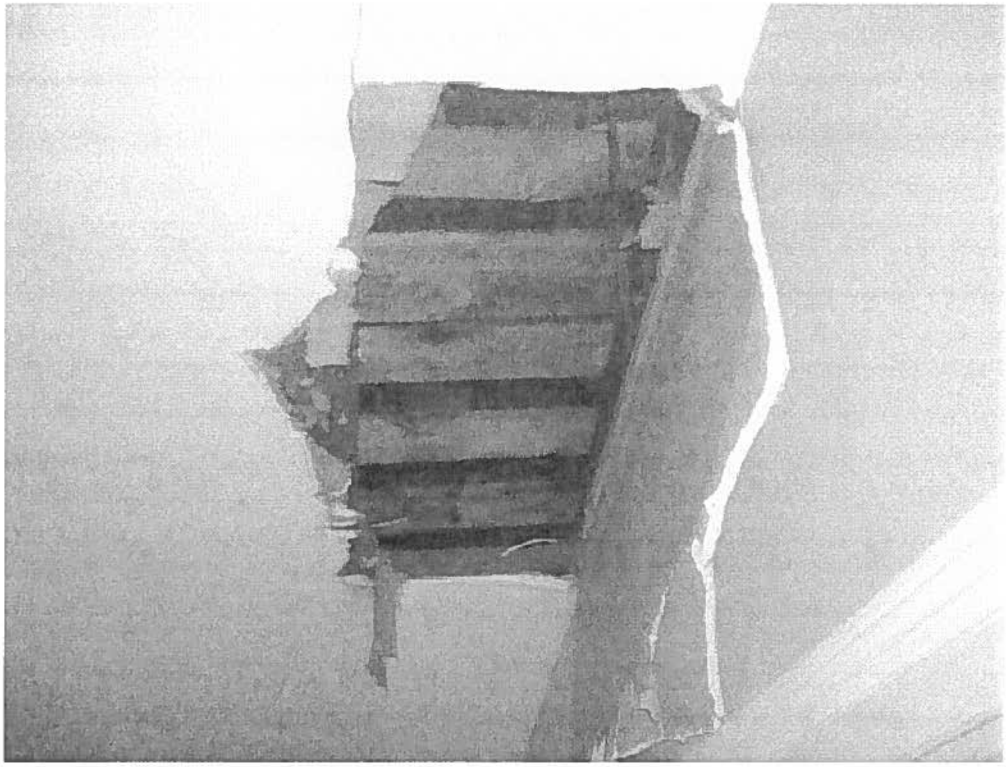
laude 016
Date Taken: 12/21/2010
Taken By: JACKSONT
garage roof

2/28/2012 ITEM NO. 4.6

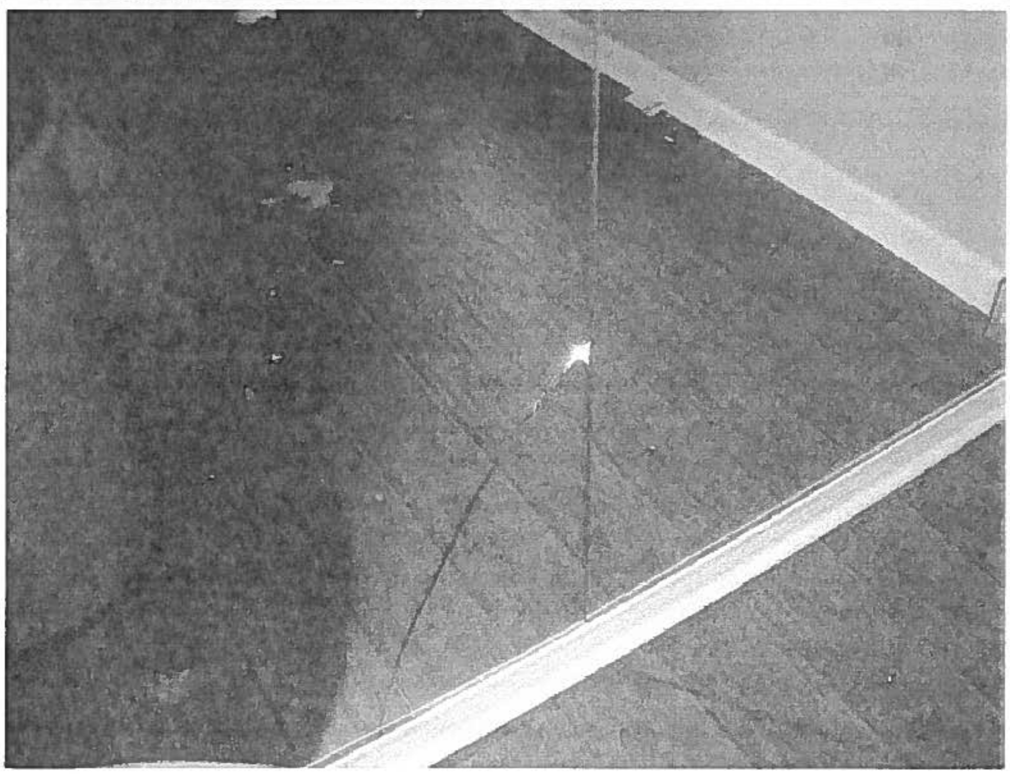
Photo Sheet

InterInsurance Exchange of the Automobile Club

Insured: PETE...ON, CHARLES
Claim #: 010267259
Policy #: CHO007565151



laude 017
Date Taken: 12/21/2010
Taken By: JACKSONT
ceiling in living room



laude 018
Date Taken: 12/21/2010
Taken By: JACKSONT
liviong room floor

2/28/2012 ITEM NO. 4.6

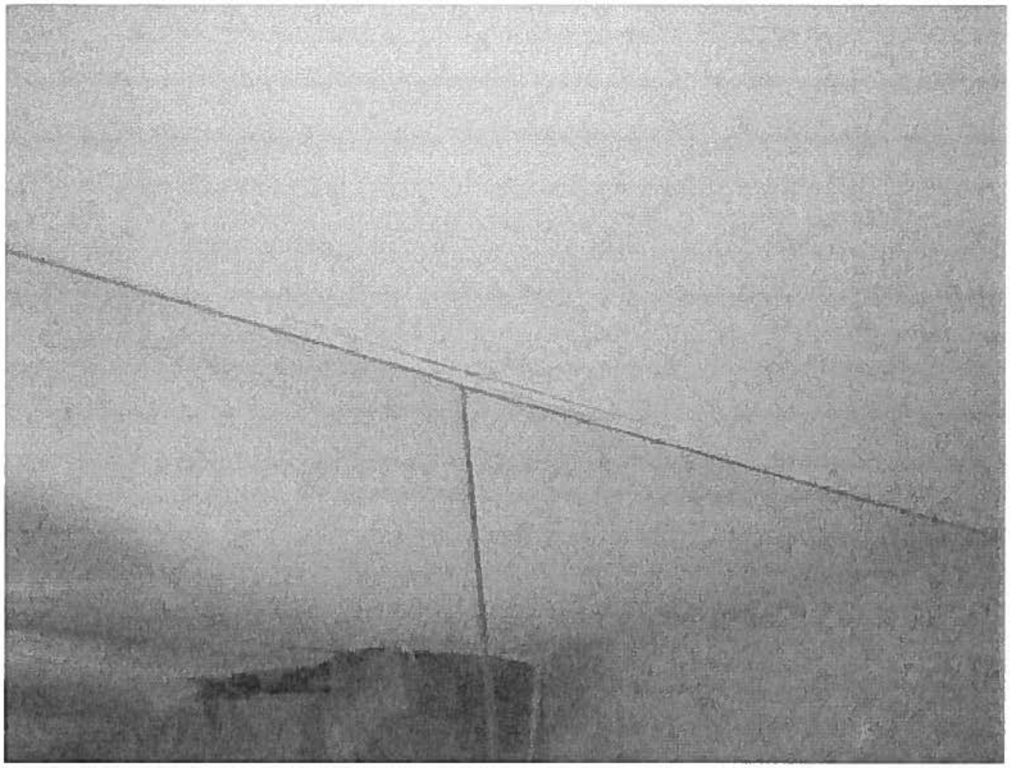
Photo Sheet

Interinsurance Exchange of the Automobile Club

Insured: PETER[illegible]N, CHARLES

Claim #: 010267259

Policy #: CHO007565151

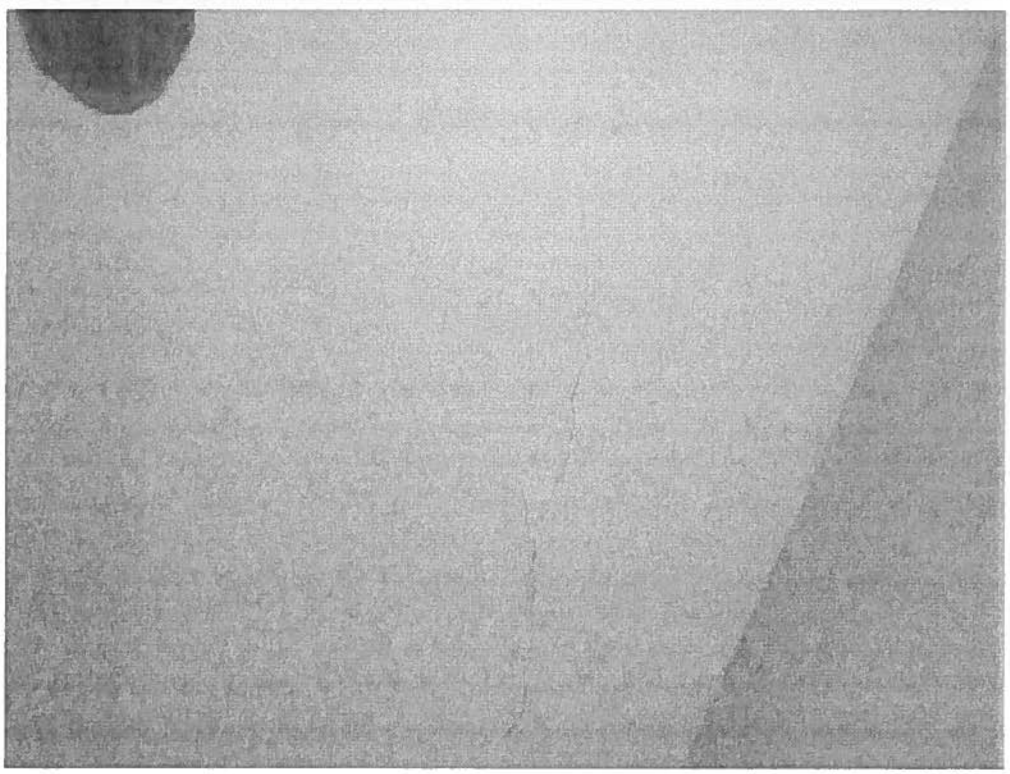


laude 019

Date Taken: 12/21/2010

Taken By: JACKSONT

living room ceiling



laude 020

Date Taken: 12/21/2010

Taken By: JACKSONT

living room ceiling

2/28/2012 ITEM NO. 4.6

Photo Sheet

Interinsurance Exchange of the Automobile Club

Insured: PETER..N, CHARLES
Claim #: 010267259
Policy #: CHO007565151

laude 021
Date Taken: 12/21/2010
Taken By: JACKSONT
sofa

laude 022
Date Taken: 12/21/2010
Taken By: JACKSONT
matching love seat

2/28/2012 ITEM NO. 4.6

Photo Sheet

Interinsurance Exchange of the Automobile Club

Insured: PETER...N, CHARLES
Claim #: 010267259
Policy #: CHO007565151

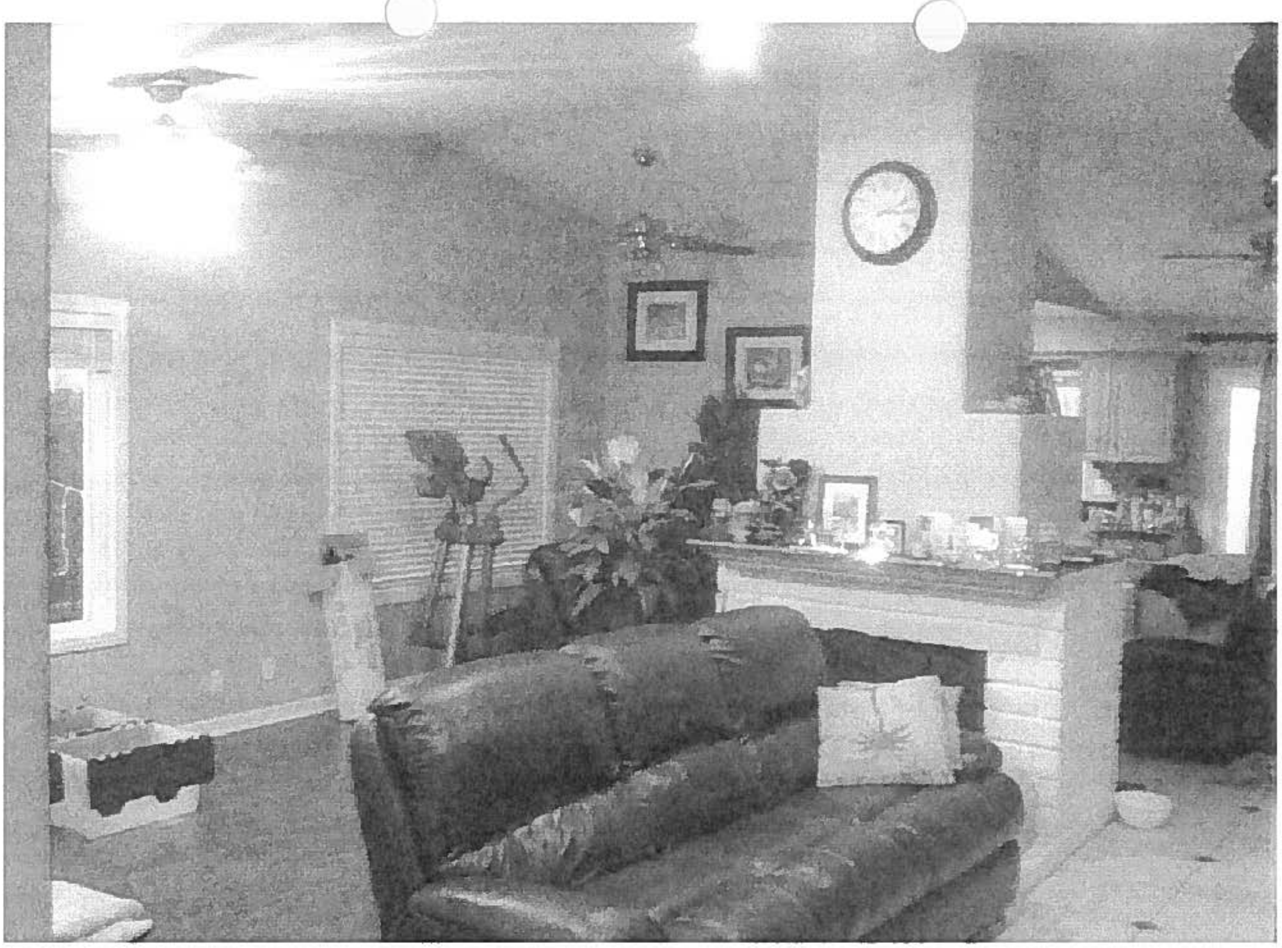
laude 023

Date Taken: 12/21/2010

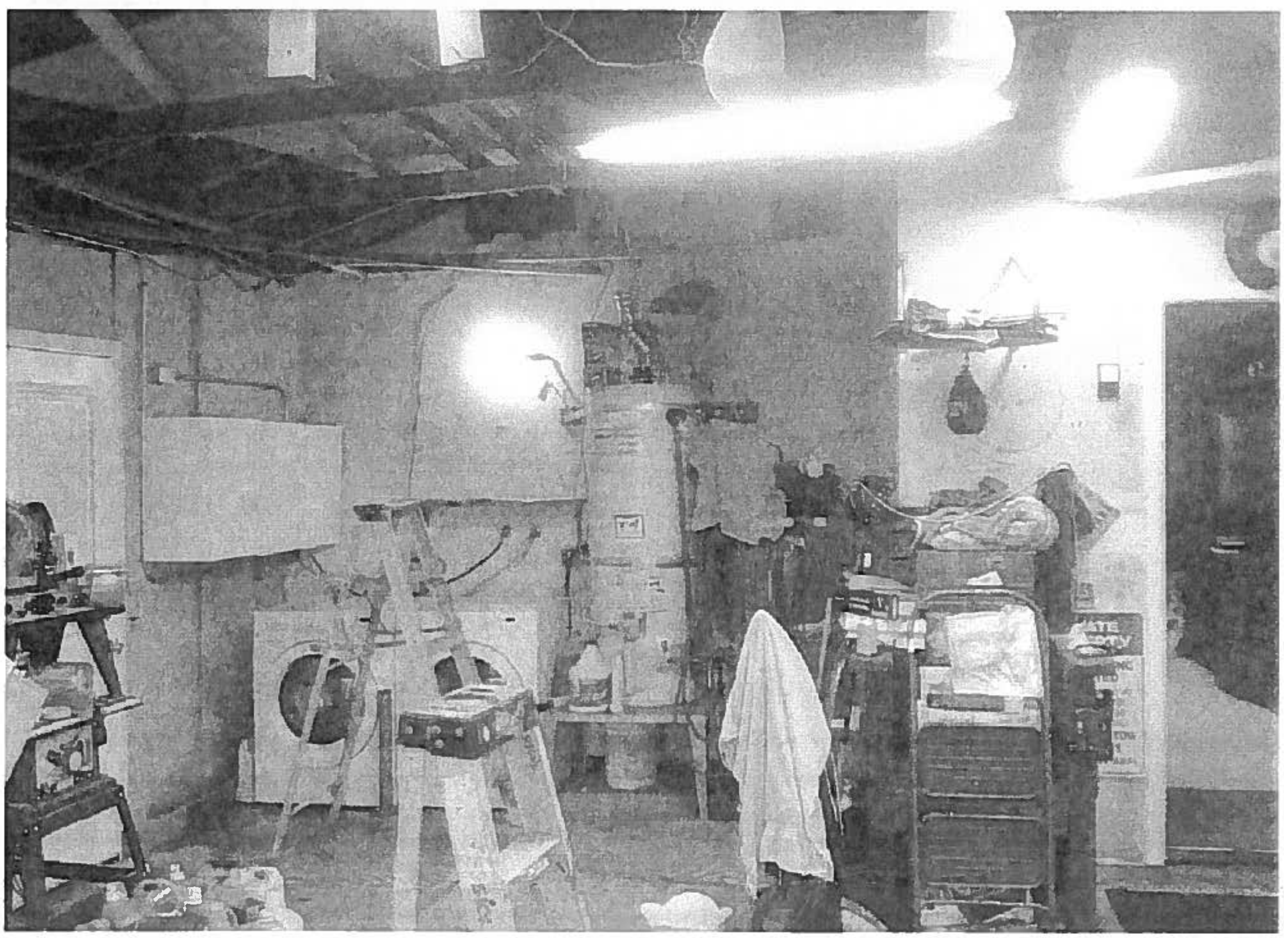
Taken By: JACKSONT

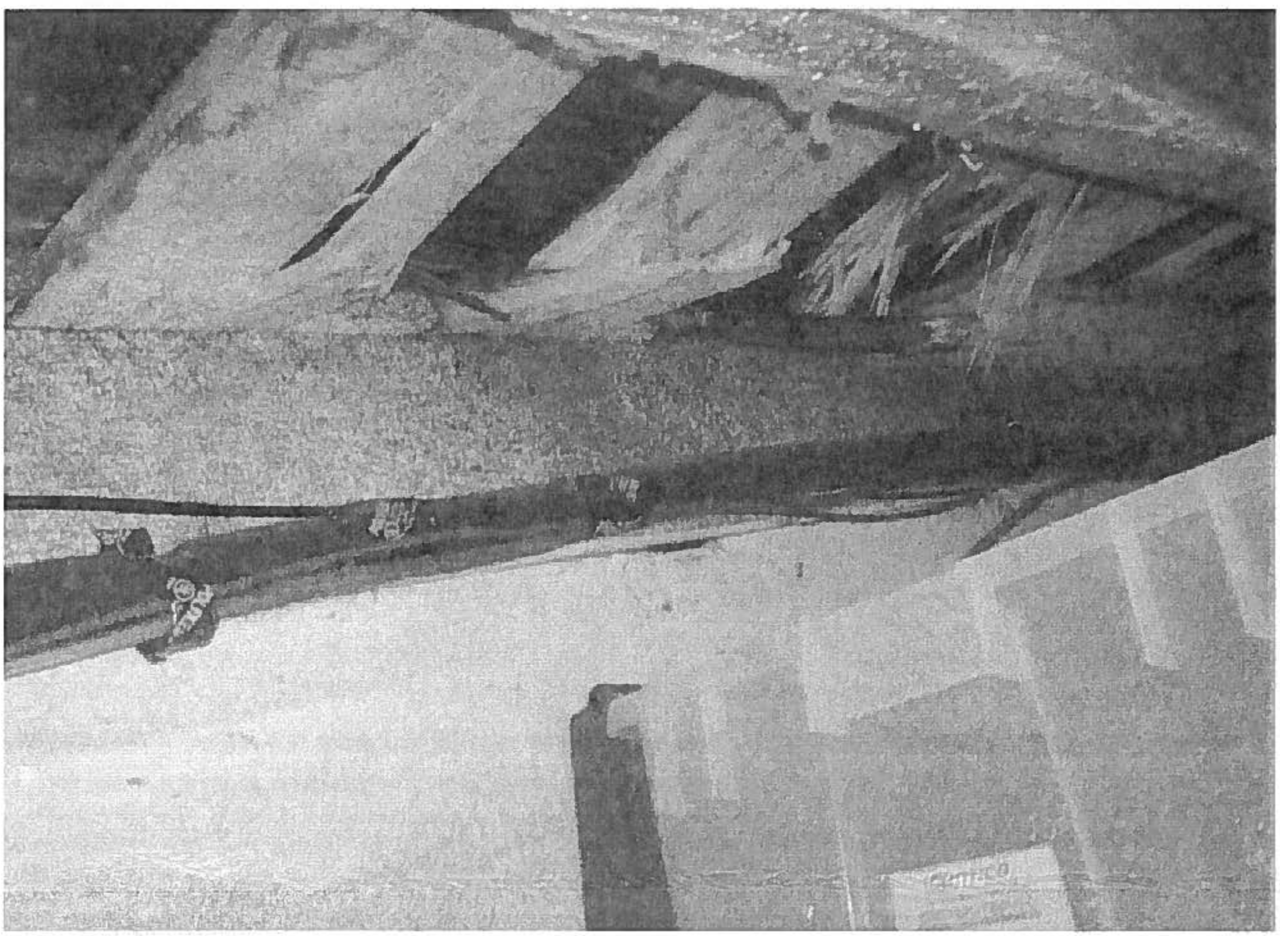
damaged chimney

2/28/2012 ITEM NO. 4.6

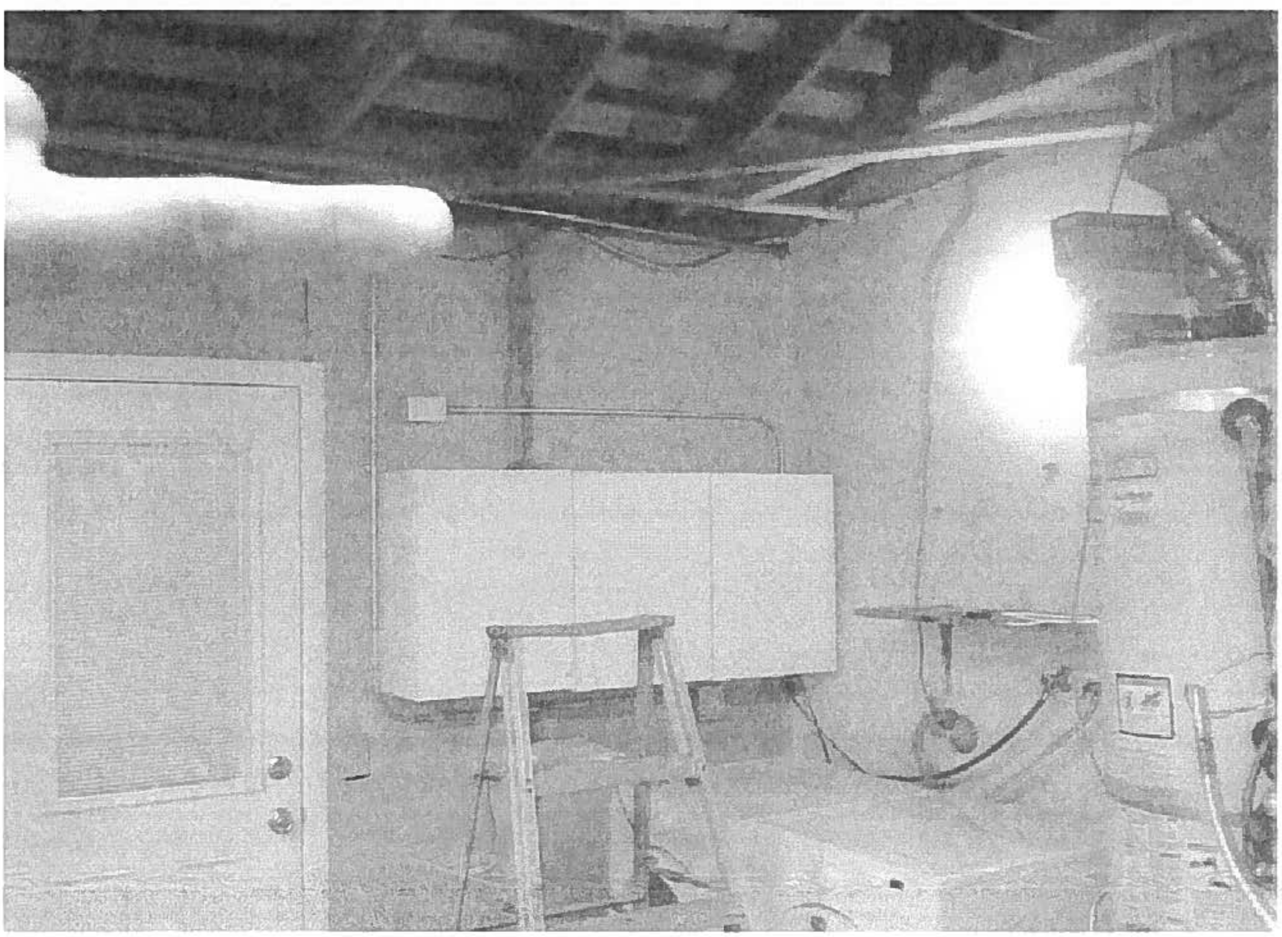


2/28/2012 ITEM NO. 4.6





2/28/2012 ITEM NO. 4.6



2/28/2012 ITEM NO. 4.6

MOTION TO RECEIVE AND FILE THE REPORT, BY M/COUNCIL MEMBER KOGERMAN, S/COUNCIL MEMBER BRESSETTE.
APPROVED BY A VOTE OF 5-0.

5. PLANNING AGENCY

Mayor Carruth recessed the City Council meeting and acting in the capacity of chair, called the regular meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:38 PM.

5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

Present: Chair Carruth, Vice Chair Lautenschleger, Agency Member Bressette, Agency Member Kogerman, and Agency Member Songstad.

5.2 PUBLIC COMMENTS

There were no Public Comments.

5.3 MINUTES

5.3.1 REGULAR MEETING, JANUARY 24, 2012

MOTION TO APPROVE THE MINUTES OF THE JANUARY 24, 2012, REGULAR MEETING AS REFERENCED IN CITY COUNCIL MINUTES BEGINNING ON PAGE 3, BY M/AGENCY MEMBER BRESSETTE, S/AGENCY MEMBER KOGERMAN.
APPROVED BY A VOTE OF 5-0.

5.4 PLANNING AGENCY PUBLIC HEARINGS

There were no Public Hearings.

PLANNING AGENCY ADJOURNMENT

Mayor Carruth reconvened the City Council meeting at 7:39 PM. All Council Members were present.

6. CITY COUNCIL PUBLIC HEARINGS

There were no Public Hearings.

7. ADMINISTRATIVE REPORTS

7.1 City Manager

The City Manager made no reports.

CITY OF LAGUNA HILLS

AGENDA REPORT
ADMINISTRATION DEPARTMENT

ISSUE: INTRODUCTION OF ORDINANCE IMPLEMENTING THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006, REPLACING THE CABLE TELEVISION FRANCHISE REGULATIONS.

SUMMARY:

The enactment of the Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”) effectively replaced locally issued franchise agreements with statewide franchises issued by the California Public Utilities Commission. The City’s local cable television and video provider, Cox Communications, has informed the City that it has opted into the statewide franchise. Under DIVCA, the City is granted a 5% franchise fee in exchange for use of the public right of way and has the option of enacting a 1% Public, Educational, and Governmental (“PEG”) fee. In addition, the City is charged with monitoring and enforcing minimum State and federal customer service standards, and to impose penalties for material breaches to the defined standards. In order to benefit from these fees and authority, the City must adopt an Ordinance. The attached Ordinance amends Chapter 4-16 of Title 4 of the Laguna Hills Municipal Code to implement the Digital Infrastructure and Video Competition Act of 2006 pertaining to State Video Franchise Holders. It replaces the Cable Television Franchise regulations, which have become obsolete, by operation of State law preemption.

BACKGROUND:

In 2006, the California State Legislature adopted the Digital Infrastructure and Video Competition Act. This legislation originally was known as AB 2987 and now often is referred to by the acronym DIVCA. The new law became effective on January 1, 2007.

DIVCA provides a new mechanism for cable television and video services franchising in California. Under DIVCA, cities no longer have the authority to issue local franchises to video providers using the public right-of-way; instead, the power to issue new franchises is held solely by the California Public Utilities Commission (“PUC”).

RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 4-16 OF TITLE 4 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO STATE VIDEO FRANCHISE HOLDERS."

Cox has an existing local Cable Television Franchise Agreement with the City that expires in November 2023. Under DIVCA, Cox must continue to operate under the existing Franchise Agreement until either: the Agreement expires; the Agreement is mutually terminated; or Cox obtains a State franchise. DIVCA allows existing cable companies to apply for a state franchise and, thereby, “opt out” of the City’s Franchise Agreement once a competitor with a State franchise notifies the City that it intends to begin providing service in the City. AT&T previously provided this notification with the deployment of its "Project Lightspeed" in 2007. However, Cox at the time opted to continue to operate under the City's franchise until recently, when at the end of September 2011, it notified the City that it had submitted an application to obtain a state-wide franchise and to opt out of the City's franchise. Once Cox obtains its State license, Chapter 4-16 of the Municipal Code pertaining to cable television franchises will become obsolete by operation of State law preemption.

DIVCA, among other things, requires all State video franchise service providers to:

- Pay the City a franchise fee of 5% of gross revenues (this is the same as required in the existing cable television franchise agreement);
- Pay the City an additional fee to support facilities and equipment for Public, Educational, or Governmental (“PEG”) access of 1% of gross revenues, if so enacted by the local agency;
- Make available to the City, should it desire, at least three PEG access channels;
- Negotiate in good faith with incumbent cable operators to interconnect their networks for the purposes of providing PEG access channel programming;
- Comply with Federal Emergency Alert System requirements;
- Secure encroachment permits for any construction activities in the right-of-way; and,
- Comply with all minimum customer service standards established by State and federal law.

Although franchise authority over video service providers now rests with the PUC, the Act does designate certain administrative responsibilities to local governments. These responsibilities include the collection and administration of franchise and PEG fees, enforcement of customer service standards and issuance of encroachment permits. In order to impose PEG fees at any point in the future and enforce minimum customer service standards, an enabling Ordinance must be adopted, such as the Ordinance proposed herein.

Since FY 2008/2009, the City has collected approximately $450,000 to $460,000 on an annual basis in franchise fees from Cox. The revenue derived from the AT&T franchise has gradually increased from $9,100 in FY 2008/2009 to $45,250 this past fiscal year. It is anticipated that the revenue derived from AT&T will increase as they continue to expand their infrastructure and capture a greater share of the market.

It should be noted that at this time, because they do not utilize the public right-of-way, satellite video operators are not required to comply with the franchising requirements outlined in DIVCA, although legislation is currently pending that could change this.

Customer Service Standards

In addition to the 5% franchise fee and the 1% PEG fee, DIVCA mandates cities and counties monitor cable television and video service providers for compliance with the State and federal customer service standards, and to impose penalties for material breaches. While cities and counties are charged with enforcing the customer service standards enumerated in legislation at the State and federal level, they may not establish or enforce their own standards. The State and federal customer service standards encompass the following:

- Installation, disconnection, service and repair obligations, employee identification and service call response time and scheduling.
- Customer telephone and office hours, procedures for billing, charges, refunds, and credits.
- Procedures for termination of service.
- Notice of the deletion of a programming service, the changing of channel assignments, or an increase in rates.
- Complaint procedures and procedures for bill dispute resolution.

The City is authorized under DIVCA to monitor compliance with State and federal customer service standards and may, by Ordinance, impose fines for material breaches. The upper limits of the fines are set by statute and the City's fines may not exceed the maximum amounts. Staff recommends the City Council approve the maximum possible penalties permitted by law:

1. For the first occurrence of a violation, a monetary penalty of $500 shall be imposed for each day the violation remains in effect, not to exceed $1500 for each violation.

2. For a second violation of the same nature within a 12-month period, a monetary penalty of $1000 shall be imposed for each day the violation remains in effect, not to exceed $3000 for each such violation.

3. For a third or further violation of the same nature within a 12-month period, a monetary penalty of $2500 shall be imposed for each day the violation remains in effect, not to exceed $7,500 for each such violation.

The customer services standards set forth by State and federal law are fairly low and generally, cable television and video service providers will have no issues complying with the standards as laid out. Past experience has shown that cable television and video service providers consistently strive to provide a high level of customer service, largely due to the threat of competition from other cable television providers and/or satellite video service providers in the market. Consequently, it is anticipated that material breaches in these customer service standards by cable television and video service providers will never take place. However, adopting the monetary penalties will provide the City with some recourse should a new future entrant into the market fail to meet minimum customer service standards.

PEG Fee

DIVCA allows cities and counties to impose a fee of up to 1% of gross revenue from video services to support Public, Educational and Governmental (PEG) channel facilities and equipment. The PEG fee of 1% is in addition to the 5% franchise fee and is passed through from the franchisee to customers. The use of the fee is limited to the construction of facilities for PEG access and the purchase of necessary equipment. It may not be used for operational or programming costs. Staff is not recommending at this time to impose a PEG fee, however the Ordinance is written in a manner so as to allow the City Council to impose PEG fees in the future, should it desire to do so.

CONCLUSION:

The adoption of the proposed Ordinance enables the City, consistent with DIVCA, to: (1) continue to impose a franchise fee of 5% of gross revenues; (2) impose a fee of 1% of gross revenues, should the City Council desire to do so in the future, to support PEG channel facilities and equipment; and (3) enforce the State statutory schedule of penalties for customer service violations. Staff recommends that the City Council adopt the proposed Ordinance pursuant to State law.

The Ordinance also incorporates other important provisions of DIVCA into the Municipal Code, including the requirements to: collect and pay franchise fees to the City; offer at least three PEG channels; negotiate with video service providers to interconnect their networks for PEG access; and comply with Emergency Alert System requirements.

City staff recommends that the City Council introduce an Ordinance amending Chapter 4-16 of Title 4 of the Laguna Hills Municipal Code relating to State video franchise providers.

FISCAL IMPACT:

Franchise fees are not expected to be affected, because they remain at the same rate as in the current franchise agreement. Potential costs related to enforcement are not known at this time.

RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 4-16 OF TITLE 4 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO STATE VIDEO FRANCHISE HOLDERS."

ATTACHMENTS:

1. Digital Infrastructure and Video Competition Act
2. Cox Notice of Franchise Application with State
3. Proposed Ordinance

CALIFORNIA PUBLIC UTILITIES CODE

Division 2.5.

THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006

§ 5800. Short title

This act shall be known and may be cited as the Digital Infrastructure and Video Competition Act of 2006.

§ 5810. Legislative findings, declarations, and intent

(a) The Legislature finds and declares all of the following:

(1) Increasing competition for video and broadband services is a matter of statewide concern for all of the following reasons:

(A) Video and cable services provide numerous benefits to all Californians including access to a variety of news, public information, education, and entertainment programming.

(B) Increased competition in the cable and video service sector provides consumers with more choice, lowers prices, speeds the deployment of new communication and broadband technologies, creates jobs, and benefits the California economy.

(C) To promote competition, the state should establish a state-issued franchise authorization process that allows market participants to use their networks and systems to provide video, voice, and broadband services to all residents of the state.

(D) Competition for video service should increase opportunities for programming that appeals to California's diverse population and many cultural communities.

(2) Legislation to develop this new process should adhere to the following principles:

(A) Create a fair and level playing field for all market competitors that does not disadvantage or advantage one service provider or technology over another.

(B) Promote the widespread access to the most technologically advanced cable and video services to all California communities in a nondiscriminatory manner regardless of socioeconomic status.

(C) Protect local government revenues and control of public rights-of-way.

(D) Require market participants to comply with all applicable consumer protection laws.

(E) Complement efforts to increase investment in broadband infrastructure and close the digital divide.

(F) Continue access to and maintenance of the public, education, and government (PEG) channels.

(G) Maintain all existing authority of the California Public Utilities Commission as established in state and federal statutes.

(3) The public interest is best served when sufficient funds are appropriated to the commission to provide adequate staff and resources to appropriately and timely process applications of video service providers and to ensure full compliance with the requirements of this division. It is the intent of the Legislature that, although video service providers are not public utilities or common carriers, the commission shall collect any fees authorized by this division in the same manner and under the same terms as it collects fees from common carriers, electrical corporations, gas corporations, telephone corporations, telegraph corporations, water corporations, and every other public utility providing service directly to customers or subscribers subject to its jurisdiction such that it does not discriminate against video service providers or their subscribers.

(4) Providing an incumbent cable operator the option to secure a state-issued franchise through the preemption of an existing cable franchise between a cable operator and any political subdivision of the state, including, but not limited to, a charter city, county, or city and county, is an essential element of the new regulatory framework established by this act as a matter of statewide concern to

best ensure equal protection and parity among providers and technologies, as well as to achieve the goals stated by the Legislature in enacting this act.

(b) It is the intent of the Legislature that a video service provider shall pay as rent a franchise fee to the local entity in whose jurisdiction service is being provided for the continued use of streets, public facilities, and other rights-of-way of the local entity in order to provide service. The Legislature recognizes that local entities should be compensated for the use of the public rights-of-way and that the franchise fee is intended to compensate them in the form of rent or a toll, similar to that which the court found to be appropriate in Santa Barbara County Taxpayers Association v. Board of Supervisors for the County of Santa Barbara (1989) 209 Cal. App. 3d 940.

(c) It is the intent of the Legislature that collective bargaining agreements be respected.

(d) It is the intent of the Legislature that the definition of gross revenues in this division shall result in local entities maintaining their existing level of revenue from franchise fees.

§ 5820. Rights and obligations of franchise holders; video service not a public utility subject to regulation by commission

(a) Nothing in this division shall be deemed as creating a vested right in a state-issued franchise by the franchise holder or its affiliates that would preclude the state from amending the provisions that establish the terms and conditions of a franchise.

(b) Nothing in this division shall be construed to eliminate or reduce a telephone corporation's or video service provider's obligations under any applicable state or federal environmental protection laws. The local entity shall serve as the lead agency for any environmental review under this division and may impose conditions to mitigate environmental impacts of the applicant's use of the public rights-of-way that may be required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) The holder of a state franchise shall not be deemed a public utility as a result of providing video service under this division.

This division shall not be construed as granting authority to the commission to regulate the rates, terms, and conditions of video services, except as explicitly set forth in this division.

§ 5830. Definitions

For purposes of this division, the following words have the following meanings:

(a) "Broadband" means any service defined as broadband in the most recent Federal Communications Commission inquiry pursuant to Section 706 of the Telecommunications Act of 1996 (P.L. 104-104).

(b) "Cable operator" means any person or group of persons that either provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in a cable system; or that otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system, as set forth in Section 522(5) of Title 47 of the United States Code.

(c) "Cable service" is defined as the one-way transmission to subscribers of either video programming, or other programming service, and subscriber interaction, if any, that is required for the selection or use of video programming or other programming service, as set forth in Section 522(6) of Title 47 of the United States Code.

(d) "Cable system" is defined as set forth in Section 522(7) of Title 47 of the United States Code.

(e) "Commission" means the Public Utilities Commission.

(f) "Franchise" means an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of any network in the right-of-way capable of providing video service to subscribers.

(g) "Franchise fee" means the fee adopted pursuant to Section 5840.

(h) "Holder" or "holder of a state franchise" means a person or group of persons that has been issued a state franchise from the commission pursuant to this division.

(i) "Incumbent cable operator" means a cable operator or OVS serving subscribers under a franchise in a particular city, county, or city and county franchise area on January 1, 2007.

(j) "Local entity" means any city, county, city and county, or joint powers authority within the state within whose jurisdiction a holder of a state franchise under this division may provide cable service or video service.

(k) "Local franchising entity" means the city, county, city and county, or joint powers authority entitled to require franchises and impose fees on cable operators, as set forth in Section 53066 of the Government Code.

(l) "Network" means a component of a facility that is wholly or partly physically located within a public right-of-way and that is used to provide video service, cable service, voice, or data services.

(m) "Open-video system" or "OVS" means those services set forth in Section 573 of Title 47 of the United States Code.

(n) "OVS operator" means any person or group of persons that either provides cable service over an open-video system directly, or through one or more affiliates, owns a significant interest in an open-video system, or that otherwise controls or is responsible for, through any arrangement, the management of an open-video system.

(o) "Public rights-of-way" means the area along and upon any public road or highway, or along or across any of the waters or lands within the state.

(p) "State franchise" means a franchise that is issued pursuant to this division.

(q) "Subscriber" means a person who lawfully receives video service from the holder of a state franchise for a fee.

(r) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in Section 522(20) of Title 47 of the United States Code.

(s) "Video service" means video programming services, cable service, or OVS service provided through facilities located at least in part in public rights-of-way without regard to delivery technology, including Internet protocol or other technology. This definition does not include (1) any video programming provided by a commercial mobile service provider defined in Section 332(d) of Title 47 of the United States Code, or (2) video programming provided as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

(t) "Video service provider" means an entity providing video service.

§ 5840. Franchising authority; application for franchise; contents; franchise grant of authority; termination; transfer; notice to commission of changes involving franchise holder; notice to local jurisdiction of intent to provide video service; franchise fee

(a) The commission is the sole franchising authority for a state franchise to provide video service under this division. Neither the commission nor any local franchising entity or other local entity of the state may require the holder of a state franchise to obtain a separate franchise or otherwise impose any requirement on any holder of a state franchise except as expressly provided in this division. Sections 53066, 53066.01, 53066.2, and 53066.3 of the Government Code shall not apply to holders of a state franchise.

(b) The application process described in this section and the authority granted to the commission under this section shall not exceed the provisions set forth in this section.

(c) Any person or corporation who seeks to provide video service in this state for which a franchise has not already been issued, after January 1, 2008, shall file an application for a state franchise with the commission. The commission may impose a fee on the applicant that shall not exceed the actual and reasonable costs of processing the application and shall not be levied for general revenue purposes.

(d) No person or corporation shall be eligible for a state-issued franchise, including a franchise obtained from renewal or transfer of an existing franchise, if that person or corporation is in violation of any final nonappealable order relating to either the Cable Television and Video Provider Customer Service and Information Act (Article 3.5 (commencing with Section 53054) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code) or the Video Customer Service Act (Article 4.5 (commencing with Section 53088) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code).

(e) The application for a state franchise shall be made on a form prescribed by the commission and shall include all of the following:

(1) A sworn affidavit, signed under penalty of perjury by an officer or another person authorized to bind the applicant, that affirms all of the following:

(A) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering cable service or video service in this state.

(B) That the applicant or its affiliates agrees to comply with all federal and state statutes, rules, and regulations, including, but not limited to, the following:

(i) A statement that the applicant will not discriminate in the provision of video or cable services as provided in Section 5890.

(ii) A statement that the applicant will abide by all applicable consumer protection laws and rules as provided in Section 5900.

(iii) A statement that the applicant will remit the fee required by subdivision (a) of Section 5860 to the local entity.

(iv) A statement that the applicant will provide PEG channels and the required funding as required by Section 5870.

(C) That the applicant agrees to comply with all lawful city, county, or city and county regulations regarding the time, place, and manner of using the public rights-of-way, including, but not limited to, payment of applicable encroachment, permit, and inspection fees.

(D) That the applicant will concurrently deliver a copy of the application to any local entity where the applicant will provide service.

(2) The applicant's legal name and any name under which the applicant does or will do business in this state.

(3) The address and telephone number of the applicant's principal place of business, along with contact information for the person responsible for ongoing communications with the commission.

(4) The names and titles of the applicant's principal officers.

(5) The legal name, address, and telephone number of the applicant's parent company, if any.

(6) A description of the video service area footprint that is proposed to be served, as identified by a collection of United States Census Bureau Block numbers (13 digit) or a geographic information system digital boundary meeting or exceeding national map accuracy standards. This description shall include the socioeconomic status information of all residents within the service area footprint.

(7) If the applicant is a telephone corporation or an affiliate of a telephone corporation, as defined in Section 234, a description of the territory in which the company provides telephone service. The description shall include socioeconomic status information of all residents within the telephone corporation's service territory.

(8) The expected date for the deployment of video service in each of the areas identified in paragraph (6).

(9) Adequate assurance that the applicant possesses the financial, legal, and technical qualifications necessary to construct and operate the proposed system and promptly repair any damage to the public right-of-way caused by the applicant. To accomplish these requirements, the commission may require a bond.

(f) The commission may require that a corporation with wholly owned subsidiaries or affiliates is eligible only for a single state-issued franchise and prohibit the holding of multiple franchises through separate subsidiaries or affiliates. The commission may establish procedures for a holder of a state-issued franchise to amend its franchise to reflect changes in its service area.

(g) The commission shall commence accepting applications for a state franchise no later than April 1, 2007.

(h) (1) The commission shall notify an applicant for a state franchise and any affected local entities whether the applicant's application is complete or incomplete before the 30th calendar day after the applicant submits the application.

(2) If the commission finds the application is complete, it shall issue a state franchise before the 14th calendar day after that finding.

(3) If the commission finds that the application is incomplete, it shall specify with particularity the items in the application that are incomplete and permit the applicant to amend the application to cure any deficiency. The commission shall have 30 calendar days from the date the application is amended to determine its completeness.

(4) The failure of the commission to notify the applicant of the completeness or incompleteness of the application before the 44th calendar day after receipt of an application shall be deemed to constitute issuance of the certificate applied for without further action on behalf of the applicant.

(i) The state franchise issued by the commission shall contain all of the following:

(1) A grant of authority to provide video service in the service area footprint as requested in the application.

(2) A grant of authority to use the public rights-of-way, in exchange for the franchise fee adopted under subdivision (q), in the delivery of video service, subject to the laws of this state.

(3) A statement that the grant of authority is subject to lawful operation of the cable service or video service by the applicant or its successor in interest.

(j) The state franchise issued by the commission may be terminated by the video service provider by submitting at least 90 days prior written notice to subscribers, local entities, and the commission.

(k) It is unlawful to provide video service without a state or locally issued franchise.

(l) Subject to the notice requirements of this division, a state franchise may be transferred to any successor in interest of the holder to which the certificate is originally granted, provided that the transferee first submits all of the information required of the applicant by this section to the commission and is in compliance with Section 5970.

(m) In connection with, or as a condition of, receiving a state franchise, the commission shall require a holder to notify the commission and any applicable local entity within 14 business days of any of the following changes involving the holder of the state franchise:

(1) Any transaction involving a change in the ownership, operation, control, or corporate organization of the holder, including a merger, an acquisition, or a reorganization.

(2) A change in the holder's legal name or the adoption of, or change to, an assumed business name. The holder shall submit to the commission a certified copy of either of the following:

(A) The proposed amendment to the state franchise.

(B) The certificate of assumed business name.

(3) A change in the holder's principal business address or in the name of the person authorized to receive notice on behalf of the holder.

(4) Any transfer of the state franchise to a successor in interest of the holder. The holder shall identify the successor in interest to which the transfer is made.

(5) The termination of any state franchise issued under this division. The holder shall identify both of the following:

(A) The number of subscribers in the service area covered by the state franchise being terminated.

(B) The method by which the holder's subscribers were notified of the termination.

(6) A change in one or more of the service areas of the holder of a state franchise pursuant to this division that would increase or decrease the territory within the service area. The holder shall describe the new boundaries of the affected service areas after the proposed change is made.

(n) Prior to offering video service in a local entity's jurisdiction, the holder of a state franchise shall notify the local entity that the video service provider will provide video service in the local entity's jurisdiction. The notice shall be given at least 10 days, but no more than 60 days, before the video service provider begins to offer service.

(o) Any video service provider that currently holds a franchise with a local franchising entity is entitled to seek a state franchise in the area designated in that franchise upon meeting any of the following conditions:

(1) The expiration, prior to any renewal or extension, of its local franchise.

(2) A mutually agreed upon date set by both the local franchising entity and video service provider to terminate the franchise provided in writing by both parties to the commission.

(3) When a video service provider that holds a state franchise provides the notice required pursuant to subdivision (n) to a local jurisdiction that it intends to initiate providing video service in all or part of that jurisdiction, a video service provider operating under a franchise issued by a local franchising entity may elect to obtain a state franchise to replace its locally issued franchise. The franchise issued by the local franchising entity shall terminate and be replaced by a state franchise when the commission issues a state franchise for the video service provider that includes the entire service area served by the video service provider and the video service provider notifies the local entity that it will begin providing video service in that area under a state franchise.

(p) Notwithstanding any rights to the contrary, an incumbent cable operator opting into a state franchise under this section shall continue to serve all areas as required by its local franchise agreement existing on January 1, 2007, until that local franchise otherwise would have expired. However, an incumbent cable operator that is also a telephone corporation with less than 1,000,000 telephone customers in California and is providing video service in competition with another incumbent cable operator shall not be required to provide service beyond the area in which it is providing video service as of January 1, 2007.

(q) (1) There is hereby adopted a state franchise fee payable as rent or a toll for the use of the public rights-of-way by holders of the state franchise issued pursuant to this division. The amount of the state franchise fee shall be 5 percent of gross revenues, as defined in subdivision (d) of Section 5860, or the percentage applied by the local entity to the gross revenue of the incumbent cable operator, whichever is less. If there is no incumbent cable operator or upon the expiration of the incumbent cable operator's franchise, the amount of the state franchise fee shall be 5 percent of gross revenues, as defined in subdivision (d) of Section 5860, unless the local entity adopts an ordinance setting the amount of the franchise fee at less than 5 percent.

(2) (A) The state franchise fee shall apply equally to all video service providers in the local entity's jurisdiction.

(B) Notwithstanding subparagraph (A), if the video service provider is leasing access to a network owned by a local entity, the local entity may set a franchise fee for access to the network different from the franchise fee charged to a video service provider for access to the rights-of-way to install its own network.

§ 5850. Duration of franchise; renewal

(a) A state-issued franchise shall only be valid for 10 years after the date of issuance, and the holder shall apply for a renewal of the state franchise for an additional 10-year period if it wishes to continue to provide video services in the area covered by the franchise after the expiration of the franchise.

(b) Except as provided in this section, the criteria and process described in Section 5840 shall apply to a renewal registration, and the commission shall not impose any additional or different criteria.

(c) Renewal of a state franchise shall be consistent with federal law and regulations.

(d) The commission shall not renew the franchise if the video service provider is in violation of any final nonappealable court order issued pursuant to this division.

§ 5860. State franchise fee; calculation and remittance to local jurisdiction; "gross revenue" defined; local entity examination of business records of state franchise holder; collection of franchise fees from subscribers

(a) The holder of a state franchise that offers video service within the jurisdiction of the local entity shall calculate and remit to the local entity a state franchise fee, adopted pursuant to subdivision (q) of Section 5840, as provided in this section. The obligation to remit the franchise fee to a local entity begins immediately upon provision of video service within that local entity's jurisdiction. However, the remittance shall not be due until the time of the first quarterly payment required under subdivision (h) that is at least 180 days after the provision of service began. The fee remitted to a city or city and county shall be based on gross revenues, as defined in subdivision (d), derived from the provision of video service within that jurisdiction. The fee remitted to a county shall be based on gross revenues earned within the unincorporated area of the county. No fee under this section shall become due unless the local entity provides documentation to the holder of the state franchise supporting the percentage paid by the incumbent cable operator serving the area within the local entity's jurisdiction. The fee shall be calculated as a percentage of the holder's gross revenues, as defined in subdivision (d). The fee remitted to the local entity pursuant to this section may be used by the local entity for any lawful purpose.

(b) The state franchise fee shall be a percentage of the holder's gross revenues, as defined in subdivision (d).

(c) No local entity or any other political subdivision of this state may demand any additional fees or charges or other remuneration of any kind from the holder of a state franchise based solely on its status as a provider of video or cable services other than as set forth in this division and may not demand the use of any other calculation method or definition of gross revenues. However, nothing in this section shall be construed to limit a local entity's ability to impose utility user taxes and other generally applicable taxes, fees, and charges under other applicable provisions of state law that are applied in a nondiscriminatory and competitively neutral manner.

(d) For purposes of this section, the term "gross revenues" means all revenue actually received by the holder of a state franchise, as determined in accordance with generally accepted accounting principles, that is derived from the operation of the holder's network to provide cable or video service within the jurisdiction of the local entity, including all of the following:

(1) All charges billed to subscribers for any and all cable service or video service provided by the holder of a state franchise, including all revenue related to programming provided to the subscriber, equipment rentals, late fees, and insufficient fund fees.

(2) Franchise fees imposed on the holder of a state franchise by this section that are passed through to, and paid by, the subscribers.

(3) Compensation received by the holder of a state franchise that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are paid to the holder of a state franchise as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to paragraph (4) of subdivision (e).

(4) A pro rata portion of all revenue derived by the holder of a state franchise or its affiliates pursuant to compensation arrangements for advertising derived from the operation of the holder's network to provide video service within the jurisdiction of the local entity, subject to paragraph (1) of subdivision (e). The allocation shall be based on the number of subscribers in the local entity divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(e) For purposes of this section, the term "gross revenue" set forth in subdivision (d) does not include any of the following:

(1) Amounts not actually received, even if billed, such as bad debt; refunds, rebates, or discounts to subscribers or other third parties; or revenue imputed from the provision of cable services or video services for free or at reduced rates to any person as required or allowed by law, including, but not limited to, the provision of these services to public institutions, public schools, governmental agencies, or employees except that forgone revenue chosen not to be received in exchange for trades, barters, services, or other items of value shall be included in gross revenue.

(2) Revenues received by any affiliate or any other person in exchange for supplying goods or services used by the holder of a state franchise to provide cable services or video services. However, revenue received by an affiliate of the holder from the affiliate's provision of cable or video service shall be included in gross revenue as follows:

(A) To the extent that treating the revenue as revenue of the affiliate, instead of revenue of the holder, would have the effect of evading the payment of fees that would otherwise be paid to the local entity.

(B) The revenue is not otherwise subject to fees to be paid to the local entity.

(3) Revenue derived from services classified as noncable services or nonvideo services under federal law, including, but not limited to, revenue derived from telecommunications services and information services, other than cable services or video services, and any other revenues attributed by the holder of a state franchise to noncable services or nonvideo services in accordance with Federal Communications Commission rules, regulations, standards, or orders.

(4) Revenue paid by subscribers to "home shopping" or similar networks directly from the sale of merchandise through any home shopping channel offered as part of the cable services or video services. However, commissions or other compensation paid to the holder of a state franchise by "home shopping" or similar networks for the promotion or exhibition of products or services shall be included in gross revenue.

(5) Revenue from the sale of cable services or video services for resale in which the reseller is required to collect a fee similar to the franchise fee from the reseller's subscribers.

(6) Amounts billed to, and collected from, subscribers to recover any tax, fee, or surcharge imposed by any governmental entity on the holder of a state franchise, including, but not limited to, sales and use taxes, gross receipts taxes, excise taxes, utility users taxes, public service taxes, communication taxes, and any other fee not imposed by this section.

(7) Revenue from the sale of capital assets or surplus equipment not used by the purchaser to receive cable services or video services from the seller of those assets or surplus equipment.

(8) Revenue from directory or Internet advertising revenue, including, but not limited to, yellow pages, white pages, banner advertisement, and electronic publishing.

(9) Revenue received as reimbursement by programmers of specific, identifiable marketing costs incurred by the holder of a state franchise for the introduction of new programming.

(10) Security deposits received from subscribers, excluding security deposits applied to the outstanding balance of a subscriber' s account and thereby taken into revenue.

(f) For the purposes of this section, in the case of a video service that may be bundled or integrated functionally with other services, capabilities, or applications, the state franchise fee shall be applied only to the gross revenue, as defined in subdivision (d), attributable to video service. Where the holder of a state franchise or any affiliate bundles, integrates, ties, or combines video services with nonvideo services creating a bundled package, so that subscribers pay a single fee for more than one class of service or receive a discount on video services, gross revenues shall be determined based on an equal allocation of the package discount, that is, the total price of the individual classes of service at advertised rates compared to the package price, among all classes of service comprising the package. The holder's offering a bundled package shall not be deemed a promotional activity. If the holder of a state franchise does not offer any component of the bundled package separately, the holder of a state franchise shall declare a stated retail value for each component based on reasonable comparable prices for the product or service for the purpose of determining franchise fees based on the package discount.

(g) For the purposes of determining gross revenue under this division, a video service provider shall use the same method of determining revenues under generally accepted accounting principals as that which the video service provider uses in determining revenues for the purpose of reporting to national and state regulatory agencies.

(h) The state franchise fee shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for that calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the state franchise fee. If the holder does not pay the franchise fee when due, the holder shall pay a late payment charge at a rate per year equal to the highest prime lending rate during the period of delinquency, plus 1 percent. If the holder has overpaid the franchise fee, it may deduct the overpayment from its next quarterly payment.

(i) Not more than once annually, a local entity may examine the business records of a holder of a state franchise to the extent reasonably necessary to ensure compensation in accordance with this section. The holder shall keep all business records reflecting any gross revenues, even if there is a change in ownership, for at least four years after those revenues are recognized by the holder on its books and records. If the examination discloses that the holder has underpaid franchise fees by more than 5 percent during the examination period, the holder shall pay all of the reasonable and actual costs of the examination. If the examination discloses that the holder has not underpaid franchise fees, the local entity shall pay all of the reasonable and actual costs of the examination. In every other instance, each party shall bear its own costs of the examination. Any claims by a local entity that compensation is not in accordance with subdivision (a), and any claims for refunds or other corrections to the remittance of the holder of a state franchise, shall be made within three years and 45 days of the end of the quarter for which compensation is remitted, or three years from the date of the remittance, whichever is later. Either a local entity or the holder may, in the event of a dispute concerning compensation under this section, bring an action in a court of competent jurisdiction.

(j) The holder of a state franchise may identify and collect the amount of the state franchise fee as a separate line item on the regular bill of each subscriber.

§ 5870. Public, educational, and government (PEG) channels; channel for state public affairs programming; payment for costs of PEG channel facilities; subscriber billing for fee recovery

(a) The holder of a state franchise shall designate a sufficient amount of capacity on its network to allow the provision of the same number of public, educational, and governmental access (PEG) channels, as are activated and provided by the incumbent cable operator that has simultaneously activated and provided the greatest number of PEG channels within the local entity under the terms of any franchise in effect in the local entity as of January 1, 2007. For the purposes of this section, a PEG channel is deemed activated if it is being utilized for PEG programming within the local entity's jurisdiction for at least eight hours per day. The holder shall have three months from the date the local entity requests the PEG channels to designate the capacity. However, the three-month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible, including any failure or delay of the incumbent cable operator to make adequate interconnection available, as required by this section.

(b) The PEG channels shall be for the exclusive use of the local entity or its designee to provide public, educational, and governmental channels. The PEG channels shall be used only for noncommercial purposes. However, advertising, underwriting, or sponsorship recognition may be carried on the channels for the purpose of funding PEG-related activities. The PEG channels shall all be carried on the basic service tier. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the basic service tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by federal law. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without the agreement of the local entity unless the change is required by federal law. Each channel shall be capable of carrying a National Television System Committee (NTSC) television signal.

(c) (1) If less than three PEG channels are activated and provided within the local entity as of January 1, 2007, a local entity whose jurisdiction lies within the authorized service area of the holder of a state franchise may initially request the holder to designate not more than a total of three PEG channels.

(2) The holder shall have three months from the date of the request to designate the capacity. However, the three-month period shall be tolled by any period during which the designation

or provision of PEG channel capacity is technically infeasible, including any failure or delay of the incumbent cable operator to make adequate interconnection available, as required by this section.

(d) (1) The holder shall provide an additional PEG channel when the nonduplicated locally produced video programming televised on a given channel exceeds 56 hours per week as measured on a quarterly basis. The additional channel shall not be used for any purpose other than to continue programming additional government, education, or public access television.

(2) For the purposes of this section, "locally produced video programming" means programming produced or provided by any local resident, the local entity, or any local public or private agency that provides services to residents of the franchise area; or any transmission of a meeting or proceeding of any local, state, or federal governmental entity.

(e) Any PEG channel provided pursuant to this section that is not utilized by the local entity for at least eight hours per day as measured on a quarterly basis may no longer be made available to the local entity, and may be programmed at the holder's discretion. At the time that the local entity can certify to the holder a schedule for at least eight hours of daily programming, the holder of the state franchise shall restore the channel or channels for the use of the local entity.

(f) The content to be provided over the PEG channel capacity provided pursuant to this section shall be the responsibility of the local entity or its designee receiving the benefit of that capacity, and the holder of a state franchise bears only the responsibility for the transmission of that content, subject to technological restraints.

(g) (1) The local entity shall ensure that all transmissions, content, or programming to be transmitted by a holder of a state franchise are provided or submitted in a manner or form that is compatible with the holder's network, if the local entity produces or maintains the PEG programming in that manner or form. If the local entity does not produce or maintain PEG programming in that manner or form, then the local entity may submit or provide PEG programming in a manner or form that is standard in the industry. The holder shall be responsible for any changes in the form of the transmission necessary to make it compatible with the technology or protocol utilized by the holder to deliver services. If the holder is required to change the form of the transmission, the local entity shall permit the holder to do so in a manner that is most economical to the holder.

(2) The provision of those transmissions, content, or programming to the holder of a state franchise shall constitute authorization for the holder to carry those transmissions, content, or programming.

The holder may carry the transmission, content, or programming outside of the local entity's jurisdiction if the holder agrees to pay the local entity or its designee any incremental licensing costs incurred by the local entity or its designee associated with that transmission. A local entity shall not enter into a licensing agreement that imposes higher proportional costs for transmission to subscribers outside the local entity's jurisdiction.

(3) The PEG signal shall be receivable by all subscribers, whether they receive digital or analog service, or a combination thereof, without the need for any equipment other than the equipment necessary to receive the lowest cost tier of service. The PEG access capacity

provided shall be of similar quality and functionality to that offered by commercial channels on the lowest cost tier of service unless the signal is provided to the holder at a lower quality or with less functionality.

(h) Where technically feasible, the holder of a state franchise and an incumbent cable operator shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection.

Holders of a state franchise and incumbent cable operators shall provide interconnection of the PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a holder of a state franchise and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the local entity may require the incumbent cable operator to allow the holder to interconnect its network with the incumbent's network at a technically feasible point on the holder's network as identified by the holder. If no technically feasible point for interconnection is available, the holder of a state franchise shall make an interconnection available to the channel originator and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by the holder requesting the interconnection unless otherwise agreed to by the parties.

(i) A holder of a state franchise shall not be required to interconnect for, or otherwise to transmit, PEG content that is branded with the logo, name, or other identifying marks of another cable operator or video service provider. For purposes of this section, PEG content is not branded if it includes only production credits or other similar information displayed at the conclusion of a program. The local entity may require a cable operator or video service provider to remove its logo, name, or other identifying marks from PEG content that is to be made available through interconnection to another provider of PEG capacity.

(j) In addition to any provision for the PEG channels required under subdivisions (a) to (i), inclusive, the holder shall reserve, designate, and, upon request, activate a channel for carriage of state public affairs programming administered by the state.

(k) All obligations to provide and support PEG channel facilities and institutional networks and to provide cable services to community buildings contained in a locally issued franchise existing on December 31, 2006, shall continue until the local franchise expires, until the term of the franchise would have expired if it had not been terminated pursuant to subdivision (o) of Section 5840, or until January 1, 2009, whichever is later.

(l) After January 1, 2007, and until the expiration of the incumbent cable operator's franchise, if the incumbent cable operator has existing unsatisfied obligations under the franchise to remit to the local entity any cash payments for the ongoing costs of public, educational, and government access channel facilities or institutional networks, the local entity shall divide those cash payments among all cable or video providers as provided in this section. The fee shall be the holder's pro rata per subscriber share of the cash payment required to be paid by the incumbent cable operator to the local entity for the costs of PEG channel facilities.

All video service providers and the incumbent cable operator shall be subject to the same requirements for recurring payments for the support of PEG channel facilities and institutional networks, whether expressed as a percentage of gross revenue or as an amount per subscriber, per month, or otherwise.

(m) In determining the fee described in subdivision (l) on a pro rata per subscriber basis, all cable and video service providers shall report, for the period in question, to the local entity the total number of subscribers served within the local entity's jurisdiction, which shall be treated as confidential by the local entity and shall be used only to derive the per subscriber fee required by this section. The local entity shall then determine the payment due from each provider based on a per subscriber basis for the period by multiplying the unsatisfied cash payments for the ongoing capital costs of PEG channel facilities by a ratio of the reported subscribers of each provider to the total subscribers within the local entity as of the end of the period. The local entity shall notify the respective providers, in writing, of the resulting pro rata amount. After the notice, any fees required by this section shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for the preceding calendar quarter, and may only be used by the local entity as authorized under federal law.

(n) A local entity may, by ordinance, establish a fee to support PEG channel facilities consistent with federal law that would become effective subsequent to the expiration of any fee imposed pursuant to subdivision (l). If no such fee exists, the local entity may establish the fee at any time. The fee shall not exceed 1 percent of the holder's gross revenues, as defined in Section 5860.

Notwithstanding this limitation, if, on December 31, 2006, a local entity is imposing a separate fee to support PEG channel facilities that is in excess of 1 percent, that entity may, by ordinance, establish a fee no greater than that separate fee, and in no event greater than 3 percent, to support PEG activities. The ordinance shall expire, and may be reauthorized, upon the expiration of the state franchise.

(o) The holder of a state franchise may recover the amount of any fee remitted to a local entity under this section by billing a recovery fee as a separate line item on the regular bill of each subscriber.

(p) A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this section or resolve any dispute regarding the requirements set forth in this section, and no provider may be barred from the provision of service or be required to terminate service as a result of that dispute or enforcement action.

§ 5880. Compliance with Emergency Alert System requirements

Holders of state franchises shall comply with the Emergency Alert System requirements of the Federal Communications Commission in order that emergency messages may be distributed over the holder's network. Any provision in a locally issued franchise authorizing local entities to provide local emergency notifications shall remain in effect, and shall apply to all holders of a state-issued franchise in the same local area, for the duration of the locally issued franchise, until the term of the franchise would have expired were the franchise not terminated pursuant to subdivision (o) of Section 5840, or until January 1, 2009, whichever is later.

§ 5885. Permits to install, construct, and maintain network with public rights-of-way

(a) The local entity shall allow the holder of a state franchise under this division to install, construct, and maintain a network within public rights-of-way under the same time, place, and manner as the provisions governing telephone corporations under applicable state and federal law, including, but not limited to, the provisions of Section 7901.1.

(b) Nothing in this division shall be construed to change existing law regarding the permitting process or compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for projects by a holder of a state franchise.

(c) (1) For purposes of this section, an "encroachment permit" means any permit issued by a local entity relating to construction or operation of facilities pursuant to this division.

(2) A local entity shall either approve or deny an application from a holder of a state franchise for an encroachment permit within 60 days of receiving a completed application. An application for an encroachment permit is complete when the applicant has complied with all statutory requirements, including the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(3) If the local entity denies an application for an encroachment permit, it shall, at the time of notifying the applicant of the denial, furnish to the applicant a detailed explanation of the reason for the denial.

(4) The local entity shall adopt regulations prescribing procedures for an applicant to appeal the denial of an encroachment permit application issued by a department of the local entity to the governing body of the local entity.

(5) Nothing in this section precludes an applicant and a local entity from mutually agreeing to an extension of any time limit provided by this section.

(d) A local entity may not enforce against the holder of a state franchise any rule, regulation, or ordinance that purports to allow the local entity to purchase or force the sale of a network.

§ 5890. Discrimination based on income prohibited; telephone service providers; complaint procedure; penalties

(a) A cable operator or video service provider that has been granted a state franchise under this division may not discriminate against or deny access to service to any group of potential residential subscribers because of the income of the residents in the local area in which the group resides.

(b) Holders or their affiliates with more than 1,000,000 telephone customers in California satisfy subdivision (a) if all of the following conditions are met:

(1) Within three years after it begins providing video service under this division, at least 25 percent of households with access to the holder's video service are low-income households.

(2) Within five years after it begins providing video service under this division and continuing thereafter, at least 30 percent of the households with access to the holder's video service are low-income households.

(3) Holders provide service to community centers in underserved areas, as determined by the holder, without charge, at a ratio of one community center for every 10,000 video subscribers. The holder shall not be required to take its facilities beyond the appropriate demarcation point outside the community center building or perform any inside wiring. The community center may not receive service from more than one state franchise holder at a time under this section.

For purposes of this section, "community center" means any facility operated by an organization that has qualified for the California Teleconnect Fund, as established in Section 280 and that will make the holder's service available to the community.

(c) Holders or their affiliates with fewer than 1,000,000 telephone customers in California satisfy this section if they offer video service to all customers within their telephone service area within a reasonable time, as determined by the commission. However, the commission shall not require the holder to offer video service if the cost to provide video service is substantially above the average cost of providing video service in that telephone service area.

(d) When a holder provides video service outside of its telephone service area, is not a telephone corporation, or offers video service in an area where no other video service is being offered, other than direct-to-home satellite service, there is a rebuttable presumption that discrimination in providing service has not occurred within those areas. The commission may review the holder's proposed video service area to ensure that the area is not drawn in a discriminatory manner.

(e) For holders or their affiliates with more than 1,000,000 telephone customers in California, either of the following shall apply:

(1) If the holder is predominantly deploying fiber optic facilities to the customer's premise, the holder shall provide access to its video service to a number of households at least equal to 25 percent of the customer households in the holder's telephone service area within two years after it begins providing video service under this division, and to a number at least equal to 40 percent of those households within five years.

(2) If the holder is not predominantly deploying fiber optic facilities to the customer's premises, the holder shall provide access to its video service to a number of households at least equal to 35 percent of the households in the holder's telephone service area within three years after it begins providing video service under this division, and to a number at least equal to 50 percent of these households within five years.

(3) A holder shall not be required to meet the 40-percent requirement in paragraph (1) or the 50-percent requirement in paragraph (2) until two years after at least 30 percent of the households with access to the holder's video service subscribe to it for six consecutive months.

(4) If 30 percent of the households with access to the holder's video service have not subscribed to the holder's video service for six consecutive months within three years after it begins providing video service, the holder may submit validating documentation to the commission. If the commission finds that the documentation validates the holder's claim, then the commission shall permit a delay in meeting the 40-percent requirement in paragraph

(1) or the 50-percent requirement in paragraph (2) until the time that the holder does provide service to 30 percent of the households for six consecutive months.

(f) (1) After two years of providing service under this division, the holder may apply to the state franchising authority for an extension to meet the requirements of subdivision (b), (c), or (e).

Notice of this application shall also be provided to the telephone customers of the holder, the Secretary of the Senate, and the Chief Clerk of the Assembly.

(2) Upon application, the franchising authority shall hold public hearings in the telephone service area of the applicant.

(3) In reviewing the failure to satisfy the obligations contained in subdivision (b), (c), or (e), the franchising authority shall consider factors that are beyond the control of the holder, including, but not limited to, the following:

(A) The ability of the holder to obtain access to rights-of-way under reasonable terms and conditions.

(B) The degree to which developments or buildings are not subject to competition because of existing exclusive arrangements.

(C) The degree to which developments or buildings are inaccessible using reasonable technical solutions under commercially reasonable terms and conditions.

(D) Natural disasters.

(4) The franchising authority may grant the extension only if the holder has made substantial and continuous effort to meet the requirements of subdivision (b), (c), or (e). If an extension is granted the franchising authority shall establish a new compliance deadline.

(g) Local governments may bring complaints to the state franchising authority that a holder is not offering video service as required by this section, or the state franchising authority may open an investigation on its own motion. The state franchising authority shall hold public hearings before issuing a decision. The commission may suspend or revoke the franchise if the holder fails to comply with the provisions of this division.

(h) If the state franchising authority finds that the holder is in violation of this section, it may, in addition to any other remedies provided by law, impose a fine not to exceed 1 percent of the holder' s total monthly gross revenue received from provision of video service in the state each month from the date of the decision until the date that compliance is achieved.

(i) If a court finds that the holder of the state franchise is in violation of this section, the court may immediately terminate the holder's state franchise, and the court shall, in addition to any other remedies provided by law, impose a fine not to exceed 1 percent of the holder's total gross revenue of its entire cable and service footprint in the state in the full calendar month immediately prior to the decision.

(j) As used in this section, the following definitions shall apply:

(1) "Access" means that the holder is capable of providing video service at the household address using any technology, other than direct-to-home satellite service, providing two-way broadband Internet capability and video programming, content, and functionality, regardless of whether any customer has ordered service or whether the owner or landlord or other responsible person has granted access to the household. If more than one technology is utilized, the technologies shall provide similar two-way broadband Internet accessibility and similar video programming.

(2) "Customer's household" means those residential households located within the holder's existing telephone service area that are customers of the service by which that telephone service area is defined.

(3) "Household" means, consistent with the United States Census Bureau, a house, an apartment, a mobilehome, a group of rooms, or a single room that is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

(4) "Low-income household" means those residential households located within the holder's existing telephone service area where the average annual household income is less than thirty-five thousand dollars ($35,000) based on the United States Census Bureau estimates adjusted annually to reflect rates of change and distribution through January 1, 2007.

(k) Nothing in this section shall be construed to require a holder to provide video service outside its wireline footprint or to match the existing service area of any cable operator.

§ 5900. Compliance with customer service and privacy standards; enforcement by local entity; penalties; notice; judicial review

(a) The holder of a state franchise shall comply with the provisions of Sections 53055, 53055.1, 53055.2, and 53088.2 of the Government Code, and any other customer service standards pertaining to the provision of video service established by federal law or regulation or adopted by subsequent enactment of the Legislature. All customer service and consumer protection standards under this section shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.

(b) The holder of a state franchise shall comply with provisions of Section 637.5 of the Penal Code and the privacy standards contained in Section 551 et seq. of Title 47 of the United States Code.

(c) The local entity shall enforce all of the customer service and protection standards of this section with respect to complaints received from residents within the local entity's jurisdiction, but it may not adopt or seek to enforce any additional or different customer service or other performance standards under Section 53055.3 or subdivision (q), (r), or (s) of Section 53088.2 of the Government Code, or any other authority or provision of law.

(d) The local entity shall, by ordinance or resolution, provide a schedule of penalties for any material breach by a holder of a state franchise of this section. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the holder. Further, no monetary penalties may be imposed prior to January 1, 2007. Any schedule of monetary penalties adopted pursuant to this section shall in no event exceed five hundred dollars ($500) for each day of each material breach, not to exceed one thousand five hundred dollars ($1,500) for each occurrence of a material breach. However, if a material breach of this section has occurred, and the local entity has provided notice and a fine or penalty has been assessed, and if a subsequent material breach of the same nature occurs within 12 months, the penalties may be increased by the local entity to a maximum of one thousand dollars ($1,000) for each day of each material breach, not to exceed three thousand dollars ($3,000) for each occurrence of the material breach. If a third or further material breach of the same nature occurs within those same 12 months, and the local entity has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of two thousand five hundred dollars ($2,500) for each day of each material breach, not to exceed seven thousand five hundred dollars ($7,500) for each occurrence of the material breach. With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar-for-dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed.

(e) The local entity shall give the video service provider written notice of any alleged material breach of the customer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified material breach.

(f) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day within the jurisdiction of each local entity, following the expiration of the period specified in subdivision (e), that any material breach has not been remedied by the video service provider, irrespective of the number of customers or subscribers affected.

(g) Any penalty assessed pursuant to this section shall be remitted to the local entity, which shall submit one-half of the penalty to the Digital Divide Account established in Section 280.5.

(h) Any interested person may seek judicial review of a decision of the local entity in a court of appropriate jurisdiction. For this purpose, a court of law shall conduct a de novo review of any issues presented.

(i) This section shall not preclude a party affected by this section from utilizing any judicial remedy available to that party without regard to this section. Actions taken by a local legislative body, including a local franchising entity, pursuant to this section shall not be binding upon a court of law. For this purpose, a court of law shall conduct de novo review of any issues presented.

(j) For purposes of this section, "material breach" means any substantial and repeated failure of a video service provider to comply with service quality and other standards specified in subdivision (a).

(k) The Division of Ratepayer Advocates shall have authority to advocate on behalf of video subscribers regarding renewal of a state-issued franchise and enforcement of this section, and Sections 5890 and 5950. For this purpose, the division shall have access to any information in the possession of the commission subject to all restrictions on disclosure of that information that are applicable to the commission.

§ 5910. Background checks; persons subject to background check

(a) The holder of a state franchise shall perform background checks of applicants for employment, according to current business practices.

(b) A background check equivalent to that performed by the holder shall also be conducted on all of the following:

(1) Persons hired by a holder under a personal service contract.

(2) Independent contractors and their employees.

(3) Vendors and their employees.

(c) Independent contractors and vendors shall certify that they have obtained the background checks required pursuant to subdivision (b), and shall make the background checks available to the holder upon request.

(d) Except as otherwise provided by contract, the holder of a state franchise shall not be responsible for administering the background checks and shall not assume the costs of the background checks of individuals who are not applicants for employment of the holder.

(e) (1) Subdivision (a) only applies to applicants for employment for positions that would allow the applicant to have direct contact with or access to the holder's network, central office, or subscriber premises, and perform activities that involve the installation, service, or repair of the holder's network or equipment.

(2) Subdivision (b) only applies to persons that have direct contact with or access to the holder's network, central office, or subscriber premises, and perform activities that involve the installation, service, or repair of the holder's network or equipment.

(f) This section does not apply to temporary workers performing emergency functions to restore the network of a holder to its normal state in the event of a natural disaster or an emergency that threatens or results in the loss of service.

§ 5920. Holder of state franchise employing more than 750 total employees; annual report to commission

(a) A holder of a state franchise employing more than 750 total employees in California shall annually report to the commission all of the following:

(1) The number of California residents employed by the holder, calculated on a full-time or full-time equivalent basis.

(2) The percentage of the holder's total domestic workforce, calculated on a full-time or full-time equivalent basis.

(3) The types and numbers of jobs by occupational classification held by residents of California employed by holders of state franchises and the average pay and benefits of those

jobs and, separately, the number of out-of-state residents employed by independent contractors, companies, and consultants hired by the holder, calculated on a full-time or full-time equivalent basis, when the holder is not contractually prohibited from disclosing the information to the public. This paragraph applies only to those employees of an independent contractor, company, or consultant that are personally providing services to the holder, and does not apply to employees of an independent contractor, company, or consultant not personally performing services for the holder.

(4) The number of net new positions proposed to be created directly by the holder of a state franchise during the upcoming year by occupational classifications and by category of full-time, part-time, temporary, and contract employees.

(b) The commission shall annually report the information required to be reported by holders of state franchises pursuant to subdivision (a), to the Assembly Committee on Utilities and Commerce and the Senate Committee on Energy, Utilities and Communications, or their successor committees, and within a reasonable time thereafter, shall make the information available to the public on its Internet Web site.

§ 5930. Existing franchises with local franchising entities

(a) Notwithstanding any other provision of this division, any video service provider that currently holds a franchise with a local franchising entity in a county that is a party, either alone or in conjunction with any other local franchising entity located in that county, to a stipulation and consent judgment executed by the parties thereto and approved by a federal district court shall neither be entitled to seek a state franchise in any area of that county, including any unincorporated area and any incorporated city of that county, nor abrogate any existing franchise before July 1, 2014. Prior to July 1, 2014, the video service provider shall continue to be exclusively governed by any existing franchise with a local franchising entity for the term of that franchise and any and all issues relating to renewal, transfer, or otherwise in relation to that franchise shall be resolved pursuant to that existing franchise and otherwise applicable federal and local law. This subdivision shall not be deemed to extend any existing franchise beyond its term.

(b) When an incumbent cable operator is providing service under an expired franchise or a franchise that expires before January 2, 2008, the local entity may extend that franchise on the same terms and conditions through January 2, 2008. A state franchise issued to any incumbent cable operator shall not become operative prior to January 2, 2008.

(c) When a video service provider that holds a state franchise provides the notice required pursuant to subdivision (n) of Section 5840 to a local entity, the local franchising entity may require all incumbent cable operators to seek a state franchise and shall terminate the franchise issued by the local franchising entity when the commission issues a state franchise for the video service provider that includes the entire service area served by the video service provider and the video service provider notifies the local entity that it will begin providing video service in that area under a state franchise.

§ 5940. Holder of state franchise who also provides telephone service; rate increase to finance cost of deploying network prohibited

The holder of a state franchise under this division who also provides stand-alone, residential, primary line, basic telephone service shall not increase this rate to finance the cost of deploying a network to provide video service.

§ 5950. Telephone corporations providing video service; rate increase prohibited; exemptions

The commission shall not permit a telephone corporation that is providing video service directly or through its affiliates pursuant to a state-issued franchise as an incumbent local exchange carrier to increase rates for residential, primary line, basic telephone service above the rate as of July 1, 2006, until January 1, 2009, unless that telephone corporation is regulated under rate of return regulation. However, the commission may allow rate increases to reflect increases in inflation as shown in the Consumer Price Index published by the Bureau of Labor Statistics. This section does not affect the authority of the commission to authorize an increase in rates for basic telephone service that is bundled with other services and priced as a bundle. Nothing in this section is intended to prohibit implementation of commission decision D. 06-04-071 to the extent it has not been implemented prior to July 1, 2006.

§ 5960. Holder of state franchise; annual report to commission; public disclosure

(a) For purposes of this section, "census tract" has the same meaning as used by the United States Census Bureau, and "household" has the same meaning as specified in Section 5890.

(b) Every holder, no later than April 1, 2008, and annually no later than April 1 thereafter, shall report to the commission on a census tract basis the following information:

(1) Broadband information:

(A) The number of households to which the holder makes broadband available in this state. If the holder does not maintain this information on a census tract basis in its normal course of business, the holder may reasonably approximate the number of households based on information it keeps in the normal course of business.

(B) The number of households that subscribe to broadband that the holder makes available in this state.

(C) Whether the broadband provided by the holder utilizes wireline-based facilities or another technology.

(2) Video information:

(A) If the holder is a telephone corporation:

(i) The number of households in the holder's telephone service area.

(ii) The number of households in the holder's telephone service area that are offered video service by the holder.

(B) If the holder is not a telephone corporation:

(i) The number of households in the holder's video service area.

(ii) The number of households in the holder's video service area that are offered video service by the holder.

(3) Low-income household information:

(i) The number of low-income households in the holder's video service area.

(ii) The number of low-income households in the holder's video service area that are offered video service by the holder.

(c) The commission, no later than July 1, 2008, and annually no later than July 1 thereafter, shall submit to the Governor and the Legislature a report that includes based on year-end data, on an aggregated basis, the information submitted by holders pursuant to subdivision (b).

(d) All information submitted to the commission and reported by the commission pursuant to this section shall be disclosed to the public only as provided for pursuant to Section 583. No individually identifiable customer or subscriber information shall be subject to public disclosure.

§ 5970. Transfer of state franchise to successor in interest

Subject to the requirements of this division, a state franchise may be transferred to any successor in interest of the holder to which the certificate originally is granted, whether this transfer is by merger, sale, assignment, bankruptcy, restructuring, or any other type of transaction, provided that the following conditions are met:

(a) The transferee submits to the commission all of the information required by this division of an applicant.

(b) The transferee agrees that any collective bargaining agreement entered into by a video service provider shall continue to be honored, paid, or performed to the same extent as would be required if the video service provider continued to operate under its franchise for the duration of that franchise unless the duration of that agreement is limited by its terms or by federal or state law.

COX

FYI

Don –
Council
Melissa
Greg

September 15, 2011

Mr. Bruce Channing
City of Laguna Hills
24035 El Toro Rd.
Laguna Hills, CA 92653

SUBJECT: Cox Communications Transition from Laguna Hills Video Franchise to a State Video Franchise

Dear Mr. Channing:

The purpose of my letter today is to give you some advance notice that Cox will be "opting in" to the state cable franchise in the next month. As you may be aware, Cox's operations in Orange County were recently consolidated with our system in the San Diego area so a number of steps are being taken to standardize the differences in the way the systems are structured. To this end you'll be receiving official notice of the change from the local franchise to the state franchise shortly.

Under the state franchise (and particularly since our local franchise with Laguna Hills won't expire until the stated date in the agreement,) a number of our commitments and obligations will be "grandfathered." Cox will continue to pay franchise fees to the City as usual, our awarding-winning customer service will continue, we will continue to support community initiatives, our support of Public, Educational, and Government programming and channels will continue, and we will continue to provide complimentary services to public buildings.

If you have additional questions or require additional information, please don't hesitate to contact me at 949-546-2405.

Sincerely,

CoxCom, LLC

Art Yoon
Director, Government Affairs

AY:

RECEIVED

SEP 22 2011

CITY OF LAGUNA HILLS

ORDINANCE NO. ______

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 4-16 OF TITLE 4 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO STATE VIDEO FRANCHISE HOLDERS.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4-16 of Title 4 of the Laguna Hills Municipal Code is hereby amended and restated in its entirety to read as follows:

Chapter 4-16 STATE VIDEO FRANCHISE HOLDERS

4-16.010 Purpose.
4-16.020 Applicable Definitions.
4-16.030 State Franchise Required.
4-16.040 Administration and Regulations.
4-16.050 Franchise Fee.
4-16.060 PEG Fee.
4-16.070 Payment of Fees; Examination of Business Records.
4-16.080 Customer Service Penalties Under State Video Franchises.
4-16.090 City Response to State Video Franchise Applications.
4-16.100 PEG Channel Capacity.
4-16.110 Emergency Alert System and Emergency Overrides.

4-16.010 Purpose.

A. This Chapter is designed to regulate video service providers holding state video franchises and operating within the City. As of January 1, 2007, the State of California has the sole authority to grant state video franchises pursuant to the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). Pursuant to DIVCA, the City of Laguna Hills may receive a franchise fee and may receive a fee for public, educational and governmental access facilities and equipment (defined in this Chapter as "PEG" or "PEG access channels") from all state video franchise holders operating within the City. Additionally, although DIVCA grants all authority to adopt customer service standards to the state, the City has the responsibility to establish and enforce penalties, consistent with state law, against all state video franchise holders operating within the City for violations of such customer service standards.

B. It is the purpose of this Chapter to implement within the City the provisions of DIVCA and the rules the California Public Utilities Commission promulgated thereunder that are applicable to a "local franchising entity" or a "local entity" as defined in DIVCA. Consistent with that purpose, the provisions of this Chapter are to be construed in a manner that is consistent with DIVCA and the applicable rules of the Commission promulgated thereunder.

4-16.020 Applicable Definitions.

Terms used in this Chapter shall have the same meaning as established in (1) DIVCA, and, if not defined therein, (2) Commission rules implementing DIVCA, and, if not defined therein, (3) Subchapter V-A of Chapter 5 of Title 47 of the United States Code, and, if not defined therein, (4) their common and ordinary meaning. References to governmental entities (whether persons or entities) shall refer to those entities or their successors in authority. If a specific provision of law referred to in this Chapter should be renumbered, then the reference shall be read to refer to the renumbered provision. References to any law shall be interpreted broadly to cover government actions, however nominated, including any law now in force or subsequently enacted or amended.

4-16.030 State Franchise Required.

A. Except as the City Council may authorize by resolution, no person may construct, operate, maintain or repair a cable system or video service provider's network in the City without first obtaining a state franchise therefor.

B. A state franchise shall not convey rights other than as specified in this Chapter or in DIVCA or other applicable law; no rights shall pass by implication.

C. Except as otherwise provided by DIVCA, a state franchise shall not include, or be a substitute for:

1. Compliance with generally applicable requirements for the privilege of transacting and carrying on a business within the City, including, but not limited to, compliance with the conditions that the City may establish before facilities may be constructed, or for providing non-video services;

2. Any permit or authorization, other than a state franchise, required in connection with operations on or in public rights-of-way or public property; and

3. Any permit, agreement or authorization for occupying any other property of the City or private persons to which access is not specifically granted by the state franchise.

D. Except as otherwise provided in DIVCA, a state franchise shall not relieve a franchisee of its duty to comply with all laws, including laws of the City, and every state franchisee shall comply with the same. The City reserves its rights to the lawful exercise of police and other powers the City now has or may later obtain.

E. The City reserves the right to construct, operate, maintain or repair its own cable system or video service provider network.

4-16.040 Administration and Regulations.

A. The City may from time to time adopt rules and regulations to implement the provisions of this Chapter consistent with DIVCA.

B. The City Manager, or his/her designee, is hereby authorized to administer this Chapter and to provide or cause to be provided any notices (including noncompliance notices) and to take any action on behalf of the City that may be required under this Chapter, DIVCA, or under applicable law.

C. The failure of the City, upon one or more occasions, to exercise a right or to require compliance or performance under this Chapter or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing or its exercise by the City is not permitted by DIVCA.

D. The City may designate one or more entities, including itself, to control and manage the use of PEG access channels, and any PEG facilities and equipment owned, controlled or used by the City or the designated entity or entities.

4-16.050 Franchise Fee.

A state video franchise holder operating in the City shall pay to the City a franchise fee that is equal to five percent (5%) of the gross revenues of that state video franchise holder. The term "gross revenues" shall be defined as set forth in Public Utilities Code Section 5860.

4-16.060 PEG Fee.

In addition to the franchise fee required pursuant to section 4-16.050, a state video franchise holder operating in the City shall pay to the City a fee that is equal to one percent (1%) of the gross revenues of that state video franchise holder which fee shall be used to support PEG channel facilities and equipment, provided that the City Council shall have first adopted a resolution requiring the payment thereof. The term "gross revenues" shall be defined as set forth in Public Utilities Code Section 5860.

4-16.070 Payment of Fees; Examination of Business Records.

A. The Franchise Fee and PEG Fee shall be remitted to the City on a quarterly basis within 45 days after the end of each quarter for that calendar year. Each payment shall be accompanied by a detailed summary explaining the basis for the calculation of the franchise fee and PEG fee.

B. If a state video franchise holder fails to pay the fees when due, or underpays the proper amounts due, the state video franchise holder shall pay a late payment charge at the annual interest rate equal to the highest prime lending rate during the period of delinquency, plus one percent (1%). If the state video franchise holder has overpaid the fees, it may deduct the overpayment from its next quarterly payment.

C. Not more than once annually, the City may examine the business records of a state video franchise holder to ensure compliance with all applicable statutes and regulations related to the computation and payment of franchise fees.

4-16.080 Customer Service Penalties Under State Video Franchises.

A. The holder of a state video franchise shall comply with California Government Code §§ 53055, 53055.1, 53055.2 and 53088.2; the FCC customer service and notice standards set forth in 47 C.F.R. §§ 76.309, 76.1602, 76.1603 and 76.1619; California Penal Code § 637.5; the privacy standards of 47 U.S.C. § 551; and all other applicable state and federal customer service and consumer protection standards pertaining to the provision of video service, including any such standards hereafter adopted. In case of a conflict, the stricter standard shall apply. All customer service and consumer protection standards under this section shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.

B. The City shall monitor state video franchise holder's compliance with state and federal customer service and protection standards. The City will provide to the state video franchise holder written notice of any material breaches of applicable customer service and protection standards, and will allow the state video franchise holder 30 days from receipt of the notice to remedy the specified material breach. Material breaches not remedied within the 30-day time period are subject to the following monetary penalties to be imposed by the City in accordance with state law:

1. For the first occurrence of a violation, a monetary penalty of $500 shall be imposed for each day the violation remains in effect, not to exceed $1500 for each violation.

2. For a second violation of the same nature within a 12-month period, a monetary penalty of $1000 shall be imposed for each day the violation remains in effect, not to exceed $3000 for each such violation.

3. For a third or further violation of the same nature within a 12-month period, a monetary penalty of $2500 shall be imposed for each day the violation remains in effect, not to exceed $7,500 for each such violation.

4. A state video franchise holder may appeal to the City Council, or a hearing officer as the City Council may appoint, a monetary penalty assessed by the City within 60 days after notice of the assessment. After relevant evidence and testimony as may be received, and staff reports as may be submitted, the City Council may uphold, vacate, or modify the monetary penalty consistent with the evidence presented. The decision of the City Council, or hearing officer, on the imposition of a monetary penalty shall be final.

4-16.090 City Response to State Video Franchise Applications.

A. Applicants for state video franchises within the boundaries of the City must concurrently provide to the City complete copies of any application or amendments to applications filed with the California Public Utilities Commission. One complete copy must be provided to the City Clerk.

B. The City may provide any appropriate comments to the California Public Utilities Commission regarding an application or an amendment to an application for a state video franchise.

4-16.100 PEG Channel Capacity.

A. A state video franchise holder shall designate sufficient capacity on its network to enable the carriage of at least three PEG access channels. PEG access channels shall be for the exclusive use of the City or its designees to provide public, educational, or governmental programming.

B. A state video franchise holder shall provide additional PEG channels when the standards set forth in Public Utilities Code Section 5870 are satisfied by the City or any entity designated by the City to be responsible for PEG access.

4-16.110 Emergency Alert System and Emergency Overrides.

A state video franchise holder must comply with the Emergency Alert System requirements of the Federal Communications Commission so that emergency messages may be distributed over its network.

SECTION 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED and ADOPTED this ____ day of ____________ 2012.

____
MELODY CARRUTH, MAYOR

ATTEST:

____
PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2012-x was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 28th day of February 2012, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 13th day of March 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

PEGGY J. JOHNS, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2012- , being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 4-16 OF TITLE 4 OF THE LAGUNA HILLS MUNICIPAL CODE PERTAINING TO STATE VIDEO FRANCHISE HOLDERS.

on the 2nd day of March 2012 was published in summary in the Register Newspaper and on the 23rd day of March 2012, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 29th day of February 2012, and the 14th day of March 2012, caused to be posted in summary in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
La Paz Center

PEGGY J. JOHNS, CITY CLERK
Laguna Hills, California