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**CITY COUNCIL  
REGULAR  
MEETING**



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**NOVEMBER 22, 2011  
7:00 PM**

**AGENDA**

**L. Allan Songstad, Jr., Mayor**

**Melody Carruth, Mayor Pro Tempore  
Randal Bressette, Council Member**

**Barbara Kogerman, Council Member  
Joel Lautenschleger, 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.

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 BRESSETTE**

**ROLL CALL OF CITY COUNCIL MEMBERS**

**1. PRESENTATIONS AND PROCLAMATIONS**

**1.1 RECOGNITION OF VERN JONES FOR HIS SERVICE TO THE CITY**

**RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING VERN JONES FOR HIS**

SERVICE TO THE CITY AS COMMUNITY DEVELOPMENT DIRECTOR, SEPTEMBER 5, 2000, THROUGH DECEMBER 2, 2011; AND THAT MAYOR SONGSTAD PRESENT A COPY OF THE RESOLUTION AND CITY PLAQUE TO VERN JONES, RECOGNIZING HIM FOR HIS SERVICE TO THE CITY.

1.2 APPOINTMENT AND OATH OF OFFICE FOR PROPOSED PARKS AND RECREATION COMMISSIONER FARID TABRIZY

RECOMMENDATION: THAT THE CITY COUNCIL APPOINT FARID TABRIZY, AS PARKS AND RECREATION COMMISSIONER TO COMPLETE THE REMAINING VACATED TERM OF OFFICE THROUGH JANUARY 31, 2013; THAT THE CITY CLERK ISSUE THE OATH OF OFFICE; AND, THAT MAYOR SONGSTAD PRESENT A FRAMED CERTIFICATE OF APPOINTMENT.

1.3 ORANGE COUNTY HUMAN RELATIONS COUNCIL ANNUAL REPORT

RECOMMENDATION: THAT THE CITY COUNCIL RECEIVE AN ORAL PRESENTATION FROM KEN INOUE, COMMISSIONER, ON THE ORANGE COUNTY HUMAN RELATIONS COUNCIL.

**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 LIAISON KYLIE WEST.

**3. MINUTES**

3.1 REGULAR MEETING, NOVEMBER 8, 2011

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE MINUTES OF THE NOVEMBER 8, 2011, 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 NOVEMBER 22, 2011

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER IN THE AMOUNT OF \$1,008,530.15.

- 4.3 NEIGHBORHOOD TREE PLANTING PROGRAM CONTRACT SERVICES

RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ISSUE A TASK ORDER TO WEST COAST ARBORISTS, INC., IN THE AMOUNT OF \$61,280 FOR THE NEIGHBORHOOD TREE PLANTING PROGRAM.

- 4.4 MEASURE M2 PROJECT P TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM GRANT APPLICATIONS

RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE STAFF TO SUBMIT TO OCTA PROJECT P TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECTS FOR PASEO DE VALENCIA, OSO PARKWAY, AND LAKE FOREST DRIVE AND ADOPT THE ATTACHED RESOLUTION ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING THE SUBMITTAL OF TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECTS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRANSPORTATION SIGNAL SYNCHRONIZATION PROGRAM.

- 4.5 PROGRESS PAYMENT NO. 1 FOR AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 1, IN THE NET AMOUNT OF \$54,665.46, TO HILLCREST CONTRACTING, INC., FOR THE AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164.

4.6      PROGRESS PAYMENT NO. 8 FOR LA PAZ ROAD WIDENING AT I-5  
IMPROVEMENT PROJECT, CIP NO. 159

RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 8, IN THE NET AMOUNT OF \$162,929.37, TO SEMA CONSTRUCTION, INC., FOR THE LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159.

**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, NOVEMBER 8, 2011

RECOMMENDATION: THAT THE PLANNING AGENCY APPROVE THE MINUTES OF THE NOVEMBER 8, 2011, REGULAR MEETING AS REFERENCED IN ITEM 3.1, BEGINNING ON PAGE 4.

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    EMPLOYEE REPRESENTATION BY LAGUNA HILLS CITY  
EMPLOYEES ASSOCIATION

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING LAGUNA HILLS CITY EMPLOYEES ASSOCIATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CITY'S FULL-TIME AND EXTENDED PART-TIME NON-MANAGEMENT AND NON-CONFIDENTIAL EMPLOYEES.

7.3 City Attorney

- 7.3.1 ORDINANCE OF THE CITY OF LAGUNA HILLS ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING CITY PARKS AND SPECIFIED PRIVATE COMMUNITY PARKS AS "CHILD SAFETY ZONES" WHERE REGISTERED SEX OFFENDERS ARE PROHIBITED FROM ENTERING WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF

RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING CITY PARKS AND SPECIFIED PRIVATE COMMUNITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF.

7.4 Community Development Director

- 7.4.1 CONSIDERATION OF A RESOLUTION DELEGATING THE AUTHORITY TO RENDER DETERMINATIONS OF PUBLIC CONVENIENCE OR NECESSITY FOR ALCOHOLIC BEVERAGE LICENSING TO THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING REVIEW PROCEDURES AND CRITERIA

RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DELEGATING THE AUTHORITY TO RENDER DETERMINATIONS OF PUBLIC CONVENIENCE OR NECESSITY FOR ALCOHOLIC BEVERAGE LICENSING TO THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING REVIEW PROCEDURES AND CRITERIA.

7.5 Deputy City Manager/Community Services

7.5.1 CONTINUATION OF THE COMMERCIAL FOOD WASTE  
DIVERSION PROGRAM

RECOMMENDATION: THAT THE CITY COUNCIL ACCEPT AND APPROVE CR&R'S PROPOSAL TO CONTINUE WITH THE COMMERCIAL FOOD WASTE PROGRAM AT THE EXISTING RATE FOR COMMERCIAL RECYCLING CART SERVICE FROM DECEMBER 1, 2011 THROUGH JUNE 30, 2012.

7.5.2 REQUEST TO UTILIZE THE CITY OF LAGUNA HILLS  
MEMORIAL DAY RACE FOR PROVIDING LONG-TERM  
FINANCIAL SUPPORT TO THE 3RD BATTALION, 5TH  
MARINES, 1ST DIVISION 501(C)(3) SUPPORT COMMITTEE

RECOMMENDATION: THAT THE CITY COUNCIL SELECT OPTION 1 REGARDING THE ESTABLISHMENT OF A METHODOLOGY FOR THE PROVISION OF PROVIDING FUTURE FINANCIAL ASSISTANCE TO COMMUNITY-BASED CHARITABLE ORGANIZATIONS / SERVICES.

**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 REAL PROPERTY NEGOTIATOR

Pursuant to Government Code Section 54956.8

Property: Assessor's Parcel Number 625-221-03

Agency Negotiator: Bruce Channing, City Manager and Don White, Assistant  
City Manager

Negotiating Parties: City of Laguna Hills and Ken Hocker, Vintage Real Estate  
LLP

Item Under Negotiation: Terms and Conditions of Sale

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 PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957(b)(1)

Public Employee Title: City Manager - Annual Performance Evaluation

**10.4 CONFERENCE WITH LABOR NEGOTIATOR**

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

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 December 13, 2011, 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 November 18, 2011, at 5:00 PM.



PEGGY J. JOHNS, CITY CLERK

November 18, 2011

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 CITY CLERK**

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**ISSUE:        RECOGNITION OF VERN JONES FOR HIS SERVICE TO THE CITY**

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**SUMMARY:**

Vern Jones was hired in the capacity of Community Development Director on September 5, 2000. After eleven years of service to the City of Laguna Hills, Vern has decided to retire effective December 2, 2011. A Resolution has been prepared officially recognizing Vern Jones for his service to the City.

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**RECOMMENDATION:    THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING VERN JONES FOR HIS SERVICE TO THE CITY AS COMMUNITY DEVELOPMENT DIRECTOR, SEPTEMBER 5, 2000, THROUGH DECEMBER 2, 2011; AND THAT MAYOR SONGSTAD PRESENT A COPY OF THE RESOLUTION AND CITY PLAQUE TO VERN JONES, RECOGNIZING HIM FOR HIS SERVICE TO THE CITY.**

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RESOLUTION NO. 2011-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING VERN JONES FOR HIS SERVICE TO THE CITY AS COMMUNITY DEVELOPMENT DIRECTOR, SEPTEMBER 5, 2000, THROUGH DECEMBER 2, 2011

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

WHEREAS, Vern Jones was hired on September 5, 2000, and has served with dedication and distinction as Community Development Director, and will continue to serve in that capacity until December 2, 2011; and

WHEREAS, Vern Jones has displayed outstanding leadership throughout his 11-year City of Laguna Hills career; and, prior to coming to Laguna Hills, served for twenty years in various Community Development and Economic Development capacities for the Cities of Rosemead, Cypress, and Orange, California; and,

WHEREAS, Vern Jones has overseen the Planning, Building, Code Enforcement, and Receptionist functions for the City of Laguna Hills and is the principal staff for the City's Planning Agency; and,

WHEREAS, Vern Jones has been a powerful influence in the growth and progress of the community as demonstrated by the successful update of the City's General Plan and the adoption of the Urban Village Specific Plan; and,

WHEREAS, Vern Jones' guidance, wisdom, and service have always been marked by exemplary dedication to the best interests of the City, he has worked constantly for the betterment of the City's economic development, and he will be missed by Council Members and staff alike.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, does hereby express sincere appreciation and thanks to Vern Jones for his distinguished service to the City of Laguna Hills, highly commend him for the manner in which he has carried out his duties as Community Development Director, and extend our best wishes for continued success and happiness in all his future endeavors.

PASSED, APPROVED, AND ADOPTED this 22nd day of November 2011.

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L. ALLAN SONGSTAD, JR., MAYOR

ATTEST:

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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.  
2011-   adopted by the City Council of the City of Laguna Hills, California, at a Regular  
Meeting thereof held on the 22nd day of November 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

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PEGGY J. JOHNS, CITY CLERK

# **CITY OF LAGUNA HILLS**

## **AGENDA REPORT CITY CLERK**

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**ISSUE:        APPOINTMENT AND OATH OF OFFICE FOR PROPOSED PARKS  
                 AND RECREATION COMMISSIONER FARID TABRIZY**

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### **SUMMARY:**

At the City Council Meeting of September 27, 2011, the City Council accepted the resignation of Carol Meyers, Parks and Recreation Commissioner, with an effective date of October 10, 2011. The City Clerk was directed to post and advertise the Special Notice of Vacancy. The Notice was advertised twice in the Saddleback Valley News, was posted at the Technology Branch Library and the City's three posting places. The close of the application period was Friday, November 4, 2011, at 5:00 PM. The City Clerk's office received one application for the vacancy.

The applicant lives in the City of Laguna Hills, is a registered voter, and qualifies for the position of Parks and Recreation Commissioner. Because only one qualified applicant applied for the single vacant position, the Adjourned Regular Meeting tentatively scheduled for November 16, 2011 was cancelled.

The City Council may recall that Mr. Tabrizy had submitted his application in December 2010, as part of the regular commission appointment process. Although Mr. Tabrizy was not selected at that time, the City Council had responded favorably to his application and interview.

It is in order to appoint Farid Tabrizy as Parks and Recreation Commissioner to serve the remaining vacated term through January 31, 2013.

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**RECOMMENDATION: THAT THE CITY COUNCIL APPOINT FARID TABRIZY, AS  
PARKS AND RECREATION COMMISSIONER TO COMPLETE THE REMAINING,  
VACATED TERM OF OFFICE THROUGH JANUARY 31, 2013; THAT THE CITY  
CLERK ISSUE THE OATH OF OFFICE; AND, THAT MAYOR SONGSTAD PRESENT  
A FRAMED CERTIFICATE OF APPOINTMENT.**

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# **CITY OF LAGUNA HILLS**

## **AGENDA REPORT CITY CLERK**

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**ISSUE:       ORANGE COUNTY HUMAN RELATIONS COUNCIL ANNUAL REPORT**

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### **SUMMARY:**

Ken Inouye, Commissioner with the Orange County Human Relations Council, will be present at the meeting to make a brief presentation and give the City Council Members the Human Relations Council's Annual Report. In the presentation, Mr. Inouye, will report on data collected by the Council specific to activities in the City of Laguna Hills, including hate crimes and incidents, mediations, and various programs.

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**RECOMMENDATION:    THAT THE CITY COUNCIL RECEIVE AN ORAL  
PRESENTATION FROM KEN INOUE, COMMISSIONER, ON THE ORANGE  
COUNTY HUMAN RELATIONS COUNCIL.**

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**CITY OF LAGUNA HILLS, CALIFORNIA  
CITY COUNCIL/PLANNING AGENCY REGULAR MEETING  
MINUTES  
NOVEMBER 08, 2011**

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**CALL TO ORDER**

Mayor Songstad 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:** Mayor Pro Tempore Carruth

**ROLL CALL OF CITY COUNCIL MEMBERS**

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

STAFF PRESENT: Bruce Channing, City Manager; Peggy Johns, City Clerk; Greg Simonian, City Attorney; Ken Rosenfield, Public Services Director/City Engineer; Vern Jones, Community Development Director; Steve Doan, Chief of Police Services; David Reynolds, Deputy City Manager; Roger James, Battalion Chief, Orange County Fire Authority; Dan Meehan, Community Services Superintendent; Sandi Mogan, Deputy City Clerk; and Arman Tarzi, Administrative Intern.

**1. PRESENTATIONS AND PROCLAMATIONS**

There were no Presentations and Proclamations.

**2. PUBLIC COMMENTS**

**BUILDING CONSTRUCTION**

Erwin Spitz, Laguna Hills, indicated he had concerns regarding the ongoing residential construction occurring at 27196 Lost Colt Drive.

**2.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON**

CITY COUNCIL RECEIVED AN ORAL REPORT FROM LAGUNA HILLS HIGH SCHOOL LIAISON KYLIE WEST.

### **3. MINUTES**

#### **3.1 REGULAR MEETING, OCTOBER 25, 2011**

**MOTION TO APPROVE THE MINUTES OF THE OCTOBER 25, 2011, REGULAR MEETING, BY M/MAYOR PRO TEMPORE CARRUTH, 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/MAYOR PRO TEMPORE CARRUTH, WITH COUNCIL MEMBER KOGERMAN REMOVING ITEM NO. 4.3.**

**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

WAIVED READING OF ORDINANCES AND RESOLUTIONS.

- 4.2 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED NOVEMBER 8, 2011

APPROVED THE WARRANT REGISTER IN THE AMOUNT OF \$324,601.14.

- 4.4 PROGRESS PAYMENT NO. 5, FINAL, FOR CITYWIDE WAYFINDING SIGN PROGRAM, CIP NO. 329

APPROVED PROGRESS PAYMENT NO. 5, FINAL, IN THE NET AMOUNT OF \$18,210.60, TO GREEN GIANT LANDSCAPE, INC., FOR THE CITYWIDE WAYFINDING SIGN PROGRAM, CIP NO. 329, AND AUTHORIZED THE FILING OF THE NOTICE OF COMPLETION AND SUBSEQUENT RELEASE OF RETENTION IN 35 DAYS, IF NO LIENS HAVE BEEN FILED.

#### 4.3 FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2011/12

Council Member Kogerman indicated she removed this item from the Consent Calendar to ask for a status report from staff on the City's finances.

**MOTION TO RECEIVE AND FILE THE FIRST QUARTER FINANCIAL AND TREASURER'S REPORT FOR FY 2011/2012, BY M/MAYOR PRO TEMPORE CARRUTH, S/COUNCIL MEMBER BRESSETTE.  
APPROVED BY A VOTE OF 5-0.**

Mayor Songstad took this item out of order on the Agenda.

#### 7.2 City Attorney

##### 7.2.1 PROPOSED DRAFT ORDINANCE OF THE CITY OF LAGUNA HILLS ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING PARKS AS "CHILD SAFETY ZONES" WHERE REGISTERED SEX OFFENDERS ARE PROHIBITED FROM ENTERING WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF

Tony Rackauckas, Orange County District Attorney, explained the need for the Child Safety Zone Ordinance, and answered questions from City Council.

Susan Schroeder, representative, from the Orange County District Attorney's office spoke on the Child Safety Zone Ordinance.

Ten residents spoke in favor of the Child Safety Zone Ordinance.

**FOLLOWING DISCUSSION AND DELIBERATION BY THE COUNCIL, MOTION TO DIRECT CITY ATTORNEY'S OFFICE TO PREPARE A LOCAL CHILD SAFETY ZONE ORDINANCE MODELED AFTER THE COUNTY CHILD SAFETY ZONE ORDINANCE, PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING ALL CITY PARKS AND SPECIFIED HOMEOWNER ASSOCIATION COMMUNITY PARKS WITHOUT WRITTEN AUTHORIZATION FROM THE ORANGE COUNTY SHERIFF; SUCH ORDINANCE IS TO BE PREPARED BASED ON THE DRAFT ORDINANCE OPTION 2, SUBJECT TO THE FOLLOWING REVISIONS: (1) MAKE THE PROHIBITION APPLICABLE TO ALL PENAL CODE SECTION 290 REGISTRANTS (NO LIMITATIONS); (2) IDENTIFY AND LIST ALL CITY PARKS, ALONG WITH CORRESPONDING MAPS; (3) IDENTIFY AND LIST ALL PRIVATE HOA PARKS AND RECREATIONAL AREAS, ALONG WITH CORRESPONDING MAPS, SUBJECT TO A FORMAL WRITTEN REQUEST FOR ENFORCEMENT THAT WILL ALLOW FOR AN HOA "OPT-IN/OPT-OUT" APPROACH; (4) OMIT PROPOSED WAIVER CRITERIA NO. 1 LISTED IN DRAFT ORDINANCE OPTION 2; AND (5) REVISE THE DRAFT ORDINANCE OPTION 2 RECITALS ACCORDINGLY, BY M/COUNCIL MEMBER KOGERMAN, S/MAYOR PRO TEMPORE CARRUTH.  
APPROVED BY A VOTE OF 5-0.**

## 5. PLANNING AGENCY

Mayor Songstad 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 9:40 PM.

### 5.1 ROLL CALL OF PLANNING AGENCY MEMBERS

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

### 5.2 PUBLIC COMMENTS

There were no Public Comments.

### 5.3 MINUTES

#### 5.3.1 REGULAR MEETING, OCTOBER 25, 2011

**MOTION TO APPROVE THE MINUTES OF THE OCTOBER 25, 2011, REGULAR MEETING AS REFERENCED IN ITEM 3.1, BEGINNING ON PAGE 4, BY M/AGENCY MEMBER BRESSETTE, S/VICE CHAIR CARRUTH. APPROVED BY A VOTE OF 5-0.**

### 5.4 ADMINISTRATIVE REPORTS

#### 5.4.1 CHANGED PLAN APPLICATION NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT

Chris Voss, Applicant, answered questions regarding the project and indicated that he had read and agreed to all of the Conditions of Approval.

**MOTION TO ADOPT RESOLUTION NO. PA2011-11-08-1, A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING CHANGED PLAN NO. 06-11-1985, A REQUEST BY AT&T TO EXPAND THE EXISTING WIRELESS COMMUNICATIONS FACILITY LOCATED AT 25131 COSTEAU STREET IN THE (NMU) NEIGHBORHOOD MIXED USE ZONING DISTRICT, BY/AGENCY MEMBER LAUTENSCHLEGER, S/AGENCY MEMBER BRESSETTE. APPROVED BY A VOTE OF 5-0.**

5.4.2 SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT

Dan Adams, Applicant, indicated that he had read and agreed to all of the Conditions of Approval.

**MOTION TO ADOPT RESOLUTION NO. PA2011-11-08-2, A RESOLUTION OF THE PLANNING AGENCY OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO. 10-11-2100, A REQUEST TO RENOVATE THE DMV BUILDING AND ADD A PARKING LOT CANOPY IN MOULTON PLAZA SHOPPING CENTER AT 23535 MOULTON PARKWAY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT, BY M/VICE CHAIR CARRUTH, S/CHAIR SONGSTAD. APPROVED BY A VOTE OF 5-0.**

5.5 PLANNING AGENCY PUBLIC HEARINGS

There were no Public Hearings.

**PLANNING AGENCY ADJOURNMENT**

Mayor Songstad reconvened the City Council meeting at 10:15 PM. All Council Members were present.

**6. CITY COUNCIL PUBLIC HEARINGS**

6.1 PUBLIC HEARING TO CONSIDER THE VACATION OF PUBLIC SERVICE EASEMENTS (SPECIFIED LANDSCAPE EASEMENTS COMMONLY KNOWN AS "TREE POCKETS") ALONG THE SOUTHWESTERLY SIDE OF PASEO DE VALENCIA BETWEEN ALICIA PARKWAY AND LA PAZ ROAD

Mayor Songstad opened the Public Hearing.

Martha Morrissey, Laguna Hills, spoke on the Vacation of Public Service Easements along Paseo De Valencia.

Mayor Songstad closed the Public Hearing.

**MOTION TO ADOPT RESOLUTION NO. 2011-11-08-1, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ORDERING THE VACATION AND ABANDONMENT OF PUBLIC SERVICE EASEMENTS CONSISTING OF SPECIFIED TREE POCKET LANDSCAPE EASEMENTS DEDICATED WITHIN TRACT MAP NOS. 9035 AND 9403, BY M/COUNCIL MEMBER LAUTENSCHLEGER, S/MAYOR PRO TEMPORE CARRUTH. APPROVED BY A VOTE OF 5-0.**

## **7. ADMINISTRATIVE REPORTS**

### **7.1 City Manager**

The City Manager made no reports.

### **7.3 Deputy City Manager/Community Services**

#### **7.3.1 2012 LAGUNA HILLS HALF MARATHON, 10K & 5K EVENT**

Mike Bland, Laguna Hills, spoke on the Laguna Hills Half Marathon 10K & 5K Event.

Rita Rembold, Laguna Hills, spoke on the Laguna Hills Half Marathon 10K & 5K Event.

**RECEIVED AND FILED THE REPORT AND DIRECTED STAFF TO RENAME THE RACE TO THE LAGUNA HILLS MEMORIAL HALF MARATHON 10K & 5K HONORING THE UNITED STATES MARINE CORPS DARK HORSE BATTALION, BY M/COUNCIL MEMBER BRESSETTE, S/COUNCIL MEMBER KOGERMAN. APPROVED BY A VOTE OF 5-0.**

**DIRECTED STAFF TO BRING BACK A REPORT TO THE NEXT CITY COUNCIL MEETING REGARDING OPTIONS FOR FUNDING DONATIONS TO THE 3/5 BATTALION, BY M/MAYOR PRO TEMPORE CARRUTH, S/COUNCIL MEMBER LAUTENSCHLEGER. APPROVED BY A VOTE OF 5-0.**

## **8. MATTERS AGENDIZED AND PRESENTED BY COUNCIL MEMBERS**

There were no matters agendized and presented by Council Members.

## **9. CITY COUNCIL MEMBER COMMENTS**

### **COUNCIL MEMBER LAUTENSCHLEGER**

Council Member Lautenschleger reported on his attendance at a recent meeting for the Southern California Association of Governments.

Council Member Lautenschleger spoke about the "buddy poppies" for Veterans Day.

## **10. CLOSED SESSION**

Mayor Songstad recessed the meeting into Closed Session at 11:33 PM.

**10.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

Pursuant to Government Code Section 54956.8

Property: Assessor's Parcel Number 625-221-03

Agency Negotiator: Bruce Channing, City Manager and Don White, Assistant City Manager

Negotiating Parties: City of Laguna Hills and Ken Hocker, Vintage Real Estate LLP.

Item Under Negotiation: Terms and Conditions of Sale

**10.2 PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957(b)(1)

Public Employee Title: City Manager - Annual Performance Evaluation

**10.3 CONFERENCE WITH LABOR NEGOTIATOR**

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

Mayor Songstad reconvened the meeting at 12:30 PM. All Council Members were present.

**11. CONSIDERATION OF COMPENSATION FOR CITY MANAGER**

There was no reportable action taken on this item.

**ADJOURNMENT**

There being no further business before the City Council at this session, Mayor Songstad declared the meeting adjourned at 12:31 PM.

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PEGGY J. JOHNS, CITY CLERK

ATTEST:

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L. ALLAN SONGSTAD, JR., MAYOR

APPROVED AT MEETING OF \_\_\_\_\_



**CITY OF LAGUNA HILLS**  
**AGENDA REPORT**  
**ADMINISTRATIVE SERVICES DEPARTMENT**

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**ISSUE:           APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED  
                  NOVEMBER 22, 2011.**

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**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

11-16-11  
DATE

**FISCAL IMPACT:**

The warrant register total is \$ 1,008,530.15

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**RECOMMENDATION: THAT THE CITY COUNCIL APPROVE THE WARRANT REGISTER  
IN THE AMOUNT OF \$ 1,008,530.15.**

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**ATTACHMENTS:**

1.     **Warrant Register**

CITY OF LAGUNA HILLS  
WARRANT REGISTER  
November 22, 2011

| VENDOR                          | DESCRIPTION                                                                       | CHECK<br>NO. | AMOUNT             |
|---------------------------------|-----------------------------------------------------------------------------------|--------------|--------------------|
| <b>PREPAID WARRANTS:</b>        |                                                                                   |              |                    |
| AT&T MOBILITY                   | Wireless Access, Oct '11                                                          | 8802322      | \$ 60.92           |
| BANK OF AMERICA                 | Departmental Operating Expenditures, Oct '11                                      | 8802323      | 11,789.05          |
| CYBERSOURCE CORPORATION         | eCommerce Payment Gateway Service, Online Permits, Community Development, Oct '11 | 8802332      | 29.00              |
| EL TORO WATER DISTRICT          | Water Usage, Parks, Sep '11                                                       | 8802336      | 14,016.58          |
| MOLLOY, JULIE                   | Mileage Reimbursement, Planning, Oct - Nov '11                                    | 8802351      | 54.57              |
| MOULDY, LLC                     | Refund, SDPA Fees, CR # 42829 and 43138                                           | 8802352      | 4,925.23           |
| MOULTON NIGUEL WATER DISTRICT   | Water Usage Parks and Community Center, Sep - Oct '11                             | 8802353      | 26,145.34          |
| OCCMA                           | Meeting Expense, Administrative Services, Dec '11                                 | 8802356      | 240.00             |
| REFUND, COMMUNITY SVCS PROGRAM  | E. Brown, V# 200225.002                                                           | 8802365      | 40.00              |
| REFUND, FACILITY RENTAL DEPOSIT | S. Verhelst, V# 2002133.002                                                       | 8802367      | 500.00             |
| REFUND, FACILITY RENTAL DEPOSIT | A. Lambaren, V# 2002212.002                                                       | 8802368      | 412.50             |
| REFUND, FACILITY RENTAL DEPOSIT | J. Frederick, V# 2002216.002                                                      | 8802369      | 500.00             |
| REFUND, VEHICLE CITATION        | R. Pisano, Citation # P0614547                                                    | 8802366      | 15.00              |
| SOUTHERN CALIFORNIA EDISON      | Electric Usage, Street Lights and Traffic Control, Oct '11                        | 8802373      | 10,840.25          |
| ULTRASIGNS                      | Refund, CPMA Fees, CR# 43060                                                      | 8802376      | 350.00             |
| VERIZON WIRELESS                | Communication Expense, Oct '11                                                    | 8802377      | 836.44             |
| WELLS FARGO FINANCIAL LEASING   | Lease - Copier, Community Center, Dec '11                                         | 8802378      | 571.60             |
| <b>Total Prepaid Warrants:</b>  |                                                                                   |              | <b>\$71,326.48</b> |

**REGULAR WARRANTS:**

|                                   |                                                        |         |           |
|-----------------------------------|--------------------------------------------------------|---------|-----------|
| A. C. LANDSCAPE, INC.             | Water Management Services, Irrigation Repairs, Oct '11 | 8802318 | \$ 795.00 |
| ACME BALLOON COMPANY              | Program Expense, Community Services, Dec '11           | 8802319 | 495.00    |
| ALL CITY MANAGEMENT, INC.         | Crossing Guard Services, 10/09/11 - 10/22/11           | 8802320 | 3,420.00  |
| AQUA CHILL OF MISSION VIEJO, INC. | Water Filtration Service, Community Center, Nov '11    | 8802321 | 81.89     |
| BEE MAN, THE                      | Bee Removal, Parks, Oct '11                            | 8802324 | 175.00    |
| C & A ATHLETICS                   | Program Supplies, Community Services, Oct '11          | 8802325 | 665.36    |

CITY OF LAGUNA HILLS  
WARRANT REGISTER  
November 22, 2011

| VENDOR                         | DESCRIPTION                                                                                    | CHECK<br>NO. | AMOUNT    |
|--------------------------------|------------------------------------------------------------------------------------------------|--------------|-----------|
| C&D ELECTRIC, INC.             | Lighting Repairs, Parks, Oct '11                                                               | 8802326      | 551.20    |
| CALIFORNIA OFFICE SYSTEMS      | Usage - Copier, City Hall, Oct '11                                                             | 8802327      | 169.37    |
| CARL WARREN & COMPANY          | Processing Fee, Small Claims, Jul - Oct '11                                                    | 8802328      | 545.95    |
| CERVANTES, EDWARD              | Contract Instructor Fee, Cooking Class Fall Session, Community Services                        | 8802329      | 252.00    |
| CODE PUBLISHING COMPANY, INC.  | Online Municipal Code, Web Hosting Fee, City Clerk, Nov '11 - Nov '12                          | 8802330      | 550.00    |
| COMPLETE OFFICE OF CALIFORNIA  | Office Supplies, Community Center, Oct - Nov '11                                               | 8802331      | 222.70    |
| DATA TICKET, INC.              | Parking Citation Processing Fee Sep '11 and Citation Handheld Equipment, Supplies and Software | 8802333      | 5,229.04  |
| DAVE COOPER TROPHIES           | Program Supplies, Community Services, Oct '11                                                  | 8802334      | 207.58    |
| DUNBAR ARMORED, INC.           | Courier Fee, Armored Transport, Nov '11                                                        | 8802335      | 352.23    |
| ESSEX REALTY MANAGEMENT, INC.  | Facility Management Services, Community Center, Oct '11                                        | 8802337      | 1,782.11  |
| FAUBEL PUBLIC AFFAIRS          | Professional Fees, Combined Issue, City Views/Community Services Winter 2011 Activity Guide    | 8802338      | 3,943.95  |
| GOVPARTNER                     | Hosting Fees, Request Partner, Nov '11                                                         | 8802339      | 500.00    |
| GRC ASSOCIATES, INC.           | Professional Fees, Aliso Meadows Rehabilitation Project, Oct '11                               | 8802340      | 1,437.50  |
| HARRINGTON GEOTECH ENGINEERING | Professional Fees, El Toro Rd @ Carola Street Improvements CIP # 164                           | 8802341      | 490.80    |
| HARTZOG & CRABILL, INC.        | Professional Fees, Traffic Engineering and Signal Operations, Sep '11                          | 8802342      | 8,273.43  |
| HILLCREST CONTRACTING          | Progress Payment #1, El Toro Rd @ Carola Street Improvements CIP # 164                         | 8802343      | 54,665.46 |
| HINDERLITER, DE LLAMAS & ASSOC | Professional Fees, Sales Tax Audit 4th Qtr '11 and Recovery Fee Qtr 2nd '11                    | 8802344      | 970.94    |
| ICMA                           | Membership, FY 2012                                                                            | 8802345      | 1,400.00  |
| JAMEY CLARK, INC.              | Miscellaneous Park Repairs, Janitorial Services and Graffiti Removal, Oct '11                  | 8802346      | 6,093.80  |
| K F STUDIOS                    | Event Promotional Services, 1/2 Marathon and 5K Event, Community Services, Oct '11             | 8802347      | 420.00    |
| LINDY OFFICE PRODUCTS          | Operating Supplies, Oct '11                                                                    | 8802350      | 41.87     |
| NATIONAL FLOOD INS PROGRAM     | Application Fee, Letter of Map Revision, Community Center                                      | 8802354      | 425.00    |
| NIEVES LANDSCAPE, INC.         | Monthly Landscape Services, Nov '11                                                            | 8802355      | 73,105.47 |
| OFFICE SOLUTIONS               | Office and Operating Supplies, Oct - Nov '11                                                   | 8802357      | 574.12    |
| ORANGE COUNTY FIRE AUTHORITY   | Remittance, Fire Fees Collected, Oct '11                                                       | 8802358      | 6,743.00  |
| ORANGE COUNTY REGISTER         | Subscription, City Hall, 11/18/11 - 02/17/12                                                   | 8802359      | 103.65    |
| ORANGE COUNTY REGISTER-FREEDOM | Legal Advertising, City Clerk, Oct '11                                                         | 8802360      | 679.45    |

CITY OF LAGUNA HILLS  
WARRANT REGISTER  
November 22, 2011

11/22/2011 ITEM NO. 4.2

| VENDOR                        | DESCRIPTION                                                                                | CHECK<br>NO. | AMOUNT          |
|-------------------------------|--------------------------------------------------------------------------------------------|--------------|-----------------|
| ORANGE COUNTY TREASURER       | Public Safety 800 MHZ Cost Allocation 2nd Qtr 11/12 and Communication Charge 1st Qtr 11/12 | 8802348      | 3,801.08        |
| ORANGE COUNTY TREASURER       | Law Enforcement Services, Nov '11                                                          | 8802349      | 545,032.08      |
| ORANGE COUNTY TREASURER       | Parking Fee Surcharge, Sep '11                                                             | 8802361      | 1,790.50        |
| PARSONS, BRINCKERHOFF, QUADE  | Professional Fees, Engineering, La Paz Widening @ I-5 CIP # 159                            | 8802362      | 10,004.24       |
| PLASTIC & METAL CENTER, INC.  | Operating Supplies, Police Services, Oct '11                                               | 8802363      | 220.89          |
| QUIKSILVER COURIER            | Delivery Expense, Nov '11                                                                  | 8802364      | 29.64           |
| SEMA CONSTRUCTION, INC.       | Progress Payment #8, La Paz Widening @ I-5 CIP # 159                                       | 8802370      | 162,929.38      |
| SOUTH COAST WATERS            | Facility Maintenance, Water Feature, Community Center, Nov '11                             | 8802371      | 475.00          |
| SOUTHERN CALIF MUN ATHLETIC   | Membership, Community Services                                                             | 8802372      | 70.00           |
| SUNSET PROPERTY SERVICES      | Street Sweeping, Oct '11                                                                   | 8802374      | 10,822.10       |
| TRAUMA INTERVENTION PROGRAMS  | Community Program, TIP, Oct - Dec '11                                                      | 8802375      | 910.32          |
| WEST COAST ARBORISTS, INC.    | Tree Inventory, Urban Reforestation, CIP # 320 and Tree Trimming, Oct '11                  | 8802379      | 17,606.00       |
| WOLFE ENGINEERING & DESIGN    | Professional Fees, Engineering, Jul '11                                                    | 8802380      | 8,000.00        |
| YALE CHASE MATERIALS HANDLING | Maintenance, Utility Cart, Community Center, Oct '11                                       | 8802381      | 149.57          |
| Total Regular Warrants:       |                                                                                            |              | \$ 937,203.67   |
| **WARRANT REGISTER TOTAL **   |                                                                                            |              | \$ 1,008,530.15 |

# **CITY OF LAGUNA HILLS**

## **AGENDA REPORT PUBLIC SERVICES DEPARTMENT**

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|               |                     |             |                 |                |                 |
|---------------|---------------------|-------------|-----------------|----------------|-----------------|
| <b>ISSUE:</b> | <b>NEIGHBORHOOD</b> | <b>TREE</b> | <b>PLANTING</b> | <b>PROGRAM</b> | <b>CONTRACT</b> |
|               | <b>SERVICES</b>     |             |                 |                |                 |

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### **SUMMARY:**

The Neighborhood Tree Planting Program is funded by a grant issued by the State of California Department of Forestry and Fire Protection. The Program has targeted the installation of six hundred new trees within a selected neighborhood and along a bike trail open space. Staff has conducted two public outreach efforts to the residential neighborhood and is now prepared to schedule the tree planting. West Coast Arborists, Inc. is the Citywide Tree Maintenance Services Contractor. Within the contract with West Coast Arborists, Inc., there are established rates of pay for tree planting, tree maintenance, and other related services. Staff requested that West Coast Arborists, Inc., prepare a proposal for the implementation of the Neighborhood Tree Planting Program for the installation of six hundred trees. Based upon their contract unit prices, West Coast Arborists, Inc., has provided a cost proposal which is less than the allocated budget in the grant for this work. The costs for the tree planting and site preparation is proposed at just under \$47,000 and the watering of the new trees over the course of one year has a projected cost of \$14,300 bringing the total proposed costs to \$61,280. It is recommended that the City Council authorize the City Manager to execute a Task Order with West Coast Arborists, Inc., to proceed with this work. It is anticipated that the tree plantings will occur during the month of December 2011.

### **BACKGROUND:**

In accordance with the grant awarded to the City by the State of California Department of Forestry and Fire Protection, staff has completed the initial canvassing of the target neighborhood for the tree planting, ordered the grant required signage, sought concurrence from residents for the acceptance of trees to be planted in parkways in front of each individual residence, and requested a proposal from our tree maintenance contractor, West Coast Arborists, Inc., for the installation of the six hundred trees covered by the grant.

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**RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ISSUE A TASK ORDER TO WEST COAST ARBORISTS, INC., IN THE AMOUNT OF \$61,280 FOR THE NEIGHBORHOOD TREE PLANTING PROGRAM.**

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The Neighborhood Tree Planting Program is segregated into two areas: one being the planting of five hundred traditional street trees in the neighborhood bounded by Alicia Parkway, Paseo de Valencia, La Paz Road, and Interstate 5; and the other being the bike trail open space area parallel to Alicia Parkway between Via Lomas Street and Moulton Parkway for the planting of one hundred trees. There are approximately seven hundred “tree vacancies” in the target neighborhood where trees could be planted. Staff sent out an initial mailing to the residents in the targeted neighborhood in late September informing them about the upcoming project. Subsequently, staff and West Coast Arborists, Inc., completed a property by property assessment of potential tree planting sites, one per each vacancy in front of a residential home and then sent a second letter to residents advising them of the type of tree that would be planted along the street on which their home is addressed.

A number of residents contacted staff in response to the initial public outreach letter to indicate that they did not desire to have a tree planted in front of their home. The second outreach letter to the residents has provided them with a postcard by which they can “opt out” of having a tree planted in front of their home. Staff is currently collecting the postcard responses. In addition to residential properties that have a vacancy in front of their home with an open parkway, there are many homes at which hardscape (concrete or bricks) have been installed by the current or former homeowner eliminating the opportunity to plant a tree. For those residents, a targeted letter was sent to them offering the installation of tree planting if the resident was willing to remove a sufficient amount of hardscape to allow for the tree planting and viable growth of the tree. Staff is also collecting postcard responses from those residents to determine which of them also want to “opt out” of tree planting or conversely, are willing to remove the hardscape in advance of the City’s tree planting effort.

On July 13, 2010, the City Council awarded a Tree Maintenance Contract to West Coast Arborists, Inc. The award of this contract was based upon a review of competitive selection processes of other agencies for tree maintenance services through which it was determined that West Coast Arborists, Inc., provided the lowest cost proposal for the work planned for the City of Laguna Hills. In preparation for the tree planting program, staff requested that West Coast Arborists, Inc., provide a proposal for the initial planting of six hundred trees and the weekly watering of the new trees over the course of one year. West Coast Arborists, Inc., provided a proposal which provided a cost for site preparation and tree planting in the total amount of \$46,980 as compared with a grant budget for the same work of \$50,500. In addition, the grant allocates \$11,000 for tree watering and West Coast Arborists, Inc., has provided a first year cost for this service at \$14,300. Taken together, the West Coast Arborists, Inc., proposal cost of \$61,280 is less than the grant budget for the same work of \$61,500. It is proposed that the City Council authorize the City Manager to execute a Task Order to West Coast Arborists, Inc., in the total amount of \$61,280 for the above

described work.

Staff has ordered the two required Neighborhood Tree Planting Program grant signs and will soon have them installed, one on Mackenzie Street and one along the Alicia Parkway Trail. It is anticipated that the tree planting will be performed during the month of December 2011, which will complete the first phase of the tree planting program work. The tree planting program grant includes funds for two-year maintenance of the newly planted trees which will occur at the appropriate time.

**FISCAL IMPACT:**

West Coast Arborists, Inc., has provided a proposal for the Neighborhood Tree Planting Program for the installation of six hundred 15-gallon trees and the watering of the trees for the first year of the program for the total cost of \$61,280, which is within the budget for the Neighborhood Tree Planting Program grant funds. The total \$100,000 project budget consists of the \$75,000 grant funds and \$25,000 City match.

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**RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ISSUE A TASK ORDER TO WEST COAST ARBORISTS, INC., IN THE AMOUNT OF \$61,280 FOR THE NEIGHBORHOOD TREE PLANTING PROGRAM.**

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# **CITY OF LAGUNA HILLS**

## **AGENDA REPORT PUBLIC SERVICES DEPARTMENT**

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**ISSUE: MEASURE M2 PROJECT P TRAFFIC SIGNAL SYNCHRONIZATION  
PROGRAM GRANT APPLICATIONS**

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### **SUMMARY:**

Measure M2, the half-cent sales tax fund for transportation projects, provides for "Project P" improvements related to Traffic Signal Synchronization Program projects. The Orange County Transportation Authority (OCTA) has issued a call for projects under Project P. Staff proposes to work with neighboring jurisdictions to submit project applications for the coordination of traffic signals along Paseo de Valencia, Oso Parkway, and Lake Forest Drive. The City of Mission Viejo is also submitting an application for traffic signal coordination of Los Alisos Boulevard and it is proposed that the City support that project. It is recommended that the City Council authorize staff to submit Project P applications to OCTA and adopt the required Resolution.

### **BACKGROUND:**

A program within the Measure M2 half-cent sales tax funding is for the traffic signal synchronization of over 2,000 traffic signals throughout Orange County. The City of Laguna Hills has recently participated in other Traffic Signal Synchronization Program projects through another funding source as administered by the OCTA involving coordination of La Paz Road, Alicia Parkway, Moulton Parkway, and El Toro Road. OCTA has now issued a call for projects for Traffic Signal Synchronization under Project P of the Measure M2 program with grant applications due on December 2, 2011.

The Traffic Signal Synchronization Program projects have been found to result in up to a 20% time savings for through traffic movements on the arterial highway being synchronized. These projects enhance the coordination of each of the traffic signals and can include, as needed, the update, replacement, or new installation of hardware necessary to enhance the operations. The OCTA Measure M2 Project P program is a cost effective way to enhance traffic signal responsiveness for traffic flowing in and through the City of Laguna Hills.

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**RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE STAFF TO SUBMIT TO OCTA PROJECT P TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECTS FOR PASEO DE VALENCIA, OSO PARKWAY, AND LAKE FOREST DRIVE AND ADOPT THE ATTACHED RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING THE SUBMITTAL OF TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECTS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRANSPORTATION SIGNAL SYNCHRONIZATION PROGRAM."**

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Staff has reviewed the status of the City's traffic signal system and has identified three corridors appropriate for submission for Project P grant applications to include the entire length of Paseo de Valencia, Oso Parkway, and Lake Forest Drive. The Paseo de Valencia project would be wholly within the City of Laguna Hills but supported by the City of Laguna Woods as a number of their intersections join Paseo de Valencia. The Oso Parkway project and the Lake Forest Drive project involve multiple other jurisdictions. For those projects, OCTA would be requested to be the lead agency in order to coordinate all work efforts. In addition, staff has been requested by the City of Mission Viejo to support a project that they are preparing for the traffic signal synchronization of Los Alisos Boulevard. In order to submit the grant applications, it is necessary for the City Council to adopt the attached Resolution. This Resolution covers the three projects being sponsored by the City of Laguna Hills and the one project being sponsored by the City of Mission Viejo.

**FISCAL IMPACT:**

The Traffic Signal Synchronization Program projects being proposed under Project P are included in the Fiscal Year 2014-2015 Capital Improvement Program budget in the amount of \$600,000. Depending upon the year of allocation of grant funds, there may need to be an adjustment to the Capital Improvement Program Budget schedule. The OCTA Measure M2 Project P grant funds cover 80% of the project costs. The City of Laguna Hills' preliminary estimates of the 20% share of project costs are: \$55,000 for the Paseo de Valencia Project; \$10,000 for the Lake Forest Drive Project; \$60,000 for the Oso Parkway Project; and \$25,000 for the Los Alisos Boulevard Project. Upon notification of award of Project P grants, staff will prepare a budget analysis of the project and propose adjustments as needed to the Capital Improvement Program Budget.

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**RECOMMENDATION: THAT THE CITY COUNCIL AUTHORIZE STAFF TO SUBMIT TO OCTA PROJECT P TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECTS FOR PASEO DE VALENCIA, OSO PARKWAY, AND LAKE FOREST DRIVE AND ADOPT THE ATTACHED RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING THE SUBMITTAL OF TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECTS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRANSPORTATION SIGNAL SYNCHRONIZATION PROGRAM."**

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**ATTACHMENTS:**

- Resolution

RESOLUTION NO. 2011-11-22-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, APPROVING THE SUBMITTAL OF TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM PROJECTS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRANSPORTATION SIGNAL SYNCHRONIZATION PROGRAM

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

WHEREAS, the Measure M2 Regional Traffic Signal Synchronization Program targets over 2,000 signalized intersections across Orange County to maintain traffic signal synchronization, improve traffic flow, and reduce congestion across jurisdictions; and

WHEREAS, the City of Laguna Hills has been declared by the Orange County Transportation Authority to meet the eligibility requirements to receive revenues as part of Measure M2; and

WHEREAS, the City of Laguna Hills has currently adopted a Local Signal Synchronization Plan consistent with the Regional Traffic Signal Synchronization Master Plan as a key component of local agencies' efforts to synchronizing traffic signals across local agencies' boundaries; and

WHEREAS, the City of Laguna Hills will provide matching funds for each project as required by the Comprehensive Transportation Funding Programs Procedures Manual; and

WHEREAS, the City of Laguna Hills will not use Measure M funds to supplant Developer Fees or other commitments; and

WHEREAS, the City of Laguna Hills desires to implement multi-jurisdictional signal synchronization program projects in partnership with adjacent agencies.

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

SECTION 1. The City Council of the City of Laguna Hills hereby requests the Orange County Transportation Authority allocate funds in the amounts specified in the City's application to said City from the Transportation Signal Synchronization Program. Said funds shall be matched by funds from said City as required and shall be used as supplemental funding to aid the City in signal synchronization along the following streets: Oso Parkway, Los Alisos Boulevard, Paseo de Valencia, and Lake Forest Drive.

PASSED, APPROVED, AND ADOPTED this 22<sup>nd</sup> day of November 2011.

\_\_\_\_\_  
L. ALLAN SONGSTAD, JR., 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. 2011-11-22- adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 22<sup>nd</sup> day of November 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

\_\_\_\_\_  
PEGGY J. JOHNS, CITY CLERK

# CITY OF LAGUNA HILLS

## AGENDA REPORT PUBLIC SERVICES DEPARTMENT

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**ISSUE:        PROGRESS PAYMENT NO. 1 FOR AVENIDA DE LA CARLOTA  
                  WIDENING PROJECT, CIP NO. 164**

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### **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 October included clearing and grubbing, traffic control, excavation, removal and replacement of access ramps, and a storm water pollution prevention plan. The contractor has submitted the first 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, Hillcrest Contracting, Inc., has submitted the first progress payment for the subject project as follows:

| ITEM # | DESCRIPTION             | QUANTITY | UNIT | \$          | AMOUNT      |
|--------|-------------------------|----------|------|-------------|-------------|
| 1      | Clearing & Grubbing     | .33      | LS   | \$47,000.00 | \$15,510.00 |
| 2      | Traffic Control         | .33      | LS   | \$ 7,500.00 | \$ 2,475.00 |
| 3      | SWPPP                   | .33      | LS   | \$ 1,680.00 | \$ 554.40   |
| 5      | Unclassified Excavation | 600      | CY   | \$ 63.00    | \$37,800.00 |
| 8      | R&R Access Ramp         | 5        | EA   | \$ 880.00   | \$ 4,400.00 |

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**RECOMMENDATION:    THAT THE CITY COUNCIL APPROVE PROGRESS  
PAYMENT NO. 1, IN THE NET AMOUNT OF \$54,665.46, TO HILLCREST  
CONTRACTING, INC., FOR THE AVENIDA DE LA CARLOTA WIDENING PROJECT,  
CIP NO. 164.**

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Agenda Report  
Progress Payment No. 1 for CIP No. 164  
Page 2

|                    |              |                     |
|--------------------|--------------|---------------------|
| Total To Date      | \$60,739.40  |                     |
| Less Prior Billing | <u>\$ --</u> |                     |
| Total This Period  | \$60,739.40  | \$60,739.40         |
| Less 10% Retention |              | <u>\$(6,073.94)</u> |
|                    |              | \$54,665.46         |

**FISCAL IMPACT:**

The progress payment is within the Capital Improvement Program Budget for the Avenida de la Carlota Widening Project, CIP No. 164.

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**RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 1, IN THE NET AMOUNT OF \$54,665.46, TO HILLCREST CONTRACTING, INC., FOR THE AVENIDA DE LA CARLOTA WIDENING PROJECT, CIP NO. 164.**

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# CITY OF LAGUNA HILLS

## AGENDA REPORT PUBLIC SERVICES DEPARTMENT

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**ISSUE:        PROGRESS PAYMENT NO. 8 FOR LA PAZ ROAD WIDENING AT I-5  
IMPROVEMENT PROJECT, CIP NO. 159**

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### **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 October included engineering, progress scheduling, site management, street sweeping, signage, traffic control, concrete removal and replacement, excavation, piping, steel reinforcement, asphalt concrete, signal and lighting, and mobilization. The contractor has submitted the eighth 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 eighth progress payment for the subject project as follows:

| ITEM # | DESCRIPTION            | QUANTITY | UNIT | \$           | AMOUNT       |
|--------|------------------------|----------|------|--------------|--------------|
| 1      | RE Office              | .05      | LS   | \$ 50,000.00 | \$ 2,500.00  |
| 2      | Progress Schedule      | .05      | LS   | \$ 3,000.00  | \$ 150.00    |
| 3      | Time Related Overhead  | 21       | WD   | \$ 2,000.00  | \$ 42,000.00 |
| 4      | Construction Site Mgmt | .05      | LS   | \$ 10,000.00 | \$ 500.00    |
| 11     | Street Sweeping        | .05      | LS   | \$ 25,000.00 | \$ 1,250.00  |
| 18     | Construction Signage   | .05      | LS   | \$ 40,400.00 | \$ 2,020.00  |
| 19     | Traffic Control System | .05      | LS   | \$ 55,700.00 | \$ 2,785.00  |
| 25     | Temp Signal/Lighting   | .05      | LS   | \$ 89,500.00 | \$ 4,475.00  |

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**RECOMMENDATION:    THAT THE CITY COUNCIL APPROVE PROGRESS  
PAYMENT NO. 8, IN THE NET AMOUNT OF \$162,929.37, TO SEMA  
CONSTRUCTION, INC., FOR THE LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT  
PROJECT, CIP NO. 159.**

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Agenda Report  
Progress Payment No. 8 for CIP No. 159  
Page 2

|                    |                              |        |    |                       |                      |
|--------------------|------------------------------|--------|----|-----------------------|----------------------|
| 26                 | Portable Message Signs       | .05    | LS | \$ 1,600.00           | \$ 80.00             |
| 29                 | Abandon Culvert              | 4      | LF | \$ 22.00              | \$ 88.00             |
| 42                 | Remove Concrete (Curb, etc.) | 4      | CY | \$ 66.00              | \$ 264.00            |
| 45                 | Roadway Excavation           | 1,000  | CY | \$ 6.73               | \$ 6,730.00          |
| 64                 | 12" Conduit                  | 14     | LF | \$ 36.00              | \$ 504.00            |
| 67                 | Class 2 Aggregate Base       | 4.46   | CY | \$ 35.00              | \$ 156.10            |
| 68                 | Hot Mix Asphalt              | 172.50 | TN | \$ 78.50              | \$ 13,541.25         |
| 73                 | Tieback Anchor               | 10     | EA | \$ 1,471.20           | \$ 14,712.00         |
| 83                 | Bar Reinforcing Steel (RW)   | 30,000 | LB | \$ 0.92               | \$ 27,600.00         |
| 84                 | Shotcrete                    | 50     | CY | \$ 274.25             | \$ 13,712.50         |
| 97                 | 24" Reinforced Conc Pipe     | 8      | LF | \$ 52.00              | \$ 416.00            |
| 101                | Class 1 PM                   | 38     | CY | \$ 67.00              | \$ 2,546.00          |
| 130                | Traffic Mgmt System          | .10    | LS | \$ 3,100.00           | \$ 310.00            |
| 131                | Signal & Lighting (1)        | .06    | LS | \$126,497.46          | \$ 7,589.85          |
| 134                | Ramp Metering System (2)     | .32    | LS | \$ 8,300.00           | \$ 2,656.00          |
| 135                | Ramp Metering System (3)     | .90    | LS | \$ 13,900.00          | \$ 12,510.00         |
| 136                | Lighting & Sign Illumination | .02    | LS | \$ 90,400.00          | \$ 1,808.00          |
| 139                | Mobilization                 | .05    | LS | \$402,578.80          | \$ 20,128.94         |
| Total To Date      |                              |        |    | \$1,510.445.39        |                      |
| Less Prior Billing |                              |        |    | <u>\$1,329,412.75</u> |                      |
| Total This Period  |                              |        |    | \$ 181,032.64         | \$181,032.64         |
| Less 10% Retention |                              |        |    |                       | <u>\$(18,103.27)</u> |
|                    |                              |        |    |                       | \$162,929.37         |

**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.

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**RECOMMENDATION: THAT THE CITY COUNCIL APPROVE PROGRESS PAYMENT NO. 8, IN THE NET AMOUNT OF \$162,929.37, TO SEMA CONSTRUCTION, INC., FOR THE LA PAZ ROAD WIDENING AT I-5 IMPROVEMENT PROJECT, CIP NO. 159.**

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# **CITY OF LAGUNA HILLS**

## **AGENDA REPORT ADMINISTRATIVE SERVICES DEPARTMENT**

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**ISSUE:       EMPLOYEE REPRESENTATION   BY   LAGUNA   HILLS   CITY  
                 EMPLOYEES ASSOCIATION**

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### **SUMMARY:**

All full-time and extended part-time non-management employees of the City of Laguna Hills ("City") have signed and submitted a petition to Assistant City Manager, Donald White, expressing their interest to be represented by an employee organization, City Employees Associates ("CEA"). Their representative, Robin Nahin, has met with Mr. White to discuss her perspective on the process. While the employees will be represented by this larger employee association in matters involving discipline and bargaining for compensation and benefits, they are forming a smaller subgroup called the Laguna Hills City Employees Association ("LHCEA"). They are seeking recognition by the City Council pursuant to Government Code Section 3507.1(c). Pursuant to this section of the Meyers-Milias-Brown Act ("MMBA"), the City Council must recognize the employee association as the bargaining representative for the reasons explained in more detail below. Staff, therefore, recommends that the City Council adopt the attached Resolution recognizing LHCEA as the exclusive bargaining representative for the City's full-time and extended part-time non-management and non-confidential employees.

### **BACKGROUND:**

The MMBA governs labor-management relationships within California local governments. Cities, along with counties and special districts, are covered by the law, which is set forth in Government Code Sections 3500-3510. The City's employees have not been previously represented by an employee organization. Based on their recent interest in forming such an organization, they have taken the first step in the certification process by filing a petition with City staff responsible for administration of employment

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**RECOMMENDATION:   THAT THE CITY COUNCIL ADOPT A RESOLUTION  
ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA  
HILLS, CALIFORNIA, RECOGNIZING LAGUNA HILLS CITY EMPLOYEES  
ASSOCIATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CITY'S FULL-  
TIME AND EXTENDED PART-TIME NON-MANAGEMENT AND NON-  
CONFIDENTIAL EMPLOYEES.**

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and labor issues. That petition should and does contain information pertaining to the employee organization, its bylaws, officers and purpose as well as information relating to the number and classifications of employees interested in being represented by the organization. All of the City's full-time and extended part-time non-management employees have signed the petition.

Once filed, the City Council must then adopt a Resolution recognizing LHCEA as the exclusive bargaining representative. (California Government Code Section 3507.1(c)) In the City's case, there is no need for an election because: (1) the employees have not been previously represented, and (2) there are no competing associations seeking to represent the City's employees.

Pursuant to Government Code Section 3507.5, a local agency can also adopt rules and regulations providing for designation of management and confidential employees of the public agency and restricting such employees from representing any employee organization which represents other employees of the public agency on matters within the scope of representation. The MMBA does not set forth which employees are considered confidential. However, typically, such employees include those who have access to non-public information relating to personnel matters. Therefore, those who administer benefits would likely not be considered "confidential", but those with access to confidential non-public information pertaining to such matters as decisions relating to discipline would be. Therefore, staff recommends that the position of "Administrative Assistant – City Manager" be removed from the bargaining unit. Other positions which will be excluded are management, temporary part-time and seasonal positions.

Once the City Council has recognized LHCEA by adopting the attached Resolution, City staff can begin drafting an Employer-Employee Relations Resolution which will set forth the City's rules and regulations for bargaining and other matters including unit modifications.

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**RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING LAGUNA HILLS CITY EMPLOYEES ASSOCIATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CITY'S FULL-TIME AND EXTENDED PART-TIME NON-MANAGEMENT AND NON-CONFIDENTIAL EMPLOYEES.**

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**ATTACHMENTS:**

- Resolution of Approval for Recognition of the Laguna Hills City Employees Association

RESOLUTION NO. 2011-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, RECOGNIZING LAGUNA HILLS CITY EMPLOYEES ASSOCIATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CITY'S FULL-TIME AND EXTENDED PART-TIME NON-MANAGEMENT AND NON-CONFIDENTIAL EMPLOYEES

WHEREAS, the City of Laguna Hills ("City") has received a petition signed by all non-management employees of the City seeking representation by the Laguna Hills City Employees Association ("LHCEA");

WHEREAS, LHCEA is a subgroup of a larger labor organization entitled City Employees Associates ("CEA"), which has as one of its primary purposes the representation of employees in their employment relations with the City;

WHEREAS, CEA has agreed to represent the non-management and non-confidential employees of the City as their exclusive representative;

WHEREAS, CEA's petition has met all of the requirements for such a petition to the satisfaction of the City staff; and

WHEREAS, pursuant to California Government Code Section 3507.1(c), a public agency is required to grant exclusive recognition to an employee organization based on a signed petition showing that a majority of the employees in an appropriate bargaining unit desire representation.

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

Section 1: The City Council recognizes LHCEA as the exclusive representative of all City full-time and extended part-time employees other than those designated as management or confidential. The management and confidential positions are as follows:

City Manager, Assistant City Manager, Deputy City Manager, Director of Public Services, Director of Community Development, City Clerk, and Administrative Assistant – City Manager.

Section 2: LHCEA shall have those rights set forth in the Meyers-Milias-Brown Act ("MMBA") as well as those which will be set forth in an Employer-Employee

Relations Resolution to be adopted at a future date by the City Council after consultation with LHCEA.

Section 3: Unless an agency shop agreement is reached pursuant to Government Code Section 3502.5, the City shall deduct dues only from those employees who select membership in LHCEA and who provide an authorization for such deductions to the Assistant City Manager.

PASSED, APPROVED, AND ADOPTED this 22nd day of November 2011.

\_\_\_\_\_  
L. ALLAN SONGSTAD, JR., 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. 2011- adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 22nd day of November 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

\_\_\_\_\_  
PEGGY J. JOHNS, CITY CLERK

# **CITY OF LAGUNA HILLS**

## **AGENDA REPORT CITY ATTORNEY DEPARTMENT**

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**ISSUE: ORDINANCE OF THE CITY OF LAGUNA HILLS ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE ESTABLISHING CITY PARKS AND SPECIFIED PRIVATE COMMUNITY PARKS AS "CHILD SAFETY ZONES" WHERE REGISTERED SEX OFFENDERS ARE PROHIBITED FROM ENTERING WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF**

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### **SUMMARY:**

On September 27, 2011, by a unanimous vote of the City Council, the Council directed that the city attorney's office research and prepare a report and prepare draft ordinance options for consideration and possible future adoption of a local child safety zone ordinance modeled after the County of Orange Child Safety Zone Ordinance, which operates to prohibit registered sex offenders from entering County parks without written permission from the Orange County Sheriff. The city attorney's office prepared the requested report along with two proposed draft ordinance options, which were presented for Council consideration during the November 8, 2011 City Council meeting.

Following discussion and deliberation by the Council on November 8<sup>th</sup>, by unanimous vote of the Council, the city attorney's office was directed to prepare a local Child Safety Zone Ordinance, modeled after the County Child Safety Zone Ordinance, prohibiting registered sex offenders from entering all City parks and specified private homeowner association community parks without written authorization from the Orange County Sheriff. A proposed child safety zone ordinance has been prepared, which is a revised version of the previously presented draft ordinance Option 2, based on the specific direction given by the Council on November 8<sup>th</sup>.

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**RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED: "AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING CITY PARKS AND SPECIFIED PRIVATE COMMUNITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF."**

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## **BACKGROUND:**

Sex offenders present a risk to public safety. California Penal Code sections 290 *et seq.*, require individuals convicted of certain crimes to register as sex offenders. The registration process is used to ensure that such offenders are readily available for police surveillance at all times because such offenders are deemed likely to commit similar offenses in the future.

On April 5, 2011, the Orange County Board of Supervisors unanimously voted to adopt a new County ordinance to create child safety zones ("County Child Safety Zone Ordinance") (O.C.C.O No. 03-18-1 to 6) to further protect children from registered sex offenders by restricting sex offenders' access to County parks, as defined, which are locations where children regularly gather. The County Child Safety Zone Ordinance was developed and proposed by Orange County District Attorney Tony Rackauckas and Supervisor Shawn Nelson (Fourth District) with the intent of reducing the risk of harm to children by making it a misdemeanor for registered sex offenders to enter County recreational areas where children regularly gather without written permission from the Orange County Sheriff. On April 19, 2011, the City received letters from Orange County District Attorney Tony Rackauckas and Orange County Supervisor Patricia Bates urging the City Council to enact a local law similar to the County Child Safety Zone Ordinance in an effort to protect children in local City parks from sexual predators.

On September 27, 2011, the City Council discussed the possible adoption of a "presence" ordinance substantially similar to the County Child Safety Zone Ordinance. The Council directed the city attorney's office to prepare a draft local child safety zone ordinance modeled after the County Child Safety Zone Ordinance and to return on November 8, 2011 with a report and proposed draft ordinance options for review and consideration. On October 26, 2011, District Attorney Tony Rackauckas sent a subsequent 11-page letter to the City encouraging the City of Laguna Hills to enact a local ordinance substantially similar to the County Child Safety Zone Ordinance to prohibit all registered sex offenders from entering City parks where children regularly gather without written permission from the Orange County Sheriff.

Following discussion and deliberation by the Council on November 8<sup>th</sup>, by unanimous vote of the Council, the city attorney's office was directed to prepare a local Child Safety Zone Ordinance, modeled after the County Child Safety Zone Ordinance, prohibiting registered sex offenders from entering all City parks and specified private homeowner association community parks and recreational areas without written authorization from the Orange County Sheriff. A proposed child safety zone ordinance has been prepared, which is a revised version of the previously presented draft ordinance Option 2, based on the specific direction given by the Council on November 8<sup>th</sup>.

## DISCUSSION:

The City of Laguna Hills is home to approximately 30,344 residents, with approximately 22.3% of the City's population under 18 years old.<sup>1</sup> The City attracts families with children because of the housing, schools, churches, recreational amenities, sports facilities, community parks, and family oriented environment within the City. Within the City, there are currently 15 City parks and 15 private homeowner association community parks and recreational areas, which are described and depicted collectively in **Attachments "A" and "B,"** respectively. Accordingly, these City parks and private homeowner association community parks and recreational areas have been identified as areas within the City where children and families regularly gather.

It is the purpose and intent of the proposed ordinance to protect children and families from registered sex offenders by restricting sex offenders' access to locations in the community where children regularly gather, such as all City parks and specified private homeowner association community parks and recreational areas.

### Proposed Child Safety Zone Ordinance

The proposed ordinance (**Attachment "C"**) is a modified version of the County Child Safety Zone Ordinance, which contains the following features:

- (1) Additional findings in support of locally adopting the ordinance;
- (2) Restricting the scope of the ordinance prohibition to apply to all registered sex offenders;
- (3) A provision requiring that any waiver request be date, time, and location specific;
- (4) A provision requiring the posting of park signage to give notice of the ordinance and its requirements;
- (5) An expansion of the prohibition to include not only all City parks, but also all private homeowner association community parks and recreational areas owned, operated, leased or maintained by a homeowners' association, where the homeowners' association has provided written notice to the City requesting enforcement of the ordinance on private common area property; and,
- (6) An additional provision inserting criteria for issuance of a waiver.

The penalties for violating the proposed ordinance are consistent with the County Child Safety Zone Ordinance by a fine not exceeding \$500 and/or imprisonment in a county jail for a period of not more than six months for the first violation; a minimum of ten days

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<sup>1</sup> Statistics based on 2010 Census Data.

in jail and not more than six months in jail, or by both imprisonment and a fine up to \$500 for a second violation; and a minimum of 90 days in jail and not more than six months in jail, or by both imprisonment and fine of up to \$500 dollars for a third or subsequent violation.

In addition, the proposed ordinance allows the Orange County Sheriff to grant date, time, and location specific written permission for individual registered sex offenders based, in part, on certain criteria incorporated into the ordinance itself. Reasons that *may* justify a request to enter into the parks under the ordinance include:

- (1) Accessing the Park for the purposes of exercising the rights of free speech or assembly;
- (2) Accessing the Park for purposes of lawful employment;
- (3) Accessing the Park for the purposes of voting in any local, state, or federal election; or
- (4) Accessing the Park for purposes of attending a religious service.

#### Notice to Penal Code Section 290 Sex Offender Registrants

If the City Council decides to adopt the proposed ordinance, it is recommended that Police Services staff be directed to notify all registered sex offenders residing in the City and issue a written notification to inform registrants of the newly adopted child safety zone ordinance.

#### Legality of Local Park Sex Offender Restrictions

As previously indicated, there is no clear and definitive judicial determination in California state or federal courts concerning the legality and validity of locally-imposed "presence" restrictions on the rights of registered sex offenders to enter into and/or upon City parks, nor with respect to broadening such prohibition to cover private homeowner association common area parks and recreational areas. The City Attorney is of the opinion that fair arguments can be made in support of such restrictions; however, no assurances can be provided that such arguments will be adopted by state and/or federal courts. Local sex offender park restrictions are an untested and undeveloped area of the law.

#### **ALTERNATIVES:**

1. Defer consideration of the adoption of a local child safety zone ordinance pending further review and monitoring of similar regulations in Orange County and elsewhere to evaluate the effectiveness of such regulations and any legal developments concerning their validity.

2. Defer consideration of the adoption of the proposed ordinance to allow City staff time to conduct public outreach with the various homeowner association boards to gauge their level of interest in broadening the prohibition to privately owned and maintained homeowner association common area parks.

3. Revise the proposed ordinance to limit the scope of the prohibition to all City parks consistent with the City's existing park and recreational facility use regulations and consistent with the County's Child Safety Zone Ordinance.

**FISCAL IMPACT:**

Other than City staff and city attorney time spent in researching and preparing the ordinance, there are no anticipated fiscal impacts associated with adopting the ordinance.

**CONCLUSION:**

The City Council should consider the alternatives provided herein and provide staff with any comments and/or direction, or proceed with approval, read by title only, and introduce the proposed child safety zone ordinance.

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**RECOMMENDATION: THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE ENTITLED: "AN ORDINANCE OF the CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING CITY PARKS AND SPECIFIED PRIVATE COMMUNITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF."**

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**ATTACHMENTS:**

- A. List of all City parks and private homeowner association common area community parks and recreational areas.
- B. Maps depicting all City parks and private homeowner association common area community parks and recreational areas.
- C. Proposed Child Safety Zone Ordinance.



# EXHIBIT A

| CITY PARKS                        |                     |                      |       |                            |       |     |               |                        |                        |         |
|-----------------------------------|---------------------|----------------------|-------|----------------------------|-------|-----|---------------|------------------------|------------------------|---------|
| Site Information                  |                     |                      |       |                            |       |     |               |                        |                        |         |
| Street Number                     | Street Name         | Street Suffix        | Zip   | Cross Street               | TRACT | LOT | APN           | RECORDED BOOK AND PAGE | COUNTY QUITCLAIM       | ACREAGE |
| 24701                             | Jorie               | Drive                | 92653 | Clarrington/Ashland        | 9881  | 2   | 620-461-05    | 413/42-47              | 19960529568 - 10/18/96 | 3.49    |
| 25000                             | Beckenham           | Street               | 92653 | Beckenham St/Wilkes Pl     | 7864  | 2   | 620-361-02    | 338/13-18              | 19960529568 - 10/18/96 | 2.75    |
| 25130                             | Stockport           | Street               | 92653 | Stockport St/Wilkes Pl     | 8103  | 60  | 620-261-01    | 325/40-43              | 19960529568 - 10/18/96 | 3.99    |
| 24821                             | Aliso Hills         | Drive                | 92653 | Mendocino Ct               | 9044  | 206 | 625-141-29    | 417/1-9                | 19960529568 - 10/18/96 | 3.93    |
| 25842                             | Aliso Hills Park    | Parkway              | 92653 | Aliso Hills Dr/Alicia Pkwy | 9044  | 207 | 625-162-01    | 417/1-9                | 19960529568 - 10/18/96 | 2.1     |
| 24742                             | Mandeville Park     | Avenue               | 92653 | Mandeville Dr.             | 11235 | 22  | 625-251-03    | 493/22-27              | 19960529568 - 10/18/96 | 3.34    |
| 25081                             | Velasquez           | Road                 | 92653 | Costeau Dr./Alicia Pkwy    | 7186  | 71  | 620-392-01/02 | 358/42-45              | 19960529568 - 10/18/96 | 3.67    |
| 25222                             | Mackenzie Park      | Street               | 92653 | Mackenzie St/Pike Rd       | 7080  | 39  | 620-202-34    | 282/10-12              | 19960529568 - 10/18/96 | 2.85    |
| 25772                             | Knotty Pine Park    | Knotty Pine Road     | 92653 | Knotty Pine/Mackenzie      | 8225  | 99  | 620-272-01    | 324/24-26              | 19960529568 - 10/18/96 | 3.85    |
| 25601                             | El Conejo Park      | El Conejo Lane       | 92653 | El Conejo Ln/Calero Av     | 9403  | 119 | 625-053-18    | 393/41-46              | 19960529568 - 10/18/96 | 2       |
| 23612                             | San Remo Park       | San Remo Drive       | 92653 | San Remo Dr/Taranto        | 7311  | 222 | 616-252-01    | 280/39-43              | 19980127953 - 03/06/98 | 1.6     |
| 22181                             | Santa Vittoria Park | Santa Maria Avenue   | 92653 | Marsala/Barbera            | 7371  | 247 | 616-281-32    | 284/26-35              | 19980127953 - 03/06/98 | 2.87    |
| 22330                             | Veesh Ranch Park    | Santa Vittoria Drive | 92653 | Santa Vittoria Dr.         | 8333  | 6   | 588-071-04    | 342/12-18              | 19980127953 - 03/06/98 | 11      |
| 27355                             | Cabot Park          | Cabot Road           | 92653 | Cabot Rd/Rapid Falls Rd    | 9293  | 195 | 636-081-01    | 460/18-31              | 19960529568 - 10/18/96 | 8.6     |
| Community Center & Sports Complex |                     |                      |       |                            |       |     |               |                        |                        |         |
| 25555                             | Alicia              | Parkway              | 92653 | Alicia/Paseo DE Valencia   |       |     | 625-021-21    |                        | 19960529568 - 10/18/96 | 30.6    |

| HOA PARKS     |                            |                          |       |                                  |       |     |            |                        |                  |         |
|---------------|----------------------------|--------------------------|-------|----------------------------------|-------|-----|------------|------------------------|------------------|---------|
| Street Number | Street Name                | Street Suffix            | Zip   | Cross Street                     | TRACT | LOT | APN        | RECORDED BOOK AND PAGE | COUNTY QUITCLAIM | ACREAGE |
| 26682         | Dapple Grey                | Drive                    | 92653 | La Paz Rd/Moulton Pkwy           | 11557 | 2   | 634-221-02 | 584/37-41              |                  | 5.25    |
|               |                            |                          | 92653 | Dapple Grey Dr/Nellie Gail Rd    | 9295  | 210 | 627-221-01 | 419/29-44              |                  | 3.47    |
|               |                            |                          | 92653 | Via Lomas mid block              | 10885 | 4   | 625-212-05 | 479/21-25              |                  | 1       |
| 25542         | Gallup                     | Circle                   | 92653 | Gallup Cir/Nellie Gail Rd        | 9296  | 273 | 627-521-01 | 466/5-18               |                  | 5.17    |
| 27251         | Hidden Trail               | Road                     | 92653 | Hidden Trail/Stageline Dr        | 12550 | 50  | 636-341-45 | 566/38-42              |                  | 2.44    |
| 24732         | Nellie Gail                | Road                     | 92653 | Ridge Route/Santa Vittoria Dr    | 8333  | 7   | 588-042-15 | 342/12-18              |                  | 4.57    |
|               |                            |                          | 92653 | Nellie Gail Rd/Lost Colt Dr      | 9292  | 143 | 627-032-01 | 384/38-50              |                  | 2.77    |
|               |                            |                          | 92653 | Bridlewood Dr/Meadow Crest Dr    | 9863  | 2   | 627-592-20 | 642/11-16              |                  | 8.22    |
| 25202         | Nellie Gail                | Road                     | 92653 | Empty Saddle Dr/Nellie Gail Rd   | 9292  | 1   | 627-071-05 | 384/38-50              |                  | 20.11   |
|               | Sheep Hills <sup>6</sup>   | Quail Creek <sup>7</sup> | 92653 | Laguna Hills Dr/Moulton Pkwy     | 11493 | 2   | 625-281-03 | 502/24-25              |                  | 8       |
|               |                            |                          | 92653 | La Paz Rd/-73 off ramp           | 9945  | 1*  | 937-89-001 | 463/38-39              |                  | 2       |
|               |                            |                          | 92653 | Bridlewood Dr/Laurel Crest Dr    | 9863  | 1*  | 937-89-368 | 642/11-16              |                  | 0.5     |
| 26451         | La Traviata                | Road                     | 92653 | Alicia Pkwy/Laguna Ct            | 12091 | 4   | 634-131-17 | 526/25-28              |                  | 2       |
| 25014         | Sunset                     | Place                    | 92653 | Sunset Place west/east           | 8855  | 69  | 620-343-21 | 389/12-14              |                  | 0.5     |
|               | Aliso Meadows <sup>3</sup> |                          | 92653 | Via Lomas adjacent to bike trail | 10885 | 2*  | 625-211-04 | 479/21-25              |                  | 1       |

## LEGEND

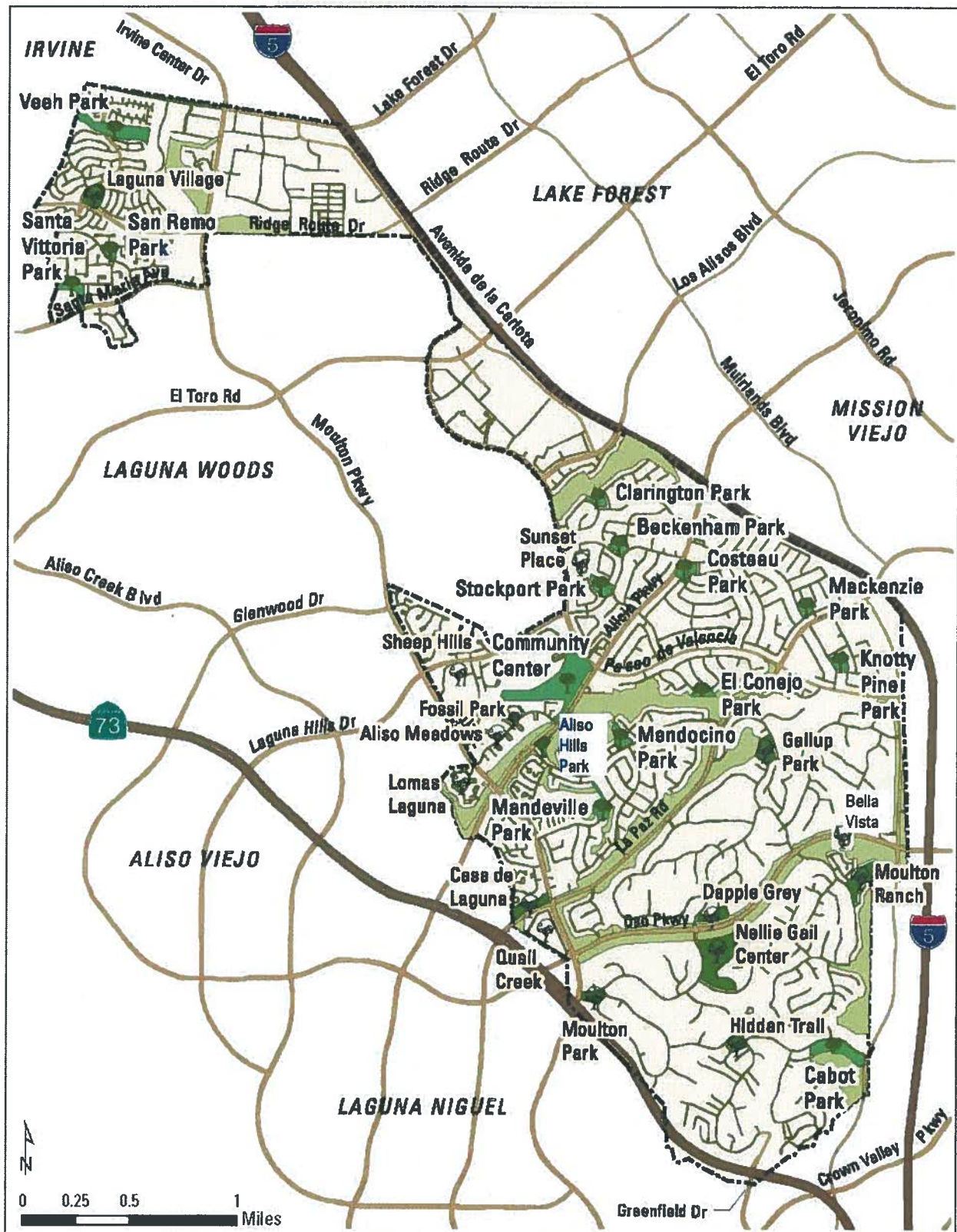
\* Recreation facility is a part of HOA common area and not a separate designated lot.

- <sup>1</sup> Briosa HOA
- <sup>2</sup> Nellie Gail Ranch HOA
- <sup>3</sup> Aliso Meadows HOA
- <sup>4</sup> Laguna Village HOA
- <sup>5</sup> Moulton Ranch HOA
- <sup>6</sup> Aliso Viejo Community Association
- <sup>7</sup> Quail Creek HOA
- <sup>8</sup> Bella Vista HOA
- <sup>9</sup> Lomas Laguna HOA
- <sup>10</sup> Sunset Place HOA



# EXHIBIT B

CITY OF LAGUNA HILLS GENERAL PLAN | CONSERVATION AND OPEN SPACE



- Park
- Private Park
- Open Space
- City Boundary
- Local Streets
- Major Streets
- Freeway/ Toll Road

Source: EDAW, 2008.

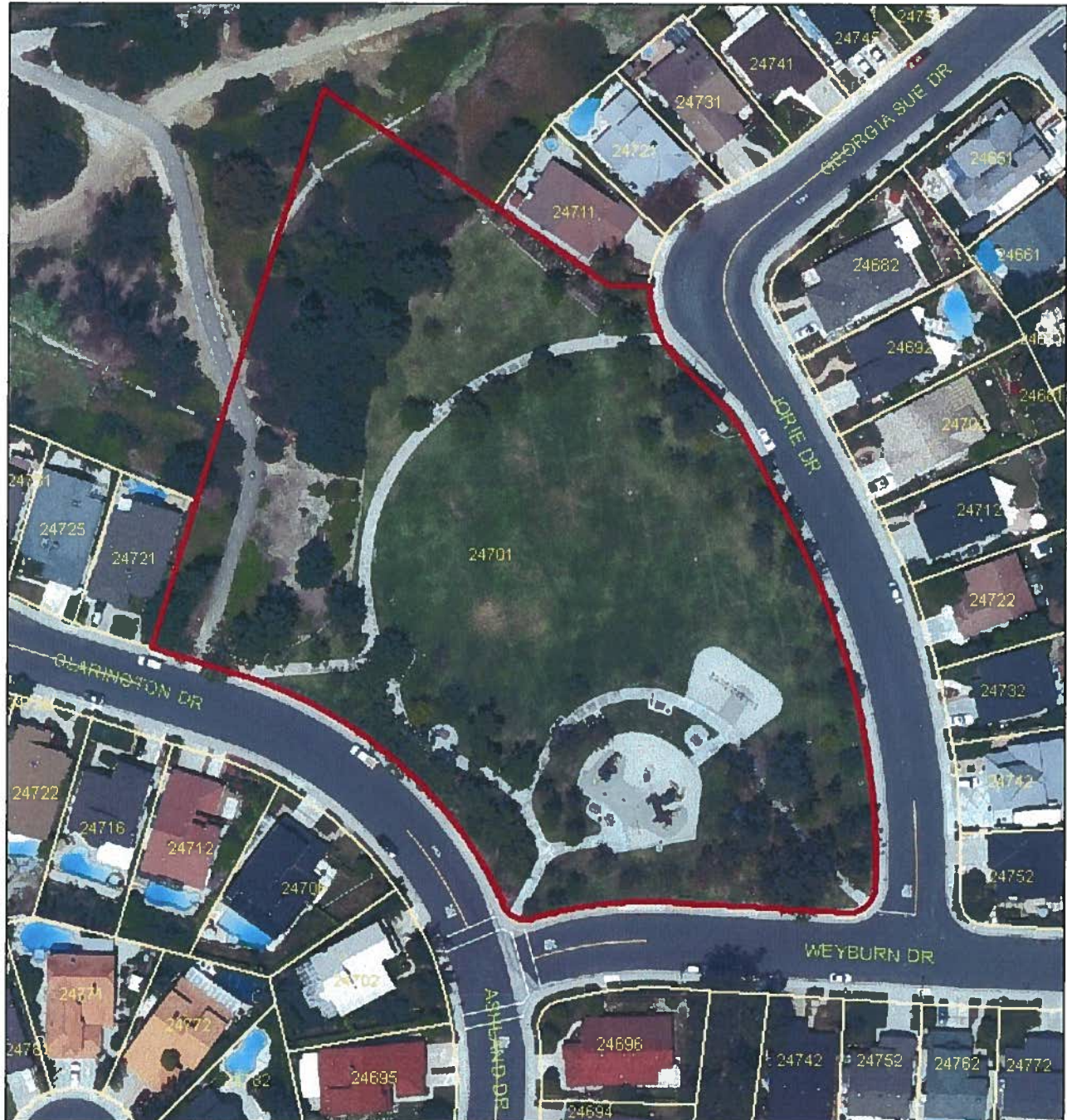
Figure COS - 1  
Open Space and Parklands





# City of Laguna Hills

## CLARINGTON PARK



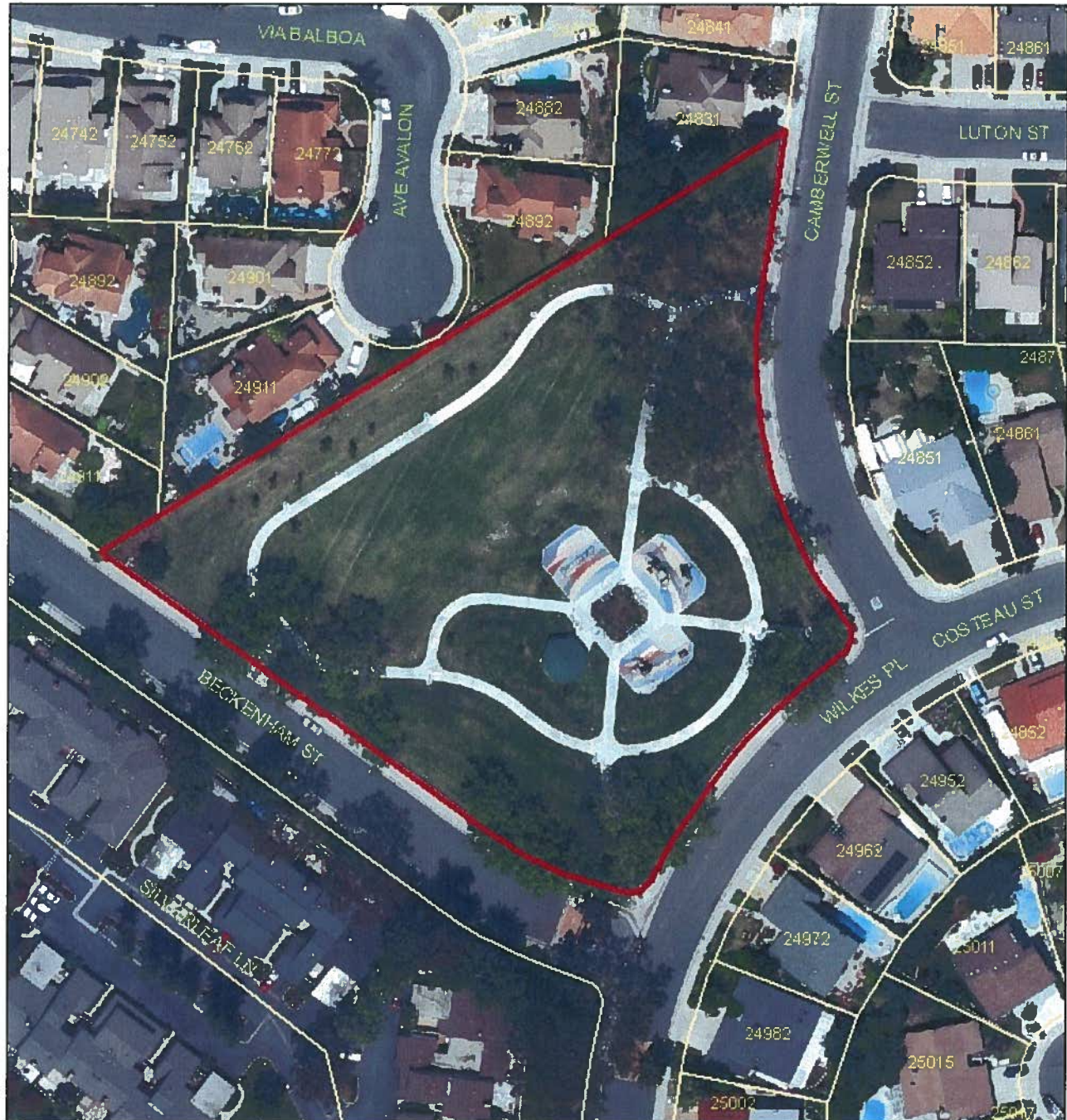
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Date Created: 11/16/2011



# City of Laguna Hills

## BECKENHAM PARK



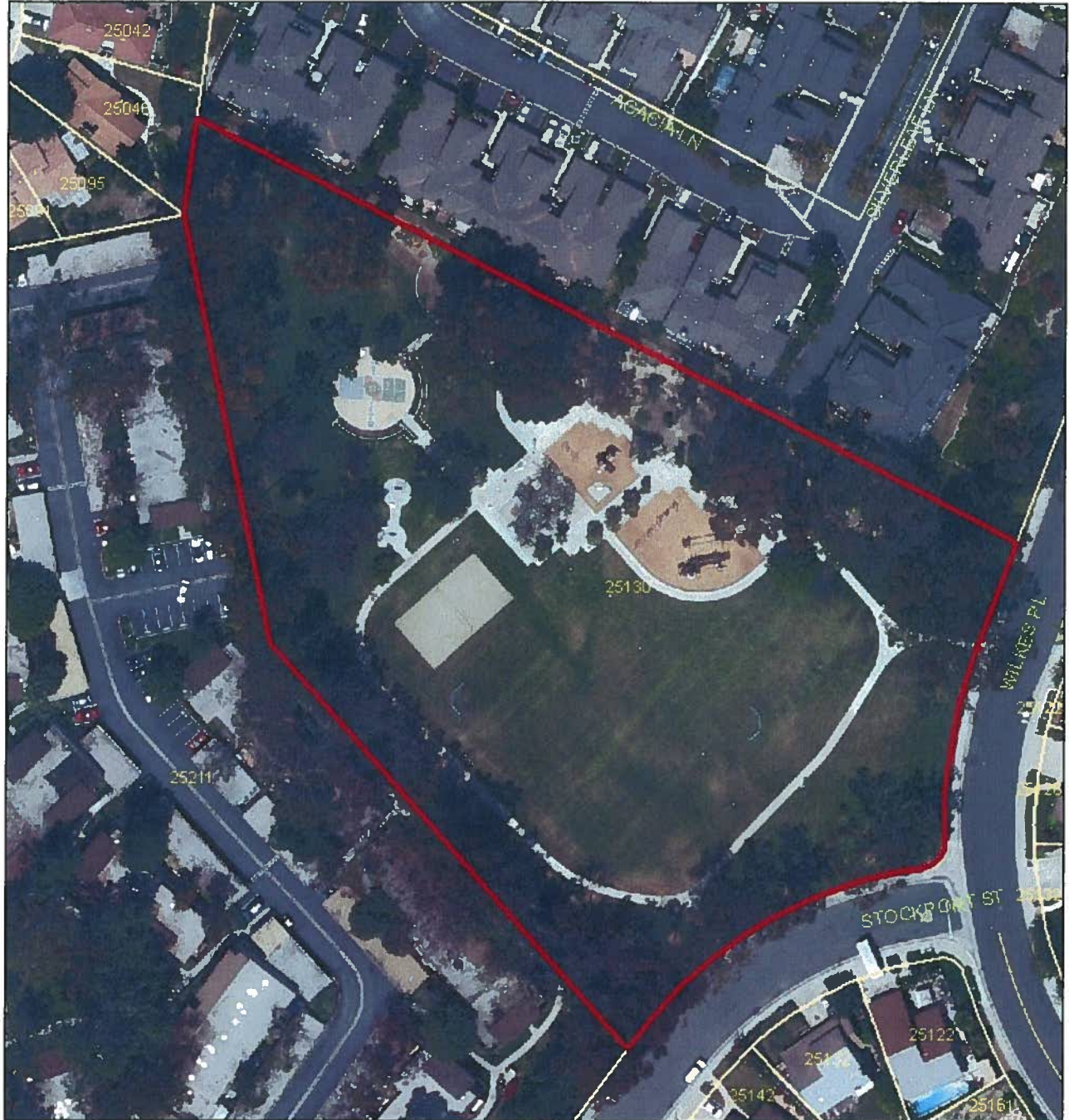
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Date Created: 11/16/2011



# City of Laguna Hills

## STOCKPORT PARK



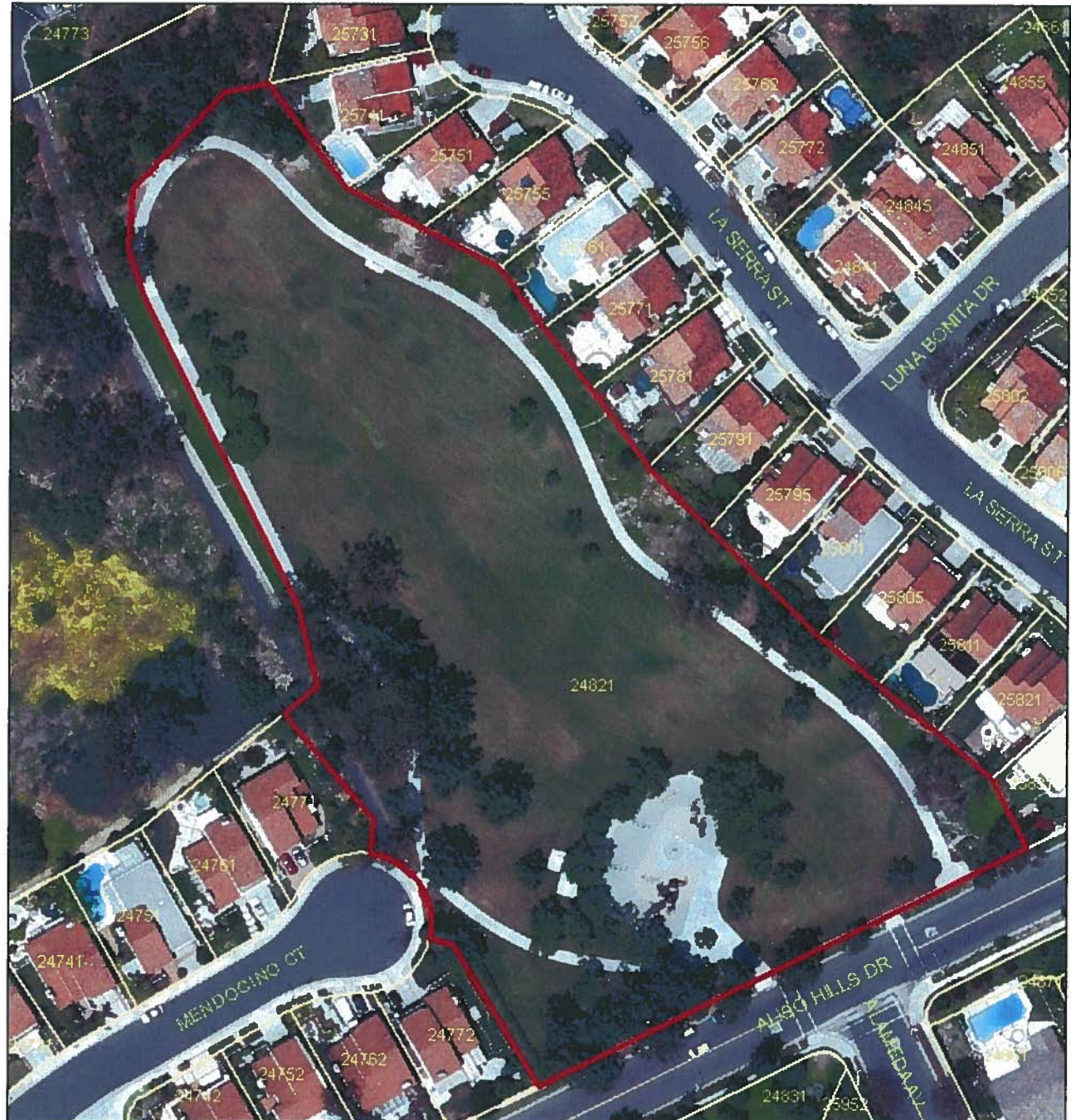
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Date Created: 11/16/2011



# City of Laguna Hills

## MENDOCINO PARK



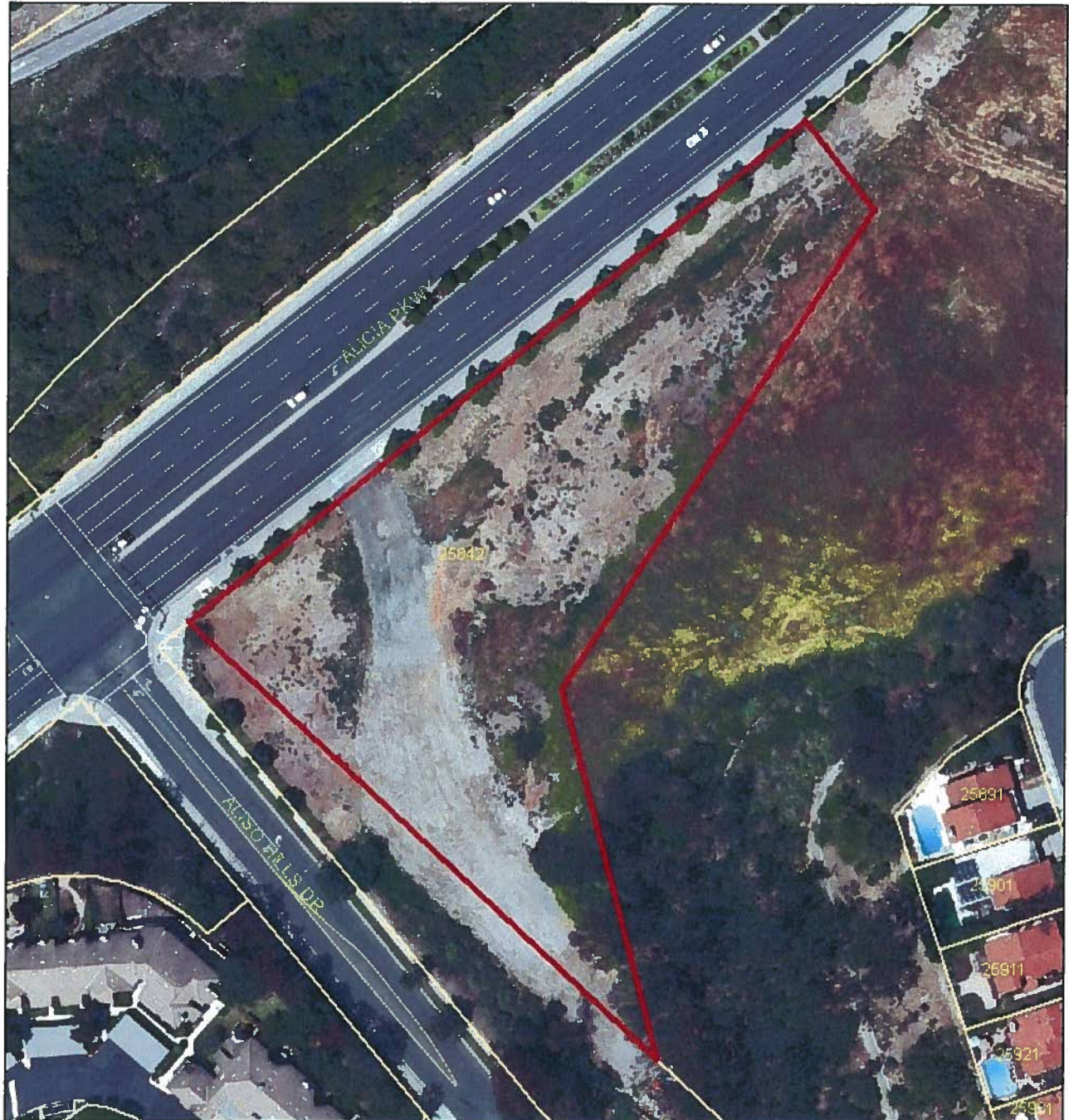
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

ALISO HILLS PARK (FUTURE)



100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## MANDEVILLE PARK



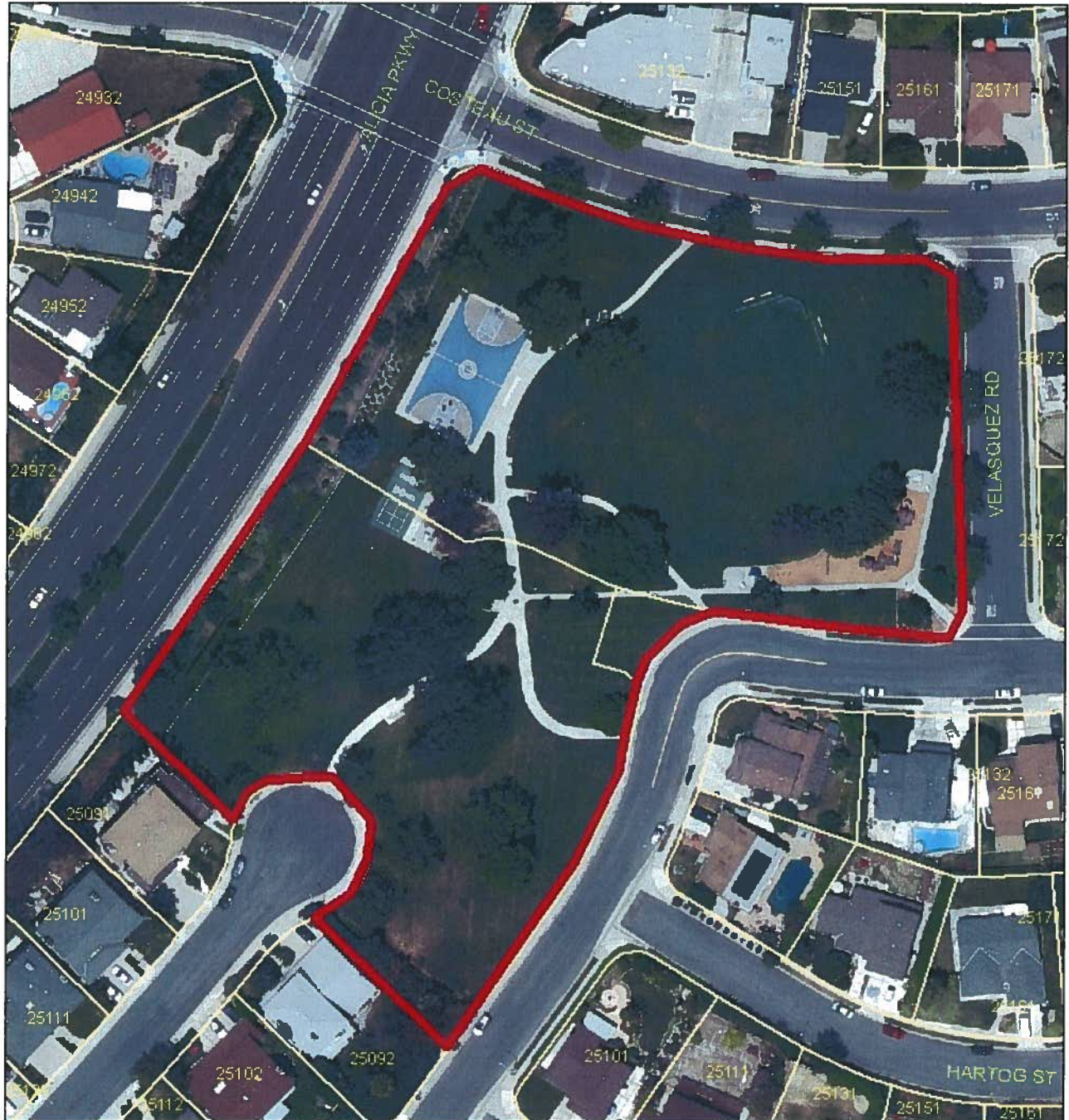
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## COSTEAU PARK



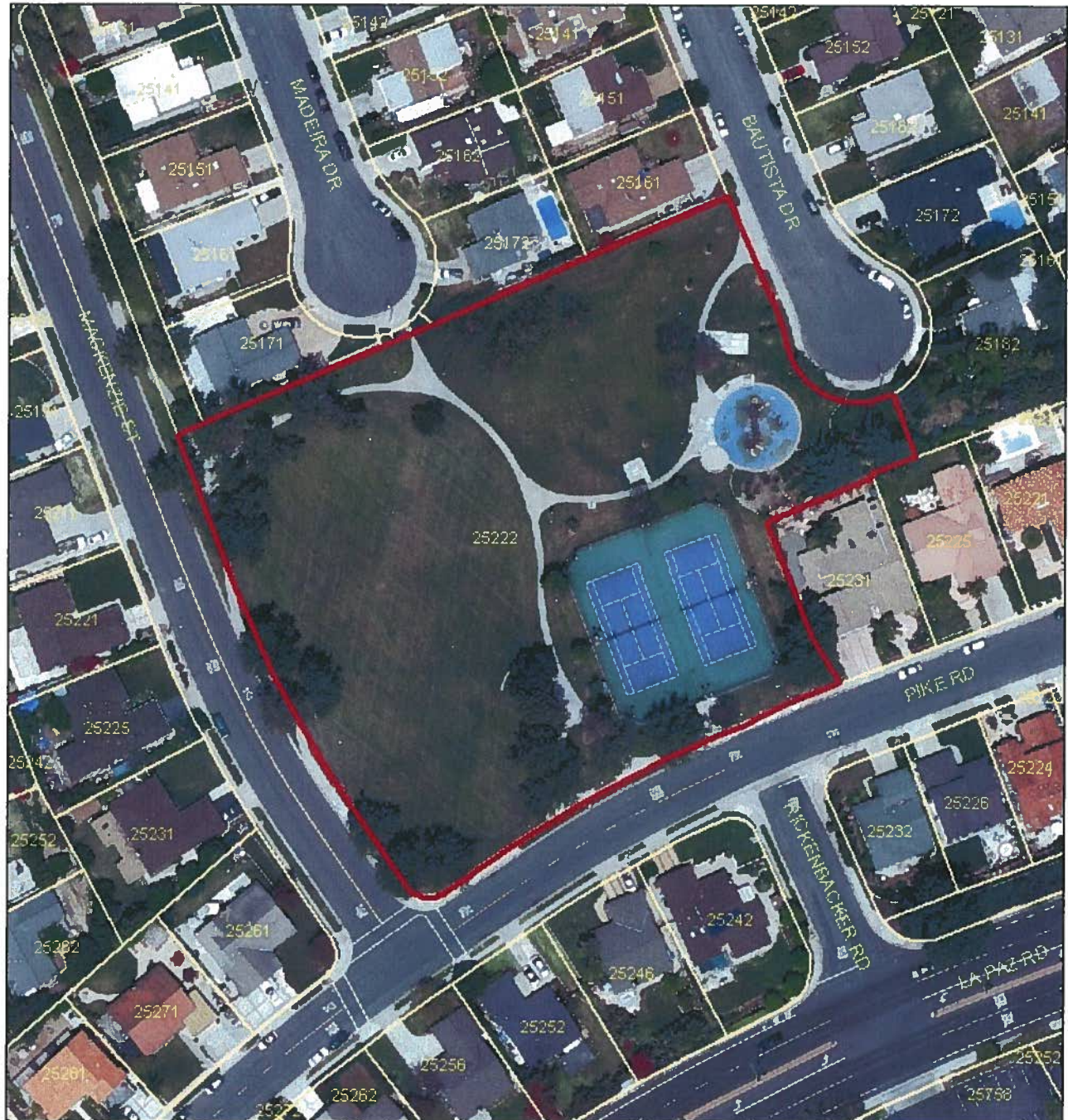
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## MACKENZIE PARK



100 0 100 Feet

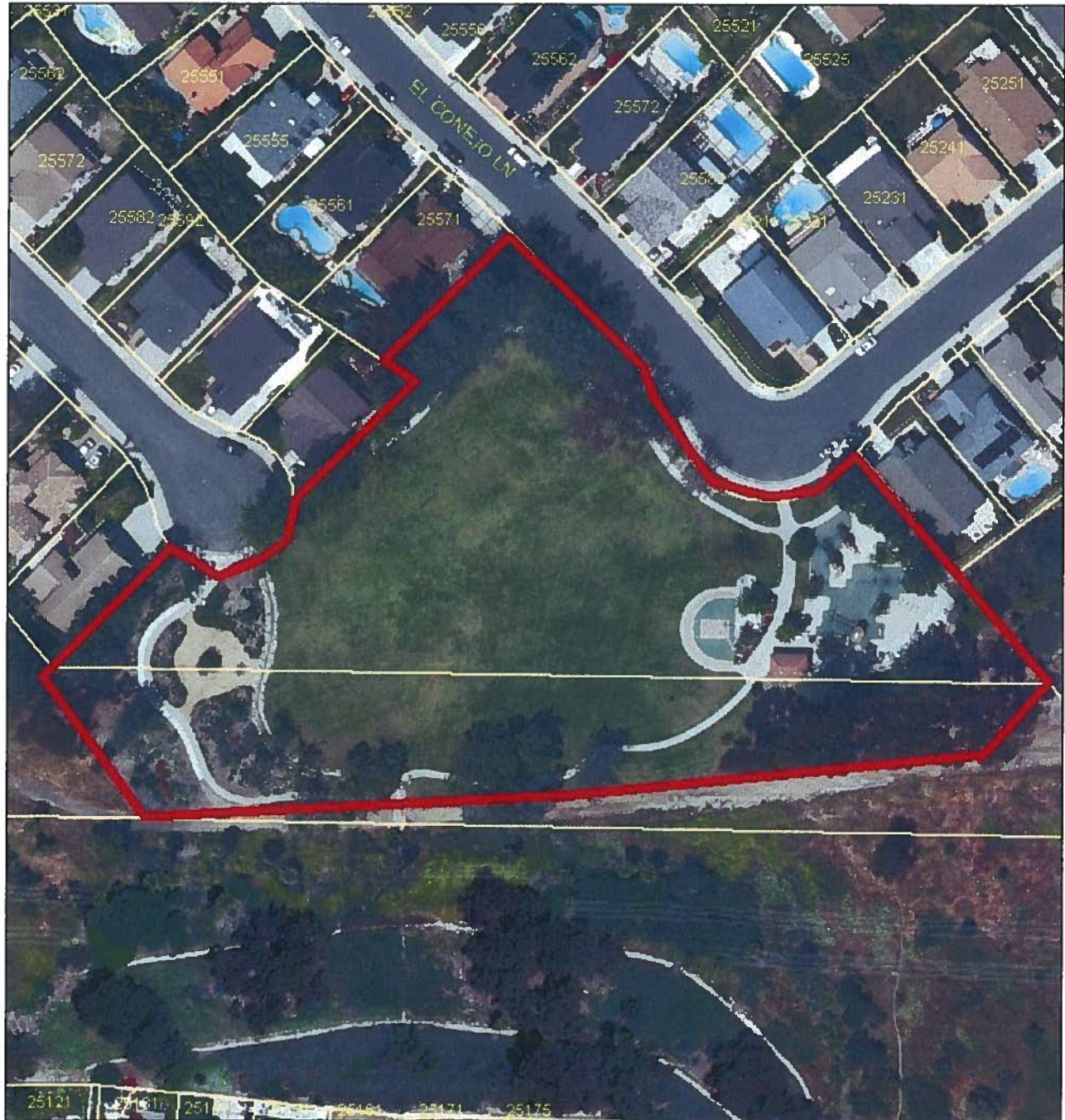
Date Created: 11/16/2011





# City of Laguna Hills

## EL CONEJO PARK



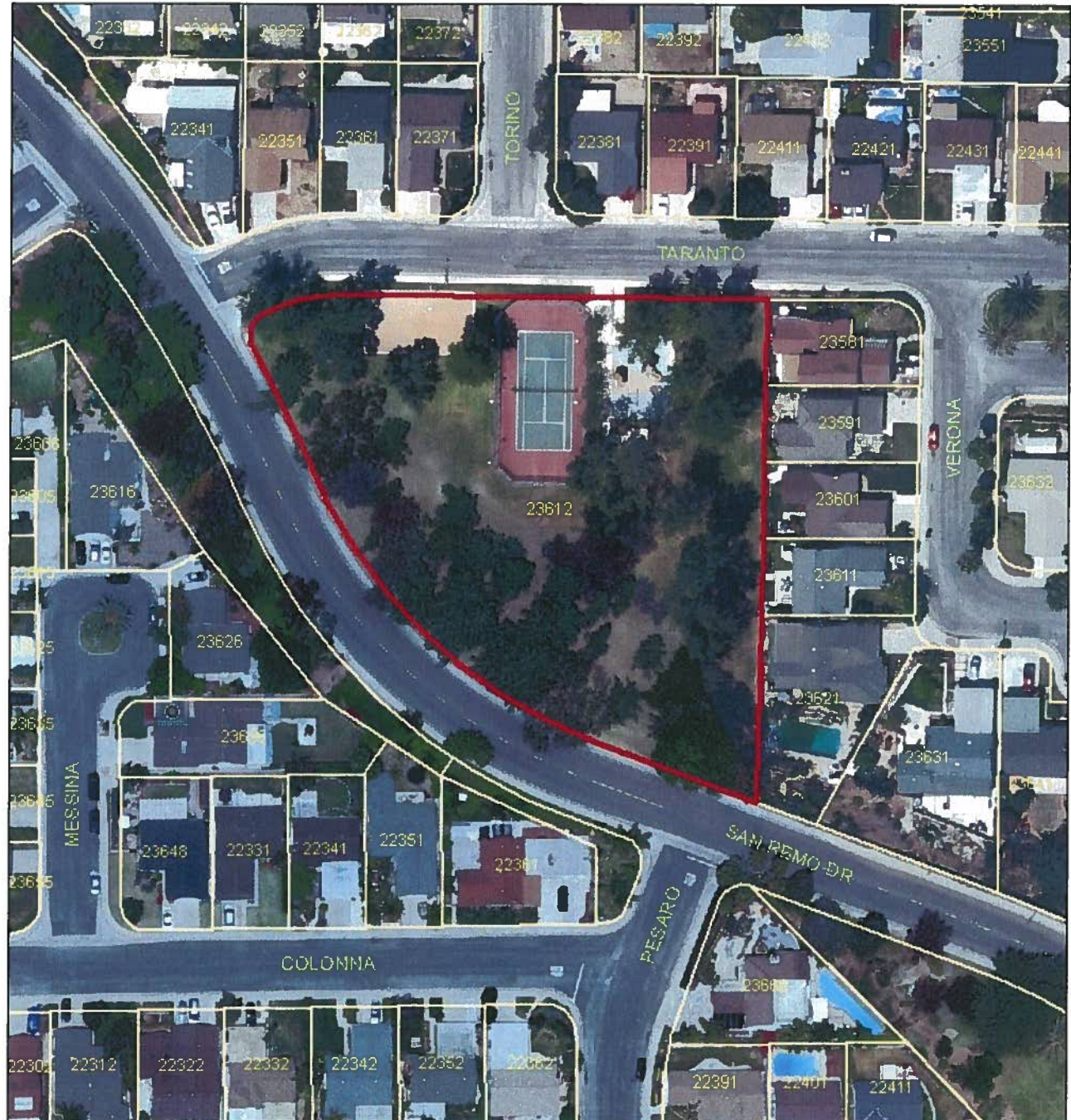
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## SAN REMO PARK



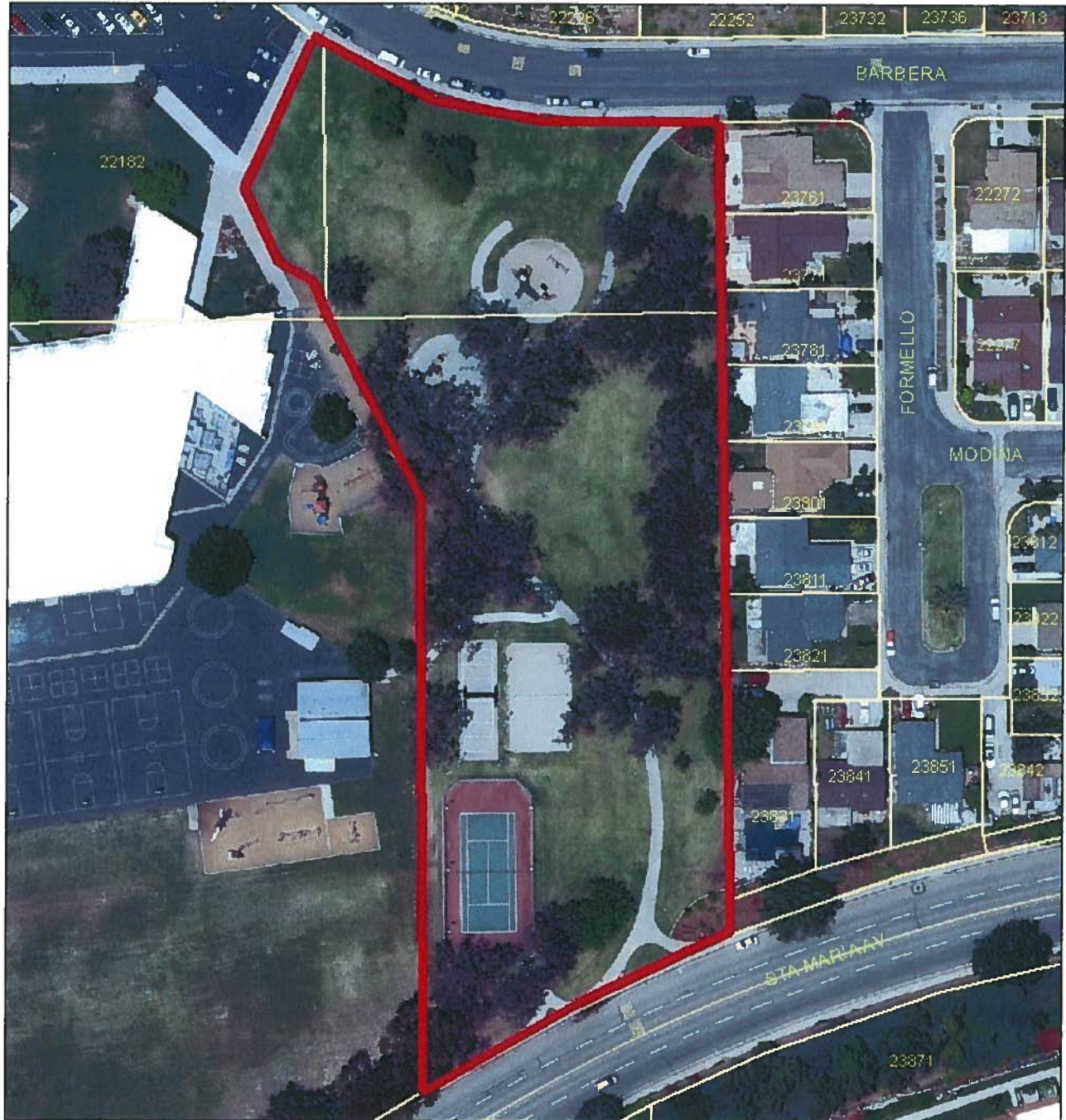
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## SANTA VITTORIA PARK



100 0 100 Feet

Date Created: 11/16/2011





# City of Laguna Hills

## CABOT PARK



200 0 200 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## COMMUNITY CENTER & SPORTS COMPLEX



300 0 300 Feet

Date Created: 11/16/2011



# City of Laguna Hills

CASADE LAGUNA (PRIVATE)



200 0 200 Feet

Date Created: 11/16/2011



# City of Laguna Hills

DAPPLE GREY PARK (PRIVATE)



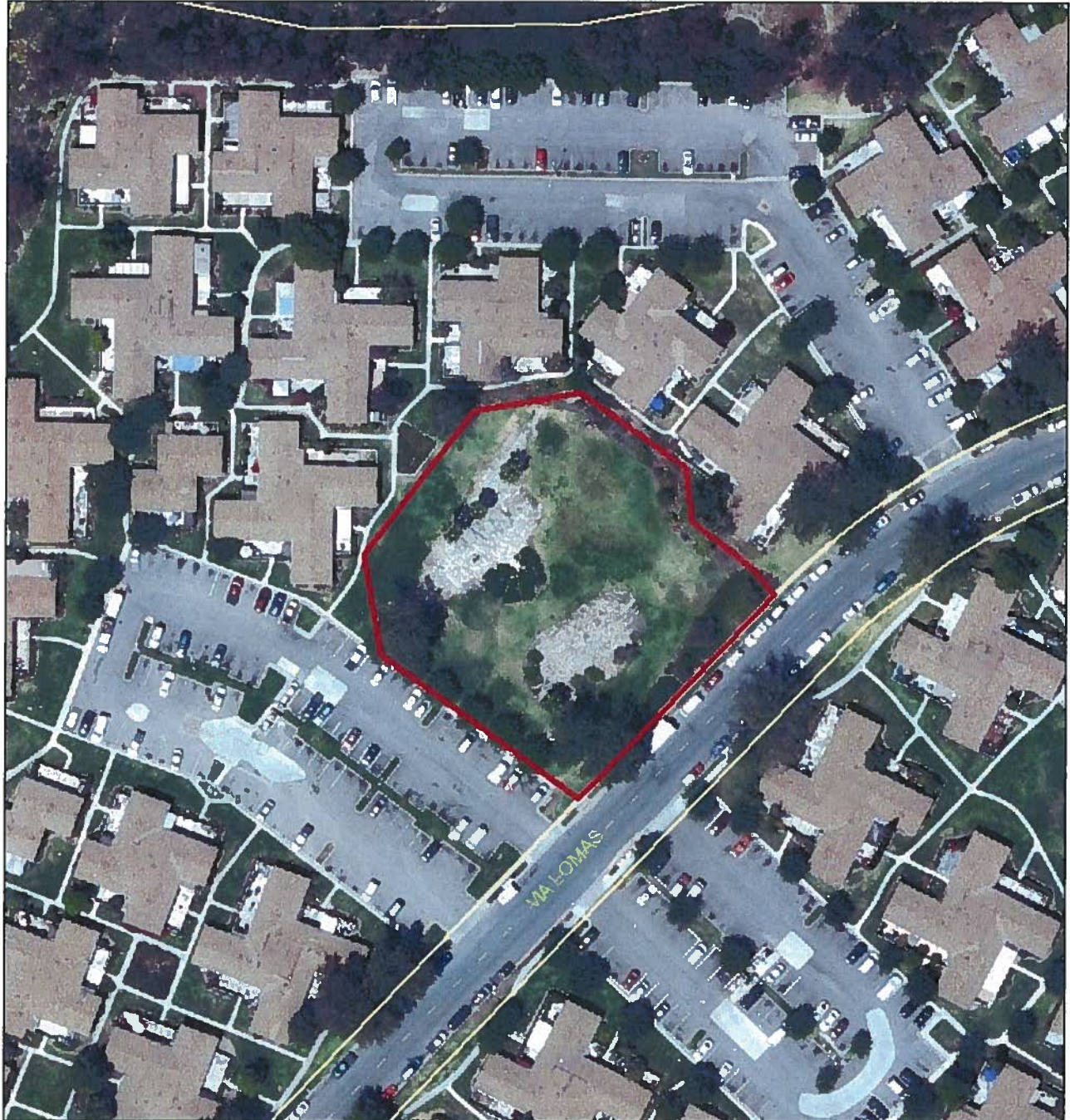
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Date Created: 11/16/2011



# City of Laguna Hills

FOSSIL PARK (PRIVATE)



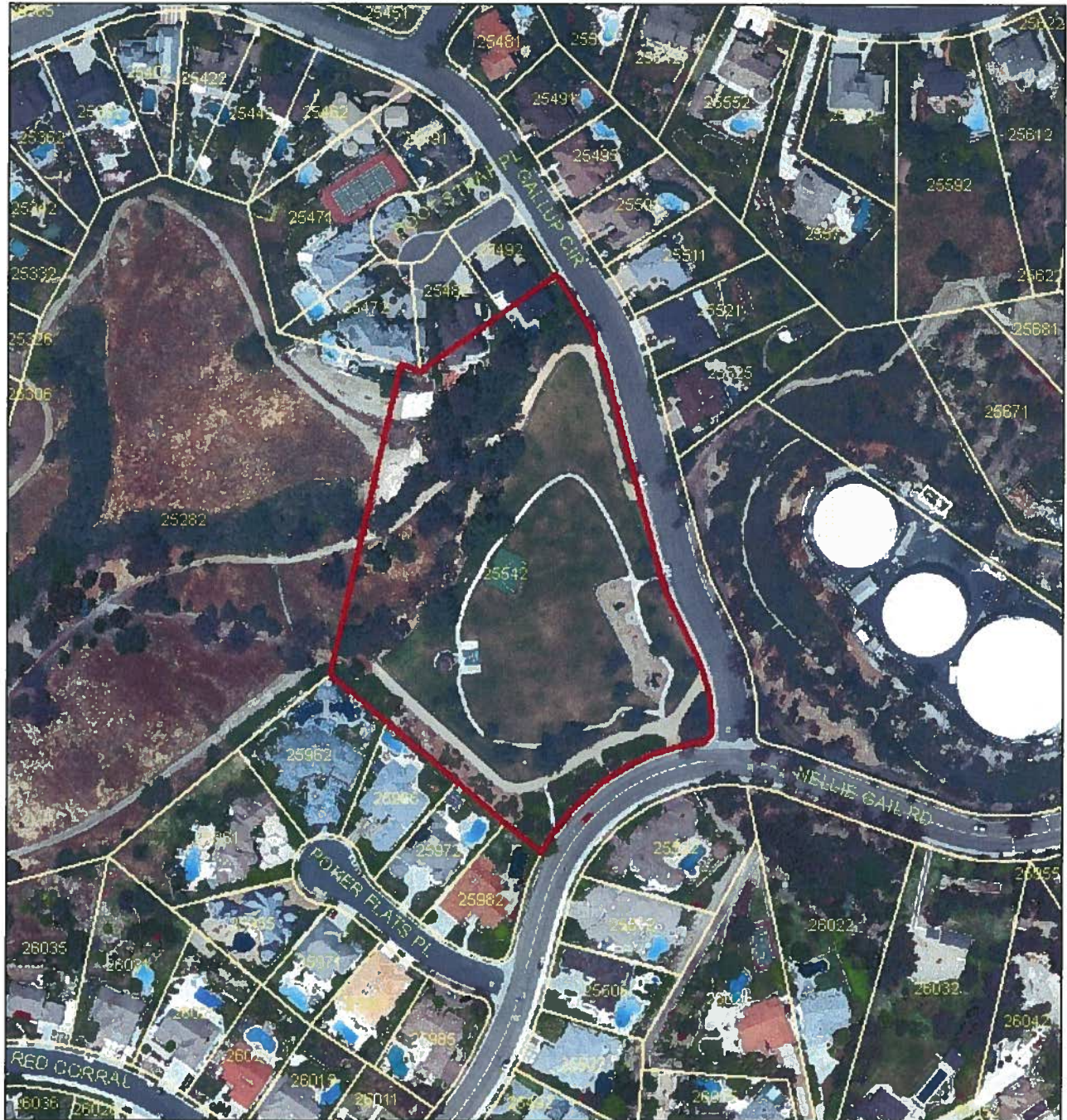
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## GALLUP PARK (PRIVATE)



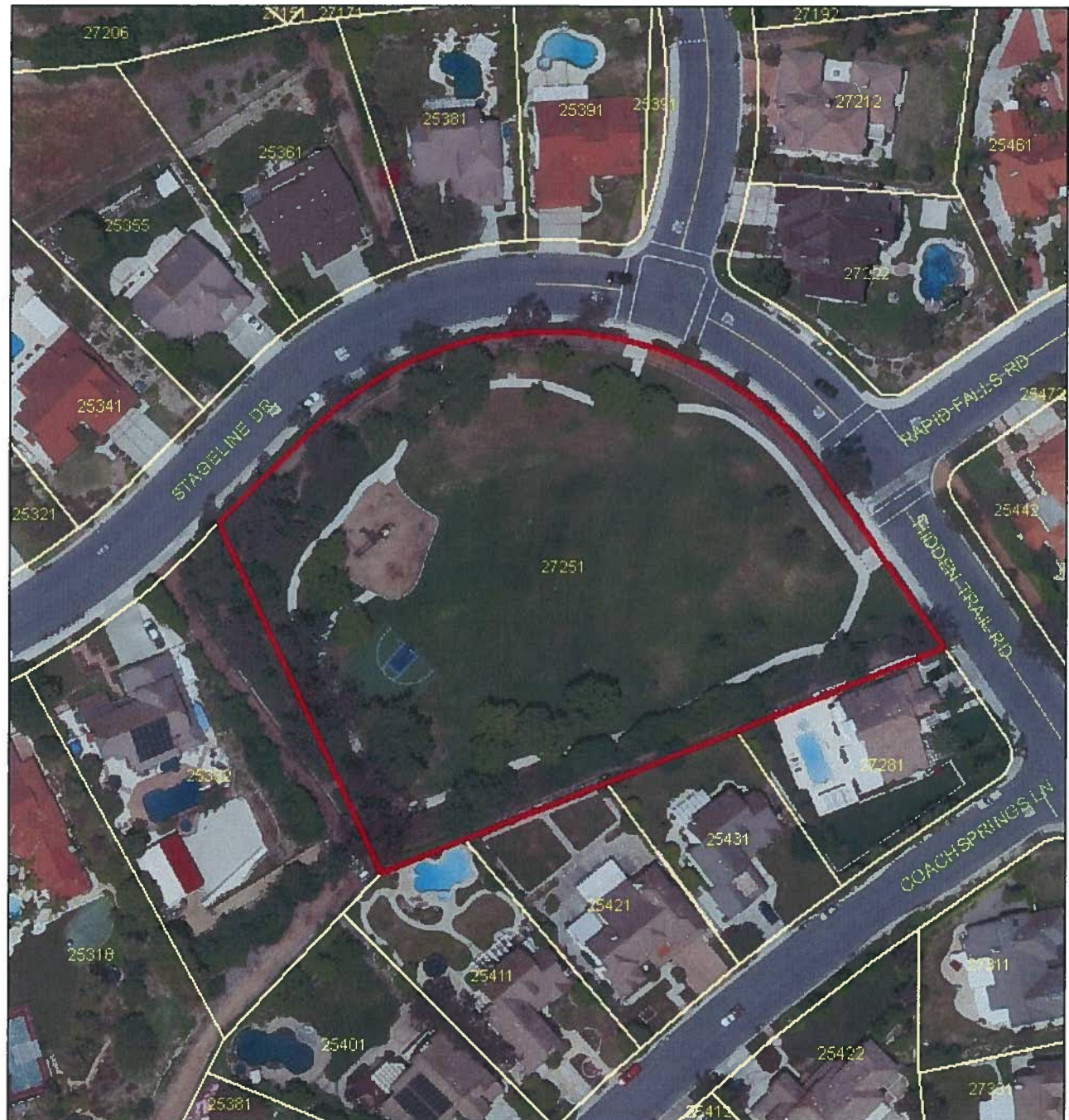
200 0 200 Feet

Date Created: 11/16/2011



# City of Laguna Hills

HIDDEN TRAIL PARK (PRIVATE)



100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

LAGUNA VILLAGE (PRIVATE)



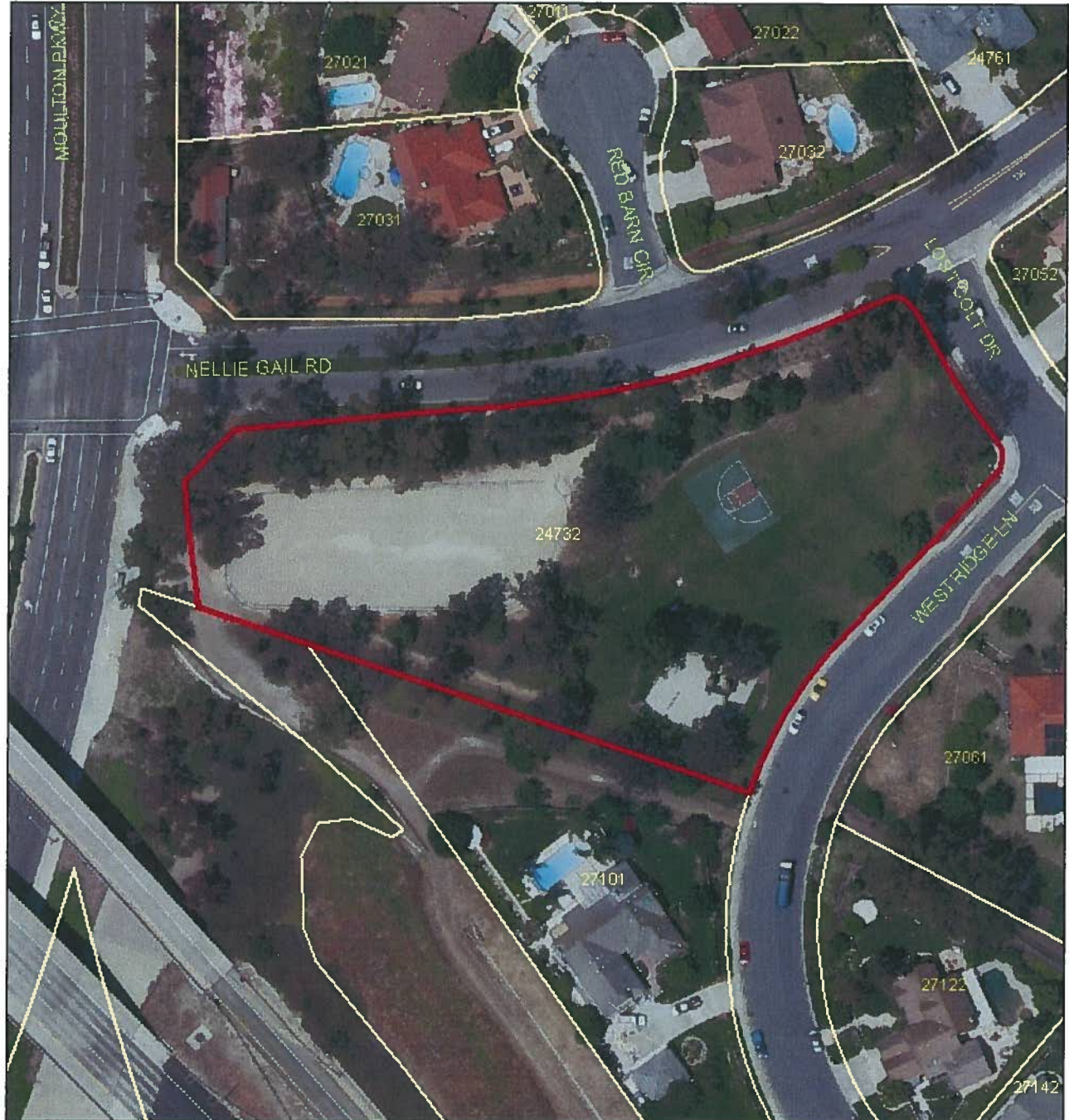
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

MOULTON PARK (PRIVATE)



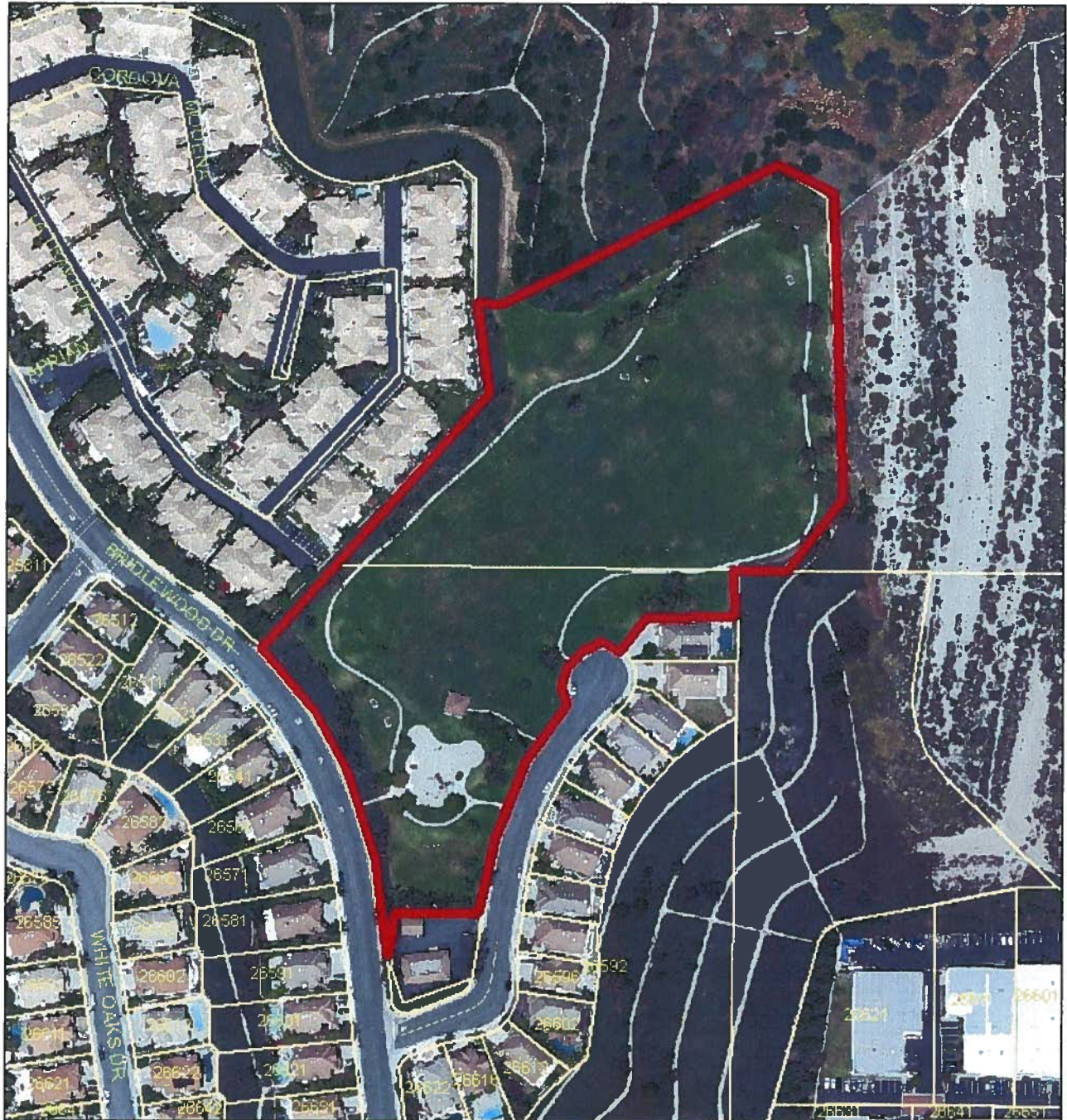
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

MOULTON RANCH (PRIVATE)



200 0 200 Feet

Date Created: 11/16/2011



## City of Laguna Hills

NELLIE GAIL EQUESTRIAN CENTER (PRIVATE)



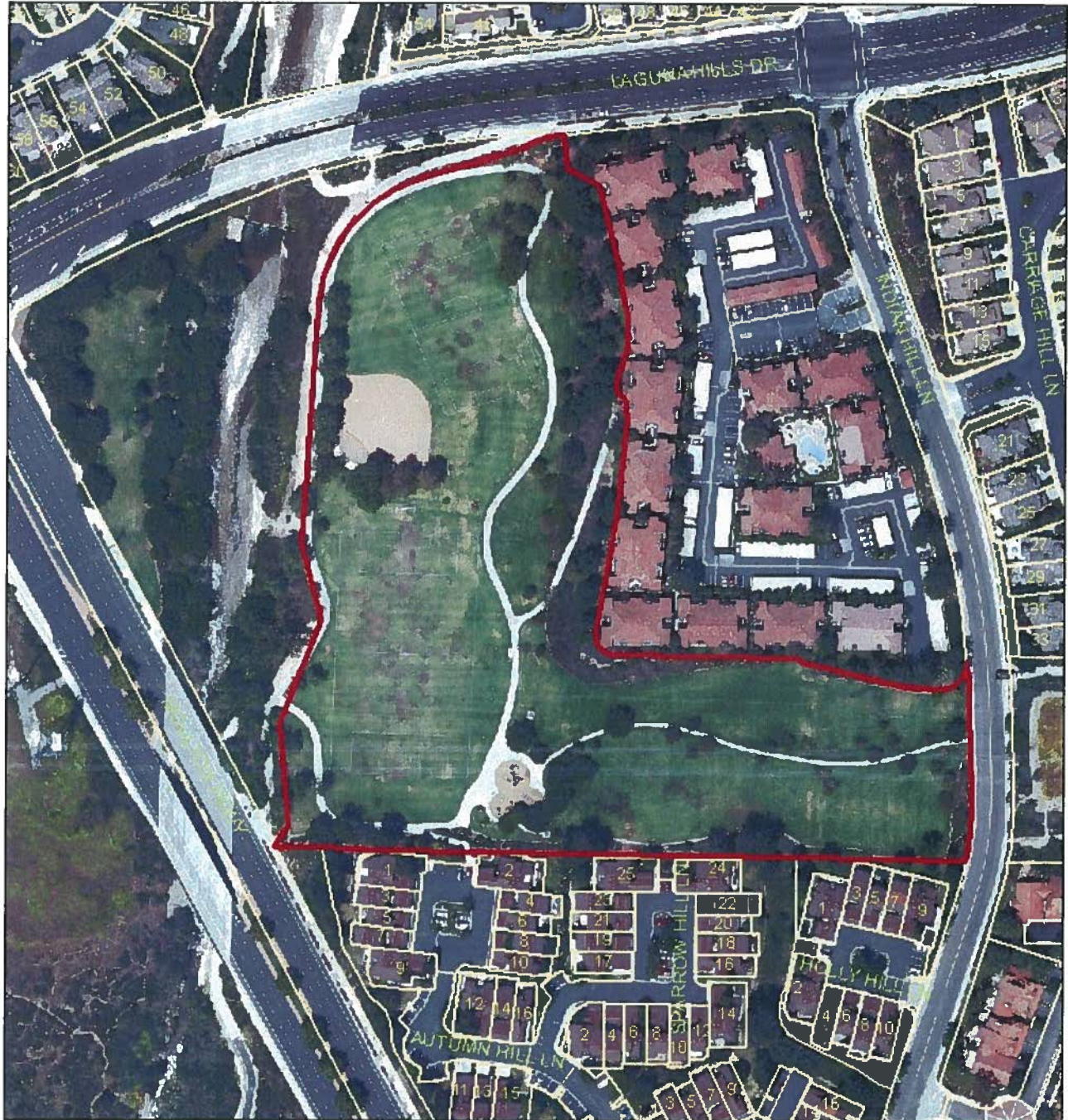
300 0 300 Feet

Date Created: 11/16/2011



# City of Laguna Hills

## SHEEP HILLS PARK (PRIVATE)



200 0 200 Feet

Date Created: 11/16/2011



# City of Laguna Hills

QUAIL CREEK (PRIVATE)



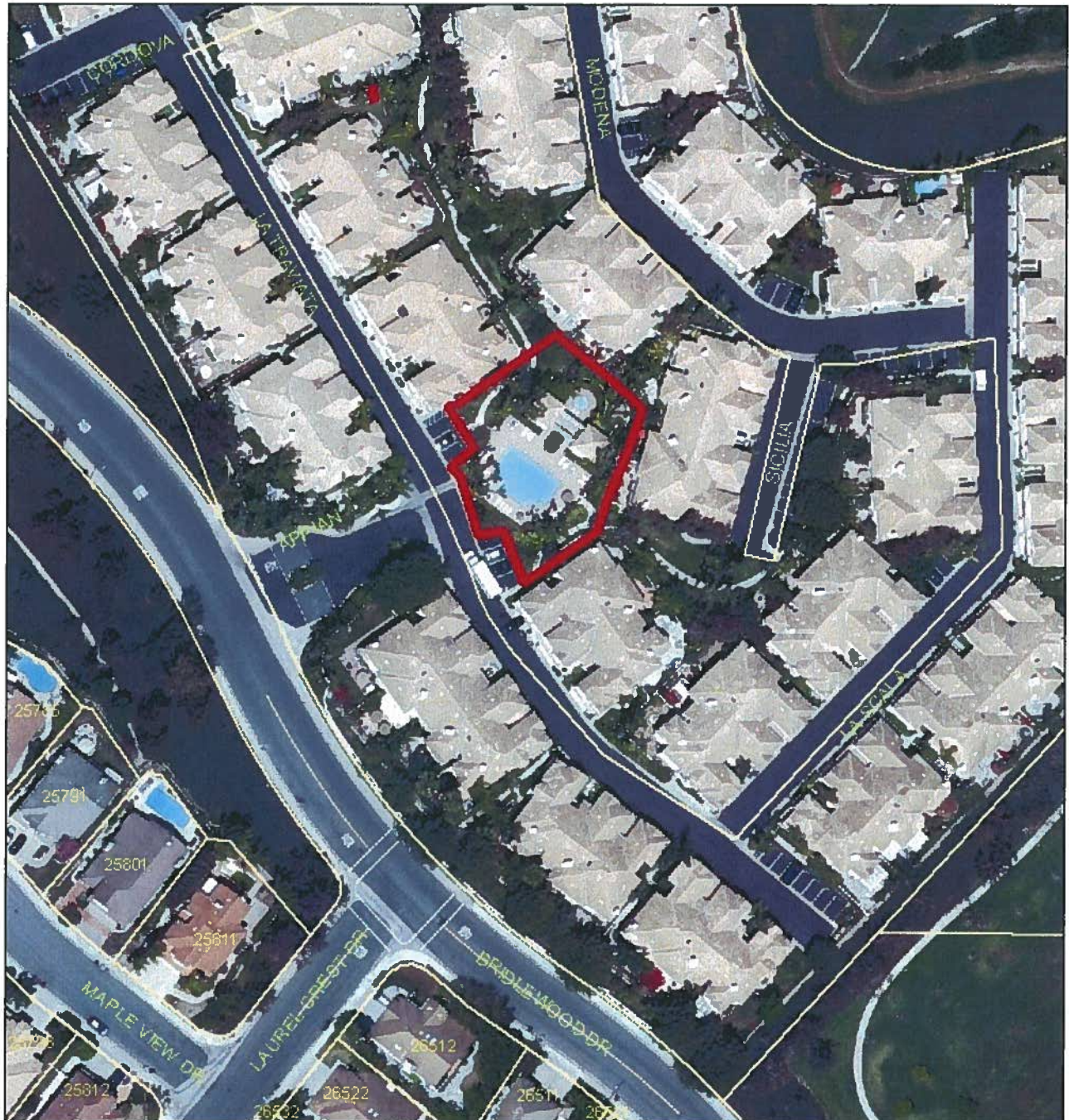
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Date Created: 11/16/2011



# City of Laguna Hills

BELLA VISTA (PRIVATE)



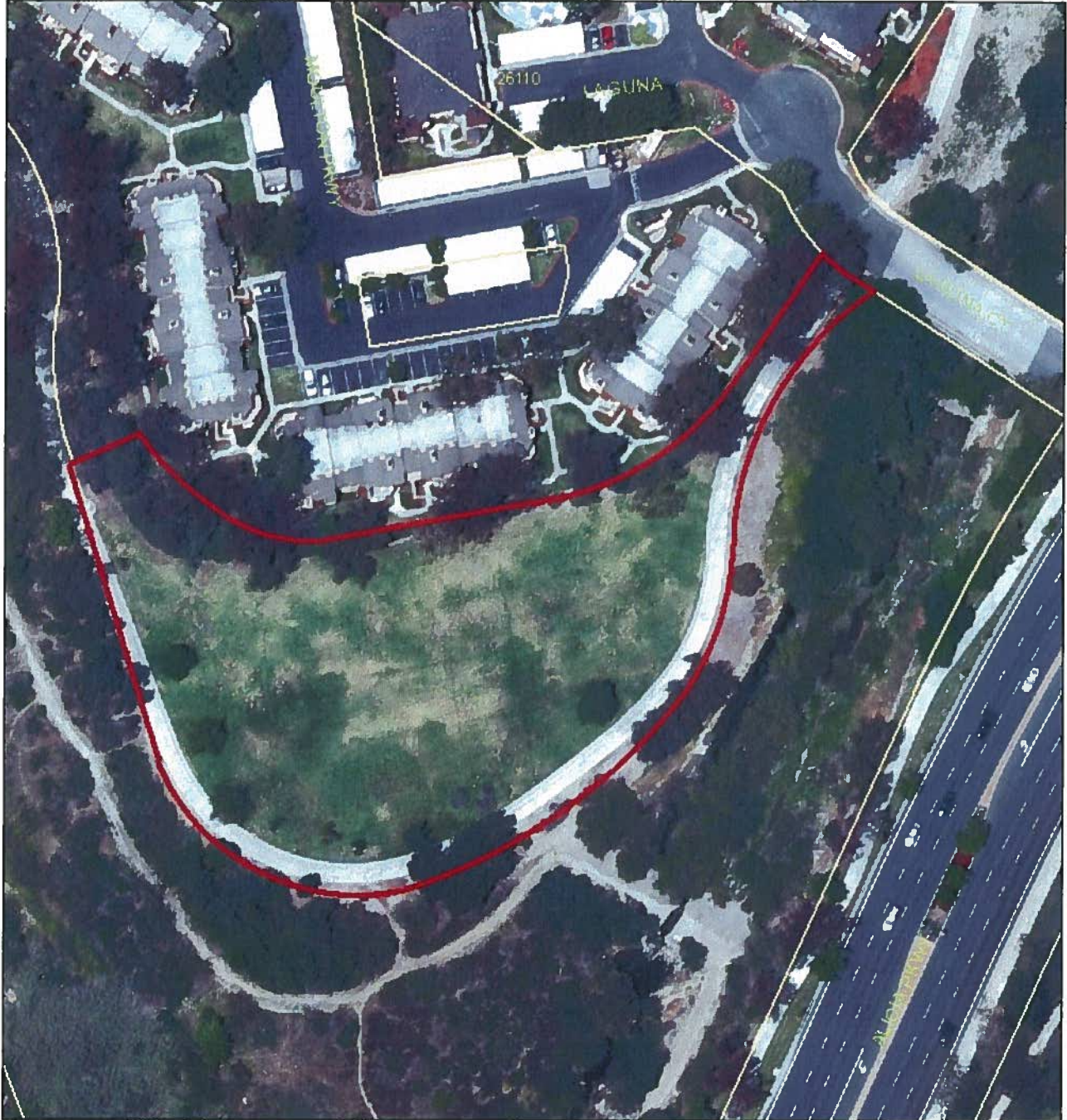
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Date Created: 11/16/2011



# City of Laguna Hills

LOMAS LAGUNA (PRIVATE)



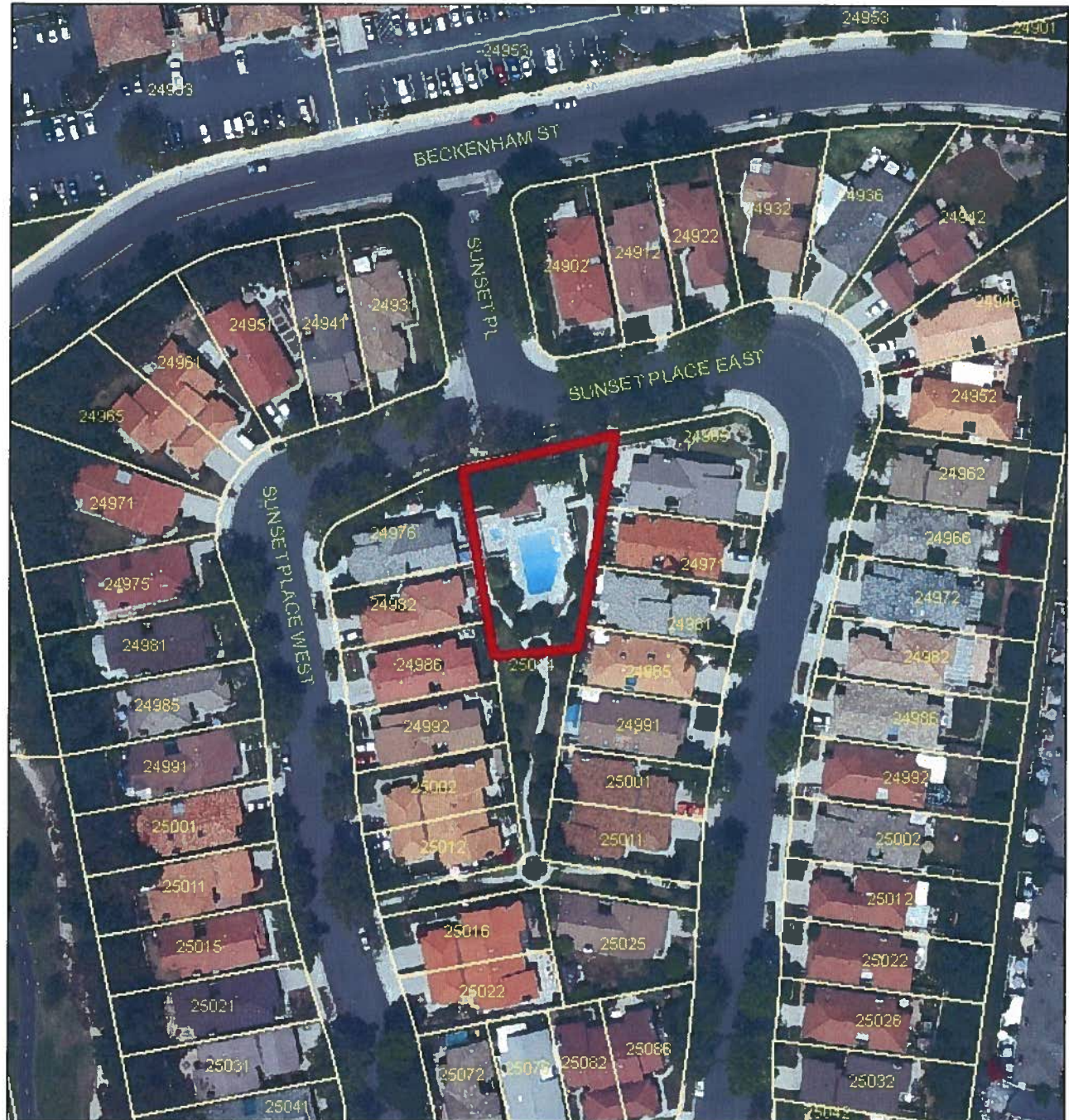
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Date Created: 11/16/2011



# City of Laguna Hills

## SUNSET PLACE (PRIVATE)



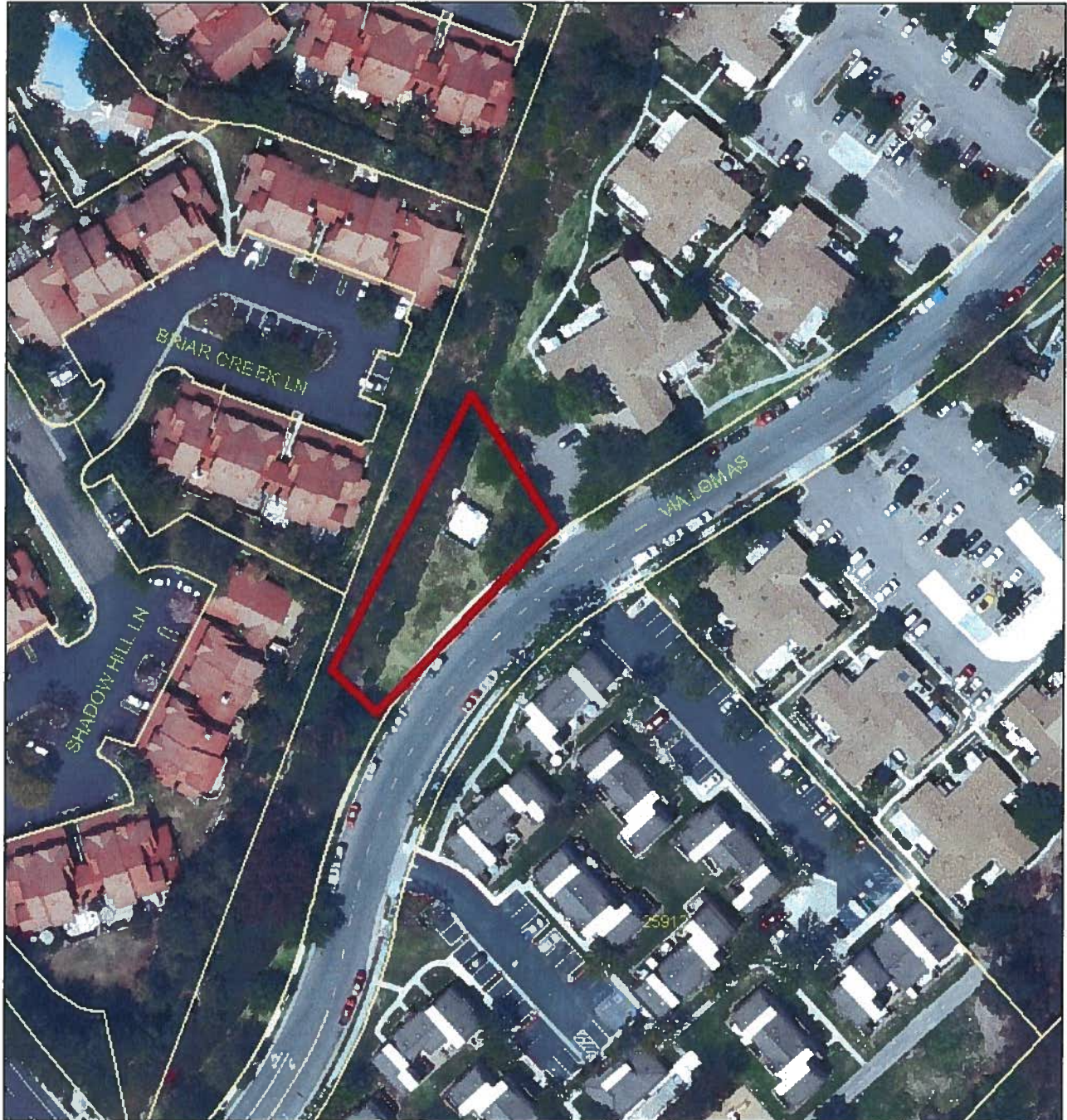
100 0 100 Feet

Date Created: 11/16/2011



# City of Laguna Hills

ALISO MEADOWS (PRIVATE)



100 0 100 Feet

Date Created: 11/16/2011



# EXHIBIT C

## ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE PROHIBITING REGISTERED SEX OFFENDERS FROM ENTERING CITY PARKS AND SPECIFIED PRIVATE COMMUNITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF

WHEREAS, the California Sex Registration Act, codified in California Penal Code sections 290 *et seq.*, requires persons convicted of specific sex offenses to register with "the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides"; and

WHEREAS, Proposition 83, codified in California Penal Code section 3003.5, prohibits any person on parole or probation required to register as a sex offender pursuant to the California Penal Code section 290 *et seq.*, from residing within two thousand (2,000) feet of any public or private school, or any park where children regularly gather; and

WHEREAS, pursuant to Penal Code section 626.81, registered sex offenders are restricted from entering upon school premises without lawful business thereon and written permission from the chief administrative official of that school; and

WHEREAS, on April 5, 2011, the Orange County Board of Supervisors unanimously adopted a new County Child Safety Zone Ordinance to create a child safety zone in County owned parks to further protect children from registered sex offenders, and on April 19, 2011, Orange County District Attorney Tony Rackauckas and Orange County Supervisor Patricia Bates sent a letter to the City urging the City Council to enact a law similar to the County Child Safety Zone Ordinance to protect children in parks in the City; and

WHEREAS, the City of Laguna Hills is an attractive place for families and children because of the City's family-oriented environment, numerous parks and recreational facilities, and community character; and

WHEREAS, according to the 2010 Census Data, approximately 22.3% of the City's population is under 18 years of age; and

WHEREAS, parks within the City of Laguna Hills are a place where children and families frequently gather and visit; and

WHEREAS, sex offenders have high recidivism rates that exceed those exhibited by other convicted criminals as indicated in a report published in 2003 issued by the U.S. Department of Justice, Bureau of Justice Statistics entitled "Recidivism of Sex Offenders Released From Prison in 1994", which showed, from a study of prisoners released in 1994 from fifteen (15) states, that released sex offenders were four times (4x) more likely to be rearrested for a new sex crime as compared to non-sex offenders released (a copy of this report is available for review at the City Clerk's Office); and

WHEREAS, according to the Megan's Law website maintained by the California Department of Justice, of the current eight (8) registered sex offenders residing in the City of Laguna Hills, six (6) of those registered sex offenders were convicted of offenses involving minors under the age of 18 years old; and

WHEREAS, in an effort to protect the health, safety, and welfare of minors within the City, the City Council desires to take additional action to further protect children and families from dangerous sex offender predators by establishing child safety zones that prohibit registered sex offenders from entering into or upon the premises of parks located within the City, which are places where children regularly gather; and

WHEREAS, the City Council hereby finds that the City has a compelling interest in protecting children and families in places where they regularly gather, such as all City parks and specified private homeowner association community parks and recreational areas, from sexual predators.

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

SECTION 1. Chapter 6-40 is hereby added to Title 6 of the Laguna Hills Municipal Code, which shall read as follows:

**Chapter 6-40            Child Safety Zones – Prohibition of Registered Sex Offenders from Entering Parks.**

Sections:

|               |                               |
|---------------|-------------------------------|
| Sec. 6-40.010 | Purpose and Intent.           |
| Sec. 6-40.020 | Definitions.                  |
| Sec. 6-40.030 | Prohibitions.                 |
| Sec. 6-40.040 | Signage Posting Requirement.  |
| Sec. 6-40.050 | Penalties for Violations.     |
| Sec. 6-40.060 | Other Prosecution Authorized. |
| Sec. 6-40.070 | Waiver Criteria.              |

**Sec. 6-40.010 Purpose and Intent.**

It is the purpose and intent of this Chapter to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather. It is also the purpose and intent of this Chapter to reduce the risk of harm to children by impacting the ability of sex offenders to be in contact with children. It is

further the intent of this Chapter to provide additional restrictions beyond those provided for in state law by restricting sex offenders from certain limited locations, and by allowing for criminal penalties for violations of this Chapter. It is not the intent of this Chapter to allow conduct otherwise prohibited by state law or to contradict state law. City parks and specified private community parks in the City of Laguna Hills are recognized by the City Council as locations where children regularly gather.

#### **Sec. 6-40.020 Definitions.**

For purposes of this Chapter, the following terms are defined as follows:

*Child, children or minor(s)* means any person(s) under eighteen (18) years of age.

*Park* means any and all City owned, operated, leased, or maintained land established before or after the effective date of this ordinance for park, recreation, or open space purposes where children regularly gather, including: (1) Clarington Park; (2) Beckenham Park; (3) Stockport Park; (4) Mendocino Park; (5) Aliso Hills Park; (6) Mandeville Park; (7) Costeau Park; (8) MacKenzie Park; (9) Knotty Pine Park; (10) El Conejo Park; (11) San Remo Park; (12) Santa Vittoria Park; (13) Veeh Ranch Park; (14) Cabot Park; and (15) Laguna Hills Community Center and Sports Park Complex. Records identifying, describing, and depicting the location of these areas shall be maintained on file in the office of the city clerk for public review and inspection.

*Park* shall also include homeowner association owned, operated, leased, or maintained common areas established before or after the effective date of this ordinance for private park, recreation, or open space purposes where children regularly gather, where the homeowners' association has provided written notice to the City requesting enforcement of this ordinance, including: (1) Case de Laguna Park; (2) Dapple Grey Park; (3) Fossil Park; (4) Gallup Park; (5) Hidden Trail Park; (6) Laguna Village Park; (7) Moulton Park; (8) Moulton Ranch Park; (9) Nellie Gail Equestrian Center; (10) Sheep Hills Park; (11) Quail Creek recreation area; (12) Bella Vista recreation area; (13) Lomas Laguna Park; (14) Sunset Place Park; and (15) Aliso Meadows recreation area. Records identifying, describing, and depicting the location of these areas shall be maintained on file in the office of the city clerk for public review and inspection.

*Orange County Sheriff* shall mean the Orange County Sheriff or the Sheriff's designee

#### **Sec. 6-40.030 Prohibitions.**

Any person required to register pursuant to California Penal Code sections 290 *et seq.*, who enters into or upon any Park within the City where children regularly gather without written permission from the Orange County Sheriff, is guilty of a misdemeanor. Each entry into any such area, regardless of the time period between entries, shall constitute a separate offense under this ordinance.

**Sec. 6-40.040 Signage Posting Requirement.**

For all Parks, a notice in substantially the following form shall be posted:

"Any person required to register pursuant to Penal Code §290 is prohibited from entering into or upon this park without written authorization from the Orange County Sheriff's Department. (LHMC Chapter 6-40)"

**Sec. 6-40.050 Penalties for Violation.**

Punishment for a violation of this ordinance shall be as follows:

(1) Upon a first conviction, by imprisonment in a county jail for a period of not more than six months, or by a fine not exceeding five hundred dollars (\$500), or by both imprisonment and a fine.

(2) Upon a second conviction, by imprisonment in a county jail for a period of not less than ten (10) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a second conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ten (10) days.

(3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than ninety (90) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a third or subsequent conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ninety (90) days.

**Sec. 6-40.060 Other Prosecution Authorized.**

Nothing in this Chapter shall preclude or prohibit prosecution under any other provision of law. This Chapter shall not apply to persons already restricted from parks pursuant to California Penal Code section 3053.8.

**Sec. 6-40.070 Waiver Criteria.**

Notwithstanding the foregoing, a registered sex offender may, by written request made to the Orange County Sheriff, which request shall be date, time, and location specific, seek written authorization to enter into or upon a Park. The Orange County Sheriff shall evaluate each written request to determine whether to grant, conditionally grant, or deny the request. Reasons that may justify the request include:

- (1) Accessing the Park for the purposes of exercising the rights of free speech or assembly;
- (2) Accessing the Park for purposes of lawful employment;
- (3) Accessing the Park for the purposes of voting in any local, state, or federal election; or

(4) Accessing the Park for the purposes of attending a religious service.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion 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, APPROVED, AND ADOPTED this \_\_\_\_\_, 2011.

\_\_\_\_\_  
L. ALLAN SONGSTAD, JR., 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. \_\_\_\_\_ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the November 22, 2011, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the December 13, 2011, 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. \_\_\_\_\_, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 6-40 TO TITLE 6 OF THE LAGUNA HILLS MUNICIPAL CODE RESTRICTING SPECIFIED SEX OFFENDERS FROM ENTERING CITY AND COMMUNITY PARKS WITHOUT WRITTEN PERMISSION FROM THE ORANGE COUNTY SHERIFF BASED ON SPECIFIED WRITTEN CRITERIA

on the 25<sup>th</sup> day of November 2011, was published in summary in The Register and on the 23<sup>rd</sup> day of December 2011, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 23<sup>rd</sup> of November 2011 and the 14<sup>th</sup> day 2011, 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  
Courtyard at La Paz Center

---

PEGGY J. JOHNS, CITY CLERK  
Laguna Hills, California



# **CITY OF LAGUNA HILLS**

## **AGENDA REPORT COMMUNITY DEVELOPMENT DEPARTMENT**

---

**ISSUE: CONSIDERATION OF A RESOLUTION DELEGATING THE AUTHORITY TO RENDER DETERMINATIONS OF PUBLIC CONVENIENCE OR NECESSITY FOR ALCOHOLIC BEVERAGE LICENSING TO THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING REVIEW PROCEDURES AND CRITERIA**

---

### **SUMMARY:**

Staff recommends that the City Council delegate to the Community Development Director ("Director") the authority to make determinations of Public Convenience or Necessity ("PC or N"), as authorized by the California Department of Alcoholic Beverage Control ("ABC"), for those businesses proposing the on-sale<sup>1</sup> and/or off-sale<sup>2</sup> of alcoholic beverages in areas of undue concentration within the City of Laguna Hills. The Director's determination would be appealable to the Planning Agency.

The accompanying Resolution (1) authorizes the Director to make determinations of PC or N, (2) sets forth a process for the City to follow when processing such requests, and (3) establishes criteria for making determinations of PC or N.

### **BACKGROUND:**

ABC regulates the sale and consumption of alcoholic beverages in the State of California. ABC requires businesses wishing to sell alcoholic beverages for either on-site (on-sale licenses) or off-site (off-sale licenses) consumption to apply for, and obtain, an ABC-issued license. Where an ABC license is requested for a business located

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<sup>1</sup> The term "on-sale" refers to the sale of alcoholic beverages for consumption on the licensed premises (e.g. bars, nightclubs).

<sup>2</sup> The term "off-sale" refers to the sale of alcoholic beverages for consumption off the premises where sold (e.g. liquor stores, convenience stores, grocery stores).

---

**RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DELEGATING THE AUTHORITY TO RENDER DETERMINATIONS OF PUBLIC CONVENIENCE OR NECESSITY FOR ALCOHOLIC BEVERAGE LICENSING TO THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING REVIEW PROCEDURES AND CRITERIA."**

Agenda Report  
Resolution Delegating Authority to Make Determinations of  
Public Convenience or Necessity for Alcoholic Beverage Licensing  
Page 2

within an area of "undue concentration", the City is required to make a finding of PC or N prior to ABC issuing the license. The California Business and Professions Code ("B & P Code") Section 23958.4, subsection (b)(2) states that the determination of PC or N must be made by the local governing body of the area in which the applicant premises are located, or its *designated subordinate officer or body*. If the local governing body, or its designated subordinate officer or body, does not make a determination within 90 calendar days of its receipt of a complete application for a determination of PC or N, then the ABC may issue a license if the applicant shows the ABC that PC or N would be served by the issuance.

Because these issues have rarely come up in the City of Laguna Hills, there is no designated officer or body, nor any specified procedure for determining PC or N. The accompanying Resolution (1) authorizes the Director to make determinations of PC or N, (2) sets forth a process for the City to follow when processing such requests, and (3) establishes criteria for making determinations of PC or N.

#### **DISCUSSION:**

The finding of PC or N is to be made in areas of "undue concentration." Undue concentration, as defined by the B & P Code, occurs when the applicant premises are in an area where any of the following conditions exist:

1. **Crime:** The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.
2. **On-sale license ratio:** For on-sale retail licenses, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.
3. **Off-sale license ratio:** For off-sale retail licenses, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

Despite any one or more of the above conditions existing, the ABC may issue a license if a finding of PC or N is made. Pursuant to the B & P Code, the applicant bears the burden of demonstrating PC or N for non-retail (wholesale) licenses, retail on-sale bona fide eating places (restaurants), lodging (hotel/motel), beer manufacturers and winegrowers. For all other licenses, such as off-sale beer and wine (commercial retail

Agenda Report  
Resolution Delegating Authority to Make Determinations of  
Public Convenience or Necessity for Alcoholic Beverage Licensing  
Page 3

for consumption off-site) and on-sale (bars, nightclubs), the city within which the applicant's premises are located is required to make the determination of PC or N.

Municipalities across the state vary in terms of who is designated to make a determination of PC or N from the City Council, to the Planning Department, or Police Department. In Laguna Hills, while circumstances necessitating a finding of PC or N are rare, it is still important to have a procedure and a clear understanding of who can make such a determination.

Proposed Process

1. **Application/Fee:** An application is filed (see Application, attached) with the Planning Division and an administrative fee paid. The application will contain basic information about the premises, the business, crime rates, and ABC license concentration in the area. A \$40.00 fee is proposed to be established by the City Council by resolution. This fee is the same as a zoning letter fee, which requires a similar amount of research and staff time.
2. **Police Review:** The application and any supporting documentation will be sent to the Chief of Police Services for review and comment.
3. **Determination:** The Community Development Director will make a determination based upon the information provided in the application and any comments received from the Police Services Department. This determination shall be made within 60 calendar days of the date of filing a complete application unless a written request for postponement has been received from the applicant. The Director, or his/her designee, shall notify the applicant, the City Manager, City Council, and the ABC in writing of the determination made.
4. **Appeal:** Pursuant to the appeals procedures provided in Chapter 9-96 of the Laguna Hills Municipal Code, any decision regarding a determination of PC or N may be appealed to the Planning Agency. All appeals shall be made in writing to the City within calendar 10 days of the Director's determination. Following the receipt of the request to appeal, the item will be scheduled to be heard at the next regularly scheduled Planning Agency meeting. The decision of the City Council, seated as the Planning Agency, shall be final.

Standards for Determination

While no specific standards are outlined in the B & P Code, staff believes that specific standards will be helpful in making this determination. After careful consideration of

potential issues arising from businesses selling alcohol in an area of “undue concentration,” the following standards have been developed:

**1. Public Convenience**

The applicant shall provide evidence to the City that the applicant premises are intended to provide customers with merchandise or services separate from alcoholic beverages and that consumers visiting the premises would purchase alcoholic beverages as a secondary item to other merchandise or service. Evidence to consider may include, but shall not be limited to:

- a. Factual data showing that the premises will have a majority of floor space devoted to food or other merchandise with a minority of floor space devoted to alcoholic beverages. A typical use meeting this criteria would be a supermarket or other food store with alcoholic beverages offered as one of many products.
- b. Information from the Orange County Sheriff that similar establishments within Orange County have not contributed significantly to the crime rate within the jurisdiction in which they are located.

**2. Necessity**

The applicant shall provide evidence to the City that a substantial public demand for the product cannot otherwise be satisfied unless the applicant’s permit is approved. Information to be considered may include, but shall not be limited to:

- a. Factual data showing that the applicant premises will provide a unique experience, which could not otherwise be met within the City of Laguna Hills. Aspects of the unique experience may include ambiance, aesthetics, or provisions of specialized services at the applicant premises.
- b. Information from the Orange County Sheriff that similar establishments within Orange County have not contributed significantly to the crime rate within the jurisdiction in which they are located.

Due to the fact that this application is simply for an administrative determination as to whether public convenience or necessity is served, there should not be conditions placed on the finding. ABC has a list of standard conditions that it may choose to impose on the various licenses they issue (see Attachment 3, page 13).

**FISCAL IMPACT:**

The fiscal impact of implementing this procedure would be simply the amount of staff time that is spent reviewing and processing the application. This impact will be offset by the proposed \$40 fee that would accompany such applications. The proposed fee is the

same amount as the zoning letter fee, which is reflected in the City's most recent fee study, and which requires an equal amount of research and staff time to process.

**CEQA FINDINGS:**

The proposed delegation of authority to render determinations of public convenience or necessity for alcoholic beverage licensing and the establishment of review procedures and criteria is not a Project subject to CEQA pursuant to *CEQA Guidelines* Section 15378 subsection (b)(2), which states that continuing administrative activities, such as general policy and procedure making is not considered a Project. The establishment of a \$40 fee to cover the cost of processing application for finding of PC or N is exempt from CEQA pursuant to *CEQA Guidelines* Section 15273 subsection (a)(1) due to the fact that the fee established is directly related to the cost involved in processing the request.

**CONCLUSION:**

Under certain circumstances, the City may be required to make a finding of PC or N prior to ABC issuing a license to sell alcoholic beverages. Authorizing the Director to make this determination and providing an application process and standards for making the determination will help to efficiently and equitably process any such requests from businesses, while maintaining a safe and healthy environment for residents and visitors to the City of Laguna Hills.

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**RECOMMENDATION: THAT THE CITY COUNCIL ADOPT A RESOLUTION ENTITLED: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DELEGATING THE AUTHORITY TO RENDER DETERMINATIONS OF PUBLIC CONVENIENCE OR NECESSITY FOR ALCOHOLIC BEVERAGE LICENSING TO THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING REVIEW PROCEDURES AND CRITERIA."**

---

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**ATTACHMENTS:**

1. Proposed Resolution
2. Request for Finding of PC or N Application
3. PC or N Informational Handout



RESOLUTION NO. 2011-

A RESOLUTION OF THE CITY COUNCIL THE CITY OF LAGUNA HILLS, CALIFORNIA, DELEGATING THE AUTHORITY TO RENDER DETERMINATIONS OF PUBLIC CONVENIENCE OR NECESSITY FOR ALCOHOLIC BEVERAGE LICENSING TO THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING REVIEW PROCEDURES AND CRITERIA

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

WHEREAS, pursuant to the California Business and Professions Code, the Department of Alcoholic Beverage Control ("ABC") is charged with the responsibility of reviewing applications and issuance of licenses for the sale of alcoholic beverages in the State of California; and

WHEREAS, Business and Professions Code Section 23958 provides that the ABC shall deny any application for a license if the issuance of that license would tend to create a law enforcement problem, or if issuance would result in, or add to an "undue concentration" of licenses, except as provided in Section 23958.4 of the Business and Professions Code; and

WHEREAS, Business and Professions Code Section 23958.4 provides that, notwithstanding the limitations of Section 23958, the ABC may issue a license if the "public convenience or necessity" would be served by the issuance of such license; and

WHEREAS, Business and Professions Code Section 23958.4 further provides that the determination of "public convenience or necessity" for all off-sale liquor licenses (e.g. liquor stores, convenience stores, grocery stores), and certain on-sale liquor licenses (e.g. bars, nightclubs), be made by the local governing body, or its designated subordinate officer or body, in which the applicant premises are located; and

WHEREAS, the local governing body of the City of Laguna Hills ("City") is the City Council; and

WHEREAS, the City Council desires to delegate the authority to make a determination of public convenience or necessity, pursuant to Business and Professions Code Section 23958.4 subsection (b)(2), to the Community Development Director, and to establish review procedures and criteria for making such determinations.

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

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

SECTION 2. Delegation of Authority. The Community Development Director is hereby authorized to make "public convenience or necessity" determinations for purposes of Business and Professions Code Section 23958.4.

SECTION 3. Review Procedures. The procedure for processing requests for findings of public convenience or necessity shall be as follows:

1. **Application:** An application shall be filed with the Planning Division and an administrative fee paid. The application will contain basic information about the premises, the business, crime rates, and ABC license concentration in the area.
2. **Police Review:** The application and any supporting documentation will be sent to the Chief of Police Services for review and comments.
3. **Determination:** The Community Development Director will make a determination based upon the information provided in the application and any comments received from the Police Services Department. This determination shall be made within 60 calendar days of the date of filing a complete application unless a written request for postponement has been received from the applicant. The Community Development Director, or his/her designee, shall notify the applicant, the City Manager, City Council, and the ABC in writing of the determination made.
4. **Appeal:** Pursuant to the appeals procedures provided in Chapter 9-96 of the Laguna Hills Municipal Code, any decision regarding a determination of PC or N may be appealed to the Planning Agency. All appeals shall be made in writing to the City within 10 calendar days of the Community Development Director's determination. Following the receipt of the request to appeal, the item will be scheduled to be heard at the next regularly scheduled Planning Agency meeting. The decision of the City Council, seated as the Planning Agency, shall be final.

SECTION 4. Standards for Determination. In making determinations of public convenience or necessity, the Community Development Director shall consider the following:

1. Public Convenience

The applicant shall provide evidence to the City that the applicant premises are intended to provide customers with merchandise or services separate from alcohol beverages and that consumers visiting the premises would purchase alcohol beverages as a secondary item to other merchandise or service. Evidence to consider may include, but shall not be limited to:

- a. Factual data showing that the premises will have a majority of floor space devoted to food or other merchandise with a minority of floor space devoted to alcoholic beverages. A typical use meeting this criteria would be a supermarket or other food store with alcoholic beverages offered as one of many products.
- b. Information from the Orange County Sheriff that similar establishments within Orange County have not contributed significantly to the crime rate within the jurisdiction in which they are located.

2. Necessity

The applicant shall provide evidence to the City that a substantial public demand for the product cannot otherwise be satisfied unless the applicant's permit is approved. Information to be considered may include, but shall not be limited to:

- a. Factual data showing that the applicant premises will provide a unique experience, which could not otherwise be met within the City of Laguna Hills. Aspects of the unique experience may include ambiance, aesthetics, or provisions of specialized services at the applicant premises.
- b. Information from the Orange County Sheriff that similar establishments within Orange County have not contributed significantly to the crime rate within the jurisdiction in which they are located.

SECTION 5. Establishment of Fee. The fee for initiating the procedure established in Section 3 shall be \$40.00.

SECTION 6. CEQA Clearance. The City Council finds the delegation of authority to render determinations of public convenience or necessity for alcoholic beverage licensing and the establishment of review procedures and criteria is not a Project subject to CEQA pursuant to *CEQA Guidelines* Section 15378 subsection (b)(2), which states that continuing administrative activities, such as general policy and procedure making is not considered a Project. The establishment of a \$40 fee to cover the cost of processing application for finding of PC of N is exempt from CEQA pursuant to *CEQA Guidelines* Section 15273 subsection (a)(1) due to the fact that the fee established is directly related to the cost involved in processing the request.

(Remainder of page intentionally left blank)

PASSED, APPROVED, AND ADOPTED this 22<sup>nd</sup> day of November, 2011.

\_\_\_\_\_  
L. ALLAN SONGSTAD, JR., 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.  
2011- adopted by the City Council of the City of Laguna Hills, California, at a Regular  
Meeting thereof held on the 22<sup>nd</sup> day of November, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
PEGGY J. JOHNS, CITY CLERK



## CITY OF LAGUNA HILLS FINDING OF PUBLIC CONVENIENCE OR NECESSITY

(Please type or print)

1) Name of Applicant: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone : \_\_\_\_\_

2) Name of Business: \_\_\_\_\_

3) Business Premises Address: \_\_\_\_\_

4) Property Owner/Manager: \_\_\_\_\_ Phone: \_\_\_\_\_

5) Type of ABC License: \_\_\_\_\_

6) Finding of Public Convenience or Necessity Required due to: \_\_\_\_\_

7) Census Tract # \_\_\_\_\_

Number of Licenses Allowed \_\_\_\_\_ Number Currently Existing \_\_\_\_\_

8) Crime Reporting District \_\_\_\_\_

Dist. Average \_\_\_\_\_ x 120% = \_\_\_\_\_ High Crime (20% over average)

Crimes in this Reporting District \_\_\_\_\_ or \_\_\_\_\_ %

9) PLEASE ATTACH A LETTER AND/OR EVIDENCE DEMONSTRATING THAT EITHER PUBLIC CONVENIENCE OR NECESSITY WOULD BE SERVED BY THE ISSUANCE OF THE SUBJECT LICENSE. (See "Standards of Determination" on page 2 of this form).

Signature of Applicant

Date

\_\_\_\_\_

\_\_\_\_\_

Signature of Property Owner

Date

\_\_\_\_\_

\_\_\_\_\_

**Standards of Determination:**

**1. Public Convenience**

The applicant shall provide evidence to the City that the applicant premises are intended to provide customers with merchandise or services separate from alcohol beverages and that consumers visiting the premises would purchase alcohol beverages as a secondary item to other merchandise or service. Evidence to consider may include, but shall not be limited to:

- a. Factual data showing that the premises will have a majority of floor space devoted to food or other merchandise with a minority of floor space devoted to alcoholic beverages. A typical use meeting this criteria would be a supermarket or other food store with alcoholic beverages offered as one of many products.
- b. Information from the Orange County Sheriff that similar establishments within Orange County have not contributed significantly to the crime rate within the jurisdiction in which they are located.

**2. Necessity**

The applicant shall provide evidence to the City that a substantial public demand for the product cannot otherwise be satisfied unless the applicant's permit is approved. Information to be considered may include, but shall not be limited to:

- a. Factual data showing that the applicant premises will provide a unique experience, which could not otherwise be met within the City of Laguna Hills. Aspects of the unique experience may include ambiance, aesthetics, or provisions of specialized services at the applicant premises.
- b. Information from the Orange County Sheriff that similar establishments within Orange County have not contributed significantly to the crime rate within the jurisdiction in which they are located.

**↓ STAFF USE ONLY ↓**

**Police Services Initial:** \_\_\_\_\_ **Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**AFTER CAREFUL REVIEW OF THE FACTS SUBMITTED REGARDING THE ABC LICENSE REFERENCED ON THIS FORM, I HEREBY FIND:**

\_\_\_\_\_ That **PUBLIC CONVENIENCE** will be served by the issuance of said license. And therefore request that ABC issue the license if all other requirements have been met.

\_\_\_\_\_ That **NECESSITY** will be served by the issuance of said license. And therefore request that ABC issue the license if all other requirements have been met

\_\_\_\_\_ That **NEITHER** public convenience nor necessity will be served by the issuance of said license. And therefore request that ABC **NOT** issue the license.

\_\_\_\_\_  
**COMMUNITY DEVELOPMENT DIRECTOR**

**DATE:** \_\_\_\_\_

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

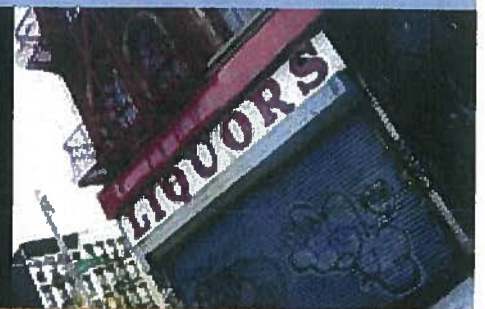


# **“PUBLIC CONVENIENCE OR NECESSITY”**

**A GUIDE FOR LOCAL GOVERNMENT  
AND INTERESTED CITIZENS**



CALIFORNIA COUNCIL ON ALCOHOL POLICY • REVISED MARCH 2006



# **“PUBLIC CONVENIENCE OR NECESSITY”**

## **A GUIDE FOR LOCAL GOVERNMENT AND INTERESTED CITIZENS**

### **AUTHORS' BIOGRAPHIES**

#### **VICTOR COLMAN, B.A., J.D.**

*In his twenty-two plus years in the public health field, Victor Colman has been a policy analyst, project director, trainer, curricula developer, lobbyist, researcher, manager, and bureaucrat. Victor has worked for academic and non-profit corporations as well as local and state government. Currently, Victor is the senior policy advisor with the Washington State Department of Health in the Division of Community and Family Health.*

#### **MICHAEL SPARKS, M.A.**

*Michael Sparks serves as the Policy Director at the Center for Community Action and Training (CCAT). Michael has expertise in the alcohol policy field as well as in the areas of community building, using local control strategies to manage problematic alcohol and drug environments, the legislative process, neighborhood revitalization, and management of non-profit corporations. He has provided training in the areas of community organizing, alcohol policy, using the legislative process to reduce alcohol and other drug problems, and leadership development. He was the first Executive Director of the Marin Institute for the Prevention of Alcohol and Other Drug Problems and one of four founders of that organization in 1987.*

### **BACKGROUND:**

#### **WHY WRITE THIS GUIDE?**

*As the title suggests, this guide is written for those who work in local government and for those community members seeking to engage in licensing and land use regulation of retail alcohol outlets in California. Limiting alcohol problems in our communities through environmental strategies can be highly effective, but understanding how to accomplish this can be daunting. We are committed to helping you be an effective participant in these strategies, particularly as they relate to public convenience or necessity, a relatively new tool that can directly engage communities and local government into state liquor licensing processes. This is our effort to deconstruct these processes and offer some experience-based input and advice.*

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## REGULATING RETAIL ALCOHOL OUTLETS IN CALIFORNIA: CHALLENGES AND OPPORTUNITIES

While the licensing and land use regulation of retail alcohol outlets in California is complex, local communities and their governments can exert some influence in newly proposed liquor license applications. However, perhaps the greatest challenge is curtailing the sheer number of retail alcohol licenses across the state. While many states place ceilings on the number of liquor licenses in a given community, California is still a state where on-sale beer and wine licenses enjoy no restrictions – see table below.

ordinance, your alcohol problems prevention efforts can be greatly aided by enacting such an ordinance. Additional resources include: <http://health.org/govpubs/PHD822/aar.aspx> and <http://resources.prev.org/documents/AlcoholViolenceGruenewald.pdf>.

“Public convenience or necessity” is an additional tool for local government and communities that directly ties them into the state liquor licensing process. Current state law limits the issuance of new licenses in geographical regions defined as high crime areas or in areas of “undue concentration” of retail alcohol outlets. However, the law also states

| A CURRENT SNAPSHOT OF LIMITS IN RETAIL ALCOHOL AVAILABILITY -- CALIFORNIA |                                     |                                                                                                                               |
|---------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| LICENSES                                                                  | ON-SALE                             | OFF-SALE                                                                                                                      |
| Beer, Wine and Distilled Spirits (“General License”)                      | 1 license for every 2,000 residents | 1 license for every 2,500 residents                                                                                           |
| Beer and Wine Only                                                        | No state limit                      | 1 license for every 2,500 residents<br>or<br>1 license for every 1,250 residents when combined with off-sale general licenses |

And because there is no state limit placed upon on-sale beer and wine licenses, communities will continue to see new applications filed with the Department of Alcoholic Beverage Control on a regular basis. Some localities have filled this vacuum by utilizing their local land use powers. Under state law, the ABC may not issue a liquor license if it violates an existing local zoning ordinance (CA Business & Professions Code 23790). Thus, to obtain a state liquor license, the applicant must first have all necessary local zoning permits in order. This statutory scheme gives real power to localities with strong zoning ordinances specific to retail alcohol outlets. When properly constructed and deployed, local zoning laws can be a very powerful tool. It is generally easier to be successful at policy change at the local level than at the state level. Check to see if your city or county has a strong zoning ordinance that directly regulates retail alcohol outlets (bars, restaurants, liquor stores, convenience stores). If your locality does not have such an

these restrictions can be sidestepped in specified circumstances when the state ABC or the local jurisdiction makes a determination that the applicant license proves that the proposed outlet would serve “public convenience or necessity” (PC or N). In other words, “public convenience and necessity” is demonstrated when the liquor license applicant proves that the business operation will provide some kind of benefit to the surrounding community. Thus, in addition to making local zoning decisions about alcohol outlet locations and operations, localities now have formal say into the state liquor license process when they actively utilize their authority to make PC or N determination.

Although this phrase “public convenience or necessity” had been embedded in the “undue concentration” statute well before the adoption of the PC or N law in 1994, neither the ABC Department nor local governing bodies has established definitive and uniform guidelines for defining and applying any version of the “public convenience or necessity” doctrine.

In addition, state judicial and administrative decisions have shed little light on the development of definitions or guidelines. Further, there remains some confusion regarding the exact roles and responsibilities of local governing bodies designated to make the PC or N determination.

## **RETAIL ALCOHOL AVAILABILITY: PAINTING A REGULATORY PICTURE**

In order to understand the implications of the concepts of PC or N, a general understanding of how California governs the commercial sale and service of alcoholic beverages is necessary.

### **A BRIEF OVERVIEW**

The regulation of the sale and service of alcohol involves two separate levels of authority: *state* and *local*. The common-sense notion that retail alcohol businesses must be regulated (and be in proportion to the general population) in order to protect the public health and safety is an underlying assumption for each regulatory level. In California, license regulation is handled by a state agency, the Department of Alcoholic Beverage Control (ABC).

State ABC systems can be divided into two basic groups: control and license. In control systems, the state actually owns and operates alcohol retail outlets themselves. In license states (like California), all alcohol businesses must obtain a liquor license from the state as a condition of doing business.

Each state has also shaped its own relationship around local (city and county) power and authority over liquor licensing. States vary widely in defining local powers. Some states place most licensing power with local government; others give all of the power to the state agency. California's liquor licensing system relies primarily on state authority. There is, however, a major exception to the strong state ABC powers in California, one that has resulted in a great deal of regulatory and community activity at the municipal level. **Under California State law, the ABC Department may not issue a liquor license if it violates an existing, valid, local zoning ordinance (CA Business & Professions Code 23790).** In locales that have enacted such zoning laws, known as conditional use permits or CUP's, state liquor licenses may only be issued **after** all zoning permits are in order.

The CUP is a land use ordinance that provides communities and local governments control over where alcohol outlets may be located, how late they may operate, how they train their sellers/servers, and how citizens may participate in determining if new outlets should open in their

neighborhoods. Through the CUP, operating conditions may be placed on new outlets that minimize potential risks to health and safety. The ordinance also provides a simple mechanism for localities to revoke the use permits of outlets operating out of compliance with the conditions set forth in the CUP.

Localities with robust CUP's enjoy real and sustained benefits -- zoning applicants are thoroughly screened, public input is heightened, and the potentially risky element of retail alcohol sales in a community is explicitly debated. Such local processes allow communities to better shape their retail alcohol availability through active use of existing zoning powers-- both in intervening with problem outlets today and preventing undue concentration problems in the future.

### **PC OR N: A HISTORY LESSON ORIGINAL UNDEUE CONCENTRATION STATUTE (Before AB 2897 - - CALDERA)**

State law attempted to curtail the intensity of too many retail outlets and the associated community problems through its definition of "*undue concentration*". The ABC-developed formula stated that undue concentration was proved when crime was 20% higher in the specific crime reporting district where the applicant outlet would be located when compared to all crime reporting districts across either the city or county. However, the statute (and its regulatory analogue -- Rule 61.3) was very challenging for potential ABC license applicants and protestants to understand.

The process was triggered by a single liquor license application. Simply put, interested protesters (i.e., individual community members or local government bodies) needed to prove mathematically that having too many liquor licenses in the vicinity had a nexus or relationship to higher crime statistics as described above.

Applying this formula was not impossible but took extensive legwork, and much cooperation from the police department. Some police departments were able to provide the necessary statistics, while others had record systems that make this data impossible to retrieve. However, even if the protester(s) clearly proved undue concentration using the crime statistic formula described above, complete discretion over liquor license issuance resided with the ABC if they found "*public convenience or necessity*".

Both public entities and communities grew frustrated with the state's broad administrative discretion. These frustrations led to various legislative proposals to change the definition of undue concentration and provide a formal role for local input in the determination of PC or N.

## PUBLIC CONVENIENCE OR NECESSITY LEGISLATION:

In 1994, the California legislature enacted AB 2897 (Caldera). Business and Professions Code § 23958.4 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=23001-24000&file=23950-23962>) now prohibits the issuance of new alcohol retail licenses in any area that has an undue concentration of alcohol outlets **unless** a determination is made that the license would serve public convenience or necessity. The determination of "public convenience or necessity" is either made by the ABC or by a local governing body, depending on the license type.

Undue concentration was redefined in this legislation. Subsection (a) of the code defines "undue concentration" in two specific ways:

- Excess Crime  
Excess Uniform Crime Reporting (UCR) Part 1 crimes (> 20%) reported within the crime reporting district (*similar to the prior definition in law*) **OR**
- Ratios (X number of licenses per X number of residents)  
A higher alcohol license/population ratio within the census tract/division than the county alcohol license/population ratio.

Subsection (b) apportions the roles of the state ABC and local governing bodies based upon type of license. See table below for breakdown.

| PUBLIC CONVENIENCE OR NECESSITY:<br>A JURISDICTIONAL BREAKDOWN |                                                                                                                                                                           |
|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| JURISDICTIONS                                                  | LICENSE TYPES                                                                                                                                                             |
| State<br>Department<br>of Alcoholic<br>Beverage Control        | <b>On-Sale</b> <ul style="list-style-type: none"><li>• Restaurants<br/>(bona fide eating places)</li><li>• Lodging-based licenses</li><li>• Non-retail licenses</li></ul> |
| Local Governing<br>Body                                        | <b>Off-Sale</b> <ul style="list-style-type: none"><li>• Liquor stores</li><li>• Convenience stores</li><li>• Bars</li></ul>                                               |

So, since 1995 local entities have been given an additional and direct role in the state ABC licensing process for a substantial portion of license types. How communities and their local government bodies can best flex this new muscle is described in detail below.

## SUBSEQUENT LEGISLATION:

### 1995: The Thompson "Wrinkle" (SB 408) -- Moratorium Areas

SB 408 (Thompson) amended Business and Professions Code § 23817.5 in 1995. This provision imposes a moratorium on new off-sale retail beer and wine licenses in cities and counties where the number of such licenses exceeds one license for each 2,500 residents. Contact your local ABC office for a current listing of moratorium jurisdictions.

This amendment allows the ABC Department to potentially override the off-sale beer/wine moratorium if the applicant can demonstrate to the local governing body that public convenience or necessity would be served.

### 1996: The Hoge Amendment (AB 2841) - The 90 Day Limit

After enactment of the new *public convenience and necessity* provisions in 1994, various pieces of legislation were introduced in the 95-96 session to amend the statutory scheme. AB 2841 was the successfully enacted bill and essentially created a time limit for local governments to make their determination of public convenience and necessity. Local governing bodies now have 90 days in which to make such a determination. Failure to do so in that time frame will then give the ABC the right to make the determination.

Thus, localities and communities must be mindful of the time limits when designing and implementing PC or N processes; otherwise, they will lose the powers gained through the original Caldera bill.

## IMPLEMENTATION STRATEGIES

The essence of this portion of the guide is to give the reader some tangible examples of how to implement the PC or N legislation at the local level. Substantive advice is provided that can assist localities and their communities to derive the most benefit from this important (but under-utilized) power.

### DETERMINING A LOCAL GOVERNING BODY

Since the Caldera bill was enacted, local government has utilized a number of different options as the official "governing body." We talked to many folks at the local level to determine if there were any preferred approaches. In short, there is no definitive answer at this juncture. Instead, we offer a guiding principle that applies across the

board, to choose a governing body that has functional linkages with other local agencies and, perhaps most importantly, the communities that make up that city or the unincorporated county.

See Appendix D for examples of locally designated entities.

### **DETERMINING PC OR N: MANDATORY & DISCRETIONARY MODELS**

This discussion includes two main sections: (1) highlights of PC or N guidelines (both mandatory and discretionary), and (2) highlighting current procedural models which list both the pros and cons of each. It is important to remember that these are only guidelines or suggestions; control still resides at the local level as to how a community may choose to implement this local component of the state PC or N legislation.

However, the original PC or N legislation explicitly stated that the burden of proof is on the applicant, meaning that the applicant is obliged to demonstrate to the ABC or, if applicable, the local entity, how *public convenience* OR *necessity* will be served by the existence of this new retail outlet. Note the “OR” in the public convenience or necessity. The applicant does not need to prove both elements – just demonstrating one of the elements is enough to meet the burden of proof.<sup>1</sup>

A number of potential applicant burdens or obligations have been gleaned from localities using the process around the state. These include:

- Demonstrate how the proposed use will not be detrimental to the character of development in the immediate neighborhood and will be in harmony with the overall objectives of the General Plan.
- Prove/demonstrate the economic benefit outweighs the negative impacts to the community as whole
- Demonstrate how issuance of license will provide a needed service not currently being met in the community
- Identify the special and unusual circumstances present here to justify a new retail alcohol outlet when there are already similar alcohol uses existing nearby
- Prove they cannot operate profitably without a liquor license
- Demonstrate reasonable efforts to seek community input
- Get the approval of redevelopment agency/committee when appropriate

After a local governing body has been identified and a procedural model selected (see SECTION 2, below) then the designated public entity moves on to the question of determining what constitutes public convenience or necessity for their community.

### **SECTION 1: PC OR N – RECOMMENDED GUIDELINES**

There are two basic types of analyses for determining PC or N:

- MANDATORY (or absolute), and
- DISCRETIONARY.

These should not be seen as mutually exclusive; but rather are complementary. Note, however, that if both are to be used it would certainly make sense for the municipality to first assess the PC or N question under the MANDATORY analysis.

### **SUGGESTED MANDATORY GUIDELINES**

Under this type of analysis the city or county should explicitly lay out in writing the criteria for which NO finding of PC or N will be made. Clearly this scenario requires special qualifying factors. Such circumstances can and have occurred. The following examples provide a beginning list of such factors used by some public entities as the basis for immediate rejection of the applicant's bid to prove PC or N. Any one of these factors should be enough to warrant a no PC or N finding, but the presence of additional factors makes for a stronger finding and will provide less likelihood of a successful appeal.

- Proposed use to be located in an existing targeted law enforcement area
  - as documented by specific and abnormally high general health and safety indicators that have some nexus with alcohol use
  - see Appendix B for links to research findings linking alcohol availability with a variety of alcohol-related problems
- Elevated rates of alcohol-related crime in a defined area or reporting district that encompasses the proposed use
  - significantly higher than average, i.e., 20% greater
  - i.e., disturbing the peace, public intoxication, assault and battery, prostitution, vandalism, graffiti, loitering, pan-handling, all CA Business & Professions code violations, drug violations, driving under the influence (DUI) tracking

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<sup>1</sup>Note that some localities mistakenly substitute “and” instead of “or” in their PC or N policies and procedures documents. This can result in that locality creating a greater burden to the applicant than originally intended.

- Consistent history of undue concentration  
-- i.e., 20% higher outlet density ratio than the state average for that particular license type
- Proximity to sensitive land uses  
-- examples: schools, churches, residences, parks, senior housing, youth activity centers, hospitals, treatment centers, homeless shelters, child care facilities

**NOTE: DISTANCE REQUIREMENTS SHOULD BE AT LEAST EQUIVALENT OR CLOSER TO STATE REQUIREMENTS**  
– see Business and Professions Code § 23789

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=23001-24000&file=23770-23793>

### **SUGGESTED DISCRETIONARY GUIDELINES**

It is strongly recommended that all local designated bodies should include at least this level of analysis. Here the designated public entity engages in a type of risk-benefit analysis. Note that license-specific factors are included as well.

It is suggested that the benefits side of the equation be examined first. If no tangible benefits can be discerned, the decision-making body should determine that public convenience or necessity would not be served. So, the applicant retains the burden of proof to make an initial case that there are discernible benefits to the particular use in question. If there are benefits, then the analysis should weigh the risks and focus on whether the business is designed to minimize those risks to the community.

To aid this important decision-making process the following variables should be considered when determining the relative merits and demerits of a proposed liquor license. The usual caveat to any promulgated state-wide guidelines must be applied here -- these are simply guidelines that require adaptation to local circumstances.

### **RISK VARIABLES**

In addition to those circumstances cited in the MANDATORY section, the following variables also may be considered in making the PC or N evaluation:

- law enforcement calls for service and Uniform Crime Reporting (UCR) part 1 & 2 crimes higher than average
- ratio (all police service calls for service/alcohol-related service calls)
- possible increase in level of law enforcement capacity
- health indicators (alcoholism rates, homelessness, other)

- youth demographics in immediate area  
-- i.e., “x” percentage of the population in the immediate vicinity of the proposed business is under the age of 21
- business operation variables  
-- i.e., high percentage (more than 50%) of alcohol to non-alcohol sales, late night (after midnight) operations, high percentage (over 50%) of untrained staff, high percentage (over 50%) of underage staff, availability of single servings, sale of inexpensive fortified wines, size of facility, lack of adequate security, lighting.

### **BENEFIT (CONVENIENCE) VARIABLES**

As discussed above, the initial inquiry involves determining (with some specificity) what potential benefits the proposed establishment will bring to the community. Again, the burden is on the applicant to provide this information. Some benefit variables include:

- net employment gain (especially of local residents)
- various business taxes
- unique business addition
- enhances and/or increases the public utilization of space
- contribution to the long-term economic development goals of the community
- positive (cultural) entertainment

### **SECTION 2: PC OR N PROCEDURAL ISSUES**

The issue of determining PC or N is complicated by questions of procedure and timing.

#### **TIMING**

As many as three distinct processes may be in play with regard to retail alcohol outlets:

1. a local conditional use permit (if required);
2. a PC or N determination (required within 90 days of a completed PC or N application); and/or,
3. the state ABC liquor license process (protests need to be filed within 30 days of the initial posting date).

Unfortunately, these processes overlap, without any real standardization across localities. This lack of uniformity presents challenges to communities, localities, the state ABC and even the license applicant. Thus, the authors are unable to recommend any specific model. However, a key principle should be applied in all cases; namely, **promote transparency in the process in order to ensure maximum citizen input and participation.**

Another complexity is the situation where some localities are making “conditional PC or N” determinations – meaning that the determination is wholly contingent upon the ABC

placing specific conditions upon the liquor license. Consult your local ABC administrator to assess the possibility of using this particular strategy.

#### Models:

For those with existing conditional use permits (CUP's) regulating retail alcohol outlets, there were at least three variations. For those without an existing CUP, at least two variations were delineated. All five variations are described here:

#### Existing CUP Jurisdictions – Models:

- Administrative determination of PC or N
- Determination coordinated with CUP hearing process
- Determination subsequent to CUP hearing process

#### Non-CUP Jurisdictions – Models:

- Administrative determination of PC or N
- PC or N determination based on public hearing

#### PC OR N: PROCEDURAL OPTIONS

To reiterate, public entities must determine who shall serve as the designated local governing body. Appendix D provides current examples of various designated bodies.

A quick review of those local governing bodies that have begun to develop their own definitions of public convenience or necessity revealed no clear procedural model. Each local governing body should determine which model best fits their circumstances.

### EXISTING VARIATIONS WITH CUP'S

#### A) ADMINISTRATIVE DETERMINATION OF PC OR N

Here, staff of the designated department or agency makes a determination without any public hearing process.

##### PRO:

- fast, simple, less expensive
- individual agency representative can be utilized as “designated” department

##### CON:

- no input from community at front end of procedure
- lack of public process may give business applicant unfair advantage
- more difficult for community to appeal

#### B) DETERMINATION COORDINATED WITH CUP HEARING PROCESS<sup>2</sup>

Public notification and hearing are needed for both matters at hand (PC or N and zoning). Staff input can be directed to both questions.

##### PRO:

- most efficient process when faced with mandatory public hearing processes
- other interested departments able to provide formal input
- allows formal input from community on both CUP and PC or N findings.

##### CON:

- may confuse CUP issue (for staff, community, and members of relevant decision-making board)
- difficult to untangle the two processes, possibly creating sense of not having a fair hearing on the part of the applicant

<sup>2</sup> NOTE: If this variation is to be used, it is suggested that the issue of public convenience or necessity be taken up first. If PC or N is determined not to exist, the local zoning issue becomes moot.

# PUTTING THIS HANDBOOK TO USE

## DISSEMINATION

As with the original handbook, it is anticipated that this document will be broadly disseminated across a number of key sectors, including but not limited to:

- Chiefs of Police
- Planners
- City Managers
- City Attorneys
- City Councils
- County Supervisors Association & all related organizations including sheriffs, planners, boards of supervisors, city administrators
- American Planning Association
- California Peace Officers Association
- Interested businesses and business trade associations
- Alcohol prevention groups and organizations
- Interested citizens and community activists

## GETTING STARTED IN YOUR COMMUNITY

If you are interested in getting your local government to pay more attention to the issues of retail alcohol availability, we suggest contacting the Community Prevention Institute for possible support for technical assistance and training. They can be found at <http://www.ca-cpi.org> or by calling 916.983.8929.

## IMPROVING THE STATE ABC LICENSING PROCESS: POSSIBLE ADMINISTRATIVE AND POLICY REMEDIES

A recent statewide meeting of ABC constituents and interested individuals representing neighborhoods and organizations using the PC or N process was held in order to shape the revision of this document. Emerging from the discussion was a number of key policy issues of concern to the participants. Of course, in any policy development process, one must first define the problem or issue area. In this arena, there are two overarching themes: 1) strengthening the information flow from state ABC to communities; and, 2) better demarcation of the state liquor licensing process and the local PC or N process.

*The ideas listed below are not necessarily endorsed by any particular organizations but do point out areas of debate and concern. These ideas could take the shape of bills, rules changes, or simply shifts in operational policy. Sketches of several ideas include:*

- ABC should require applicants to mail notice of license applications to a broader spectrum of community members. Participants expressed that the notices often fail to get into the hands of the residents that live nearby and also frequently leave insufficient time for community members to act should they wish to protest the license.  
✓ Specific ideas include: expand the area that applicants are required to disseminate the notices; provide a more timely process for distribution; and develop multiple communication avenues to ensure actual resident notification.
- Communities are confused about the interface between licensing and local land use powers. Examples of ABC District Offices initiating the processing of license applications before local government bodies have had time to determine if a Conditional Use Permit will be awarded were raised and discussed.  
✓ One solution offered was for the ABC not to begin processing (or even accepting) liquor license applications until local land use decisions are made.
- Participants agreed that the posting of ABC transmittals (updated information on pending license applications, transfers, etc.) and master list of conditions on the ABC Website would be a very useful tool.
- Also discussed was the possibility of using a different baseline for the calculation of population ratios for the determination of "undue concentration."  
✓ Suggestions included using population ratios derived from multiple sources (e.g., census tracts, zip codes, planning districts, crime reporting districts, etc.) rather than solely the County population at large.
- Participants felt the ABC should have the statutory authority to place conditions on license even when an applicant disagrees with the conditions.
- ABC licensees are allowed to make annual requests to have current conditions removed from their license. Similarly, localities and communities would like a similar process established to request additional conditions on a license, when justified.
- Given the interface between licensing and exercising of local land use prerogatives, participants would like the ABC to take a supportive or, at worst, a neutral position in reference to the land use conditions that a local jurisdiction may choose to place on a use permit.

## **APPENDICES**

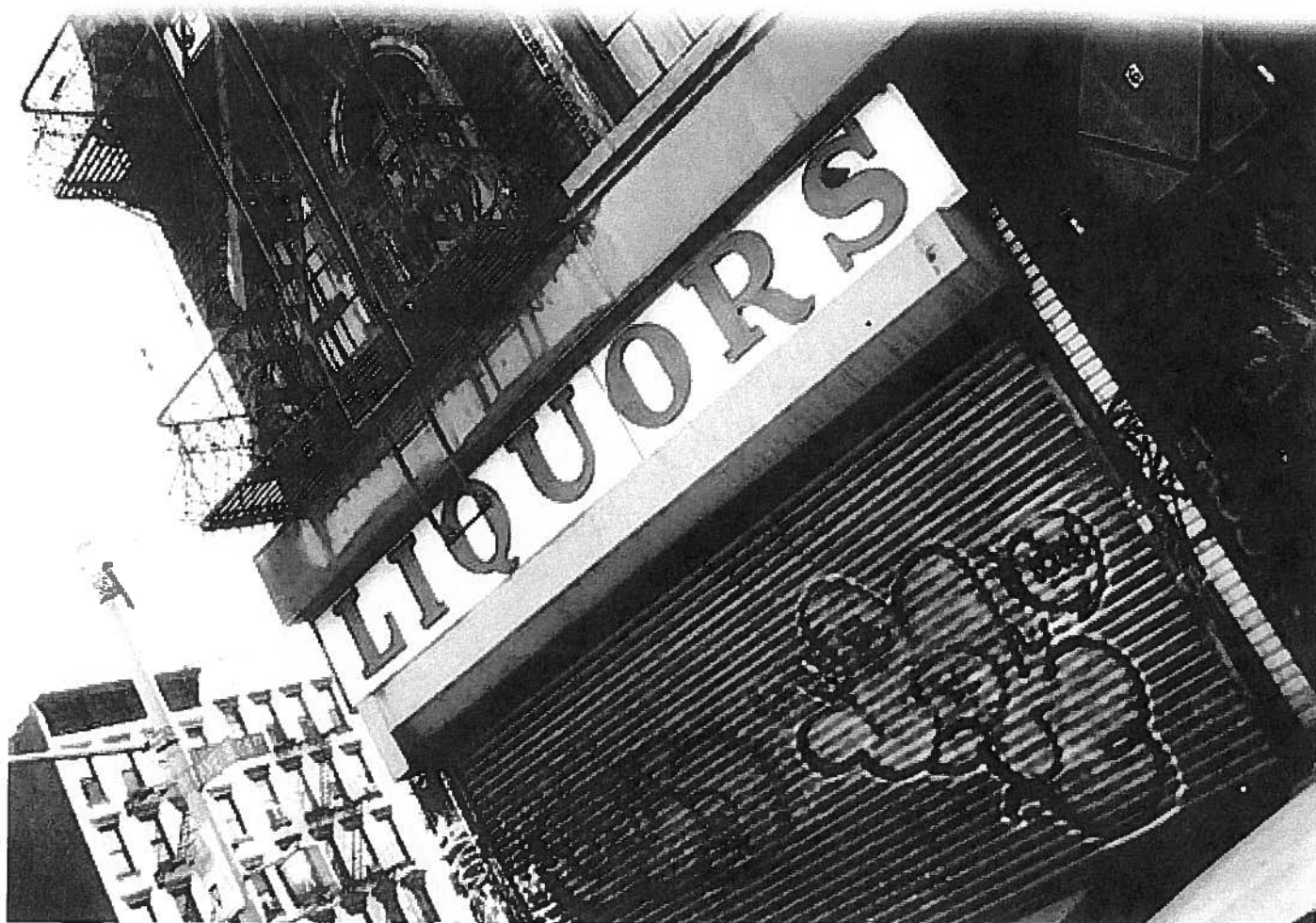
**APPENDIX A ..... GLOSSARY**

**APPENDIX B ..... SAMPLE OF WEB LINKS TO CITIES  
WITH ACTIVE PCORN PROCESSES**

**APPENDIX C..... KEY RESEARCH FINDINGS RELATED TO  
RETAIL ALCOHOL AVAILABILITY**

**APPENDIX D ..... EXAMPLES OF DESIGNATED AGENCIES  
AND DEPARTMENTS**

**APPENDIX E..... LIST OF ABC-APPROVED CONDITIONS**



# APPENDIX A

## GLOSSARY

### ABC:

The Department of Alcoholic Beverage Control, the state agency responsible for licensing and regulation of alcoholic beverages <http://www.abc.ca.gov>.

### Alcohol:

Includes alcohol (distilled spirits, liqueur, wine, wine coolers, or beer) in any liquid or solid containing at least one-half of 1 percent (0.05%) or more of alcohol by volume.

### Alcohol Availability:

A public health term referring to how alcohol is made available or accessible in a defined area or community. Availability may be based on location, price, advertising, and promotion.

### Alcohol Outlet:

A retail business that sells alcohol beverages to the public or to a select membership. Under the 21st Amendment, each state has the power to control the means by which alcohol is made available to the public. (See also Off-sale & On-sale Outlets)

### Applicant:

One who is applying for a state liquor license.

### Bona Fide Public Eating Place:

A technical name for "restaurant." The business must have full kitchen facilities and serve meals on a regular basis.

### California Department of Alcoholic Beverage Control:

The state agency that has the constitutional authority to regulate the manufacturing, wholesaling, and retailing of alcohol. See also "ABC" <http://www.abc.ca.gov>.

### Conditions:

Those agreed upon conditions of doing business that are attached to either a liquor license or a zoning permit.

### Fortified Wines:

Products made from both wine and spirits. Can include very inexpensive products generally found only in economically depressed communities or more expensive products (i.e., ports and brandies) found in most liquor stores.

### General License:

A license to sell or serve beer, wine, and distilled spirits.

### ID:

Identification used to verify a person's age.

### Incident Log:

A daily record of any events occurring in an establishment that could result in legal action.

### Intoxication:

The condition of physical and mental impairment resulting from consumption of alcohol and/or other drugs.

### Licensee:

An individual who has applied for and received a liquor license from the State of California.

### License Exchange:

When a retail alcohol outlet changes its liquor license type from one kind to another (for example, from a beer and wine license to a general license).

### License Transfer:

When a retail alcohol outlet transfers from one location to another and takes the liquor license with them.

### License Types:

A specific kind or class of license. For instance, Type 20 refers to an off-sale beer and wine license and Type 21 refers to an off-sale general license.

### Local Control:

Local city or county governments have many powers to establish laws and policies regarding retail alcohol establishments and sales. Local control refers to this particular arena of local policymaking.

### Malt Liquor:

A beer product with higher alcohol content (e.g., Olde English, St. Ides, Schlitz Malt Liquor).

### Minor:

Any person less than 21 years of age.

### Off-Sale Outlets:

Those establishments licensed by the state to sell alcohol for consumption away from the premises (e.g., liquor stores, convenience stores, grocery stores).

**On-Sale Outlets:**

Those establishments licensed by the state to sell alcohol for consumption on the premises (e.g., bars, restaurants, nightclubs).

**Premises:**

Any business establishment that has a license to sell alcohol.

**Protestants:**

Individuals who are formally protesting either a zoning permit at the local level or a liquor license application at the state level.

**Responsible Beverage Service (RBS) Training:**

A professional training program for managers, sellers, and servers of alcohol. Some cities and states require training as a precondition for employment or even as a condition preceding the issuance of a local zoning ordinance. As of March 2006, there are no state laws that require training in California.

**Sale or Service:**

Any transaction where alcohol is exchanged for something of value from one person to another.

**Undue Concentration:**

Subsection (a) of the code defines "undue concentration" in two specific ways:

- Excess Crime  
Excess Uniform Crime Reporting (UCR) Part 1 crimes (> 20%) reported within the crime reporting district (*similar to the prior definition in law*) **OR**
- Ratios (X number of licenses per X number of residents)  
A higher alcohol license/population ratio within the census tract/division than the county alcohol license/population ratio.

**Zoning:**

The means by which cities and counties regulate the different types of land uses (residential or commercial) within their boundaries.

## APPENDIX B

### SAMPLE OF WEB LINKS TO CITIES WITH ACTIVE PCORN PROCESSES:

#### Citrus Heights:

[http://www.ci.citrus-heights.ca.us/docs/item\\_12-east\\_meets\\_west\\_asian\\_imports.pdf#search='public%20convenience%20or%20necessity%20alcohol'](http://www.ci.citrus-heights.ca.us/docs/item_12-east_meets_west_asian_imports.pdf#search='public%20convenience%20or%20necessity%20alcohol')

#### Concord:

<http://www.ci.concord.ca.us/citygov/agendas/za/2001/06-27-01/rpt06-27-01-1.pdf>

#### Davis:

<http://www.city.davis.ca.us/cmo/citycode/detail.cfm?p=40&q=2073>

#### Diamond Bar:

<http://www.ci.diamond-bar.ca.us/docs/15331913120068.1.pdf>

#### Encinitas:

<http://www.ci.encinitas.ca.us/NR/rdonlyres/EBEE7F0B-4BA8-4FC4-85BA-DA319305A440/0/WEBPUBCONVABCFORM.pdf>

#### Manhattan Beach:

<http://www.ci.manhattan-beach.ca.us/agenda/1999/Ag-Min19990601/19990601-13.html>

#### Salinas:

[http://www.ci.salinas.ca.us/Admin/MuniCodes/CodeFiles/DATA/CHAP33/Sec\\_33\\_21\\_1\\_Requirements\\_for.html](http://www.ci.salinas.ca.us/Admin/MuniCodes/CodeFiles/DATA/CHAP33/Sec_33_21_1_Requirements_for.html)

#### San Mateo:

<http://www.ci.sanmateo.ca.us/dept/codes/ch10-38.html>

#### San Diego City:

[http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW\\_OBJECTID=090014518007d1f4](http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=090014518007d1f4)

#### San Diego County:

<http://www.sdcounty.ca.gov/cob/policy/policyupdatelist.html>  
(I-121 amended 6/23/04)

#### Temecula:

<http://www.cityoftemecula.org/cityhall/CommDevDivision/Planning/Permits/pdfs/Public%20Convenience%20and%20Necessity-Revised%2009-05.pdf>

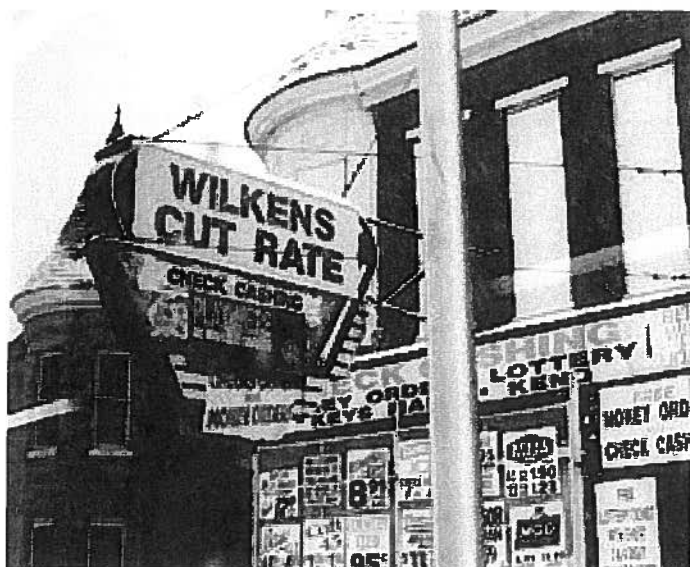
#### Yucca Valley:

<http://www.yucca-valley.org/pdf/planning/publicconvenecess.pdf>

## APPENDIX C

### KEY RESEARCH FINDINGS RELATED TO RETAIL ALCOHOL AVAILABILITY - WEB LINKS:

- <http://www.health.org/govpubs/PHD822/aar.aspx>
- <http://www.udetc.org/documents/accesslaws.pdf>
- <http://www.udetc.org/documents/strategies.pdf>
- <http://modelprograms.samhsa.gov/pdfs/Details/Community%20Trials.pdf>
- [http://www.publicstrategies.org/pdfs/fact\\_sheet\\_outlet\\_density\\_2\\_03.pdf](http://www.publicstrategies.org/pdfs/fact_sheet_outlet_density_2_03.pdf)
- <http://www.hawaii.edu/hivandaids/Alcohol%20Availability%20and%20Targeted%20Advertising%20in%20Racial%20Ethnic%20Minority%20Communities.pdf>
- <http://www.edc.org/hec/pubs/annotated-bib/alcohol-availability.html>



## APPENDIX D

| EXAMPLES OF DESIGNATED AGENCIES AND DEPARTMENTS |                                                                                                                               |
|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| DESIGNATED AGENCY OR DEPARTMENT                 | CITY OR COUNTY                                                                                                                |
| AGENCY                                          |                                                                                                                               |
| Law Enforcement                                 | Alameda (city); Hemet; Mendocino County (Sheriff); Oceanside; Sacramento (city); San Diego (city); Santa Rosa; Ventura (city) |
| City Manager                                    | Bakersfield; Berkeley                                                                                                         |
| City Attorney                                   | Simi Valley                                                                                                                   |
| Director of Public Works/City Engineer          | La Palma                                                                                                                      |
| Community Development/ Neighborhood Services    | Union City; San Francisco                                                                                                     |
| Planning                                        | Colusa County; Larkspur; Los Angeles County; Oakland; San Ramon; Vallejo                                                      |
| ELECTED:                                        |                                                                                                                               |
| City Council                                    | Long Beach; Los Angeles City; Reedley; Vista                                                                                  |
| Board of Supervisors                            | Fresno County; Kern County; Ventura County                                                                                    |
| OTHER:                                          |                                                                                                                               |
| Shared                                          | San Leandro (Community Services Director/ Chief of Police)                                                                    |

## **APPENDIX E**

**List of ABC-approved conditions. This list is not exhaustive. Local officials may request the ABC place additional conditions on a new or transferred license; these conditions would not be ABC approved, but would be used at the local level as part of a conditional use permit process.**

### **ON SALE PREMISES:**

#### **TO BE USED FOR LOCATIONS WHICH HAVE DIFFERENT HOURS ON DIFFERENT DAYS OF THE WEEK**

Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of \_\_\_\_ and \_\_\_\_.

#### **TO BE USED FOR ON SALE LOCATIONS WITH THE SAME HOURS EACH DAY OF THE WEEK.**

Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of \_\_\_\_ and \_\_\_\_ each day of the week.

Sales, service and consumption of alcoholic beverages shall be permitted in the patio area only between the hours of \_\_\_\_ and \_\_\_\_, each day of the week.

### **OFF SALE PREMISES:**

#### **TO BE USED FOR LOCATIONS WHICH HAVE DIFFERENT HOURS ON DIFFERENT DAYS OF THE WEEK**

Sales and service of alcoholic beverages shall be permitted only between the hours of \_\_\_\_ and \_\_\_\_.

#### **TO BE USED FOR OFF SALE LOCATIONS WITH THE SAME HOURS EACH DAY OF THE WEEK.**

Sales and service of alcoholic beverages shall be permitted only between the hours of \_\_\_\_ and \_\_\_\_ each day of the week.

The sale of distilled spirits by the bottle for same day or future consumption is prohibited.

There shall be no bar or lounge area upon the licensed premises maintained for the purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption.

If the premises do not open until 9:00 p.m., full and complete meals must be served whenever the privileges of the license are being exercised.

The premises shall be maintained as a bona fide food restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurants.

The petitioner(s) shall stock and offer for sale a substantial assortment of food and/or merchandise commonly associated with and sold to persons in the community of extraction.

Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within hours of being applied.

No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed.

No refrigerated or otherwise chilled alcoholic beverages shall be sold or maintained on the licensed premises.

The use of any amplifying system or device is prohibited on \_\_\_\_, and the use of any such system or device inside the premises shall not be audible outside the premises.

During normal meal hours, at least the premises seating shall be designed and used for and must possess the necessary utensils, table service, and condiment dispensers with which to serve meals to the public.

At all times when the premises are open for business the sale of alcoholic beverages shall be made only in conjunction with the sale of food to the person ordering the beverage.

There shall be no amplified music on the premises at any time.

Sales, delivery and consumption of alcoholic beverages will be restricted to and within the confines of the building portion of the premises and sales or delivery of alcoholic beverages through any pass-out window is prohibited.

The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department on demand.

There will be no dancing allowed on the premises.

The door(s) shall be kept closed at all times during the operation of the premises except in cases of emergency. Said door(s) not to consist solely of a screen or ventilated security door.

The door(s) shall be kept closed at all times during the operation of the premises except in cases of emergency and to permit deliveries. Said door(s) not to consist solely of a screen or ventilated security door.

The rear doors of the premises shall be equipped on the inside with an automatic locking device and shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation.

There shall be no amusement machines or video game devices in the premises at any time.

There shall be no more than \_\_\_\_ amusement machine or video game devices in the premises at any time.

No pool or billiard tables may be maintained on the premises.

A single jukebox or stereo may be maintained upon the premises; however, the music shall not be audible outside the premises.

Entertainment provided shall not be audible beyond the area under the control of the licensee(s) as defined on the ABC-257 dated and ABC-253 dated \_\_\_\_.

Live entertainment provided shall be limited to \_\_\_\_\_. No noise from said entertainment shall be heard beyond feet from the exterior of the premises in any direction.

There shall be no live entertainment of any type, including but not limited to live music, disc jockey, karaoke, topless entertainment, male or female performers or fashion shows.

There shall be no \_\_\_\_ permitted on the premises at any time.

Between the hours of \_\_\_\_ and \_\_\_\_ or at any time the premises are providing \_\_\_\_, the petitioner(s) shall provide \_\_\_\_ licensed uniformed security guard(s)<sup>3</sup> in the parking lot and shall maintain order therein and prevent any activity which would interfere with the quiet enjoyment of their property by nearby residents.

Petitioner(s) shall provide uniformed security guard(s) between the hours of \_\_\_\_ to \_\_\_\_.

Petitioner(s) shall provide uniformed security guard(s) from \_\_\_\_ to \_\_\_\_ after closing.

Between the hours of \_\_\_\_ and \_\_\_\_ or at any time the premises are providing \_\_\_\_, the petitioner(s) shall provide security personnel in the parking lot and shall maintain order therein and prevent any activity which would interfere with the quiet enjoyment of their property by nearby residents. Said personnel shall be clothed in such a manner as to be readily identifiable as security.

The sale of alcoholic beverages for consumption off the premises is strictly prohibited.

The subject alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premise.

The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on the ABC-257 dated and ABC-253 dated \_\_\_\_.

The petitioner(s) shall provide off-street parking spaces for vehicles for use by patrons of the premises.

The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.

Trash shall not be emptied between the hours of \_\_\_\_ nor later than \_\_\_\_.

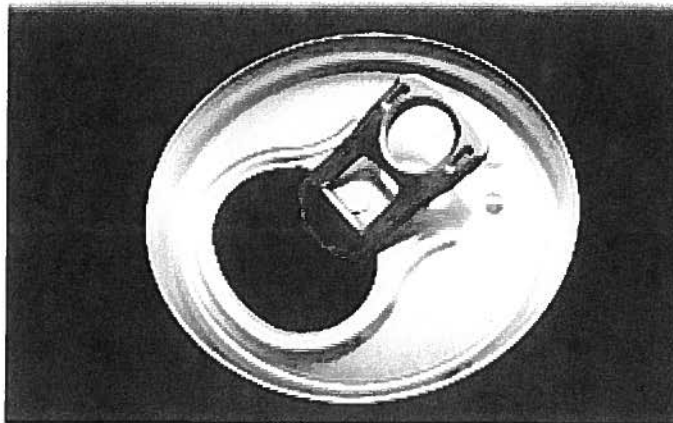
Trash pickup at the premises will be made no earlier than \_\_\_\_ nor later than \_\_\_\_.

Trash shall not be emptied into outside trash containers between the hours of \_\_\_\_ nor later than \_\_\_\_.

The petitioner(s) shall construct and maintain a solid block or brick fence not less than \_\_\_\_ feet along the boundary of the premises parking lot.

No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles.

No beer or malt beverage products shall be sold, regardless of container size, in quantities of less than six per sale.



<sup>3</sup> If you want guards in full uniform, use the phrase "licensed uniform guards(s)". If full uniforms are not required, use the phrase "security personnel".

The sales of beer or malt beverages in quantities of quarts, 22 oz., 32 oz., 40 oz., or similar size containers is prohibited. No beer or malt beverages shall be sold in quantities of less than six per sale.

Beer, malt beverages, and wine coolers in containers of 16 oz. or less cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

There shall be no cups, glasses, or similar receptacles commonly used for the drinking of beverages, sold, furnished, or given away at the petitioner's premises in quantities of less than twenty-four in their original multi-container package.

No alcoholic beverages shall be sold in bottles or containers smaller than \_\_\_\_.

Wine shall not be sold in bottles or containers smaller than 750 ml. and wine-coolers, beer coolers, or pre-mixed distilled spirit cocktails (if allowed by the license) must be sold in manufacturer pre-packaged multi-unit quantities.

No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s) as depicted on the ABC-257 dated and ABC-253 dated \_\_\_\_.

There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

No person under the age of 21 shall sell or deliver alcoholic beverages.

No pay phone will be maintained on the interior or exterior of the premises.

All ice shall be sold at or about prevailing prices in the area and in quantities of not less than \_\_\_\_ pounds per sale and shall not be given away free.

Sales and delivery of alcoholic beverages to customers shall be made from behind a counter where a clerk will obtain the product; no self-service of alcoholic beverages will be permitted.

Not more than \_\_\_\_% of the square footage of the premises will be used for the display of alcoholic beverages.

The licensee(s) or an employee of the licensee(s) will be present in the patio at all times that alcoholic beverages are being served or consumed.

No person shall be excluded from membership in the club on the basis of race, color, sex, religion, ancestry, disability, marital status or national origin.

Petitioner(s) shall furnish four additional keys and/or passes to the Department of Alcoholic Beverage Control. Such keys or passes shall not be marked or prepared in any manner so as to distinguish the bearer's official capacity. In addition, said keys or passes shall contain random, non-consecutive numbers, various dates of issuance and shall not be identified on any membership lists so as to distinguish the listed member's official capacity.

Petitioner(s) shall police the area under their control in an effort to prevent the loitering of persons about the premises as depicted on ABC-253, dated \_\_\_\_.

Loitering is prohibited on or around these premises or this area under the control of the licensee(s) as depicted on the ABC-257 dated and ABC-253 dated \_\_\_\_.

The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages is prohibited on or around these premises as depicted on ABC-253, dated \_\_\_\_.

The licensee shall keep the property, adjacent to the licensed premises and under the control of the licensee(s) as depicted on ABC-253, dated \_\_\_\_, clear of newspaper racks, benches, pay telephones, bicycle racks, and any other objects which may encourage loitering.

There shall be no sales of alcoholic beverages while the boat is at any dock, except sales to passengers one-half hour prior to departing on scheduled trips or charters, and one-half hour after returning to designated commercial docks pursuant to (A) or (B).

(A) In addition to its primary home port dock, a licensee may designate up to ten (10) commercial docks each year at which it intends to embark or disembark passengers.

(B) A licensee may designate any public commercial dock within the state. Such designation shall be in writing.

The applicant corporation shall report to the Department in writing any changes in directors, managing officers, and/or the issuance or transfer of shares of stock which results in a person or entity not previously approved owning 10% or more of its stock. This report shall be made within 30 days of issuance, transfer, or change.

The Department of Alcoholic Beverage Control will be notified in writing of any change in the trustees under Trust dated \_\_\_\_.

That \_\_\_\_ shall have no interest directly or indirectly in the ownership nor act as a manager or consultant in the operation or control of the licensed premises or business activities conducted in said premises.

That \_\_\_\_ shall not be employed in any capacity in the operation or control of the licensed premises.

That \_\_\_\_ shall not violate any laws or have any determination by law, by plea of guilty, bail forfeiture, conviction, or nolo contendere of any crime or commit any act involving the intemperate use of alcohol for a period of \_\_\_\_ years from the signing of this petition.

The sale of products, other than beer & wine, measured by gross receipts on an annual basis, shall exceed the annual sales of beer & wine products, measured by gross receipts.

Off-sale privileges under this license are restricted to sale of malt and vinous beverages containing not more than 3.2 percent of alcohol by weight, and to the sale of beer.

Peace officers, as listed in Section 830.1 of the California Penal Code, and the Director and other persons employed by the Department of Alcoholic Beverage Control for the administration and enforcement of the Alcoholic Beverage Control Act are hereby authorized to visit and inspect the proposed premises as outlined in red on form ABC-257 dated \_\_\_\_, at any time the undersigned is exercising the privileges authorized by the license on such premises.

Subject premises will be solely a business office and no alcoholic beverages will be possessed, stored, or delivered from this location, nor will there be any direct sales to consumers or retailers from this location.

Sales of alcoholic beverages from a mobile cart are permitted provided there are a substantial assortment

of non-alcoholic beverages and snacks offered for sale on the same cart.

Sales of alcoholic beverages from the mobile cart are only permitted at no more than two designated and approved sites on the golf course.

The mobile cart must remain at each designated site for a minimum of four hours.

There is maintained upon the drive-in premises a building or other suitable enclosed structure to be licensed as provided in Section 24040 of the Act, and all sales of alcoholic beverages shall be made from within the licensed enclosure.

No alcoholic beverages shall be sold to any person while such person is in a motor vehicle.

No alcoholic beverages shall be consumed on any portion of the licensed premises or any portion adjacent thereto which is under the control of the licensee.

The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, or a slide-out tray to the exterior of the premises.

Alcoholic beverages offered for sale at the licensed premises shall be displayed and available for convenient inspection and purchase within the premises by the general public.

No wine tasting is to be permitted at this location.

No retail sales of alcoholic beverages to consumers shall be permitted at this location.

There shall be no importation of beer or malt beverages.

No retail sales of alcoholic beverages to consumers shall be permitted at this location.

**CLUB:**

Membership in the club shall be non-discriminatory and will not exclude persons because of race, creed, color, sex, religion or national origin.

The sale, service and consumption of alcoholic beverage shall be made only to or by members of the club and bona fide guests.

The sale of alcoholic beverages for consumption off the premises is prohibited.

Keys and/or passes, and/or membership cards shall be furnished to the Department. Such keys, passes and/or membership cards shall not be marked or coded in any way such as to distinguish a bearer's official capacity.

**DRIVE IN:**

There is maintained upon the drive-in premises a building or other suitable enclosed structure to be licensed as provided in Section 24040 of the Act, and all sales of alcoholic beverages shall be made from within the licensed enclosure.

No alcoholic beverages shall be sold to any person while such person is in a motor vehicle.

No alcoholic beverages shall be consumed on any portion of the licensed premises or any portion adjacent thereto which is under the control of the licensee.

The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, or a slide-out tray to the exterior of the premises.

**OTHER:**

Petitioner shall not share any profits, or pay any percentage or commission to a promoter or any other person, based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders, or the sale of drinks.

Petitioner(s) shall not require an admission charge or a cover charge, nor shall there be a requirement to purchase a minimum number of drinks.

The licensee shall not sell and/or offer for sale or display any magazine, video or other printed material which contains pictures depicting:

- ✓ Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- ✓ Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
- ✓ Scenes wherein a person displays the vulva or the anus or the genitals.
- ✓ Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any other prohibited activities described above.

No obstructions shall be attached, fastened or connected to the partitions or ceiling to separate the booths/dining areas within the interior space of the licensed premises.

Partitions separating the booths/dining areas shall not exceed 52" in height.

VIP/Hospitality alcoves constructed on the premises and depicted on diagram dated\_\_\_\_, shall have the following characteristics:

- (a) No physical obstruction shall be attached, fastened, or connected in any manner to any section of the wall or ceiling at the alcove openings.
- (b) No physical obstruction, including but not limited to planters, partitions or items of decor, shall be placed or attached to any section of the floor at the alcove openings.

The licensee(s) shall not maintain or construct any type of enclosed room intended for use by patrons or customers for any purpose.

The licensee shall not permit "Taxi Dancing" to occur on the licensed premises wherein partners are provided for dancing or social purposes. Social purposes include but are not limited to the soliciting or accepting of any alcoholic beverages from any customers while in the premises.

No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the premises, nor shall the licensee(s) provide or permit, or make available either gratuitous or for compensation, male or female persons who act as escorts, companions, or guests of and for the customers.

No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.

Petitioner(s) shall make no changes in the premises interior without prior written approval from the Department.

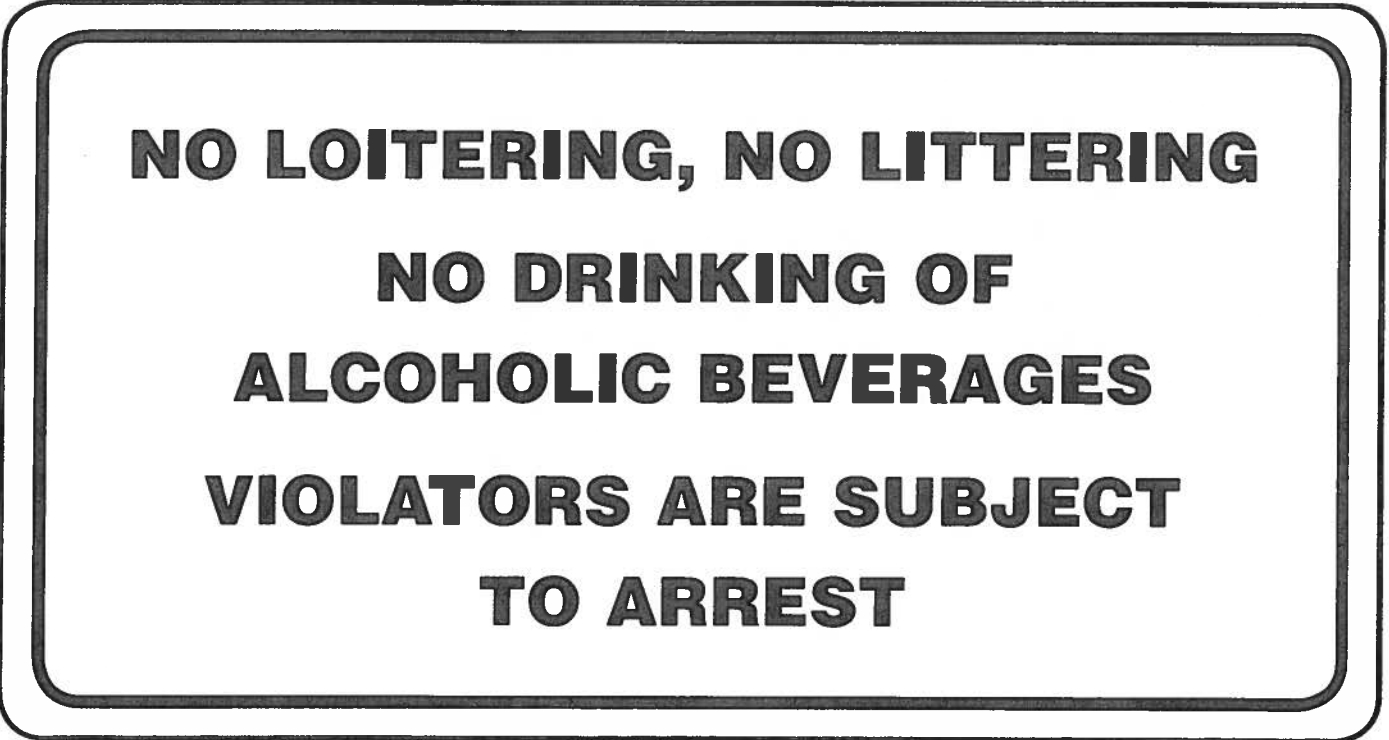
The Petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as follows:

The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.

No distilled spirits shall be sold by the bottle.

There shall be no selling of alcoholic beverages for future consumption.

No open bottles of distilled spirits shall be stored on the premises for specific customers.



**NO LOITERING, NO LITTERING**

**NO DRINKING OF**

**ALCOHOLIC BEVERAGES**

**VIOLATORS ARE SUBJECT**

**TO ARREST**

## PRODUCTION NOTES

The initial and revised version of this guide was produced by two members of the California Council on Alcohol Policy, Vic Colman and Michael Sparks. In addition, a third member, Brenda Simmons, assisted with the research and writing of this revised version. We would also like to thank Everest Robillard and Sharon O'Hara for their careful editorial review.

The drafters of this document would also like to thank the many people who either came to a focus group meeting in early September 2005 (graciously hosted by the state ABC) as well as those that reviewed drafts of this document.

This document is a product of the Community Prevention Institute (CPI), a project of the Center for Applied Research Solutions, to provide no-cost technical assistance and training to communities throughout California. CPI is funded and directed by the California Department of Alcohol and Drug Programs. If you have any technical assistance or training needs regarding this handbook, please contact CPI.

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**CITY OF LAGUNA HILLS**  
**CITY COUNCIL**  
**AGENDA REPORT**  
**COMMUNITY SERVICES DEPARTMENT**

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**ISSUE: CONTINUATION OF THE COMMERCIAL FOOD WASTE DIVERSION PROGRAM**

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**SUMMARY:**

A commercial pilot food waste program was first implemented in the City of Laguna Hills in July 2009. The City partnered with other cities that are serviced by CR&R for a regional food waste program of which collection service began in April 2010. The regional food waste program is funded by a \$400,000 grant from the County of Orange. Since its inception the businesses that were selected to participate have not been charged for the service. The grant funds expire at the end of November 2011 and the program will end unless a new funding mechanism is established. CR&R submitted a proposal to the City to charge businesses that elect to use the service at the current commercial recycling cart rate to continue the program. Staff recommends that the City Council approve CR&R's proposal.

**BACKGROUND:**

The City of Laguna Hills implemented a commercial pilot food waste program over two years ago. Initially, in a response to increase its diversion efforts, CR&R offered a pilot program to businesses in Oakbrook Village and the Laguna Hills Mall area free of charge. This program began in July 2009. And then, regional interest and a grant opportunity offered by the County of Orange led to the continuation of the City's commercial pilot food waste program. On November 24, 2009, the City Council authorized the Mayor to sign the Joint Cooperative Agreement for the Commercial Pilot Food Waste Diversion Program ("Agreement") that formalized a partnership between the City of San Clemente (as lead agency) and seven other cities<sup>1</sup> to conduct a pilot commercial food waste collection and diversion program. Collection service for this current regional program began in April 2010.

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<sup>1</sup> The partner cities include the cities of Aliso Viejo, Dana Point, Laguna Hills, Laguna Niguel, Rancho Santa Margarita, San Juan Capistrano, and Tustin.

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**RECOMMENDATION: THAT THE CITY COUNCIL ACCEPT AND APPROVE CR&R'S PROPOSAL TO CONTINUE WITH THE COMMERCIAL FOOD WASTE PROGRAM AT THE EXISTING RATE FOR COMMERCIAL RECYCLING CART SERVICE FROM DECEMBER 1, 2011, THROUGH JUNE 30, 2012.**

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The current one-year regional pilot program was funded by a \$400,000 grant from the County of Orange and lower than expected program operating costs allowed for the program to operate for more than a year. The City Council, at its June 8, 2011 meeting, approved an amendment to the Agreement that permitted the program to continue past its deadline of June 30, 2011, and until all grant funds were exhausted. Grant funds for this program will expire at the end of this month and the City will need to look at other alternatives to fund a food waste diversion service. A Major Plan for the City in this budget cycle is to “Consider the implementation of a regional commercial food waste program after the funding for the current pilot food waste program expires; and research a potential food waste program for the residents of Laguna Hills.”

One of the goals of the current pilot program was to evaluate the process of diverting commercial food waste from landfill disposal and to help develop a permanent solution for this waste stream. Food waste contains a substantial amount of moisture and therefore is a heavy waste stream. Its removal from landfill disposal is significant. Consider that 1,881 tons of food waste has been diverted from the landfills and processed as mulch collectively since the beginning of the regional commercial pilot food waste program. For the City of Laguna Hills, the estimated tonnage collected and processed is 220 tons from the start of the regional food waste program. See Attachment 1 for an account of regional diversion efforts and a list of businesses that participate in the program.

Furthermore, the State of California is a very “green” state and the Legislature continually proposes bills to increase source reduction, re-use and recycling of waste streams. Responding to these new or revised state mandates, the waste industry is compelled to develop recycling initiatives and to look at alternatives for handling waste streams that have traditionally ended up in local landfills. For example, Governor Brown recently signed AB 341. This bill makes a legislative declaration that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by the year 2020; and requires the department (CalRecycle) to provide, by January 1, 2014, a report to the Legislature that provides strategies to achieve that policy goal.<sup>2</sup> AB 341 is also specific on setting new commercial solid waste recycling requirements and emphasizes “composting” as a potential end result. Staff anticipates that CalRecycle’s report, due January 1, 2014, would provide the basis for future legislation required to achieve the statewide goal of 75% diversion.

For these reasons, CR&R conveyed to all the cities that formed the program partnership of its interest to continue with a food waste diversion service and to develop a permanent program. CR&R’s proposal to the City of Laguna Hills is included in this staff report as Attachment 2.

In summary, CR&R is proposing to charge commercial customers at the commercial recycling cart rate already established in the Franchise Agreement as presented below.

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<sup>2</sup> Ca. Public Resource Code sections 41780.01(a) and 41780.02(a)

This program will be offered to all commercial food or service businesses that choose to use it. The time period for this program, under CR&R's proposal, is from December 1, 2011 through June 30, 2012. This time period will enable CR&R to promote the food waste service to all City of Laguna Hills businesses; determinate the interest and sustainability of this service when businesses are charged, and; allow CR&R to continue its efforts toward establishing a local composting facility.

**Commercial Recycling Cart Service (60 Gallon)**

|                    |          |
|--------------------|----------|
| 1 pick-up per week | \$17.31  |
| 2 pick-up per week | \$34.64  |
| 3 pick-up per week | \$51.95  |
| 4 pick-up per week | \$69.28  |
| 5 pick-up per week | \$86.58  |
| 6 pick-up per week | \$103.91 |

It is the intent of CR&R to bring another proposal to the City prior to the start of the next fiscal year, with a plan for how to continue forward with a permanent commercial food waste service commencing on July 1, 2012.

Provided in the tables below is a comparison of a particular business that currently participates in the pilot food waste program and its monthly trash and recycling rates. The current monthly rate under the free commercial pilot food waste program is exhibited in Table 1. Moving forward, under CR&R's proposal, this business would be economically incentivized to continue with the food service when charged for it (Table 3 or Option #2), compared to reverting back to its original service prior to the pilot program at 2 trash bins with pick-ups six times per week (Table 2 or Option #1).

| <b>1) Service During Pilot Food Waste Program (Current Service)</b> |          |              |                 |
|---------------------------------------------------------------------|----------|--------------|-----------------|
| Service Type                                                        | Quantity | Pick-up/Week | Cost/Month      |
| Trash Bin                                                           | 1        | 6            | \$449.74        |
| Food Waste Carts                                                    | 5        | 3            | \$0 *           |
| <b>Total</b>                                                        |          |              | <b>\$449.74</b> |

\* Service funded by OC Grant Funds during pilot program

| <b>2) Service Prior to Pilot Food Waste Program (Option #1)</b> |          |              |                 |
|-----------------------------------------------------------------|----------|--------------|-----------------|
| Service Type                                                    | Quantity | Pick-up/Week | Cost/Month      |
| Trash Bin                                                       | 2        | 6            | \$889.48        |
| <b>Total</b>                                                    |          |              | <b>\$889.48</b> |

| <b>3) Proposed Service After Pilot Food Waste Program (Option #2)</b> |          |              |                 |
|-----------------------------------------------------------------------|----------|--------------|-----------------|
| Service Type                                                          | Quantity | Pick-up/Week | Cost/Month      |
| Trash Bin                                                             | 1        | 6            | \$449.74        |
| Food Waste Carts                                                      | 5        | 3            | \$259.75        |
| <b>Total</b>                                                          |          |              | <b>\$709.49</b> |

On the other hand, some businesses may not realize a savings when a fee is charged for food waste service depending on how its trash service is structured. In these cases, CR&R and the City's recycling consultant (EcoNomics) will work with these businesses to determine if trash service can be restructured to accommodate a monthly savings with food waste service. It is also important to note that in some cases a local business may have a recycling (or "Go Green") policy in place which might justify an increase in its monthly trash bill to accommodate food waste recycling. Again, however, businesses can elect to either use food waste collection as part of its monthly trash/recycling service, or not.

**FISCAL IMPACT:**

There is no fiscal impact to the City for acceptance of CR&R proposal to continue the food waste program.

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**RECOMMENDATION: THAT THE CITY COUNCIL ACCEPT AND APPROVE CR&R'S PROPOSAL TO CONTINUE WITH THE COMMERCIAL FOOD WASTE PROGRAM AT THE EXISTING RATE FOR COMMERCIAL RECYCLING CART SERVICE FROM DECEMBER 1, 2011, THROUGH JUNE 30, 2012.**

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**ATTACHMENTS:**

1. CR&R "Commercial Pilot Food Waste Diversion Grant Program" tonnage worksheet
2. CR&R's "Proposal for Commercial Food Scrap Composting/Recycling Program"

**PILOT COMMERCIAL FOOD WASTE DIVERSION GRANT PROGRAM**

September 2011

| LOCATION                            | CITY                | TOTAL<br>MONTHLY<br>CART LEVELS<br>(CR&R Formula) | TOTAL<br>MONTHLY<br>TONS | PROGRAM TO<br>DATE TOTAL<br>TONS |
|-------------------------------------|---------------------|---------------------------------------------------|--------------------------|----------------------------------|
| SAN CLEMENTE INN                    | SAN CLEMENTE        | 6.25                                              | 14                       | 190                              |
| TOMMY'S RESTAURANT                  | SAN CLEMENTE        | 22.50                                             |                          |                                  |
| FISHERMAN'S - CITY OF S C           | SAN CLEMENTE        | 45.25                                             |                          |                                  |
| SAN CLEMENTE HOSPITAL               | SAN CLEMENTE        | 16.75                                             |                          |                                  |
| SAN CLEMENTE VILLAS BY THE SEA      | SAN CLEMENTE        | 21.00                                             |                          |                                  |
| SALT CREEK GRILLE                   | DANA POINT          | 15.00                                             | 20                       | 393                              |
| RITZ CARLTON                        | DANA POINT          | 82.29                                             |                          |                                  |
| ST. REGIS HOTEL                     | DANA POINT          | 65.22                                             |                          |                                  |
| FARM TO MARKET                      | SAN JUAN CAPISTRANO | 30.50                                             |                          |                                  |
| EL CAMPEON TAQUERIA                 | SAN JUAN CAPISTRANO | 62.50                                             | 16                       | 248                              |
| EL ADOBE DE CAPISTRANO              | SAN JUAN CAPISTRANO | 12.75                                             |                          |                                  |
| McDONALD'S                          | SAN JUAN CAPISTRANO | 19.75                                             |                          |                                  |
| CASA DE AMMA                        | SAN JUAN CAPISTRANO | 4.75                                              |                          |                                  |
| FRED'S MEXICAN CAFE                 | LAGUNA NIGUEL       | 13.00                                             |                          |                                  |
| TGI FRIDAYS #1915                   | LAGUNA NIGUEL       | 11.75                                             | 16                       | 286                              |
| SOUPLANTATION                       | LAGUNA NIGUEL       | 47.39                                             |                          |                                  |
| MIMIS CAFE                          | LAGUNA NIGUEL       | 26.50                                             |                          |                                  |
| HENRY'S MARKET PLACE                | LAGUNA NIGUEL       | 32.00                                             |                          |                                  |
| CHILLI'S GRILL & BAR #0495          | ALISO VIEJO         | 9.00                                              |                          |                                  |
| MACARONI GRILL #0145                | ALISO VIEJO         | 0.50                                              | 3                        | 73                               |
| ON THE BORDER #002                  | ALISO VIEJO         | 9.00                                              |                          |                                  |
| RENAISSANCE SPORT CLUB              | ALISO VIEJO         | 0.50                                              |                          |                                  |
| COSMO'S ITALIAN KITCHEN             | ALISO VIEJO         | 6.25                                              |                          |                                  |
| LADERA RANCH K-8                    | LADERA RANCH        | 0.00                                              |                          |                                  |
| CHAPPERAL ELEM                      | LADERA RANCH        | 0.00                                              | 0                        | 77                               |
|                                     | SANTA MARGARITA     | 0.00                                              | 3                        | 83                               |
| WOOD RANCH BBQ                      | SANTA MARGARITA     | 0.75                                              |                          |                                  |
|                                     | SANTA MARGARITA     | 0.00                                              |                          |                                  |
| McDONALD'S                          | SANTA MARGARITA     | 12.75                                             |                          |                                  |
| PARK TERRACE                        | SANTA MARGARITA     | 10.67                                             |                          |                                  |
| KING'S FISH HOUSE                   | LAGUNA HILLS        | 34.75                                             | 15                       | 220                              |
| IN N OUT BURGER                     | LAGUNA HILLS        | 30.75                                             |                          |                                  |
| LAGUNA HILLS MALL (Firestone)       | LAGUNA HILLS        | 3.25                                              |                          |                                  |
| LAGUNA HILLS MALL (farmer's market) | LAGUNA HILLS        | 21.00                                             |                          |                                  |
| SADDLEBACK HOSPITAL                 | LAGUNA HILLS        | 30.32                                             |                          |                                  |
| LUCILLE'S BBQ HOUSE                 | TUSTIN              | 62.25                                             | 18                       | 312                              |
| IN N OUT BURGER                     | TUSTIN              | 24.00                                             |                          |                                  |
| GOLF COURSE                         | TUSTIN              | 13.50                                             |                          |                                  |
| RUBY'S DINER                        | TUSTIN              | 33.25                                             |                          |                                  |
| RUTABEGORZ RESTAURANT               | TUSTIN              | 12.25                                             |                          |                                  |

Total tons collected since beginning of program (April 2010)

1,881



November 16, 2011

Mr. David Reynolds  
Deputy City Manager  
City of Laguna Hills  
25555 Alicia Parkway  
Laguna Hills, California 92653

Re: Proposal for Commercial Food Scrap Composting/Recycling Program

Dear Mr. Reynolds,

As you are aware funding from the Orange County Grant for the Pilot Food Waste Recycling Program will be exhausted in November of this year. We believe that the results of the program and the willingness of those involved warrant the continuance beyond the funding period. CR&R is committed to working with our cities in an effort to continue this unique diversion program. We have reviewed the Franchise Agreements of partnering cities and have recommendations for your review. We propose that the South County Cities consider continuing the Program throughout each community using their existing contract rate for 60-gallon size commercial recycle cart service.

**Proposal:**

- Expand the current Program to all commercial customers generating food scraps.
- Flexibility of service collection from one to five days per week service.
- Provide customers with up to 2 slim line containers (included in the cart rate) for internal collection use.
- Determine Costs and participation prior to the July 2012 annual rate adjustments in each City to allow Councils the opportunity to establish new rates (up or down) for Program continuance; or eliminate the program.
- CR&R will continue to purchase new carts for customers subscribing to service.
- By June of 2012 CR&R will establish minimum thresholds for Program continuance.

**Cost Analysis using Laguna Hills current rates as example:**

- A 3-cubic yard bin capacity equates to six (6) 60-gallon carts.
- Assume a typical restaurant uses one 60-gallon food scrap cart three times per week (equates to one-half of a 3-yard bin).
- One 3 cubic yard bin serviced once weekly= \$112.10 per month.
- One 60-gallon Commercial Recycle Cart Serviced 3 times per week = \$51.95 (equates to one-half of a 3 cubic yard bin). This is a cost savings of \$8.63 per each 3 cubic yards of service for the compost program using the existing cart rate.

Please don't hesitate to contact me with any questions or concerns. As always, it's a pleasure being of service to the City of Laguna Hills.

Sincerely,

  
Dean A. Ruffridge  
Senior Vice President

CR&R INCORPORATED  
11292 WESTERN AVE.  
P.O. BOX 125  
STANTON, CA 90680  
800.826.9677  
714.826.9049  
714.890.6347 Fax



# **CITY OF LAGUNA HILLS**

## **CITY COUNCIL AGENDA REPORT COMMUNITY SERVICES DEPARTMENT**

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**ISSUE: REQUEST TO UTILIZE THE CITY OF LAGUNA HILLS MEMORIAL DAY RACE FOR PROVIDING LONG-TERM FINANCIAL SUPPORT TO THE 3<sup>RD</sup> BATTALION, 5<sup>TH</sup> MARINES, 1<sup>ST</sup> DIVISION 501(C)(3) SUPPORT COMMITTEE**

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### **SUMMARY:**

At the meeting of November 8, 2011, the City Council directed staff to bring back a report at its November 22, 2011, meeting, regarding potential options for providing continued financial support to the 3<sup>rd</sup> Battalion, 5<sup>th</sup> Marines, 1<sup>st</sup> Division Support Committee ("3/5 Support Committee"). Several options are provided in this staff report for the City Council's consideration.

### **BACKGROUND:**

At the November 8, 2011 meeting, the City Council directed staff to change the name of the City's Memorial Day race event to the "Laguna Hills Memorial Day Half Marathon, 10K, and 5K, Honoring the United States Marine Corps Dark Horse Battalion" ("Memorial Day Race"). The City Council also directed staff to bring back a report to the City Council on options for providing additional financial assistance to the 3/5 Support Committee. As the City Council is aware, an initial grant of \$10,000 was provided to the 3/5 Support Committee during the prior budget cycle to assist with their creation of a 501(c)(3) charitable organization and related costs associated with their initial battalion support activities. The 3/5 Support Committee utilized \$7,758 of the initial grant funds.

Listed below are options that the City Council could pursue for providing continued financial assistance to the 3/5 Support Committee.

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**RECOMMENDATION: THAT THE CITY COUNCIL SELECT OPTION 1 REGARDING THE ESTABLISHMENT OF A METHODOLOGY FOR THE PROVISION OF PROVIDING FUTURE FINANCIAL ASSISTANCE TO COMMUNITY-BASED CHARITABLE ORGANIZATIONS / SERVICES.**

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Option 1: Budget for Funding

As part of the City's Biennial Budget process, the City Council would allocate a sum of money to a newly created "Community Organization Financial Assistance Account." All organizations desiring to receive a financial contribution from the City or to contract with the City for the delivery of a free service to the community would be expected to submit a request to the City Council, prior to the final budget being adopted. Under this scenario, the City Council would then allocate some or all of the budgeted funds to the organizations of their choice and memorialize their action with the adoption of a Community Assistance Funding Resolution.

Under this scenario, a decision to provide a donation to the 3/5 Battalion would not necessarily be tied to the number of race participants in the Memorial Day Race. Additionally, if the City Council desires to make a direct donation to the 3/5 Support Committee during the current 2-year budget cycle, a budget amendment may be necessary and a Community Assistance Funding Resolution will be required.

Option 2: Voluntary Memorial Day Race Registration Donations

For the 2011 Memorial Day Race event, the City Council directed staff to add an option for race participants to voluntarily donate \$5 to support the 3/5 Marine Battalion. This voluntary contribution was not tied to the actual race registration fee or to the City's operating cost for the race. Two hundred and eighty-one (281) participants donated a total amount of \$1,405 to the 3/5 Support Committee through this mechanism.

Under this option, race participants would be given the opportunity to donate any amount they wish to the 3/5 Support Committee and staff could work with Renegade Racing to add more donation options such as a \$1, \$10, or a fill-in-the blank amount.

Option 3: Establish a Pledge Formula based on the Memorial Day Race

To cover the overall costs of the event, including direct and indirect expenses, the City could increase the race registration fee as long as the fee "does not exceed the reasonable costs to the local government of providing the service or product" (Proposition 26). At the last City Council meeting, the City Council discussed increasing the registration fee by \$3. This increase could be applied to the race registration fee at the discretion of the City. Race participants would be notified on the race registration website as well as the registration form that the "City *intends to donate* \$3 per race participant to the 3/5 Support Committee." In essence, this method is establishing a formula, or pledge, for a future donation amount to the 3/5 Support Committee.

After the race event, staff would present a report to the City Council of the overall costs of the event and the revenue and sponsorship intake. In addition, staff would present the number of paid race registrations. This number would be multiplied by \$3 to derive the intended donation amount for the 3/5 Support Committee. The donation to the 3/5

Support Committee would still need to be formalized with a Community Assistance Funding Resolution as a post event action by the City Council.

As was discussed at the November 8, 2011, meeting, the race fee increase would be applied to the Half Marathon, 10K, and 5K races only.

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**RECOMMENDATION: THAT THE CITY COUNCIL SELECT OPTION 1 REGARDING THE ESTABLISHMENT OF A METHODOLOGY FOR THE PROVISION OF PROVIDING FUTURE FINANCIAL ASSISTANCE TO COMMUNITY-BASED CHARITABLE ORGANIZATIONS / SERVICES.**

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