

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("MOA"), is made and entered into this 15th day of November, 2011 by and between ORANGE COAST RIVER PARK, INC., A California Non-Profit Corporation ("OCRCP Inc."), and the CITY of COSTA MESA, a Municipal Corporation ("CITY").

RECITALS

- A. WHEREAS, CITY acquired for park habitat conservation, natural open space and passive recreational purposes real property known as "Fairview Park," as identified in Exhibit "A" attached hereto and incorporated herein by reference, on or about 1986. Fairview Park is located within the CITY, in the County of Orange, California; and
- B. WHEREAS, the Costa Mesa City Council ("Council") approved the Fairview Park Master Plan in December 1997 ("Master Plan") and revised the Master Plan in February 2001 and November 2002; and
- C. WHEREAS, effective as of July 17, 2000 (and as revised by Council on January 21, 2003), Council adopted Policy Number 500-11, which established a process for review and approval of proposed Fairview Park projects implementing the Master Plan. Said policy establishes the Public Services Department as the lead department for processing projects associated with the Master Plan. Policy 500-11 recognizes that habitat restoration projects are among those activities which are consistent with the Master Plan; and
- D. WHEREAS, the Master Plan seeks to enhance and protect the native flora and fauna and rare biological resources of this area of Orange County; and
- E. WHEREAS, Fairview Park is immediately adjacent to Talbert Nature Preserve ("Talbert") and linked with the Santa Ana River system of trails and parks. Talbert is owned by the County of Orange and is part of the open space and natural habitat reserve system of the Orange County Central/Coastal Subregional Natural Communities Conservation Program for Coastal Sage Scrub ("O.C. Central/Coastal NCCP"). Fairview Park and Talbert are part of the County of Orange's Local Coastal Program for a linked set of parks progressing from the coast up the Santa Ana River to Fairview Park; and
- F. WHEREAS, the Master Plan calls for areas ("Conservation Areas") within Fairview Park to be restored and enhanced. This area is shown in Exhibit "B" attached hereto and incorporated herein by reference; and
- ~~G. WHEREAS, OCRCP Inc. is a local non-profit organization whose goals are acquisition, restoration, management, and maintenance of the wildlife habitat within the Orange Coast River Park, including habitat areas within Fairview Park, located in Orange County, California for wildlife habitat, open space preservation, education, and public access; and~~
- H. WHEREAS, OCRCP Inc. has identified Fairview Park as an ideal area within which to conduct plantings ("Project") of the southern Tarplant inasmuch as: (1) the Master Plan seeks restoration/enhancement within Fairview Park, but as of yet, CITY does not have sufficient funds to perform such restoration/enhancement, (2) Fairview Park is part of a larger natural open space/habitat

preservation system extending from the coast, inland along the Santa Ana River, (3) such restoration/enhancement will provide an opportunity to benefit the species known to exist in the vicinity of Fairview Park, (4) Fairview Park is close to the Coastal Zone, and (5) Fairview Park is immediately adjacent to lands within the O.C. Central/Coastal NCCP and may eventually become a component of that habitat reserve system.

NOW, THEREFORE, in consideration of the Recitals herein set forth, CITY and OCRP Inc. do hereby agree as follow:

1. Access to Restoration Site.

CITY hereby grants OCRP Inc., its agents, contractors, subcontractors and their employees (collectively referred to herein as "Agents") a nonexclusive license and permission to enter upon Fairview Park ("Site") for the purpose of establishing several test planting plots. CITY shall provide OCRP Inc. and its Agents access to the Site at all times during the term of this MOA to conduct southern Tarplant test planting, maintenance and creation activities, including, but not limited to, site preparation, soil preparation, invasive and exotic species eradication, seeding, planting, irrigation, erosion control, weeding, pest control, debris removal, monitoring, site protection and maintenance activities (collectively referred to herein as ("Activities")).

Due to the sensitive nature of the Park, OCRP Inc. must submit in writing, and the CITY must approve, the exact route through Fairview Park by which OCRP or its Agents may access the Site from the nearest public right of way. No other access route will be allowed without prior written approval from the CITY. CITY reserves the right to access the Site at all times to observe and monitor all activities undertaken by OCRP Inc. to ensure conformance with the terms of this MOA.

2. Responsibilities in Conducting Restoration Activities.

OCRP Inc. assumes full responsibility for the cost, implementation, supervision and management of Project while on the Site, OCRP Inc. shall comply and shall cause its Agents to comply with all applicable federal, state, and local laws and regulations including, but not limited to, environmental laws and regulations. OCRP Inc. shall not conduct its Activities in such a way so as to physically interfere with other habitat restoration activities already commenced or in the process of commencing within Fairview Park.

OCRP Inc. shall be responsible for obtaining any governmental permits required to conduct the Activities at its sole cost and expense. CITY will cooperate with OCRP Inc. as reasonably necessary to enable OCRP Inc. to fully implement the Activities including, but not limited to, cooperation in obtaining any necessary governmental permits, approvals, and utility services, provision of access to the Site (including keys to any locked gates), coordination of other habitat restoration activities within or nearby Fairview Park, and provision of maps, CITY ordinances, and data in the possession of the CITY pertaining to or pertinent to OCRP Inc.'s Activities within Fairview Park; provided that such cooperation does not result in any out-of-pocket costs to CITY. Upon request from OCRP Inc., CITY will provide OCRP Inc. with access to and use of any existing irrigation lines, meters and controls under the control of CITY which may exist in the vicinity of the Site, provided that such access to or use does not unreasonably interfere with other uses of these items by CITY.

3. Selection of Contractors.

OCRIP Inc. shall have the right to select any Agents which it deems appropriate for the Activities. OCRIP Inc. shall defend and indemnify CITY, at its sole expense, from and against any claims, demands, suits, fines, penalties, orders or administrative rulings relating to the payment or non-payment of prevailing wages by OCRIP Inc. or its Agents to any person performing work at the Site as called for in this Agreement.

4. Hours of Operation on the Site.

OCRIP Inc. and its Agents shall not conduct Activities on the Site during the following time periods:

- Anytime before 7:00 a.m. (PST)
- Anytime after sunset
- Anytime on Saturday and/or Sunday

Any deviation from these restrictions shall only be permitted upon express written consent from CITY.

5. Storage of Equipment and Material at Restoration Site.

CITY will provide a staging area ("Staging Area") for temporary storage of container plants, landscape equipment (including tools), and the like on a site within Fairview Park immediately adjacent to the Restoration Site. The Staging Area will be less than 1 acre in size, unless the Parties otherwise agree to a larger area at a later date. The Staging Area will be located so as not to unreasonably interfere with the public's use of Fairview Park. OCRIP Inc. shall be authorized to fence the Staging Area for security purposes for an initial one hundred and twenty (120) day period for the establishment of the plants unless the Parties agree to extend said period in writing. OCRIP Inc. shall seek prior written approval from the CITY for the type, size, location and material of any fencing to be used at the Staging Area before installing said fencing. It is anticipated that the Staging Area will not be required after completion of the initial 120-day establishment period for the plants.

6. Utilities.

OCRIP Inc. shall be solely responsible for the cost of purchasing and installing any utilities ~~necessary for implementing the Activities including, but not limited to, supply and irrigation water lines~~ and electrical power. CITY shall not be responsible for constructing, extending, or expanding any existing irrigation systems, supply lines, or water meters to serve the Site. OCRIP Inc. shall be responsible for any charges for water and electricity supplied to the Restoration Site for purposes of implementing the Activities.

7. Maintenance Obligations of CITY.

During the term of this MOA, CITY shall, at no cost or expense to OCRIP Inc., provide for the general security of the Site in a manner consistent with city-wide security standards and practices for

similar activities within Fairview Park and other CITY park facilities used as a natural open space. However, OCRP Inc. shall be solely responsible for any damage to the Restoration Site by acts of nature, vandalism, or by OCRP Inc. and/or its Agents. Further, at the end of the term of this MOA, OCRP Inc. shall be responsible and shall repair any damage resulting from natural causes, vandalism, or by OCRP Inc. and/or its Agents.

8. Ownership of Improvements.

Immediately upon installation, all improvements made to the Restoration Site shall become fixtures that are part of the realty. All such improvements shall belong to CITY. Nothing herein shall relieve OCRP Inc. from the obligation to maintain and restore any such improvements for the term of this MOA.

9. Liens.

OCRP Inc. shall not permit the levying or enforcement of any liens against the Site. This includes, but is not limited to, mechanic's liens, materialmen's liens, contractor's or subcontractor's liens, or any judgment liens resulting from any claim for damage arising from the work of any excavation, survey, tests, repair, restoration, maintenance or improvement performed by OCRP Inc. and/or its Agents. Further, OCRP Inc. shall pay or cause to be removed of record (by payment or bonding pursuant to statute) all of such liens, claims, or demands within 30 days of notice thereof.

OCRP Inc. expressly agrees to protect, defend, indemnify, and hold CITY free and harmless from all liability for any and all such liens, claims and demands; including any claims for reasonable attorneys' fees, costs, and expenses in connection therewith.

10. Compensation.

This Agreement does not contemplate and CITY shall not be obligated to compensate OCRP Inc. for any of the Activities contemplated by this Agreement.

11. Insurance.

A. OCRP Inc. shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City, the following minimum scope of insurance coverage:

(1) A policy or policies of broad-form commercial general liability insurance, in a form at least as broad as ISO form #CG 00 01 11 88 or its equivalent, with minimum limits of \$1,000,000 combined single limit coverage per occurrence against any bodily injury, personal injury, or property damage which may occur as a result of wrongful or negligent acts by OCRP Inc., its officers, employees, agents, and independent contractors in performance of services under this Agreement. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit;

(2) Business Automobile Liability Insurance, with minimum combined single limits coverage of \$1,000,000 per accident for bodily injury and property damage. Such insurance shall include coverage for owned, hired and non-owned automobiles;

(3) Workers' Compensation Insurance in accordance with the laws of the State of California, and Employers Liability Insurance with a minimum limit of \$1,000,000 per accident.

B. Any deductible or self-insured retention must be declared to and approved by the City.

C. All insurance coverages shall be confirmed by execution of endorsements and certificates of insurance. OCRP Inc. is required to file the completed policy endorsements and certificates with City on or before the effective date of this Agreement, and to thereafter maintain current endorsements on file with City. The completed endorsements and certificates of insurance are subject to the approval of City.

D. The required insurance policies shall contain, or be endorsed to contain, the following provisions:

(1) Commercial General Liability, Business Automobile Liability Policies.

- a) The City, its officers, officials, employees, and volunteers are to be covered as an additional named insured as respects: liability arising out of activities performed by or on behalf of the OCRP Inc. ; products and completed operations of the OCRP Inc. ; premises owned, occupied or used by the OCRP Inc.; or automobiles owned, leased, hired, or borrowed by the OCRP Inc.
- b) The OCRP Inc's insurance coverage shall be primary insurance as respects the City, its officers, officials, agents, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, or volunteers shall be excess of the OCRP Inc's insurance and shall not contribute with it.
- c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, agents, employees, or volunteers.
- c) The OCRP Inc's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2) Workers' Compensation and Employers' Liability Insurance.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, agents, employees, and volunteers for losses arising from work performed by the OCRP Inc. for the City.

(3) All Coverages.

Each of insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

12. Notices.

All written notices pursuant to this MOA shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be personally delivered or sent through the United States mail:

ORANGE COAST RIVER PARK, INC.
P.O. Box 12932
Newport Beach, CA 92658
Attn: Gary Gorman

CITY
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628-1200
Attn: Parks Project Manager

13. Governing Law.

This MOA shall be governed by and construed in accordance with laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Orange. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.

14. Severability

If any provision of this MOA is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions nevertheless will continue in full force and effect without being impaired or invalidated in any way.

15. Litigation Fees.

Should litigation arise out of this MOA for the performance thereof, the court shall award costs and expenses, including attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and attorney's fees paid and/or incurred in good faith. "Prevailing Party" shall mean the party that obtains a favorable and final judgment or order from a court of law. This paragraph shall not apply and litigation fees shall not be awarded based on an order or otherwise final judgment that results from the parties' mutual settlement, arbitration, or mediation of the dispute.

16. Non-Discrimination.

In the performance of this MOA, OCRP Inc. shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age physical or mental handicap, medical condition, or sexual orientation. OCRP Inc. will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

17. Acts Beyond the Control of Parties.

In the event that CITY or OCRP Inc. is wholly or partly prevented from performing obligations under this MOA because of causes beyond its reasonable control, including but not limited to, acts of God, labor disputes, lawsuits, sudden actions of the elements, actions of federal or state agencies or courts, or actions of local governments (herein, "force majeure"), CITY or OCRP Inc. shall be excused from whatever performance is affected by such cause to the extent so affected, and failure to perform shall not be considered a material breach, provided that: (1) the suspension of performance is of no greater scope and no longer duration than is required by the force majeure, (2) within two weeks after the occurrence of the force majeure CITY or OCRP Inc. gives the other party written notice describing the particulars of the occurrence; (3) CITY or OCRP Inc. uses its best efforts to remedy its inability to perform (this provision shall not require the settlement of any strike, walk-out, lock-out, lawsuit or labor dispute on terms which, in the sole judgment of CITY or OCRP Inc., are contrary to its interests); and (4) when CITY or OCRP Inc. is able to resume performance of its obligations hereunder, CITY or OCRP Inc. shall give notice to the other party to that effect.

18. Indemnity.

OCRP Inc. agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at OCRP Inc.'s sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of OCRP Inc., its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by OCRP Inc., its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of OCRP Inc., its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by OCRP Inc., its employees, and/or authorized subcontractors under this Agreement, whether or not OCRP Inc., its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, OCRP Inc. shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions which shall be of no force and effect.

19. Independent Contractor

OCRP Inc. is, and shall at all times remain as to City, a wholly independent contractor. OCRP Inc. shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of OCRP Inc. or any of OCRP Inc.'s employees, except as set forth in this Agreement. OCRP Inc. shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. OCRP Inc. agrees to pay all required taxes on amounts paid to OCRP Inc. under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. OCRP Inc. shall fully comply with the workers' compensation law regarding OCRP and OCRP's employees. OCRP Inc. further agrees to indemnify and hold City harmless from any failure of OCRP Inc. to comply with applicable worker's compensation laws.

20. PERS Eligibility

In the event that OCRP Inc. or any employee, agent, or subcontractor of OCRP Inc. providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, OCRP Inc. shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of OCRP Inc. or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, OCRP Inc. and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

21. Non-Discrimination and Equal Employment

In the performance of this Agreement, OCRP Inc. shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap or medical condition. OCRP Inc. will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, or medical condition

22. Defaults and Remedies.

Either party may terminate this MOA for breach by the other party upon giving the other party written notice at least sixty (60) days prior to said termination date. In the event of any breach of this MOA by OCRP Inc., CITY shall notify OCRP Inc. in writing of such breach, and OCRP Inc. shall have thirty (30) days in which to initiate action to cure said breach. In the event of any breach of this MOA by CITY, OCRP Inc. shall notify CITY in writing of said breach, and CITY shall have thirty (30) days in which to initiate action to cure such breach. Should either party breach this MOA, the parties agree that

monetary damages will not provide an adequate remedy for such breach and therefore that the aggrieved party shall be entitled to specific performance and injunctive relief.

23. Attorneys' Fees.

In the event of any declaratory or other legal or equitable action instituted between CITY and OCRP Inc. in connection with this MOA, the prevailing party shall be entitled to recover from the losing party all of its costs and expenses, including court costs and reasonable attorneys' fees.

24. Term of MOA

The right of entry granted by this MOA shall terminate thirty six (36) months from the Effective Date. The Term of this MOA shall be extended only by mutual agreement of the PARTIES made in writing.

25. Termination and Remedies.

Notwithstanding Paragraph 19, CITY may terminate this Agreement at any time, with or without cause, in its sole discretion, with thirty (30) days written notice.

26. Agreement in Counterparts.

This MOA may be executed in counterparts, each of which shall be deemed an original.

27. Agreement in Writing.

This MOA contains the entire agreement between the parties hereto and neither it nor any part of it may be changed, altered, modified, limited, or extended orally, or by any agreement between the parties unless such agreement is expressed in writing and signed by the parties, or their successors in interest.

28. Assignment and Successors in Interest.

Unless otherwise provided in this MOA, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto, all of who shall be jointly and severally liable hereunder.

29. Effective Date.

The effective date of this MOA ("Effective Date") shall be the day the last party has signed.

30. Non-assignability; Subcontracting

OCRP Inc. shall not assign or subcontract all or any portion of this Agreement. Any attempted or purported assignment or subcontracting by OCRP Inc. shall be null, void and of no effect.

31. Consistent with Fairview Park Master Plan

CITY acknowledges that the Activities to be conducted by OCRP Inc. and its Agents are consistent with the Fairview Park Master Plan.

32. Waiver

No waiver of any of the provisions of this MOA shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

33. Governing Law.

This instrument shall be construed and enforced in accordance with, and governed by, the laws of the State of California. If any term, covenant, condition, or provision of this MOA is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

34. Exhibits; Precedence

All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, this provisions of the Agreement shall prevail.

35. Construction

The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

36. Entire Agreement

This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between OCRP Inc. and City. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties which expressly refers to this Agreement.

IN WITNESS WHEREOF, the parties have executed this MOA this 15th day of November, 2011.

CITY OF COSTA MESA

ORANGE COAST RIVER PARK, INC.

By: _____

By: _____

Recorded at request of, and return to:

Project No. PR46B-101.3
Project: Fairview Regional Park

GRANT DEED #2867

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

the ORANGE COUNTY HARBORS, BEACHES AND PARKS DISTRICT

does hereby GRANT to the CITY OF COSTA MESA the real property in the County of Orange, State of California, described as:

That portion of Lot A of the Banning Tract, in the city of Costa Mesa, county of Orange, state of California, as shown on a map filed in the case of Hancock Banning and others, versus Mary H. Banning, for petition and being Action No. 6385 in the Superior Court of the State of California, in and for the County of Los Angeles, California, together with those portions of Lots 3, 4, and 5 of the J. A. Day Tract, in said city, county and state, recorded in book 4, page 50 of Miscellaneous Maps in the office of the County Recorder of said Orange County, described as a whole as Parcel GA 551-1.01 in a deed to the Orange County Harbors, Beaches and Parks District recorded April 3, 1973 in book 10625, page 278 of Official Records in the office of said County Recorder.

EXCEPT therefrom the westerly 200.00 feet of said Parcel GA 551-1.01, said 200.00 feet being measured at right angles to the westerly line of said Parcel.

ALSO EXCEPT therefrom that portion lying southerly and westerly of the following described line:

Beginning at a point in the westerly line of said Parcel GA 551-1.01, said point being distant S. $13^{\circ}24'49''$ W., 1025.51 feet, measured along said westerly line, from the northwesterly corner of said Parcel; thence S. $76^{\circ}35'11''$ E., 949.45 feet; thence S. $12^{\circ}28'45''$ W., 314.88 feet; thence S. $14^{\circ}06'38''$ W., 208.94 feet; thence S. $9^{\circ}15'00''$ W., 251.00 feet; thence S. $8^{\circ}40'51''$ W., 294.03 feet; thence S. $5^{\circ}38'55''$ W., 328.70 feet; thence S. $7^{\circ}14'42''$ W., 228.30 feet; thence S. $6^{\circ}37'40''$ W., 360.32 feet; thence S. $3^{\circ}43'58''$ W., 206.93 feet; thence S. $6^{\circ}45'13''$ W., 248.06 feet; thence S. $19^{\circ}35'27''$ W., 300.28 feet to a point on the southerly line of said Parcel GA 551-1.01, said point being distant N. $89^{\circ}27'30''$ E., 1171.89 feet, measured along said southerly line, from the southwesterly corner of said Parcel.

1 COVENANTS, CONDITIONS AND RESTRICTIONS

2 The above described property is granted upon the express condition that the parcel be
3 perpetually used for public park, recreation, and open space purposes. Public park,
4 recreation, and open space is defined as those uses consistent with applicable provi-
5 sions of Section 11011.1 of Government Code of California and State-approved General
6 Development Plan.

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28 A breach of said condition shall cause said property to revert to Grantor, its heirs,
successors, or assigns, who shall have the right of immediate re-entry upon said pre-
mises.



Approved by City Council March 1998
Revised February 2001
Revised again November 2002

FAIRVIEW PARK CITY OF COSTA MESA

**DAVID EVANS
AND ASSOCIATES, INC.**
25162 84th Street, Suite 270
Laguna Hills, California 92653, 714/761-1100



April 22, 2005