C-3885

COOPERATIVE AGREEMENT

This COOPERATIVE AGREEMENT ("AGREEMENT") by and between the County of Orange ("County"), and the City of Newport Beach ("City") is dated the 1st day of November, 2006 ("Effective Date") and is made with reference to the following:

RECITALS

A. The City and County share the goals of: (i) fostering local government cooperation as a way to enhance service to the public without increasing costs; and (ii) ensuring that plans and studies provide public officials with the information necessary to make informed decisions on the nature and extent of municipal services to be provided as well as the most cost effective way to provide those services.

B. The Parties, through this Agreement, commit to work in good faith to ensure that their cooperation will: (i) ensure the public continues to receive high quality and cost effective services; (ii) maintain or enhance their constituents quality of life; (iii) preserve and enhance the wildlife habitat, educational and recreational value of natural resources; and (iv) provide a means for continued cooperation to benefit the public and the taxpayer.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. GOALS AND OBJECTIVES

Airport Area Compatibility. The City and County intend, through this Agreement and any subsidiary agreement that the Parties determine is necessary or appropriate to implement this Agreement, to expand their longstanding efforts to promote compatibility between operations at John Wayne Airport ("JWA" – See Exhibit A) and land uses within and in proximity to the City. The Parties intend to promote compatibility by, among other things, committing to preserve certain longstanding land use plans, such as the Santa Ana Heights Specific Area Plan ("SAHSAP"), that were designed to harmonize land uses in Santa Ana Heights with air carrier operations at JWA. The Parties also intend this Agreement to prohibit City annexation of JWA and other JWA-owned or County-owned property without County approval. The Parties also intend, through this Agreement and any subsidiary agreement that the Parties determine is necessary or appropriate to implement this Agreement, to require County compliance with a process that includes City consideration and approval prior to County acquiring property for the purpose of extending the existing air carrier runway to the south or constructing a second air carrier runway, and to require the City to become a consistent agency with respect to land uses and related planning in the airport area as specified in the Airport Environmental Land Use Plan ("AELUP").

II. AIRPORT AREA COMPATIBILITY

A. Summary. The Parties commit, though this Agreement, and any subsidiary agreement that the Parties determine is necessary or

appropriate to implement this Agreement, to take actions with respect to existing plans and policies that promote compatibility between SAH land uses and JWA air carrier operations. This Agreement also confirms exclusive County jurisdiction over, and precludes City annexations of, JWA and/or areas essential to aircraft operations while requiring City consent to certain acquisitions of property. This Agreement also enables, but does not require in any way, the City and County to jointly plan, design, fund and/or construct public improvements.

B. Implementation. The Parties will, for the term of this Agreement, act in a manner consistent with the following:

(1) The City will not initiate proceedings to annex JWA or any portions of JWA or other County-owned land without the written consent of the County.

(2) Prior to any County (or successor agency) acquisition of land or any interest therein, including tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries, for the purpose of constructing a second air carrier runway at John Wayne Airport or extending the existing air carrier runway to the south, the County will submit a plan for the construction of the facility to the City Council of the City of Newport Beach as if Public Utilities Code section 21661.6 were applicable. The plan shall show in detail any proposed new/extended runway uses proposed for the property to be acquired. The Newport Beach City Council shall conduct a noticed public hearing on the plan, and shall thereafter approve or disapprove the plan as if Public Utilities Code section 21661.6 were applicable. The County may, subject to compliance

with other legal requirements, proceed with the proposed acquisition only in the event of City Council approval.

(3) The City will become a "consistent agency" for purposes of the AELUP and the City shall take the actions necessary to become a consistent agency within 12 months after the Effective Date. The City will retain this consistent agency status through the term of this Agreement provided that the AELUP 65 CNEL contour is not the expanded in comparison to that which is in the AELUP as of the Effective Date.

(4) The City will not repeal/modify the SAHSAP without County consent.

(5) City consent is not a precondition to County action necessary to comply with State and Federal laws.

(6) Both Parties agree that this Agreement has no impact on the JWA Settlement Agreement or the duties/rights of a party to that JWA Settlement Agreement.

(7) The Parties agree that, where appropriate, they may, but are not obligated to, cooperate in the planning, design, funding and construction of circulation or other improvements in or immediately adjacent to the City that are intended to mitigate traffic impacts or promote compatibility between JWA and land uses in the vicinity of JWA.

III. TWO NEWPORT BAY STUDIES.

A. Summary. The Parties agree to cooperatively develop a Comprehensive Resource Management Plan ("CRMP") for the educational, public access, and habitat of the Upper Newport Bay, including the Upper

Newport Bay Preserve ("Nature Preserve") and adjacent properties, including the Upper Newport Bay Ecological Reserve and City-owned properties adjacent to the Bay. The Parties also agree to conduct a study of Lower Newport Bay services ("Lower Bay Services Study").

B. Funding. Funding for the two studies will come from the County and the City in direct proportion to the amount of land (including tidelands) that each entity administers. For example, the County owns approximately twenty percent (20%) of the CRMP study area. Therefore, the County agrees to fund twenty percent (20%) of the CRMP, with the City or other partners funding the remaining eighty percent (80%).

C. Implementation of the Studies. The CRMP and Lower Bay Services Study would begin after the time that the County Executive Officer notifies the City that a current Strategic Plan for Harbors, Beaches, and Parks countywide is complete.

D. Implementation of the Studies Recommendations. The Parties agree that, subsequent to completion of each study, they will engage in good faith discussions relative to implementing any study recommendations but final implementation shall be upon the mutual consent of both parties.

Adopted this 24th day of October, 2006, by and between the County of Orange and the City of Newport Beach.

Bill Campbell

Supervisor Bill Campbell, Chairman
Orange County Board of Supervisors

11/30/06

Date

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA
By _____ Deputy
Date 11/30/06

Don Webb

Don Webb, Mayor
City of Newport Beach

12/07/06
Date

Attest:

Darlene J. Bloom
Clerk of the Board

11/30/06
Date

LaVonne M. Harkless

LaVonne M. Harkless, City Clerk
City of Newport Beach

12/4/06
Date

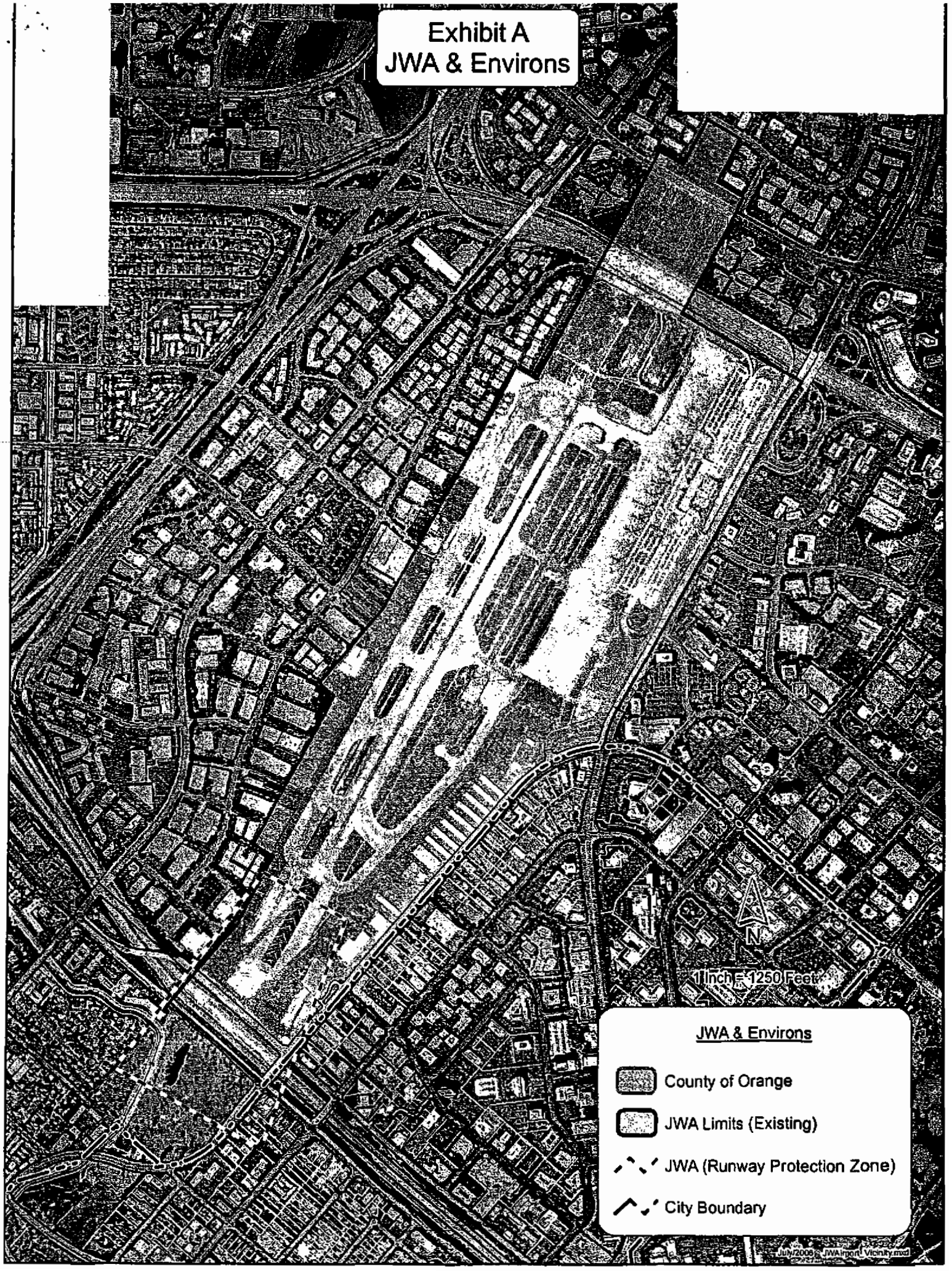


Exhibit A
JWA & Environs
N
1 Inch = 1250 Feet
JWA & Environs
County of Orange
JWA Limits (Existing)
JWA (Runway Protection Zone)
City Boundary
Jun/2008 JWAirport Vicinity.mxd

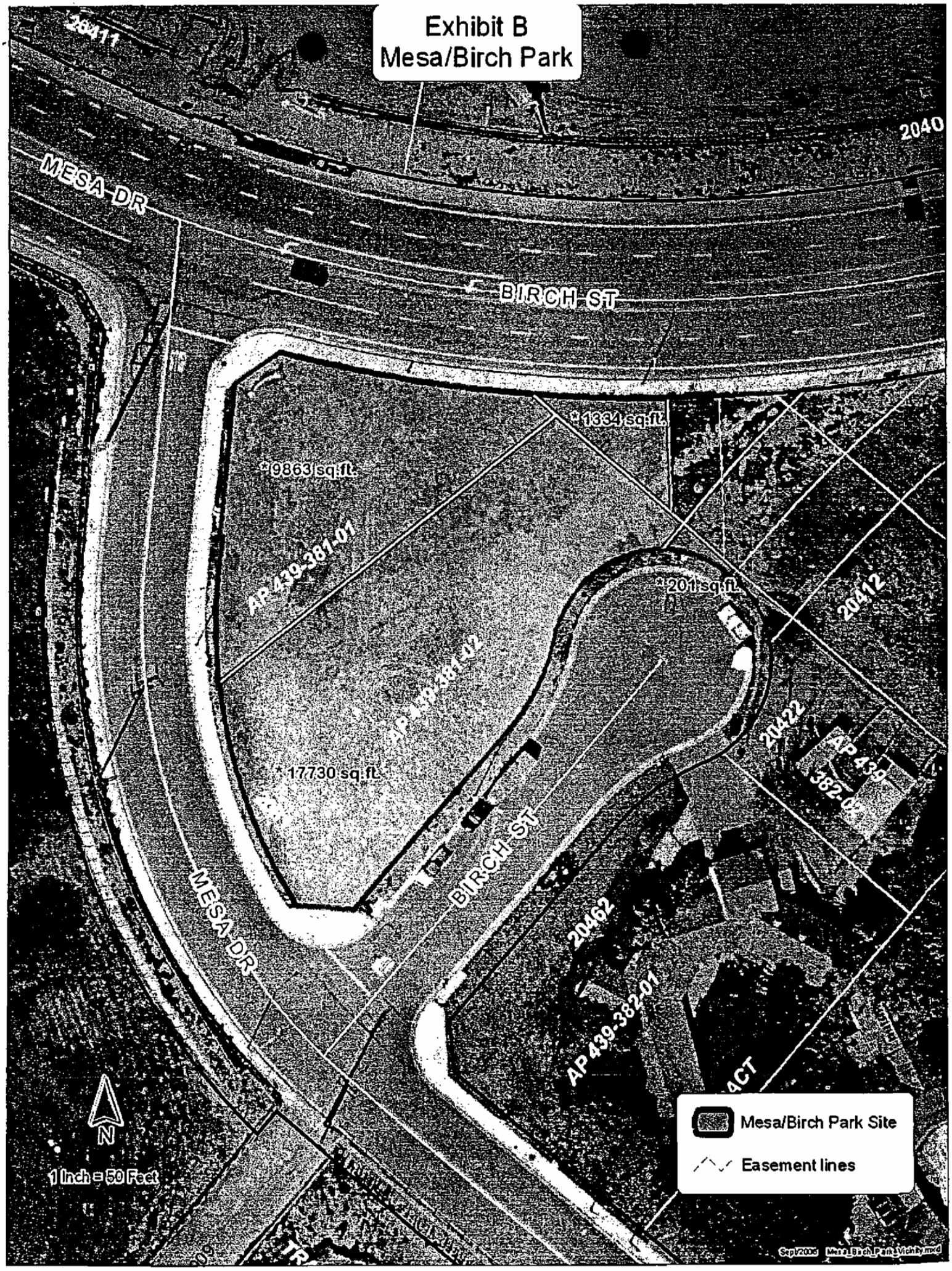
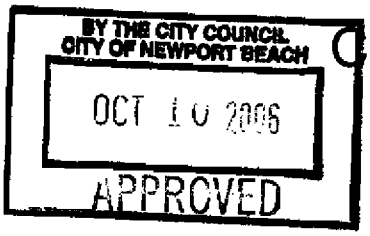


Exhibit B
Mesa/Birch Park
20411
2040
MESA DR
BIRCH ST
*1334 sq.ft.
*9863 sq.ft.
AP 439-381-01
*201 sq.ft.
20412
AP 439-381-02
20422
AP 439-382-
*17730 sq.ft.
BIRCH ST
MESA DR
20462
AP439-382-01
4CT
N
1 Inch = 50 Feet
Mesa/Birch Park Site
Easement lines
Sept 2006
Mesa_Birch_Park_Vicinity.mxd

C-3865



CITY OF NEWPORT BEACH
CITY COUNCIL STAFF REPORT

Agenda Item No. 18
October 10, 2006

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Homer L. Bludau, City Manager
949-644-3000, hbludau@city.newport-beach.ca.us

Dave Kiff, Assistant City Manager
949-644-3002, dkiff@city.newport-beach.ca.us

SUBJECT: COOPERATIVE AGREEMENT WITH THE COUNTY OF ORANGE AND ORANGE COUNTY DEVELOPMENT AGENCY REGARDING THE FOLLOWING ISSUES WITHIN OR ADJACENT TO THE CITY'S SPHERE OF INFLUENCE ("SPHERES ISSUES"): JOHN WAYNE AIRPORT, SANTA ANA HEIGHTS, NEWPORT BAY

ISSUE:

Should the City Council enter into a Cooperative Agreement with the County of Orange pertaining to John Wayne Airport, Santa Ana Heights Redevelopment Area projects, and Newport Bay?

RECOMMENDATION:

As recommended by the City Manager and the City Council's Ad Hoc Sphere Issues Committee:

1. That the City Council authorize the Mayor to execute a Cooperative Agreement with the County of Orange and the Orange County Development Agency (OCDA) in a manner substantially similar to the attached draft Agreement;
2. The document be forwarded to the Board of Supervisors for review and approval;
3. The City Manager be authorized to make minor changes to the Agreement if requested by the County provided such changes are reviewed and approved by the City Council's Ad Hoc Sphere Issues Committee; and
4. The final executed copy of the Agreement be provided to the City Council and be made available to the public via the City's website following execution by the County.

BACKGROUND:

In December 2003, the City Council formed the *Ad Hoc Sphere Issues Committee* to talk to the County of Orange over what Council referred to as *Spheres Issues.* This meant an examination of projects and programs that the County of Orange provided within or adjacent to the City of Newport Beach's "sphere of influence" that could be provided by the City. The Council asked "if we were starting from scratch, what entity would be providing these services today absent existing boundaries?"

Since that time, the Sphere Issues Committee and City staff have worked with Orange County Supervisor Jim Silva and other representatives of the County to develop a "Cooperative Agreement" that outlines and gives specific direction over three key areas where the City and County interact in and around Newport Beach.

These three key areas are:

- John Wayne Airport & overall Airport Area Compatibility
- The Santa Ana Heights Redevelopment (RDA) Project Area
- Services and programs in Upper and Lower Newport Bay

The proposed Cooperative Agreement addresses these issues in sections in the following order:

- Goals and Objectives
- Airport Area Compatibility
- Santa Ana Heights RDA projects
- Two studies involving Upper Newport Bay and Lower Newport Bay

This staff report summarizes each of the key issues and how the issues have been addressed in the Cooperative Agreement.

Airport Area Compatibility
John Wayne Airport (JWA) is located on County-owned unincorporated property outside of Newport Beach (JWA is not within any city's sphere of influence). In the early 1980s, the County sought to expand the airport into a major airport accommodating large jet aircraft, capable of providing air passenger service to the rest of the nation. Those expansion plans included a new terminal, loading bridges and parking facilities to accommodate increased passenger service levels.

In 1985 and to resolve litigation related to the 1985 JWA Master Plan and related environmental documents, the County, the City, the Airport Working Group (AWG) and Stop Polluting Our Newport (SPON) entered into a Settlement Agreement which: (a) limited the number of average daily departures (ADD) of the noisiest aircraft (Class A) operating at JWA; (b) limited the size of the terminal and other facilities; and (c) limited the number of air passengers (8.4 million annual passengers or "MAP") that could be served by JWA.

In 2002, the City, the County, SPON, and AWG amended the Settlement Agreement. The 2002 Amendments extended the term of the Settlement Agreement to December 31, 2015 (December 31, 2020 for the curfew). Consideration for this extension was an increase in the cap on passengers served at JWA (10.3 MAP until 2010 and 10.8 MAP as of January 1, 2011) and an additional 12 ADD of the Class A aircraft.

Subsequent to the 2002 Amendments, the City Council asked staff to identify other opportunities that would potentially provide long-term safeguards to the physical expansion of JWA. The recently adopted Aviation Policy identifies two issues that are critical to maintaining JWA at the relative size and level of activity at which it currently operates:

1. The curfew that prohibits air carrier departures after 10:00 p.m. and before 7:00 a.m. Monday-Saturday (8:00 a.m. on Sundays) and air carrier arrivals after 11:00 p.m. and before 7:00 a.m. daily; and
2. The potential for the addition of a second air carrier runway west of the existing commercial air carrier runway.

The curfew is a long-standing ordinance of the County and the JWA Settlement Agreement prohibits any relaxation until at least January 1, 2021. While the County has not indicated any intention of initiating a process for planning and constructing a new runway, they are not prohibited from taking steps, such as the acquisition of land, that would enable the construction of a second air carrier runway.

How the Cooperative Agreement impacts JWA. The proposed Cooperative Agreement addresses the issue of a second air carrier runway by establishing a process whereby the County will not acquire additional land for another runway (or land to expand the existing commercial air carrier runway to the south) unless it provides the City with a proposed plan. The Newport Beach City Council has the authority to approve or disapprove the plan. The County agrees to abide by the decision of the City Council. In consideration, the City agrees not to annex any JWA property and agrees to become a "consistent agency" with respect to residential land uses within the airport vicinity *(NOTE: The Airport Land Use Commission has determined that the City is now a consistent agency [see letter attached] if the proposed General Plan Update [Measure V] is approved by the voters on November 7th).* The Cooperative Agreement has no affect on the existing 2002 Settlement Agreement with the County.

How does Measure V affect the Consistent Agency language of the Cooperative Agreement? If Measure V passes, the updated General Plan that Measure V puts into effect is fully consistent with the Airport Environs Land Use Plan (AELUP) for JWA. If Measure V does not pass, those sections of the General Plan Update that allowed the City to be a "consistent agency" under the AELUP will have to be enacted by the City Council shortly after the Measure V vote. The Council would have to ensure that the AELUP consistency action is also consistent with the provisions of Measure S ("Greenlight").

Santa Ana Heights RDA Projects – Mesa-Birch Park and Multi-Use Trail
The City annexed Eastern Santa Ana Heights (SAH) in July 2003. Previous to that, the City had worked with the SAH Project Advisory Committee (SAH PAC) to assist SAH PAC and the County in implementing some key construction projects, including the SAH Fire Station, a utility undergrounding project and multi-use trail, a community center, a horse arena, and two parks (one at the intersection of Mesa Drive and Birch Street called "Mesa-Birch Park" and one on Orchard in West SAH).

While this Agreement once envisioned a comprehensive transfer of redevelopment authority to the City, the version of the Agreement before the Council considers only smaller parts of that larger discussion – one part provides the City the authority to design, build, and operate Mesa-Birch Park. OCDA would retain title to the park, but the City would get up to $500,000 in OCDA funds to build the park. The City would maintain the park using general fund revenue; the cost of maintaining the park is not expected to exceed $20,000 annually.

A second part of this Agreement relates to a proposed stretch of a Multi-Use Trail along Mesa Drive that would be a second link for equestrians and others to access the Upper Newport Bay Nature Preserve. This issue has been controversial, as some members of the Mesa Drive community have asked that the proposed trail be removed from the SAH Specific Plan – they argue that it would adversely impact landscaping and yards along the south side of Mesa Drive and is unnecessary. Others in the community would like the trail to stay, believing that it has long been part of the Specific Plan and is part of the neighborhood's equestrian heritage.

On May 9, 2006, the City Council adopted a formal City Council Policy (K-6) that directed that any proposal to change the SAH Specific Plan must have the consent of the Orange County Board of Supervisors before the Council would consider such a change. The County has asked that the Cooperative Agreement include language stating that the County does not object to the City's deletion of the Trail if the City Council were to take a later action to delete it.

How the Cooperative Agreement impacts SAH Redevelopment Issues. The Cooperative Agreement grants the City the ability to plan, build, and maintain Mesa-Birch Park using OCDA funds, provided that the costs do not exceed $500,000. Title to the park would remain with OCDA, although staff envisions this park eventually being turned over to the City. The Agreement also states that the County does not object to a future City Council action to delete the Multi-Use Trail from the Santa Ana Heights Specific Plan if the City deems it appropriate to do so. The Agreement itself does not delete the Trail from the Specific Plan.

Newport Bay – Two Studies
The northwestern land portion of Upper Newport Bay (called the Upper Newport Bay Nature Preserve) has historically been owned by the County and its Harbors Beaches, and Parks ("HBP") Division. The waters and some tidelands of the Upper Bay are owned by the California Department of Fish and Game ("DF&G" – these lands are called the Upper Newport Bay Ecological Reserve).

Both segments of the Upper Newport Bay have been managed with limited and voluntary coordination with HBP, DF&G, and the City. Some assert that neither HBP nor DF&G have the financial resources to protect and preserve the Upper Bay in the manner it deserves. The City asserts that HBP and DF&G have sincere and complete stewardship goals for the Bay, but lack of funding means that some Bay resources deteriorate. City staff and members of the Newport Bay Naturalists and Friends believe that the entire Upper Bay properties deserve a resource management plan that treats the Upper Bay as if these jurisdictional boundaries did not exist – a "holistic" approach to Bay management.

In Lower Newport Bay, there are various activities (mooring administration, guest mooring placement, boat inspections, public safety, and more) that the County does that could be done in different ways – either by the City, by the private sector, or by some combination of City, County, and private sector administration.

How the Cooperative Agreement impacts Newport Bay. Through the Cooperative Agreement, the City and County commit to develop a Comprehensive Resource Management Plan (CRMP) for the Upper Bay. The CRMP would identify goals, programs, restoration and education projects, funding and good management models. The City would pay 80% of the cost of the CRMP, which could be up to $300,000 as a one-time cost. The CRMP would not start until the County's strategic planning effort for the HBP Division is complete (this planning effort is underway today).

The Agreement also directs the City and County to study the services currently being provided in the Lower Bay, who provides those services, at what cost they are being provided, and to identify alternatives for providing those services more economically. No recommendations from the study can be implemented unless there is mutual agreement between the County and City to do so. Study funding will be divided along the lines of the relationship of the tidelands each jurisdiction has under its control. Like the CRMP, this study would not start until the County's strategic planning effort for HBP is complete.

Implementing the Cooperative Agreement. The proposed Agreement currently has an effective date of November 1, 2006. The process for bringing the agreement before the City Council and the Board of Supervisors is for the City Council to hear the item on its October 10th meeting agenda, with the Board tentatively placing the Agreement on its October 17th agenda for action.

Financial Impacts. The proposed Agreement does have certain known and unknown costs to the City. The following chart shows our best estimate of costs associated with the Agreement.

CITY-COUNTY SPHERES AGREEMENT COSTS (est)

Subject/Issue	One-Time Cost	Ongoing Cost
Airport Area Compatibility	$ -0-	$ -0-
Upper Newport Bay/CRMP	$ 300,000	$ -0-
Lower Newport Bay Study	$ 100,000	$ -0-
Maintenance of Mesa-Birch Park		$20,000/year

CONCLUSION:

The proposed Cooperative Agreement is the result of many hours of discussions among elected officials and staffs of the two agencies, which have taken place over the past three years. The final product supports the cause of good government, whereby services and responsibilities are being assessed with the County based on which jurisdiction can best provide those services to the public, and whereby certain studies and plans will be undertaken which should provide for improved resource management of vital Newport Bay resources.

This Agreement is unique in scope in that three distinct issues are wrapped within one agreement. It is a testimony to both County and City elected officials and staffs that both jurisdictions approached the discussions of these issues with open minds and a desire to benefit the public. We feel the public benefits sought were achieved. The Council Spheres Committee and the City Manager believe the final document serves our community well in all three areas, and will have important community benefits for many years to come. It was a give-and-take process that we believe resulted in a fair and sound agreement. We hope you agree.

Submitted by:

Homer L. Bludau
City Manager

Dave Kiff
Assistant City Manager

Attachments: Draft Cooperative Agreement, with Exhibits A and B
Council Policy K-6
Letter from Airport Land Use Commission

COOPERATIVE AGREEMENT

This COOPERATIVE AGREEMENT ("Agreement") by and between the County of Orange ("County"), the Orange County Development Agency ("OCDA") and the City of Newport Beach ("City") is dated the 1st day of November, 2006 ("Effective Date") and is made with reference to the following:

RECITALS

A. The City and County share the goals of: (i) fostering local government cooperation as a way to enhance service to the public without increasing costs; (ii) ensuring that services are provided by the local government with available resources and jurisdiction over the area to be served; (iii) protecting, preserving and enhancing the habitat value of natural resources as well as the recreational and educational opportunities those resources provide; and (iv) ensuring that plans and studies provide public officials with the information necessary to make informed decisions on the nature and extent of municipal services to be provided as well as the most cost effective way to provide those services.

B. The Parties, through this Agreement, commit to work in good faith to ensure that their cooperation will: (i) ensure the public continues to receive high quality and cost effective services; (ii)

maintain or enhance their constituents quality of life; (iii) preserve and enhance the wildlife and habitat, educational and recreational value of natural resources; and (iv) provide a means for continued cooperation to benefit the public and the taxpayer.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. GOALS AND OBJECTIVES

A. Enhance Services and Protect Resources. The Parties, through the actions and studies contemplated by this Agreement and possible future agreements, intend to evaluate and implement, when appropriate, opportunities to maintain or enhance the quality of governmental services while minimizing expenditures.

B. Santa Ana Heights Redevelopment Area Projects. The City and County intend, through this Agreement, to continue the cooperation started within a July 8, 2003 Memorandum of Agreement between the City, the County, and OCDA by accomplishing a specific project in the Santa Ana Heights Project Area (the planning and construction of "Mesa-Birch Park") and by addressing a Multi-Use Trail along the southerly side of Mesa Drive.

C. Airport Area Compatibility. The City and County intend, through this Agreement and any subsidiary agreement that the Parties determine is necessary or appropriate to implement this Agreement, to expand their longstanding efforts to promote compatibility between operations at John Wayne Airport ("JWA" – See Exhibit A) and land uses within and in proximity to the City. The Parties intend to promote compatibility by, among other things, committing to preserve certain longstanding land use

8

plans, such as the Santa Ana Heights Specific Area Plan ("SAHSAP"), that were designed to harmonize land uses in Santa Ana Heights with air carrier operations at JWA. The Parties also intend this Agreement to prohibit City annexation of JWA and other JWA-owned or County-owned property without County approval. The Parties also intend, through this Agreement and any subsidiary agreement that the Parties determine is necessary or appropriate to implement this Agreement, to require County compliance with a process that includes City consideration and approval prior to County acquiring property for the purpose of extending the existing commercial air carrier runway to the south or constructing an additional commercial air carrier runway, and to require the City to become a consistent agency with respect to land uses and related planning in the airport area as specified in the Airport Environs Land Use Plan ("AELUP").

II. SANTA ANA HEIGHTS REDEVELOPMENT AREA PROJECT – MESA-BIRCH PARK AND PROPOSED MESA DRIVE TRAIL CONNECTION

A. The County and OCDA authorize the City to plan and construct a park on approximately 0.669-acres of OCDA-owned land (approximately contained within the APNs 439-381-01, 439-381-02 and small remnants of APN 439-381-03 and APN 439-382-02 as shown in green on the map in Exhibit B) at the corner of Mesa Drive and Birch Street in Santa Ana Heights ("Park Property"). OCDA shall retain title to the Park Property until such time as OCDA may determine it to be beneficial to transfer title to the City. The park shall be a public park open to all. The City shall fully indemnify and defend the County and OCDA from any and all claims for damages to person or property arising from the use or occupancy of the

Park Property by any person or entity or from the City's activities on or related to the Park Property and for any of City's acts or omissions related to the Park Property. The City shall maintain the Park Property as a public park in perpetuity, at the City's sole expense. The County or OCDA shall not declare the Park Property surplus or otherwise offer the Park Property for sale for any other use.

B. The City shall construct the park using the City's traditional bidding practices, including a bid request, formal bid opening, and the selection by the City of the lowest responsive bidder. The County and OCDA shall review the bids and shall agree to transfer an amount of Santa Ana Heights Redevelopment Project Area Bond Proceeds Funds or at the discretion of the County and OCDA, other available OCDA funds, to the City to fund the park's design and construction costs upon invoice by the City, in an amount not to exceed $500,000. The County and OCDA reserve the right to retain up to thirty percent (30%) of the park's construction cost until the County and OCDA are satisfied that the Park is complete and that the City has met the terms of this Section of the Agreement.

C. The County and OCDA do not object to any action by the City to delete that certain local trail connection that is identified on the Santa Ana Heights Specific Plan as running on the south side of Mesa Drive, if in its discretion, the City decides to take such action. This trail connection is not identified on the County's Master Plan of Riding and Hiking Trails (General Plan / Recreation Element) and the area in question was annexed to the City in 2003. Therefore, the City, rather than the County, has jurisdiction over the proposed trail connection.

III. AIRPORT AREA COMPATIBILITY

A. Summary. The Parties commit, though this Agreement, and any subsidiary agreement that the Parties determine is necessary or appropriate to implement this Agreement, to take actions with respect to existing plans and policies that promote compatibility between Santa Ana Heights (SAH) land uses and JWA air carrier operations. This Agreement also confirms exclusive County jurisdiction over, and precludes City annexations of, JWA and/or areas essential to aircraft operations while requiring City consent to certain acquisitions of property. This Agreement also enables, but does not require in any way, the City and County to jointly plan, design, fund and/or construct public improvements.

B. Implementation. The Parties will, for the term of this Agreement, act in a manner consistent with the following:

(1) The City will not initiate proceedings to annex, JWA or any portions of JWA or other County-owned land without the written consent of the County.

(2) Prior to any County (or successor agency) acquisition of land or any interest therein, including tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries, for the purpose of constructing a second commercial air carrier runway at John Wayne Airport or extending the existing commercial air carrier runway to the south, the County will submit a plan for the construction of the facility to the City Council of the City of Newport Beach as if Public Utilities Code §21661.6 were applicable. The plan shall show in detail any proposed new/extended runway uses proposed for the property to be acquired. The Newport Beach City Council shall conduct a noticed public hearing on the plan, and

shall thereafter approve or disapprove the plan as if Public Utilities Code section 21661.6 were applicable. The County may, subject to compliance with other legal requirements, proceed with the proposed acquisition only in the event of City Council approval.

(3) The City will become a "consistent agency" for purposes of the AELUP and the City shall take the actions necessary to become a consistent agency within 12 months after the Effective Date. The City will retain this consistent agency status through the term of this Agreement provided that the AELUP 65 CNEL contour is not expanded in comparison to that which is in the AELUP as of of the Effective Date.

(4) The City will not repeal/modify the SAHSAP without County consent.

(5) City consent is not a precondition to County action necessary to comply with State and Federal laws.

(6) Both Parties agree that this Agreement has no impact on the JWA Settlement Agreement or the duties/rights of a party to the JWA Settlement Agreement.

(7) The Parties agree that, where appropriate, they may, but are not obligated to, cooperate in the planning, design, funding and construction of circulation or other improvements in or immediately adjacent to the City that are intended to mitigate traffic impacts or promote compatibility between JWA and land uses in the vicinity of JWA.

IV. TWO NEWPORT BAY STUDIES.

A. Summary. The Parties agree to cooperatively develop a Comprehensive Resource Management Plan ("CRMP") for the educational, public access, and habitat of the Upper Newport Bay, including the Upper Newport Bay Nature Preserve ("Nature Preserve") and adjacent properties, the Upper Newport Bay Ecological Reserve and City-owned properties adjacent to the Bay. The Parties also agree to conduct a study of Lower Newport Bay services ("Lower Bay Services Study").

B. Funding. Funding for the two studies will come from the County and the City in direct proportion to the amount of land (including tidelands) that each entity administers. For example, the County owns approximately twenty percent (20%) of the CRMP study area. Therefore, the County agrees to fund twenty percent (20%) of the CRMP, with the City or other partners funding the remaining eighty percent (80%).

C. Implementation of the Studies. The CRMP and Lower Bay Services Study would begin after the time that the County Executive Officer notifies the City that a current Strategic Plan for its Harbors, Beaches, and Parks Division countywide is complete.

D. Implementation of the Studies' Recommendations. The Parties agree that, subsequent to completion of each study, they will engage in good faith discussions relative to implementing any study recommendations but final implementation shall be upon the mutual consent of both parties.

Adopted this _____ day of _____, 2006, by and between the County of Orange, the Orange County Development Agency, and the City of Newport Beach.

Supervisor Bill Campbell, Chairman Orange County Board of Supervisors	Date
Don Webb, Mayor City of Newport Beach	Date
Darlene J. Bloom Clerk of the Board	Date
LaVonne M. Harkless, City Clerk City of Newport Beach	Date


Exhibit A
JWA & Environs
N
1 Inch = 1250 Feet
JWA & Environs
County of Orange
JWA Limits (Existing)
JWA (Runway Protection Zone)
City Boundary


Exhibit B
Mesa/Birch Park
MESA DR
BIRCH ST
2040
* 1334 sq.ft.
* 9863 sq.ft.
AP 439-381-01
* 201 sq.ft.
20412
AP 439-381-02
20422
* 17730 sq.ft.
20411
BIRCH ST
MESA DR
20462
AP 439-382-01
N
1 inch = 50 Feet
Mesa/Birch Park Site
Easement lines

Council Policy K-6

CHANGES TO THE SANTA ANA HEIGHTS SPECIFIC PLAN OR TO ASPECTS OF THE GENERAL PLAN THAT RELATE TO THE SANTA ANA HEIGHTS SPECIFIC PLAN

PURPOSE

The purpose of this Policy is to establish a process for City staff and others to follow when staff, community groups, or residents propose a change to the Santa Ana Heights Specific Plan. A Pre-Annexation Agreement dated September 10, 2002 between the City and the County of Orange (its Board of Supervisors and the Orange County Development Agency) generally directs that written consent of the County be obtained before an amendment to the Santa Ana Heights Specific Area Plan or any changes to the City's General Plan that relate to the Santa Ana Heights Specific Plan can become effective.

POLICY

It is the policy of the City that this process be followed when considering any amendment to the Santa Ana Heights Specific Plan or any amendment to the City's General Plan that may relate to the Santa Ana Heights Specific Plan:

A. The proponent of the amendment (City staff, City Council, the Santa Ana Heights Project Advisory Committee [PAC], or individual residents) shall request consideration of the specific amendment in writing with a letter addressed to the City, the PAC and to the Orange County Board of Supervisors.

B. If requested by the County, the PAC shall hold a public meeting to discuss the proposed amendment. Following the public discussion, PAC shall conduct an advisory vote on the proposed amendment.

C. The County shall be requested to offer its position on the proposed amendment in any formal, public manner that the County sees fit.

D. If approved by the County, the City Council shall consider the proposed amendment during a regular session of the City Council. The Council's consideration of the proposed amendment shall comply with the Newport Beach Municipal Code and the City Charter as they relate to the adoption of ordinances or General Plan amendments. Nothing in this Policy obligates the City Council to approve any proposed amendment approved by PAC or the County.

E. In the Coastal Zone, no amendment to the certified Local Coastal Program shall become effective until adopted by the California Coastal Commission, pursuant to the provisions of the California Public Resources Code and the California Coastal Commission Administrative Regulations.

AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY
3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

July 25, 2006

City of Newport Beach
City Council
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92658-8915

Subject: Comments on Draft General Plan Update

Honorable Mayor and City Council Members:

During its regular meeting of July 20, 2006, the Airport Land Use Commission (ALUC) for Orange County considered the City of Newport Beach draft General Plan (dated July 7, 2006) for Consistency with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* and *AELUP for Heliports*. The ALUC took action to find the City of Newport Beach Consistent with the *AELUP for JWA* and *AELUP for Heliports*, subject to final approval of the General Plan by the City. However, the ALUC did request that the following items be revised in the General Plan document.

1) **Land Use, Housing and Noise Element:**

These elements now require that all development in the Airport Area must be in conformance with FAA and Caltrans Division of Aeronautics height limits, and residential development must be located outside the 65 dB CNEL noise contours, as identified in the December 19, 2002 AELUP for JWA.

It is recommended that the city remove the date of the AELUP since the document may be revised once each year if the ALUC deems it appropriate to do so. If the city desires to identify that this is the largest contour outside which residential development would be located, then it may be advisable to specifically reference the 1985 JWA Master Plan 65 dB CNEL contour.

2) **Safety Element:**

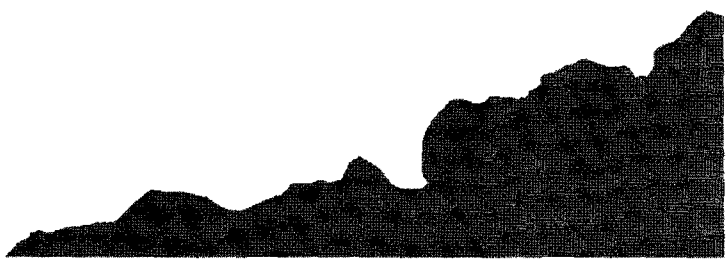
This element now requires use of the *JWA AELUP* for evaluation of land use compatibility in areas impacted by JWA operations, in particular land use decisions within the existing JWA Clear Zone/Runway Protection Zone.

#18
10-10-06

City-County Cooperative Agreement

Tuesday, October 10, 2006

Newport Beach City Council

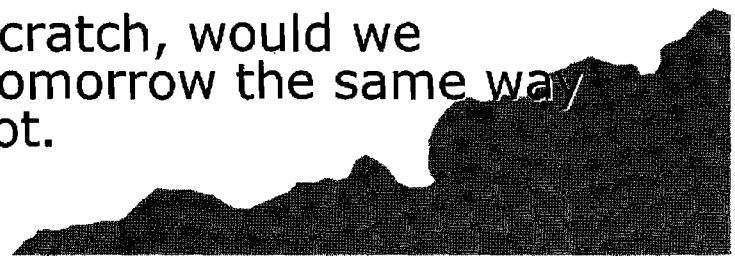


What we'll cover

- Quick History of "Spheres" discussions
- What's in the Agreement:
  - JWA
  - Santa Ana Heights RDA Projects (2)
  - Newport Bay – Two Studies
- What's Next
- For More Information

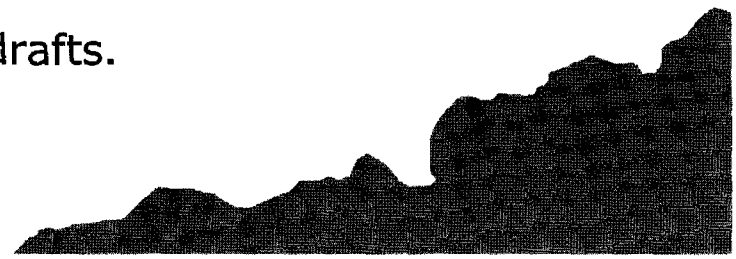
Quick History

- After the execution of the 2002 JWA Settlement Agreement, City wanted to see what else we could do to protect Newport Beach from JWA growth. Thus began "spheres" discussions.
- "Spheres" = issues or projects that happen within or around Newport Beach's "Sphere of Influence" (a LAFCO term). Like:
  - John Wayne Airport (JWA)
  - Coyote Canyon Landfill
  - Santa Ana Heights and its Redevelopment Area
  - Newport Bay – Lower and Upper
  - Newport Dunes
- "If we could start from scratch, would we administer these areas tomorrow the same way we do today?" Maybe not.



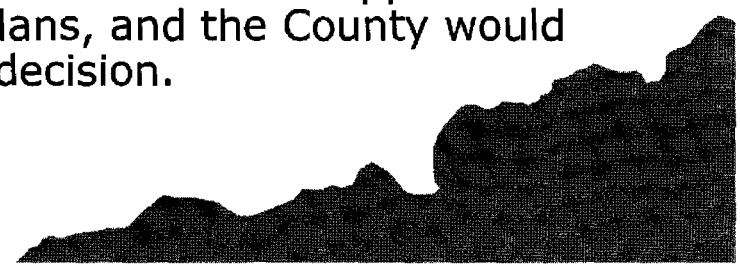
Quick History (pt 2)

- Council formed the Spheres Issues Ad Hoc Committee (12-2003). Members are:
  - Mayor Webb
  - Mayor pro Tem Rosansky
  - Council Member Ridgeway
  - *Staff members involved were Homer, Dave K, Bob B.*
- Dec 2003 through September 2006:
  - Meetings, meetings, meetings with the County of Orange (CEO's office, supervisors, Co Counsel, other staff).
  - Periodic updates to the City Council, to the Committee.
  - Drafts and re-drafts of a proposed Cooperative Agreement.
  - More meetings. More re-drafts.



What's in the Proposed Agreement

- John Wayne Airport (JWA)
  - City and County would confirm that:
    - County has exclusive jurisdiction over JWA
    - City would not annex any JWA property without County's consent.
    - City agrees to become a "consistent agency" with the JWA Airport Environs Land Use Plan (AELUP).
    - If County wanted to add a 2nd commercial air carrier runway, or expand the current air carrier runway to the south, the County would submit these plans to the City. The City Council could then support or not support the County's plans, and the County would abide by the Council's decision.



JWA

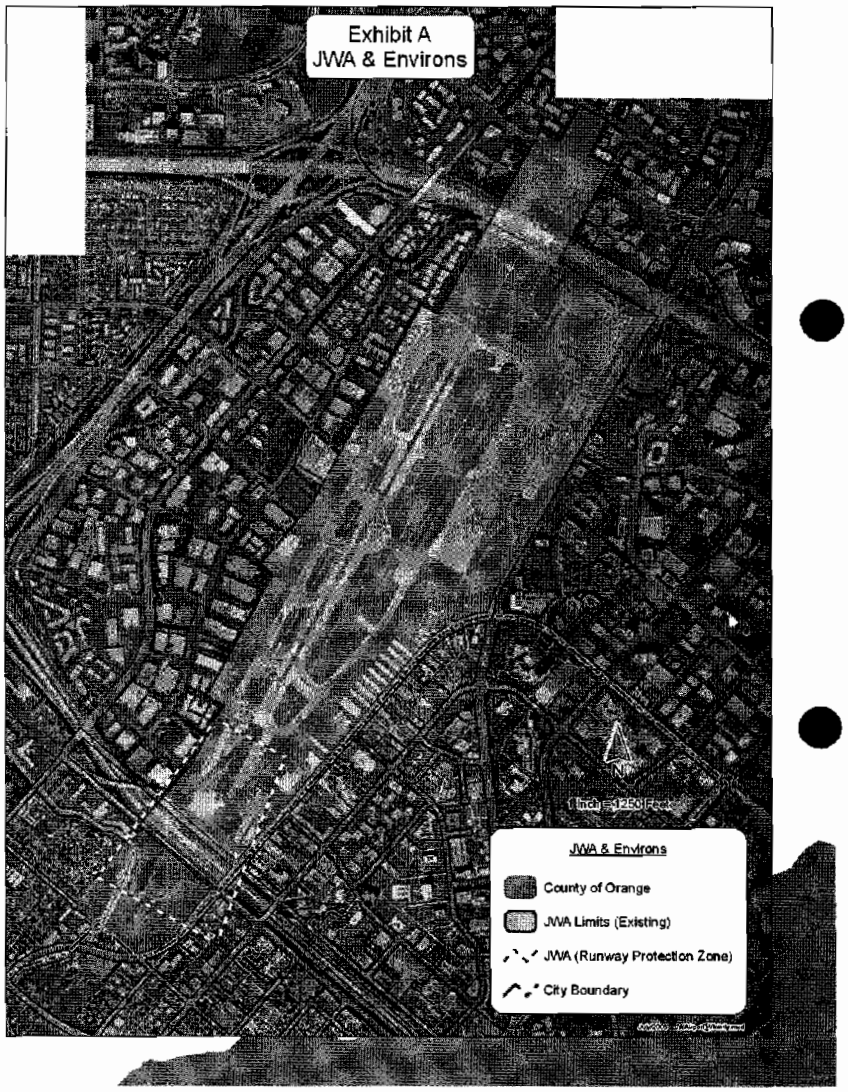


Exhibit A
JWA & Environs
N
1 Inch = 1,250 Feet
JWA & Environs
County of Orange
JWA Limits (Existing)
JWA (Runway Protection Zone)
City Boundary

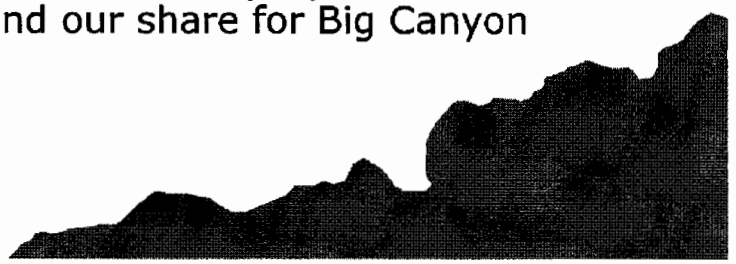
What's in the Proposed Agreement

- Santa Ana Heights Redevelopment Area
  - Agreement addresses two issues:
    - Mesa-Birch Park
      - City would be able to design, build, and maintain park at Mesa-Birch.
      - County would retain title to the Park.
      - City would be able to spend up to $500K in RDA funds to design and construct park. City would have to indemnify County and City would maintain park at our General Fund expense.
    - Proposed Mesa Drive Multi-Use Trail
      - Agreement says that the County officially does not oppose any attempts by City to delete a proposed Mesa Drive Multi-Use Trail from the SAH Specific Plan.

Mesa-Birch Park

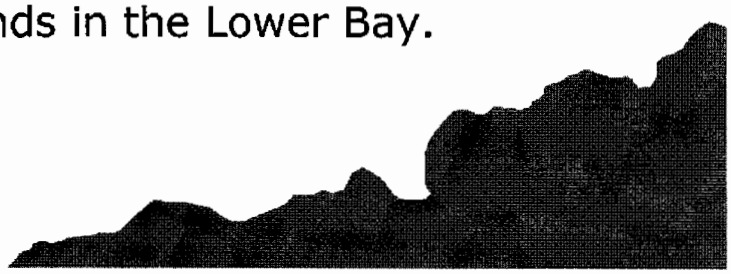
What's in the Proposed Agreement

- Newport Bay – 2 Studies
  - Agreement proposes two different studies involving Newport Bay as follows:
    - Upper Newport Bay Nature Preserve (County Regional Park)
      - City and County would co-fund a **Comprehensive Resource Management Plan (CRMP)** to address education, restoration, and public access at the Upper Bay.
      - CRMP would begin when the County says the HBP Strategic Planning effort is done.
      - City's funding share is about 80% (City would have to pay the DF&G share and our share for Big Canyon Creek Nature Park).



What's in the Proposed Agreement

- 2nd Newport Bay Study:
  - Lower Newport Bay -- Services
    - City and County would co-fund a study of the services that each of us provide in the Lower Bay. Includes mooring administration, harbor patrol, tidelands admin, others.
    - LNB Services Study would begin when the County says that the HBP Strategic Planning effort is done.
    - City's funding share to be determined based on ownership of tidelands in the Lower Bay.

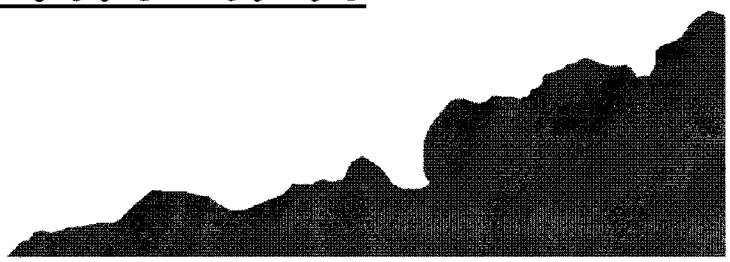


What's Next?

- Council consideration tonight.
- OC Board of Supervisors' consideration on Tuesday, October 17th
- Execution of the Agreement:
  - Implementation of the park project (design is done, need to go to bid again)
  - Preparation for 2 Newport Bay studies, but actual work not started for 6-18 months.
- Await new Board's ideas regarding:
  - Revisiting RDA transfer
  - Newport Dunes & other LNB tidelands transfer

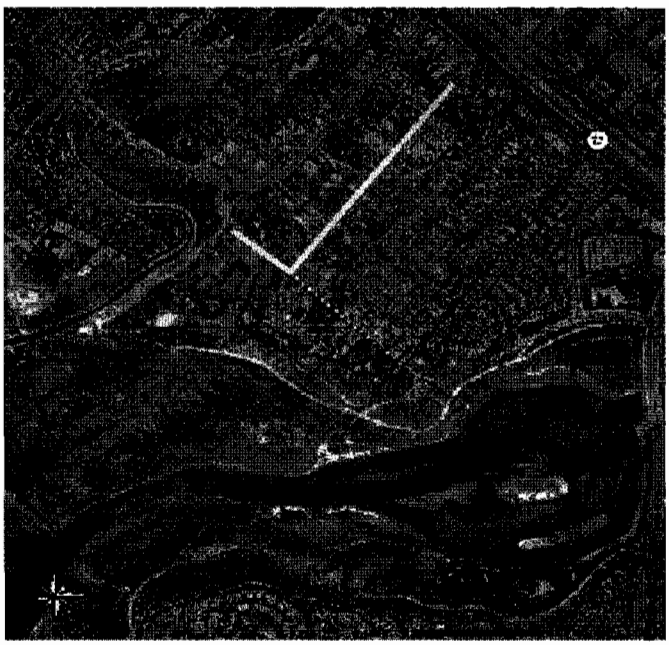
For More Information

- City's website:
  - www.city.newport-beach.ca.us
- Call us:
  - 949-644-3000
- E-Mail us:
  - hbludau@city.newport-beach.ca.us
  - dkiff@city.newport-beach.ca.us



Mesa-Cypress Multi-Use Trail

Existing =
Proposed =
Coastal Zone = ·····



"RECEIVED AFTER AGENDA PRINTED:" 10/10/06 - #18

Variant Leasing
32332 Camino Capistrano Suite 103
San Juan Capistrano, California 92675
Tel: (949)248-4900

To: OC Board of Supervisors
From: Gretchen Verbeerst
Re: Tuesday October 10 meeting Item 18

To whom it may concern,

I am contacting you in regards to the Cooperative agreement that has been drafted between the city and the county. I am in agreement with this draft except the section that discusses the multi use trail on page 4. I disagree with Section 11 (C) and would like to see this portion removed.

Thank You,
Gretchen Verbeerst

Thank you,
Gretchen Verbeerst

10/10/06 - #18

Emily Crean Vogler
20372 Cypress Street, Newport Beach, California 92660
(949) 476-5008 Fax (949) 476-5009

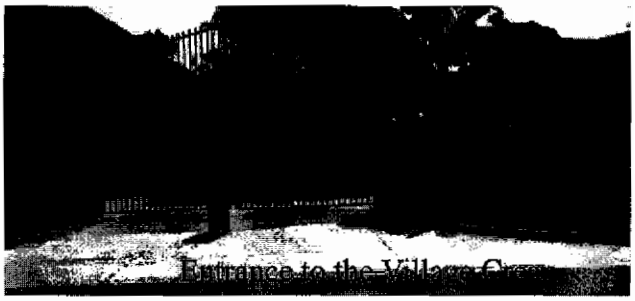
September 17, 2006

Supervisor Jim Silva
District Two
10 Civic Center Plaza
Santa Ana, CA 92701

It has come to my attention that there are residents of Santa Ana Heights who oppose the proposed Mesa Drive equestrian trail included in the Santa Ana Heights Specific Plan. I purchased my home on Cypress Street in Santa Ana Heights because it is one of the very few remaining equestrian areas of Orange County, and do not understand why people who find horses and accompanying horse facilities objectionable did not move to the 99.9% of the county where they would not be subjected to what they consider offensive. However, it is obvious that many are drawn by the large lots priced below other county areas due to the proximity to the airport, dust, and flies. Estates and 8,000 square foot homes have sprung up in the neighborhood, some accepting that they moved into an eclectic area, while others want to get rid of the horses to make the neighborhood more "Newport Beach" and increase property values.

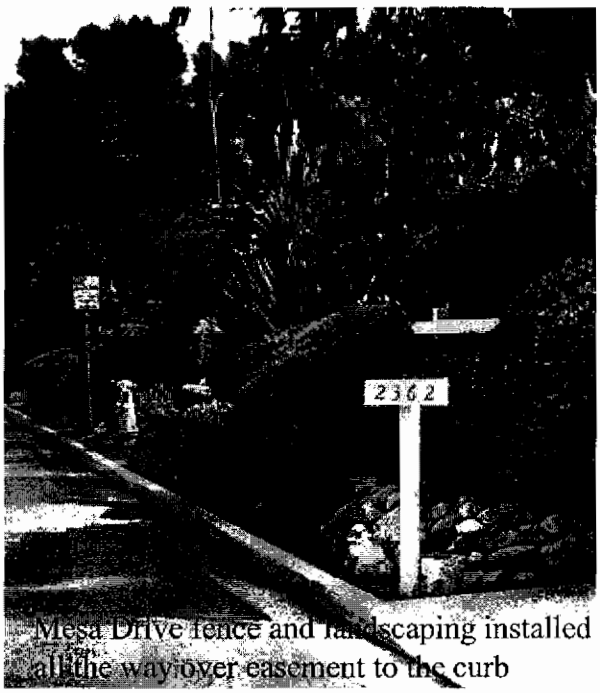
Many arguments have been offered to oppose the horse trail. There are concerns of safety with pedestrians and dogs sharing the trail with horses. As horse and dog owners, we have experienced both points of view (dog-walking and horse-riding) on Cypress and the existing Mesa Drive trails and have found that the vast majority of dogs and horses in the neighborhood are well-mannered and can pass in proximity without biting or kicking each other. The primary danger comes from motorists driving too fast or on their cell phones, or both. It will be far safer to have the proposed trail separate the motorists from those on foot, paw and hoof. Some people comment on the fact that many horses walking down Cypress Street are in the street and not on the horse trail. This is because the utility poles make parts of the trail extremely narrow, forcing horses into the street to go around them, a problem that will be corrected when the utilities are undergrounded in the next few years. The Mesa Drive trail will not have this problem.

"Unsightly" is a term used frequently in opposing the trail. This word was used in a letter sent by my father (and Mesa Drive homeowner), John Crean, to the city of Newport Beach, which also stated the proposed trail "...would destroy our landscaping and the quality enjoyment of our property." The reality is that all the "quality enjoyment" is inside the enormous cement block wall and gates fronting Mesa Drive and they would only lose some lawn, as their trees, shrubs, wall, dumpster access, and entry gate are not encroaching on the trail easement, unlike many of the other Mesa Drive estates that would be affected by the proposed trail. The photo opposite shows the setback of the Village Crean. The curb angle at the adjacent property is where that property was built out into the easement, as are most of the other estates.

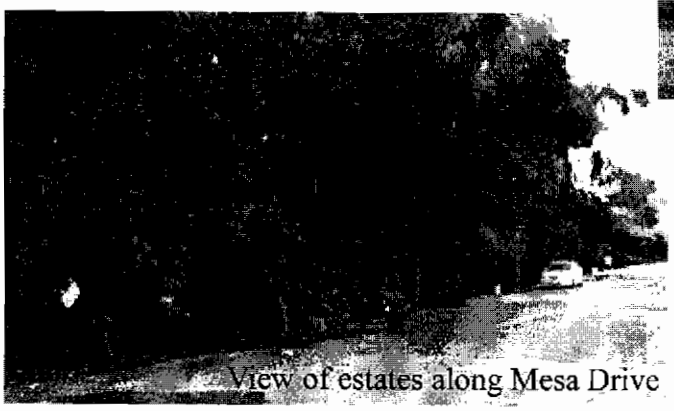

Entrance to the Village Crean


Adjacent lot

All of these estates have walls, fences and landscaping obscuring them from the street, so none of the residents will have a view of the trail from their properties, it will only be viewed from the street.



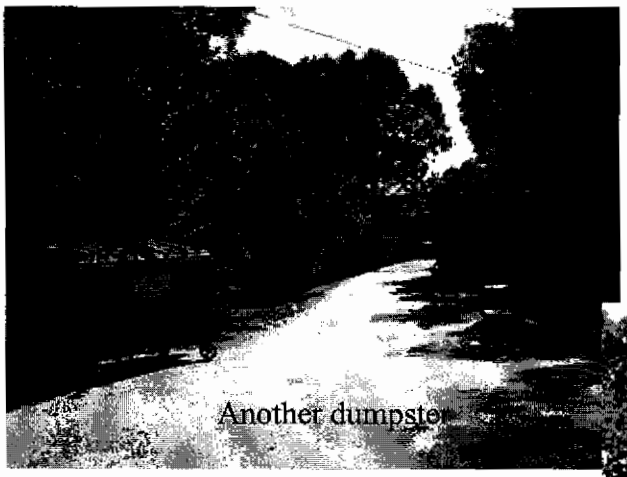
Mesa Drive fence and landscaping installed all the way over easement to the curb


View of estates along Mesa Drive


Closeup of Mesa Drive fencing

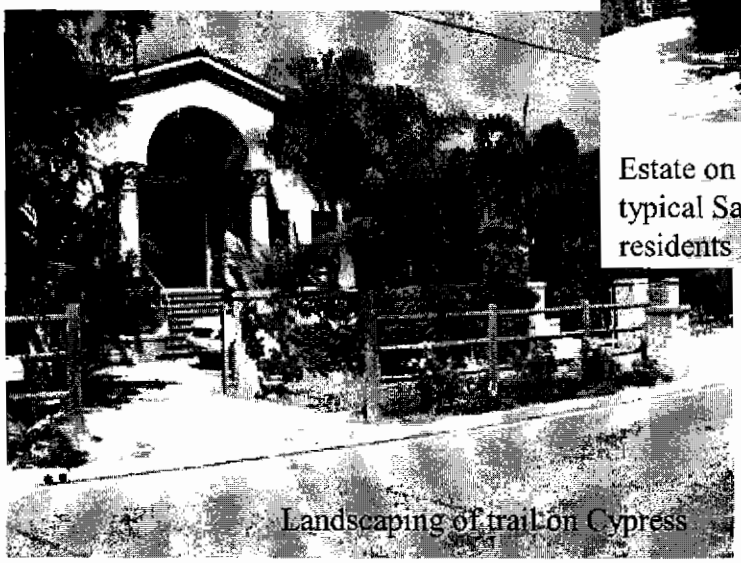
My husband and I took a walk down Mesa Drive with our camera to record some of what the horse trail would be replacing. There is some nice landscaping, some untrimmed shrubs and trees, and an assortment of dumpster enclosures that vary from eyesore to non-existent.

Dumpster enclosure on Mesa Drive



Another dumpster

Estate on Mesa Drive with typical Santa Ana Heights residents



Landscaping of trail on Cypress

If the county intends to keep this area zoned Residential Equestrian, then adequate equestrian facilities need to be maintained. Eliminating one of the few trails to allow estates to continue to encroach on a public easement is not in the best interest of the entire neighborhood. Objections to the trail based on aesthetics and safety are weak at best. A horse trail is not inherently unsightly; it is what the residents make it. The trail on Cypress has been landscaped by many of the residents and the Mesa Drive estate owners can do the same. The fate of this equestrian trail indicates the long-term fate of our equestrian residents; will we be allowed to stay or driven off in the name of property values.

Sincerely,

Emily Crean Vogler

10/10/06 - #18

Original Message-----
>From: Andy Crean <acrean@adelphia.net>
>Sent: Oct 10, 2006 2:32 PM
>To: bvontv@hotrange.com
>Subject: City Council Meeting

I planned to attend the Newport Beach City Council meeting this evening to object to the inclusion of the horse trail issue in the JWA airport agreement. As you know, my father was taken to Hoag yesterday and will be there a few days. I would rather spend the time with him.

Below is a text of the email I sent Supervisor Silva pertaining to our family's position on the trail issue. It is my fathers wish that his name not be used either in favor or against the issue. Upon his recovery, I can provide you with a letter from him to that effect.

Andy Crean
Text of email sent 10/4/06
Mr. Silva,
Apparently Buck Johns is parading around with a letter from my father to Newport Beach City Council members dated May 3, 2006. In this letter he indicates his opposition to the horse trail along Mesa Drive. In an email I sent May 11th to Newport Council members, my father asked me to tell the Council He'd rather not be involved in the horse trail issue from now on.

The letter sent to the Newport Council members was signed by my father, but the information presented to him by Buck Johns and Harry Rinker was false. Photos of the Village Crean entry from Mesa Drive were doctored up by superimposing a chain link fence and a weed infested horse trail in front of the Village Crean. These were presented to him as what was to be installed in front of the property.

In a letter dated April 14, 2006 to my father from Harry Rinker many incorrect facts were presented concerning the Mesa Drive trail in order to obtain the letter from my father. It indicated the horse owners had installed the trail on Cypress, and wanted to do the same on Mesa Drive. He stated the horse owners had convinced the Santa Ana Heights Homeowners Association (of which there is no such organization) to propose to the City/County the construction of a horse trail on Mesa Drive as part of the under-grounding of the utility lines. He >implied the trail was to be installed on his and my father's property. As a favor he requested a letter from my father opposing the proposed trail.The result was the May 3rd letter.
>Following the council meeting, I thought the issue was resolved. I have recently learned Buck is attempting to remove the proposed trail through the Board of Supervisors by introducing an amendment to the Santa Ana Heights Specific Plan. In doing so, he included a copy of my father's letter in his request to the Supervisors. I have spoken to

my father, and he wishes me to relay to the Supervisors his position on the trail is: He has no position!

hile my father has no position, I do. I have lived at 2211 Mesa Drive
>since 1995. I do not have horses, but am in favor of the trail. The part of Mesa I live on currently has no trail or sidewalk on either side of the street. The widening of Mesa Drive and under-grounding of the utilities has been delayed too long. I hope Mr. Johns activities do not delay it further.

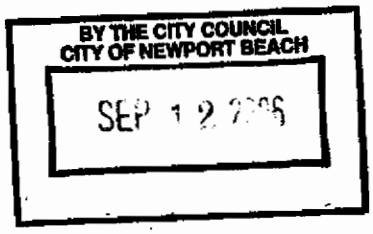
I understand he is claiming a majority of the local citizens residing in the area are opposed to the trail. I disagree. He presented letters from 9 of the 34 properties on Mesa Drive. Of those, 4 of the 12 located on the affected south side of Mesa are opposed. As hard as he has campaigned, it can be assumed the other 25 were contacted and either don't care, or are in favor of the trail. The trails are utilized by equestrians, pedestrians, bikers, and dog walkers.

One of the objections to the trail is it will reduce curbside parking. While this may be an issue in Balboa, This area consists of multi-acre lots on one side of the street, and ¼ to ½ acre lots on the other. Over the length of the proposed trail on any given night, 4-8 cars are parked in the ¼ mile stretch.

Another objection is the beautiful landscaping on the South side of Mesa will be destroyed to accommodate the trail. If you drive East on Mesa from Cypress, once you pass the Village Crean and beginning at the Rinker's (2342) and ending at the Cox's (2612), there is no landscaping. It is chain-link fences covered with overgrown bushes and ivy that block the pedestrian access. Go look at it sometime.

A final point, in the future if all the horses disappear, the trail can be converted to a bike path or sidewalk. Abandon it now, and it is gone forever.
>Andy Crean

C-3885
(38/100-2006)



Meeting Date: September 12, 2006
Agenda Item No.: 24

Subject: COOPERATIVE AGREEMENT WITH THE COUNTY OF ORANGE REGARDING ISSUES WITHIN OR ADJACENT TO THE CITY'S SPHERE OF INFLUENCE ("SPHERE ISSUES").

Due to the need to have further discussions regarding certain Spheres agreement language, this item will be withdrawn from the agenda by the City Manager. Council may be asked to have a special Council meeting in September to hear this issue, once agreement language has been finalized by the respective staffs.

Thank you!